



**KANSAS DEPARTMENT ON AGING**  
LICENSURE, CERTIFICATION AND EVALUATION COMMISSION  
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CONNECTING KDOA WITH LONG TERM CARE PROVIDERS

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Please route Sunflower Connection to nursing staff and other interested parties in your facility. This publication may be copied or accessed through the internet address above.

**PAID NUTRITION ASSISTANTS**

The Kansas Legislature amended the Adult Care Home Act to allow for the use of paid nutrition assistants. The statute references the federal regulations found at 42 CFR 483.152, 483.160 and 483.35. The following is a summary of the requirements of the federal regulations that must be followed to use a paid nutrition assistant in an adult care home.

1. A paid nutrition assistant must successfully complete a Kansas approved course of instruction before they can feed a resident. The Kansas Department of Health and Environment, Health Occupations Credentialing unit has begun the process of developing the course.
2. The paid nutrition assistant must work under the supervision of a registered nurse or a licensed practical nurse. The supervising nurse on duty shall determine which residents a paid nutrition assistant can feed based on the residents' assessment and care plans. Residents who have complicated feeding problems must be fed by a nurse aide or a licensed nurse. Complicated feeding problems include, but are not limited to difficulty swallowing or recurrent lung aspirations.
3. It is the responsibility of each facility that decides to use paid nutrition assistants to educate licensed nurses who supervise direct care staff about the role of paid nutrition assistants. The supervising nurse must have the authority to decide whether a particular resident can be fed by a paid nutrition assistant.

Paid nutrition assistants cannot feed residents in any adult care home unless a licensed nurse is on duty in the facility. Eating is a complex process. Inappropriate feeding techniques can be dangerous to residents.

### **BED RAIL USE CONTINUES TO BE A SAFETY ISSUE IN NURSING FACILITIES**

The use of bed rails historically has been a safety measure for frail elders. Bed rails can be especially dangerous for frail elders who are confused. Residents can become caught, trapped, entangled or strangled in beds with rails.

Nursing facilities are required to assess residents prior to using side rails. Side rails used to keep a resident in bed who wants out of bed are considered to be physical restraints. In those instances, the Resident Assessment Protocol system must be used to determine if the use of the bed rail is appropriate and safe.

Bed rails are also used to assist residents in turning and repositioning. It is prudent to use side rails for residents who are bedfast and require staff assistance with repositioning.

It is very important that the bed rail used is safe and fits the bed. The mattress must fit tightly against the side rails on both sides of the bed. As mattresses age, the density decreases and gaps can occur. When a facility decides to replace mattresses, they must ensure that the new mattress fits the bed and bed rail, if used. There are mattresses with raised foam edges that can prevent a resident from being trapped between the mattress and the rail. It is also important to ensure that the bed rail used is appropriate for the style of bed.

The Food and Drug Administration provides a clinical guide for assessment and implementation of bed rails. A copy of this guide can be found at <http://www.fda.gov/cdrh/beds/>. The site also has a brochure on use of bed rails that would be appropriate to share with families and staff.

The death of a resident due to strangulation between a bed rail and a mattress is a tragedy for the resident, their family and also for facility staff. Administrative staff must ensure that, when bed rails are used, the resident needs that type of device and the bed rail is safe.

Please note that bed rails cannot be used in assisted living and residential health care facilities as a physical restraint. If they are used by alert, oriented residents, the requirements for safety discussed above are applicable.

## **MEDICATION DISTRIBUTION SYSTEMS IN ADULT CARE HOMES**

A majority of Adult Care Homes use a unit dose system for medication administration. A number of residents who are veterans are able to obtain their medications through the Veterans Administration (VA). The VA does not package medications provided to veterans in adult care homes in a unit dose system. Due to the high cost of medications, many facilities have administered drugs dispensed by a VA pharmacy. In the past few years, the cost of medication therapy for many residents has increased dramatically. Residents are able to obtain medications through mail order pharmacies. Many facilities have called asking the division staff if this is an accepted practice. The issue is administration of medications. Facilities may choose not to require unit dose systems as long as they are able to ensure accurate medication administration.

Another issue has been brought to our attention. The VA dispenses controlled drugs in quantities of 100 or more. Accounting for large quantities of controlled drugs is time consuming and sometimes inaccurate. Debra Billingsley, Executive Secretary of the Kansas State Board of Pharmacy was contacted about this issue. She stated in her communication that the following procedure would not be in conflict with the Kansas Pharmacy Act.

When a pharmacy (VA or other) dispenses controlled substances in a large quantity, the facility can request that the pharmacy also provide the facility with a second container that contains the required prescription label. A licensed nurse in the facility could transfer a small quantity of the controlled drug to the second bottle. This activity would be recorded on the controlled substance tracking record. The amount remaining in the first container would be recorded and the amount transferred to the second container would also be recorded. Both bottles would need to be maintained in a locked cabinet or in the controlled substance drawer in a medication cart. Staff would count the number of doses left in the second bottle as required by facility policy. The first bottle would be counted at the time another quantity of the medication was transferred to the second bottle.

It will be very important that staff receives education about this process and that all new employees who administer medications are also educated prior to administering medications. It is still the responsibility of the facility to maintain a system that ensures that all doses of a controlled substance are accounted for in a manner that prevents misuse of these medications.

## **DEPOSIT FEES AND PROMISSORY NOTES AS CONDITIONS OF ADMISSION**

On January 8, 2004, the Center for Medicaid and State Operations issued a memorandum clarifying the issue of nursing facilities (NF) requiring promissory notes or deposit fees as a condition of admission, and implications of that practice related to surety bonds.

42 C.F.R. §489.22 addresses special provisions applicable to prepayment requirements. The regulations prohibit a provider of inpatient services from requiring an individual entitled to Medicare to prepay the NF as a condition of admittance for services covered by Medicare. A provider may not deny covered inpatient services to an individual entitled to payment made for those services due to inability or failure to pay a requested amount at or before admission. Additionally, a provider may not charge an individual for an agreement to admit or readmit the individual on some specified future date for covered services.

In addition, 42 C.F.R. §483.12(d)(3) prohibits a NF from charging, soliciting, accepting, or receiving (in addition to any amount payable under the Medicaid program) any gift, money, donation, or other consideration as a pre-condition of admission or continued stay in the facility.

The regulations do not preclude a NF from charging a deposit fee to, or requiring a promissory note from, an individual whose stay is **not** covered by Medicare or Medicaid. In instances when the deposit fee is refundable and remains funds of the resident, the facility must have a surety bond that covers the deposit amount held by the nursing facility.

When a nursing home resident or applicant applies for Medicaid, the NF often requires the resident to pay for NF services (usually at private pay rates) during the period it takes to determine Medicaid eligibility. A NF is permitted to charge an applicant or resident whose Medicaid eligibility is pending, typically in the form of a deposit prior to admission and/or payment for services after admission. Medicaid eligibility will be made retroactive up to three months before the month of application if the applicant would have been eligible had he or she applied in any of the retroactive months. In addition, the NF must accept as payment in full the amounts determined by the state for all dates the resident was both Medicaid eligible and a NF resident. Therefore, a NF that charged a recipient for services between the first month of eligibility established by the state and the date notice of eligibility was received is obligated to refund any payments received for that period less the state's determination of any resident's share of the NF costs for that same period. A NF must prominently display written information in the NF and provide oral and written explanation to applicants or residents about applying for Medicaid, including how to use Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

Under the post-eligibility process, if the Medicaid-eligible resident has income and is required to make a monthly payment to the NF (which is a portion of the Medicaid payment amount), then the NF is permitted to retain the amount it is legally owed. However, the NF must not charge any administrative fee.

## **PROTECTION OF RESIDENT FUNDS AND SURETY BONDS**

The requirements found in 42 C.F.R. Part 483 set forth protections for resident funds. Regulations at 42 C.F.R. §483.10(c) give the resident the right to manage his or her financial affairs. The NF may not require residents to deposit their personal funds with the facility. In cases where the resident chooses to deposit funds with the nursing home, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as specified in 42 C.F.R. § 483.10(c)(3) through (8). The requirements further mandate that the facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

The purpose of the surety bond is to guarantee that the facility compensates residents for any loss of funds that the facility holds, safeguards, manages and accounts for. If residents choose to have the facility manage their funds, the facility may not refuse to handle those funds. The facility is not responsible for assets not on deposit with them.

The facility is required to have and maintain a system that assures the complete and separate accounting of each resident's personal funds entrusted to the facility on the resident's behalf. The surety bond is not limited to personal needs allowance funds. Any resident funds that are entrusted to the facility for a resident must be covered by the surety bond, including refundable deposit fees.

In addition to the requirements listed above for protection of resident funds, nursing facilities licensed in Kansas must also be in compliance with the regulations found at K.A.R. 28-39-149.

## **ADMISSION AGREEMENTS IN ADULT CARE HOMES**

Admission agreements cannot contain language that states or implies that the facility is not responsible for the health and safety of residents. KSA 39-936.Statement on Admission reads as follows: "No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto: ." In addition KAR 28-39-148(i) (4) states that "An admission agreement shall not include a general waiver of liability for the health and safety of residents."

Kansas statutes holds facilities accountable for the care and services provided to residents. Residents or their legal representatives have a right to refuse a service. When this happens the facility should address this issue in care plans and in risk agreements. The facility has an obligation to try to offer alternatives to the resident and to educate the resident of the possible negative outcomes if they do not receive the care and services facility staff believes are appropriate. Residents and their legal representatives must be given enough information to be able to make an informed consent. The RAI manual contains information about refusal of treatment on pages 4-30 and 4-31. Assisted living/residential health, homes plus and adult day care facilities have regulations that govern the development of risk agreements.

It is strongly recommended that each adult care home review their current admission agreement. If the admission agreements contain a waiver of liability for health and safety, the admission agreements should be amended and the amendments issued to each resident or the resident's legal representative. If you have any questions about this issue, you can contact Caryl Gill at 785-296-4222.

### **ADMISSION OF RESIDENTS WITH MENTAL ILLNESS TO ADULT CARE HOMES**

It is the responsibility of each adult care home to determine that it can provide the care and services a resident needs prior to admission. Surveyors have identified that facilities are admitting residents with mental illness and the facility is unable to meet the resident's needs. In some instances these residents have been found to be a danger to themselves and to others.

KAR 28-39-148(i)(1)(C) states that "Any person in need of specialized services for mental illness shall be admitted only to an adult care home which can provide the accommodations and treatment which will assist that person to achieve and maintain the highest practicable level of physical, mental and psychosocial functioning." This regulation was intended to allow adult care homes to admit residents with mental illness only if they are able to provide the services the individual needs. In the past year, adult care homes have admitted residents who have a history of mental illness and have demonstrated behaviors that are dangerous to themselves and to others. Most of the residents have been younger adults whose primary need is to ensure that they take their psychotropic medications. The facilities did not develop and implement care plans that met the needs of these residents. As a result, these residents demonstrated behaviors that were dangerous to themselves, to other residents and to the public.

The preadmission screening process includes a provision for a Level 2 screening if the individual has a severe mental illness diagnosis and received inpatient care for mental illness or supportive services in the past two years. Some of the residents who have had significant problems are parolees from correctional institutions. Admission of individuals on parole to a nursing facility or other adult care home could be appropriate. If the individual is unable to perform activities of daily living due to a disease process and is in need of 24-hour nursing care, the admission is probably appropriate. However, most adult care homes are unable to provide services to young adults who are mentally ill and are physically active. Placement of these individuals in a facility for frail elders is not appropriate. An appropriate placement for these individuals may be a nursing facility for mental health.

### **PROPOSED CHANGES IN REGULATIONS**

With the transfer of the Adult Care Home Program to the Kansas Department on Aging, there is a need to change the first two numbers of the regulations from 28 that indicates the Kansas Department of Health and Environment to 26 for the Kansas Department on Aging. The procedures for this process are the same as the creation of new regulations. The majority of

changes reflect the changes in the responsibilities of the two departments. Additional changes are being proposed to correct errors in the previous regulations, to delete some regulations that are no longer appropriate and to add regulations that reflect current standards of practice.

The proposed regulations are in the process of being reviewed within the department. The Adult Care Home Advisory Committee was given an opportunity to communicate to the department any changes they believe need to be made. Staff within the Licensure, Certification and Evaluation Commission has made a number of recommendations. There will be several opportunities for public comment through the associations and advisory committees before the regulations are submitted for final approval.

### **SEMI-ANNUAL REPORTS**

The electronic version of the Sunflower Connection contains a link to the semi-annual report form and instructions. These items are posted on the following website: [http://www.agingkansas.org/kdoa/lce/lce\\_index.html](http://www.agingkansas.org/kdoa/lce/lce_index.html). The forms are in Adobe Acrobat format. Facility staff will be able to complete the forms using their computer. Information regarding downloading the current version of Adobe Reader software and downloading pdf files can be found on the [Adobe Website \(www.adobe.com\)](http://www.adobe.com). Calculations requested will be performed automatically.

Directions for completing the form using the computer can be accessed by clicking on the help box on the web version of the form. Additional instructions can be found on the home page for the [semi-annual report](#). Facilities must complete the facility name and address section at the top of each form. **The reports must be returned by July 12, 2004.** Sandra Dickison is the contact person for questions related to completion of the reports. Sandra can be reached at 785-296-1245.

Facilities that have nursing facility units and residential health care or assisted living units can share staff. Staff time for the semi annual reports must be recorded on the two separate reports according to the amount of time staff spends providing care in each unit. For instance, a medication aide may administer medications in the residential health unit two times during a shift. The same medication aide also administers medications in the nursing facility unit. The medication aide spends about an hour a day administering medications in the residential care unit. Record one hour in the residential care report and seven hours in the nursing facility report. After completing the forms, they must be printed for mailing. **Administrators/Operators must review the data for accuracy before signing the form.** The forms are then mailed to the following address:

New England Building  
503 South Kansas Avenue  
Topeka, Kansas 66603

**FACILITIES WITH ZERO DEFICIENCIES**

Secretary Johnson-Betts recognized the following facilities with a zero deficiency survey. The Secretary sent a letter of congratulation to each of the facilities listed below.

Nursing Facilities

Park Lane Nursing Home.....	Scott City
Bethel Health Care Center .....	North Newton
Trinity Lutheran Manor .....	Merriam
Riverview Manor .....	Oxford
Buhler Sunshine Home .....	Buhler
Brighton Place West .....	Topeka
Decatur County Good Samaritan Center .....	Oberlin
Medicalodge of Goddard.....	Goddard
Alma Manor .....	Alma
Frankfort Community Care Home .....	Frankfort
Ellis Good Samaritan Center .....	Ellis
Good Samaritan Center.....	St. Francis
Lone Tree Compassionate Care .....	Meade
Woodhaven Care Center .....	Ellinwood

Assisted Living Facilities

Kenwood Plaza .....	St. John
Alterra Sterling House .....	McPherson
Assisted Living at Windsor Place .....	Coffeyville
Asbury Village.....	Coffeyville
Cornerstone Assisted Living.....	Wichita
Linnwood Place .....	Valley Falls
Waterfront Inn Assisted Living .....	Wichita
Vintage Park of Paola .....	Paola
Vintage Park of Baldwin City.....	Baldwin City

Residential Health Care Facilities

Countryside Home, Inc. ....	Abilene
Friendly Acres.....	Wellington
Fairlawn Heights Residential Care .....	Topeka
Dignity Care Home .....	Salina
Guest Homes Estates.....	Pittsburg

Boarding Care Homes

Deer Park Senior Group Home .....	Topeka
Carefree Years .....	Downs
Golden Years Adult Care Home .....	Olathe
Angelic Care .....	Mulvane
Roby's In Home Care .....	Kansas City
Independent Living .....	Wichita
Midwest Homeplace North .....	Leavenworth

**EXEMPLARY CARE AWARDS**

The following facilities were recognized by Secretary Johnson-Betts as providing exemplary care. This award means that the facilities were found to be in substantial compliance with the regulations and, in addition, had developed a care management system that improved the lives of residents. The Secretary sent a letter of recognition and a press release was provided to area news media.

**Dooley Center, Atchison**

The facility involves the nurse aides in the development of care plans. The care plans are individualized and specific to each resident. Amendments to the care plans are often made in response to information provided by nurse aides. Due to this process, skin care has improved dramatically. The food preferences of each resident are known and weight loss and other nutritional issues are addressed promptly. The environment is maintained in a manner that promotes resident choices and is “spotless.”

**Buhler Sunshine Home, Buhler**

The facility has a unique program for providing adequate fluids to residents called “The Dolphin Game.” Staff passes around a small dolphin on a key chain to a staff member who does not offer fluids to a resident. The staff person carries the dolphin until they find a staff person not offering fluids. The staff at this facility has excellent interactions with residents and works as a team to ensure quality of care and life for their residents.

**Chetopa Manor, Chetopa**

Many volunteers from the community assist with the activity program. Residents shared with surveyors how much they enjoy the salad bar as there are a large number of choices.

**The Wheatlands Healthcare, Kingman**

The dietary department ensures that residents are served food that they prefer. Community volunteers participate frequently in the activity program. There is a Girl Scout visitation program. One Girl Scout was observed giving one of the gentleman residents a kiss before leaving. The volunteers know each of the residents by name. There is a real sense of community in this facility.

**Sandstone Heights, Little River**

Mutually beneficial relationships have developed between residents and community volunteers through the activity program. The social program is developed around the varying needs of residents.

**Moundridge Manor, Moundridge**

Extraordinary care provided to residents allows them to function at their highest practicable level. Care is provided to residents with respect and dignity. The environment is homelike and promotes the concept of family. The management systems in place in this facility provide an outstanding quality of life for their residents.

**Meadowlark Hills, Manhattan**

This facility has implemented a care management system that has resulted in a minimal use of physical and chemical restraints. The monthly drug regimen reviews are informative and physicians have been willing to take prompt action on the recommendations found in the reviews.

Programs to decrease accidents and adverse variances in care have been very successful. The bed safety alarms are integrated with the resident call system. All staff carries pagers when they are on duty. There are no alarms or flashing lights. This system is more home like and less stressful for residents. With computer technology, staff response times are tracked for quality assurance.

This is an innovative facility. They are providing care that results in residents achieving their highest possible physical, mental and psychosocial well-being.

**The Cedars, McPherson**

Facility has an excellent restorative program that assists residents in regaining their highest physical functional capacity. The toileting program implemented by staff has decreased episodes of incontinence that results in a better quality of life for residents. This facility has been innovative in its thinking. They have instituted cultural changes that help them meet the intent of the regulations. The atmosphere created is comfortable and home-like.

**Park Lane Nursing Home, Scott City**

An active restorative program that involves almost every resident is offered throughout the day at least five days a week. Activities reflect the interests of the residents. During the survey, a community band provided a concert that was attended by almost all of the residents. A resident of the facility is a former member of the band. On the band's monthly concerts, the resident participates as a member of the band. There is a strong sense of community among all levels of staff.

**The Sweet Life at Rosehill, Shawnee**

The pureed foods served to residents are attractively served and have improved the quality of the dining experience for residents. Staff offers residents choice of food items prior to serving.

## RESOURCES FOR QUALITY CARE

The Kansas Association of Homes and Services for the Aging donated the following three videos to the KDOA Audio/Visual Library in honor of Patricia Maben, who retired as long term care director on June 4.

*A Way Back Home.* 60 minutes This video shares insights from the staff and residents of a group of nursing homes, each at various stages of culture change. The positive outcome of changes in the culture in a nursing home is creating “home” for elders and a better work environment for staff.

*Flashpoints: Losing Control.* 20 minutes. Strategies are offered to assist caregivers in recognizing and heeding their physical and emotional stress limits and how to deal with the stress triggers before they become explosive.

*Flashpoints: Regaining Control* 20 minutes. Suggestions on how to reduce flashpoints are provided. The suggestions include how to pace yourself, knowing when it is time to ask for help and realizing when you are too tired or emotionally “run down” to do a quality job.

For information about obtaining the above videos and other education materials related to adult care homes, go to [http://agingkansas.org/kdoa/lce/av\\_resources.html](http://agingkansas.org/kdoa/lce/av_resources.html). An order form is available, along with a catalog.

*Caring for the Ages.* This is a monthly web based newsletter for long term care practitioners. It is free of charge to long term care professionals including directors of nursing and administrators who work in nursing facilities and assisted living. Recent issues have included such topics as medication management and fall prevention. The website is [www.caringfortheages.com](http://www.caringfortheages.com)

## ENFORCEMENT ACTIONS

	1st	2nd	3rd	4th
ANE Issues		4		
Disaster Preparedness		1		
General Sanitation and Safety		5		
Health Care Services		1		
Inadequate Administration		1		
Inadequate Admissions		2		
Inadequate Accounting of Funds		0		
Inadequate Documentation of Employee Records		1		
Inadequate Documentation of Resident Records		4		
Inadequate Drug Regimen Review		2		
Inadequate Inservice Education		0		
Inadequate Policies/Procedures Regarding Infection Control		0		
Inadequate Policies and Procedures for Special Care Unit		0		
Inadequate Range of Motion Services		0		
Inadequate Supervision		3		
Inadequate or Unqualified Staffing		0		
Inadequate or Inappropriate Dietary/Nutritional Services		1		
Inadequate or Inappropriate Hygiene and Skin Care		0		
Inappropriate Admissions		0		
Inappropriate or Unauthorized use of Restraint		0		
Negotiated Service Agreement		10		
Physician Verbal Orders for Licensed Personnel		1		
Resident Functional Capacity Screen		2		
TB for Residents/Staff		2		
Unsafe Medication Administration or Storage		2		
Other		0		
Civil Penalties		4		
Correction Orders		9		
Bans on New Admissions		3		
<b>FEDERAL REMEDIES</b>	<b>1st</b>	<b>2nd</b>	<b>3rd</b>	<b>4th</b>
Civil Monetary Penalties Recommended		3		
Denial of Payment for New Admissions Imposed		3		
Terminations		0		
NOTC		9		