

Creation of Operator Registration Act and Update of Adult Care Home Licensure Act; HB 2418

HB 2418 creates the Operator Registration Act to require registration of operators responsible for the oversight of adult care homes and establishes operator qualification requirements. The bill also updates state agency references and removes an outdated rule and regulation reference from the Adult Care Home Licensure Act.

Adult Care Home Licensure Act Definitions

Specifically, the bill amends “operator” to mean an individual registered pursuant to the Operator Registration Act, who may be appointed by a licensee to have the authority and responsibility to oversee an assisted living facility or residential health care facility with fewer than 61 residents, a home-plus, or an adult day care facility.

“Licensee” is defined as any person or persons acting jointly or severally who are licensed by the Secretary for Aging and Disability Services (Secretary) pursuant to the Adult Care Home Licensure Act.

Operator Registration Act

Definitions

The Operator Registration Act (Act) is created with definitions as follows:

- “Operator,” “adult care home,” and “licensee” have the same definitions as found in the Adult Care Home Licensure Act; and
- “Secretary” and “department” mean the Secretary for Aging and Disability Services and the Kansas Department for Aging and Disability Services (KDADS), respectively.

Registration

On or after July 1, 2014, persons cannot represent themselves as operators unless registered under the Act. A violation of this provision is a class C misdemeanor.

The Secretary is required to adopt by rules and regulations a system for registering operators. Rules and regulations, at a minimum, need to require that an applicant seeking registration as an operator meet the following qualifications:

- Be at least 21 years of age;
- Possess:

- A high school diploma or equivalent, with one year relevant experience as determined by the Secretary; or
- An associate's degree in a relevant field as determined by the Secretary; or
- A bachelor's degree;
- Successfully complete a course approved by the Secretary on the principles of assisted living;
- Pass an examination approved by the Secretary on the principles of assisted living and any other requirements established by the Secretary by rules and regulations;
- File an application; and
- Pay the required application fee.

Operation of an Adult Care Home

An adult care home is not allowed to operate on or after July 1, 2014, without the supervision of an operator who is registered under the Act or licensed adult care home administrator (authorized to operate an adult care home under existing law).

Registration

For applications made within two years of July 1, 2014, the Secretary is allowed to waive the education, experience, and application fee requirements and grant registration as an operator to an applicant who has completed the operator course approved by the Secretary and has passed an examination approved by the Secretary prior to July 1, 2014. A person who meets these requirements but does not apply for registration as an operator within two years of July 1, 2014, is considered to have a lapsed registration for failure to renew.

Registration Renewal

Application Requirements

Applications for renewal of valid registrations are made to KDADS according to rules and regulations adopted by the Secretary. Along with the application, the individual is required to pay a renewal fee fixed by rules and regulations and submit evidence, satisfactory to the Secretary, confirming completion of continuing education requirements as provided by rules and regulations. Applications for renewal submitted within 30 days after the expiration date also are required to be accompanied by a late fee fixed by rules and regulations. KDADS then issues a registration to an applicant upon the applicant's meeting all registration requirements.

Lapsed Registrations for Failure to Renew

An individual who submits an application for a renewal of registration after the 30-day period following the date of expiration is considered to have a lapsed registration for failure to renew, which requires reinstatement of the registration.

Reinstatement of a registration that lapsed for failure to renew requires the operator to pay the renewal fee and the reinstatement fee and to submit evidence showing satisfactory completion of any program or course of study established by the Secretary for persons whose registrations have lapsed for failure to renew. The Secretary is required to adopt rules and regulations establishing appropriate requirements for the reinstatement of such individuals.

Renewal of Applications

The expiration dates for registrations issued or renewed are established by rules and regulations of the Secretary. Registrations are renewable biennially by filing a renewal application prior to the expiration of an existing registration and upon payment of the renewal fee, except as otherwise provided.

To allow for a system of biennial registration, the Secretary is authorized to provide by rules and regulations that registrations issued or renewed for the first time after July 1, 2014, can expire less than two years from the date of issuance or renewal. The Secretary is required to prorate to the nearest whole month the registration or renewal fee set by rules and regulations. Delinquent registration renewals are not prorated.

Fees

All fees under the Act are established by rules and regulations of the Secretary. The amounts received for fees are credited to the State Licensure Fee Fund administered by KDADS.

Conditions for Denial, Refusal to Renew, Suspension, or Revocation of Registrations

The bill allows the Secretary to deny, refuse to renew, suspend, or revoke a registration if the operator or applicant has committed any of the following:

- Has obtained, or attempted to obtain, a registration by means of fraud, misrepresentation or concealment of material facts;
- Has a finding of abuse, neglect, or exploitation against a resident of an adult care home;
- Has been convicted of a crime found by the Secretary to have direct bearing on whether the registrant or applicant can be trusted to serve the public in the position of an operator;

- Has violated a lawful order, rule, or regulation of the Secretary;
- Had disciplinary action taken against the operator on a professional or occupational healthcare credential issued by Kansas or another jurisdiction; or
- Has violated any provisions of the Act.

The Secretary is authorized to order a denial, refusal to renew, suspension, or revocation of a registration based on any of the above-mentioned conditions after notice and hearing on the matter according to the provisions of the Kansas Administrative Procedure Act.

Reinstatement of Revoked Registration

A person whose registration has been revoked is allowed to apply to the Secretary for reinstatement. Acceptance or rejection of an application for reinstatement is at the Secretary's discretion, and a hearing is allowed to consider the reinstatement.

An individual seeking reinstatement is required to submit an application for reinstatement, pay a reinstatement fee, and meet the requirements for an individual seeking reinstatement of a registration that lapsed for failure to renew.

Agency Name and Rule and Regulation Updates

The bill updates state agency references and removes an outdated rule and regulation reference from the Adult Care Home Licensure Act to reflect changes made by 2012 Executive Reorganization Order No. 41. Specifically, the bill replaces references to the Secretary of Aging and the Department on Aging with the Secretary for Aging and Disability Services and the Department for Aging and Disability Services, respectively; replaces the Secretary of the Department of Social and Rehabilitation Services with the Secretary for Children and Families; and allows the Kansas Department of Health and Environment (KDHE) regulations administered by the KDHE Health Occupations Credentialing (HOC) unit to be deemed rules and regulations of KDADS, where the HOC unit was relocated.