

**SENATE BILL No. 453**

By Committee on Public Health and Welfare

2-8

1 AN ACT concerning adult care homes; relating to unlicensed employees;  
2 requiring unlicensed employee training courses to be taught and  
3 evaluated by professional licensed nurses; requiring a demonstration of  
4 skills to successfully complete training courses; allowing simulation  
5 experiences to be used as part of training courses; amending K.S.A. 39-  
6 936 and 65-5115 and repealing the existing sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 39-936 is hereby amended to read as follows: 39-  
10 936. (a) The presence of each resident in an adult care home shall be  
11 covered by a statement provided at the time of admission, or prior thereto,  
12 setting forth the general responsibilities and services and daily or monthly  
13 charges for such responsibilities and services. Each resident shall be  
14 provided with a copy of such statement, with a copy going to any  
15 individual responsible for payment of such services and the adult care  
16 home shall keep a copy of such statement in the resident's file. No such  
17 statement shall be construed to relieve any adult care home of any  
18 requirement or obligation imposed upon it by law or by any requirement,  
19 standard or rule and regulation adopted pursuant thereto.

20 (b) A qualified person ~~or persons~~ shall be in attendance at all times  
21 ~~upon~~ when residents ~~receiving~~ receive accommodation, board, care,  
22 training or treatment in adult care homes. The licensing agency may  
23 establish necessary standards and rules and regulations prescribing the  
24 number, qualifications, training, standards of conduct and integrity for  
25 such qualified person ~~or persons~~ attendant upon the residents.

26 (c) (1) The licensing agency shall require unlicensed employees of an  
27 adult care home, except an adult care home licensed for the provision of  
28 services to people with intellectual disability that has been granted an  
29 exception by the secretary for aging and disability services upon a finding  
30 by the licensing agency that an appropriate training program for  
31 unlicensed employees is in place for such adult care home, ~~employed on~~  
32 ~~and after the effective date of this act~~ who provide direct, individual care  
33 to residents and who do not administer medications to residents and who  
34 have not completed a course of education and training relating to resident  
35 care and treatment approved by the secretary for aging and disability  
36 services or are not participating in such a course ~~on the effective date of~~

1 ~~this act~~ to complete successfully 40 hours of training in basic resident care  
2 skills. Any unlicensed person who has not completed 40 hours of training  
3 relating to resident care and treatment approved by the secretary for aging  
4 and disability services shall not provide direct, individual care to residents.

5 (A) *Each instructor of such training course shall be licensed and in*  
6 *good standing to practice in this state as a registered professional nurse or*  
7 *a licensed practical nurse. An instructor with multistate licensure privilege*  
8 *shall satisfy this requirement.*

9 (B) The 40 hours of training shall be supervised by a registered  
10 professional nurse and the content and administration thereof shall comply  
11 with rules and regulations adopted by the secretary for aging and disability  
12 services. The 40 hours of training may be prepared and administered by an  
13 adult care home or by any other qualified person and may be conducted on  
14 the premises of the adult care home. The 40 hours of training required in  
15 this section shall be a part of any course of education and training required  
16 by the secretary for aging and disability services under subsection (c)(2).

17 (C) Training for paid nutrition assistants shall consist of at least eight  
18 hours of instruction, at a minimum, that meets the requirements of 42  
19 C.F.R. § 483.160.

20 (2) The licensing agency may require unlicensed employees of an  
21 adult care home, except an adult care home licensed for the provision of  
22 services to people with intellectual disability that has been granted an  
23 exception by the secretary for aging and disability services upon a finding  
24 by the licensing agency that an appropriate training program for  
25 unlicensed employees is in place for such adult care home, who provide  
26 direct, individual care to residents and who do not administer medications  
27 to residents and who do not meet the definition of paid nutrition assistant  
28 under K.S.A. 39-923(a)(27), and amendments thereto, after 90 days of  
29 employment to successfully complete an approved course of instruction  
30 and an examination relating to resident care and treatment as a condition to  
31 continued employment by an adult care home.

32 (A) A course of instruction may be prepared and administered by any  
33 adult care home or by any other qualified person. A course of instruction  
34 prepared and administered by an adult care home may be conducted on the  
35 premises of the adult care home that prepared and that will administer the  
36 course of instruction. *Simulation experiences may be used in the clinical*  
37 *instruction portions of a training course. If the training course is*  
38 *conducted in two parts, simulation experiences are limited to half of the*  
39 *clinical instruction hours.*

40 (B) *As evidence of successful completion of the training course, such*  
41 *unlicensed employees shall demonstrate competency in a list of skills that*  
42 *are identified and prescribed by the secretary for aging and disability*  
43 *services. The skills demonstration shall be evaluated by a registered*

1 *professional nurse licensed, including multistate licensure privilege, and*  
2 *in good standing in this state. Such registered professional nurse shall*  
3 *have at least one year of licensed nurse experience providing care for the*  
4 *elderly or chronically ill in a healthcare setting.*

5 (3) The licensing agency shall not require unlicensed employees of an  
6 adult care home who provide direct, individual care to residents and who  
7 do not administer medications to residents to enroll in any particular  
8 approved course of instruction as a condition to the taking of an  
9 examination, but the secretary for aging and disability services shall  
10 prepare guidelines for the preparation and administration of courses of  
11 instruction and shall approve or disapprove courses of instruction.

12 (4) Unlicensed employees of adult care homes who provide direct,  
13 individual care to residents and who do not administer medications to  
14 residents may enroll in any approved course of instruction and upon  
15 completion of the approved course of instruction shall be eligible to take  
16 an examination. The examination shall be:

17 (A) Prescribed by the secretary for aging and disability services, ~~shall~~  
18 ~~be;~~

19 (B) reasonably related to the duties performed by unlicensed  
20 employees of adult care homes who provide direct, individual care to  
21 residents and who do not administer medications to residents; and

22 ~~shall be~~ (C) the same examination given by the secretary for aging  
23 and disability services to all unlicensed employees of adult care homes  
24 who provide direct, individual care to residents and who do not administer  
25 medications.

26 ~~(3)~~(5) The secretary for aging and disability services shall fix, charge  
27 and collect a fee to cover all or any part of the costs of the licensing  
28 agency under this subsection. The fee shall be fixed by rules and  
29 regulations of the secretary for aging and disability services. The fee shall  
30 be remitted to the state treasurer in accordance with the provisions of  
31 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
32 remittance, the state treasurer shall deposit the entire amount in the state  
33 treasury to the credit of the health occupations credentialing fee fund  
34 created by K.S.A. 39-979, and amendments thereto.

35 ~~(4)~~(6) The secretary for aging and disability services shall establish a  
36 state registry containing information about unlicensed employees of adult  
37 care homes who provide direct, individual care to residents and who do not  
38 administer medications in compliance with the requirements pursuant to  
39 PL 100-203, subtitle C, as amended November 5, 1990.

40 ~~(5)~~(7) No adult care home shall use an individual as an unlicensed  
41 employee of the adult care home who provides direct, individual care to  
42 residents and who does not administer medications unless the facility has  
43 inquired of the state registry as to information contained in the registry

1 concerning the individual.

2 ~~(6)(8) (A) Beginning July 1, 1993, The adult care home must shall~~  
3 ~~require any unlicensed employee of the an adult care home who to~~  
4 ~~complete an approved refresher course if such employee:~~

5 (i) Provides direct, individual care to residents ~~and who;~~

6 (ii) does not administer medications; ~~and who-~~

7 (iii) since passing the examination required under paragraph (2) ~~of~~  
8 ~~this subsection~~, has had a continuous period of 24 consecutive months  
9 during none of which the unlicensed employee provided direct, individual  
10 care to residents ~~to complete an approved refresher course.~~

11 (B) The secretary for aging and disability services shall prepare  
12 guidelines for the preparation and administration of refresher courses and  
13 shall approve or disapprove courses.

14 (d) Any person who has been employed as an unlicensed employee of  
15 an adult care home in another state may be so employed in this state  
16 without an examination if the secretary for aging and disability services  
17 determines that such other state requires training or examination, or both,  
18 for such employees at least equal to that required by this state.

19 (e) All medical care and treatment shall be given under the direction  
20 of a ~~physician authorized~~ *person licensed by the state board of healing*  
21 *arts to practice under the laws of this state medicine and surgery* and shall  
22 be provided promptly as needed.

23 (f) No adult care home shall require as a condition of admission to or  
24 as a condition to continued residence in the adult care home that a person  
25 change from a supplier of medication needs of their choice to a supplier of  
26 medication selected by the adult care home. Nothing in this subsection ~~(f)~~  
27 shall be construed to abrogate or affect any agreements entered into prior  
28 to the effective date of this act between the adult care home and any person  
29 seeking admission to or resident of the adult care home.

30 (g) Except in emergencies as defined by rules and regulations of the  
31 licensing agency and except as otherwise authorized under federal law, no  
32 resident may be transferred from or discharged from an adult care home  
33 involuntarily unless the resident or legal guardian of the resident has been  
34 notified in writing at least 30 days in advance of a transfer or discharge of  
35 the resident.

36 (h) No resident who relies in good faith upon spiritual means or  
37 prayer for healing shall, if such resident objects thereto, be required to  
38 undergo medical care or treatment.

39 Sec. 2. K.S.A. 65-5115 is hereby amended to read as follows: 65-  
40 5115. (a) The secretary may require, as a condition to continued  
41 employment by a home health agency that home health aides, within 90  
42 days of employment, successfully complete an approved course of  
43 instruction and take and satisfactorily pass an examination prescribed by

1 the secretary.

2 (b) A course of instruction for home health aides may be prepared  
3 and administered by any home health agency or by any other qualified  
4 person. A course of instruction prepared and administered by a home  
5 health agency may be conducted on the premises of the home health  
6 agency ~~which~~-that prepared and ~~which~~-will administer the course of  
7 instruction. The secretary shall not require home health aides to enroll in  
8 any particular approved course of instruction, but the secretary shall  
9 prepare guidelines for the preparation and administration of courses of  
10 instruction and shall approve or disapprove courses of instruction.

11 (c) The secretary ~~may~~ shall not require that home health aides  
12 complete the course of instruction and pass the examination established  
13 pursuant to K.S.A. ~~39-936(e)(3)~~ 39-936(c)(5), and amendments thereto,  
14 before enrolling in an approved course of instruction authorized by this  
15 section. Home health aides may enroll in any approved course of  
16 instruction.

17 (d) The examination required ~~under~~ by this section shall be prescribed  
18 by the secretary and shall be reasonably related to the duties performed by  
19 home health aides. The same examination shall be given by the secretary  
20 to all home health aides.

21 (e) The secretary shall fix, charge and collect an examination fee to  
22 cover all or any part of the cost of the examination required ~~under~~  
23 ~~subsection (a)~~ by this section. The examination fee shall be fixed by rules  
24 and regulations of the secretary. The examination fee shall be deposited in  
25 the state treasury and credited to the state general fund.

26 Sec. 3. K.S.A. 39-936 and 65-5115 are hereby repealed.

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