AN ACT concerning health and healthcare; relating to nurse aides; pertaining to training requirements; amending K.S.A. 65-5115 and K.S.A. 2016 Supp. 39-936 and 39-1908 and repealing the existing sections.

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

Section 1. K.S.A. 2016 Supp. 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 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 an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which 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 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 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. 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). Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which 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 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 paragraph (a)(27) of K.S.A. 39-923(a), 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 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 which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of 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. Unlicensed employees of 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 prescribed by the secretary for aging and disability services, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual
care to residents and who do not administer medications to residents and
shall be the same examination given by the secretary for aging and
disability services to all unlicensed employees of adult care homes who
provide direct, individual care to residents and who do not administer
medications.

(3) (A) Clinical instruction and demonstration of the skills specified
in the part I nurse aide training and competency evaluation program task
checklist shall be performed in only one or a combination of the following
settings that offer the full range of clinical tasks and experiences as
specified in the Kansas certified nurse aide curriculum guidelines - 90
hours:

(i) An adult care home;
(ii) a long-term care unit of a hospital;
(iii) a simulated laboratory; or
(iv) a professional healthcare association approved by the secretary
for aging and disability services.

(B) An adult care home shall not sponsor or provide clinical
instruction for a 90-hour nurse aide course if that adult care home has
been subject to any of the sanctions under the federal regulations for long-
term care facilities listed in 42 C.F.R. § 483.151(b)(2), as in effect on May
24, 2010.

(C) (1) No correspondence course shall be approved as a nurse aide
course.

(2) Nationally approved training curriculum and training materials
may be used as approved by the secretary for aging and disability
services.

(3) (4) 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 (c). 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 state general fund.

(4) (5) The secretary for aging and disability services shall establish a
state registry containing information about unlicensed employees of 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) (6) No adult care home shall use an individual as an unlicensed
employee of the 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) (7) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents to complete an approved refresher course. 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 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 to practice under the laws of this state 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 (f) 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. 2016 Supp. 39-1908 is hereby amended to read as follows: 39-1908. (a) The following parts of the health occupations credentialing program of the department of health and environment under the Kansas act on credentialing, K.S.A. 65-5001 through 65-5011, and amendments thereto, shall be transferred to the Kansas department for aging and disability services and shall be administered by the secretary for aging and disability services:

(1) Licensure of adult care home administrators, as defined by
subsection (c) of K.S.A. 65-3501(c), and amendments thereto;
(2) licensure of dieticians, as defined by subsection (f) of K.S.A. 65-
5902(f), and amendments thereto;
(3) certification of residential care facility operators, as defined by
subsection (a)(21) of K.S.A. 39-923, and amendments thereto;
(4) certification of activity directors, as defined by subsection (a) of
K.A.R. 26-39-100(a) on the effective date of K.S.A. 2016 Supp. 39-1901
through 39-1914, and amendments thereto;
(5) certification of social service designees, as defined by subsection
(ppp) of K.A.R. 26-39-100(ppp) on the effective date of K.S.A. 2016
Supp. 39-1901 through 39-1914, and amendments thereto;
(6) certification of nurse aides, as defined by subsection (pp) of
through 39-1914, and amendments thereto;
(7) certification of medication aides, as defined by subsection (mm)
of K.A.R. 26-39-100(mm) on the effective date of K.S.A. 2016 Supp. 39-
1901 through 39-1914, and amendments thereto;
(8) certification of home health aides, as defined by subsection (d) of
K.S.A. 65-5101(d), and amendments thereto; and
(9) maintenance of the Kansas nurse aide registry under subsection
(e) of K.S.A. 39-936(c), and amendments thereto, and K.S.A. 39-1411,
and amendments thereto.
(b) The criminal history record check program, as authorized by
individual credentialing statutes or rules and regulations, K.S.A. 39-969,
and amendments thereto, K.S.A. 39-970, and amendments thereto, and
subsection (b) of K.S.A. 22-4707(b), and amendments thereto, is hereby
transferred from the department of health and environment to the Kansas
department for aging and disability services and shall be a part thereof.
(c) The licensure of adult care home administrators, the licensure of
dieticians, the certification of residential care facility operators, the
certification of activity directors, the certification of social service
designees, the certification of nurse aides, the certification of medication
aides, the certification of home health aides, the board of adult care home
administrators, the maintenance of the Kansas nurse aide registry and the
criminal history record check program shall be administered by the
39-1901 through 39-1914, and amendments thereto, shall change or
diminish the authority of the board of adult care home administrators
established by K.S.A. 65-3506, and amendments thereto.
(d) Except as otherwise provided by K.S.A. 2016 Supp. 39-1901
through 39-1914, and amendments thereto, all powers, duties and
functions of the secretary of health and environment pertaining to the
licensure of adult care home administrators, the licensure of dieticians, the
certification of residential care facility operators, the certification of activity directors, the certification of social service designees, the certification of nurse aides, the certification of medication aides, the certification of home health aides, the board of adult care home administrators, the Kansas nurse aide registry and the criminal record check program transferred by K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto, are hereby transferred to and imposed upon the secretary for aging and disability services.

(e) The Kansas department for aging and disability services shall be the successor in every way to the powers, duties and functions of the department of health and environment pertaining to those portions of the health occupations credentialing program transferred by K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the Kansas department for aging and disability services shall be deemed to have the same force and effect as if performed by the department of health and environment in which such powers, duties and functions were vested prior to the effective date of K.S.A. 2016 Supp. 39-1901 through 39-1914, and amendments thereto.

Sec. 3. 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, after 90 days of employment, successfully complete an approved course of instruction and take and satisfactorily pass an examination prescribed by the secretary. The secretary may not require as a condition to employment or continued employment by a home health agency that persons providing only attendant care services as an employee of a home health agency complete any course of instruction or pass any examination.

(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) Prior to July 1, 1991, the secretary may require that home health aides complete the course of instruction and pass the examination established pursuant to subsection (c)(3) of K.S.A. 39-936(c), and amendments thereto, before enrolling in an approved course of instruction authorized by this section. On and after July 1, 1991, the secretary may not require that home health aides complete the course of instruction and pass
the examination established pursuant to subsection (c)(3) of K.S.A. 39-936(c), 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). 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. 5. This act shall take effect and be in force from and after its publication in the statute book.