Agency 26

Kansas Department for Aging and Disability Services

Editor's Note:
Pursuant to Executive Reorganization Order (ERO) No. 41, the Kansas Department on Aging was renamed the Kansas Department for Aging and Disability Services. See L. 2012, Ch. 185.

Articles

26-1. General Provisions.
26-2. Grants and Contracts.
26-3. Procurement.
26-4. Non-Medicaid Hearing and Appeals.
26-4a. Customer and Provider Appeals in Medicaid Programs.
26-5. In-Home Nutrition Program.
26-8. Senior Care Act.
26-9. Client Assessment, Referral, and Evaluation Program.
26-11. Kansas Senior Pharmacy Assistance Program.
26-39. Adult Care Homes.
26-40. Nursing Facilities.
26-41. Assisted Living Facilities and Residential Health Care Facilities.
26-42. Homes Plus.
26-43. Adult Day Care Facilities.

Article 1.—GENERAL PROVISIONS

26-1-1. Definitions. (a) "Area agency" and "area agency on aging" mean the agency or organization within a planning and service area that has been designated by the secretary to develop, implement, and administer a plan for the delivery of a comprehensive and coordinated system of services to individuals in the planning and service area.

(b) "Area plan" means the document developed by an area agency that describes the comprehensive and coordinated system of services to be provided to individuals in a planning and service area.

(c) "Comprehensive and coordinated system of services" means a program of interrelated supportive and nutrition services designed to meet the needs of individuals in a planning and service area.

(d) "Contract" means a procurement agreement.

(e) "Contractor" means the party or parties who are under contract with the department or an area agency to provide services to individuals in a planning and service area.

(f) "Contribution" means a donation of money or vision card units that is given by a customer to pay to the provider a portion or the total cost of services received.

(g) "Department" has the meaning specified in K.S.A. 75-5902(a), and amendments thereto.

(h) "Federal act" means the older Americans act of 1965, codified at 42 U.S.C. 3001 et seq. on October 17, 2006, as amended.

(i) "Final financial report" means a contractor-prepared or grantee-prepared document that contains an accurate and complete disclosure of the financial results of the contract, grant, subcontract, or subgrant.

(j) "Grant" means an award of financial assistance in the form of money, or property in lieu of money, by the department.

(k) "Grantee" means any legal entity to which

a grant is awarded and that is accountable to the department for the use of the grant. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant.

(l) "Granting agency" means Kansas department on aging.

(m) "Greatest economic need" means the need for services resulting from an annual income level at or below the poverty threshold established annually by the U.S. department of health and human services.

(n) "Greatest social need" means the need for services caused by noneconomic factors that restricts an individual's ability to perform normal daily tasks or that threatens the capacity to live independently. Noneconomic factors shall include physical and mental disabilities, language barriers, and cultural, social, or geographic isolation including isolation caused by racial or ethnic status.

(o) "Indian tribal organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body of an Indian tribe.

(p) "In-home service" means the provision of health, medical, or social services to a private individual in the individual's noninstitutional place of residence.

(q) "Kansan" means any individual who currently resides within the state of Kansas.

(r) "Metropolitan area" means a standard metropolitan statistical area as defined by the census bureau.

(s) "Modification of a grant or contract" means a change in an area plan or other grant or a contract that would result in any of the following:

(1) Alteration of the program scope, planned objectives, or manner in which services are delivered;

(2) provision of financial assistance or payments to any entity not authorized by the original grant or contract; or

(3) alteration of the approved budget of the original grant or contract.

(t) "Notification of grant award" and "NGA" mean the document, issued by the department, awarding financial assistance for the provision of services and specifying the terms of the grant.

(u) "Obligation" means the dollar amount of the orders placed, contracts and subgrants awarded, services received, and similar transactions during the grant period that will require payment within 75 days following the last day in which the grant is active.

(v) "Older individual" and "older person" has the meaning specified in K.S.A. 75-5902(d), and amendments thereto, for "aged" and "senior citizen."

(w) "Planning and service area" and "PSA" mean a geographic area of the state designated by the department for the purpose of planning, development, delivery, and overall administration of services under an area plan.

(x) "Program income" and "project income" mean gross income received by the grantee or subgrantee and directly generated by a grant-supported activity or earned only as a result of the grant agreement during the period.

(y) "Qualified assessor" means any individual who meets the department's education, licensure, certification, and training requirements that are required to perform a customer assessment for a program funded by the department.

(z) "Redesignation" means a change in the geographic boundaries of a planning and service area or selection of an area agency that is different from the area agency previously designated for a particular planning and service area.

(aa) "Request for proposal" and "RFP" mean the document containing criteria that is used to solicit applications for a contract or grant from potential service providers.

(bb) "Secretary" has the meaning specified in K.S.A. 75-5902(b), and amendments thereto.

(cc) "Self-employment" means work for income performed by an individual engaged on that individual's own account in a business, farm, or other enterprise.

(dd) "Service provider" means any legal entity that is obligated to provide services in any planning and service area.

(ee) "State act" means Kansas act on aging, K.S.A. 75-5901 et seq. and amendments thereto.

(ff) "State advisory council" means the advisory council on aging created by K.S.A. 75-5911, and amendments thereto.

(gg) "State plan" means the document submitted to the U.S. department of health and human services by the department in order to receive its allotment of funds under the older Americans act.

(hh) "Subcontractor" means any legal entity to which a subcontract has been awarded and that is accountable to the contractor to provide services to individuals in a planning and service area.

(ii) "Subgrant" means an award of financial as-

sistance in the form of money, or property in lieu of money, made under a grant by a grantee to a subgrantee.

(jj) "Subgrantee" means any legal entity to which a subgrant is awarded and that is accountable to the grantee for the use of the grant funds.

(kk) "Unit of local government" means either of the following:

(1) Any county, city, township, school district, or other similar political subdivision of the state, or any agency, bureau, office, or department thereof; or

(2) any Indian tribal organization. (Authorized by K.S.A. 2010 Supp. 75-5908; implementing K.S.A. 75-5902 and K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended May 31, 2002; amended July 15, 2011.)

26-1-5. Area plan development. (a) Each area agency's executive director shall ensure that an area plan is developed and submitted to the department for approval. An area agency shall not receive any funds from the department until the area agency's area plan has been approved.

(b) Each area plan shall be submitted on forms prescribed by the secretary and shall contain all of the assurances required in section 306 of the federal act, and all other relevant information requested on the forms.

(c) Each area agency's executive director shall ensure that units of local government, local advisory councils, potential service providers, and older individuals, family caregivers, and other representatives of these older individuals have an opportunity for involvement in the development of the area plan.

(d) Each area agency's area plan shall describe the rationale for the proposed allocation of funds for services in the planning and service area. The rationale shall identify the manner in which the proposed distribution of funds will meet identified nutrition and supportive service needs.

(e) The area plan shall provide assurances that the area agency will expend for services to older individuals residing in rural areas in the area agency's planning and service area an amount not less than the amount expended for these services in federal fiscal year 2000. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended May 31, 2002; amended July 15, 2011.)

26-1-6. Operating policies and procedures of area agencies. (a) Each area agency receiving funding under an area plan shall have written policies and procedures to govern the conduct of its operations and functions. These policies and procedures shall meet the following requirements:

(1) Describe the administrative and policy structure of the area agency; and

(2) describe the policies and procedures that are applicable to recipients of services provided with funds from the department and include any policies and procedures mandated by the department.

(b) Each area agency's written policies and procedures that are applicable to recipients of services provided with funds from the department shall be officially adopted by action of the entity's governing body. Before adoption, the area agency shall provide an opportunity for comment on the proposed operating policies and procedures by units of local government, local advisory councils, potential service providers, and older individuals. Notice of the opportunity for comment shall be published in a newspaper or newspapers of general circulation within the planning and service area at least 14 days before the policies and procedures are adopted by the area agency.

(c) Each area agency's executive director shall ensure that the area agency's policies and procedures are submitted to the department within 10 days of receipt of the department's written request.

(d) Each area agency's executive director shall ensure that each of the area agency's subgrantees and contractors that receive department funds is provided with a copy of the area agency's written policies and procedures, at no cost to the subgrantee or contractor. Other parties may obtain a copy of the written policies and procedures by submitting a written request to the area agency. The area agency shall provide the requested policies or procedures, or both, within three business days after the date the request is received, subject to prepayment of reasonable costs. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1,

1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended May 21, 1999; amended July 15, 2011.)

26-1-7. (Authorized by and implementing K.S.A. 75-5908 and K.S.A. 1996 Supp. 75-5945; effective, T-89-14, April 26, 1988; effective Oct. 1, 1988; amended Nov. 14, 1997; revoked July 15, 2011.)

26-1-8. Confidentiality; policies and procedures to protect information; sanctions. (a) Personal information collected in the application for or delivery of services funded, in whole or in part, by the department shall remain confidential unless the disclosure meets any of the following conditions:

(1) Prior written consent to disclose an individual's personal information is obtained from the individual or the individual's legal representative.

(2) Disclosure is required to enable the delivery of services for which the individual or the individual's representative has requested or applied.

(3) Disclosure is required for program monitoring purposes by authorized federal, state, or local agencies.

(4) Disclosure is required by court order, administrative tribunal, or law.

(b) Personal information shall include any of the following:

(1) Street address, city, county, zip code, or equivalent geocodes;

(2) telephone number, fax number, or electronic mail address;

(3) social security, medical record, health plan beneficiary, and account numbers, and any other unique identifying number, characteristic, or code;

(4) certificate or license number;

(5) web universal resource locators (URLs) and internet protocol (IP) address numbers;

(6) biometric identifiers, including fingerprints and voiceprints;

(7) full-face photographic images and any comparable images;

(8) validation of past and present receipt of any local, state, or federal program services;

(9) validation of family, social, and economic circumstances;

(10) medical data, including diagnoses and history of disease or disability;

(11) income and other financial information;

(12) department evaluation of personal or medical information;

(13) validation of program eligibility; and

(14) validation of third-party liability for payment for program services to any individual or entity.

(c) Each department grantee, subgrantee, contractor, and subcontractor shall adopt and adhere to written policies and procedures to safeguard against the unauthorized disclosure of personal information about individuals collected in the delivery of services and shall identify sanctions to be imposed against an individual or organization that discloses confidential information in violation of the policies and procedures.

(1) Access to confidential information shall be restricted to those individuals who specifically require access in order to perform their assigned duties.

(2) All staff engaged in the collection, handling, and dissemination of personal information shall be informed of the responsibility to safeguard the information in their possession and shall be held accountable for the appropriate use and disclosure of confidential information.

(d) If, after an investigation, notice, and the opportunity for a hearing, the secretary finds that any individual or organization identified in subsection (c) has disclosed or permitted the disclosure of any confidential information the disclosure of which is prohibited by this regulation or by any other state or federal law restricting or prohibiting the disclosure of information about individuals requesting or receiving services through any of the department's programs, the individual or organization shall have imposed against that individual or organization those sanctions that the secretary decides are commensurate with the disclosure under all the circumstances. Sanctions may include any of the following:

(1) Denial, termination, or suspension of performance of any grant, subgrant, contract, subcontract, or other agreement;

(2) denial, termination, or suspension of participation in any or all department programs;

(3) referral for criminal prosecution or civil penalty assessments when provided for by law;

(4) petitioning for temporary or permanent injunctive relief without prior notice;

(5) exclusion from department data bases; or

(6) any other sanctions permitted by any state or federal law.

(e) No attorney paid through any program administered by the department to provide legal assistance to an individual shall be required by the

department or the area agency to disclose the identity of any individual to whom the attorney provides or has provided legal assistance or any information protected by the attorney-client privilege. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908 and 75-5945; effective July 15, 2011.)

Article 2.—GRANTS AND CONTRACTS

26-2-3. Reporting and unearned funds requirements. (a) General reporting requirements.

(1) Each grantee and contractor shall submit program and financial reports to comply with federal and state program requirements. Each grantee and each contractor shall be responsible for the following:

(A) Gathering accurate information necessary to complete its reports;

(B) completing reports on forms or in a format prescribed by the secretary, including entering data in the management information system; and

(C) submitting reports or data to the secretary or designee on or before the due dates.

(2) Each grantee and each contractor shall be solely responsible for obtaining and reporting necessary information from subgrantees, contractors, and subcontractors with whom the grantee or contractor has subgrants, contracts, or subcontracts.

(3) A waiver of deadline for submitting a report may be authorized by the secretary if the grantee or contractor meets the following requirements:

(A) Submits a written waiver request that is received by the secretary at least eight business days before the due date for the report for which the waiver is being requested;

(B) identifies in the written waiver request the reason for the reporting delay, which shall be legitimately beyond the grantee's or contractor's control;

(C) provides an acceptable remedy to rectify the delay; and

(D) submits a report acceptable to the secretary on or before the revised due date indicated in the request.

(4) Within five business days after receipt of the written waiver request, a written notice of denial or approval of the request shall be issued by the secretary. The deadline for submitting a program or financial report shall not be deemed changed merely because the grantee or contractor submitted a written waiver request for an extension of the report's due date.

(5) Failure to submit complete and accurate program or financial reports by the due dates, even if a waiver is granted, may be remedied by departmental action, including one or more of the following:

(A) Termination or suspension of the grant or contract;

(B) termination or suspension of grant or contract payments;

(C) withholding of all administrative funds;

(D) reducing a percentage of administrative funds;

(E) exclusion from consideration for future grants or contracts; and

(F) exclusion from participation in the redistribution of the older Americans act carryover or unearned funds, as specified in the state plan on aging.

(b) Final financial report requirements for older Americans act (OAA) title III.

(1) Before submitting its final financial report, each area agency shall liquidate all obligations for goods and services purchased for the report period.

(2) Each area agency shall submit an accurate consolidated final financial report to the department for each program component no later than December 15 following the end of the grant period.

(3) An area agency may submit a revised final financial report if the report is accompanied by the supporting final financial report for each of the area agency's OAA title III subgrantees, contractors, and subcontractors and if either of the following conditions is met:

(A) The revised report is received either on or before December 31 after the end of the grant period.

(B) The revised report is received after December 31 following the end of the grant period, but on or before April 15, and the report is delivered simultaneously with the audit report performed in accordance with K.A.R. 26-2-10 confirming that the revised report is an accurate report.

(c) Older Americans act title III unearned funds requirements.

(1) Unearned funds shall be those funds that have been awarded to a grantee or contractor that have not been expended by the grantee or contractor or that have been expended for an unallowable cost due to the grantee's or contractor's

failure to comply with specific policies, regulations, or grant or contract conditions governing the award or contract.

(2) Each area agency's unearned funds calculation shall be based on the area agency's final or revised final financial report submitted on or before December 31. The area agency shall be notified by the department of the amount of unearned funds by issuance of revised notifications of grant award.

(3) Unearned older Americans act funds that have been calculated and issued shall be adjusted only if the revised final financial report accompanied by an audit report is received by the department on or before April 15 and if the revised calculated unearned funds increased by one-half percent or more. If an area agency has an increase in older Americans act unearned funds of one-half percent or more, the area agency shall perform one of the following adjustments:

(A) Submit a check payable to the Kansas department on aging for the amount of the increased unearned funds;

(B) submit a written request to the department for a reduction in its allocation for the next grant year in an amount equal to the amount of the increased unearned funds; or

(C) make arrangements approved by the secretary, in writing, to pay the increased unearned funds to the department in two or more installments.

(d) Final report requirements for all programs except older Americans act title III programs.

(1) Each recipient of state or federal funds for aging program grants or contracts not identified in subsection (b) shall submit an accurate and complete final financial report in the format prescribed by the secretary for each program for which the recipient has received funds.

(2) The complete final financial report shall be received by the department no later than the deadline stated in the notification of grant award or contract.

(3) (A) If funds advanced by the department to a recipient of a grant award are unearned or disallowed, the recipient shall perform one of the following adjustments upon submission of the grant's final financial report or upon the entity becoming aware of the overpayment following submission of the final financial report:

(i) Submit a check payable to the department for the amount of the unearned or disallowed funds; or

(ii) make arrangements approved by the secretary in writing to pay the unearned or disallowed funds to the department in two or more installments.

(B) If funds advanced by the department to a contractor are unearned or disallowed, the contractor shall return the funds to the department as prescribed by the terms of the contract or as requested by the secretary. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended Aug. 1, 2003; amended July 15, 2011.)

26-2-9. (Authorized by and implementing K.S.A. 2002 Supp. 75-5908; effective, T-89-14, April 26, 1988; effective Oct. 1, 1988; amended Jan. 7, 2000; amended Aug. 1, 2003; revoked July 15, 2011.)

26-2-10. Audits. (a) Definitions.

(1) "Federal funds" means federal financial assistance and federal cost-reimbursement contracts that non-federal entities receive directly from federal awarding agencies or indirectly from the department, other state agencies, or pass-through entities.

(2) "Limited-scope audit" means agreed-upon procedures conducted in accordance with the American institute of certified public accountants' generally accepted auditing standards or attestation standards that address one or more of the following types of compliance requirements:

(A) Activities allowed or unallowed;

(B) allowable costs and cost principles;

(C) eligibility;

(D) matching, level of effort, and earmarking; and

(E) reporting.

(3) "Pass-through entity" and "entity" mean a non-state organization that provides a state award to a subrecipient to carry out a federal or state program.

(4) "Recipient" means an entity that expends a state award received directly from the department to carry out a federal or state program.

(5) "Single audit" means an audit that includes both the entity's financial statements and the funds awarded by the department and expended during the entity's fiscal year.

(6) "State award" means state financial assistance and state cost-reimbursement contracts that

entities receive directly from the department or indirectly from pass-through entities. This term shall not include procurement contracts used to buy goods or services from vendors.

(7) "Subrecipient" means an entity that expends department funds received from a pass-through entity to carry out a federal or state program and shall not include an individual that is a beneficiary of the program.

(8) "Vendor" means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal or state program. These goods or services may be for the entity's own use or for the use of beneficiaries of the federal or state program.

(b) Audit requirements.

(1) Office of management and budget circular no. A-133 (OMB circular A-133), "audits of states, local governments, and non-profit organizations," revised to show changes published in the federal registers of June 27, 2003 and June 26, 2007, excluding the introduction, subparts D and E, and the appendices, is hereby adopted by reference, except that in subpart B, section .200(a), "Federal awards" shall be replaced with "state awards in combination with federal funds received from other sources."

(2) Each recipient, subrecipient, or pass-through entity that expends a state award shall ensure the entity's related financial and program records are available to the secretary or the secretary's designee for audit or review.

(3) Each recipient, subrecipient, or pass-through entity that expends $500,000 or more in state awards in combination with federal funds received from other sources during the entity's fiscal year shall have a single audit conducted in accordance with generally accepted government auditing standards and OMB circular A-133.

(4) Each area agency on aging that is required to have a single audit in accordance with paragraph (b)(3) shall include all funds received from department grants and contracts in the single audit, including payments from medicaid programs.

(5) Each recipient, subrecipient, or pass-through entity that expends less than $500,000 in state awards in combination with federal funds received from other sources during the entity's fiscal year may be subject to the following:

(A) A limited-scope audit; or

(B) an independent audit, which shall be completed at the department's expense.

(6) Each audit shall be conducted by an independent auditor.

(7) Each audit report shall be submitted to the department within six months after the end of the entity's fiscal year and shall include a reconciliation of the audited financial statements to the financial reports submitted by the entity to the department for programs funded by the department.

(8) Each audit report submitted to the secretary after the audit report's deadline shall be considered late unless the audited entity has received an extension of the deadline, in writing, from the secretary. A written request for an extension may be granted by the secretary if the request meets all of the following conditions:

(A) The entity's written request is signed by the entity's chair of the board of directors.

(B) The request is received by the secretary at least seven working days before the date the report is due to the department.

(C) The written request provides the reason for the delay which shall be legitimately beyond the entity's control.

(D) The entity submits an audit report acceptable to the department by the revised due date indicated in the request.

(9) Penalties for failing to submit an audit report on or before the due date or submitting an audit report that does not meet the requirements specified in this regulation shall be determined by the secretary and may include one or more of the following:

(A) Disallowance of audit costs when audits required by paragraph (b)(3) have not been made or have been made but not in accordance with OMB circular A-133;

(B) withholding a percentage of state awards until the audit is completed satisfactorily;

(C) withholding or disallowing overhead costs;

(D) suspending state awards until the audit is conducted; or

(E) terminating the state award.

(c) Monitoring requirements. Each recipient, subrecipient, pass-through entity, and vendor shall be subject to monitoring performed by the secretary's designee, which shall include one or more of the following:

(1) A review of reports submitted by the recipient, subrecipient, pass-through entity, or vendor to the department;

(2) one or more site visits to the recipient, subrecipient, pass-through entity, or vendor to review

financial and program records and observe operations; and

(3) procedures agreed upon by the recipient, subrecipient, pass-through entity, or vendor's executive director or other individual authorized by the entity's board of directors and the secretary or secretary's designee to review activities or documentation related to programs funded by the department, including eligibility determinations. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective July 15, 2011.)

Article 3.—PROCUREMENT

26-3-1. Contracting and granting practices and requirements. (a) Department approval of funding. No grantee or contractor shall make a subgrant or contract involving funds made available by the department until an area plan or other document detailing the proposed use or uses of the funds has been approved by the secretary for a specific time period and the secretary has issued a notification of grant award or contract to the grantee or contractor.

(b) Allowable use of funds. In making a subgrant or contract, each grantee or contractor shall use the funds awarded under a secretary-approved area plan for those services that are consistent with service definitions issued and provided by the department and the identified priority service needs within the PSA.

(c) Competitive bids. Each entity that receives funding through a program administered by the secretary, except a medicaid program, shall be selected on a competitive basis, unless a noncompetitive selection basis is permitted by some other provision of law. For purposes of this subsection, "entity" shall include any grantee or contractor, a subgrantee or subcontractor of a grantee or contractor, and any entity providing services under any arrangement with a subgrantee or subcontractor.

(d) Provider selection standards. The service provider selection process for grants, contracts, subgrants, and subcontracts required by subsection (c) shall meet the following requirements:

(1) For services provided under a state-funded program, the provider selection process used shall encourage free and open competition among qualified, responsible providers by meeting, at a minimum, the following requirements:

(A) Providing potential providers with a notice of service needs describing the required services, the service standards, the minimum vendor qualifications, and the process for submitting a bid or an offer to provide the services; and

(B) identifying and avoiding both potential and actual conflicts of interest. A "conflict of interest" shall mean a situation in which an employee, officer, or agent or any member of the employee's, officer's, or agent's immediate family or partner, or an organization that employs or is about to employ any of these parties, has a financial or other interest in the firm selected for a grant award or contract.

(2) For services provided under a program funded with federal funds or a combination of federal and state funds, the provider selection process shall satisfy the competition and procurement standards and procedures by meeting, at a minimum, either of the following requirements:

(A) For each grantee or contractor that is a part of a local government, the requirements of 45 C.F.R. 92.36(b) through (i), as in effect on October 1, 2009 and hereby adopted by reference; or

(B) for each grantee or contractor that is not a part of a local government, the requirements of 45 C.F.R. 74.40 through 74.48, as in effect on October 1, 2009 and hereby adopted by reference.

(e) Older Americans act services. When the department enters into a contract with or awards a grant to an area agency under the older Americans act to provide services to older persons within a PSA, the following provisions shall apply:

(1) The area agency shall enter into a subgrant or contract for services within 90 days after the effective date of the notification of grant award issued by the department, unless the area agency requests and receives prior written approval for an extension of time from the secretary.

(2) The area agency may enter into a contract with a unit of local government or with a nonprofit organization to provide services without the prior written approval of the secretary. For purposes of this regulation, a "nonprofit" organization is an organization that has received a determination letter from the internal revenue service that qualifies it for tax-exempt status under the internal revenue code.

(3) The area agency shall not enter into a contract with an individual or a for-profit organization to provide services until the area agency has requested and received written approval from the secretary to enter into the contract. Requests for contract approvals shall be approved if accompanied by a notarized statement from the area

agency's executive director that the contract was procured according to competition and procurement standards and procedures required by the older Americans act and does not involve a conflict of interest as defined in paragraph (d)(1)(B). Within 30 days after the date on which the request was received, the area agency shall be notified by the department if the request is approved or disapproved.

(4) An area agency whose older Americans act for-profit service provider terminates the service contract before the end of the contract's term for any reason may enter into a replacement contract with a different for-profit provider for the same services without using the area agency's normal competitive process and without requesting the prior approval of the secretary required by this regulation if the area agency, within 30 days after the effective date of the replacement contract, sends the secretary a written notice describing the following:

(A) The circumstances of the contract termination;

(B) the efforts made to obtain replacement services; and

(C) an assurance that the replacement contract does not involve a conflict of interest, as defined in paragraph (d)(1)(B).

(5) An area agency shall not alter a subgrant or contract during the final 60 days of any grant or contract period, unless the area agency requests and receives written approval for the alteration from the secretary.

(f) Record retention. Each area agency shall retain its grants, subgrants, contracts, and subcontracts with service providers in retrievable form for at least six years after the date on which the grant, subgrant, contract, or subcontract ended or at least three calendar years from the date of the area agency's final financial report, whichever date is later, unless otherwise stated in the department's grant or contract.

(1) If any litigation, claim, financial management review, or audit begins before the expiration of the retention period, the area agency shall retain its records pertaining to the litigation, claim, financial management review, or audit until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(2) Upon request made during the retention period, an area agency shall make its grants, contracts, and subcontracts available for review by representatives of the department or its auditors, the division of legislative post audit, or the United States department of health and human services. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended, T- 89-14, April 26, 1988; amended Oct. 1, 1988; amended Jan. 7, 2000; amended July 15, 2011.)

26-3-4. (Authorized by and implementing K.S.A. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; amended Nov. 14, 1997; revoked July 15, 2011.)

Article 4.—NON-MEDICAID HEARING AND APPEALS

26-4-1. Notice of actions; appeals by written requests; time to file written requests. (a) When an action is taken or proposed by any of the following parties in any program administered by the secretary, other than a medicaid program administered pursuant to K.S.A. 39-968, 75-5321a, and 75-5945 and amendments thereto, the procedures in this article 4 shall apply:

(1) By the secretary or the secretary's designee when the action affects any area agency on aging, a service provider, a customer, or an applicant to become a service provider or customer;

(2) by the secretary or the secretary's designee, an area agency on aging, or any of their agents when the action affects a service provider, a customer, or an applicant to become a service provider or customer; or

(3) by a service provider or its agent when the action affects a customer or an applicant to become a customer.

(b)(1) If the secretary or other authority described in subsection (a) proposes to take action, that authority shall mail written notice of the proposed action and the basis for the proposed action to the affected party or parties at least 10 days before the effective date of the action identified in the written notice, unless a different notice period is specifically required by some other provision of federal or state law.

(2) In situations involving an immediate danger to the public health, safety, or welfare, action may be taken by the secretary or other authority without giving prior written notice of proposed action described in this subsection. When action is taken without prior written notice of proposed action

prescribed in paragraph (b)(1), written notice of the action shall be mailed by the secretary or other authority to the affected party or parties as soon as practical.

(c) Unless prohibited by some other provision of law, the proposed action may be taken, without any additional notice to the affected party, on the effective date described in the written notice.

(d) Each written notice of proposed action shall identify the reasons for and effective date of the proposed action and include a statement informing the affected party of the right to appeal the action by filing a written request for a hearing with the office of administrative hearings within time limits described in subsection (e).

(e) Unless preempted by federal or state law, a party receiving notice of action may appeal the action by filing a written request for a hearing with the office of administrative hearings within 30 days after the date of the notice of action. An additional three days shall be allowed if the notice of action is mailed. If no written notice of action is given, an affected party may appeal the action by filing a written request for a hearing with the office of administrative hearings within 30 days after the date on which the affected party knew or reasonably should have known of the action.

(f) Each request for a hearing shall state clearly the proposed action or the action upon which a hearing is requested. The written request for a hearing shall be included in the department's official record of agency action and record of a hearing as evidence received by it.

(g) Each hearing shall be conducted in accordance with the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective, T-85-47, Dec. 19, 1984; effective May 1, 1985; amended, T-86-48, Dec. 18, 1985; amended May 1, 1986; amended Nov. 14, 1997; amended July 15, 2011.)

26-4-6. (Authorized by and implementing K.S.A. 75-5908 and K.S.A. 1996 Supp. 75-5928 and 75-5931; effective Nov. 14, 1997; revoked July 15, 2011.)

26-4-7 through 26-4-15. (Authorized by and implementing K.S.A. 75-5908 and K.S.A. 1996 Supp. 75-5928 and 75-5931; effective Nov. 14, 1997; revoked July 15, 2011.)

Article 4a.—CUSTOMER AND PROVIDER APPEALS IN MEDICAID PROGRAMS

26-4a-1. (Authorized by and implementing K.S.A. 1996 Supp. 75-5908 and K.S.A. 1996 Supp. 75-5945; effective, T-26-7-1-97, July 1, 1997; effective Nov. 14, 1997; revoked July 15, 2011.)

26-4a-2. Appeals and fair hearings. (a) This regulation shall apply only to the medicaid long-term care programs and services administered by the secretary of aging, in accordance with K.S.A. 39-968, 75-5321a, and 75-5945 and amendments thereto.

(b) A fair hearing program to process and decide appeals involving the medicaid long-term care programs and services and the customers and providers of those services shall be administered through the office of administrative hearings in accordance with the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto, and K.A.R. 30-7-64 through K.A.R. 30-7-79.

(c) An individual may submit a written request for a fair hearing to appeal a written decision, notice of action, or order made by the secretary of aging or any of the department on aging's employees or agents involving a medicaid program or service. The request shall be received by the office of administrative hearings within 30 days after the date of the written decision, notice of action, or order, except as otherwise provided in applicable federal or state law. An additional three days shall be allowed if the written decision, notice of action, or order is mailed. (Authorized by and implementing K.S.A. 2010 Supp. 75-5908; effective July 15, 2011.)

Article 5.—IN-HOME NUTRITION PROGRAM

26-5-2. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended, T-89-14, April 26, 1988; amended Oct. 1, 1988; revoked July 15, 2011.)

26-5-3. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985; effective May 1, 1986; amended Nov. 14, 1997; revoked July 15, 2011.)

26-5-4. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985; effective May 1, 1986; revoked July 15, 2011.)

26-5-5. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985; effective May 1, 1986; amended Sept. 7, 1993; revoked July 15, 2011.)

26-5-6. (Authorized by and implementing K.S.A. 2001 Supp. 75-5908; effective, T-86-48, Dec. 12, 1985; effective May 1, 1986; amended Sept. 7, 1993; amended, T-26-7-1-96, July 1, 1996; amended Nov. 8, 1996; amended Nov. 14, 1997; amended May 31, 2002; revoked July 15, 2011.)

26-5-7. (Authorized by and implementing K.S.A. 75-5908; effective, T-86-48, Dec. 18, 1985; effective May 1, 1986; revoked July 15, 2011.)

26-5-8. (Authorized by and implementing K.S.A. 75-5908; effective, T-89-14, April 26, 1988; effective Oct. 1, 1988; revoked July 15, 2011.)

26-5-9 and 26-5-10. (Authorized by and implementing K.S.A. 75-5908; effective, T-26-7-1-96, July 1, 1996; effective Nov. 8, 1996; revoked July 15, 2011.)

Article 8.—SENIOR CARE ACT

26-8-2. Eligibility criteria. (a) All customers shall be residents of Kansas who are 60 years of age or older.

(b) Each applicant shall be assessed using the department's approved uniform assessment instrument and shall meet the department's long-term care threshold requirement for senior care act services. Applicants who receive only an assessment shall not be subject to the department's long-term care threshold requirement.

(c) Medicaid home- and community-based services customers shall be eligible to receive only senior care act services that are not funded through the medicaid program. (Authorized by and implementing K.S.A. 2010 Supp. 75-5931; effective, T-26-10-17-89, Oct. 17, 1989; effective, T-26-7-30-91, July 30, 1991; effective Aug. 10, 1992; amended, T-26-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended July 15, 2011.)

26-8-5. Assessment. (a) To determine eligibility for services under the senior care act, a qualified assessor employed by or under contract with the area agency on aging shall complete a customer assessment according to the following:

(1) Before implementation of services;

(2) upon any significant change in the customer's condition; and

(3) at least once every 365 days from the date of the last assessment.

(b) The assessment instrument shall be a form prescribed by the secretary. (Authorized by K.S.A. 2010 Supp 75-5931; implementing K.S.A. 2010 Supp. 75-5930; effective, T-26-10-17-89, Oct. 17, 1989; effective, T-26-7-30-91, July 30, 1991; effective Aug. 10, 1992; amended Nov. 7, 1994; amended, T-26-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended July 15, 2011.)

26-8-8. Termination. Services provided under this act shall be terminated by the area agency on aging for any of the following reasons:

(a) The customer moved to an adult care home.

(b) The customer died.

(c) The customer moved out of the service area.

(d) The customer chose to terminate services.

(e) The customer no longer meets the eligibility criteria.

(f) The customer has not paid the fees, and 60 days have passed since the original billing date.

(g) The customer did not accurately report the customer's income and liquid assets and chooses not to pay the applicable fees.

(h) The service provided was a one-time service as defined in K.A.R. 26-8-1.

(i) The program or service ended or was terminated.

(j) The service was discontinued due to the lack of service provider or staff.

(k) The customer is determined to be no longer safe in the customer's own home.

(l) The customer's whereabouts are unknown.

(m) The customer is a participant in the "program of all-inclusive care for the elderly" (PACE). (Authorized by and implementing K.S.A. 2010 Supp. 75-5931; effective, T-26-10-17-89, Oct. 17, 1989; effective, T-26-7-30-91, July 30, 1991; effective Aug. 10, 1992; amended July 28, 1995; amended Nov. 14, 1997; amended, T-26-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended July 15, 2011.)

Article 9.—CLIENT ASSESSMENT, REFERRAL, AND EVALUATION PROGRAM

26-9-1. Client assessment, referral, and evaluation (CARE) for nursing facilities. (a) Each individual seeking admission to a nursing facility or nursing facility for mental health shall, before admission, receive and complete a preadmission assessment, evaluation, and referral to all available community resources, including nursing facilities, unless one of the following conditions is met:

(1) The individual entered an acute care facility

from a nursing facility and is returning to a nursing facility.

(2) The individual is transferring from one nursing facility to another nursing facility.

(3) The individual is entering a nursing facility operated by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing.

(4) The individual has been diagnosed as having a terminal illness and has obtained a physician's statement documenting that the individual's life expectancy is six months or less.

(5) The individual is entering a nursing facility from a hospital and the length of stay is expected to be 30 days or less based on a physician's certification.

(b) Each individual entering a nursing facility from the community whose stay is expected to be 30 days or less, based on a physician's certification, shall have sections I and II of the CARE assessment completed, before admission, by a qualified assessor.

(c) Each qualified assessor shall evaluate and refer the individual using the data collection form approved by the secretary.

(d) The preadmission assessment shall be valid for one year from the date of the initial assessment and reimbursement for the assessment shall be limited to one annual assessment per individual unless, in the judgment of a qualified assessor, the individual's physical, emotional, social, or cognitive status has changed to the extent that another assessment is warranted. (Authorized by and implementing K.S.A. 2010 Supp. 39-968; effective, T-26-6-28-95, June 28, 1995; effective Aug. 7, 1995; amended July 15, 2011.)

Article 11.—KANSAS SENIOR PHARMACY ASSISTANCE PROGRAM

26-11-1 through 26-11-3. (Authorized by and implementing K.S.A. 2001 Supp. 75-5961; effective, T-26-9-5-01, Oct. 1, 2001; effective, T-26-12-11-01, Dec. 11, 2001; effective Sept. 6, 2002; revoked July 15, 2011.)

Article 39.—ADULT CARE HOMES

26-39-100. Definitions. The following terms and definitions shall apply to all of the department's regulations governing adult care homes:

(a) "Activities director" means an individual who meets at least one of the following requirements:

(1) Has a degree in therapeutic recreation;

(2) is licensed in Kansas as an occupational therapist or occupational therapy assistant;

(3) has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field;

(4) is certified as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body;

(5) has two years of experience in a social or recreational program within the last five years, one of which was full-time in an activities program in a health care setting; or

(6) has completed a course approved by the Kansas department of health and environment in resident activities coordination and receives consultation from a therapeutic recreation specialist, an occupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.

(b) "Addition" means an increase in the building area, aggregate floor area, or number of stories of an adult care home.

(c) "Administrator" means an individual who is responsible for the general administration of an adult care home, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501 et seq. and amendments thereto.

(d) "Adult care home" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(e) "Adult day care" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(f) "Advanced registered nurse practitioner" means an individual who is certified by the Kansas board of nursing as an advanced registered nurse practitioner.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following without the assistance of another person:

(1) Getting in and out of bed; and

(2) walking between locations in the living environment.

(h) "Applicant" means any individual, firm, partnership, corporation, company, association, or

joint stock association requesting a license to operate an adult care home.

(i) "Assisted living facility" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(j) "Audiologist" means an individual who is licensed by the Kansas department of health and environment as an audiologist.

(k) "Basement" means the part of a building that is below grade.

(l) "Biologicals" means medicinal preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

(m) "Boarding care home" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(n) "Case manager" means an individual assigned to a resident to provide assistance in access and coordination of information and services in a program authorized by the Kansas department on aging, the Kansas department of social and rehabilitation services, or the Kansas health policy authority.

(o) "Change of ownership" means any transaction that results in a change of control over the capital assets of an adult care home.

(p) "Chemical restraint" means a medication or biological that meets the following conditions:

(1) Is used to control a resident's behavior or restrict a resident's freedom of movement; and

(2) is not a standard treatment for a resident's medical or psychiatric condition.

(q) "Clinical record" means the record that includes all the information and entries reflecting each resident's course of stay in an adult care home.

(r) "Contaminated laundry" means any clothes or linens that have been soiled with body substances including blood, stool, urine, vomitus, or other potentially infectious material.

(s) "Controlled substance" means any medication, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, K.S.A. 65-4107, K.S.A. 65-4109, K.S.A. 65-4111, and K.S.A. 65-4113, and amendments thereto.

(t) "Day shift" means any eight-hour to 12-hour work period that occurs between the hours of 6 a.m. and 9 p.m.

(u) "Department" means the Kansas department on aging.

(v) "Dietetic services supervisor" means an individual who meets one of the following requirements:

(1) Is licensed in Kansas as a dietitian;

(2) has an associate's degree in dietetic technology from a program approved by the American dietetic association;

(3) is a dietary manager who is certified by the board of the dietary managers' association; or

(4) has training and experience in dietetic services supervision and management that are determined by the Kansas department on aging to be equivalent in content to the requirement specified in paragraph (2) or (3) of this subsection.

(w) "Dietitian" means an individual who is licensed by the Kansas department of health and environment as a dietitian.

(x) "Direct care staff" means the individuals employed by or working under contract for an adult care home who assist residents in activities of daily living. These activities may include the following:

(1) Ambulating;

(2) bathing;

(3) bed mobility;

(4) dressing;

(5) eating;

(6) personal hygiene;

(7) toileting; and

(8) transferring.

(y) "Director of nursing" means a position in a nursing facility or a nursing facility for mental health that is held by one or more individuals who meet the following requirements:

(1) Each individual shall be licensed in Kansas as a registered professional nurse.

(2) If only one individual serves in this position, the individual shall be employed at least 35 hours each week.

(3) If more than one individual serves in this position, the individuals shall be employed collectively for a total of at least 40 hours each week.

(4) Each individual shall have the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in the nursing facility or the nursing facility for mental health.

(z) "Full-time" means 35 or more hours each week.

(aa) "Health information management practitioner" means an individual who is certified as a registered health information administrator or a registered health information technician by the

American health information management association.

(bb) "Home plus" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(cc) "Interdisciplinary team" means the following group of individuals:

(1) A registered nurse with responsibility for the care of the residents; and

(2) other appropriate staff, as identified by resident comprehensive assessments, who are responsible for the development of care plans for residents.

(dd) "Intermediate care facility for the mentally retarded" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(ee) "Legal representative" means an agent acting within the bounds of the agent's legal authority who meets any of the following criteria:

(1) Has been designated by a resident to serve as the resident's trustee, power of attorney, durable power of attorney, or power of attorney for health care decisions;

(2) is a court-appointed guardian or conservator authorized to act on behalf of the resident in accordance with K.S.A. 59-3051 et seq. and amendments thereto; or

(3) if the resident is a minor, is either of the following:

(A) A natural guardian, as defined in K.S.A. 59-3051 and amendments thereto; or

(B) a court-appointed guardian, conservator, trustee, or an individual or agency vested with custody of the minor pursuant to the revised Kansas code for care of children, K.S.A. 38-2201 through 38-2283, and amendments thereto, or the revised Kansas juvenile justice code, K.S.A. 38-2301 through 38-2387, and amendments thereto.

(ff) "Licensed mental health technician" means an individual licensed by the Kansas board of nursing as a licensed mental health technician.

(gg) "Licensed nurse" means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse.

(hh) "Licensed practical nurse" means an individual who is licensed by the Kansas board of nursing as a licensed practical nurse and is supervised by a registered professional nurse, in accordance with K.S.A. 65-1113 and amendments thereto.

(ii) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary of aging to operate an adult care home.

(jj) "Medical care provider" means any of the following individuals:

(1) A physician licensed by the Kansas board of healing arts to practice medicine and surgery in accordance with K.S.A. 65-28,102 and amendments thereto;

(2) a physician assistant who is licensed by the Kansas board of healing arts in accordance with K.S.A. 65-28a02 and amendments thereto and who provides health care services under the direction and supervision of a responsible physician; or

(3) an advanced registered nurse practitioner who is licensed by the Kansas board of nursing in accordance with K.S.A. 65-1113 and amendments thereto and who provides health care services in accordance with article 11 of the Kansas board of nursing's regulations.

(kk) "Medication" means any "drug" as defined by K.S.A. 65-1626 and amendments thereto.

(ll) "Medication administration" means an act in which a single dose of a prescribed medication or biological is given by application, injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of medications and biologicals. Medication administration shall consist of the following:

(1) Removing a single dose from a labeled container, including a unit-dose container;

(2) verifying the medication and dose with the medical care provider's orders;

(3) administering the dose to the proper resident; and

(4) documenting the dose in the resident's clinical record.

(mm) "Medication aide" means an individual who has a medication aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-169b and is supervised by a licensed nurse.

(nn) "Medication dispensing" means the delivery of one or more doses of a medication by a licensed pharmacist or physician. The medication shall be dispensed in a container and labeled in compliance with state and federal laws and regulations.

(oo) "Non-ambulatory resident" means any resident who is not physically or mentally capable of performing the following without the assistance of another person:

(1) Getting in and out of bed; and

(2) walking between locations in the living environment.

(pp) "Nurse aide" means an individual who has a nurse aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-165 and is supervised by a licensed nurse.

(qq) "Nurse aide trainee" means an individual who is in the process of completing a nurse aide training program as specified in K.A.R. 28-39-165 or K.A.R. 28-39-167 and has not been issued a nurse aide certificate by the Kansas department of health and environment.

(rr) "Nursing facility" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(ss) "Nursing facility for mental health" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(tt) "Nursing personnel" means all of the following:

(1) Registered professional nurses;

(2) licensed practical nurses;

(3) licensed mental health technicians in nursing facilities for mental health;

(4) medication aides;

(5) nurse aides;

(6) nurse aide trainees; and

(7) paid nutrition assistants.

(uu) "Nursing unit" means a distinct area of a nursing facility serving not more than 60 residents and including the service areas and rooms described in K.A.R. 26-40-302 and K.A.R. 26-40-303.

(vv) "Occupational therapist" means an individual who is licensed with the Kansas board of healing arts as an occupational therapist.

(ww) "Occupational therapy assistant" means an individual who is licensed by the Kansas board of healing arts as an occupational therapy assistant.

(xx) "Operator" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(yy) "Paid nutrition assistant" has the meaning specified in K.S.A. 39-923 and amendments thereto. In addition, each paid nutrition assistant shall meet the following requirements:

(1) Have successfully completed a nutrition assistant course approved by the Kansas department of health and environment;

(2) provide assistance with eating to residents of an adult care home based on an assessment by the supervising licensed nurse, the resident's most recent minimum data set assessment or functional capacity screening, and the resident's current care plan or negotiated service agreement;

(3) provide assistance with eating to residents who do not have complicated eating problems, including difficulty swallowing, recurrent lung aspirations, and tube, parenteral, or intravenous feedings;

(4) be supervised by a licensed nurse on duty in the facility; and

(5) contact the supervising licensed nurse verbally or on the resident call system for help in case of an emergency.

(zz) "Personal care" means assistance provided to a resident to enable the resident to perform activities of daily living, including ambulating, bathing, bed mobility, dressing, eating, personal hygiene, toileting, and transferring.

(aaa) "Pharmacist" has the meaning specified in K.S.A. 65-1626 and amendments thereto.

(bbb) "Physical restraint" means any method or any physical device, material, or equipment attached or adjacent to the resident's body and meeting the following criteria:

(1) Cannot be easily removed by the resident; and

(2) restricts freedom of movement or normal access to the resident's body.

(ccc) "Physical therapist" means an individual who is licensed by the Kansas board of healing arts as a physical therapist.

(ddd) "Physical therapy assistant" means an individual who is certified by the Kansas board of healing arts as a physical therapy assistant.

(eee) "Physician" has the meaning specified in K.S.A. 65-28,102 and amendments thereto.

(fff) "Psychopharmacologic drug" means any medication prescribed with the intent of controlling mood, mental status, or behavior.

(ggg) "Registered professional nurse" means an individual who is licensed by the Kansas state board of nursing as a registered professional nurse.

(hhh) "Renovation" means a change to an adult care home that affects the building's structural integrity or life safety system.

(iii) "Resident" has the meaning specified in K.S.A. 39-923 and amendments thereto.

(jjj) "Resident capacity" means the number of an adult care home's beds or adult day care slots, as licensed by the Kansas department on aging.

(kkk) "Residential health care facility" has the

meaning specified in K.S.A. 39-923 and amendments thereto.

(lll) "Respite care" means the provision of services to a resident on an intermittent basis for periods of fewer than 30 days at any one time.

(mmm) "Restraint" is the control and limitation of a resident's movement by physical, mechanical, or chemical means.

(nnn) "Sanitization" means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on utensils and equipment.

(ooo) "Secretary" means the secretary of the department on aging.

(ppp) "Self-administration of medication" means the determination by a resident of when to take a medication or biological and how to apply, inject, inhale, ingest, or take a medication or biological by any other means, without assistance from nursing staff.

(qqq) "Significant change in condition" means a decline or improvement in a resident's mental, psychosocial, or physical functioning that requires a change in the resident's comprehensive plan of care or negotiated service agreement.

(rrr) "Social services designee" means an individual who meets at least one of the following qualifications:

(1) Is licensed by the Kansas behavioral sciences regulatory board as a social worker;

(2) has a bachelor's degree in a human service field, including social work, sociology, special education, rehabilitation counseling, or psychology, and receives supervision from a licensed social worker; or

(3) has completed a course in social services coordination approved by the Kansas department of health and environment and receives supervision from a licensed social worker on a regular basis.

(sss) "Social worker" means an individual who is licensed by the Kansas behavioral sciences regulatory board as a social worker.

(ttt) "Speech-language pathologist" means an individual who is licensed by the Kansas department of health and environment as a speech-language pathologist.

(uuu) "Working day" means any day other than a Saturday, Sunday, or day designated as a holiday by the United States congress or the Kansas legislature or governor. (Authorized by K.S.A. 39-932; implementing K.S.A. 2009 Supp. 39-923 and K.S.A. 39-932; effective May 22, 2009; amended Jan. 7, 2011.)

26-39-101. Licensure of adult care homes. (a) Initiation of application process.

(1) Each applicant for a license to operate an adult care home shall submit a letter of intent to the department.

(2) The letter of intent shall include all of the following information:

(A) The type of adult care home license being requested;

(B) the name, address, and telephone number of the applicant; and

(C) the street address or legal description of the proposed site.

(b) Initial licensure application.

(1) Each applicant for an initial license shall submit the following to the department:

(A) A completed application on a form prescribed by the department;

(B) a copy of each legal document identifying ownership and control, including applicable deeds, leases, and management agreements;

(C) any required approval of other owners or mortgagors;

(D) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility;

(E) a complete list of names and addresses of facilities that the applicant operates in states other than Kansas; and

(F) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing at least one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the applicant to be accurate.

(2) A license shall be issued by the department if all of the following requirements are met:

(A) A licensure application has been completed by the applicant.

(B) Construction of the facility or phase is completed.

(C) The facility is found to meet all applicable requirements of the law.

(D) The applicant is found to qualify for a license under K.S.A. 39-928 and amendments thereto.

(c) Change of ownership or licensee.

(1) The current licensee shall notify the department, in writing, of any anticipated change in the information that is recorded on the current

license at least 60 days before the proposed effective date of change.

(2) Each applicant proposing to purchase, lease, or manage an adult care home shall submit the following information, if applicable, to the department:

(A) A completed application form prescribed by the department;

(B) a copy of each legal document transferring ownership or control, including sales contracts, leases, deeds, and management agreements;

(C) any required approval of other owners or mortgagors;

(D) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility;

(E) a complete list of names and addresses of facilities the applicant operates in states other than Kansas; and

(F) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing at least one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the applicant as accurate.

(3) A new license shall be issued by the department if a complete application and the required forms have been received and the applicant is found to qualify for a license under K.S.A. 39-928 and amendments thereto.

(d) New construction or conversion of an existing unlicensed building to an adult care home.

(1) Each applicant for a nursing facility, intermediate care facility for the mentally retarded, assisted living facility, or residential health care facility shall request approval of the site at least 30 days before construction begins. The written request for site approval shall include all of the following information:

(A) The name and telephone number of the individual to be contacted by evaluation personnel;

(B) the dimensions and boundaries of the site; and

(C) the name of the public utility or municipality that provides services to the site, including water, sewer, electricity, and natural gas.

(2) Intermediate care facilities for the mentally retarded shall not have more than one residential building with 16 beds or less located on one site or on contiguous sites. The residential buildings shall be dispersed geographically to achieve integration and harmony with the community or neighborhoods in which the buildings are located.

(3) The applicant shall submit one copy of the final plans for new construction or conversion of an existing unlicensed building, for the entire project or phase to be completed, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) For a nursing facility, K.A.R. 26-40-301 through K.A.R. 26-40-305;

(B) for an intermediate care facility for the mentally retarded with 16 beds or less, K.A.R. 28-39-225;

(C) for an intermediate care facility for the mentally retarded with 17 or more beds, K.A.R. 26-40-301 through K.A.R. 26-40-305 governing the physical environment of nursing facilities; and

(D) for an assisted living facility or a residential health care facility, K.A.R. 28-39-254 through K.A.R. 28-39-256.

(4) The applicant shall provide the department with a 30-day notice of each of the following:

(A) The date on which the architect estimates that 50 percent of the construction will be completed; and

(B) the date on which the architect estimates that all construction will be completed.

(5) The applicant for new construction or conversion of an existing unlicensed building to a home plus, boarding care home, or adult day care facility shall submit a drawing of the proposed facility that includes identification and dimensions of rooms or areas as required in the following regulations:

(A) For a home plus, K.A.R. 28-39-437;

(B) for a boarding care home, K.A.R. 28-39-411; and

(C) for an adult day care facility, K.A.R. 28-39-289 through K.A.R. 28-39-291.

(6) The applicant shall submit to the department any changes from the plans, specifications, or drawings on file at the department.

(e) Additions and renovations.

(1) The licensee shall submit one copy of final plans, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) For a nursing facility, K.A.R. 26-40-301 through K.A.R. 26-40-305;

(B) for an intermediate care facility for the

mentally retarded with 16 beds or less, K.A.R. 28-39-225;

(C) for an intermediate care facility for the mentally retarded with 17 or more beds, K.A.R. 26-40-301 through K.A.R. 26-40-305 governing the physical environment of nursing facilities;

(D) for an assisted living facility or a residential health care facility, K.A.R. 28-39-254 through K.A.R. 28-39-256; and

(E) for a nursing facility for mental health, K.A.R. 28-39-227.

(2) The licensee shall submit to the department a 30-day notice for each of the following:

(A) The date on which the architect estimates that 50 percent of the construction will be completed;

(B) the date on which the architect estimates all construction will be completed; and

(C) any changes in the plans or specifications information for the addition or renovation.

(f) Change in use of a required room or area. If an administrator or operator changes resident bedrooms, individual living units, and apartments used for an alternative purpose back to resident bedrooms, individual living units, and apartments, the administrator or operator shall obtain the secretary's approval before the change is made.

(g) Change of resident capacity. Each licensee shall submit a written request for any proposed change in resident capacity to the department. The effective date of a change in resident capacity shall be the first day of the month following department approval.

(h) Change of administrator, director of nursing, or operator. Each licensee of an adult care home shall notify the department within two working days if there is a change in administrator, director of nursing, or operator. When a new administrator or director of nursing is employed, the licensee shall notify the department of the name, address, and Kansas license number of the new administrator or director of nursing. When a new operator is employed, the licensee shall notify the department of the name and address of the new operator and provide evidence that the individual has completed the operator course as specified by the secretary of the Kansas department of health and environment pursuant to K.S.A. 39-923 and amendments thereto.

(i) Administrator or operator supervision of multiple homes. An administrator or operator may supervise more than one separately licensed adult care home if the following requirements are met:

(1) Each licensee shall request prior authorization from the department for a licensed administrator or an operator to supervise more than one separately licensed adult care home. The request shall be submitted on the appropriate form and include assurance that the lack of full-time, on-site supervision of the adult care homes will not adversely affect the health and welfare of residents.

(2) All of the adult care homes shall be located within a geographic area that allows for daily on-site supervision of all of the adult care homes by the administrator or operator.

(3) The combined resident capacities of separately licensed nursing facilities, assisted living facilities, residential health care facilities, homes plus, and adult day care facilities shall not exceed 120 for a licensed administrator.

(4) The combined resident capacities of separately licensed assisted living facilities, residential health care facilities, homes plus, and adult day care facilities shall not exceed 60 for an operator.

(5) The combined number of homes plus shall not exceed four homes for a licensed administrator or an operator.

(j) Reports. Each licensee shall file reports with the department on forms and at times prescribed by the department.

(k) Fees. Each initial application for a license and each annual report filed with the department shall be accompanied by a fee of $30.00 for each resident in the stated resident capacity plus $100.00. Each requested change in resident capacity shall be accompanied by a fee of $30.00 for each resident increase or decrease in the stated resident capacity plus $100.00. No refund of the fee shall be made if a license application is denied. (Authorized by K.S.A. 2009 Supp. 39-930, K.S.A. 39-932, and K.S.A. 39-933; implementing K.S.A. 39-927, K.S.A. 2009 Supp. 39-930, K.S.A. 39-932, and K.S.A. 39-933; effective May 22, 2009; amended Jan. 7, 2011.)

26-39-102. Admission, transfer, and discharge rights of residents in adult care homes. (a) Each licensee, administrator, or operator shall develop written admission policies regarding the admission of residents. The admission policy shall meet the following requirements:

(1) The administrator or operator shall ensure the admission of only those individuals whose physical, mental, and psychosocial needs can be

met within the accommodations and services available in the adult care home.

(A) Each resident in a nursing facility or nursing facility for mental health shall be admitted under the care of a physician licensed to practice in Kansas.

(B) The administrator or operator shall ensure that no children under the age of 16 are admitted to the adult care home.

(C) The administrator or operator shall allow the admission of an individual in need of specialized services for mental illness to the adult care home only if accommodations and treatment that will assist that individual to achieve and maintain the highest practicable level of physical, mental, and psychosocial functioning are available.

(2) Before admission, the administrator or operator, or the designee, shall inform the prospective resident or the resident's legal representative in writing of the rates and charges for the adult care home's services and of the resident's obligations regarding payment. This information shall include the refund policy of the adult care home.

(3) At the time of admission, the administrator or operator, or the designee, shall execute with the resident or the resident's legal representative a written agreement that describes in detail the services and goods the resident will receive and specifies the obligations that the resident has toward the adult care home.

(4) An admission agreement shall not include a general waiver of liability for the health and safety of residents.

(5) Each admission agreement shall be written in clear and unambiguous language and printed clearly in black type that is 12-point type or larger.

(b) At the time of admission, adult care home staff shall inform the resident or the resident's legal representative, in writing, of the state statutes related to advance medical directives.

(1) If a resident has an advance medical directive currently in effect, the facility shall keep a copy on file in the resident's clinical record.

(2) The administrator or operator, or the designee, shall ensure the development and implementation of policies and procedures related to advance medical directives.

(c) The administrator or operator, or the designee, shall provide a copy of resident rights, the adult care home's policies and procedures for advance medical directives, and the adult care home's grievance policy to each resident or the resident's legal representative before the prospective resident signs any admission agreement.

(d) The administrator or operator of each adult care home shall ensure that each resident is permitted to remain in the adult care home and is not transferred or discharged from the adult care home unless one of the following conditions is met:

(1) The transfer or discharge is necessary for the resident's welfare, and the resident's needs cannot be met in the current adult care home.

(2) The safety of other individuals in the adult care home is endangered.

(3) The health of other individuals in the adult care home is endangered.

(4) The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home.

(5) The adult care home ceases to operate.

(e) Before a resident is transferred or discharged involuntarily, the administrator or operator, or the designee, shall perform the following:

(1) Notify the resident, the resident's legal representative, and if known, a designated family member of the transfer or discharge and the reasons; and

(2) record the reason for the transfer or discharge under any of the circumstances specified in paragraphs (d) (1) through (4) in the resident's clinical record, which shall be substantiated as follows:

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

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

(C) a physician shall document the rationale for transfer or discharge in the resident's clinical record if the transfer or discharge is necessary because the health or safety of other individuals in the adult care home is endangered.

(f) The administrator or operator, or the designee, shall provide a notice of transfer or discharge in writing to the resident or resident's legal representative at least 30 days before the resident

is transferred or discharged involuntarily, unless one of the following conditions is met:

(1) The safety of other individuals in the adult care home would be endangered.

(2) The resident's urgent medical needs require an immediate transfer to another health care facility.

(g) Each written transfer or discharge notice shall include the following:

(1) The reason for the transfer or discharge;

(2) the effective date of the transfer or discharge;

(3) the address and telephone number of the complaint program of the Kansas department on aging where a complaint related to involuntary transfer or discharge can be registered;

(4) the address and telephone number of the state long-term care ombudsman; and

(5) for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.

(h) The administrator or operator, or the designee, shall provide sufficient preparation and orientation to each resident before discharge to ensure a safe and orderly transfer and discharge from the adult care home.

(i) The administrator or operator, or the designee, shall ensure the development of a discharge plan, with the involvement of the resident, the resident's legal representative, and designated family when practicable.

(j) If the resident is transferred or discharged to another health care facility, the administrator or operator, or the designee, shall ensure that sufficient information accompanies the resident to ensure continuity of care in the new facility.

(k) Before a resident in a nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, or home plus is transferred to a hospital or goes on therapeutic leave, the administrator or operator, or the designee, shall provide written information to the resident or the resident's legal representative and, if agreed to by the resident or the resident's legal representative, the resident's family, that specifies the following:

(1) The period of time during which the resident is permitted to return and resume residence in the facility;

(2) the cost to the resident, if any, to hold the resident's bedroom, apartment, individual living unit, or adult day care slot until the resident's return; and

(3) a provision that when the resident's hospitalization or therapeutic leave exceeds the period identified in the policy of a nursing facility, the resident will be readmitted to the nursing facility upon the first availability of a comparable room if the resident requires the services provided by the nursing facility. (Authorized by and implementing K.S.A. 39-932; effective May 22, 2009.)

26-39-103. Resident rights in adult care homes. (a) Protection and promotion of resident rights. Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home.

(b) Exercise of rights.

(1) The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's rights as a resident of the adult care home and as a citizen.

(2) The administrator or operator shall ensure that each resident is afforded the right to be free from interference, coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights.

(3) If a resident is adjudged incompetent under the laws of the state of Kansas, the resident's legal representative shall have the power to exercise rights on behalf of the resident.

(4) In the case of a resident who has executed a durable power of attorney for health care decisions, the agent may exercise the rights of the resident to the extent provided by K.S.A. 58-625 et seq. and amendments thereto.

(c) Notice of rights and services.

(1) Before admission, the administrator or operator shall ensure that each resident or the resident's legal representative is informed, both orally and in writing, of the following in a language the resident or the resident's legal representative understands:

(A) The rights of the resident;

(B) the rules governing resident conduct and responsibility;

(C) the current rate for the level of care and services to be provided; and

(D) if applicable, any additional fees that will be charged for optional services.

(2) The administrator or operator shall ensure that each resident or the resident's legal representative is notified in writing of any changes in charges or services that occur after admission and at least 30 days before the effective date of the change. The changes shall not take place until notice is given, unless the change is due to a change in level of care.

(d) Inspection of records.

(1) The administrator or operator shall ensure that each resident or resident's legal representative is afforded the right to inspect records pertaining to the resident. The administrator or operator, or the designee, shall provide a photocopy of the resident's record or requested sections of the resident's record to each resident or resident's legal representative within two working days of the request. If a fee is charged for the copy, the fee shall be reasonable and not exceed actual cost, including staff time.

(2) The administrator or operator shall ensure access to each resident's records for inspection and photocopying by any representative of the department.

(e) Informed of health status. The administrator or operator shall ensure that each resident and the resident's legal representative are afforded the right to be fully informed of the resident's total health status, including the resident's medical condition.

(f) Free choice. The administrator or operator shall ensure that each resident, or resident's legal representative on behalf of the resident, is afforded the right to perform the following:

(1) Choose a personal attending physician;

(2) participate in the development of an individual care plan or negotiated service agreement;

(3) refuse treatment;

(4) refuse to participate in experimental research; and

(5) choose the pharmacy where prescribed medications are purchased. If the adult care home uses a unit-dose or similar medication distribution system, the resident shall have the right to choose among pharmacies that offer or are willing to offer the same or a compatible system.

(g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.

(h) Notification of changes.

(1) The administrator or operator shall ensure that designated facility staff inform the resident, consult with the resident's physician, and notify the resident's legal representative or designated family member, if known, upon occurrence of any of the following:

(A) An accident involving the resident that results in injury and has the potential for requiring a physician's intervention;

(B) a significant change in the resident's physical, mental, or psychosocial status;

(C) a need to alter treatment significantly; or

(D) a decision to transfer or discharge the resident from the adult care home.

(2) The administrator or operator shall ensure that a designated staff member informs the resident, the resident's legal representative, or authorized family members whenever the designated staff member learns that the resident will have a change in room or roommate assignment.

(i) Privacy and confidentiality. The administrator or operator shall ensure that each resident is afforded the right to personal privacy and confidentiality of personal and clinical records.

(1) The administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups.

(2) The administrator or operator shall ensure that the personal and clinical records of the resident are maintained in a confidential manner.

(3) The administrator or operator shall ensure that a release signed by the resident or the resident's legal representative is obtained before records are released to anyone outside the adult care home, except in the case of transfer to another health care institution or as required by law.

(j) Grievances. The administrator or operator shall ensure that each resident is afforded the right to the following:

(1) Voice grievances with respect to treatment or care that was or was not furnished;

(2) be free from discrimination or reprisal for voicing the grievances; and

(3) receive prompt efforts by the administrator or operator, or the designee, to resolve any grievances that the resident could have, including any grievance with respect to the behavior of other residents.

(k) Work.

(1) The administrator or operator shall ensure that each resident is afforded the right to refuse to perform services for the adult care home.

(2) A resident may perform services for the adult care home, if the resident wishes and if all of the following conditions are met:

(A) The administrator or operator, or the designee, has documented the resident's need or desire for work in the plan of care or negotiated service agreement.

(B) The plan of care or negotiated service agreement specifies the nature of the services performed and whether the services are voluntary or paid.

(C) The resident or resident's legal representative has signed a written agreement consenting to the work arrangement described in the plan of care or negotiated service agreement.

(l) Mail. The administrator or operator shall ensure that each resident is afforded the right to privacy in written communications, including the right to the following:

(1) Have unopened mail sent and received promptly; and

(2) have access to stationery, postage, and writing implements at the resident's own expense.

(m) Access and visitation rights.

(1) The administrator or operator shall ensure the provision of immediate access to any resident by the following:

(A) Any representative of the secretary of the Kansas department on aging;

(B) the resident's attending medical care provider;

(C) the state long-term care ombudsman;

(D) any representative of the secretary of the Kansas department of social and rehabilitation services;

(E) immediate family or other relatives of the resident; and

(F) others who are visiting with the consent of the resident subject to reasonable restrictions.

(2) The administrator or operator shall ensure that each resident is afforded the right to deny or withdraw visitation consent for any person at any time.

(n) Telephone. The administrator or operator shall ensure that each resident is afforded the right to reasonable access to a telephone in a place where calls can be made without being overheard.

(o) Personal property. The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits, unless doing so would infringe upon the rights or health and safety of other residents.

(p) Married couples. The administrator or operator shall ensure that each resident is afforded the right to share a room with the resident's spouse if married residents live in the same adult care home and both spouses consent.

(q) Self-administration of medication. The administrator shall ensure that each resident in a nursing facility or a nursing facility for mental health is afforded the right to self-administer medications unless the resident's attending physician and the interdisciplinary team have determined that this practice is unsafe. In any assisted living facility, residential health care facility, home plus, or adult day care facility, a resident may self-administer medication if a licensed nurse has determined that the resident can perform this function safely and accurately. (Authorized by and implementing K.S.A. 39-932; effective May 22, 2009.)

26-39-104. Receivership of adult care homes. (a) A person may be designated by the secretary to be a receiver if that person meets the following requirements:

(1) Has operated a Kansas adult care home for at least five consecutive years; and

(2) has a history of compliance with licensure standards.

(b) A person designated as a receiver shall not use the designation for any commercial purpose. (Authorized by and implementing K.S.A. 2007 Supp. 39-954; effective May 22, 2009.)

26-39-105. Adoptions by reference. (a) The following material shall apply to all adult care homes except nursing facilities for mental health, intermediate care facilities for the mentally retarded, and boarding care homes:

(1) Dietary guidelines. In the "dietary guidelines for Americans," 2005, published by the U.S. department of health and human services and U.S. department of agriculture, appendixes A-1 and A-2 and "notes for appendix A-2" are hereby adopted by reference.

(2) Infection control. The department's document titled "tuberculosis (TB) guidelines for adult care homes," dated July 2008, is hereby adopted by reference.

(b) The document adopted by reference in this subsection shall apply to each applicant for a nursing facility license and to each addition to a nursing facility licensed on or after the effective date

of this regulation. The "international building code" (IBC), 2006 edition, published by the international code council, excluding the appendices, is hereby adopted by reference.

(c) The following material shall apply to all nursing facilities:

(1) Life safety code. Chapters one through 11, 18, 19, 40, and 42 of the national fire protection association's NFPA 101 "life safety code" (LSC), 2000 edition, are hereby adopted by reference.

(2) Americans with disabilities act accessibility guidelines. Chapters one through four and chapter six of the "Americans with disabilities act accessibility guidelines for buildings and facilities" (ADAAG), 28 C.F.R. part 36, appendix A, as in effect on July 1, 1994, are hereby adopted by reference and shall be known as "ADAAG."

(3) Food code. Chapters one through seven of the "food code," 2009, published by the U.S. department of health and human services, are hereby adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective May 22, 2009; amended Jan. 7, 2011.)

26-39-144. (Authorized by K.S.A. 39-932; implementing K.S.A. 2004 Supp. 39-923, K.S.A. 2004 Supp. 39-925, and K.S.A. 39-932; effective Nov. 4, 2005; revoked May 22, 2009.)

26-39-243. (Authorized by and implementing K.S.A. 2004 Supp. 39-923, K.S.A. 2004 Supp. 39-925, and K.S.A. 39-932; effective Nov. 4, 2005; revoked May 29, 2009.)

26-39-278. (Authorized by and implementing K.S.A. 2004 Supp. 39-923, K.S.A. 2004 Supp. 39-925, and K.S.A. 39-932; effective Nov. 4, 2005; revoked May 29, 2009.)

26-39-427. (Authorized by and implementing K.S.A. 2004 Supp. 39-923, K.S.A. 2004 Supp. 39-925, and K.S.A. 39-932; effective Nov. 4, 2005; revoked May 29, 2009.)

Article 40.—NURSING FACILITIES

26-40-301. Nursing facility physical environment; construction and site requirements. Each nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of the residents and personnel and the public.

(a) Codes and standards. Each nursing facility shall meet the requirements of the building codes, standards, and regulations enforced by city, county, or state jurisdictions. The requirements specified in this regulation shall be considered as a minimum. New construction of a nursing facility and each addition to a nursing facility licensed on or after the effective date of this regulation shall meet the requirements of the following, as adopted by reference in K.A.R. 26-39-105:

(1) The "international building code" (IBC);

(2) the national fire protection association's NFPA 101 "life safety code"; and

(3) the "Americans with disabilities act accessibility guidelines for buildings and facilities" (ADAAG).

(b) Site requirements. The site of each nursing facility shall meet the following requirements:

(1) Be served by all-weather roads or streets;

(2) be accessible to physician services, fire and other emergency services, medical facilities, churches, and population centers where employees can be recruited and retained;

(3) be located in an area sufficiently remote from noise sources that would cause the day or night average sound levels to exceed 65 decibels;

(4) be free from noxious and hazardous fumes;

(5) be at least 4,000 feet from concentrated livestock operations, including shipping areas and holding pens;

(6) be located above the 100-year flood zone if the property is located in a flood hazard area; and

(7) be sufficient in area and configuration to accommodate the nursing facility, drives, parking, sidewalks, recreational area, and community zoning restrictions.

(c) Site development. Development of the site of each nursing facility shall meet the following requirements:

(1) All buildings comprising a nursing facility shall be located on one site or contiguous sites.

(2) Final grading of the site shall have topography for positive surface drainage away from each occupied building and positive protection and control of surface drainage and freshets from adjacent areas.

(3) Each nursing facility shall have off-street parking located adjacent to the main building and each freestanding building that contains a resident unit, at a rate of one parking space for every two residents, based on resident capacity.

(4) Each nursing facility shall have at least the minimum number of accessible parking spaces required by ADAAG, as adopted by reference in K.A.R. 26-39-105, that are sized and signed as reserved for the physically disabled, on the shortest

accessible route of travel from the adjacent parking lot to an accessible entrance.

(5) Each nursing facility shall have convenient access for service vehicles, including ambulances and fire trucks, and for maneuvering, parking, and unloading delivery trucks.

(6) All drives and parking areas shall be surfaced with a smooth, all-weather finish. Unsealed gravel shall not be used.

(7) Except for lawn or shrubbery used in landscape screening, each nursing facility shall have an unencumbered outdoor area of at least 50 square feet per resident, based on resident capacity, for recreational use and shall so designate this area on the plot plan. Equivalent amenities provided by terraces, roof gardens, or similar structures for facilities located in high-density urban areas may be approved by the secretary. If a multistoried building is licensed as a nursing facility after the effective date of this regulation, the nursing facility shall have outdoor space on each level. (Authorized by and implementing K.S.A. 39-932; effective Jan. 7, 2011.)

26-40-302. Nursing facility physical environment; applicants for initial licensure and new construction. (a) Applicability. This regulation shall apply to each applicant for a nursing facility license and to any addition to a nursing facility licensed on the effective date of this regulation.

(b) Codes and standards. Each nursing facility shall meet the requirements of the building codes, standards, and regulations enforced by city, county, or state jurisdictions. The requirements specified in this regulation shall be considered as a minimum. Each applicant for a nursing facility license and each addition to a nursing facility licensed on or after the effective date of this regulation shall meet the following requirements, as adopted by reference in K.A.R. 26-39-105:

(1) The "international building code" (IBC);

(2) the national fire protection association's NFPA 101 "life safety code" (LSC); and

(3) the "Americans with disabilities act accessibility guidelines for buildings and facilities" (ADAAG).

(c) Nursing facility design. The design and layout of each nursing facility shall differentiate among public, semiprivate, and private space and shall promote the deterrence of unnecessary travel through private space by staff and the public. The resident unit shall be arranged to achieve a home environment, short walking and wheeling distances, localized social areas, and decentralized work areas.

(d) Resident unit. A "resident unit" shall mean a group of resident rooms, care support areas, and common rooms and areas as identified in this subsection and subsections (e) and (f). Each resident unit shall have a resident capacity of no more than 30 residents and shall be located within a single building. If the nursing facility is multilevel, each resident unit shall be located on a single floor.

(1) Resident rooms. At least 20 percent of the residents on each resident unit shall reside in a private resident room. The occupancy of the remaining rooms shall not exceed two residents per room.

(A) Each resident room shall meet the following requirements:

(i) Be located on a floor at or above ground level;

(ii) allow direct access to the corridor;

(iii) allow direct access from the room entry to the toilet room and to the closet or freestanding wardrobe without going through the bed area of another resident;

(iv) measure at least 120 square feet in single resident rooms and at least 200 square feet in double resident rooms, exclusive of the entrance door and toilet room door swing area, alcoves, vestibules, toilet room, closets or freestanding wardrobes, sinks, and other built-in items; and

(v) provide each resident with direct access to an operable window that opens for ventilation. The total window area shall not be less than 12 percent of the gross floor area of the resident room.

(B) Each bed area in a double resident room shall have separation from the adjacent bed by a full-height wall, a permanently installed sliding or folding door or partition, or other means to afford complete visual privacy. Use of a ceiling-suspended curtain may cover the entrance to the bed area.

(C) The configuration of each resident room shall be designed to allow at least three feet of clearance along the foot of each bed and along both sides of each bed.

(D) The nursing facility shall have functional furniture to meet each resident's needs, including a bed of adequate size with a clean, comfortable mattress that fits the bed, and bedding appropriate to the weather and the needs of the resident.

(E) Each resident's room shall include personal

storage space in a fixed closet or freestanding wardrobe with doors. This storage shall have minimum dimensions of one foot 10 inches in depth by two feet six inches in width and shall contain an adjustable clothes rod and shelf installed at a height easily reached by the resident. Accommodations shall be provided for hanging full-length garments.

(2) Resident toilet rooms. Each resident toilet room shall serve no more than one resident room and be accessed directly from the resident's room. Each resident toilet room shall be accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105.

(A) Each resident toilet room shall have at least a five-foot turning radius to allow maneuverability of a wheelchair. If the shower presents no obstruction to the turning radius, the space occupied by the shower may be included in the minimum dimensions.

(B) The center line of each resident-use toilet shall be at least 18 inches from the nearest wall or partition to allow staff to assist a resident to and from the toilet.

(C) Each toilet room shall contain a hand-washing sink.

(D) At least 40 percent of the residents on each resident unit shall have a shower in the resident's toilet room.

(i) Each shower shall measure at least three feet by five feet with a threshold of ½ inch or less.

(ii) Showers shall be curtained or in another type of enclosure for privacy.

(e) Resident unit care support rooms and areas. The rooms and areas required in this subsection shall be located in each resident unit and shall be accessed directly from the general corridor without passage through an intervening room or area, except the medication room as specified in paragraph (e)(2)(A) and housekeeping closets. A care support area shall be located less than 200 feet from each resident room and may serve two resident units if the care support area is centrally located for both resident units.

(1) Nurses' workroom or area. Each resident unit shall have sufficient areas for supervisory work activities arranged to ensure the confidentiality of resident information and communication.

(A) A nurses' workroom or area shall have space for the following:

(i) Charting;

(ii) the transmission and reception of resident information;

(iii) clinical records and other resident information;

(iv) a telephone and other office equipment; and

(v) an enunciator panel or monitor screen for the call system. If a resident unit has more than one nurses' workroom or area, space for an enunciator panel or monitor for the call system shall not be required in more than one nurses' workroom or area.

(B) The nurses' workroom or area shall be located so that the corridors outside resident rooms are visible from the nurses' workroom or area. The nursing facility may have cameras and monitors to meet this requirement.

(C) Direct visual access into each nurses' work area shall be provided if the work area is located in an enclosed room.

(2) Medication room or area. Each resident unit shall have a room or area for storage and preparation of medications or biologicals for 24-hour distribution, with a temperature not to exceed 85°F. This requirement shall be met by one or more of the following:

(A) A room with an automatically closing, self-locking door visible from the nurses' workroom or area. The room shall contain a work counter with task lighting, hand-washing sink, refrigerator, and shelf space for separate storage of each resident's medications. The secured medication storage room shall contain separately locked compartments for the storage of controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse;

(B) a nurses' workroom or area equipped with a work counter with task lighting, hand-washing sink, locked refrigerator, and locked storage for resident medications. A separately locked compartment shall be located within the locked cabinet, drawer, or refrigerator for the storage of controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse;

(C) a locked medication cart in addition to a medication room or area if the cart is located in a space convenient for control by nursing personnel who are authorized to administer medication. If controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant phar-

macist, are subject to abuse are stored in the medication cart, the cart shall contain a separately locked compartment for the storage of these medications; or

(D) in the resident's room if the room contains space for medication preparation with task lighting, access to a hand-washing sink, and locked cabinets or drawers for separate storage of each resident's medication. Controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse shall not be stored in a resident's room.

(3) Den or consultation room. Each resident unit shall have a room for residents to use for reading, meditation, solitude, or privacy with family and other visitors and for physician visits, resident conferences, and staff meetings.

(A) The room area shall be at least 120 square feet, with a length or width of at least 10 feet.

(B) The room shall contain a hand-washing sink.

(C) A den or consultation room shall not be required if all resident rooms are private.

(4) Clean workroom. Each resident unit shall have a room for preparation, storage, and distribution of clean or sterile materials and supplies and resident care items.

(A) The room shall contain a work counter with a sink and adequate shelving and cabinets for storage.

(B) The room area shall be at least 80 square feet, with a length or width of at least six feet.

(C) If the resident unit is located in a freestanding building, a clothes dryer for processing resident personal laundry that is not contaminated laundry may be located in the clean workroom if the following requirements are met:

(i) An additional minimum of 40 square feet per dryer shall be provided.

(ii) The soiled workroom shall contain a washing machine positioned over a catch pan piped to a floor drain.

(iii) The clean workroom shall have a door opening directly into the soiled workroom without entering the general corridor. The door opening shall be covered with a plastic-strip door or by other means to prevent interference of ventilation requirements for both workrooms.

(D) Storage and preparation of food and beverages shall not be permitted in the clean workroom.

(5) Clean linen storage. Each resident unit shall have a room or area with adequate shelving, cabinets, or cart space for the storage of clean linen proximate to the point of use. The storage area may be located in the clean workroom.

(6) Soiled workroom. Each resident unit shall have a soiled workroom for the disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils.

(A) The soiled workroom shall contain a work counter, a two-compartment sink, a covered waste receptacle, a covered soiled linen receptacle, and a storage cabinet with a lock for sanitizing solutions and cleaning supplies.

(B) The room area shall be at least 80 square feet, with a length or width of at least six feet.

(C) If the resident unit is located in a freestanding building, a washing machine for processing resident personal laundry that is not contaminated laundry may be located in the soiled workroom if the following requirements are met:

(i) An additional minimum of 40 square feet per washing machine shall be provided.

(ii) The washing machine shall be positioned over a catch pan piped to a floor drain.

(iii) The clean workroom shall contain a clothes dryer.

(iv) The soiled workroom shall have a door opening directly into the clean workroom without entering the general corridor. The door opening shall be covered with a plastic-strip door or by other means to prevent interference of ventilation requirements for both workrooms.

(D) If a housekeeping room is located in the soiled workroom, the housekeeping room shall be enclosed and an additional minimum of 20 square feet shall be provided in the soiled workroom.

(E) Clean supplies, equipment, and materials shall not be stored in the soiled workroom.

(7) Equipment storage rooms or areas. Each resident unit shall have sufficient rooms or enclosed areas for the storage of resident unit equipment. The total space shall be at least 80 square feet plus an additional minimum of one square foot per resident capacity on the unit, with no single room or area less than 40 square feet. The width and length of each room or area shall be at least five feet.

(8) Housekeeping room. Each resident unit shall have at least one room for the storage of housekeeping supplies and equipment needed to maintain a clean and sanitary environment.

(A) Each housekeeping room shall contain a floor receptor or service sink, hot and cold water,

adequate shelving, provisions for hanging mops and other cleaning tools, and space for buckets, supplies, and equipment.

(B) If the housekeeping room in the resident unit serves the resident kitchen and any other areas of the unit, the nursing facility shall have separately designated mops and buckets for use in each specific location.

(9) Toilet room. Each resident unit shall have at least one toilet room with a hand-washing sink that is accessible for resident, staff, and visitor use.

(f) Common rooms and areas in resident units. The rooms and areas required in this subsection shall be located in each resident unit, except as specified in this subsection, and shall be accessed directly from the general corridor without passage through an intervening room or area. The required room or area shall be located less than 200 feet from each resident room. A room or area may serve two resident units only if centrally located.

(1) Living, dining, and recreation areas. Each resident unit shall have sufficient space to accommodate separate and distinct resident activities of living, dining, and recreation.

(A) Space for living, dining, and recreation shall be provided at a rate of at least 40 square feet per resident based on each resident unit's capacity, with at least 25 square feet per resident in the dining area.

(B) Window areas in the living, dining, and recreation areas shall be at least 10 percent of the gross floor space of those areas. Each of these areas shall have exposure to natural daylight. The window area requirement shall not be met by the use of skylights.

(C) The dining area shall have adequate space for each resident to access and leave the dining table without disturbing other residents.

(D) Storage of items used for recreation and other activities shall be near the location of their planned use.

(2) Resident kitchen. Any resident unit may have a decentralized resident kitchen if the kitchen meets the following requirements:

(A) Is adequate in relation to the size of the resident unit;

(B) is designed and equipped to meet the needs of the residents; and

(C) meets the requirements in paragraph (g)(5).

(3) Nourishment area. Each resident unit shall have an area available to each resident to ensure the provision of nourishment and beverages, including water, between scheduled meals. The nourishment area shall contain a hand-washing sink, counter, equipment for serving nourishment and beverages, a refrigerator, and storage cabinets and shall be accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105. The nourishment area may be located in the resident unit kitchen if all residents have access to the area between scheduled meals.

(4) Bathing room. Each resident unit shall have at least one bathing room to permit each resident to bathe privately and either independently or with staff assistance. The bathing room shall be accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105, and include the following:

(A) A hand-washing sink;

(B) an area enclosed for privacy that contains a toilet for resident use. The center line of each resident-use toilet shall be at least 18 inches from the nearest wall or partition to allow staff to assist a resident to and from the toilet;

(C) a hydrotherapy bathing unit;

(D) a shower that measures at least four feet by five feet without curbs unless a shower is provided in each resident's toilet room;

(E) a visually enclosed area for privacy during bathing, drying, and dressing, with space for a care provider and wheelchair; and

(F) a locked supply cabinet.

(5) Personal laundry room. Any resident unit may have a resident laundry room for residents to launder personal laundry that is not contaminated laundry, if the requirements in paragraph (g)(6)(C) are met.

(6) Mobility device parking space. Each resident unit shall have parking space for residents' mobility devices. The parking space shall be located in an area that does not interfere with normal resident passage. The parking space shall not be included in determining the minimum required corridor width.

(g) Common rooms and support areas in the nursing facility's main building. The rooms and areas required in this subsection shall be located in the main building of each nursing facility and shall be accessed directly from the general corridor without passage through an intervening room or area. If a resident unit is located in a freestanding building, the nursing facility administrator shall ensure that transportation is provided for each resident to access services and activities that occur in the main building to enhance the resi-

dent's physical, mental, and psychosocial well-being.

(1) Multipurpose room. Each nursing facility shall have a room for resident use for social gatherings, religious services, entertainment, or crafts, with sufficient space to accommodate separate functions.

(A) The multipurpose room shall have an area of at least 200 square feet for 60 or fewer residents, plus at least two square feet for each additional resident over 60, based on the nursing facility's resident capacity.

(B) The multipurpose room shall contain a work counter with a hand-washing sink that is accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105, and storage space and lockable cabinets for equipment and supplies.

(2) Rehabilitation room. Each nursing facility shall have a room for the administration and implementation of rehabilitation therapy.

(A) The rehabilitation room shall include the following:

(i) Equipment for carrying out each type of therapy prescribed for the residents;

(ii) a hand-washing sink accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105;

(iii) an enclosed storage area for therapeutic devices; and

(iv) provisions for resident privacy.

(B) The rehabilitation room shall have an area of at least 200 square feet for 60 or fewer residents, plus at least two square feet for each additional resident over 60 based on resident capacity, to a maximum requirement of 655 square feet.

(C) If a resident unit is located in a freestanding building, the resident unit may have a designated area for rehabilitation in a bathing room. The combined use of the space shall not limit the residents' bathing opportunities or rehabilitation therapy.

(3) Mobility device parking space. Each nursing facility shall have parking space for residents' mobility devices. The parking space shall be located in an area that does not interfere with normal resident passage. The parking space shall not be included in determining the minimum required corridor width.

(4) Beauty and barber shop. Each nursing facility shall have a room for the hair care and grooming of residents appropriate in size for the number of residents served.

(A) The beauty and barber shop shall contain at least one shampoo sink, space for one floor hair dryer, workspace, and a lockable supply cabinet.

(B) If a resident unit is located in a freestanding building, the resident unit may have a designated area for the hair care and grooming of residents in the bathing room if all of the following conditions are met:

(i) The bathing room does not contain a shower.

(ii) The area contains at least one shampoo sink, space for one floor hair dryer, and workspace.

(iii) The combined use of the space does not limit the residents' bathing, hair care, or grooming opportunities.

(5) Dietary areas. Each nursing facility shall have dietary service areas that are adequate in relation to the size of the nursing facility and are designed and equipped to meet the needs of the residents. Each nursing facility shall meet the requirements of the "food code," as adopted by reference in K.A.R. 26-39-105. Dietary service areas shall be located to minimize transportation for meal service unrelated to the resident unit past the resident rooms. The following elements shall be included in each central kitchen and resident unit kitchen:

(A) A control station for receiving food supplies;

(B) food preparation and serving areas and equipment in accordance with the following requirements:

(i) Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving; and

(ii) convenience food service systems, including systems using frozen prepared meals, bulk-packaged entrees, individual packaged portions, or contractual commissary services, shall include space and equipment for thawing, portioning, cooking, baking, and serving;

(C) space for meal service assembly and distribution equipment;

(D) a two-compartment sink for food preparation;

(E) a hand-washing sink in the food preparation area;

(F) a ware-washing area apart from, and located to prevent contamination of, food preparation and serving areas. The area shall include all of the following:

(i) Commercial-type dishwashing equipment;

(ii) a hand-washing sink;

(iii) space for receiving, scraping, sorting, and stacking soiled tableware and transferring clean tableware to the using area; and

(iv) if in a resident kitchen, a sink and adjacent under-counter commercial or residential dishwasher that meets the national sanitation foundation (NSF) international standards;

(G) a three-compartment deep sink for manual cleaning and sanitizing or, if in a resident kitchen, an alternative means for a three-step process for manual cleaning and sanitizing;

(H) an office in the central kitchen for the dietitian or dietetic services supervisor or, if in a resident kitchen, a workspace for the dietitian or dietetic services supervisor;

(I) a toilet room and a hand-washing sink available for dietary staff, separated by a vestibule from the central kitchen or, if in a resident kitchen, a toilet room with a hand-washing sink located in close proximity to the kitchen;

(J) an enclosed housekeeping room located within the central kitchen that contains a floor receptor with hot and cold water, shelving, and storage space for housekeeping equipment and supplies or, if in a resident kitchen, an enclosed housekeeping room adjacent to the kitchen that contains storage for dietary services cleaning equipment;

(K) an ice machine that, if available to residents for self-serve, shall dispense ice directly into a container and be designed to minimize noise and spillage onto the floor;

(L) sufficient food storage space located adjacent to the central kitchen or resident kitchen to store at least a four-day supply of food to meet residents' needs, including refrigerated, frozen, and dry storage;

(M) sufficient space for the storage and indoor sanitizing of cans, carts, and mobile equipment; and

(N) a waste storage area in a separate room or an outside area that is readily available for direct pickup or disposal.

(6) Laundry services. Each nursing facility shall have the means for receiving, processing, and storing linen needed for resident care in a central laundry or off-site laundry, or both, or a personal laundry room located on a resident unit in combination with these options. The arrangement of laundry services shall provide for an orderly workflow from dirty to clean, to minimize cross-contamination.

(A) If nursing facility laundry or more than one resident's personal laundry is to be processed, the laundry services area shall have separate rooms, with doors that do not open directly onto the resident unit, that have the following:

(i) A soiled laundry room for receiving, holding, and sorting laundry, equipped with containers with tightly fitting lids for soiled laundry, that is exhausted to the outside;

(ii) a processing room that contains commercial laundry equipment for washing and drying and a sink;

(iii) an enclosed housekeeping room that opens into the laundry processing area and contains a floor receptor with hot and cold water, shelving, and space for storage of housekeeping equipment and supplies;

(iv) a clean laundry room for handling, storing, issuing, mending, and holding laundry with egress that does not require passing through the processing or soiled laundry room; and

(v) storage space for laundry supplies.

(B) If nursing facility laundry or more than one resident's personal laundry is to be processed, the washing machine shall be capable of meeting high-temperature washing or low-temperature washing requirements as follows:

(i) If high-temperature washing is used, the washing machines shall have temperature sensors and gauges capable of monitoring water temperatures of at least 160°F and manufacturer documentation that the machine has a wash cycle of at least 25 minutes at 160°F or higher.

(ii) If low-temperature washing is used, the washing machines shall have temperature sensors and gauges capable of monitoring water temperatures to ensure a wash temperature of at least 71°F and manufacturer documentation of a chlorine bleach rinse of 125 parts per million (ppm) at a wash temperature of at least 71°F. Oxygen-based bleach may be used as an alternative to chlorine bleach if the product is registered by the environmental protection agency.

(C) If each resident's personal laundry is processed separately on a resident unit, the laundry may be handled within one or more rooms if separate, defined areas are provided for handling clean and soiled laundry. The following elements shall be included:

(i) A soiled laundry room or area for receiving, holding, and sorting laundry, equipped with containers with tightly fitting lids for soiled laundry, that is exhausted to the outside;

(ii) at least one washing machine. Each washing machine shall be positioned over a catch pan piped to a floor drain;

(iii) a processing room or area that contains a clothes dryer and a hand-washing sink;

(iv) a clean laundry room or area for handling, storing, issuing, mending, and holding laundry; and

(v) storage space for laundry supplies.

(D) If laundry is processed off-site, the following elements shall be provided:

(i) A soiled laundry room, equipped with containers that have tightly fitted lids for holding laundry, that is exhausted to the outside; and

(ii) a clean laundry room for receiving, holding, inspecting, and storing linen.

(7) Central storage. Each nursing facility shall have at least five square feet per resident capacity in separate rooms or separate space in one room for storage of clean materials or supplies and oxygen.

(8) Housekeeping room. Each nursing facility shall have a sufficient number of rooms for the storage of housekeeping supplies and equipment needed to maintain a clean and sanitary environment. Each housekeeping room shall contain a floor receptor with hot and cold water, adequate shelving, provisions for hanging mops and other cleaning tools, and space for buckets, supplies, and equipment.

(h) Staff and public areas. The rooms and areas required in this subsection shall be located in the main building of each nursing facility and in each freestanding building with a resident unit unless otherwise indicated.

(1) Staff support area. Each nursing facility shall have a staff support area for staff and volunteers that contains the following, at a minimum:

(A) A staff lounge or area;

(B) lockers, drawers, or compartments that lock for safekeeping of each staff member's personal effects; and

(C) a toilet room and hand-washing sink that are accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105. If a resident unit is located in a freestanding building, the toilet room located in the resident unit may meet this requirement.

(2) Public areas. Each nursing facility shall provide the following public areas to accommodate residents, staff, and visitors:

(A) A sheltered entrance at grade level that is accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105;

(B) a lobby or vestibule with communication to the reception area, information desk, or resident unit;

(C) at least one public toilet room with a toilet and sink that are accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105. If a resident unit is located in a freestanding building, the toilet room located in the resident unit may meet this requirement;

(D) a drinking fountain or cooler or other means to obtain fresh water; and

(E) a telephone, located in an area with sufficient space to allow for use by a person in a wheelchair, where calls can be made without being overheard.

(3) Administrative areas. Each nursing facility shall have the following areas for administrative work activities in the main building:

(A) An administrator's office;

(B) a director of nursing office;

(C) general offices as needed for admission, social services, private interviews, and other professional and administrative functions; and

(D) space for office equipment, files, and financial and clinical records.

(i) Nursing facility support systems. Each nursing facility shall have support systems to promote staff responsiveness to each resident's needs and safety.

(1) Call system. Each nursing facility shall have a functional call system that ensures that nursing personnel working in the resident unit and other staff designated to respond to resident calls are notified immediately when a resident has activated the call system.

(A) Each nursing facility shall have a call button or pull cord located at each bed and in each beauty and barber shop that, if activated, will initiate all of the following:

(i) Produce an audible signal at the nurses' workroom or area, or activate the portable electronic device worn by each required staff member with an audible tone or vibration;

(ii) register a visual signal on an enunciator panel or monitor screen at the nurses' workroom or area, indicating the resident room number and bed, or beauty and barber shop;

(iii) produce a visual signal at the resident room corridor door or activate the portable electronic device worn by each required staff member, identifying the specific resident or room from which the call has been placed; and

(iv) produce visual and audible signals in clean and soiled workrooms and in the medication prep-

aration rooms or activate the portable electronic device worn by each required staff member with an audible tone or vibration.

(B) Each nursing facility shall have an emergency call button or pull cord located next to each resident-use toilet, shower, and bathtub that, if activated, will initiate all of the following:

(i) Produce a repeating audible signal at the nurses' workroom or area, or activate the portable electronic device worn by each required staff member with an audible tone or vibration;

(ii) register a visual signal on an enunciator panel or monitor screen at the nurses' workroom or area, indicating the location or room number of the toilet, shower, or bathtub;

(iii) produce a rapidly flashing light adjacent to the corridor door at the site of the emergency or activate the portable electronic device worn by each required staff member, identifying the specific resident or room from which the call has been placed; and

(iv) produce a rapidly flashing light and a repeating audible signal in the nurses' workroom or area, clean workroom, soiled workroom, and medication preparation rooms or activate the portable electronic device worn by each required staff member with an audible tone or vibration.

(C) The administrator shall implement a policy to ensure that all calls activated from an emergency location receive a high-priority response from staff.

(D) If the nursing facility does not have a wireless call system, the nursing facility shall have additional visible signals at corridor intersections in multicorridor units for all emergency and nonemergency calls.

(E) All emergency and nonemergency call signals shall continue to operate until manually reset at the site of origin.

(F) If call systems include two-way voice communication, staff shall take precautions to protect resident privacy.

(G) If a nursing facility uses a wireless system to meet the requirements of paragraphs (i)(1)(A) through (E), all of the following additional requirements shall be met:

(i) The nursing facility shall be equipped with a system that records activated calls.

(ii) A signal unanswered for a designated period of time, but not more than every three minutes, shall repeat and also be sent to another workstation or to staff that were not designated to receive the original call.

(iii) Each wireless system shall utilize radio frequencies that do not interfere with or disrupt pacemakers, defibrillators, and any other medical equipment and that receive only signals initiated from the manufacturer's system.

(H) The nursing facility's preventative maintenance program shall include the testing of the call system at least weekly to verify operation of the system.

(2) Door monitoring system. The nursing facility shall have an electrical monitoring system on each door that exits the nursing facility and is available to residents. The monitoring system shall alert staff when the door has been opened by a resident who should not leave the nursing facility unless accompanied by staff or other responsible person.

(A) Each door to the following areas that is available to residents shall be electronically monitored:

(i) The exterior of the nursing facility, including enclosed outdoor areas;

(ii) interior doors of the nursing facility that open into another type of adult care home if the exit doors from that adult care home are not monitored; and

(iii) any area of the building that is not licensed as an adult care home.

(B) The electrical monitoring system on each door shall remain activated until manually reset by nursing facility staff.

(C) The electrical monitoring system on a door may be disabled during daylight hours if nursing facility staff has continuous visual control of the door.

(j) Nursing facility maintenance and waste processing services.

(1) Maintenance, equipment, and storage areas. Each nursing facility shall have areas for repair, service, and maintenance functions that include the following:

(A) A maintenance office;

(B) a storage room for building maintenance supplies;

(C) an equipment room or separate building for boilers, mechanical equipment, and electrical equipment; and

(D) a maintenance storage area that opens to the outside, or is located in a detached building, for the storage of tools, supplies, and equipment used for yard and exterior maintenance.

(2) Waste processing services. Each nursing facility shall have space and equipment for the san-

itary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, or removal, or by a combination of these techniques. (Authorized by and implementing K.S.A. 39-932; effective Jan. 7, 2011.)

26-40-303. Nursing facility physical environment; existing nursing facilities. (a) Applicability. This regulation shall apply to all nursing facilities licensed on the effective date of this regulation.

(b) Codes and standards. Each nursing facility shall meet the requirements of the building codes, standards, and regulations enforced by city, county, or state jurisdictions. The requirements specified in this regulation shall be considered as a minimum.

(1) Each nursing facility shall meet the following requirements, as adopted by reference in K.A.R. 26-39-105:

(A) The national fire protection association's NFPA 101 "life safety code" (LSC); and

(B) the "Americans with disabilities act accessibility guidelines for buildings and facilities" (ADAAG).

(2) Each nursing facility and any portion of each nursing facility that was approved under a previous regulation shall, at a minimum, remain in compliance with the regulation or building code in effect at the date of licensure.

(c) Nursing facility design. The design and layout of each nursing facility shall differentiate among public, semiprivate, and private space and shall promote the deterrence of unnecessary travel through private space by staff and the public. The resident unit shall be arranged to achieve a home environment, short walking and wheeling distances, localized social areas, and decentralized work areas.

(d) Resident unit. A "resident unit" shall mean a group of resident rooms, care support areas, and common rooms and areas as identified in this subsection and subsections (e) and (f), unless otherwise indicated. Each resident unit shall have a resident capacity of no more than 60 residents and shall be located within a single building.

(1) Resident rooms. At least five percent of the resident rooms shall have a maximum occupancy of one resident per room. The occupancy of the remaining rooms shall not exceed two residents per room. If a nursing facility has rooms that accommodate three or four residents on the effective date of this regulation, this requirement shall not apply until the nursing facility converts its existing three- and four-resident rooms to private or semiprivate rooms.

(A) Each resident room shall meet the following requirements:

(i) Be located on a floor at or above ground level;

(ii) allow direct access to the corridor;

(iii) measure at least 100 square feet in single resident rooms and at least 160 square feet in double resident rooms, exclusive of alcoves, vestibules, toilet room, closets or freestanding wardrobes, sinks, and other built-in items. If the building was constructed before January 1, 1963 and licensed as a nursing facility on the effective date of this regulation, rooms shall measure at least 90 square feet in single resident rooms and at least 160 square feet in double resident rooms, exclusive of alcoves, vestibules, toilet room, closets or freestanding wardrobes, sinks, and other built-in items; and

(iv) provide at least one operable exterior window that opens for ventilation. The window area shall not be less than 12 percent of the gross floor area of the resident room.

(B) Each bed area in a double resident room shall have separation from the adjacent bed by use of walls, doors, or ceiling suspended curtains to afford complete visual privacy.

(C) The configuration of each resident room shall be designed to allow at least three feet of clearance along the foot of each bed and along both sides of each bed.

(D) The nursing facility shall have functional furniture to meet each resident's needs, including a bed of adequate size with a clean, comfortable mattress that fits the bed, and bedding appropriate to the weather and the needs of the resident.

(E) Each resident's room shall include personal storage space in a fixed closet or freestanding wardrobe with doors. This storage shall have minimum dimensions of one foot 10 inches in depth by two feet six inches in width and shall contain an adjustable clothes rod and shelf installed at a height easily reached by the resident. Accommodations shall be provided for hanging full-length garments. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(2) Resident toilet rooms. Each resident toilet room shall serve no more than two resident rooms

and be accessed directly from the resident's room. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, resident access to the toilet room may be from the general corridor.

(A) Each toilet room shall contain at least a toilet and hand-washing sink, unless a hand-washing sink is provided in the resident room adjacent to the toilet room.

(B) Each resident toilet room shall have at least 30 square feet to allow maneuverability of a wheelchair. If the room contains a shower that presents no obstruction to the turning radius, the space occupied by the shower may be included in the minimum dimensions.

(C) If a shower is present in a toilet room, the shower shall be curtained or in another type of enclosure for privacy.

(e) Resident unit care support rooms and areas. The rooms and areas required in this subsection shall be located in each resident unit and shall be accessed directly from the general corridor without passage through an intervening room or area, except the medication room as specified in paragraph (e)(2)(A) and housekeeping closets. Each care support area shall be located less than 200 feet from each resident room. If the building was constructed before February 15, 1977 and the nursing facility was licensed on the effective date of this regulation, the distance specified in this paragraph shall not apply.

(1) Nurses' workroom or area. Each resident unit shall have sufficient areas for supervisory work activities arranged to ensure the confidentiality of resident information and communication.

(A) A nurses' workroom or area shall have space for the following:

(i) Charting;

(ii) the transmission and reception of resident information;

(iii) clinical records and other resident information;

(iv) a telephone and other office equipment; and

(v) an enunciator panel or monitor screen for the call system. If a resident unit has more than one nurses' workroom or area, space for an enunciator panel or monitor for the call system shall not be required in more than one nurses' workroom or area.

(B) The nurses' workroom or area shall be located so that the corridors outside resident rooms are visible from the nurses' workroom or area. The nursing facility may have cameras and monitors to meet this requirement.

(C) Direct visual access into each nurses' work area shall be provided if the work area is located in an enclosed room.

(2) Medication room or area. Each resident unit shall have a room or area for storage and preparation of medications or biologicals for 24-hour distribution, with a temperature not to exceed 85°F. This requirement shall be met by one or more of the following:

(A) A room with an automatically closing, self-locking door visible from the nurses' workroom or area. The room shall contain a work counter with task lighting, hand-washing sink, refrigerator, and shelf space for separate storage of each resident's medications. The secured medication storage room shall contain separately locked compartments for the storage of controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse;

(B) if the resident unit serves no more than 32 residents, a nurses' workroom or area equipped with a work counter with task lighting, hand-washing sink, locked refrigerator, and locked storage for resident medications. A separately locked compartment shall be located within the locked cabinet, drawer, or refrigerator for the storage of controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse;

(C) a locked medication cart, in addition to a medication room or area, if the cart is located in a space convenient for control by nursing personnel who are authorized to administer medication. If controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the opinion of the consultant pharmacist, are subject to abuse are stored in the medication cart, the cart shall contain a separately locked compartment for the storage of these medications; or

(D) in the resident's room if the room contains space for medication preparation with task lighting, access to a hand-washing sink, and locked cabinets or drawers for separate storage of each resident's medication. Controlled medications listed in K.S.A. 65-4107, and amendments thereto, and any other medications that, in the

opinion of the consultant pharmacist, are subject to abuse shall not be stored in a resident's room.

(3) Clean workroom. Each resident unit shall have a room for the preparation, storage, and distribution of clean or sterile materials and supplies and resident care items.

(A) The room shall contain a work counter with a sink and adequate shelving and cabinets for storage.

(B) The room area shall be at least 80 square feet, with a length or width of at least six feet. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(C) If the resident unit is located in a freestanding building, a clothes dryer for processing resident personal laundry that is not contaminated laundry may be located in the clean workroom if the following requirements are met:

(i) An additional minimum of 40 square feet per dryer shall be provided.

(ii) The soiled workroom shall contain a washing machine positioned over a catch pan.

(iii) The clean workroom shall have a door opening directly into the soiled workroom without entering the general corridor. The door opening shall be covered with a plastic-strip door or by other means to prevent interference of ventilation requirements for both workrooms.

(D) Storage and preparation of food and beverages shall not be permitted in the clean workroom.

(4) Clean linen storage. Each resident unit shall have a room or area with adequate shelving, cabinets, or cart space for the storage of clean linen. The storage area may be located in the clean workroom.

(5) Soiled workroom. Each resident unit shall have a soiled workroom for the disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils.

(A) The soiled workroom shall contain a work counter, a two-compartment sink, a covered waste receptacle, a covered soiled linen receptacle, and a storage cabinet with a lock for sanitizing solutions and cleaning supplies. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the soiled workroom shall contain these fixtures except that the sink shall be at least a one-compartment sink.

(B) The room area shall be at least 80 square feet, with a length or width of at least six feet. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions shall not apply.

(C) If the resident unit is located in a freestanding building, a washing machine for processing resident personal laundry that is not contaminated laundry may be located in the soiled workroom if the following requirements are met:

(i) An additional minimum of 40 square feet per washing machine shall be provided.

(ii) The washing machine shall be positioned over a catch pan.

(iii) The clean workroom shall contain a clothes dryer.

(iv) The soiled workroom shall have a door opening directly into the clean workroom without entering the general corridor. The door opening shall be covered with a plastic-strip door or by other means to prevent interference of ventilation requirements for both workrooms.

(D) A housekeeping room may be located in the soiled workroom if the following conditions are met:

(i) The soiled workroom is located in a resident unit in a freestanding building.

(ii) The housekeeping room is enclosed.

(iii) The soiled workroom includes at least 20 square feet in additional space.

(E) Clean supplies, equipment, and materials shall not be stored in the soiled workroom.

(6) Equipment storage rooms or areas. Each resident unit shall have sufficient rooms or enclosed areas for the storage of resident unit equipment.

(A) The total space shall be at least 120 square feet plus an additional minimum of one square foot for each resident based on resident capacity, with no single room or area less than 30 square feet. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(B) If mechanical equipment or electrical panel boxes are located in the storage area, the nursing facility shall have additional space for the access to and servicing of equipment.

(7) Housekeeping room. Each resident unit shall have at least one room for the storage of

housekeeping supplies and equipment needed to maintain a clean and sanitary environment.

(A) Each housekeeping room shall contain the following:

(i) A floor receptor or service sink, or both;

(ii) hot and cold water;

(iii) adequate shelving;

(iv) provisions for hanging mops and other cleaning tools; and

(v) space for buckets, supplies, and equipment.

(B) If the housekeeping room in the resident unit serves the resident kitchen and any other areas of the unit, the nursing facility shall designate separate mops and buckets for use in each specific location.

(C) If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the nursing facility shall have at least one janitor's closet that contains either a floor receptor or service sink, or both, and storage space for janitorial equipment and supplies.

(8) Toilet room. Each resident unit shall have a staff toilet room with a hand-washing sink. If a resident unit is located in a freestanding building, the resident unit shall have at least one toilet room that contains a hand-washing sink and is accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105, for resident, staff, and visitor use. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, this paragraph shall not apply.

(9) Resident kitchen. Any resident unit may have a decentralized resident kitchen if the resident kitchen meets the following requirements:

(A) Is adequate in relation to the size of the resident unit;

(B) is designed and equipped to meet the needs of the residents; and

(C) meets the requirements in paragraph (f)(7).

(10) Nourishment area. Each resident unit shall have an area available to each resident to ensure the provision of nourishment and beverages, including water, between scheduled meals. The nourishment area may serve more than one resident unit if centrally located for easy access from each of the nursing areas served. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the nursing facility shall not be required to have a nourishment area.

(A) The nourishment area shall contain a hand-washing sink, equipment for serving nourishment and beverages, a refrigerator, and storage cabinets.

(B) The nourishment area may be located in the resident unit kitchen if the kitchen has both a hand-washing sink and counter accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105, and all residents have access to the area between scheduled meals.

(11) Bathing room. Each nursing facility shall have a room or rooms with sufficient bathing units to permit each resident to bathe privately and either independently or with staff assistance.

(A) Each nursing facility shall have at least one hydrotherapy bathing unit. If the building was constructed before November 1, 1993 and licensed as a nursing facility on the effective date of this regulation, this requirement shall not apply.

(B) Each nursing facility shall have bathing units at a rate of one for each 15 residents, based on the number of residents who do not have a toilet room, with a shower accessed directly from the resident's room. A hydrotherapy bathing unit may be counted as two bathing units to meet this ratio.

(C) The bathing room shall contain the following:

(i) A hand-washing sink;

(ii) an area enclosed for privacy that contains a toilet for resident use;

(iii) a shower that measures at least four feet by four feet without curbs and is designed to permit use by a resident in a wheelchair, unless a shower is provided in each resident's toilet room. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply;

(iv) a visually enclosed area for privacy during bathing, drying, and dressing, with space for a care provider and wheelchair; and

(v) a locked supply cabinet.

(12) Personal laundry room. Any resident unit may have a laundry room for each resident to launder personal laundry that is not contaminated laundry, if the requirements in paragraph (f)(8) are met.

(13) Mobility device parking space. Each nursing facility shall have parking space for residents' mobility devices. The parking space shall be located in an area that does not interfere with nor-

mal resident passage. The parking space shall not be included in determining the minimum required corridor width.

(f) Common rooms and support areas in the nursing facility's main building. The rooms and areas required in this subsection shall be located in the main building of each nursing facility, unless otherwise indicated, and shall be accessed directly from the general corridor without passage through an intervening room or area. If a resident unit is located in a freestanding building, the administrator shall ensure that transportation is provided for each resident to access services and activities that occur in the main building to enhance the resident's physical, mental, and psychosocial well-being.

(1) Living, dining, and recreation areas. Each nursing facility shall have sufficient space to accommodate separate and distinct resident activities of living, dining, and recreation. If a resident unit is located in a freestanding building, the resident unit shall include living, dining, and recreation areas.

(A) Space for living, dining, and recreation shall be provided at a rate of at least 27 square feet per resident based on each resident unit's capacity, with at least 14 square feet per resident in the dining area. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the nursing facility shall have space for living, dining, and recreation at a rate of at least 20 square feet per resident based on each resident unit's capacity, with at least 10 square feet per resident in the dining area.

(B) Window areas in each living, dining, and recreation area shall be at least 10 percent of the gross floor space of those areas. The window area requirement shall not be met by the use of skylights.

(2) Multipurpose room. Each nursing facility shall have a room or area for resident use for social gatherings, religious services, entertainment, or crafts, with sufficient space to accommodate separate functions.

(A) The multipurpose room shall have an area of at least 200 square feet for 60 or fewer residents, plus at least two square feet for each additional resident over 60, based on the nursing facility's resident capacity. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(B) The multipurpose room or area shall contain a work counter with a hand-washing sink, and storage space and lockable cabinets for equipment and supplies. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the hand-washing sink may be located in close proximity to the multipurpose room or area.

(3) Den. Each nursing facility shall have a room for residents to use for reading, meditation, solitude, or privacy with family and other visitors unless each resident has a private room. The room area shall be at least 80 square feet. This paragraph shall not apply to facilities that meet the following conditions:

(A) The building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation.

(B) Any decrease to the nursing facility's resident capacity is for the sole purpose of converting semiprivate rooms to private rooms.

(4) Exam room. Each nursing facility shall have a room for a physician to examine and privately consult with a resident.

(A) The exam room shall meet the following requirements:

(i) The room area shall be at least 120 square feet, with a length or width of at least 10 feet.

(ii) The room shall contain a hand-washing sink, an examination table, and a desk or shelf for writing.

(iii) If the examination room is located in the rehabilitation therapy room, the examination room shall be equipped with cubicle curtains.

(B) The requirement for an exam room shall not apply to any nursing facility that meets both of the following conditions:

(i) The building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation.

(ii) Any decrease to the nursing facility's resident capacity on or after the effective date of this regulation is for the sole purpose of converting semiprivate rooms to private rooms.

(5) Rehabilitation room. Each nursing facility shall have a room for the administration and implementation of rehabilitation therapy.

(A) The rehabilitation room shall include the following:

(i) Equipment for carrying out each type of therapy prescribed for the residents;

(ii) a hand-washing sink;

(iii) an enclosed storage area for therapeutic devices; and

(iv) provisions for resident privacy.

(B) The rehabilitation room shall have an area of at least 200 square feet for 60 or fewer residents, plus at least two square feet for each additional resident over 60, based on resident capacity, to a maximum requirement of 655 square feet. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(C) If a resident unit is located in a freestanding building, the resident unit may have a designated area for rehabilitation in a bathing room. The combined use of the space shall not limit the residents' bathing opportunities or rehabilitation therapy.

(6) Beauty and barber shop. Each nursing facility shall have a room or area for the hair care and grooming of residents appropriate in size for the number of residents served.

(A) The beauty and barber shop shall contain at least one shampoo sink, space for one floor hair dryer, workspace, and a lockable supply cabinet.

(B) If a resident unit is located in a freestanding building, the resident unit may have a designated area for the hair care and grooming of residents in the bathing room if all of the following conditions are met:

(i) The bathing room does not contain a shower.

(ii) The area contains at least one shampoo sink, space for one floor hair dryer, and workspace.

(iii) The combined use of the space does not limit the residents' bathing, hair care, or grooming opportunities.

(7) Dietary areas. Each nursing facility shall have dietary service areas that are adequate in relation to the size of the nursing facility and are designed and equipped to meet the needs of the residents. Each nursing facility shall meet the requirements of the "food code," as adopted by reference in K.A.R. 26-39-105, unless otherwise indicated in this subsection. The following elements shall be included in each central kitchen and resident kitchen:

(A) A control station for receiving food supplies;

(B) food preparation and serving areas and equipment in accordance with the following requirements:

(i) Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving; and

(ii) convenience food service systems, including systems using frozen prepared meals, bulk-packaged entrees, individual packaged portions, or contractual commissary services, shall include space and equipment for thawing, portioning, cooking, baking, and serving;

(C) space for meal service assembly and distribution equipment;

(D) a two-compartment sink for food preparation. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the kitchen shall have at least a one-compartment sink for food preparation;

(E) a hand-washing sink in the food preparation area;

(F) a ware-washing area apart from, and located to prevent contamination of, food preparation and serving areas. The area shall include all of the following:

(i) Commercial-type dishwashing equipment;

(ii) space for receiving, scraping, sorting, and stacking soiled tableware and transferring clean tableware to the using area; and

(iii) if in a resident kitchen, an under-counter commercial or residential dishwasher that meets the national sanitation foundation (NSF) international standards;

(G) a three-compartment deep sink for manual cleaning and sanitizing or, if in a resident kitchen, an alternative means for a three-step process for manual cleaning and sanitizing;

(H) an office in the central kitchen for the dietitian or dietetic services supervisor or, if in a resident kitchen, a workspace for the dietitian or dietetic services supervisor;

(I) a toilet room and a hand-washing sink available for dietary staff located within close proximity to the kitchen;

(J) an enclosed housekeeping room located within the central kitchen that contains a floor receptor or service sink with hot and cold water, shelving, and storage space for housekeeping equipment and supplies. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, a housekeeping room shall not be required in the kitchen. If in a resident kitchen, there shall be an enclosed housekeeping room adjacent to the kitchen that contains storage for dietary services cleaning equipment;

(K) an ice machine that, if available to residents for self-serve, shall dispense ice directly into a container and be designed to minimize noise and spillage onto the floor;

(L) sufficient food storage space located adjacent to the central kitchen or resident kitchen to store at least a four-day supply of food to meet residents' needs, including refrigerated, frozen, and dry storage;

(M) sufficient space for the storage and sanitizing of cans, carts, and mobile equipment; and

(N) a waste storage area in a separate room or an outside area that is readily available for direct pickup or disposal.

(8) Laundry services. Each nursing facility shall have the means for receiving, processing, and storing linen needed for resident care in a central laundry or off-site laundry, or both, or a personal laundry room located on a resident unit in combination with these options. The arrangement of laundry services shall provide for an orderly workflow from dirty to clean, to minimize cross-contamination.

(A) If nursing facility laundry or more than one resident's personal laundry is to be processed, the laundry services area shall have separate rooms, with doors that do not open directly onto the resident unit, that have the following:

(i) A soiled laundry room for receiving, holding, and sorting laundry, equipped with containers with tightly fitting lids for soiled laundry, that is exhausted to the outside;

(ii) a processing room that contains commercial laundry equipment for washing and drying and a hand-washing sink;

(iii) an enclosed housekeeping room that opens into the laundry processing area and contains either a floor receptor or service sink, or both, and shelving and space for storage of housekeeping equipment and supplies;

(iv) a clean laundry room for handling, storing, issuing, mending, and holding laundry with egress that does not require passing through the processing or soiled laundry room; and

(v) storage space for laundry supplies.

(B) If nursing facility laundry or more than one resident's personal laundry is to be processed, the washing machine shall be capable of meeting high-temperature washing or low-temperature washing requirements as follows:

(i) If high-temperature washing is used, the washing machines shall have temperature sensors and gauges capable of monitoring water temperatures of at least 160°F and manufacturer documentation that the machine has a wash cycle of at least 25 minutes at 160°F or higher.

(ii) If low-temperature washing is used, the washing machines shall have temperature sensors and gauges capable of monitoring water temperatures to ensure a wash temperature of at least 71°F and manufacturer documentation of a chlorine bleach rinse of 125 parts per million (ppm) at a wash temperature of at least 71°F. Oxygen-based bleach may be used as an alternative to chlorine bleach if the product is registered by the environmental protection agency.

(C) If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the following elements shall be included:

(i) A soiled laundry room or area for receiving, holding, and sorting laundry, equipped with containers with tightly fitting lids for soiled laundry, that is exhausted to the outside;

(ii) a processing room or area that contains commercial laundry equipment for washing and drying and a hand-washing sink;

(iii) a clean laundry room or area for handling, storing, issuing, mending, and holding laundry; and

(iv) storage space for laundry supplies.

(D) If each resident's personal laundry is processed separately on a resident unit, the laundry may be handled within one or more rooms if separate, defined areas are provided for handling clean and soiled laundry.

(E) If laundry is processed off-site, the following elements shall be provided:

(i) A soiled laundry room, equipped with containers that have tightly fitted lids for holding laundry, that is exhausted to the outside; and

(ii) a clean laundry room for receiving, holding, inspecting, and storing linen.

(9) Central storage. Each nursing facility shall have at least five square feet per resident capacity in separate rooms or separate space in one room for storage of clean materials or supplies and oxygen. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the minimum dimensions specified in this paragraph shall not apply.

(10) Housekeeping room. Each nursing facility shall have a sufficient number of rooms for the storage of housekeeping supplies and equipment

needed to maintain a clean and sanitary environment.

(A) Each housekeeping room shall contain the following:

(i) A floor receptor or service sink;

(ii) hot and cold water;

(iii) adequate shelving;

(iv) provisions for hanging mops and other cleaning tools; and

(v) space for buckets, supplies, and equipment.

(B) If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the nursing facility shall have at least one housekeeping room with a floor receptor or service sink and with storage space for equipment and supplies.

(g) Staff and public areas. The rooms and areas required in this subsection shall be located in the main building of each nursing facility and in each freestanding building with a resident unit unless otherwise indicated.

(1) Staff support area. Each nursing facility shall have a staff support area for staff and volunteers that contains the following, at a minimum:

(A) A staff lounge or area;

(B) lockers, drawers, or compartments that lock for safekeeping of each staff member's personal effects; and

(C) a toilet room and hand-washing sink. If a resident unit is located in a freestanding building, the toilet room located in the resident unit may meet this requirement. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, this requirement shall not apply.

(2) Public areas. Each nursing facility shall have public areas to accommodate residents, staff, and visitors.

(A) Each building constructed and licensed as a nursing facility before February 15, 1977 shall have the following public areas:

(i) A sheltered entrance at grade level to accommodate persons in wheelchairs;

(ii) one public toilet and hand-washing sink;

(iii) at least one toilet and hand-washing sink accessible to a person in a wheelchair;

(iv) a drinking fountain or cooler, or other means to obtain fresh water; and

(v) a telephone, located in an area with sufficient space to allow for use by a person in a wheelchair, where calls can be made without being overheard.

(B) Each building constructed on or after February 15, 1977 and licensed as a nursing facility on the effective date of this regulation shall have the following public areas:

(i) A sheltered entrance at grade level to accommodate persons in wheelchairs;

(ii) a lobby or vestibule with communication to the reception area, information desk, or resident unit;

(iii) at least one public toilet and hand-washing sink that are accessible to a person in a wheelchair. If a resident unit is located in a freestanding building, the toilet room on the resident unit may meet this requirement;

(iv) if a nursing facility has a resident capacity greater than 60, at least one additional public toilet and hand-washing sink shall be provided;

(v) a drinking fountain or cooler, or other means to obtain fresh water; and

(vi) a telephone, located in an area with sufficient space to allow for use by a person in a wheelchair, where calls can be made without being overheard.

(3) Administrative areas. Each nursing facility shall have the following areas for administrative work activities in the main building:

(A) An administrator's office; and

(B) space for office equipment, files, and financial and clinical records.

(h) Nursing facility support systems. Each nursing facility shall have support systems to promote staff responsiveness to each resident's needs and safety.

(1) Call system. Each nursing facility shall have a functional call system that ensures that nursing personnel working in the resident unit and other staff designated to respond to resident calls are notified immediately when a resident has activated the call system.

(A) Each nursing facility shall have a call button or pull cord located next to each bed that, if activated, will initiate all of the following:

(i) Produce an audible signal at the nurses' workroom or area or activate the portable electronic device worn by each required staff member with an audible tone or vibration;

(ii) register a visual signal on an enunciator panel or monitor screen at the nurses' workroom or area, indicating the resident room number;

(iii) produce a visual signal at the resident room corridor door or activate the portable electronic device worn by each required staff member, identifying the specific resident or room from which the call has been placed; and

(iv) produce visual and audible signals in clean and soiled workrooms and in the medication preparation rooms or activate the portable electronic device worn by each required staff member with an audible tone or vibration.

(B) Each nursing facility shall have an emergency call button or pull cord located next to each resident-use toilet, shower, and bathtub that, if activated, will initiate all of the following:

(i) Produce a repeating audible signal at the nurses' workroom or area or activate the portable electronic device worn by each required staff member with an audible tone or vibration;

(ii) register a visual signal on an enunciator panel or monitor screen at the nurses' workroom or area, indicating the location or room number of the toilet, shower, or bathtub;

(iii) produce a rapidly flashing light adjacent to the corridor door at the site of the emergency or activate an electronic portable device worn by each required staff member, identifying the specific resident or room from which the call has been placed; and

(iv) produce a rapidly flashing light and a repeating audible signal in the nurses' workroom or area, clean workroom, soiled workroom, and medication preparation rooms or activate the portable electronic device worn by each required staff member with an audible tone or vibration.

(C) The administrator shall implement a policy to ensure that all calls activated from an emergency location receive a high-priority response from staff.

(D) If the nursing facility does not have a wireless call system, the nursing facility shall have additional visible signals at corridor intersections in multicorridor units for all emergency and nonemergency calls. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, the nursing facility shall not be required to have additional visible signals at corridor intersections for all emergency and nonemergency calls.

(E) All emergency and nonemergency call signals shall continue to operate until manually reset at the site of origin.

(F) If call systems include two-way voice communication, staff shall take precautions to protect resident privacy.

(G) If a nursing facility uses a wireless system to meet the requirements of paragraphs (h)(1)(A) through (E), all of the following additional requirements shall be met:

(i) The nursing facility shall be equipped with a system that records activated calls.

(ii) A signal unanswered for a designated period of time, but not more than every three minutes, shall repeat and also be sent to another workstation or to staff that were not designated to receive the original call.

(iii) Each wireless system shall utilize radio frequencies that do not interfere with or disrupt pacemakers, defibrillators, and any other medical equipment and that receive only signals initiated from the manufacturer's system.

(H) The nursing facility's preventative maintenance program shall include the testing of the call system at least weekly to verify operation of the system.

(I) If the building was constructed before May 1, 1982 and licensed as a nursing facility on the effective date of this regulation, the call system shall be required to meet the following requirements:

(i) Each resident bed shall have a call button that, when activated, registers at the nurses' work area with an audible and visual signal.

(ii) The call system shall produce a visual signal at the resident room corridor door.

(iii) The nursing facility shall have an emergency call button or pull cord next to each resident-use toilet, shower, and bathtub accessible to residents that, when activated, registers at the nurses' work area with an audible and visual signal.

(iv) All emergency and nonemergency call signals shall continue to operate until manually reset at the site of origin.

(2) Door monitoring system. The nursing facility shall have an electrical monitoring system on each door that exits the nursing facility and is available to residents. The monitoring system shall alert staff when the door has been opened by a resident who should not leave the nursing facility unless accompanied by staff or other responsible person.

(A) Each door to the following areas that is available to residents shall be electronically monitored:

(i) The exterior of the nursing facility, including enclosed outdoor areas;

(ii) interior doors of the nursing facility that open into another type of adult care home if the exit doors from that adult care home are not monitored; and

(iii) any area of the building that is not licensed as an adult care home.

(B) The electrical monitoring system on each door shall remain activated until manually reset by nursing facility staff.

(C) The electrical monitoring system on a door may be disabled during daylight hours if nursing facility staff has continuous visual control of the door.

(i) Nursing facility maintenance and waste processing services.

(1) Maintenance, equipment, and storage areas. Each nursing facility constructed after February 15, 1977 and licensed on the effective date of this regulation shall have areas for repair, service, and maintenance functions that include the following:

(A) A maintenance office and shop;

(B) a storage room for building maintenance supplies. The storage room may be a part of the maintenance shop in nursing facilities with 120 or fewer beds;

(C) an equipment room or separate building for boilers, mechanical equipment, and electrical equipment.

(2) Waste processing services. The nursing facility shall have space and equipment for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, or removal, or by a combination of these techniques. (Authorized by and implementing K.S.A. 39-932; effective Jan. 7, 2011.)

26-40-304. Nursing facility physical environment; details and finishes. Each nursing facility shall incorporate details and finishes to create a home environment.

(a) Codes and standards. Nursing facilities may be subject to codes, standards, and regulations of several different jurisdictions, including local, state, and federal authorities. The requirements in this regulation shall be considered as a minimum. Each nursing facility and each portion of a nursing facility that was licensed under a previous regulation shall, at a minimum, remain in compliance with the regulation or building code in effect at the date of licensure. Each applicant for a nursing facility license and each addition to a nursing facility licensed on or after the effective date of this regulation shall meet the following requirements, as adopted by reference in K.A.R. 26-39-105:

(1) The "international building code" (IBC);

(2) the national fire protection association's NFPA 101 "life safety code" (LSC); and

(3) the "Americans with disabilities act accessibility guidelines for buildings and facilities" (ADAAG).

(b) Details.

(1) Corridors.

(A) The width of each corridor shall be at least eight feet in any resident-use area and at least six feet in any nursing facility support area.

(B) Handrails shall not be considered an obstruction when measuring the width of corridors.

(C) Doors shall not swing directly into corridors, with the exception of doors to small closets and spaces that are not subject to occupancy. Walk-in closets shall be considered occupiable spaces.

(2) Ceiling height.

(A) The height of each ceiling shall be at least eight feet above the finished floor with the following exceptions:

(i) Each ceiling in a storage room or other normally unoccupied space shall be at least seven feet eight inches above the finished floor.

(ii) Each ceiling in a room containing ceiling-mounted equipment shall have sufficient height to accommodate the proper functioning, repair, and servicing of the equipment.

(B) Each building component and suspended track, rail, and pipe located in the path of normal traffic shall be at least six feet eight inches above the finished floor.

(C) Each architecturally framed and trimmed doorway or other opening in a corridor or room shall have a height of at least six feet eight inches above the finished floor.

(3) Doors and door hardware.

(A) Each door on any opening between corridors and spaces subject to occupancy, with the exception of elevator doors, shall be swinging-type.

(B) Each door to a room containing at least one resident-use toilet, bathtub, or shower shall be swinging-type, sliding, or folding and shall be capable of opening outward or designed to allow ingress to the room without pushing against a resident who could have collapsed in the room.

(C) The width of the door opening to each room that staff need to access with beds or stretchers shall be at least three feet eight inches. The width of each door to a resident-use toilet room and other rooms that staff and residents need to access with wheelchairs shall be at least three feet.

(D) No more than five percent of the resident rooms may have a Dutch door to the corridor for physician-ordered monitoring of a resident who is disorientated.

(E) Each exterior door that can be left in an open position shall have insect screens.

(F) Each resident-use interior and exterior door shall open with ease and little resistance.

(G) Each resident-use swinging-type door shall have lever hardware or sensors for ease of use by residents with mobility limitations.

(4) Glazing. Safety glazing materials shall be required in all doors with glass panels, sidelights, and any breakable material located within 18 inches of the floor. Safety glass or safety glazing materials shall be used on any breakable material used for a bath enclosure or shower door.

(5) Windows.

(A) Each window in a resident's room or in a resident-use area shall have a sill located no greater than 32 inches above the finished floor and at least two feet six inches above the exterior grade. This paragraph shall not apply if the building was constructed and licensed as a nursing facility before February 15, 1977. If the building was constructed and licensed as a nursing facility on or after February 15, 1977 and before November 1, 1993, the nursing facility shall have a windowsill height three feet or less above the floor in the living and dining areas for at least 50 percent of the total window area.

(B) Each window in a resident's room shall be operable.

(C) Each operable window shall have an insect screen.

(D) Each operable window shall be designed to prevent falls when open or shall be equipped with a security screen.

(E) Blinds, sheers, or other resident-controlled window treatments shall be provided throughout each resident unit to control light levels and glare.

(6) Grab bars.

(A) Grab bars shall be installed at each resident-use toilet and in each shower and tub.

(B) Each wall-mounted grab bar shall have a clearance of 1½ inches from the wall.

(C) Each grab bar, including those molded into a sink counter, shall have strength to sustain a concentrated load of 250 pounds.

(D) Permanent or flip-down grab bars that are 1½ inches in diameter shall be installed on any two sides of each resident-use toilet, or the resident-use toilet shall have at least one permanent grab bar mounted horizontally at least 33 inches and no more than 36 inches above the floor and slanted at an angle.

(E) The ends of each grab bar shall return to the wall or floor.

(F) Each grab bar shall have a finish color that contrasts with that of the adjacent wall surface.

(7) Handrails.

(A) Each handrail shall be accessible according to ADAAG, as adopted by reference in K.A.R. 26-39-105. Alternative cross sections and configurations that support senior mobility shall be permitted.

(B) Each stairway and ramp shall have handrails.

(C) A handrail shall be provided for each resident-use corridor with a wall length greater than 12 inches.

(D) Each handrail shall have a clearance of 1½ inches from the wall.

(E) The ends of each handrail shall return to the wall.

(F) Each handrail and fastener shall be completely smooth and free of rough edges.

(8) Heated surfaces.

(A) Each heated surface in excess of 100°F with which a resident may have contact shall be insulated and covered to protect the resident.

(B) If heated surfaces, including cook tops, ovens, and steam tables, are used in resident areas, emergency shutoffs shall be provided.

(9) Hand-washing stations.

(A) The water supply spouts for each sink shall be sensor-operated or operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist.

(B) The water supply spout at each sink located in the resident unit and any other areas available for resident use shall be mounted so that the discharge point is at least five inches above the rim of the fixture.

(C) An enclosed single-issue paper towel dispenser or mechanical hand-drying device shall be provided at each hand-washing sink.

(D) A wastebasket shall be located at each hand-washing sink.

(E) A mirror shall be placed at each hand-washing sink located in a resident room, a resident toilet room, and a bathing room and in each public toilet room. The placement of the mirror shall allow for convenient use by both a person who uses a wheelchair and a person who is ambulatory. The

bottom edge of each mirror shall be no more than 40 inches from floor level.

(10) Lighting.

(A) All interior and exterior nursing facility lighting shall be designed to reduce glare.

(B) Each space occupied by persons, machinery, equipment within the nursing facility, and approaches to the nursing facility and parking lots shall have lighting.

(C) Each corridor and stairway shall remain lighted at all times.

(D) Each resident room shall have general lighting and night lighting. The nursing facility shall have a reading light for each resident. At least one light fixture for night lighting shall be switched at the entrance to each resident's room. All switches for the control of lighting in resident areas shall be of the quiet-operating type.

(E) Each light located in a resident-use area shall be equipped with a shade, globe, grid, or glass panel.

(F) Each light fixture in wet areas, including kitchens and showers, shall be vapor-resistant and shall have cleanable, shatter-resistant lenses and no exposed lamps.

(c) Finishes.

(1) Flooring.

(A) Each floor surface shall be easily cleaned and maintained for the location.

(B) If the area is subject to frequent wet-cleaning methods, the floor surface shall not be physically affected by germicidal or other types of cleaning solutions.

(C) Each floor surface, including tile joints used in areas for food preparation or food assembly, shall be water-resistant, greaseproof, and resistant to food acids. Floor construction in dietary and food preparation areas shall be free of spaces that can harbor rodents and insects.

(D) Each flooring surface, including wet areas in kitchens, showers, and bath areas, entries from exterior to interior spaces, and stairways and ramps, shall have slip-resistant surfaces.

(E) All floor construction and joints of structural elements that have openings for pipes, ducts, and conduits shall be tightly sealed to prevent entry of rodents and insects.

(F) Highly polished flooring or flooring finishes that create glare shall be avoided.

(G) Each flooring surface shall allow for ease of ambulation and movement of all wheeled equipment used by residents or staff and shall provide for smooth transitions between differing floor surfaces.

(H) Each threshold and expansion joint shall be designed to accommodate rolling traffic and prevent tripping.

(I) Each carpet and carpet with padding in all resident-use areas shall be glued down or stretched taut and free of loose edges or wrinkles to avoid hazards or interference with the operation of lifts, wheelchairs, walkers, wheeled carts, and residents utilizing orthotic devices.

(2) Walls, wall bases, and wall protection.

(A) Each wall finish shall be washable and, if located near plumbing fixtures, shall be smooth and moisture-resistant.

(B) Wall protection and corner guards shall be durable and scrubbable.

(C) Each wall base in areas that require frequent wet cleaning, including kitchens, clean and soiled workrooms, and housekeeping rooms, shall be continuous and coved with the floor, tightly sealed to the wall, and constructed without voids that can harbor rodents and insects.

(D) All wall construction, finish, and trim in dietary and food storage areas shall be free from spaces that can harbor rodents, insects, and moisture.

(E) Each wall opening for pipes, ducts, and conduits and the joints of structural elements shall be tightly sealed to prevent entry of rodents and insects.

(F) Highly polished walls or wall finishes that create glare shall be avoided.

(3) Ceilings.

(A) The finish of each ceiling in resident-use areas and staff work areas shall be easily cleanable.

(B) Each ceiling in dietary, food preparation, food assembly, and food storage areas shall have a finished ceiling covering all overhead pipes and ducts. The ceiling finish shall be washable or easily cleaned by dustless methods, including vacuum cleaning.

(C) Each ceiling opening for pipes, ducts, and conduits and all joints of structural elements shall be tightly sealed to prevent entry of rodents and insects.

(D) Impervious ceiling finishes that are easily cleaned shall be provided in each soiled workroom, housekeeping room, and bathing room.

(E) Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required

for fire protection. (Authorized by and implementing K.S.A. 39-932; effective Jan. 7, 2011.)

26-40-305. Nursing facility physical environment; mechanical, electrical, and plumbing systems. (a) Applicability. This regulation shall apply to all nursing facilities.

(b) Codes and standards. Each nursing facility shall meet the requirements of the building codes, standards, and regulations enforced by city, county, or state jurisdictions. The requirements specified in this regulation shall be considered as a minimum.

(1) Each nursing facility shall meet the requirements of the national fire protection association's NFPA 101 "life safety code" (LSC), as adopted by reference in K.A.R. 26-39-105.

(2) Each applicant for a nursing facility license and each addition to a nursing facility licensed on or after the effective date of this regulation shall meet the requirements of the "international building code" (IBC), as adopted by reference in K.A.R. 26-39-105.

(3) Each nursing facility and each portion of each nursing facility that was approved under a previous regulation shall, at a minimum, remain in compliance with the regulation or building code in effect at the date of licensure, unless otherwise indicated.

(4) Each nursing facility shall have a complete set of manufacturer's operating, maintenance, and preventive maintenance instructions for each piece of building, mechanical, dietary, and laundry equipment.

(c) Heating, ventilation, and air conditioning systems. Each nursing facility's heating, ventilation, and air conditioning systems shall be initially tested, balanced, and operated to ensure that system performance conforms to the requirements of the plans and specifications.

(1) Each nursing facility shall have a test and balance report from a certified member of the national environmental balancing bureau or the associated air balance council and shall maintain a copy of the report for inspection by department personnel.

(2) Each nursing facility shall meet the minimum ventilation rate requirements in table 1a. If the building was licensed as a nursing facility on the effective date of this regulation, the minimum ventilation rate requirements shall be the levels specified in table 1b.

(3) Each nursing facility shall have a heating, ventilation, and air conditioning system designed to maintain a year-round indoor temperature range of 70°F to 85°F in resident care areas.

(d) Insulation. Each nursing facility shall have insulation surrounding the mechanical, electrical, and plumbing equipment to conserve energy, protect residents and personnel, prevent vapor condensation, and reduce noise. Insulation shall be required for the following fixtures within the nursing facility:

(1) All ducts or piping operating at a temperature greater than 100F; and

(2) all ducts or pipes operating at a temperature below ambient at which condensation could occur.

(e) Plumbing and piping systems. The water supply systems of each nursing facility shall meet the following requirements:

(1) Water service mains, branch mains, risers, and branches to groups of fixtures shall be valved. A stop valve shall be provided at each fixture.

(2) Backflow prevention devices or vacuum breakers shall be installed on hose bibs, janitors' sinks, bedpan flushing attachments, and fixtures to which hoses or tubing can be attached.

(3) Water distribution systems shall supply water during maximum demand periods at sufficient pressure to operate all fixtures and equipment.

(4) Water distribution systems shall provide hot water at hot water outlets at all times. A maximum variation of 98°F to 120°F shall be acceptable at bathing facilities, at sinks in resident-use areas, and in clinical areas. At least one sink in each dietary services area not designated as a hand-washing sink shall have a maximum water temperature of 120°F.

(5) Water-heating equipment shall have sufficient capacity to supply hot water at temperatures of at least 120°F in dietary and laundry areas. Water temperature shall be measured at the hot water point of use or at the inlet to processing equipment.

(f) Electrical requirements. Each nursing facility shall have an electrical system that ensures the safety, comfort, and convenience of each resident.

(1) Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits the panelboards serve. This requirement shall not apply to emergency system circuits.

(2) The minimum lighting intensity levels shall be the levels specified in table 2a. Portable lamps shall not be an acceptable light source to meet minimum requirements, unless specified in table

2a. If the building was licensed as a nursing facility on the effective date of this regulation, the minimum lighting intensity levels shall be the levels specified in table 2b.

(3) Each electrical circuit to fixed or portable equipment in hydrotherapy units shall have a ground-fault circuit interrupter.

(4) Each resident bedroom shall have at least one duplex-grounded receptacle on each side of the head of each bed and another duplex-grounded receptacle on another wall. A television convenience outlet shall be located on at least one wall. If the building was constructed before February 15, 1977 and licensed as a nursing facility on the effective date of this regulation, each resident bedroom shall have at least one duplex-grounded receptacle.

(5) Duplex-grounded receptacles for general use shall be installed a maximum of 50 feet apart in all corridors and a maximum of 25 feet from the ends of corridors.

(g) Emergency power. Each nursing facility shall have an emergency electrical power system that can supply adequate power to operate all of the following:

(1) Lighting of all emergency entrances and exits, exit signs, and exit directional lights;

(2) equipment to maintain the fire detection, alarm, and extinguishing systems;

(3) exterior electronic door monitors;

(4) the call system;

(5) a fire pump, if installed;

(6) general illumination and selected receptacles in the vicinity of the generator set;

(7) the paging or speaker system if the system is intended for communication during an emergency; and

(8) if life-support systems are used, an emergency generator. The emergency generator shall be located on the premises and shall meet the requirements of the LSC, as adopted by reference in K.A.R. 26-39-105.

(h) Reserve heating. Each nursing facility's heating system shall remain operational under loss of normal electrical power. Each nursing facility shall have heat sources adequate in number and arrangement to accommodate the nursing facility's needs if one or more heat sources become inoperable due to breakdown or routine maintenance.

(i) Preventive maintenance program. Each nursing facility shall have a preventive maintenance program to ensure that all of the following conditions are met:

(1) All electrical and mechanical equipment is maintained in good operating condition.

(2) The interior and exterior of the building are safe, clean, and orderly.

(3) Resident care equipment is maintained in a safe, operating, and sanitary condition.

(j) Tables.

Table 1a

Pressure Relationships and Ventilation of Certain Areas

Room Name or Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Resident's room:					
General	*	2	4	Optional	Optional
Bed	*	2	4	Optional	Optional
Toilet room	Negative	Optional	10	Yes	No
Medication room	Positive	2	4	Optional	Optional
Consultation room	*	2	6	Optional	Optional
Clean workroom	Positive	2	4	Optional	Optional
Soiled workroom	Negative	2	10	Yes	No
Housekeeping	Negative	Optional	10	Yes	No
Public restroom	Negative	Optional	10	Yes	No
Living, dining, and recreation room	*	2	4	Optional	Optional

Nourishment area	*	2	4	Optional	Optional
Kitchen and other food preparation and serving areas	*	2	10	Yes	Yes
Warewashing room	Negative	Optional	10	Yes	Yes
Food storage (nonrefrigerated)	*	Optional	2	Yes	No
Den	*	2	4	Optional	Optional
Central bath and showers	Negative	Optional	10	Yes	No
Soiled Linen Sorting and Storage	Negative	Optional	10	Yes	No
Laundry, Processing	*	2	10	Yes	No
Clean Linen Storage	Positive	Optional	2	Yes	No
Multipurpose room	*	2	4	Optional	Optional
Rehabilitation room	Negative	2	6	Optional	Optional
Beauty and barber shop	Negative	2	10	Yes	No
Corridors	*	Optional	2	Optional	Optional
Designated smoking area	Negative	Optional	20	Yes	No

* Continuous directional control not required

Table 1b

Pressure Relationships and Ventilation of Certain Areas

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Resident's Room	Equal	2	2	Optional	Optional
Resident Area Corridor	Equal	Optional	2	Optional	Optional
Examination and Treatment Room	Equal	2	6	Optional	Optional
Physical Therapy	Negative	2	6	Optional	Optional
Activities Room	Negative	2	6	Optional	Optional
Soiled Workroom	Negative	2	10	Yes	No
Medicine Preparation and Clean Workroom	Positive	2	4	Optional	Optional
Toilet Room	Negative	Optional	10	Yes	No
Bathroom	Negative	Optional	10	Yes	No
Janitors' Closets	Negative	Optional	10	Yes	No
Linen and Trash Chute Rooms	Negative	Optional	10	Yes	No
Food Preparation Center	Equal	2	10	Yes	No
Warewashing Room	Negative	Optional	10	Yes	No
Dietary Dry Storage	Equal	Optional	2	Yes	No
Laundry, Processing Room	Equal	2	10	Yes	No
Soiled Linen Sorting and Storage	Negative	Optional	10	Yes	No
Clean Linen Storage	Positive	Optional	2	Optional	Optional
Personal Care Room	Negative	2	6	Yes	No
Designated Smoking Area	Negative	Optional	20	Yes	No

Table 2a

Artificial Light Requirements

Place	Light Measured in Foot-Candles	Where Measured
Resident's room:		
General	30	Three feet above floor
Bed	30	Mattress top level, at bed wall to three feet out from bed wall
Toilet room	30	Three feet above floor
Medication preparation	30	Counter level
Nurses' work area and office:		
General	30	Three feet above floor
Desk and charts	50	Desk level
Medication room	100	Counter level
Consultation room	30	Three feet above floor
Clean and soiled workrooms	30	Counter level
Storage room	30	Three feet above floor
Housekeeping	30	Three feet above floor
Public restroom	30	Floor level
Living, recreation rooms	30	Three feet above floor
Dining room	50	Table level
Nourishment area	50	Counter level
Kitchen in a resident unit	50	Counter level
Central kitchen (includes food preparation and serving areas)	70	Counter level
Food storage (nonrefrigerated)	30	Three feet above floor
Den	30	Chair or table level
Reading and other specialized areas (may be portable lamp)	70	Chair or table level
Central bath and showers	30	Three feet above floor
Laundry	30	Three feet above floor
Multipurpose room	30	Three feet above floor
Rehabilitation room	30	Three feet above floor
Beauty and barber shop	50	Counter level
Corridors:		
Resident waking hours	30	Floor level
Resident sleeping hours	10	Floor level
Stairways	20	Step level
Exits:		
Resident waking hours	30	Floor level
Resident sleeping hours	10	Floor level
Maintenance service and equipment area	30	Floor level
Heating plant space	30	Floor level

Table 2b

Artificial Light Requirements

Place	Light Measured in Foot-Candles	Where Measured
Kitchen in a resident unit	50	Counter level
Central kitchen (includes food preparation and serving areas)	70	Counter level
Dining Room	25	Table level
Living room or recreation room		
General	15	Three feet above floor
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurses' station and office:		
General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Medication room	100	Counter level
Central bath and showers	30	Three feet above floor
Resident's room:		
General	10	Three feet above floor
Bed	30	Mattress top level, at bed wall to three feet out from bed wall
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room:		
General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(Authorized by and implementing K.S.A. 39-932; effective Jan. 7, 2011.)

Article 41.—ASSISTED LIVING FACILITIES AND RESIDENTIAL HEALTH CARE FACILITIES

26-41-101. Administration. (a) Administrator and operator responsibilities. The administrator or operator of each assisted living facility or residential health care facility ("facility") shall ensure that the facility is operated in a manner so that each resident receives care and services in accordance with each resident's functional capacity screening and negotiated service agreement.

(b) Administrator and operator criteria. Each licensee shall appoint an administrator or operator who meets the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or the equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training course and passed the test approved by the secretary of Kansas department of heath and environment pursuant to K.S.A. 39-923 and amendments thereto; and

(4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) Administrator and operator position description. Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the facility;

(2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee who is 18 years old or older to act on the administrator's or operator's behalf in the absence of the administrator or operator.

(d) Resident rights. Each administrator or op-

erator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The following provisions shall be included in the policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or the resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for each resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) furnishing and decorating each resident's personal space;

(5) the recognition of each resident's personal space as private and the sharing of an apartment or individual living unit only when agreed to by the resident;

(6) the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents; and

(7) the resolution of grievances through a specific process that includes a written response to each written grievance within 30 days.

(e) Resident liability. Each resident shall be liable only for the charges disclosed to the resident or the resident's legal representative and documented in a signed agreement at admission and in accordance with K.A.R. 26-39-103.

(1) A resident who is involuntarily discharged, including discharge due to death, shall not be responsible for the following:

(A) Fees for room and board beyond the date established in the signed contractual agreement or the date of actual discharge if an appropriate discharge notice has been given to the resident or the resident's legal representative in accordance with K.A.R. 26-39-102; and

(B) fees for any services specified in the negotiated services agreement after the date the resident has vacated the facility and no longer receives these services.

(2) A resident who is voluntarily discharged shall not be responsible for the following:

(A) Fees for room and board accrued beyond the end of the 30-day period following the facility's receipt of a written notice of voluntary discharge submitted by the resident or resident's legal representative or the date of actual discharge if this date extends beyond the 30-day period; and

(B) fees for any services specified in the negotiated services agreement after the date the resident has vacated the facility and no longer receives these services.

(f) Staff treatment of residents. Each administrator or operator shall ensure the development and implementation of written policies and procedures that prohibit the abuse, neglect, and exploitation of residents by staff. The administrator or operator shall ensure that all of the following requirements are met:

(1) No resident shall be subjected to any of the following:

(A) Verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(B) neglect; or

(C) exploitation.

(2) The facility shall not employ any individual who has been identified on a state nurse aide registry as having abused, neglected, or exploited any resident in an adult care home.

(3) Each allegation of abuse, neglect, or exploitation shall be reported to the administrator or operator of the facility as soon as staff is aware of the allegation and to the department within 24 hours. The administrator or operator shall ensure that all of the following requirements are met:

(A) An investigation shall be started when the administrator or operator, or the designee, receives notification of an alleged violation.

(B) Immediate measures shall be taken to prevent further potential abuse, neglect, or exploitation while the investigation is in progress.

(C) Each alleged violation shall be thoroughly investigated within five working days of the initial report. Results of the investigation shall be reported to the administrator or operator.

(D) Appropriate corrective action shall be taken if the alleged violation is verified.

(E) The department's complaint investigation report shall be completed and submitted to the department within five working days of the initial report.

(F) A written record shall be maintained of each investigation of reported abuse, neglect, or exploitation.

(g) Availability of policies and procedures. Each administrator or operator shall ensure that policies and procedures related to resident services are available to staff at all times and are available

to each resident, legal representatives of residents, case managers, and families during normal business hours. A notice of availability shall be posted in a place readily accessible to residents.

(h) Power of attorney, guardianship, and conservatorship. Authority as a power of attorney, durable power of attorney for health care decisions, guardian, or conservator shall not be exercised by anyone employed by or having a financial interest in the facility, unless the person is related to the resident within the second degree.

(i) Reports. Each administrator or operator shall ensure the accurate completion and electronic submission of annual and semiannual statistical reports regarding residents, employees, and facility occupancy to the department no later than 20 days following the last day of the period being reported. The administrator or operator shall ensure the submission of any other reports required by the department.

(j) Emergency telephone. Each administrator or operator shall ensure that the residents and employees have access to a telephone for emergency use at no cost. The administrator or operator shall ensure that the names and telephone numbers of persons or places commonly required in emergencies are posted adjacent to this telephone.

(k) Ombudsman. Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department on aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. The administrator or operator shall ensure that this information is posted in an area readily accessible to all residents and the public.

(l) Survey report and plan of correction. Each administrator or operator shall ensure that a copy of the most recent survey report and plan of correction is available in a public area to residents and any other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-102. Staff qualifications. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision of a sufficient number of qualified personnel to provide each resident with services and care in accordance with that resident's functional capacity screening, health care service plan, and negotiated service agreement.

(b) Direct care staff or licensed nursing staff shall be awake and responsive at all times.

(c) A registered professional nurse shall be available to provide supervision to licensed practical nurses, pursuant to K.S.A. 65-1113 and amendments thereto.

(d) The employee records and agency staff records shall contain the following documentation:

(1) Evidence of licensure, registration, certification, or a certificate of successful completion of a training course for each employee performing a function that requires specialized education or training;

(2) supporting documentation for criminal background checks of facility staff and contract staff, excluding any staff licensed or registered by a state agency, pursuant to K.S.A. 39-970 and amendments thereto;

(3) supporting documentation from the Kansas nurse aide registry that the individual does not have a finding of having abused, neglected, or exploited a resident in an adult care home; and

(4) supporting documentation that the individual does not have a finding of having abused, neglected, or exploited any resident in an adult care home, from the nurse aide registry in each state in which the individual has been known to have worked as a certified nurse aide. (Authorized by K.S.A. 39-932 and K.S.A. 2008 Supp. 39-936; implementing K.S.A. 39-932, K.S.A. 2008 Supp. 39-936, and K.S.A. 2008 Supp. 39-970; effective May 29, 2009.)

26-41-103. Staff development. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision of orientation to new employees and regular in-service education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices in a home environment.

(b) The topics for orientation and in-service education shall include the following:

(1) Principles of assisted living;

(2) fire prevention and safety;

(3) disaster procedures;

(4) accident prevention;

(5) resident rights;

(6) infection control; and

(7) prevention of abuse, neglect, and exploitation of residents.

(c) If the facility admits residents with dementia, the administrator or operator shall ensure the provision of staff orientation and in-service education on the treatment and appropriate response to persons who exhibit behaviors associated with dementia. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-104. Disaster and emergency preparedness. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision of a sufficient number of staff members to take residents who would require assistance in an emergency or disaster to a secure location.

(b) Each administrator or operator shall ensure the development of a detailed written emergency management plan to manage potential emergencies and disasters, including the following:

(1) Fire;

(2) flood;

(3) severe weather;

(4) tornado;

(5) explosion;

(6) natural gas leak;

(7) lack of electrical or water service;

(8) missing residents; and

(9) any other potential emergency situations.

(c) Each administrator or operator shall ensure the establishment of written agreements that will provide for the following if an emergency or disaster occurs:

(1) Fresh water;

(2) evacuation site; and

(3) transportation of residents to an evacuation site.

(d) Each administrator or operator shall ensure disaster and emergency preparedness by ensuring the performance of the following:

(1) Orientation of new employees at the time of employment to the facility's emergency management plan;

(2) education of each resident upon admission to the facility regarding emergency procedures;

(3) quarterly review of the facility's emergency management plan with employees and residents; and

(4) an emergency drill, which shall be conducted at least annually with staff and residents. This drill shall include evacuation of the residents to a secure location.

(e) Each administrator or operator shall make the emergency management plan available to the staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-105. Resident records. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the maintenance of a record for each resident in accordance with accepted professional standards and practices.

(1) Designated staff shall maintain the record of each discharged resident who is 18 years of age or older for at least five years after the discharge of the resident.

(2) Designated staff shall maintain the record of each discharged resident who is less than 18 years of age for at least five years after the resident reaches 18 years of age or at least five years after the date of discharge, whichever time period is longer.

(b) Each administrator or operator shall ensure that all information in each resident's record, regardless of the form or storage method for the record, is kept confidential, unless release is required by any of the following:

(1) Transfer of the resident to another health care facility;

(2) law;

(3) third-party payment contract; or

(4) the resident or legal representative of the resident.

(c) Each administrator or operator shall ensure the safeguarding of resident records against the following:

(1) Loss;

(2) destruction;

(3) fire;

(4) theft; and

(5) unauthorized use.

(d) Each administrator or operator shall ensure the accuracy and confidentiality of all resident information transmitted by means of a facsimile machine.

(e) If electronic medical records are used, each administrator or operator shall ensure the development of policies addressing the following requirements:

(1) Protection of electronic medical records, including entries by only authorized users;

(2) safeguarding of electronic medical records

against unauthorized alteration, loss, destruction, and use;

(3) prevention of the unauthorized use of electronic signatures;

(4) confidentiality of electronic medical records; and

(5) preservation of electronic medical records.

(f) Each resident record shall contain at least the following:

(1) The resident's name;

(2) the dates of admission and discharge;

(3) the admission agreement and any amendments;

(4) the functional capacity screenings;

(5) the health care service plan, if applicable;

(6) the negotiated service agreement and any revisions;

(7) the name, address, and telephone number of the physician and the dentist to be notified in an emergency;

(8) the name, address, and telephone number of the legal representative or the individual of the resident's choice to be notified in the event of a significant change in condition;

(9) the name, address, and telephone number of the case manager, if applicable;

(10) records of medications, biologicals, and treatments administered and each medical care provider's order if the facility is managing the resident's medications and medical treatments; and

(11) documentation of all incidents, symptoms, and other indications of illness or injury including the date, time of occurrence, action taken, and results of the action. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-106. Community governance. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the facilitation of the organization of at least one resident council, each of which shall meet at least quarterly to provide residents with a forum to provide input into community governance.

(b) Each administrator or operator shall ensure the accommodation of the council process by providing space for the meetings, posting notices of the meetings, and assisting residents who wish to attend the meetings.

(c) In order to permit a free exchange of ideas and concerns, each administrator or operator shall ensure that all meetings are conducted without the presence of facility staff, unless allowed by the residents.

(d) Each administrator or operator shall respond to each written idea and concern received from the council, in writing, within 30 days after the meeting at which the written ideas and concerns were collected. The administrator or operator shall ensure that a copy of each written idea or concern and each response is available to surveyors. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-200. Resident criteria. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the development and implementation of written admission, transfer, and discharge policies that protect the rights of each resident, pursuant to K.A.R. 26-39-102. In addition, the administrator or operator shall ensure that any resident who has one or more of the following conditions is not admitted or retained unless the negotiated service agreement includes services sufficient to meet the needs of the resident:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident is totally dependent on another person's assistance to exit the building;

(3) any ongoing condition requiring two or more persons to physically assist the resident;

(4) any ongoing, skilled nursing intervention needed 24 hours a day; or

(5) any behavioral symptom that exceeds manageability.

(b) Each administrator or operator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-201. Resident functional capacity screening. (a) On or before each individual's admission to an assisted living facility or residential health care facility, a licensed nurse, a licensed social worker, or the administrator or operator shall conduct a screening to determine the individual's functional capacity and shall record all findings on a screening form specified by the department. The administrator or operator may integrate the department's screening form into a form developed by the facility, which shall include each element and definition specified by the department.

(b) A licensed nurse shall assess any resident whose functional capacity screening indicates the need for health care services.

(c) Designated facility staff shall conduct a screening to determine each resident's functional capacity according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition as defined in K.A.R. 26-39-100; and

(3) at least quarterly if the resident receives assistance with eating from a paid nutrition assistant.

(d) Designated facility staff shall ensure that each resident's functional capacity at the time of screening is accurately reflected on that resident's screening form.

(e) Designated facility staff shall use the results of the functional capacity screening as a basis for determining the services to be included in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-202. Negotiated service agreement. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the development of a written negotiated service agreement for each resident, based on the resident's functional capacity screening, service needs, and preferences, in collaboration with the resident or the resident's legal representative, the case manager, and, if agreed to by the resident or the resident's legal representative, the resident's family. The negotiated service agreement shall provide the following information:

(1) A description of the services the resident will receive;

(2) identification of the provider of each service; and

(3) identification of each party responsible for payment if outside resources provide a service.

(b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) Each administrator or operator shall ensure the development of an initial negotiated service agreement at admission.

(d) Each administrator or operator shall ensure the review and, if necessary, revision of each negotiated service agreement according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition, as defined in K.A.R. 26-39-100;

(3) at least quarterly, if the resident receives assistance with eating from a paid nutrition assistant; and

(4) if requested by the resident or the resident's legal representative, facility staff, the case manager, or, if agreed to by the resident or the resident's legal representative, the resident's family.

(e) A licensed nurse shall participate in the development, review, and revision of the negotiated service agreement if the resident's functional capacity screening indicates the need for health care services.

(f) If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following:

(1) The service or services refused;

(2) identification of any potential negative outcomes for the resident if the service or services are not provided;

(3) evidence of the provision of education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service or services are not provided; and

(4) an indication of acceptance by the resident or the resident's legal representative of the potential risk.

(g) The negotiated service agreement shall not include circumstances in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. The administrator or operator shall ensure that a copy of the initial agreement and any subsequent revisions are provided to the resident or the resident's legal representative.

(i) Each administrator or operator shall ensure that each resident receives services according to the provisions of that resident's negotiated service agreement.

(j) If a resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall perform the following:

(1) Provide the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or the resident's legal represen-

tative, the resident's family, with a list of providers available to provide needed services;

(2) assist the resident, if requested, in contacting outside resources for services; and

(3) monitor the services provided by outside resources and act as an advocate for the resident if services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-203. General services. (a) Range of services. The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following:

(1) Daily meal service based on each resident's needs;

(2) health care services based on an assessment by a licensed nurse and in accordance with K.A.R. 26-41-204;

(3) housekeeping services essential for the health, comfort, and safety of each resident;

(4) medical, dental, and social transportation;

(5) planned group and individual activities that meet the needs and interests of each resident; and

(6) other services necessary to support the health and safety of each resident.

(b) Adult day care services. Any administrator or operator of an assisted living facility or residential health care facility may provide adult day care services to any individual who meets the facility's admission and retention criteria and receives services less than 24 hours a day if the administrator or operator ensures that all of the following conditions are met:

(1) Written policies are developed and procedures are implemented for the provision of adult day care services.

(2) All the requirements for admission of a resident to an assisted living facility or residential health care facility are met for an individual admitted for adult day care services.

(3) At least 60 square feet of common use living, dining, and activity space is available in the facility for each resident of the facility and each resident receiving adult day care services.

(4) The provision of adult day care services does not adversely affect the care and services offered to other residents of the facility.

(c) Respite care services. Any administrator or operator of an assisted living facility or residential health care facility may provide respite care services to individuals who meet the facility's admission and retention criteria on a short-term basis if the administrator or operator ensures that the following conditions are met:

(1) Written policies are developed and procedures are implemented for the provision of respite care services.

(2) All the requirements for admission of a resident to an assisted living facility or residential health care facility are met for an individual admitted for respite care services.

(d) Special care. Any administrator or operator of an assisted living facility or residential health care facility may choose to serve residents who do not exceed the facility's admission and retention criteria and who have special needs in a special care section of the facility or the entire facility, if the administrator or operator ensures that all of the following conditions are met:

(1) Written policies and procedures are developed and are implemented for the operation of the special care section or facility.

(2) Admission and discharge criteria are in effect that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, medical care provider's progress notes, or both shall justify admission to the special care section or the facility.

(3) A written order from a medical care provider is obtained for admission.

(4) The functional capacity screening indicates that the resident would benefit from the services and programs offered by the special care section or facility.

(5) Before the resident's admission to the special care section or facility, the resident or resident's legal representative is informed, in writing, of the available services and programs that are specific to the needs of the resident.

(6) Direct care staff are present in the special care section or facility at all times.

(7) Before assignment to the special care section or facility, each staff member is provided with a training program related to specific needs of the residents to be served, and evidence of completion of the training is maintained in the employee's personnel records.

(8) Living, dining, activity, and recreational areas are provided within the special care section, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(9) The control of exits in the special care section is the least restrictive possible for the residents in that section.

(e) Maintenance. Designated staff shall provide routine maintenance, including the control of pests and rodents, and repairs in each resident's bedroom and common areas inside and outside the facility as specified in the admission agreement.

(f) Services not provided. If an administrator or operator of an assisted living facility or residential health care facility chooses not to provide or coordinate any service as specified in subsection (a), the administrator or operator shall notify the resident, in writing, on or before the resident's admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-204. Health care services. (a) The administrator or operator in each assisted living facility or residential health care facility shall ensure that a licensed nurse provides or coordinates the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screening and the negotiated service agreement.

(b) If the functional capacity screening indicates that a resident is in need of health care services, a licensed nurse, in collaboration with the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or resident's legal representative, the resident's family, shall develop a health care service plan to be included as part of the negotiated service agreement.

(c) The health care services provided by or coordinated by a licensed nurse may include the following:

(1) Personal care provided by direct care staff or by certified or licensed nursing staff employed by a home health agency or a hospice;

(2) personal care provided gratuitously by friends or family members; and

(3) supervised nursing care provided by, or under the guidance of, a licensed nurse.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) A licensed nurse may delegate nursing procedures not included in the nurse aide or medication aide curriculums to nurse aides or medication aides, respectively, under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(f) Each administrator or operator shall ensure that a licensed nurse is available to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs.

(g) Skilled nursing care shall be provided in accordance with K.S.A. 39-923 and amendments thereto.

(1) The health care service plan shall include the skilled nursing care to be provided and the name of the licensed nurse or agency responsible for providing each service.

(2) The licensed nurse providing the skilled nursing care shall document the service and the outcome of the service in the resident's record.

(3) A medical care provider's order for skilled nursing care shall be documented in the resident's record in the facility. A copy of the medical care provider's order from a home health agency or hospice may be used. Medical care provider orders in the clinical records of a home health agency located in the same building as the facility may also be used if the clinical records are available to licensed nurses and direct care staff of the facility.

(4) The administrator or operator shall ensure that a licensed nurse is available to meet each resident's unscheduled needs related to skilled nursing services.

(h) A licensed nurse may provide wellness and health monitoring as specified in the resident's negotiated service agreement.

(i) All health care services shall be provided to residents by qualified staff in accordance with acceptable standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-205. Medication management. (a) Self-administration of medication. Any resident may self-administer and manage medications independently or by using a medication container or syringe prefilled by a licensed nurse or pharmacist or by a family member or friend providing this service gratuitously, if a licensed nurse has performed an assessment and determined that the resident can perform this function safely and accurately without staff assistance.

(1) An assessment shall be completed before the resident initially begins self-administration of

medication, if the resident experiences a significant change of condition, and annually.

(2) Each assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately self-administer and manage medications independently or by using a prefilled medication container or prefilled syringe.

(3) The resident's clinical record shall contain documentation of the assessment and the determination.

(4) If a resident self-administers medication with a prefilled medication container or syringe, the prefilled medication container or syringe shall have a label with the resident's name and the date the container or syringe was prefilled. The label, or a medication administration record provided to the resident, shall also include the name and dosage of each medication and the time or event at which the medication is to be self-administered. Facility staff may remind residents to take medications or inquire as to whether medications were taken.

(b) Administration of select medications. Any resident who self-administers medication may select some medications to be administered by a licensed nurse or medication aide. The negotiated service agreement shall reflect this service and identify who is responsible for the administration and management of selected medications.

(c) Administration of medication by family or friends. Any resident may choose to have personal medication administered by family members or friends gratuitously, pursuant to K.S.A. 65-1124 and amendments thereto.

(d) Facility administration of resident's medications. If a facility is responsible for the administration of a resident's medications, the administrator or operator shall ensure that all medications and biologicals are administered to that resident in accordance with a medical care provider's written order, professional standards of practice, and each manufacturer's recommendations. The administrator or operator shall ensure that all of the following are met:

(1) Only licensed nurses and medication aides shall administer and manage medications for which the facility has responsibility.

(2) Medication aides shall not administer medication through the parenteral route.

(3) A licensed nurse or medication aide shall perform the following:

(A) Administer only the medication that the licensed nurse or medication aide has personally prepared;

(B) identify the resident before medication is administered;

(C) remain with the resident until the medication is ingested or applied; and

(D) document the administration of each resident's medication in the resident's medication administration record immediately before or following completion of the task. If the medication administration record identifies only time intervals or events for the administration of medication, the licensed nurse or medication aide shall document the actual clock time the medication is administered.

(4) Any licensed nurse may delegate nursing procedures not included in the medication aide curriculum to medication aides under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(e) Medication orders. Only a licensed nurse or a licensed pharmacist may receive verbal orders for medication from a medical care provider. The licensed nurse shall ensure that all verbal orders are signed by the medical care provider within seven working days of receipt of the verbal order.

(f) Standing orders. Only a licensed nurse shall make the decision for implementation of standing orders for specified medications and treatments formulated and signed by the resident's medical care provider. Standing orders of medications shall not include orders for the administration of schedule II medications or psychopharmacological medications.

(g) Ordering, labeling, and identifying. All medications and biologicals administered by licensed nurses or medication aides shall be ordered from a pharmacy pursuant to a medical care provider's written order.

(1) Any resident who self-administers and manages personal medications may request that a licensed nurse or medication aide reorder the resident's medication from a pharmacy of the resident's choice.

(2) Each prescription medication container shall have a label that was provided by a dispensing pharmacist or affixed to the container by a dispensing pharmacist in accordance with K.A.R. 68-7-14.

(3) A licensed nurse or medication aide may accept over-the-counter medication only in its original, unbroken manufacturer's package. A licensed pharmacist or licensed nurse shall place

the full name of the resident on the package. If the original manufacturer's package of an over-the-counter medication contains a medication in a container, bottle, or tube that can be removed from the original package, the licensed pharmacist or a licensed nurse shall place the full name of the resident on both the original manufacturer's medication package and the medication container.

(4) Licensed nurses and medication aides may administer sample medications and medications from indigent medication programs if the administrator or operator ensures the development of policies and implementation of procedures for receiving and identifying sample medications and medications from indigent medication programs that include all of the following conditions:

(A) The medication is not a controlled medication.

(B) A medical care provider's written order accompanies the medication, stating the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions regarding administration.

(C) A licensed nurse or medication aide receives the medication in its original, unbroken manufacturer's package.

(D) A licensed nurse documents receipt of the medication by entering the resident's name and the medication name, strength, and quantity into a log.

(E) A licensed nurse places identification information on the medication or package containing the medication that includes the medical care provider's name; the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions as documented on the medical care provider's order. Facility staff consisting of either two licensed nurses or a licensed nurse and a medication aide shall verify that the information on the medication matches the information on the medical care provider's order.

(F) A licensed nurse informs the resident or the resident's legal representative that the medication did not go through the usual process of labeling and initial review by a licensed pharmacist pursuant to K.S.A. 65-1642 and amendments thereto, which requires the identification of both adverse drug interactions or reactions and potential allergies. The resident's clinical record shall contain documentation that the resident or the resident's legal representative has received the information and accepted the risk of potential adverse consequences.

(h) Storage. Licensed nurses and medication aides shall ensure that all medications and biologicals are securely and properly stored in accordance with each manufacturer's recommendations or those of the pharmacy provider and with federal and state laws and regulations.

(1) Licensed nurses or medication aides shall store non-controlled medications and biologicals managed by the facility in a locked medication room, cabinet, or medication cart. Licensed nurses and medication aides shall store controlled medications managed by the facility in separately locked compartments within a locked medication room, cabinet, or medication cart. Only licensed nurses and medication aides shall have access to the stored medications and biologicals.

(2) Each resident managing and self-administering medication shall store medications in a place that is accessible only to the resident, licensed nurses, and medication aides.

(3) Any resident who self-administers medication and is unable to provide proper storage as recommended by the manufacturer or pharmacy provider may request that the medication be stored by the facility.

(4) A licensed nurse or medication aide shall not administer medication beyond the manufacturer's or pharmacy provider's recommended date of expiration.

(i) Accountability and disposition of medications. Licensed nurses and medication aides shall maintain records of the receipt and disposition of all medications managed by the facility in sufficient detail for an accurate reconciliation.

(1) Records shall be maintained documenting the destruction of any deteriorated, outdated, or discontinued controlled medications and biologicals according to acceptable standards of practice by one of the following combinations:

(A) Two licensed nurses; or

(B) a licensed nurse and a licensed pharmacist.

(2) Records shall be maintained documenting the destruction of any deteriorated, outdated, or discontinued non-controlled medications and biologicals according to acceptable standards of practice by any of the following combinations:

(A) Two licensed nurses;

(B) a licensed nurse and a medication aide;

(C) a licensed nurse and a licensed pharmacist; or

(D) a medication aide and a licensed pharmacist.

(j) Medications sent for short-term absence. A licensed nurse or medication aide shall provide the resident's medication to the resident or the designated responsible party for the resident's short-term absences from the facility, upon request.

(k) Clinical record. The administrator or operator, or the designee, shall ensure that the clinical record of each resident for whom the facility manages medication or prefills medication containers or syringes contains the following documentation:

(1) A medical care provider's order for each medication;

(2) the name of the pharmacy provider of the resident's choice;

(3) any known medication allergies; and

(4) the date and the 12-hour or 24-hour clock time any medication is administered to the resident.

(l) Medication regimen review. A licensed pharmacist shall conduct a medication regimen review at least quarterly for each resident whose medication is managed by the facility and each time the resident experiences any significant change in condition.

(1) The medication regimen review shall identify any potential or current medication-related problems, including the following:

(A) Lack of clinical indication for use of medication;

(B) the use of a subtherapeutic dose of any medication;

(C) failure of the resident to receive an ordered medication;

(D) medications administered in excessive dosage, including duplicate therapy;

(E) medications administered in excessive duration;

(F) adverse medication reactions;

(G) medication interactions; and

(H) lack of adequate monitoring.

(2) The licensed pharmacist or licensed nurse shall notify the medical care provider upon discovery of any variance identified in the medication regimen review that requires immediate action by the medical care provider. The licensed pharmacist shall notify a licensed nurse within 48 hours of any variance identified in the resident's regimen review that does not require immediate action by the medical care provider and specify a time within which the licensed nurse must notify the resident's medical care provider. The licensed nurse shall seek a response from the medical care provider within five working days of the medical care provider's notification of a variance.

(3) The administrator or operator, or the designee, shall ensure that the medication regimen review is kept in each resident's clinical record.

(4) The administrator or operator, or the designee, shall offer each resident who self-administers medication a medication regimen review to be conducted by a licensed pharmacist at least quarterly and each time a resident experiences a significant change in condition. A licensed nurse shall document the resident's decision in the resident's clinical record. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-206. Dietary services. (a) Provision of dietary services. The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision or coordination of dietary services to residents as identified in each resident's negotiated service agreement. If the administrator or operator of the facility establishes a contract with another entity to provide or coordinate the provision of dietary services to the residents, the administrator or operator shall ensure that entity's compliance with these regulations.

(b) Staff. The supervisory responsibility for dietetic services shall be assigned to one employee.

(1) A dietetic services supervisor or licensed dietician shall provide scheduled on-site supervision in each facility with 11 or more residents.

(2) If a resident's negotiated service agreement includes the provision of a therapeutic diet, mechanically altered diet, or thickened consistency of liquids, a medical care provider's order shall be on file in the resident's clinical record, and the diet or liquids, or both, shall be prepared according to instructions from a medical care provider or licensed dietitian.

(c) Menus. A dietetic services supervisor or licensed dietitian or, in any assisted living facility or residential health care facility with fewer than 11 residents, designated facility staff shall plan menus in advance and in accordance with the dietary guidelines adopted by reference in K.A.R. 26-39-105.

(1) Menu plans shall be available to each resident on at least a weekly basis.

(2) A method shall be established to incorporate

input by residents in the selection of food to be served and scheduling of meal service.

(d) Food preparation. Food shall be prepared using safe methods that conserve the nutritive value, flavor, and appearance and shall be served at the proper temperature.

(1) Food used by facility staff to serve to the residents, including donated food, shall meet all applicable federal, state, and local laws and regulations.

(2) Food in cans that have significant defects, including swelling, leakage, punctures, holes, fractures, pitted rust, or denting severe enough to prevent normal stacking or opening with a manual, wheel-type can opener, shall not be used.

(3) Food provided by a resident's family or friends for individual residents shall not be required to meet federal, state, and local laws and regulations.

(e) Food storage. Facility staff shall store all food under safe and sanitary conditions.

(1) Containers of poisonous compounds and cleaning supplies shall not be stored in the areas used for food storage, preparation, or serving.

(2) Any resident may obtain, prepare, and store food in the resident's apartment or individual living unit if doing so does not present a health or safety hazard to that resident or any other individual. The administrator or operator shall ensure that residents are provided assistance with obtaining food if that service is included in the negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-41-207. Infection control. (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the provision of a safe, sanitary, and comfortable environment for residents.

(b) Each administrator or operator shall ensure the development of policies and implementation of procedures to prevent the spread of infections. These policies and procedures shall include the following requirements:

(1) Using universal precautions to prevent the spread of blood-borne pathogens;

(2) techniques to ensure that hand hygiene meets professional health care standards;

(3) techniques to ensure that the laundering and handling of soiled and clean linens meet professional health care standards;

(4) providing sanitary conditions for food service;

(5) prohibiting any employee with a communicable disease or any infected skin lesions from coming in direct contact with any resident, any resident's food, or resident care equipment until the condition is no longer infectious;

(6) providing orientation to new employees and employee in-service education at least annually on the control of infections in a health care setting; and

(7) transferring a resident with an infectious disease to an appropriate health care facility if the administrator or operator is unable to provide the isolation precautions necessary to protect the health of other residents.

(c) Each administrator or operator shall ensure the facility's compliance with the department's tuberculosis guidelines for adult care homes adopted by reference in K.A.R. 26-39-105. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

Article 42.—HOMES PLUS

26-42-101. Administration. (a) Administrator and operator responsibilities. The administrator or operator of each home plus ("home") shall ensure that the home is operated in a manner so that each resident receives care and services in accordance with each resident's functional capacity screening and negotiated service agreement.

(b) Administrator and operator criteria. Each licensee shall appoint an administrator or operator who meets the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or the equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training course and passed the test approved by the secretary of Kansas department of heath and environment pursuant to K.S.A. 39-923 and amendments thereto; and

(4) has authority and responsibility for the operation of the home and compliance with licensing requirements.

(c) Administrator and operator position description. Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the home;

(2) implementing operational policies and procedures for the home; and

(3) authorizing, in writing, a responsible employee who is 18 years old or older to act on the administrator's or operator's behalf in the absence of the administrator or operator.

(d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The following provisions shall be included in the policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or the resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for each resident by providing opportunities for meaningful interaction and involvement within the home and the community;

(4) furnishing and decorating each resident's personal space;

(5) the recognition of each resident's personal space as private and the sharing of a bedroom only when agreed to by the resident;

(6) the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents; and

(7) the resolution of grievances through a specific process that includes a written response to each written grievance within 30 days.

(e) Resident liability. Each resident shall be liable only for the charges disclosed to the resident or the resident's legal representative and documented in a signed agreement at admission and in accordance with K.A.R. 26-39-103.

(1) A resident who is involuntarily discharged, including discharge due to death, shall not be responsible for the following:

(A) Fees for room and board beyond the date established in the signed contractual agreement or the date of actual discharge if an appropriate discharge notice has been given to the resident or the resident's legal representative in accordance with K.A.R. 26-39-102; and

(B) fees for any services specified in the negotiated services agreement after the date the resident has vacated the facility and no longer receives these services.

(2) A resident who is voluntarily discharged shall not be responsible for the following:

(A) Fees for room and board accrued beyond the end of the 30-day period following the home's receipt of a written notice of voluntary discharge submitted by the resident or resident's legal representative or the date of actual discharge if this date extends beyond the 30-day period; and

(B) fees for any services specified in the negotiated service agreement after the date the resident has vacated the home and no longer receives these services.

(f) Staff treatment of residents. Each administrator or operator shall ensure the development and implementation of written policies and procedures that prohibit the abuse, neglect, and exploitation of residents by staff. The administrator or operator shall ensure that all of the following requirements are met:

(1) No resident shall be subjected to any of the following:

(A) Verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(B) neglect; or

(C) exploitation.

(2) The home shall not employ any individual who has been identified on a state nurse aide registry as having abused, neglected, or exploited any resident in an adult care home.

(3) Each allegation of abuse, neglect, or exploitation shall be reported to the administrator or operator of the home as soon as staff is aware of the allegation and to the department within 24 hours. The administrator or operator shall ensure that all of the following requirements are met:

(A) An investigation shall be started when the administrator or operator, or the designee, receives notification of an alleged violation.

(B) Immediate measures shall be taken to prevent further potential abuse, neglect, or exploitation while the investigation is in progress.

(C) Each alleged violation shall be thoroughly investigated within five working days of the initial report. Results of the investigation shall be reported to the administrator or operator.

(D) Appropriate corrective action shall be taken if the alleged violation is verified.

(E) The department's complaint investigation report shall be completed and submitted to the department within five working days of the initial report.

(F) A written record shall be maintained of each

investigation of reported abuse, neglect, or exploitation.

(g) Availability of policies and procedures. Each administrator or operator shall ensure that policies and procedures related to resident services are available to staff at all times and are available to each resident, legal representatives of residents, case managers, and families during normal business hours. A notice of availability shall be posted in a place readily accessible to residents.

(h) Power of attorney, guardianship, and conservatorship. Authority as a power of attorney, durable power of attorney for health care decisions, guardian, or conservator shall not be exercised by anyone employed by or having a financial interest in the home, unless the person is related to the resident within the second degree.

(i) Reports. Each administrator or operator shall ensure the accurate completion and electronic submission of annual and semiannual statistical reports regarding residents, employees, and home occupancy to the department no later than 20 days following the last day of the period being reported. The administrator or operator shall ensure the submission of any other reports required by the department.

(j) Emergency telephone. Each administrator or operator shall ensure that the residents and employees have access to a telephone for emergency use at no cost. Each administrator or operator shall ensure that the names and telephone numbers of persons or places commonly required in emergencies are posted adjacent to this telephone.

(k) Ombudsman. Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department on aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the home. The administrator or operator shall ensure that this information is posted in a common area accessible to all residents and the public.

(l) Survey report and plan of correction. Each administrator or operator shall ensure that a copy of the most recent survey report and plan of correction is available in a common area to residents and any other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-102. Staff qualifications. (a) The administrator or operator of each home plus shall ensure the provision of a sufficient number of qualified personnel to provide each resident with services and care in accordance with that resident's functional capacity screening, health care service plan, and negotiated service agreement.

(b) Direct care staff or licensed nursing staff shall be in attendance and responsive at all times.

(c) A registered professional nurse shall be available to provide supervision to licensed practical nurses, pursuant to K.S.A. 65-1113 and amendments thereto.

(d) The employee records and agency staff records shall contain the following information:

(1) Evidence of licensure, registration, certification, or a certificate of successful completion of a training course for each employee performing a function that requires specialized education or training;

(2) supporting documentation for criminal background checks of facility staff and contract staff, excluding any staff licensed or registered by a state agency, pursuant to K.S.A. 39-970 and amendments thereto;

(3) supporting documentation from the Kansas nurse aide registry that the individual does not have a finding of having abused, neglected, or exploited a resident in an adult care home; and

(4) supporting documentation that the individual does not have a finding of having abused, neglected, or exploited any resident in an adult care home, from the nurse aide registry in each state in which the individual has been known to work as a certified nurse aide. (Authorized by K.S.A. 39-932 and K.S.A. 2007 Supp. 39-936; implementing K.S.A. 39-932, K.S.A. 2007 Supp. 39-936, and K.S.A. 2007 Supp. 39-970; effective May 29, 2009.)

26-42-103. Staff development. (a) The administrator or operator of each home plus shall ensure the provision of orientation to new employees and regular in-service education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices in a home environment.

(b) The topics for orientation and in-service education shall include the following:

(1) Fire prevention and safety;

(2) disaster procedures;

(3) accident prevention;

(4) resident rights;

(5) infection control; and

(6) prevention of abuse, neglect, and exploitation of residents.

(c) If the home plus admits residents with dementia, the administrator or operator shall ensure the provision of staff education, at orientation and at least annually thereafter, on the treatment and appropriate response to persons who exhibit behaviors associated with dementia. (Authorized by and implementing K.S.A. 39-932; effective Oct. 14, 2011.)

26-42-104. Disaster and emergency preparedness. (a) The administrator or operator of each home plus shall ensure the provision of a sufficient number of staff members to take residents who would require assistance in an emergency or disaster to a secure location.

(b) Each administrator or operator shall ensure the development of a detailed written emergency management plan to manage potential emergencies and disasters, including the following:

(1) Fire;

(2) flood;

(3) severe weather;

(4) tornado;

(5) explosion;

(6) natural gas leak;

(7) lack of electrical or water service;

(8) missing residents; and

(9) any other potential emergency situations.

(c) Each administrator or operator shall ensure the establishment of written agreements that will provide for the following if an emergency or disaster occurs:

(1) Fresh water;

(2) evacuation site; and

(3) transportation of residents to an evacuation site.

(d) Each administrator or operator shall ensure disaster and emergency preparedness by ensuring the performance of the following:

(1) Orientation of new employees at the time of employment to the home's emergency management plan;

(2) education of each resident upon admission to the home regarding emergency procedures;

(3) quarterly review of the home's emergency management plan with employees and residents; and

(4) an emergency drill, which shall be conducted at least annually with staff and residents. This drill shall include evacuation of the residents to a secure location.

(e) Each administrator or operator shall make the emergency management plan available to the staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-105. Resident records. (a) The administrator or operator of each home plus shall ensure the maintenance of a record for each resident in accordance with accepted professional standards and practices.

(1) Designated staff shall maintain the record of each discharged resident who is 18 years of age or older for at least five years after the discharge of the resident.

(2) Designated staff shall maintain the record of each discharged resident who is less than 18 years of age for at least five years after the resident reaches 18 years of age or at least five years after the date of discharge, whichever time period is longer.

(b) Each administrator or operator shall ensure that all information in each resident's record, regardless of the form or storage method for the record, is kept confidential, unless release is required by any of the following:

(1) Transfer of the resident to another health care facility;

(2) law;

(3) third-party payment contract; or

(4) the resident or legal representative of the resident.

(c) Each administrator or operator shall ensure the safeguarding of resident records against the following:

(1) Loss;

(2) destruction;

(3) fire;

(4) theft; and

(5) unauthorized use.

(d) Each administrator or operator shall ensure the accuracy and confidentiality of all resident information transmitted by means of a facsimile machine.

(e) If electronic medical records are used, each administrator or operator shall ensure the development of policies addressing the following requirements:

(1) Protection of electronic medical records, including entries by only authorized users;

(2) safeguarding of electronic medical records

against unauthorized alteration, loss, destruction, and use;

(3) prevention of the unauthorized use of electronic signatures;

(4) confidentiality of electronic medical records; and

(5) preservation of electronic medical records.

(f) Each resident record shall contain at least the following:

(1) The resident's name;

(2) the dates of admission and discharge;

(3) the admission agreement and any amendments;

(4) the functional capacity screenings;

(5) the health care service plan, if applicable;

(6) the negotiated service agreement and any revisions;

(7) the name, address, and telephone number of the physician and the dentist to be notified in an emergency;

(8) the name, address, and telephone number of the legal representative or the individual of the resident's choice to be notified in the event of a significant change in condition;

(9) the name, address, and telephone number of the case manager, if applicable;

(10) records of medications, biologicals, and treatments administered and each medical care provider's order if the facility is managing the resident's medications and medical treatments; and

(11) documentation of all incidents, symptoms, and other indications of illness or injury including the date, time of occurrence, action taken, and results of the action. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-106. Reserved.

26-42-200. Resident criteria. (a) The administrator or operator of each home plus shall ensure the development and implementation of written admission, transfer, and discharge policies that protect the rights of each resident, pursuant to K.A.R. 26-39-102. In addition, the administrator or operator shall ensure that any resident who has one or more of the following conditions is not admitted or retained unless the negotiated service agreement includes services sufficient to meet the needs of the resident:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident is totally dependent on another person's assistance to exit the building;

(3) any ongoing condition requiring two or more persons to physically assist the resident;

(4) any ongoing, skilled nursing intervention needed 24 hours a day; or

(5) any behavioral symptom that exceeds manageability.

(b) Each administrator or operator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-201. Resident functional capacity screening. (a) On or before each individual's admission to a home plus, a licensed nurse, a licensed social worker, or the administrator or operator shall conduct a screening to determine the individual's functional capacity and shall record all findings on a screening form specified by the department. The administrator or operator may integrate the department's screening form into a form developed by the home, which shall include each element and definition specified by the department.

(b) A licensed nurse shall assess any resident whose functional capacity screening indicates the need for health care services.

(c) Designated staff shall conduct a screening to determine each resident's functional capacity according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition as defined in K.A.R. 26-39-100; and

(3) at least quarterly if the resident receives assistance with eating from a paid nutrition assistant.

(d) Designated staff shall ensure that each resident's functional capacity at the time of screening is accurately reflected on that resident's screening form.

(e) Designated staff shall use the results of the functional capacity screening as a basis for determining the services to be included in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-202. Negotiated service agreement. (a) The administrator or operator of each home plus shall ensure the development of a written negotiated service agreement for each resident, based on the resident's functional capacity screening, service needs, and preferences, in collaboration with the resident or the resident's legal representative, the case manager, and, if agreed

to by the resident or the resident's legal representative, the resident's family. The negotiated service agreement shall provide the following information:

(1) A description of the services the resident will receive;

(2) identification of the provider of each service; and

(3) identification of each party responsible for payment if outside resources provide a service.

(b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) Each administrator or operator shall ensure the development of an initial negotiated service agreement at admission.

(d) Each administrator or operator shall ensure the review and, if necessary, revision of each negotiated service agreement according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition, as defined in K.A.R. 26-39-100;

(3) at least quarterly if the resident receives assistance with eating from a paid nutrition assistant; and

(4) if requested by the resident or the resident's legal representative, staff, the case manager, or, if agreed to by the resident or the resident's legal representative, the resident's family.

(e) A licensed nurse shall participate in the development, review, and revision of the negotiated service agreement if the resident's functional capacity screening indicates the need for health care services.

(f) If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following:

(1) The service or services refused;

(2) identification of any potential negative outcomes for the resident if the service or services are not provided;

(3) evidence of the provision of education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service or services are not provided; and

(4) an indication of acceptance by the resident or the resident's legal representative of the potential risk.

(g) The negotiated service agreement shall not include circumstances in which the lack of a service has the potential to affect the health and safety of other residents, staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. The administrator or operator shall ensure that a copy of the initial agreement and any subsequent revisions are provided to the resident or the resident's legal representative.

(i) Each administrator or operator shall ensure that each resident receives services according to the provisions of that resident's negotiated service agreement.

(j) If a resident's negotiated service agreement includes the use of outside resources, the designated staff shall perform the following:

(1) Provide the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or resident's legal representative, the resident's family, with a list of providers available to provide needed services;

(2) assist the resident, if requested, in contacting outside resources for services; and

(3) monitor the services provided by outside resources and act as an advocate for the resident if services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-203. General services. (a) Range of services. The administrator or operator of each home plus shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following:

(1) Daily meal service based on each resident's needs;

(2) health care services based on an assessment by a licensed nurse and in accordance with K.A.R. 26-42-204;

(3) housekeeping services essential for the health, comfort, and safety of each resident;

(4) medical, dental, and social transportation;

(5) planned group and individual activities that meet the needs and interests of each resident; and

(6) other services necessary to support the health and safety of each resident.

(b) Adult day care services. Any administrator or operator of a home plus may provide adult day care services to any individual who meets the home's admission and retention criteria and receives services less than 24 hours a day if the ad-

ministrator or operator ensures that all of the following conditions are met:

(1) Written policies are developed and procedures are implemented for the provision of adult day care services.

(2) All requirements for admission of a resident to a home plus are met for an individual admitted for adult day care services.

(3) At least 60 square feet of common use living, dining, and activity space is available in the home for each resident of the home and each resident receiving adult day care services.

(4) The provision of adult day care services does not adversely affect the care and services offered to other residents of the home.

(c) Respite care services. Any administrator or operator of a home plus may provide respite care services to individuals who meet the home's admission and retention criteria on a short-term basis if the administrator or operator ensures that the following conditions are met:

(1) Written policies are developed and procedures are implemented for the provision of respite care services.

(2) All the requirements for admission of a resident to a home plus are met for an individual admitted for respite care services.

(d) Maintenance. Designated staff shall provide routine maintenance, including the control of pests and rodents, and repairs in each resident's bedroom and common areas inside and outside the home as specified in the admission agreement.

(e) Services not provided. If the administrator or operator of a home plus chooses not to provide or coordinate any service as specified in subsection (a), the administrator or operator shall notify the resident, in writing, on or before the resident's admission to the home. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-204. Health care services. (a) The administrator or operator in each home plus shall ensure that a licensed nurse provides or coordinates the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screening and the negotiated service agreement.

(b) If the functional capacity screening indicates that a resident is in need of health care services, a licensed nurse, in collaboration with the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or resident's legal representative, the resident's family, shall develop a health care service plan to be included as part of the negotiated service agreement.

(c) The health care services provided by or coordinated by a licensed nurse may include the following:

(1) Personal care provided by direct care staff or by certified or licensed nursing staff employed by a home health agency or a hospice;

(2) personal care provided gratuitously by friends or family members; and

(3) supervised nursing care provided by, or under the guidance of, a licensed nurse.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) A licensed nurse may delegate nursing procedures not included in the nurse aide or medication aide curriculums to nurse aides or medication aides, respectively, under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(f) Each administrator or operator shall ensure that a licensed nurse is available to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs.

(g) Skilled nursing care shall be provided in accordance with K.S.A. 39-923 and amendments thereto.

(1) The health care service plan shall include the skilled nursing care to be provided and the name of the licensed nurse or agency responsible for providing each service.

(2) The licensed nurse providing the skilled nursing care shall document the service and the outcome of the service in the resident's record.

(3) A medical care provider's order for skilled nursing care shall be documented in the resident's record in the home. A copy of the medical care provider's order from a home health agency or hospice may be used.

(4) The administrator or operator shall ensure that a licensed nurse is available to meet each resident's unscheduled needs related to skilled nursing services.

(h) A licensed nurse may provide wellness and health monitoring as specified in the resident's negotiated service agreement.

(i) All health care services shall be provided to residents by qualified staff in accordance with ac-

ceptable standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-205. Medication management. (a) Self-administration of medication. Any resident may self-administer and manage medications independently or by using a medication container or syringe prefilled by a licensed nurse or pharmacist or by a family member or friend providing this service gratuitously, if a licensed nurse has performed an assessment and determined that the resident can perform this function safely and accurately without staff assistance.

(1) An assessment shall be completed before the resident initially begins self-administration of medication, if the resident experiences a significant change of condition, and annually.

(2) Each assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately self-administer and manage medications independently or by using a prefilled medication container or prefilled syringe.

(3) The resident's clinical record shall contain documentation of the assessment and the determination.

(4) If a resident self-administers medication with a prefilled medication container or syringe, the prefilled medication container or syringe shall have a label with the resident's name and the date the container or syringe was prefilled. The label, or a medication administration record provided to the resident, shall also include the name and dosage of each medication and the time or event at which the medication is to be self-administered. Facility staff may remind residents to take medications or inquire as to whether medications were taken.

(b) Administration of select medications. Any resident who self-administers medication may select some medications to be administered by a licensed nurse or medication aide. The negotiated service agreement shall reflect this service and identify who is responsible for the administration and management of selected medications.

(c) Administration of medication by family or friends. Any resident may choose to have personal medication administered by family members or friends gratuitously, pursuant to K.S.A. 65-1124 and amendments thereto.

(d) Home administration of resident's medications. If a home is responsible for the administration of a resident's medications, the administrator or operator shall ensure that all medications and biologicals are administered to that resident in accordance with a medical care provider's written order, professional standards of practice, and each manufacturer's recommendations. The administrator or operator shall ensure that all of the following are met:

(1) Only licensed nurses and medication aides shall administer and manage medications for which the home has responsibility.

(2) Medication aides shall not administer medication through the parenteral route.

(3) A licensed nurse or medication aide shall perform the following:

(A) Administer only the medication that the licensed nurse or medication aide has personally prepared;

(B) identify the resident before medication is administered;

(C) remain with the resident until the medication is ingested or applied; and

(D) document the administration of each resident's medication in the resident's medication administration record immediately before or following completion of the task. If the medication administration record identifies only time intervals or events for the administration of medication, the licensed nurse or medication aide shall document the actual clock time the medication is administered.

(4) Any licensed nurse may delegate nursing procedures not included in the medication aide curriculum to medication aides under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(e) Medication orders. Only a licensed nurse or a licensed pharmacist may receive verbal orders for medication from a medical care provider. The licensed nurse shall ensure that all verbal orders are signed by the medical care provider within seven working days of receipt of the verbal order.

(f) Standing orders. Only a licensed nurse shall make the decision for implementation of standing orders for specified medications and treatments formulated and signed by the resident's medical care provider. Standing orders of medications shall not include orders for the administration of schedule II medications or psychopharmacological medications.

(g) Ordering, labeling, and identifying. All medications and biologicals administered by licensed nurses or medication aides shall be ordered from

a pharmacy pursuant to a medical care provider's written order.

(1) Any resident who self-administers and manages personal medications may request that a licensed nurse or medication aide reorder the resident's medication from a pharmacy of the resident's choice.

(2) Each prescription medication container shall have a label that was provided by a dispensing pharmacist or affixed to the container by a dispensing pharmacist in accordance with K.A.R. 68-7-14.

(3) A licensed nurse or medication aide may accept over-the-counter medication only in its original, unbroken manufacturer's package. A licensed pharmacist or licensed nurse shall place the full name of the resident on the package. If the original manufacturer's package of an over-the-counter medication contains a medication in a container, bottle, or tube that can be removed from the original package, the licensed pharmacist or a licensed nurse shall place the full name of the resident on both the original manufacturer's medication package and the medication container.

(4) Licensed nurses and medication aides may administer sample medications and medications from indigent medication programs if the administrator or operator ensures the development of policies and implementation of procedures for receiving and identifying sample medications and medications from indigent medication programs that include all of the following conditions:

(A) The medication is not a controlled medication.

(B) A medical care provider's written order accompanies the medication, stating the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions regarding administration.

(C) A licensed nurse or medication aide receives the medication in its original, unbroken manufacturer's package.

(D) A licensed nurse documents receipt of the medication by entering the resident's name and the medication name, strength, and quantity into a log.

(E) A licensed nurse places identification information on the medication or package containing the medication that includes the medical care provider's name; the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions as documented on the medical care provider's order. Staff consisting of either two licensed nurses or a licensed nurse and a medication aide shall verify that the information on the medication matches the information on the medical care provider's order.

(F) A licensed nurse informs the resident or the resident's legal representative that the medication did not go through the usual process of labeling and initial review by a licensed pharmacist pursuant to K.S.A. 65-1642 and amendments thereto, which requires the identification of both adverse drug interactions or reactions and potential allergies. The resident's clinical record shall contain documentation that the resident or resident's legal representative has received the information and accepted the risk of potential adverse consequences.

(h) Storage. Licensed nurses and medication aides shall ensure that all medications and biologicals are securely and properly stored in accordance with each manufacturer's recommendations or those of the pharmacy provider and with federal and state laws and regulations.

(1) Licensed nurses or medication aides shall store non-controlled medications and biologicals managed by the home in a locked medication room, cabinet, or medication cart. Licensed nurses and medication aides shall store controlled medications managed by the home in separately locked compartments within a locked medication room, cabinet, or medication cart. Only licensed nurses and medication aides shall have access to the stored medications and biologicals.

(2) Each resident managing and self-administering medication shall store medications in a place that is accessible only to the resident, licensed nurses, and medication aides.

(3) Any resident who self-administers medication and is unable to provide proper storage as recommended by the manufacturer or pharmacy provider may request that the medication be stored by the home.

(4) A licensed nurse or medication aide shall not administer medication beyond the manufacturer's or pharmacy provider's recommended date of expiration.

(i) Accountability and disposition of medications. Licensed nurses and medication aides shall maintain records of the receipt and disposition of all medications managed by the home in sufficient detail for an accurate reconciliation.

(1) Records shall be maintained documenting the destruction of any deteriorated, outdated, or

discontinued controlled medications and biologicals according to acceptable standards of practice by one of the following combinations:

(A) Two licensed nurses; or

(B) a licensed nurse and a licensed pharmacist.

(2) Records shall be maintained documenting the destruction of any deteriorated, outdated, or discontinued non-controlled medications and biologicals according to acceptable standards of practice by any of the following combinations:

(A) Two licensed nurses;

(B) a licensed nurse and a medication aide;

(C) a licensed nurse and a licensed pharmacist; or

(D) a medication aide and a licensed pharmacist.

(j) Medications sent for short-term absence. A licensed nurse or medication aide shall provide the resident's medication to the resident or the designated responsible party for the resident's short-term absences from the home, upon request.

(k) Clinical record. The administrator or operator, or the designee, shall ensure that the clinical record of each resident for whom the home manages the resident's medication or prefills medication containers or syringes contains the following documentation:

(1) A medical care provider's order for each medication;

(2) the name of the pharmacy provider of the resident's choice;

(3) any known medication allergies; and

(4) the date and the 12-hour or 24-hour clock time any medication is administered to the resident.

(l) Medication regimen review. A licensed pharmacist or licensed nurse shall conduct a medication regimen review at least quarterly for each resident whose medication is managed by the home and each time the resident experiences any significant change in condition.

(1) The medication regimen review shall identify any potential or current medication-related problems, including the following:

(A) Lack of clinical indication for use of medication;

(B) the use of a subtherapeutic dose of any medication;

(C) failure of the resident to receive an ordered medication;

(D) medications administered in excessive dosage, including duplicate therapy;

(E) medications administered in excessive duration;

(F) adverse medication reactions;

(G) medication interactions; and

(H) lack of adequate monitoring.

(2) The licensed pharmacist or licensed nurse shall notify the medical care provider upon discovery of any variance identified in the medication regimen review that requires immediate action by the medical care provider. The licensed pharmacist shall notify a licensed nurse within 48 hours of any variance identified in the resident's regimen review that does not require immediate action by the medical care provider and specify a time within which the licensed nurse must notify the resident's medical care provider. The licensed nurse shall seek a response from the medical care provider within five working days of the medical care provider's notification of a variance.

(3) The administrator or operator, or the designee, shall ensure that the medication regimen review is kept in each resident's clinical record.

(4) The administrator or operator, or the designee, shall offer each resident who self-administers medication a medication regimen review to be conducted by a licensed pharmacist or licensed nurse at least quarterly and each time the resident experiences a significant change in condition. A licensed nurse shall maintain documentation of the resident's decision in the resident's clinical record. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-206. Dietary services. (a) The administrator or operator of each home plus shall ensure the provision or coordination of dietary services to residents as identified in each resident's negotiated service agreement.

(b) The supervisory responsibility for dietetic services shall be assigned to one employee.

(c) If a resident's negotiated service agreement includes the provision of a therapeutic diet, mechanically altered diet, or thickened consistency of liquids, a medical care provider's order shall be on file in the resident's clinical record, and the diet or liquids, or both, shall be prepared according to instructions from a medical care provider or licensed dietitian.

(d) The menus shall be planned in advance and in accordance with the dietary guidelines adopted by reference in K.A.R. 26-39-105.

(1) Menu plans shall be available to each resident on at least a weekly basis.

(2) A method shall be established to incorporate input by residents in the selection of food to be served and scheduling of meal service.

(e) Food shall be prepared using safe methods that conserve the nutritive value, flavor, and appearance and shall be served at the proper temperature.

(1) Food used by facility staff to serve to the residents, including donated food, shall meet all applicable federal, state, and local laws and regulations.

(2) Food in cans that have significant defects, including swelling, leakage, punctures, holes, fractures, pitted rust, or denting severe enough to prevent normal stacking or opening with a manual, wheel-type can opener, shall not be used.

(3) Food provided by a resident's family or friends for individual residents shall not be required to meet federal, state, and local laws and regulations.

(f) Staff shall store all food under safe and sanitary conditions. Containers of poisonous compounds and cleaning supplies shall not be stored in the areas used for food storage, preparation, or serving.

(g) Each home shall maintain at least a three-day supply of food to meet the requirements of the planned menus. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-42-207. Infection control. (a) The administrator or operator of each home plus shall ensure the provision of a safe, sanitary, and comfortable environment for residents.

(b) Each administrator or operator shall ensure the development of policies and implementation of procedures to prevent the spread of infections. These policies and procedures shall include the following requirements:

(1) Using universal precautions to prevent the spread of blood-borne pathogens;

(2) techniques to ensure that hand hygiene meets professional health care standards;

(3) techniques to ensure that the laundering and handling of soiled and clean linens meet professional health care standards;

(4) providing sanitary conditions for food service;

(5) prohibiting any employee with a communicable disease or any infected skin lesions from coming in direct contact with any resident, any resident's food, or resident care equipment until the condition is no longer infectious;

(6) providing orientation to new employees and employee in-service education at least annually on the control of infections in a health care setting; and

(7) transferring a resident with an infectious disease to an appropriate health care facility if the administrator or operator is unable to provide the isolation precautions necessary to protect the health of other residents.

(c) Each administrator or operator shall ensure the home's compliance with the department's tuberculosis guidelines for adult care homes adopted by reference in K.A.R. 26-39-105. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

Article 43.—ADULT DAY CARE FACILITIES

26-43-101. Administration. (a) Administrator and operator responsibilities. The administrator or operator of each adult day care facility ("facility") shall ensure that the facility is operated in a manner so that each resident receives care and services in accordance with each resident's functional capacity screening and negotiated service agreement.

(b) Administrator and operator criteria. Each licensee shall appoint an administrator or operator who meets the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or the equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training course and passed the test approved by the secretary of Kansas department of heath and environment pursuant to K.S.A. 39-923 and amendments thereto; and

(4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) Administrator and operator position description. Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the facility;

(2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee who is 18 years old or older to act on the

administrator's or operator's behalf in the absence of the administrator or operator.

(d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The following provisions shall be included in the policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or the resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for each resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents; and

(5) the resolution of grievances through a specific process that includes a written response to each written grievance within 30 days.

(e) Resident liability. Each resident shall be liable only for the charges disclosed to the resident or the resident's legal representative and documented in a signed agreement at admission and in accordance with K.A.R. 26-39-103.

(f) Staff treatment of residents. Each administrator or operator shall ensure the development and implementation of written policies and procedures that prohibit the abuse, neglect, and exploitation of residents by staff. The administrator or operator shall ensure that all of the following requirements are met:

(1) No resident shall be subjected to any of the following:

(A) Verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(B) neglect; or

(C) exploitation.

(2) The facility shall not employ any individual who has been identified on a state nurse aide registry as having abused, neglected, or exploited any resident in an adult care home.

(3) Each allegation of abuse, neglect, or exploitation shall be reported to the administrator or operator of the facility as soon as staff is aware of the allegation and to the department within 24 hours. The administrator or operator shall ensure that all of the following requirements are met:

(A) An investigation shall be started when the administrator or operator, or the designee, receives notification of an alleged violation.

(B) Immediate measures shall be taken to prevent further potential abuse, neglect, or exploitation while the investigation is in progress.

(C) Each alleged violation shall be thoroughly investigated within five working days of the initial report. Results of the investigation shall be reported to the administrator or operator.

(D) Appropriate corrective action shall be taken if the alleged violation is verified.

(E) The department's complaint investigation report shall be completed and submitted to the department within five working days of the initial report.

(F) A written record shall be maintained of each investigation of reported abuse, neglect, or exploitation.

(g) Availability of policies and procedures. Each administrator or operator shall ensure that policies and procedures related to resident services are available to staff at all times and are available to each resident, legal representatives of residents, case managers, and families during normal business hours. A notice of availability shall be posted in a place readily accessible to residents and the public.

(h) Power of attorney, guardianship, and conservatorship. Authority as a power of attorney, durable power of attorney for health care decisions, guardian, or conservator shall not be exercised by anyone employed by or having a financial interest in the facility, unless the person is related to the resident within the second degree.

(i) Reports. Each administrator or operator shall ensure the accurate completion and electronic submission of annual and semiannual statistical reports regarding residents, employees, and facility occupancy to the department no later than 20 days following the last day of the period being reported. The administrator or operator shall ensure the submission of any other reports required by the department.

(j) Emergency telephone. Each administrator or operator shall ensure that the residents and employees have access to a telephone for emergency use at no cost. The administrator or operator shall ensure that the names and telephone numbers of persons or places commonly required in emergencies are posted adjacent to this telephone.

(k) Ombudsman. Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department on aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. The administrator or operator shall ensure that this information is posted in an area readily accessible to all residents and the public.

(l) Survey report and plan of correction. Each administrator or operator shall ensure that a copy of the most recent survey report and plan of correction is available in a public area to residents and any other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-102. Staff qualifications. (a) The administrator or operator of each adult day care facility shall ensure the provision of a sufficient number of qualified personnel to provide each resident with services and care in accordance with that resident's functional capacity screening, health care service plan, and negotiated service agreement.

(b) Direct care staff or licensed nursing staff shall be in attendance and responsive at all times.

(c) A registered professional nurse shall be available to provide supervision to licensed practical nurses, pursuant to K.S.A. 65-1113 and amendments thereto.

(d) The employee records and agency staff records shall contain the following documentation:

(1) Evidence of licensure, registration, certification, or a certificate of successful completion of a training course for each employee performing a function that requires specialized education or training;

(2) supporting documentation for criminal background checks of facility staff and contract staff, excluding any staff licensed or registered by a state agency, pursuant to K.S.A. 39-970 and amendments thereto;

(3) supporting documentation from the Kansas nurse aide registry that the individual does not have a finding of having abused, neglected, or exploited a resident in an adult care home; and

(4) supporting documentation that the individual does not have a finding of having abused, neglected, or exploited any resident in an adult care home, from the nurse aide registry in each state in which the individual has been known to work. (Authorized by K.S.A. 39-932 and K.S.A. 2007 Supp. 39-936; implementing K.S.A. 39-932, K.S.A. 2007 Supp. 39-936, and K.S.A. 2007 Supp. 39-970; effective May 29, 2009.)

26-43-103. Staff development. (a) The administrator or operator of each adult day care facility shall ensure the provision of orientation to new employees and regular in-service education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices in a home environment.

(b) The topics for orientation and in-service education shall include the following:

(1) Principles of adult day care;

(2) fire prevention and safety;

(3) disaster procedures;

(4) accident prevention;

(5) resident rights;

(6) infection control; and

(7) prevention of abuse, neglect, and exploitation of residents.

(c) If the facility admits residents with dementia, the administrator or operator shall ensure the provision of staff orientation and in-service education on the treatment and appropriate response to persons who exhibit behaviors associated with dementia. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-104. Disaster and emergency preparedness. (a) The administrator or operator of each adult day care facility shall ensure the provision of a sufficient number of staff members to take residents who would require assistance in an emergency or disaster to a secure location.

(b) Each administrator or operator shall ensure the development of a detailed written emergency management plan to manage potential emergencies and disasters, including the following:

(1) Fire;

(2) flood;

(3) severe weather;

(4) tornado;

(5) explosion;

(6) natural gas leak;

(7) lack of electrical or water service;

(8) missing residents; and

(9) any other potential emergency situations.

(c) Each administrator or operator shall ensure the establishment of written agreements that will

provide for the following if an emergency or disaster occurs:

(1) Fresh water;

(2) evacuation site; and

(3) transportation of residents to an evacuation site.

(d) Each administrator or operator shall ensure disaster and emergency preparedness by ensuring the performance of the following:

(1) Orientation of new employees at the time of employment to the facility's emergency management plan;

(2) education of each resident upon admission to the facility regarding emergency procedures;

(3) quarterly review of the facility's emergency management plan with employees and residents; and

(4) an emergency drill, which shall be conducted at least annually with staff and residents. This drill shall include evacuation of the residents to a secure location.

(e) Each administrator or operator shall make the emergency management plan available to the staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-105. Resident records. (a) The administrator or operator of each adult day care facility shall ensure the maintenance of a record for each resident in accordance with accepted professional standards and practices.

(1) Designated staff shall maintain the record of each discharged resident who is 18 years of age or older for at least five years after the discharge of the resident.

(2) Designated staff shall maintain the record of each discharged resident who is less than 18 years of age for at least five years after the resident reaches 18 years of age or at least five years after the date of discharge, whichever time period is longer.

(b) Each administrator or operator shall ensure that all information in each resident's record, regardless of the form or storage method for the record, is kept confidential, unless release is required by any of the following:

(1) Transfer of the resident to another health care facility;

(2) law;

(3) third-party payment contract; or

(4) the resident or legal representative of the resident.

(c) Each administrator or operator shall ensure the safeguarding of resident records against the following:

(1) Loss;

(2) destruction;

(3) fire;

(4) theft; and

(5) unauthorized use.

(d) Each administrator or operator shall ensure the accuracy and confidentiality of all resident information transmitted by means of a facsimile machine.

(e) If electronic medical records are used, each administrator or operator shall ensure the development of policies addressing the following requirements:

(1) Protection of electronic medical records, including entries by only authorized users;

(2) safeguarding of electronic medical records against unauthorized alteration, loss, destruction, and use;

(3) prevention of the unauthorized use of electronic signatures;

(4) confidentiality of electronic medical records; and

(5) preservation of electronic medical records.

(f) Each resident record shall contain at least the following:

(1) The resident's name;

(2) the dates of admission and discharge;

(3) the admission agreement and any amendments;

(4) the functional capacity screenings;

(5) the health care service plan, if applicable;

(6) the negotiated service agreement and any revisions;

(7) the name, address, and telephone number of the physician and the dentist to be notified in an emergency;

(8) the name, address, and telephone number of the legal representative or the individual of the resident's choice to be notified in the event of a significant change in condition;

(9) the name, address, and telephone number of the case manager, if applicable;

(10) records of medications, biologicals, and treatments administered and each medical care provider's order if the facility is managing the resident's medications and medical treatments; and

(11) documentation of all incidents, symptoms, and other indications of illness or injury including the date, time of occurrence, action taken, and

results of the action. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-106. Community governance. (a) The administrator or operator of each adult day care facility shall ensure the facilitation of the organization of at least one resident council, each of which shall meet at least quarterly to provide residents with a forum to provide input into community governance.

(b) Each administrator or operator shall ensure the accommodation of the council process by providing space for the meetings, posting notices of the meetings, and assisting residents who wish to attend the meetings.

(c) In order to permit a free exchange of ideas and concerns, each administrator or operator shall ensure that all meetings are conducted without the presence of facility staff, unless allowed by the residents.

(d) Each administrator or operator shall respond to each written idea and concern received from the council, in writing, within 30 days after the meeting at which the written ideas and concerns were collected. The administrator or operator shall ensure that a copy of each written idea or concern and each response is available to surveyors. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-200. Resident criteria. (a) The administrator or operator of each adult day care facility shall ensure the development and implementation of written admission, transfer, and discharge policies that protect the rights of each resident, pursuant to K.A.R. 26-39-102. In addition, the administrator or operator shall ensure that any resident who has one or more of the following conditions is not admitted or retained unless the negotiated service agreement includes services sufficient to meet the needs of the resident while in the facility:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident is totally dependent on another person's assistance to exit the building;

(3) any ongoing condition requiring two or more persons to physically assist the resident; or

(4) any behavioral symptom that exceeds manageability.

(b) Each administrator or operator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-201. Resident functional capacity screening. (a) On or before each individual's admission to an adult day care facility, a licensed nurse, a licensed social worker, or the administrator or operator shall conduct a screening to determine the individual's functional capacity and shall record all findings on a screening form specified by the department. The administrator or operator may integrate the department's screening form into a form developed by the facility, which shall include each element and definition specified by the department.

(b) A licensed nurse shall assess any resident whose functional capacity screening indicates the need for health care services.

(c) Designated facility staff shall conduct a screening to determine each resident's functional capacity according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition as defined in K.A.R. 26-39-100; and

(3) at least quarterly if the resident receives assistance with eating from a paid nutrition assistant.

(d) Designated facility staff shall ensure that each resident's functional capacity at the time of screening is accurately reflected on that resident's screening form.

(e) Designated facility staff shall use the results of the functional capacity screening as a basis for determining the services to be included in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-202. Negotiated service agreement. (a) The administrator or operator of each adult day care facility shall ensure the development of a written negotiated service agreement for each resident, based on the resident's functional capacity screening, service needs, and preferences, in collaboration with the resident or the resident's legal representative, the case manager, and, if agreed to by the resident or the resident's legal representative, the resident's family. The negotiated service agreement shall provide the following information:

(1) A description of the services the resident will receive;

(2) identification of the provider of each service; and

(3) identification of each party responsible for payment if outside resources provide a service.

(b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) Each administrator or operator shall ensure the development of an initial negotiated service agreement at admission.

(d) Each administrator or operator shall ensure the review and, if necessary, revision of each negotiated service agreement according to the following requirements:

(1) At least once every 365 days;

(2) following any significant change in condition, as defined in K.A.R. 26-39-100;

(3) at least quarterly, if the resident receives assistance with eating from a paid nutrition assistant; and

(4) if requested by the resident or the resident's legal representative, facility staff, the case manager, or, if agreed to by the resident or the resident's legal representative, the resident's family.

(e) A licensed nurse shall participate in the development, review, and revision of the negotiated service agreement if the resident's functional capacity screening indicates the need for health care services.

(f) If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following:

(1) The service or services refused;

(2) identification of any potential negative outcomes for the resident if the service or services are not provided;

(3) evidence of the provision of education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service or services are not provided; and

(4) an indication of acceptance by the resident or the resident's legal representative of the potential risk.

(g) The negotiated service agreement shall not include circumstances in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. The administrator or operator shall ensure that a copy of the initial agreement and any subsequent revisions are provided to the resident or the resident's legal representative.

(i) Each administrator or operator shall ensure that each resident receives services according to the provisions of that resident's negotiated service agreement.

(j) If a resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall perform the following:

(1) Provide the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or resident's legal representative, the resident's family, with a list of providers available to provide needed services;

(2) assist the resident, if requested, in contacting outside resources for services; and

(3) monitor the services provided by outside resources and act as an advocate for the resident if services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-203. General services. (a) Range of services. The administrator or operator of each adult day care facility shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following:

(1) Daily meal service based on each resident's needs;

(2) health care services based on an assessment by a licensed nurse and in accordance with K.A.R. 26-43-204;

(3) medical, dental, and social transportation;

(4) planned group and individual activities that meet the needs and interests of each resident; and

(5) other services necessary to support the health and safety of each resident.

(b) Special care. Any administrator or operator of an adult day care facility may choose to serve residents who do not exceed the facility's admission and retention criteria and who have special needs in a special care section of the facility or the entire facility, if the administrator or operator ensures that all of the following conditions are met:

(1) Written policies are developed and procedures are implemented for the operation of the special care section or facility.

(2) Admission and discharge criteria are in effect that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, medical care provider's

progress notes, or both shall justify admission to the special care section or the facility.

(3) A medical care provider's written order is obtained for admission.

(4) The functional capacity screening indicates that the resident would benefit from the services and programs offered by the special care section or facility.

(5) Before the resident's admission to the special care section or facility, the resident or resident's legal representative is informed, in writing, of the available services and programs that are specific to the needs of the resident.

(6) Direct care staff are present in the special care section or facility at all times.

(7) Before assignment to the special care section or facility employment, each staff member is provided with a training program related to specific needs of the residents to be served, and evidence of completion of the training is maintained in the employee's personnel records.

(8) Living, dining, activity, and recreational areas are provided within the special care section, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(9) The control of exits in the special care section is the least restrictive possible for the residents in the section.

(c) Maintenance. Designated staff shall provide routine maintenance, including the control of pests and rodents, and repairs in common areas inside and outside the facility.

(d) Services not provided. If an administrator or operator of an adult day care facility chooses not to provide or coordinate any service as specified in subsection (a), the administrator or operator shall notify the resident, in writing, on or before the resident's admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-204. Health care services. (a) The administrator or operator in each adult day care facility shall ensure that a licensed nurse provides or coordinates the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screening and the negotiated service agreement.

(b) If the functional capacity screening indicates that a resident is in need of health care services, a licensed nurse, in collaboration with the resident, the resident's legal representative, the case manager, and, if agreed to by the resident or resident's legal representative, the resident's family, shall develop a health care service plan to be included as part of the negotiated service agreement.

(c) The health care services provided by or coordinated by a licensed nurse may include the following:

(1) Personal care provided by direct care staff or by certified or licensed nursing staff employed by a home health agency or a hospice;

(2) personal care provided gratuitously by friends or family members; and

(3) supervised nursing care provided by, or under the guidance of, a licensed nurse.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) A licensed nurse may delegate nursing procedures not included in the nurse aide or medication aide curriculums to nurse aides or medication aides, respectively, under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(f) Each administrator or operator shall ensure that a licensed nurse is available to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs.

(g) Skilled nursing care shall be provided in accordance with K.S.A. 39-923 and amendments thereto.

(1) The health care service plan shall include the skilled nursing care to be provided and the name of the licensed nurse or agency responsible for providing each service.

(2) The licensed nurse providing the skilled nursing care shall document the service and the outcome of the service in the resident's record.

(3) A medical care provider's order for skilled nursing care shall be documented in the resident's record in the facility. A copy of the medical care provider's order from a home health agency or hospice may be used. Medical care provider orders in the clinical records of a home health agency located in the same building as the facility may also be used if the clinical records are available to licensed nurses and direct care staff of the facility.

(4) The administrator or operator shall ensure that a licensed nurse is available to meet each res-

ident's unscheduled needs related to skilled nursing services.

(h) A licensed nurse may provide wellness and health monitoring as specified in the resident's negotiated service agreement.

(i) All health care services shall be provided to residents by qualified staff in accordance with acceptable standards of practice. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-205. Medication management. (a) Self-administration of medication. Any resident may self-administer and manage medications independently or by using a medication container or syringe prefilled by a licensed nurse or pharmacist or by a family member or friend providing this service gratuitously, if a licensed nurse has performed an assessment and determined that the resident can perform this function safely and accurately without staff assistance.

(1) An assessment shall be completed before the resident initially begins self-administration of medication, if the resident experiences a significant change of condition, and annually.

(2) Each assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately self-administer and manage medications independently or by using a prefilled medication container or prefilled syringe.

(3) The resident's clinical record shall contain documentation of the assessment and the determination.

(4) If a resident self-administers medication with a prefilled medication container or syringe, the prefilled medication container or syringe shall have a label with the resident's name and the date the container or syringe was prefilled. The label, or a medication administration record provided to the resident, shall also include the name and dosage of each medication and the time or event at which the medication is to be self-administered. Facility staff may remind residents to take medications or inquire as to whether medications were taken.

(b) Administration of select medications. Any resident who self-administers medication may select some medications to be administered by a licensed nurse or medication aide. The negotiated service agreement shall reflect this service and identify who is responsible for the administration and management of selected medications.

(c) Administration of medication by family or friends. Any resident may choose to have personal medication administered by family members or friends gratuitously, pursuant to K.S.A. 65-1124 and amendments thereto.

(d) Facility administration of resident's medications. If a facility is responsible for the administration of a resident's medications, the administrator or operator shall ensure that all medications and biologicals are administered to that resident in accordance with a medical care provider's written order, professional standards of practice, and each manufacturer's recommendations. The administrator or operator shall ensure that all of the following are met:

(1) Only licensed nurses and medication aides shall administer medications for which the facility has responsibility.

(2) Medication aides shall not administer medication through the parenteral route.

(3) A licensed nurse or medication aide shall perform the following:

(A) Administer only the medication that the licensed nurse or medication aide has personally prepared;

(B) identify the resident before medication is administered;

(C) remain with the resident until the medication is ingested or applied; and

(D) document the administration of each resident's medication in the resident's medication administration record immediately before or following completion of the task. If the medication administration record identifies only time intervals or events for the administration of medication, the licensed nurse or medication aide shall document the actual clock time the medication is administered.

(4) Any licensed nurse may delegate nursing procedures not included in the medication aide curriculum to medication aides under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.

(e) Medication orders. Only a licensed nurse or a licensed pharmacist may receive verbal orders for medication from a medical care provider. The licensed nurse shall ensure that all verbal orders are signed by the medical care provider within seven working days of receipt of the verbal order.

(f) Standing orders. Only a licensed nurse shall make the decision for implementation of standing orders for specified medications and treatments formulated and signed by the resident's medical

care provider. Standing orders of medications shall not include orders for the administration of schedule II medications or psychopharmacological medications.

(g) Ordering, labeling, and identifying. All medications and biologicals administered by licensed nurses or medication aides shall be ordered from a pharmacy pursuant to a medical care provider's written order.

(1) Any resident who self-administers and manages personal medications may request that a licensed nurse or medication aide reorder the resident's medication from a pharmacy of the resident's choice.

(2) Each prescription medication container shall have a label that was provided by a dispensing pharmacist or affixed to the container by a dispensing pharmacist in accordance with K.A.R. 68-7-14.

(3) A licensed nurse or medication aide may accept over-the-counter medication only in its original, unbroken manufacturer's package. A licensed pharmacist or licensed nurse shall place the full name of the resident on the package. If the original manufacturer's package of an over-the-counter medication contains a medication in a container, bottle, or tube that can be removed from the original package, the licensed pharmacist or a licensed nurse shall place the full name of the resident on both the original manufacturer's medication package and the medication container.

(4) Licensed nurses and medication aides may administer sample medications and medications from indigent medication programs if the administrator or operator ensures the development of policies and implementation of procedures for receiving and identifying sample medications and medications from indigent medication programs that include all of the following conditions:

(A) The medication is not a controlled medication.

(B) A medical care provider's written order accompanies the medication, stating the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions regarding administration.

(C) A licensed nurse or medication aide receives the medication in its original, unbroken manufacturer's package.

(D) A licensed nurse documents receipt of the medication by entering the resident's name and the medication name, strength, and quantity into a log.

(E) A licensed nurse places identification information on the medication or package containing the medication that includes the medical care provider's name; the resident's name; the medication name, strength, dosage, route, and frequency of administration; and any cautionary instructions as documented on the medical care provider's order. Facility staff consisting of either two licensed nurses or a licensed nurse and a medication aide shall verify that the information on the medication matches the information on the medical care provider's order.

(F) A licensed nurse informs the resident or the resident's legal representative that the medication did not go through the usual process of labeling and initial review by a licensed pharmacist pursuant to K.S.A. 65-1642 and amendments thereto, which requires the identification of both adverse drug interactions or reactions and potential allergies. The resident's clinical record shall contain documentation that the resident or the resident's legal representative has received the information and accepted the risk of potential adverse consequences.

(h) Storage. Licensed nurses and medication aides shall ensure that all medications and biologicals are securely and properly stored in accordance with each manufacturer's recommendations or those of the pharmacy provider and with federal and state laws and regulations.

(1) Licensed nurses or medication aides shall store non-controlled medications and biologicals managed by the facility in a locked medication room, cabinet, or medication cart. Licensed nurses and medication aides shall store controlled medications managed by the facility in separately locked compartments within a locked medication room, cabinet, or medication cart. Only licensed nurses and medication aides shall have access to the stored medications and biologicals.

(2) Each resident managing and self-administering medication shall store medications in a place that is accessible only to the resident, licensed nurses, and medication aides.

(3) Any resident who self-administers medication and is unable to provide proper storage as recommended by the manufacturer or pharmacy provider may request that the medication be stored by the facility.

(4) A licensed nurse or medication aide shall not administer medication beyond the manufacturer's or pharmacy provider's recommended date of expiration.

(i) Accountability and disposition of medications. Licensed nurses and medication aides shall maintain records of the receipt and disposition of all medications managed by the facility in sufficient detail for an accurate reconciliation.

(1) Records shall be maintained documenting the destruction of any deteriorated, outdated, or discontinued controlled medications and biologicals according to acceptable standards of practice by one of the following combinations:

(A) Two licensed nurses; or

(B) a licensed nurse and a licensed pharmacist.

(2) Records shall be maintained documenting the destruction of any deteriorated, outdated, or discontinued non-controlled medications and biologicals according to acceptable standards of practice by any of the following combinations:

(A) Two licensed nurses;

(B) a licensed nurse and a medication aide;

(C) a licensed nurse and a licensed pharmacist; or

(D) a medication aide and a licensed pharmacist.

(j) Clinical record. The administrator or operator, or the designee, shall ensure that the clinical record of each resident for whom the facility manages the resident's medication or prefills medication containers or syringes contains the following documentation:

(1) A medical care provider's order for each medication;

(2) the name of the pharmacy provider of the resident's choice;

(3) any known medication allergies; and

(4) the date and the 12-hour or 24-hour clock time any medication is administered to the resident.

(k) Medication regimen review. The administrator or operator, or the designee, shall offer each resident a medication regimen review to be conducted by a licensed pharmacist or a licensed nurse at least quarterly and each time the resident experiences any significant change in condition. A licensed nurse shall document the resident's decision in the resident's clinical record.

(1) The medication regimen review shall identify any potential or current medication-related problems, including the following:

(A) Lack of clinical indication for use of medication;

(B) the use of subtherapeutic dose of any medication;

(C) failure of the resident to receive an ordered medication;

(D) medications administered in excessive dosage, including duplicate therapy;

(E) medications administered in excessive duration;

(F) adverse medication reactions;

(G) medication interactions; and

(H) lack of adequate monitoring.

(2) The licensed pharmacist or licensed nurse shall report each variance identified in the medication regimen review to the resident's medical care provider.

(3) The administrator or operator, or the designee, shall ensure that the medication regimen review is kept in each resident's clinical record.

(l) At least annually, the administrator or operator shall ensure that a licensed pharmacist or a licensed nurse conducts an educational program on medication usage and health-related topics for the residents, the residents' legal representatives, and the residents' families. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-206. Dietary services. (a) Provision of dietary services. The administrator or operator of each adult day care facility shall ensure the provision or coordination of dietary services to residents as identified in each resident's negotiated service agreement. If the administrator or operator of the facility establishes a contract with another entity to provide or coordinate the provision of dietary services to the residents, the administrator or operator shall ensure that entity's compliance with these regulations.

(b) Staff. The supervisory responsibility for dietetic services shall be assigned to one employee.

(1) A dietetic services supervisor or licensed dietician shall provide scheduled on-site supervision in each facility with 11 or more residents.

(2) If a resident's negotiated service agreement includes the provision of a therapeutic diet, mechanically altered diet, or thickened consistency of liquids, a medical care provider's order shall be on file in the resident's clinical record, and the diet or liquids, or both, shall be prepared according to instructions from a medical care provider or licensed dietitian.

(c) Menus. A dietetic services supervisor or licensed dietitian or, in any facility with fewer than 11 residents, designated facility staff shall plan menus in advance and in accordance with the di-

etary guidelines adopted by reference in K.A.R. 26-39-105.

(1) Menu plans shall be available to each resident on at least a weekly basis.

(2) A method shall be established to incorporate residents' input in the selection of food to be served and scheduling of meal service.

(d) Food preparation. Food shall be prepared using safe methods that conserve the nutritive value, flavor, and appearance and shall be served at the proper temperature.

(1) Food used by facility staff to serve to the residents, including donated food, shall meet all applicable federal, state, and local laws and regulations.

(2) Food in cans that have significant defects, including swelling, leakage, punctures, holes, fractures, pitted rust, or denting severe enough to prevent normal stacking or opening with a manual, wheel-type can opener, shall not be used.

(3) Food provided by a resident's family or friends for individual residents shall not be required to meet federal, state, and local laws and regulations.

(e) Food storage. Facility staff shall store all food under safe and sanitary conditions. Containers of poisonous compounds and cleaning supplies shall not be stored in the areas used for food storage, preparation, or serving. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)

26-43-207. Infection control. (a) The administrator or operator of each adult day care facility shall ensure the provision of a safe, sanitary, and comfortable environment for residents.

(b) Each administrator or operator shall ensure the development of policies and implementation of procedures to prevent the spread of infections. These policies and procedures shall include the following requirements:

(1) Using universal precautions to prevent the spread of blood-borne pathogens;

(2) techniques to ensure that hand hygiene meets professional health care standards;

(3) techniques to ensure that the laundering and handling of soiled and clean linens meet professional health care standards;

(4) providing sanitary conditions for food service;

(5) prohibiting any employee with a communicable disease or any infected skin lesions from coming in direct contact with any resident, any resident's food, or resident care equipment until the condition is no longer infectious; and

(6) providing orientation to new employees and employee in-service education at least annually on the control of infections in a health care setting.

(c) Each administrator or operator shall ensure the facility's compliance with the department's tuberculosis guidelines for adult care homes adopted by reference in K.A.R. 26-39-105. (Authorized by and implementing K.S.A. 39-932; effective May 29, 2009.)