

SENATE BILL No. 456

By Committee on Ways and Means

2-15

1 AN ACT concerning adult care homes; relating to electronic monitoring.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) As used in this section:

5 (1) "Adult care home" means the same as defined in K.S.A. 39-923,
6 and amendments thereto;

7 (2) "authorized electronic monitoring" means the placement of one or
8 more electronic monitoring devices in the room of an adult care home
9 resident and making recordings with such devices after ~~making a request~~
10 ~~to the adult care home to allow electronic monitoring~~ **notifying the adult**
11 **care home of the resident's intent to conduct electronic monitoring;** and

12 (3) "electronic monitoring device" means **a surveillance instrument**
13 **used to broadcast or record activity or sound occurring in a room,**
14 **including** a video surveillance camera or an audio device designed to
15 acquire communications or other sounds occurring in the room, but not to
16 intercept wire or electronic communications.

17 (b) ~~An adult care home shall permit a resident, or such resident's~~
18 ~~guardian or legal representative; **A resident shall be permitted**~~ to conduct
19 authorized electronic monitoring in the resident's room subject to the
20 requirements of this section.

21 (c) An adult care home shall not discharge or refuse to admit a
22 resident or person **or otherwise retaliate against a resident or person**
23 ~~based on a request to conduct~~ **conducting or consenting to** authorized
24 electronic monitoring.

25 (d) A resident, or such resident's guardian or legal representative, who
26 wishes to conduct authorized electronic monitoring shall ~~make a request to~~
27 **notify** the adult care home on a form prescribed by the secretary for aging
28 and disability services. Such form shall be maintained in such person's
29 resident file at the adult care home and shall require the resident, or such
30 resident's guardian or legal representative, to:

31 (1) Release the adult care home from any civil liability for a violation
32 of the resident's privacy rights in connection with the use of the electronic
33 monitoring device;

34 (2) if the electronic monitoring device is a video surveillance camera,
35 choose whether the camera will always be unobstructed or will be
36 obstructed in specified circumstances to protect the dignity of the resident;

1 and

2 (3) if the resident resides in a multi-resident room, obtain the consent
3 of other residents in the room on a form prescribed for this purpose by the
4 secretary.

5 (e) An adult care home shall make reasonable physical
6 accommodations for authorized electronic monitoring, including:

7 (1) Providing a reasonably secure place to mount the electronic
8 monitoring device; ~~and~~

9 (2) providing access to power sources for the electronic monitoring
10 device;

11 *(3) making reasonable accommodations and exhausting all*
12 *reasonable options if a resident in a multi-resident room wishes to*
13 *conduct electronic monitoring pursuant to this section and the resident*
14 *or residents with whom the resident shares the room do not consent to*
15 *the monitoring, including offering to move the resident who wishes to*
16 *conduct electronic monitoring to another shared room which is*
17 *available or becomes available; and*

18 *(4) making reasonable accommodations and exhausting all*
19 *reasonable options if a resident wishes to conduct electronic monitoring*
20 *and another resident begins residing in the multi-resident room who*
21 *does not consent to the monitoring before moving the resident wishing to*
22 *conduct electronic monitoring.*

23 (f) A resident, or such resident's guardian or legal representative, shall
24 pay all costs associated with installing and maintaining an electronic
25 monitoring device requested under this section.

26 (g)-(h) Each adult care home shall post a conspicuous notice at the
27 entrance to the adult care home stating that the rooms of some residents
28 may be monitored electronically by or on behalf of the room's resident or
29 residents.

30 ~~(2) Each adult care home shall require that a resident, or such~~
31 ~~resident's guardian or legal representative, who conducts authorized~~
32 ~~electronic monitoring to post a conspicuous notice at the entrance to the~~
33 ~~resident's room stating that the room is being monitored electronically.~~

34 (h) On or before a person's admission to an adult care home, such
35 person shall complete and sign a form prescribed by the secretary for
36 aging and disability services. Such form shall be maintained in such
37 person's resident file at the adult care home and shall state the following:

38 (1) That a person who places an electronic monitoring device in a
39 resident's room or discloses a recording made by such device may be
40 civilly liable for any unlawful violation of the privacy rights of another
41 person;

42 (2) that a resident, or such resident's guardian or legal representative,
43 is entitled to conduct authorized electronic monitoring under this section;

1 (3) the basic procedures required to request authorized electronic
2 monitoring;

3 (4) who may request authorized electronic monitoring;

4 (5) who may consent to authorized electronic monitoring; and

5 (6) *restrictions that a resident may elect to place on electronic*
6 *monitoring conducted in the resident's room, including, but not limited*
7 *to:*

8 (A) *Prohibiting video recording;*

9 (B) *prohibiting audio recording;*

10 (C) *turning off the device or blocking the visual recording*
11 *component of the device during an exam or procedure administered by a*
12 *healthcare professional;*

13 (D) *turning off the device or blocking the visual recording*
14 *component of the device while the resident is dressing or bathing; or*

15 (E) *turning off the device or blocking the visual recording*
16 *component of the device during a resident's visit with a spiritual advisor,*
17 *ombudsman, attorney, financial planner, intimate partner or other*
18 *visitor; and*

19 (7) any other information related to authorized electronic monitoring
20 that the secretary deems necessary or appropriate to include on such form.

21 (i) *Any electronic monitoring device installed or operated pursuant*
22 *to this section shall comply with the requirements of the national fire*
23 *protection association 101 life safety code, or other standards*
24 *determined by the secretary for aging and disability as having*
25 *substantially equivalent requirements.*

26 (j) (1) *A person is prohibited from knowingly hindering,*
27 *obstructing, tampering with or destroying, without the consent of the*
28 *resident or individual who authorized electronic monitoring, an*
29 *electronic monitoring device installed in a resident's room in accordance*
30 *with this section.*

31 (2) *A person is prohibited from knowingly hindering, obstructing,*
32 *tampering with or destroying, without the consent of the resident or*
33 *individual who authorized electronic monitoring, a video or audio*
34 *recording obtained in accordance with this section.*

35 (3) (A) *Any person who violates this subsection shall be guilty of a*
36 *class B nonperson misdemeanor.*

37 (B) *Any person who violates this subsection with the intent to*
38 *commit or conceal the commission of a misdemeanor offense shall be*
39 *guilty of a class A nonperson misdemeanor.*

40 (C) *Any person who violates this subsection with the intent to*
41 *commit or conceal the commission of a felony offense shall be guilty of*
42 *a severity level 4, nonperson felony.*

43 (k) The secretary for aging and disability services shall adopt rules

1 and regulations as may be necessary to administer the provisions of this
2 section.

3 Sec. 2. This act shall take effect and be in force from and after its
4 publication in the statute book.