AN ACT concerning the adult care home licensure act; relating to transfer or discharge of residents from an adult residential care facility; creating a right to appeal an involuntary transfer or discharge.

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

Section 1. (a) The administrator or operator of each adult residential care facility shall ensure that a resident is not transferred or discharged from the adult residential care facility unless one of the following conditions is met:

1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met by the current adult residential care facility;
2. the health or safety of other individuals in the adult residential care facility is endangered;
3. the resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult residential care facility; or
4. the adult residential care facility ceases to operate.

(b) Before a resident may be transferred or discharged involuntarily, the administrator or operator, or such person's designee, shall:

1. Notify the resident, and, if known, a designated family member or legal representative, of the transfer or discharge and the reasons for the transfer or discharge;
2. record the reason for the transfer or discharge specified in subsection (a)(1) through (a)(3) in the resident's clinical record, which shall be substantiated as follows:
   (A) The resident's physician shall document the rationale for transfer or discharge in the resident's clinical record if the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met by the adult residential care facility;
   (B) the resident's physician shall document the rationale for transfer or discharge in the resident's clinical record if the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the adult residential care facility; or
   (C) a physician shall document the rationale for transfer or discharge in the resident's clinical record if the transfer or discharge is necessary
because the health or safety of other individuals in the adult residential care facility is endangered; and

(3) provide a written transfer or discharge notice that shall include the following:

(A) The reason for the transfer or discharge;
(B) the effective date of the transfer or discharge;
(C) the contact information for the state long-term care ombudsman;
(D) the resident's right to appeal an involuntary transfer or discharge established under this section and information as designated by the secretary to assist the resident in exercising such right;
(E) for a resident with an intellectual or developmental disability, dementia or another cognitive-limiting condition, the contact information for the agency responsible for the protection and advocacy of individuals with such conditions; and
(F) for a resident with a mental disorder or related disability, the contact information for the agency responsible for protection and advocacy of individuals with a mental disorder.

(c) The administrator or operator, or such person's designee, shall provide the notice of transfer or discharge required by subsection (b) to the resident, or the resident's legal representative, at least 30 days in advance of the resident's transfer or discharge, unless:

(1) The safety of other individuals in the adult residential care facility would be endangered; or
(2) the resident's urgent medical needs require an immediate transfer to another health care facility.

(d) The administrator or operator, or such person's designee, shall provide sufficient preparation and orientation to each resident before a resident's discharge, which shall include development of a discharge plan, with involvement of the resident, the resident's legal representative and designated family, if practicable.

(e) (1) If a resident of an adult residential care facility receives notice of a pending involuntary transfer or discharge in violation of this section, such resident, or such resident's legal representative, may appeal such transfer or discharge to the secretary for aging and disability services by filing a notice of appeal in the office of administrative hearings within 15 days after the date of such notice. A presiding officer from the office of administrative hearings shall hold a hearing, in accordance with the provisions of the Kansas administrative procedure act, within 30 days after the receipt of the notice of appeal.
(2) If a resident files an appeal pursuant to this section, the resident shall be permitted to return and resume residence in the adult residential care facility while the appeal is pending.

(f) The secretary shall adopt rules and regulations as necessary to
implement and administer the provisions of this act.

(g) As used in this section, "adult residential care facility" means an assisted living facility, a residential healthcare facility, home plus or a boarding care home as such terms are defined in K.S.A. 39-923, and amendments thereto.

(h) This section shall be a part of and supplemental to the adult care home licensure act.

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