

## SENATE BILL No. 142

By Committee on Public Health and Welfare

2-3

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1 AN ACT concerning programs for all-inclusive care for the elderly;  
2 amending K.S.A. 2014 Supp. 39-923 and repealing the existing section.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2014 Supp. 39-923 is hereby amended to read as  
6 follows: 39-923. (a) As used in this act:

7 (1) "Adult care home" means any nursing facility, nursing facility for  
8 mental health, intermediate care facility for people with intellectual  
9 disability, assisted living facility, residential health care facility, home plus,  
10 boarding care home and adult day care facility; all of which are  
11 classifications of adult care homes and are required to be licensed by the  
12 secretary for aging and disability services.

13 (2) "Nursing facility" means any place or facility operating 24 hours a  
14 day, seven days a week, caring for six or more individuals not related  
15 within the third degree of relationship to the administrator or owner by  
16 blood or marriage and who, due to functional impairments, need skilled  
17 nursing care to compensate for activities of daily living limitations.

18 (3) "Nursing facility for mental health" means any place or facility  
19 operating 24 hours a day, seven days a week, caring for six or more  
20 individuals not related within the third degree of relationship to the  
21 administrator or owner by blood or marriage and who, due to functional  
22 impairments, need skilled nursing care and special mental health services  
23 to compensate for activities of daily living limitations.

24 (4) "Intermediate care facility for people with intellectual disability"  
25 means any place or facility operating 24 hours a day, seven days a week,  
26 caring for four or more individuals not related within the third degree of  
27 relationship to the administrator or owner by blood or marriage and who,  
28 due to functional impairments caused by intellectual disability or related  
29 conditions, need services to compensate for activities of daily living  
30 limitations.

31 (5) "Assisted living facility" means any place or facility caring for six  
32 or more individuals not related within the third degree of relationship to  
33 the administrator, operator or owner by blood or marriage and who, by  
34 choice or due to functional impairments, may need personal care and may  
35 need supervised nursing care to compensate for activities of daily living  
36 limitations and in which the place or facility includes apartments for

1 residents and provides or coordinates a range of services including  
2 personal care or supervised nursing care available 24 hours a day, seven  
3 days a week, for the support of resident independence. The provision of  
4 skilled nursing procedures to a resident in an assisted living facility is not  
5 prohibited by this act. Generally, the skilled services provided in an  
6 assisted living facility shall be provided on an intermittent or limited term  
7 basis, or if limited in scope, a regular basis.

8 (6) "Residential health care facility" means any place or facility, or a  
9 contiguous portion of a place or facility, caring for six or more individuals  
10 not related within the third degree of relationship to the administrator,  
11 operator or owner by blood or marriage and who, by choice or due to  
12 functional impairments, may need personal care and may need supervised  
13 nursing care to compensate for activities of daily living limitations and in  
14 which the place or facility includes individual living units and provides or  
15 coordinates personal care or supervised nursing care available on a 24-  
16 hour, seven-days-a-week basis for the support of resident independence.  
17 The provision of skilled nursing procedures to a resident in a residential  
18 health care facility is not prohibited by this act. Generally, the skilled  
19 services provided in a residential health care facility shall be provided on  
20 an intermittent or limited term basis, or if limited in scope, a regular basis.

21 (7) "Home plus" means any residence or facility caring for not more  
22 than 12 individuals not related within the third degree of relationship to the  
23 operator or owner by blood or marriage unless the resident in need of care  
24 is approved for placement by the secretary for children and families, and  
25 who, due to functional impairment, needs personal care and may need  
26 supervised nursing care to compensate for activities of daily living  
27 limitations. The level of care provided to residents shall be determined by  
28 preparation of the staff and rules and regulations developed by the Kansas  
29 department for aging and disability services. An adult care home may  
30 convert a portion of one wing of the facility to a not less than five-bed and  
31 not more than 12-bed home plus facility provided that the home plus  
32 facility remains separate from the adult care home, and each facility must  
33 remain contiguous. Any home plus that provides care for more than eight  
34 individuals after the effective date of this act shall adjust staffing personnel  
35 and resources as necessary to meet residents' needs in order to maintain the  
36 current level of nursing care standards. Personnel of any home plus who  
37 provide services for residents with dementia shall be required to take  
38 annual dementia care training.

39 (8) "Boarding care home" means any place or facility operating 24  
40 hours a day, seven days a week, caring for not more than 10 individuals  
41 not related within the third degree of relationship to the operator or owner  
42 by blood or marriage and who, due to functional impairment, need  
43 supervision of activities of daily living but who are ambulatory and

1 essentially capable of managing their own care and affairs.

2 (9) "Adult day care" means any place or facility operating less than  
3 24 hours a day caring for individuals not related within the third degree of  
4 relationship to the operator or owner by blood or marriage and who, due to  
5 functional impairment, need supervision of or assistance with activities of  
6 daily living.

7 (10) "Place or facility" means a building or any one or more complete  
8 floors of a building, or any one or more complete wings of a building, or  
9 any one or more complete wings and one or more complete floors of a  
10 building, and the term "place or facility" may include multiple buildings.

11 (11) "Skilled nursing care" means services performed by or under the  
12 immediate supervision of a registered professional nurse and additional  
13 licensed nursing personnel. Skilled nursing includes administration of  
14 medications and treatments as prescribed by a licensed physician or  
15 dentist; and other nursing functions which require substantial nursing  
16 judgment and skill based on the knowledge and application of scientific  
17 principles.

18 (12) "Supervised nursing care" means services provided by or under  
19 the guidance of a licensed nurse with initial direction for nursing  
20 procedures and periodic inspection of the actual act of accomplishing the  
21 procedures; administration of medications and treatments as prescribed by  
22 a licensed physician or dentist and assistance of residents with the  
23 performance of activities of daily living.

24 (13) "Resident" means all individuals kept, cared for, treated, boarded  
25 or otherwise accommodated in any adult care home.

26 (14) "Person" means any individual, firm, partnership, corporation,  
27 company, association or joint-stock association, and the legal successor  
28 thereof.

29 (15) "Operate an adult care home" means to own, lease, establish,  
30 maintain, conduct the affairs of or manage an adult care home, except that  
31 for the purposes of this definition the word "own" and the word "lease"  
32 shall not include hospital districts, cities and counties which hold title to  
33 an adult care home purchased or constructed through the sale of bonds.

34 (16) "Licensing agency" means the secretary for aging and disability  
35 services.

36 (17) "Skilled nursing home" means a nursing facility.

37 (18) "Intermediate nursing care home" means a nursing facility.

38 (19) "Apartment" means a private unit which includes, but is not  
39 limited to, a toilet room with bathing facilities, a kitchen, sleeping, living  
40 and storage area and a lockable door.

41 (20) "Individual living unit" means a private unit which includes, but  
42 is not limited to, a toilet room with bathing facilities, sleeping, living and  
43 storage area and a lockable door.

1 (21) "Operator" means an individual registered pursuant to the  
2 operator registration act, K.S.A. 2014 Supp. 39-973 et seq., and  
3 amendments thereto, who may be appointed by a licensee to have the  
4 authority and responsibility to oversee an assisted living facility or  
5 residential health care facility with fewer than 61 residents, a home plus or  
6 adult day care facility.

7 (22) "Activities of daily living" means those personal, functional  
8 activities required by an individual for continued well-being, including,  
9 but not limited to, eating, nutrition, dressing, personal hygiene, mobility  
10 and toileting.

11 (23) "Personal care" means care provided by staff to assist an  
12 individual with, or to perform activities of daily living.

13 (24) "Functional impairment" means an individual has experienced a  
14 decline in physical, mental and psychosocial well-being and as a result, is  
15 unable to compensate for the effects of the decline.

16 (25) "Kitchen" means a food preparation area that includes a sink,  
17 refrigerator and a microwave oven or stove.

18 (26) The term "intermediate personal care home" for purposes of  
19 those individuals applying for or receiving veterans' benefits means  
20 residential health care facility.

21 (27) "Paid nutrition assistant" means an individual who is paid to feed  
22 residents of an adult care home, or who is used under an arrangement with  
23 another agency or organization, who is trained by a person meeting nurse  
24 aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42  
25 C.F.R. § 483.160 and ~~paragraph (h) of~~ 42 C.F.R. § 483.35(h), and who  
26 provides such assistance under the supervision of a registered professional  
27 or licensed practical nurse.

28 (28) "Medicaid program" means the Kansas program of medical  
29 assistance for which federal or state moneys, or any combination thereof,  
30 are expended, or any successor federal or state, or both, health insurance  
31 program or waiver granted thereunder.

32 (29) "Licensee" means any person or persons acting jointly or  
33 severally who are licensed by the secretary for aging and disability  
34 services pursuant to the adult care home licensure act, K.S.A. 39-923 et  
35 seq., and amendments thereto.

36 (b) The term "adult care home" shall not include institutions operated  
37 by federal or state governments, except institutions operated by the  
38 director of the Kansas commission on veterans affairs office, hospitals or  
39 institutions for the treatment and care of psychiatric patients, child care  
40 facilities, maternity centers, hotels, offices of physicians or hospices which  
41 are certified to participate in the medicare program under 42 code of  
42 federal regulations, chapter IV, ~~section~~ § 418.1 et seq., and amendments  
43 thereto, and which provide services only to hospice patients, *or centers*

1 *approved by the centers for medicare and medicaid services as a program*  
2 *for all-inclusive care for the elderly (PACE) under 42 code of federal*  
3 *regulations, chapter IV, part 460 et seq., and amendments thereto, which*  
4 *provides services only to PACE participants.*

5 (c) Nursing facilities in existence on the effective date of this act  
6 changing licensure categories to become residential health care facilities  
7 shall be required to provide private bathing facilities in a minimum of 20%  
8 of the individual living units.

9 (d) Facilities licensed under the adult care home licensure act on the  
10 day immediately preceding the effective date of this act shall continue to  
11 be licensed facilities until the annual renewal date of such license and may  
12 renew such license in the appropriate licensure category under the adult  
13 care home licensure act subject to the payment of fees and other conditions  
14 and limitations of such act.

15 (e) Nursing facilities with less than 60 beds converting a portion of  
16 the facility to residential health care shall have the option of licensing for  
17 residential health care for less than six individuals but not less than 10%  
18 of the total bed count within a contiguous portion of the facility.

19 (f) The licensing agency may by rule and regulation change the name  
20 of the different classes of homes when necessary to avoid confusion in  
21 terminology and the agency may further amend, substitute, change and in a  
22 manner consistent with the definitions established in this section, further  
23 define and identify the specific acts and services which shall fall within the  
24 respective categories of facilities so long as the above categories for adult  
25 care homes are used as guidelines to define and identify the specific acts.

26 Sec. 2. K.S.A. 2014 Supp. 39-923 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the Kansas register.