

HOUSE BILL No. 2004

By Representative Highland

12-11

1 AN ACT concerning the adult care home licensure act; relating to transfer
2 or discharge of residents from an adult residential care facility; creating
3 a right to appeal an involuntary transfer or discharge.
4

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

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

10 (1) The transfer or discharge is necessary for the resident's welfare
11 and the resident's needs cannot be met by the current adult residential care
12 facility;

13 (2) the health or safety of other individuals in the adult residential
14 care facility is endangered;

15 (3) the resident has failed, after reasonable and appropriate notice, to
16 pay the rates and charges imposed by the adult residential care facility; or

17 (4) the adult residential care facility ceases to operate.

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

20 (1) Notify the resident, and, if known, a legal representative or
21 designated family member, of the transfer or discharge and the reason for
22 the transfer or discharge;

23 (2) if the reason for transfer or discharge is specified in subsection (a)
24 (1) through (a)(3), record and substantiate in the resident's clinical record
25 as follows:

26 (A) The resident's physician shall document the rationale for transfer
27 or discharge in the resident's clinical record if the transfer or discharge is
28 necessary for the resident's welfare and the resident's needs cannot be met
29 by the adult residential care facility;

30 (B) the resident's physician shall document the rationale for transfer
31 or discharge in the resident's clinical record if the transfer or discharge is
32 appropriate because the resident's health has improved sufficiently so that
33 the resident no longer needs the services provided by the adult residential
34 care facility; or

35 (C) a physician shall document the rationale for transfer or discharge
36 in the resident's clinical record if the transfer or discharge is necessary

1 because the health or safety of other individuals in the adult residential
2 care facility is endangered; and

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

5 (A) The reason for the transfer or discharge;

6 (B) the effective date of the transfer or discharge;

7 (C) the contact information for the state long-term care ombudsman;

8 (D) the resident's right to appeal an involuntary transfer or discharge
9 established under this section and information as designated by the
10 secretary to assist the resident in exercising such right;

11 (E) for a resident with an intellectual or developmental disability,
12 dementia or another cognitive-limiting condition, the contact information
13 for the agency responsible for the protection and advocacy of individuals
14 with such conditions; and

15 (F) for a resident with a mental disorder or related disability, the
16 contact information for the agency responsible for protection and advocacy
17 of individuals with a mental disorder or related disability.

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

22 (1) The safety of other individuals in the adult residential care facility
23 would be endangered; or

24 (2) the resident's urgent medical needs require an immediate transfer
25 to another healthcare facility.

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

31 (e) (1) If a resident of an adult residential care facility receives notice
32 of a pending involuntary transfer or discharge in violation of this section,
33 such resident, or such resident's legal representative, may appeal such
34 transfer or discharge to the secretary for aging and disability services by
35 filing a notice of appeal in the office of administrative hearings within 15
36 days after the date of such notice. A presiding officer from the office of
37 administrative hearings shall hold a hearing, in accordance with the
38 provisions of the Kansas administrative procedure act, within 30 days after
39 the receipt of the notice of appeal.

40 (2) If a resident files an appeal pursuant to this section, the resident
41 shall be permitted to return and resume residence in the adult residential
42 care facility while the appeal is pending.

43 (f) The secretary shall adopt rules and regulations as necessary to

1 implement and administer the provisions of this act.

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

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

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