

KANSAS STATUTES ANNOTATED
Article 35
LICENSURE OF ADULT CARE HOME ADMINISTRATORS

65-3501. As used in this act, or the act of which this section is amendatory, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Adult care home" means nursing facility, nursing facilities for mental health, intermediate care facilities for the mentally retarded, assisted living facility licensed for more than 60 residents, and residential health care facility licensed for more than 60 residents as defined by K.S.A. 39-923 and amendments thereto or by the rules and regulations of the licensing agency adopted pursuant to such section for which a license is required under article 9 of chapter 39 of the Kansas Statutes Annotated, or acts amendatory thereof or supplemental thereto, except that the term "adult care home" shall not include a facility that is operated exclusively for the care and treatment of the mentally retarded and is licensed for 16 or fewer beds.

(b) "Board" means the board of adult care home administrators established by K.S.A. 65-3506 and amendments thereto.

(c) "Administrator" means the individual directly responsible for planning, organizing, directing and controlling the operation of an adult care home.

(d) "Person" means an individual and does not include the term firm, corporation, association, partnership, institution, public body, joint stock association or any group of individuals.

(e) "Sponsor" means entities approved by the board to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the board in accordance with this act.

(History: L. 1970, Ch. 265, Sec. 1; L. 1975, Ch. 328, Sec. 1; L. 1978, Ch. 255, Sec. 1; L. 1979, Ch. 203, Sec. 1; July 1; L. 1995, ch. 143, sec. 2; July 1; K.S.A. 1997 Supp. 65-3501, as amended by L. 1998, ch. 200, sec 1; July 1.)

65-3502. From and after the effective date of this act, no adult care home in the state shall be operated unless it is under the supervision of an administrator who holds a currently valid adult care home administrator's license issued pursuant to this act. No person shall practice or offer to practice adult care home administration in this state or use any title, sign, card or device to indicate that the person is an adult care home administrator, unless such person shall have been duly licensed as an adult care home administrator as required by this act. The board may authorize, by rules and regulations, the issuance of a temporary license as an adult care home administrator in the event of an emergency to be effective for a period of 60 days. The temporary license fee shall be fixed by rules and regulations. Such temporary license may be extended for two consecutive sixty-day periods of time, but in no case shall a temporary license be maintained in effect for a period of time greater than 180 days.

(History: L. 1970, Ch. 265, Sec. 2; L. 1975, Ch. 328, Sec. 3; L. 1976, Ch. 278, Sec. 1; July 1; L. 1993, HB 2110, July 1, 1993, Ch.64, ' 1; July 1.)

65-3503. (a) It shall be the duty of the board to:

(1) Develop, impose and enforce standards which shall be met by individuals in order to receive a license as an adult care home administrator, which standards 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 of health and environment shall remit all moneys received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund.

(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.

(History: L. 1970, Ch. 265, Sec. 3; L. 1975, Ch. 328, Sec. 4; L. 1978, Ch. 255, Sec. 2; L. 1984, Ch. 313, Sec. 127; July 1, 1985; L. 1990, H.B. 2745, April 26, 1990; L. 1993, HB 2110, July 1, 1993; L. 1995, ch. 143, sec. 7, July 1; K.S.A. 1997 Supp. 65-3503, as amended by L. 1998, ch. 200, sec. 2; L. 2003, Ch 71, ' 1; July 1.)

65-3504. (a) The board shall admit to examination for licensure as an adult care home administrator any candidate who pays a licensure and examination fee, if required, to the department of health and environment to be fixed by rules and regulations; submits evidence that such candidate is at least 18 years old; has completed preliminary education satisfactory to the board as prescribed in rules and regulations; and has met board established standards of good character, training and experience.

(b) Nothing in the provisions of article 35 of chapter 65 of the Kansas Statutes Annotated or acts amendatory of the provisions thereof or supplemental thereto or any rules and regulations adopted pursuant thereto shall prohibit a candidate for licensure as an adult care home administrator who is a member of a recognized church or religious denomination whose religious teachings prohibit the acquisition of formal education which would qualify such candidate for examination as required by the board under subsection (a) from being admitted to examination under subsection (a) so long as such candidate otherwise meets the qualifications for admission to examination under subsection (a). A candidate for licensure as an adult care home administrator who qualifies to take the examination for licensure under this

subsection (b), who passes the examination and who is licensed as an adult care home administrator shall engage in the practice of adult care home administration only in an adult care home which is owned and operated by such recognized church or religious denomination.

(History: L. 1970, Ch. 265, Sec. 4; L. 1975, Ch. 328, Sec. 5; L. 1981, Ch. 252, Sec. 1; April 6; L. 1990, H.B. 2745, April 26, 1990; L. 1993, HB 2110, July 1, 1993; L 2003, Ch. 71, ' 2; July 1.)

65-3505. Renewal of license; application, fee and evidence; reciprocal relations with other states.

(a) Every individual who holds a valid license as an administrator issued by the board shall apply to the board for renewal of such license in accordance with rules and regulations adopted by the board and report any facts requested by the board on forms provided for such purpose.

(b) Upon making an application for a renewal of license such individual shall pay a renewal fee to be fixed by rules and regulations and shall submit evidence satisfactory to the board that during the period immediately preceding application for renewal the applicant has attended a program of course of study as provided by the rules and regulations of the board. Any individual who submits an application for a renewal of license within 30 days after the date of expiration shall also pay a late renewal fee fixed by rules and regulations. Any individual who submits an application for a renewal of license after the thirty-day period following the date of expiration shall be considered as having a license that has lapsed for failure to renew and shall be reissued a license only after the individual has been reinstated under subsection (d).

(c) Upon receipt of such application for renewal of license, the renewal fee and the evidence required, the board shall issue a license to such administrator.

(d) An administrator who has been duly licensed in this state, whose license has not been revoked or suspended, and whose license has expired because of temporary abandonment of the practice of nursing home administration, or has moved from the state, or for such other reason, may be licensed within the state upon complying with the provisions of this section for renewal of license, filing with the board an application, and submission of a renewal fee and reinstatement fee fixed by rules and regulations.

(e) The board may grant a license to any person who, at the time of application, is licensed as an adult care home administrator in another jurisdiction if the board determines:

(1) That the requirements of such jurisdiction for such licensure are substantially the equivalent of the requirements of this state; or that the applicant demonstrates on forms provided by the board continuous licensure as an adult care home administrator during the five years immediately preceding the application with at least the minimum professional experience during that time as established by rules and regulations of the board;

(2) that the candidate has not had disciplinary actions of a serious nature brought by a licensing board or agency; and

(3) that the applicant for a license under this subsection pays a reciprocity application fee and a reciprocity license fee established by the board by rules and regulations, neither of which shall exceed \$200.

(f) The expiration date of each license issued or renewed shall be established by rules and regulations of the board. Subject to the provisions of this subsection each license shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration date of the license and upon payment of the renewal fee established pursuant to rules and regulations of the board. To provide for a system of biennial renewal of licenses the board may provide by rules and regulations that licenses issued or renewed for the first time after the effective date of this act may expire less than two years from the date

of issuance or renewal. In each case in which a license is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to rules and regulations. No proration shall be made under this subsection (f) on delinquent license renewals or on temporary licenses.

(History: L. 1970, Ch. 265, Sec. 5; L. 1975, Ch. 328, Sec. 6; L. 1978, Ch. 255, Sec. 3; L. 1981, Ch. 252, Sec. 2; April 6, 1981; L. 1993, Ch. 64, ' 4; L. 2007, Ch 177, ' 26; May 17.)

65-3506. Board of adult care home administrators; appointment of members; qualifications; term of office; meetings; final orders; compensation and expenses. (a) There is hereby established the board of adult care home administrators. The board shall be attached to the department of health and environment and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of health and environment. The department shall serve as the administrative agency of the board in all respects and shall perform such services and duties as it may be legally called upon to perform. The attorney for the board shall be an assistant attorney general appointed by the attorney general. The office of the attorney general shall serve as the enforcement agency for the board. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the secretary of health and environment.

(b) The board of adult care home administrators shall be composed of seven members appointed by the governor as follows:

(1) Two members shall be representatives of professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients;

(2) two members shall be consumer representatives who have no current or previous involvement in the financial affairs or as a member of the governing body of any adult care home or any association directly concerned with the regulation or licensure of adult care homes in the state; and

(3) three members shall be licensed in Kansas as licensed adult care home administrators, subject to the following requirements:

(A) (i) One such member shall be a representative of the not-for-profit adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, Leading Age Kansas, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3);

(ii) one such member shall be a representative of the for-profit adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, the Kansas health care association, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3); and

(iii) one such member shall be a representative of the professional association for the adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, the Kansas adult care executives association, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3);

(B) all such members shall have been actively engaged in the administration of adult care homes within the state of Kansas for the three years immediately preceding appointment;

(C) all such members shall be actively engaged in the administration of adult care homes within the state of Kansas; and

(D) no such members shall have had or shall have any published disciplinary action taken by the board of adult care administrators against such members.

(c) No more than three members of the board may be licensed adult care home administrators. Members of the board, other than the licensed adult care home administrators, shall have no direct

financial interest in adult care homes. Members of the board shall serve on the board for terms of three years or until otherwise disqualified from serving on the board. On the effective date of this act, the current expiration date of the term of office of each existing board member shall be extended by one year from such expiration date. On and after the effective date of this act, no member shall serve more than two consecutive terms. The provisions of article 35 of chapter 65 of the Kansas Statutes Annotated shall not affect the office of any member of the board of adult care home administrators appointed prior to the effective date of this section. On and after the effective date of this act, as positions become vacant on the board, appointments shall be made in a manner so as to comply with the provisions of this section.

(d) Members of the board of adult care home administrators shall meet at such times as may be appropriate but in no case less than once each four months. The chairperson of the board shall be elected annually from among the members of the board. All final orders shall be in writing and shall be issued in accordance with the Kansas administrative procedure act.

(e) Members of the board who attend meetings of such board, or attend a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

History: L. 1975, ch. 328, § 2; L. 1980, ch. 194, § 1; L. 1988, ch. 352, § 2; L. 2001, ch. 197, § 3; L. 2003, ch. 71, § 3; L. 2006, ch. 157, § 1; L. 2012, ch. 113, § 1; May 24.

65-3507. Transfer to board of powers, duties and functions relating to licensure and registration of administrators. (a) All of the powers, duties and functions of the secretary of health and environment granted by K.S.A. 65-3501 to 65-3505, inclusive, relating to the licensure and registration of skilled nursing home administrators, are transferred to and conferred and imposed upon the board of adult care home administrators established by K.S.A. 65-3506, except as otherwise provided by this act.

(b) Whenever the secretary of health and environment or the department of health and environment, or words of like effect, is referred to or designated by a contract or other document executed pursuant to the powers, duties and functions granted to the secretary of health and environment by K.S.A. 65-3501 to 65-3505, inclusive, such reference or designation shall be deemed to apply to the board of adult care home administrators established by K.S.A. 65-3506.

(c) All rules and regulations and all orders or directives of the secretary of health and environment adopted in administering the powers, duties and functions granted to such secretary by K.S.A. 65-3501 to 65-3505, inclusive, and in existence on the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the board of adult care home administrators created by K.S.A. 65-3506, until revised, amended, repealed or nullified pursuant to law.

(History: L. 1975, Ch. 328, ' 7; April 18)

65-3508. The license of an adult care home administrator or the temporary license of an adult care home administrator may be denied, revoked or suspended or the adult care home administrator or a person holding a temporary license as an adult care home administrator may be reprimanded, censured or otherwise disciplined by the board, after notice and an opportunity for a hearing conducted by the board in accordance with the provisions of the Kansas administrative procedure act, if the adult care home administrator or person holding a temporary license as an adult care home administrator has:

(a) Failed to comply with the provisions of K.S.A. 65-3505 and amendments thereto and continued to act as an adult care home administrator;

(b) substantially failed to conform to the requirements of the standards adopted under K.S.A. 65-3503 and amendments thereto;

(c) willfully or repeatedly violated any of the provisions of the law or rules and regulations of the licensing agency under the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated;

(d) been convicted of a crime found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an adult care home administrator;

(e) failed to provide overall management of nutrition, medications and treatments of residents, including the use of restraints, in accordance with acceptable medical practices;

(f) been convicted of the violation of any state or federal drug or narcotic law or any provision of the state or federal controlled substances act or habitually overindulged in alcohol or habitually misused controlled substances;

(g) been involved in aiding, abetting, sanctioning or condoning any violation of the law or rules and regulations under article 9 of chapter 39 of the Kansas Statutes Annotated;

(h) engaged in the practice of adult care home administration in violation of subsection (b) of K.S.A. 65-3502 and amendments thereto;

(i) misrepresented or omitted a material fact on an application for licensure or in any other communication with the board;

(j) had disciplinary action taken against an adult care home administrator's license issued by another state or jurisdiction; or

(k) had disciplinary action taken against such adult care home administrator on a professional or occupational health care license, mental health care license or social worker license issued by this state or by another state or jurisdiction.

(History: L. 1978, Ch. 255, Sec. 4; L. 1984, Ch. 313, Sec. 128; July 1, 1985; L. 1990, H.B. 2745, April 26, 1990; L. 2003, Ch. 71, ' 4; L. 2006, ch. 157, ' 2; July 1.)