

HOUSE BILL No. 2501

AN ACT concerning the Kansas department for aging and disability services; disposition of fees; creating the health occupations credentialing fee fund; amending K.S.A. 65-5913 and 65-6512 and K.S.A. 2017 Supp. 39-936, 39-979 and 65-3503 and repealing the existing sections.

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

Section 1. K.S.A. 2017 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 that~~ 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)(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 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 that~~ prepared and ~~which that~~ 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) 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~~ *health occupations credentialing fee fund created by K.S.A. 2017 Supp. 39-979, and amendments thereto.*

(4) 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) 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) 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. 2017 Supp. 39-979 is hereby amended to read as follows: 39-979. (a) *There is hereby created in the state treasury the health occupations credentialing fee fund to be administered by the secretary for aging and disability services. All expenditures from the health occupations credentialing fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers signed by the secretary for aging and disability services or the secretary's designee.*

(b) All fees under the operator registration act shall be established by rules and regulations of the secretary. The amounts received for such fees shall be deposited in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the ~~state licensure fee fund administered by the department pursuant to K.S.A. 39-930, and amendments thereto~~ *health occupations credentialing fee fund.*

Sec. 3. K.S.A. 2017 Supp. 65-3503 is hereby amended to read as follows: 65-3503. (a) It shall be the duty of the board to:

(1) Develop, impose and enforce standards ~~which~~ *that* shall be met by individuals in order to receive a license as an adult care home administrator, ~~which standards~~ *and that* shall be designed to ensure that adult care home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as adult care home administrators;

(2) develop examinations and investigations for determining whether an individual meets such standards;

(3) issue licenses to individuals who meet such standards, and revoke or suspend licenses issued by the board or reprimand, censure or otherwise discipline a person holding any such license as provided under K.S.A. 65-3508, and amendments thereto;

(4) establish and carry out procedures designed to ensure that individuals licensed as adult care home administrators comply with the requirements of such standards; and

(5) receive, investigate and take appropriate action under K.S.A. 65-3505, and amendments thereto, and rules and regulations adopted by the board with respect to any charge or complaint filed with the board to the effect that any person licensed as an adult care home administrator may be subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and amendments thereto.

(b) The board shall also have the power to make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to have subpoenas issued pursuant to K.S.A. 60-245, and amendments thereto, in the board's exercise of its power and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the social security act, the federal rules and regulations promulgated thereunder and other pertinent federal authority.

(c) The board shall fix by rules and regulations the licensure fee, temporary license fee, renewal fee, late renewal fee, reinstatement fee, reciprocity fee, sponsorship fee, wall or wallet card license replacement fee, duplicate wall license fee for any administrator serving as administrator in more than one facility and, if necessary, an examination fee under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. No fee shall be more than \$200. The secretary for aging and disability services shall remit all moneys received from fees, charges or penalties under this act 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~~ *health occupations credentialing fee fund created by K.S.A. 2017 Supp. 39-979, and amendments thereto.*

(d) The board upon request shall receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

Sec. 4. K.S.A. 65-5913 is hereby amended to read as follows: 65-5913. The secretary shall fix by rules and regulations fees for applications for and renewal of licenses, temporary licenses, examination fees, late renewal fees, reinstatement and sponsorship fees under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of this act. No fee shall be more than \$200. The secretary shall remit all moneys received from fees, charges or penalties under this act 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~~ *health occupations credentialing fee fund created by K.S.A. 2017 Supp. 39-979, and amendments thereto.*

Sec. 5. K.S.A. 65-6512 is hereby amended to read as follows: 65-6512. The secretary shall fix by rules and regulations the licensure fee, sponsorship fee, temporary licensure fee, renewal fee, late renewal fee, reinstatement fee, and examination fee, if necessary, under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. No fee shall be more than \$200. The secretary shall remit all moneys received from fees, charges or penalties under this act 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~~ *health occupations credentialing fee fund created by K.S.A. 2017 Supp. 39-979, and amendments thereto.*

Sec. 6. K.S.A. 65-5913 and 65-6512 and K.S.A. 2017 Supp. 39-936, 39-979 and 65-3503 are hereby repealed.

Sec. 7. 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 passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.