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

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

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

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

(c) (1) The licensing agency shall require unlicensed employees of certified aides working in an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability that has been granted an exception by the secretary for aging and disability services upon a finding by the licensing agency that an appropriate training program for unlicensed employees certified aides is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by
the secretary for aging and disability services or are not participating in
such a course on the effective date of this act to complete successfully 40
hours of training in basic resident care skills. Any unlicensed person—
certified aide— who has not completed 40 hours of training relating to
resident care and treatment approved by the secretary for aging and
disability services shall not provide direct, individual care to residents.

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

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

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

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

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

(B) As evidence of successful completion of the training course, such
unlicensed employees certified aides shall demonstrate competency in a
list of skills that are identified and prescribed by the secretary for aging and disability services. The skills demonstration shall be evaluated by a registered professional nurse licensed, including multistate licensure privilege, and in good standing in this state. Such registered professional nurse shall have at least one year of licensed nurse experience providing care for the elderly or chronically ill in a healthcare setting.

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

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

(A) Prescribed by the secretary for aging and disability services, shall;

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

(C) the same examination given by the secretary for aging and disability services to all unlicensed employees of certified aides working in adult care homes who provide direct, individual care to residents and who do not administer medications.

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

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

(5) No adult care home shall use an individual as an unlicensed employee of the working as a certified aide in an adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the certified aide working in an adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(A) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the certified aide working in an adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

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

(ii) does not administer medications; and who;

(iii) since passing the examination required under paragraph (2) of this subsection, has had a continuous period of 24 consecutive months during none of which when the unlicensed employee certified aide has not provided direct, individual care to residents to complete an approved refresher course.

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

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

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

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

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.
(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

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

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

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

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

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

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

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