

HOUSE BILL No. 2784

AN ACT concerning health and healthcare; relating to licensure and certification of certain care facilities and providers of disability and mental health services; prohibiting the state fire marshal and the marshal's representatives from wearing or operating a body camera during an on-site inspection at a licensed facility; transferring authority for certification of continuing care retirement communities from the Kansas insurance department to the Kansas department for aging and disability services; authorizing the department to condition or restrict a license of a provider of disability services; granting the secretary of aging and disability services authority to grant regulation waivers unrelated to health and safety; adding a definition for a day service provider; authorizing correction orders and civil fines to be appealed to the secretary of aging and disability services; providing for certification of certified community behavioral health clinics; permitting certification renewal of programs and treatments that have previously been certified or accredited; amending K.S.A. 39-923, 39-2004, 39-2009, 39-2013, 39-2016, 39-2019, 40-2231, 40-2232, 40-2233, 40-2234, 40-2235 and 40-2238 and K.S.A. 2023 Supp. 39-936 and repealing the existing sections.

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

New Section 1. (a) The state fire marshal and any of the marshal's representatives shall not wear or operate a body camera or other audio or video recording device during an on-site inspection of a licensed care facility or community-based locations where individuals with intellectual and developmental disabilities receive individually planned habilitation services as provided in K.S.A. 39-1804, and amendments thereto.

(b) As used in this section:

(1) "Body camera" means the same as defined in K.S.A. 45-254, and amendments thereto; and

(2) "licensed care facility" includes a child care facility as defined in K.S.A. 65-503, and amendments thereto, a qualified residential treatment program as defined in K.S.A. 38-2202, and amendments thereto, a psychiatric residential treatment facility as defined in K.S.A. 39-2002, and amendments thereto, a secure facility as defined in K.S.A. 38-2202, and amendments thereto, a shelter facility as defined in K.S.A. 38-2202, and amendments thereto, a youth residential facility as defined in K.S.A. 38-2202, and amendments thereto, an adult care home as defined in K.S.A. 39-923, and amendments thereto, and a medical care facility as defined in K.S.A. 65-425, and amendments thereto, except that "licensed care facility" includes a hospice that is certified to participate in the medicare program under 42 C.F.R. § 418.1 et seq.

Sec. 2. K.S.A. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary for aging and disability services.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for people with intellectual disability" means any place or facility operating 24 hours a day, seven

days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and ~~may need~~ supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential healthcare facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and ~~may need~~ supervised nursing care to compensate for activities of daily living limitations and ~~in which the~~ *where such* place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available ~~on a 24-hour~~ *24 hours a day, seven days a week* ~~basis~~ *seven days a week* for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential healthcare facility is not prohibited by this act. Generally, the skilled services provided in a residential healthcare facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary for children and families, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the Kansas department for aging and disability services. An adult care home may convert a portion of one wing of the facility to a not less than five-bed ~~and~~ *but* not more than 12-bed home plus facility ~~provided that if~~ the home plus facility remains separate from the adult care home; and each facility ~~must remain~~ *remains* contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) *"Continuing care retirement community" means any place or facility that combines a range of housing and services to encompass the continuum of aging care needs provided at an independent living facility, an assisted living facility, a residential healthcare facility, home plus or a skilled nursing care facility within a single place or*

facility to avoid the need for residents to relocate to a separate place or facility. The provision of community care includes the multiple levels of care provided as part of a continuing care retirement community.

(10) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

~~(10)~~(11) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, ~~and the term "Place or facility" may include~~ includes multiple buildings.

~~(11)~~(12) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions that require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

~~(12)~~(13) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

~~(13)~~(14) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

~~(14)~~(15) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

~~(15)~~(16) "Operate an adult care home" means to own, lease, sublease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the ~~word~~ words "own" and ~~the word~~ "lease" ~~shall do~~ not include hospital districts, cities and counties that hold title to an adult care home purchased or constructed through the sale of bonds.

~~(16)~~(17) "Licensing agency" means the secretary for aging and disability services.

~~(17)~~(18) "Skilled nursing home" means a nursing facility.

~~(18)~~(19) "Intermediate nursing care home" means a nursing facility.

~~(19)~~(20) "Apartment" means a private unit that includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

~~(20)~~(21) "Individual living unit" means a private unit that includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

~~(21)~~(22) "Operator" means an individual registered pursuant to the operator registration act, K.S.A. 39-973 et seq., and amendments thereto, who may be appointed by a licensee to have the authority and responsibility to oversee an assisted living facility or residential healthcare facility with fewer than 61 residents, a home plus or adult day care facility.

~~(22)~~(23) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including, but not limited to, eating, nutrition, dressing, personal hygiene, mobility and toileting.

~~(23)~~(24) "Personal care" means care provided by staff to assist an individual with; or to perform activities of daily living.

~~(24)~~(25) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and, as a result, is unable to compensate for the effects of the decline.

~~(25)~~(26) "Kitchen" means a food preparation area that includes a

sink, refrigerator and a microwave oven or stove.

~~(26)~~(27) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential healthcare facility.

~~(27)~~(28) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and 42 C.F.R. § 483.35(h), and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

~~(28)~~(29) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

~~(29)~~(30) "Licensee" means any person or persons acting jointly or severally who are licensed by the secretary for aging and disability services pursuant to the adult care home licensure act, K.S.A. 39-923 et seq., and amendments thereto.

~~(30)~~(31) "Insolvent" means that the adult care home; or any individual or entity that operates an adult care home or appears on the adult care home license; *and* has stopped paying debts in the ordinary course of business or is unable to pay debts as they come due in the ordinary course of business.

(b) The term "adult care home" does not include institutions operated by federal or state governments, except institutions operated by the director of the Kansas commission on veterans affairs office, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices that are certified to participate in the medicare program under 42 C.F.R. § 418.1 et seq., and ~~that~~ provide services only to hospice patients, or centers approved by the centers for medicare and medicaid services as a program for all-inclusive care for the elderly (PACE) under 42 C.F.R. § 460 et seq., that provides services only to PACE participants.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential healthcare facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with ~~less~~ *fewer* than 60 beds converting a portion of the facility to residential healthcare shall have the option of licensing for residential healthcare for ~~less~~ *fewer* than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology, and ~~the~~ *such* agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services that shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 3. K.S.A. 2023 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 shall be in attendance at all times when residents receive 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 attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees 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 approved training program for certified nurse 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 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 to complete successfully 40 hours of training in basic resident care skills. Any unlicensed employee who has not completed at least 40 hours of the certified nurse aide training approved by the secretary for aging and disability services or who is not making progress to complete the course of education and training required by the secretary for aging and disability services under paragraph (2) within four months following completion of such 40 hours shall not provide direct, individual care to residents.

(A) The 40 hours of training and remaining hours in the certified nurse aide training shall be performed under the general supervision of a course supervisor. The course supervisor shall be defined in rules and regulations and approved by the secretary for aging and disability services. As used in this subparagraph, "supervision" means the same as defined in K.S.A. 65-1165, and amendments thereto. The 40 hours of training may be prepared and administered by an adult care home, hospital, as defined in K.S.A. 65-425, and amendments thereto, hospice or program for all-inclusive care for the elderly or by any other qualified course sponsor and may be conducted on the premises of the adult care home, hospital, hospice or program for all-inclusive care for the elderly. The 40 hours of training required in this section shall be a part of an approved certified nurse aide training course required by the secretary for aging and disability services under subsection (c)(2).

(B) Each instructor under the supervision of a course supervisor of the certified nurse aide training course shall be licensed to practice in Kansas and in good standing. As used in this subparagraph, "in good standing" includes the possession of a license, certificate or registration that is subject to probation or non-disciplinary conditions, limitations or restrictions, but does not include a license, certificate or registration that is revoked, canceled or surrendered or subject to pending license-related disciplinary action. If the records of the Kansas department for aging and disability services reflect that an individual has a prohibiting offense, such license, certificate or registration shall not be considered "in good standing." Any license, certificate or registration that is subject to disciplinary conditions, limitations or restrictions shall remain subject to such conditions, limitations or restrictions.

(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 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 certified nurse 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~~ *as defined in 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, hospital, as defined in K.S.A. 65-425, and amendments thereto, hospice or program for all-inclusive care for the elderly or by any other qualified person. A course of instruction prepared and administered by an adult care home, hospital, hospice or program for all-inclusive care for the elderly may be conducted on the premises of the adult care home, hospital, hospice or program for all-inclusive care for the elderly that prepared and that will administer the course of instruction.

(B) As evidence of successful completion of the training course, such unlicensed employees 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 approved by the secretary for aging and disability services. As used in this subparagraph, "in good standing" includes the possession of a license, certificate or registration that is subject to probation or non-disciplinary conditions, limitations or restrictions, but does not include a license, certificate or registration that is revoked, canceled or surrendered or subject to pending license-related disciplinary action. If the records of the Kansas department for aging and disability services reflect that an individual has a prohibiting offense, such license, certificate or registration shall not be considered "in good standing." Any license, certificate or registration that is subject to disciplinary conditions, limitations or restrictions shall remain subject to such conditions, limitations or restrictions.

(3) The licensing agency shall not require unlicensed employees 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 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;

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

(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.

(6) The secretary for aging and disability services shall establish a state registry containing information about certified nurse 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.

(7) No adult care home shall use an individual working as a certified nurse 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.

(8) (A) The adult care home shall require any certified nurse aide working in an adult care home to complete an approved refresher course if such employee:

- (i) Provides direct, individual care to residents;
- (ii) does not administer medications; and
- (iii) since passing the examination required under paragraph (2), has had a continuous period of 24 consecutive months when the certified nurse aide has not provided direct, individual care to residents.

(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 a certified nurse 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 person licensed by the state board of healing arts to practice 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. 4. K.S.A. 39-2004 is hereby amended to read as follows: 39-2004. (a) The secretary may adopt rules and regulations necessary to carry out the provisions of this act. Such rules and regulations may prescribe minimum standards and requirements relating to: The location, building, size of centers, facilities and hospitals; environmental standards; capacity; the individuals allowed; the types of services offered; the records to be kept; medication management; policies and procedures specific to centers, facilities, hospitals and providers; the kind and frequency of reports and inventories to be made; and may generally establish such requirements as may be

deemed necessary to protect the health, safety, hygiene, welfare and comfort of the individuals.

(b) The authority granted to the secretary under this act is in addition to other statutory authority the secretary has to require the licensing and operation of centers, facilities, hospitals and providers and is not to be construed to limit any of the powers and duties of the secretary under article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(c) Notwithstanding any other provision of law to the contrary, the secretary may waive a requirement of the rules and regulations adopted under this act if the secretary finds that the waiver of the regulatory requirement is in the public interest and will not detrimentally affect the life, safety, health or welfare of any person receiving care or treatment in a center, facility or hospital licensed under this act or an individual receiving services from a provider licensed under this act.

Sec. 5. K.S.A. 39-2009 is hereby amended to read as follows: 39-2009. (a) As used in this section:

(1) "Applicant" means an individual who applies for employment with a center, facility, hospital or a provider of services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of services.

(2) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(3) "Department" means the Kansas department for aging and disability services.

(4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(6) "Employment agency" means an organization or entity that has a contracted relationship with a center, hospital, facility or provider of services to provide staff with direct access to consumers.

(7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a center, facility, hospital or provider of services.

(8) "Day service provider" means a provider of day support services for development in self-help, social skills, recreational skills and work skills for adults with intellectual or developmental disabilities that is licensed by the department or a separate and distinct dedicated division of a provider of day support services for development in self-help, social skills, recreational skills and work skills for adults with intellectual or developmental disabilities licensed by the department.

(b) (1) No licensee shall knowingly operate a center, facility, hospital or be a provider of services if any person who works in the center, facility, hospital or for a provider of services has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having ~~committing~~ committed an act ~~that~~ which, if ~~done~~ committed by an adult, would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary

manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government.

(2) (A) A licensee operating a center, facility or hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: ~~(A)~~(i) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in paragraph (1); ~~(B)~~(ii) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6420, and amendments thereto, except those crimes listed in paragraph (1); ~~(C)~~(iii) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; ~~(D)~~(iv) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; ~~(E)~~(v) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; ~~(F)~~(vi) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or ~~(G)~~(vii) similar statutes of other states or the federal government.

(B) An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph~~(2)~~

may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) (A) A licensee operating a center, facility, hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the ~~commissioner of juvenile justice~~ *secretary of corrections* or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a center, facility, hospital or provider of services on or before July 1, 2018, and is continuously employed by the same center, facility, hospital or provider of services or to any person during

or upon successful completion of a diversion agreement.

(B) An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph~~(3)~~ may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction *or adjudication*. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No licensee shall operate a center, facility, hospital or be a provider of services if such ~~person~~ licensee has been found to be an adult with an impairment in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a center, facility, hospital or for a provider of services to the secretary for aging and disability services. The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.

(2) The department shall require an applicant to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the center, facility, hospital or for a provider of services.

(3) An applicant for employment in ~~an~~ a center, facility, hospital or for a provider of services shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a fee not to exceed \$19 of the total cost for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

~~(d)~~(e) The secretary shall provide each licensee requesting information under this section with a pass or fail determination after

review of any criminal history record information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

~~(e)~~(f) Any licensee or member of the staff who receives information concerning the fitness or unfitness of any person shall keep such information confidential, except that the staff person may disclose such information to the person who is the subject of the request for information. A violation of this subsection shall be an unclassified misdemeanor punishable by a fine of \$100.

~~(f)~~(g) For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall receive from any employment agency or independent contractor that provides employees to work in the center, facility, hospital or for the provider of services written certification that such employees are not prohibited from working in the center, facility, hospital or for the provider of services under this section. For the purpose of complying with this section, a licensee may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of an eligibility determination under this subsection. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, department rules and regulations and the center's, facility's, hospital's or provider of services' policies and procedures. No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.

~~(g)~~(h) The licensee operating a center, facility, hospital or a provider of services shall not require an applicant under this section to be fingerprinted, if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the licensee operating a center, facility, hospital or a provider of services and has maintained a record of continuous employment, with no lapse of employment of over 90 days in any center, facility, hospital or a provider of services covered by this act.

Sec. 6. K.S.A. 39-2013 is hereby amended to read as follows: 39-2013. (a) Whenever the licensing agency finds a ~~substantial~~ failure to comply with the requirements, standards or rules and regulations ~~established~~ *adopted* under this act, ~~it shall~~ *the licensing agency may* make an order denying, *conditioning, restricting,* suspending or revoking the license after *issuing a* notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto. Any applicant ~~or~~ *licensee or person as defined in K.S.A. 39-2014, and amendments thereto,* may appeal such order in accordance with the provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(b) Except as provided in subsection (c), whenever the licensing agency denies, suspends or revokes a license under this section, the applicant or licensee shall not be eligible to apply for a new license or reinstatement of a license for a period of two years from the date of denial, suspension or revocation.

(c)~~(f)~~ Any applicant or licensee issued an emergency order by the licensing agency denying, suspending or revoking a license under this section may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred upon such applicant or licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas

judicial review act, K.S.A. 77-601 et seq., and amendments thereto, to the licensing agency in a settlement agreement or other manner as approved by the licensing agency.

(2)(d) Any licensee issued a notice of intent to take action by the licensing agency under this section may enter into a settlement agreement, as approved by the licensing agency, with the licensing agency at any time upon submission of a written waiver of any right conferred upon such licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(d)(e) In the event that a community mental health center accredited by the commission on accreditation of rehabilitation facilities or the joint commission, or another national accrediting body approved by the secretary for aging and disability services, loses accreditation by such accrediting entity, the community mental health center shall immediately notify the Kansas department for aging and disability services.

Sec. 7. K.S.A. 39-2016 is hereby amended to read as follows: 39-2016. (a) A correction order may be issued by the secretary or the secretary's designee to a licensee whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary inspects or investigates a center, facility, hospital or provider and determines that the center, facility, hospital or provider is not in compliance with the provisions of this act or article 59 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations ~~promulgated thereunder~~ *adopted by the secretary pursuant to such authority* and such non-compliance is likely to adversely affect the health, safety, nutrition or sanitation of the individuals or the public. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the specific deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated and shall specify the time allowed for correction.

(b) If upon re-inspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary, it is found that the licensee has not corrected the deficiency or deficiencies specified in the correction order, the secretary may assess a civil penalty in an amount not to exceed \$500 per day, per deficiency, against the licensee for each ~~subsequent day~~ ~~subsequent to the day~~ following the time allowed for correction of the deficiency as specified in the correction order, the maximum assessment shall not exceed \$2,500. A written notice of assessment shall be served upon the licensee either personally or by certified mail, return receipt requested. *Such notice of assessment shall advise the licensee of the opportunity to be heard in accordance with the Kansas administrative procedure act and to appeal such order in accordance with the provisions of the Kansas judicial review act.*

(c) Before the assessment of a civil penalty, the secretary shall consider the following factors in determining the amount of the civil penalty to be assessed:

- (1) The severity of the violation;
- (2) the good faith effort exercised by the center, facility, hospital or provider to correct the violation; and
- (3) the history of compliance of the licensee of the center, facility, hospital or provider with the rules and regulations. If the secretary finds that some or all deficiencies cited in the correction order have also been cited against the center, facility, hospital or provider as a result of any inspection or investigation which occurred within 18 months prior to the inspection or investigation which resulted in such correction order, the secretary may double the civil penalty assessed against the licensee, the maximum not to exceed \$5,000.

(d) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the licensee, unless

a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary may file a certified copy of the notice of assessment with the clerk of the district court in the county where the center, facility, hospital or provider is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

(e) *Any licensee against whom a civil penalty has been assessed, may appeal such assessment to the secretary within 10 days after receiving a written notice of assessment by filing a written notice of appeal with the office of administrative hearings specifying why such civil penalty should not be assessed. Such appeal shall not operate to stay the payment of the civil penalty. Upon receipt of the notice of appeal, the office of administrative hearings shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. If the initial order issued by the office of administrative hearings finds in favor of the appellant and the secretary affirms the initial order, any civil penalties collected shall be refunded to the appellant licensee. Either party may appeal the final order in accordance with the Kansas judicial review act.*

(f) *All civil penalties collected pursuant to the provisions of this act shall be deposited with the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt the state treasurer shall deposit the entire amount in the state general fund.*

Sec. 8. K.S.A. 39-2019 is hereby amended to read as follows: 39-2019. (a) The Kansas department for aging and disability services shall establish a process for certification of and funding for certified community behavioral health clinics in accordance with this section.

(b) (1) *Prior to February 1, 2027, the Kansas department for aging and disability services shall certify as a certified community behavioral health clinic—any only community mental health—center—centers that meet the criteria as set forth in paragraph (3).*

(2) *On and after February 1, 2027, the Kansas department for aging and disability services shall certify as a certified community behavioral health clinic any community mental health center or qualified nonprofit provider that meets the criteria as set forth in paragraph (3).*

(3) *In order to be certified as a certified community behavioral health clinic, a community mental health center or qualified nonprofit provider shall be licensed by the department that provides and provide the following services: Crisis services; screening, assessment and diagnosis, including risk assessment; person-centered treatment planning; outpatient mental health and substance use services; primary care screening and monitoring of key indicators of health risks; targeted case management; psychiatric rehabilitation services; peer support and family supports; medication-assisted treatment; assertive community treatment; and community-based mental healthcare for military servicemembers and veterans.*

(c) (1) The department of health and environment shall establish a prospective payment system under the medical assistance program for funding certified community behavioral health clinics. Such system shall permit payment by either daily or monthly rates.

(2) The department of health and environment shall submit to the United States centers for medicare and medicaid services any approval request necessary to implement this subsection.

(3) Such prospective payment system shall be implemented on or before May 1, 2022.

(d) (1) Subject to applications therefor, the Kansas department for aging and disability services shall certify community behavioral health clinics by not later than the following specified dates:

(A) Six facilities currently receiving grants to operate as certified community behavioral health clinics by not later than May 1, 2022;

(B) three additional facilities by not later than July 1, 2022;

(C) nine additional facilities by not later than July 1, 2023; and

(D) eight additional facilities by not later than July 1, 2024.

(2) The Kansas department for aging and disability services may certify community behavioral health clinics in advance of the deadlines established in paragraph (1), including portions of the specified numbers of facilities.

~~(d)~~(e) The secretary for aging and disability services *shall* adopt rules and regulations as necessary to implement and administer this section.

(f) *Programs and treatments provided by a certified community behavioral health clinic may be granted a certification renewal if such programs and treatments have been:*

(1) *Previously certified by the secretary for aging and disability services; and*

(2) *accredited by the commission on accreditation of rehabilitation facilities, the joint commission or another national accrediting body approved by the secretary for aging and disability services.*

Sec. 9. K.S.A. 40-2231 is hereby amended to read as follows: 40-2231. As used in this act:

(a) *"Continuing care" means the multiple levels of care provided as part of a continuing care retirement community, as defined in K.S.A. 39-923, and amendments thereto.*

(b) *"Continuing care contract" means an agreement pursuant to which a provider undertakes to furnish to a person, not related by consanguinity or affinity to the provider, shelter and medical or nursing services or other health-related benefits—~~which that~~ require a present or deferred transfer of assets or an entrance fee in the amount of \$5,000 or equivalent value or such greater amount as set by the commissioner in rules and regulations in addition to or in lieu of periodic charges. Continuing care contract shall also mean an agreement of any other provider who voluntarily applies for a certificate pursuant to K.S.A. 40-2235.*

~~(b)~~(c) *"Entrance fee" means the total of any initial or deferred transfer to, or for the benefit of, a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a person as a resident pursuant to a continuing care contract.*

~~(e)~~(d) *"Home" means the facility or facilities occupied, or planned to be occupied, by five or more residents where the provider undertakes pursuant to the continuing care contract to provide continuing care to such residents.*

~~(d)~~(e) *"Provider" or "continuing care provider" means the person, corporation, partnership, association or other legal entity—~~which that~~ agrees to provide continuing care to residents in a home.*

~~(e)~~(f) *"Resident" means an individual or individuals who have entered into an agreement with a provider for continuing care in a home.*

~~(f)~~(g) *~~Commissioner~~Secretary" means ~~commissioner of insurance of the state of Kansas~~ the secretary for aging and disability services.*

(h) *"Act" means the provisions of K.S.A. 40-2231 through 40-2238 and amendments thereto.*

Sec. 10. K.S.A. 40-2232 is hereby amended to read as follows: 40-2232. A provider shall be required to complete an annual disclosure statement prescribed by the ~~commissioner~~ secretary and shall be required to deliver the disclosure statement to individuals who are prospective residents, or current residents who request such disclosure statement. The text of the disclosure statement shall contain the following information:

(a) The name and business address of the provider and a statement of whether the provider is an individual, partnership, corporation or any other legal entity.

(b) The names of the individual or individuals who constitute the provider or, if the provider is a partnership, corporation or other legal entity, whether for profit or not for profit, the names of the officers, directors, trustees or managing or general partners of the provider. If

the provider is a corporation, the name of any individual who owns 10% or more of the stock of such corporation shall also be disclosed.

(c) With respect to a provider ~~which~~ *that* is either not incorporated or not established and operated on a not-for-profit basis, the names and business addresses of any individual having any ownership or any beneficial interest in the provider and a description of such individual's interest in or occupation with the provider.

(d) A statement as to whether or not the provider is, or is affiliated with, a religious, charitable or other nonprofit organization and the extent of the affiliation, if any; the extent to which any affiliate organization will be responsible for the financial and contractual obligations of the provider; the provision of the United States internal revenue code, if any, under which the provider or any of the provider's affiliates is or are exempt from the payment of federal income taxes; and; a statement of whether the home is exempt from local property taxation.

(e) A statement that the provider is required to have an annual certified audit by a certified public accountant and that a copy of such audit shall be made available upon request.

(f) If the operation of the home has not yet commenced, and with receipt of contract considerations as defined in K.S.A. 40-2231 ~~(a) and (b) and (c), and amendments thereto~~, the provider shall provide a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility, including but not limited to:

(1) An estimate of such costs as financing expense, legal expense, land costs, marketing costs and other similar costs ~~which~~ *that* the provider expects to incur or become obligated for prior to the commencement of operations;

(2) a description of any mortgage loan or any other financing intended to be used for the financing of the facility, including the anticipated terms and costs of such financing;

(3) an estimate of the total entrance fee to be received from or on behalf of residents at or prior to commencement of operation; and

(4) an estimate of the funds, if any, ~~which~~ *that* are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under continuing care contracts.

(g) A statement as to whether the manager or any official or director of the provider, has been convicted of a crime or been a party of any civil action claiming fraud, embezzlement, fraudulent conversion or misappropriation of property ~~which~~ *that* resulted in a judgment against such person and whether any such person has had any state or federal license or permits related to care and housing suspended or revoked.

(h) A statement of the years of experience of the provider and manager in the operation of homes providing continuing care.

(i) A statement of the fiscal year of the provider.

Sec. 11. K.S.A. 40-2233 is hereby amended to read as follows: 40-2233. A provider shall file with the ~~commissioner~~ *secretary* within four months of completion of such provider's fiscal year the annual disclosure statement referred to in K.S.A. 40-2232, *and amendments thereto*, the continuing care contract referred to in K.S.A. 40-2234, *and amendments thereto*, and an annual audit certified by a certified public accountant.

Sec. 12. K.S.A. 40-2234 is hereby amended to read as follows: 40-2234. The provider shall provide the ~~commissioner~~ *secretary* a copy of any continuing care contract form entered into on or after the effective date of this act or entered into between the provider and any resident, which shall include or have attached thereto:

(a) A description of all fees and or charges required of residents, a description of all services to be provided or committed to providing in the future *in compliance with the definitions in K.S.A. 39-923, and amendments thereto*, and a description of any services for which an

extra charge is made over and above entrance fees and periodic charges that are provided for in the contract;

(b) a listing of the terms and conditions under which the agreement may be cancelled by either party to the agreement or by which any or all of the entrance fee or transfer of assets would be refunded, less the value of any services received; and

(c) a statement describing health and financial conditions required to continue as a resident, including any changes in either health or financial conditions of the resident.

Sec. 13. K.S.A. 40-2235 is hereby amended to read as follows: 40-2235. No provider shall act as or hold themselves out to be a continuing care provider, as defined in this act, in this state, unless the provider shall hold a certificate of registration as a continuing care provider issued by the ~~commissioner of insurance~~ *secretary*. Application for such certificate shall be made to the ~~commissioner~~ *secretary* on a form prescribed by such ~~commissioner~~ *secretary* and shall be accompanied by a filing fee of \$50. Such certificate may be continued for successive annual periods by notifying the ~~commissioner of insurance~~ *secretary* of such intent and payment of a \$25 continuation fee. Such certificate shall be issued *or renewed* to a continuing care provider ~~or continued~~ by the ~~commissioner~~ *secretary* ~~if unless the commissioner secretary after due notice and hearing shall have determined~~ *determines* that the continuing care provider is ~~not~~ in compliance with this act *within four months of completion of such provider's fiscal year. If certification is not issued or renewed, the provider may appeal such decision in accordance with the Kansas administrative procedure act. Judicial review under this act shall be in accordance with the Kansas judicial review act.*

Sec. 14. K.S.A. 40-2238 is hereby amended to read as follows: 40-2238. The ~~commissioner~~ *secretary* shall ~~promulgate~~ *adopt any* rules and regulations necessary to carry out the provisions of this act.

Sec. 15. K.S.A. 39-923, 39-2004, 39-2009, 39-2013, 39-2016, 39-2019, 40-2231, 40-2232, 40-2233, 40-2234, 40-2235 and 40-2238 and K.S.A. 2023 Supp. 39-936 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.