



**KANSAS DEPARTMENT ON AGING**  
LICENSURE, CERTIFICATION AND EVALUATION COMMISSION

# SUNFLOWER CONNECTION

CONNECTING KDOA WITH LONG TERM CARE PROVIDERS  
Volume 3, Number 1 <http://www.agingkansas.org/kdoa/index.htm> January 2006

## In This Issue...

- Change in Submission of the Annual Report
- Paid Nutrition Assistants
- ACH Regulations Updated
- QIS Pilot Project
- S and C Letters
- MDS Update
- Criminal Records Checks
- ANE Statistics
- Insulin Charge
- ATD in Free-Standing Assisted Living /Residential Health Care Facilities.
- Medicare Part D
- Smoking Compartments
- Expedited Review

The Sunflower Connection published by The Kansas Department on Aging

**Kathleen Sebelius**, Governor  
**Pamela Johnson-Betts**, Secretary

**Licensure, Certification and Evaluation Commission**

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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.

## CHANGE IN SUBMISSION OF THE ANNUAL REPORT

Effective for the annual reports due January 10, 2006, facilities that have access to the internet shall complete the annual report using a new web based application which will be accessed through the internet browser (Microsoft Internet Explorer). The Administrators/Operators will receive both a User ID and password and an e-signature code in the mail. Facilities staff will complete the report information using this new application and upon completion, the information will be submitted electronically. Instructions for this new application will be available on the KDOA website at:

[http://www.agingkansas.org/kdoa/lce/LTC\\_Reports.html](http://www.agingkansas.org/kdoa/lce/LTC_Reports.html)

Sandra Dickison is the contact person for questions related to the reports and the KDOA Information Services Help Desk is the contact for questions related to the computer application. Sandra can be reached at (785) 296-4986 or at [sandradickison@aging.state.ks.us](mailto:sandradickison@aging.state.ks.us) and the KDOA Help Desk can be reached at (785) 296-4987.

The electronic version of the Sunflower Connection will contain links to the paper version of annual report forms and systematic instructions.

Submission of the semi-annual report (are also due January 10, 2006) has not changed. It is still obtained on the KDOA website, [http://www.agingkansas.org/kdoa/lce/LTC\\_Reports.html](http://www.agingkansas.org/kdoa/lce/LTC_Reports.html), and mailed to KDOA to the attention of Sandra Dickison.

## **PAID NUTRITION ASSISTANTS**

K.A.R. 26-39-144 allowing adult care homes to employ Paid Nutrition Assistants (PNAs) became effective November 4, 2005. Residents who have complicated eating problems can not receive assistance with eating from a PNA. The facility must assess and develop a care plan for residents who will receive assistance with eating from a PNA. A nurse must be on duty in the facility and available to be contacted for assistance when a PNA is assisting the resident with eating. Assisted Living, Residential Health Care, Home Plus, and Adult Day Care facilities also need to review the requirements to increase the completion frequency of Function Capacity Screens for residents who receive assistance from PNAs. HOC, KDHE, is responsible for PNA curriculum. Please refer to their web site <http://www.kdheks.gov/hoc/> and also the October, 2005, SF Connection for additional information.

## **ADULT CARE HOME REGULATIONS UPDATED**

Adult Care Home statutes and regulations have been updated to include statutes and regulations that speak to the informal dispute resolution (IDR) process and employment of paid nutrition assistants (PNAs). The respective statutes and regulations are K.S.A. 39-247a, K.A.R. 26-39-438,439, 440; and K.S.A. 39-923, K.A.R. 26-39-144, 243, 278,427. Printed copies of the regulation booklets may be obtained by contacting the KDOA receptionist at 785-296-4986 or downloaded from the KDOA LCE web site at [www.aging.state.ks.us](http://www.aging.state.ks.us)

## **QIS PILOT PROJECT**

Two teams of LCE surveyors and selected free standing nursing homes and long term care units will continue to participate in the Quality Indicator Survey (QIS) Pilot Project. The Surveyor Training Manual can be downloaded at <http://www.aging.state.ks.us/Manuals/QISManual.htm> Facilities will find the manual helpful to understand the new process.

One change in the new process is the information required by the survey team upon entrance. The facility no longer needs to complete a Roster Matrix for the survey team. However, three lists of residents are needed upon entrance or shortly thereafter. Facilities can expedite the survey process by maintaining ongoing lists of the residents with the information. The first list is a resident census sheet. The facility needs list the residents alphabetically with their room number and unit number or name. Residents who are in the hospital on bed hold, on home visits, etc should be noted on the list. The second list is completion of an admission information form provided by the team leader on which the facility needs to list all resident newly admitted in the last 30 days along with their admission date, date of birth, and room number and unit number or name. The residents on the admission information form should still be residing in the facility. The third list is completion of a form provided by the team leader on which the facility needs to list all residents discharged and not readmitted within the past 30 days.

A worksheet identifying the additional information needed by the survey team can be found in Chapter 5 of the Surveyor Training Manual.

## **EXPEDITED REVIEW (Submitted by KFMC QIO)**

Medicare beneficiaries who are notified they are being discharged or having their services terminated from a home health agency, skilled nursing facility, comprehensive outpatient rehabilitation facility or hospice may now appeal to the Kansas Foundation for Medical Care (KFMC), the Medicare Quality Improvement Organization (QIO) for Kansas.

The new Benefits Improvement and Protection Act (BIPA) regulations allows for an expedited appeal when the beneficiary disagrees with the discharge or termination. When KFMC receives an appeal request, the provider will be notified by telephone. The provider is then required to send documentation for the appeal to KFMC no later than close of business on the day of notification, including weekends and holidays.

The new appeal process begins once a provider issues a valid, written; two-day advance notice that services will be discontinued. If a beneficiary disagrees with the health care provider's decision to discontinue services, the beneficiary or their representative can contact KFMC and ask for an appeal. KFMC will immediately notify the provider of the appeal and examine medical and other records pertaining to the services in question.

The beneficiary will continue to receive Medicare covered services until the date/time designated on the termination notice unless the QIO reverses the provider's decision. KFMC will make a decision within 72 hours on whether ending Medicare coverage is the correct choice.

KFMC will notify the beneficiary/beneficiary representative and provider of the decision, provide rationale on how the decision was made, explain the Medicare payment consequences, and provide the date the beneficiary will become fully liable for services.

Many providers are wondering how the expedited determination process affects demand billing. According to existing Medicare policy, it is always the beneficiary's right to have a demand bill filed when items or services are received. Demand billing is a special process involving a human reviewer that can take about three times as long as automated processing (or about 90 days) to complete. The actual process of demand billing is not changed by the new expedited process, so that if demand billing occurs, routine steps of this process must still be followed. Intermediaries are aware of the new expedited process, and consequently will not waste resources attempting to change coverage resulting from binding QIO decisions.

Other questions that have been raised include, does billing related to expedited determinations have to be demand billing? There is no specific need to use demand billing instead of routine billing in situations where an expedited review could be or was requested. The review that would be performed by intermediary medical reviewers with demand bills cannot change or overturn a decision made by a QIO on coverage. Therefore, beneficiaries would be expected to request either an expedited review *or* demand billing of a discharge/billing related to a discharge. Generally there would be no need for demand billing in the typical situation where the precise end date for covered services is in dispute, and the QIO can provide a fast decision through the expedited process in contrast to the more lengthy intermediary demand bill process. The information on demand billing was provided by the Centers for Medicare and Medicaid (CMS). Demand billing is referenced on page 15 in the questions and answers document located at: <http://new.cms.hhs.gov/BNI/Downloads/ED%20qs&as.pdf>

Detailed information about the Guidelines for Notice of Medicare Provider Non-Coverage, Benefits Improvement and Protection Act of 2000 and reference material is located at <http://new.cms.hhs.gov/BNI/>. Information at this site includes:

General Information Regarding the Expedited Review Process,  
Questions and Answers Related to the Process,  
OMB Approved Generic Notice and Instructions for Using the Generic Notice, and

OMB Approved Detailed Notice and Instructions for Using the Detailed Notice. For further information, please contact the KFMC Case Review Team at 1-800-432-0407.

## **DEMAND BILLING**

**Q:** With the implementation of the expedited review process by the Quality Improvement Organization (KFMC) for determination of continued Medicare services, do facilities still need to give the resident or their legal representative written notification of right to appeal the facilities decision that the resident is no longer eligible for Medicare services by requesting a review by Medicare (Demand Bill)?

**A:** Yes, even though the resident or their legal representative has been given notice of the expedited review option, they must also receive the demand bill option. The demand bill is available whether or not they choose to have an expedited review performed. It may be possible that after an expedited review is performed the beneficiary or family would not want to proceed with a demand bill, but they should not be discouraged from doing so. At the current time the old demand bill forms can still be used. However, CMS is in the process of updating and/or revising the SNF ABN and that will become the only acceptable form. At this point providers are encouraged to start using the SNF ABN, but it is not yet mandated.

## **MDS UPDATE**

MDS Software must be updated to include the **new dehydration triggers**. MDSs submitted after the third week in January without the update will receive a warning. Further information is available at <https://www.qtso.com/mdsdownload.html> MDS Downloads/Documents – Dehydration RAPs Update 12/13/2005.

**RAI Manual Revised** 11/29/05 to include RUGS 53 Classification System. The link is: [http://new.cms.hhs.gov/NursingHomeQualityInits/20\\_NHQIMDS20.asp](http://new.cms.hhs.gov/NursingHomeQualityInits/20_NHQIMDS20.asp)

Scroll down the page to Download and November Update 2005.

**RUGS 53 PowerPoint** [http://new.cms.hhs.gov/SNFPPS/02\\_Highlights.asp#TopOfPage](http://new.cms.hhs.gov/SNFPPS/02_Highlights.asp#TopOfPage)

**Coding Section W** The response of “unable to determine” (a dash) can now be used in coding Section W2b and W3b if none of the listed reason are applicable. Additional information can be found at <https://www.qtso.com/mdsfaq.html>

## **SURVEY AND CERTIFICATION LETTERS**

**Link to All Letters** <http://new.cms.hhs.gov/SurveyCertificationGenInfo/PMSR/list.asp>

**National Provider Identifier (NPI)**

**June 9, 2005; Ref: 05-30**

**Letter Summary**

CMS Administrator announced the May 23<sup>rd</sup> start of enumeration of for the NPI in a letter to the health care community.

The purpose of this letter is to 1) have providers apply for ad receive NPI beginning May 2005; 2) alert providers that the use of the NPI in health care transactions is mandatory as of May 2007; and 3) alert providers that because some health plans may accept the NPI sooner, providers must pay close attention to plan/player billing instructions.

**Nursing Homes Compliance with Requirements Related to Preventing Abuse  
September 22, 2005; Ref: 05-46**

**Letter Summary**

This memorandum asks all State Survey Agencies to remind all Medicare and Medicaid participating nursing homes in the State of the Federal requirements related to screening potential employees and checking with all appropriate nurse aid registries. The memorandum also provides contact information for nurse aide registries in every state.

LCE Addendum: Although HOC at KDHE does check the nurse aid registries in other states when a certified nurse aide from out of state applies for certification in Kansas this **does not** relieve facilities from their responsibility to also check the nurse aide registries in the other States in which the potential employee was employed.

**FYI – Release of Brochure Describing the Quality Indicator Survey (QIS)  
Demonstration Project**

**October 20, 2005; Ref: 06-02**

**Letter Summary**

For your information, we are providing a brochure that provides a brief description of the QIS and the 5 – State demonstration and evaluation.

LCE Addendum: Kansas is one of the 5 states. The QIS Surveyor Training Manual can be downloaded at <http://www.aging.state.ks.us/Manuals/QISManual.htm>

**Nursing Home Immunization Requirement**

**November 14, 2005; Ref: 06-03**

**Letter Summary**

A final rule published by the Centers for Medicare and Medicaid Services (CMS) on October 7, 2005 (70 FR 58834) requires Medicare and Medicaid participating nursing homes to provide residents with the opportunity to be immunized against influenza and pneumonia.

An advanced copy of the new surveyor guidance for immunizations will be published in late spring of 2006.

Link to Final Rule [http://www.access.gpo.gov/su\\_docs/fedreg/frcont05.html](http://www.access.gpo.gov/su_docs/fedreg/frcont05.html)

**Revised Nursing Home Medical Director Tag and  
Accompanying Training Materials**

**November 14, 2005; Ref: 06-05**

**The Use of Foreign Acquired Drugs in Long-Term Care Facilities**

**November 14, 2005; Ref: 06-06**

**Letter Summary**

When a long term care facility is found acquiring and dispensing foreign drugs to residents, the survey assess whether the facility is compliant with 42 C.F.R. 483.60(a) which states a facility must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biological), to meet the needs of each resident.

## **Posting of Nursing Staffing Information**

42 CFR 483.30 Nursing Services has been amended to include section (e) which establishes new staffing data collection, posting, and recordkeeping requirements for skilled nursing facilities (SNFs) and nursing facilities (NFs).

### **483.30 Nursing services (e) Nurse staffing information—(1)**

Data requirements. The facility must post the following information on a daily basis:

- (i) Facility name.
- (ii) The current date.
- (iii) The total number and the actual hours worked by the following categories of licensed and unlicensed nursing staff directly responsible for resident care per shift:
  - (A) Registered nurses.
  - (B) Licensed practical nurses or licensed vocational nurses (as defined under State law).
  - (C) Certified nurse aides.
- (iv) Resident census.
- (2) Posting requirements.
  - (i) The facility must post the nurse staffing data specified in paragraph (e)(1) of this section on a daily basis at the beginning of each shift.
  - (ii) Data must be posted as follows:
    - (A) Clear and readable format.
    - (B) In a prominent place readily accessible to residents and visitors.
  - (3) Public access to posted nurse staffing data. The facility must, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.
- (4) Facility data retention requirements. The facility must maintain the posted daily nurse staffing data for a minimum of 18 months, or as required by State law, whichever is greater.

## **WEB ADDRESS**

We want to keep you informed. Please email Caryl Gill at [carylgill@aging.state.ks.us](mailto:carylgill@aging.state.ks.us) your email address, so we can share needed information with you between issues of the Sunflower Connection.

## **RESOURCE**

Dementia Care Practice Recommendations for Assisted Living Residences and Nursing Homes:  
<http://www.alz.org/Downloads/DementiaCarePracticeRecommendations.pdf>

## HOC Corner

### CRIMINAL RECORD CHECKS FOR EMPLOYEES OF ADULT CARE HOMES

KSA 39-970 requires criminal record checks on all adult care home employees except licensed or registered professional service providers. Adult care homes, home health agencies and staffing agencies are required to request criminal record checks from KDHE for their certified and uncertified/unlicensed workers. Instructions and the request forms are the same for both groups of workers and are available on the HOC website, [www.kdheks.gov/hoc](http://www.kdheks.gov/hoc). Select “Health Care Personnel Resources,” then, “Criminal Record Check Program.” Also available on the website is a Frequently Asked Questions document.

Criminal record checks can be requested two different ways. The first is by sending payment with the requests, using the CRC request forms accessible online. The second is by ordering pre-paid forms in advance. The facilities may purchase as many as needed, at \$10.00 each. Pre-paid forms are numbered (on-file) and carbonized for easy tracking and convenience. Pre-paid forms are considered the same as cash and should be kept in a safe place.

If an employee has had a criminal record check within the past year, another check does not have to be done at hiring. The facility staff must document that the criminal record check has occurred in the past year. For non-licensed/non-certified individuals, the facility accesses the registry at [www.ksnurseaidregistry.org](http://www.ksnurseaidregistry.org). Select “Non-Licensed/Non-Certified” and enter the appropriate information. If the individual has had a criminal record check within the past year, print a copy of the screen for documentation. To verify that an aide has had a criminal record check in the past year, access the registry at [www.ksnurseaidregistry.org](http://www.ksnurseaidregistry.org) and select “Health Care Facility Access.” Enter facility ID then select “Add employee.” That selection will take you to the registry screen to look up the individual’s information. Enter the appropriate information and select “Details.” If the aide has had a criminal record check in the past year, print a copy of the screen for documentation. The facility staff may elect to send a new request, if they prefer.

KDHE sends the results of the criminal record check to the facility/agency. The majority of CRC no match results (no match results are those with no criminal history on file with the KBI) are sent electronically to the e-mail address provided by the facility. If the facility is not yet accessing CRC results electronically, facility staff may contact the CRC staff for assistance. CRC match results (those with criminal history on file) are mailed to the facility.

KDHE checks both adult and juvenile records, but on juvenile convictions, with the exception of juvenile theft, records are not released to the facilities/agencies. Juvenile records, with the exception of juvenile theft, **cannot** be disclosed to the facilities/agencies, even if the individual has been prohibited from employment. This explains why facilities sometimes receive criminal history match cover letters without the criminal history abstracts.

If facility staff has questions about which convictions prohibit a person from working in an adult care home, they will be able to find a list of prohibited offenses on the HOC website, [www.kdheks.gov/hoc](http://www.kdheks.gov/hoc). Choose AHealth Care Personnel,@ then ACriminal Record Check Program,@ then ACriminal Offenses Checked Under Kansas Law.@ Or, the facility may contact Melinda Reynard-Lindsay at 785-296-8628 or <mailto:mreynard@kdhe.state.ks.us>. Some convictions result in a permanent prohibition and others result in a five-year prohibition which begins the day the sentencing guidelines are completed successfully. The list includes the

information about which convictions result in permanent prohibition (indicated by Ayes@) and which result in a five-year prohibition (indicated by A5 years@). If the person has been convicted of a crime on the prohibited list, they may not be able to work.

The most common convictions that **result** in prohibition are:

1. Aggravated assault
2. Aggravated battery
3. Felony robbery
4. Sexual battery
5. Indecent liberties with a child
6. Criminal threat

The most common convictions that **do not result** in prohibition are:

1. Theft
2. Giving a worthless check
3. Driving under the influence
4. Vehicle or traffic violation
5. Battery
6. Driving while license is cancelled or revoked
7. Felony drug convictions

The information presented above reflects the requirements of Kansas law. Some facilities have policies that go beyond the state requirements. They may choose not to hire individuals with convictions that are not on the prescribed state list.

If you would like assistance or more information, please contact Melinda Reynard-Lindsay at HOC as noted above.

**KDOA PROGRAM and POLICY COMMISSION**  
Helpful Links for Information on Medicare Part D

FAQ: Emergency prescriptions fill for LTC residents during exception/appeal process

<http://www.cms.hhs.gov/pdps/qafirstfillforltcresidents-final.pdf>

CMS Fact Sheet: Ensuring and Effective Transition of Dual Eligibles from Medicaid to Medicare Part D <http://www.cms.hhs.gov/media/press/release.asp?Counter=1736>

Med Learn Matters SE0544: Message to Nursing Home Administrators on Medicare Prescription Drug Coverage <http://new.cms.hhs.gov/MedlearnMattersArticles/downloads/SE0544.pdf>

<http://new.cms.hhs.gov/MedlearnMattersArticles/downloads/SE0575.pdf>

## **BEDRAIL USE**

Bed rails are attached to the bed and are available in different sizes that range from full to half, one-quarter, and one eighth in length. Bed rails have benefits that include helping a person with turning and repositioning in bed or transferring in or out of bed. Bed rails may be considered a restraint for one resident but not another. Bed rails that are used to keep a resident from voluntarily getting out of bed would meet the definition of a restraint. If the bed rail(s) meets the definition of a restraint according to 42 CFR 483.13 (a), the resident must have a medical symptom warranting the use of the restraint. Family members and/or legal representatives cannot dictate restraint use when there is not a medical symptom to warrant the restraint. When a resident is completely immobile, bed rails are not considered restraints but the necessity of their use is questionable.

Bed rails may increase risk to a resident's safety. Residents who are frail or elderly and/or residents with pre-existing conditions such as agitation, delirium, confusion, uncontrolled body movement causing them to move about the bed are at risk for entrapment. Residents often times crawl over rails and fall from greater heights increasing the risk for serious injury.

According to AARP between 1985 and 2005, the U.S. Food and Drug Administration received 606 reports of people caught, trapped, or strangled in beds with rails. Of these, 378 died, 116 received a nonfatal injury, and 112 were not injured because caregivers intervened.

The article "Deaths Between Bedrails and Air Pressure Mattresses," that appeared in the June 2002 edition of the Journal of the American Geriatrics Society reported that "the high compressibility of air pressure mattresses distinguishes these deaths from similar events involving conventional mattresses. As a person moves to one side of an air mattress, that side compresses. This raises the center of the mattress and lowers the side, making a ramp that "pours" the patient off the bed or against the bed rail. Mattress compression also widens the space between the mattress and the rail." The article further states that while foam blocks can be used to occlude the space between the bed rail and a conventional mattress, highly compressible air mattresses make this option less feasible." The article concludes that "healthcare providers should manage this risk rather than abandoning the beneficial use of pressurized mattresses for treating or preventing decubitus ulcers."

According to the hospital bed safety workgroup a resident assessed to be unsafe in bed, or at high risk for injuries are defined by the following factors:

- Inability to transfer safely to and from the bed to a wheelchair.
- Previous entrapment or near-entrapment episode.
- Inability to ambulate to and from the toilet, without falling.
- History of bed related serious injury.
- Episodes of falling out of bed, or likelihood such episodes will occur.
- Inconsistency in notifying staff of needs, or unable to access the call system.

According to the FDA all reported entrapments occurred in one of the following ways:

- Through the bars of an individual side rail,
- Through the space between split bed rails, between the side rail and mattress, and between the headboard or footboard, side rail, and mattress.

The following actions are recommended to prevent deaths and injuries from entrapment.

- Provide training to staff about bed rails entrapment dangers.
- Assess residents for risk of entrapment (include physical, mental, behavioral or medication impairment).
- Implement appropriate changes to beds to reduce the risk of entrapment (e.g., retrofit kits, clear padding, anti-skid mats).
- Frequent observation of residents at risk for entrapment.
- Educate the resident and family about the potential dangers of bed rails.
- Inspect all bed rails, bed frames, mattresses and re-evaluate beds for entrapment as part of a regular maintenance program to identify entrapment areas.
- Leave no gap wide enough to entrap a resident's head or body (Gaps can be created by movement or compression of the mattress)
- The bars within the bed rails should be closely spaced to prevent a resident's head from passing through the openings and becoming entrapped.
- The space between the mattress and bed rails and the headboard and the mattress should be filled to prevent residents from falling between the mattress and side rail.
- The mattress must be appropriately sized for the selected bed frame because not all beds and mattresses are interchangeable (one size does not fit all).
- Mattress can shrink over time and after cleaning increasing a potential for gaps between the mattress and the rails.

A frequently asked question is “Are bed rails prohibited?” in nursing facilities. The answer is no, however, the facility should have policies and procedures in place to ensure regulatory compliance for restraint use is met when the side rail is a restraint and to ensure appropriate individualized use of the bed rails and promotion of resident safety when the side rail is or is not a restraint. All staff should receive training and orientation regarding the facilities side rail policy. A resident must be assessed prior to implementation of the side rail and the medical record should contain a risk-benefit assessment. Facilities should review each resident's treatment program and for residents who are assessed to be unsafe in the bed, or at high risk for injury the facility should consider alternatives such as a concave mattress or an adjustable height bed. **If an entrapment occurs or staff discovers that a resident may not be suitable for bed rails, corrective actions must be taken immediately.**

References: Centers for Medicare and Medicaid Appendix PP; AARP; “Deaths Between Bedrails and Air Pressure Mattresses,” June 2002 edition of the Journal of the American Geriatrics Society; National Hospital Bed Safety Workgroup; Food and Drug Administration.

## RESIDENT'S SENSE OF SMELL

Smell is important to the appreciation of food. Without the sense of smell people cannot fully enjoy the flavors of food and beverages. According to the National Institute on Aging, 30 percent of people between the ages of 70 and 80 and 66 percent of people over the age of 80 have a problem with the sense of smell.

Normal smell occurs when odors like the fragrance of flowers or the smell of baking bread stimulate the olfactory or smell nerve cells located in a small patch of tissue high inside the nose. Many people mistakenly believe they have a problem with taste, when they really are experiencing a problem with their sense of smell. Loss of smell occurs more frequently than the loss of taste. Genetically people have very different taste sensations. An example is that of bitter flavors, the sense of taste ranges from not tasting at all to being super sensitive to bitter flavors. Using sugar and fat can make food taste less bitter.

When the sense of smell is impaired, food loses its appeal. A person may eat too much and gain weight or eat too little and lose too much weight. The loss of smell may also cause a person to use too much sugar or salt on their food to make it taste better. This can be a problem for people with medical conditions such as diabetes or high blood pressure. Loss of smell may also lead to depression. Older people who have lost their larynx or voice box commonly complain of the poor ability to smell or eat.

Diseases in which a person may experience a loss of smell include multiple sclerosis, brain tumors, non-cancerous polyps, thyroid abnormalities and vitamin deficiencies, diabetes, and malnutrition. The aging process can also cause a problem with smelling called presbyosmia. Certain medications such as antibiotics, anti-fungal and those used to treat high blood pressure may cause the loss of smell. A change or reduction in the medication can restore the loss of smell. Radiation treatment to the nasal regions or chemotherapy may cause problems with the sense of smell and/or taste. Once the treatment is stopped often smell and taste slowly return to normal.

Treating or avoiding allergens and quitting smoking can attain improvement, prevention and reduction of the loss of smell. Frequent hand washing can also reduce the loss of smell by reducing the likelihood of infections, e.g. the common cold, chronic or sinus disease, influenza, and other respiratory diseases.

Improving a resident's sense of smell will improve the resident's health and well being. When a resident's sense of smell is impaired it is important to honor their food preferences to compensate for their loss of smell.

Additional information on this topic may be found at <http://nihseniorhealth.gov/listof topics.html>

## INSULIN STORAGE AND STABILITY

Vial	Unopened refrigerated	Unopened room temp	Seal punctured, refrig/room temp
Humulin R	labeled exp date	28 days	28 days
Humulin N	labeled exp date	28 days	28 days
Humulin L	labeled exp date	28 days	28 days
Humulin U	labeled exp date	28 days	28 days
Humulin 70/30	labeled exp date	28 days	28 days
Humalog	labeled exp date	28 days	28 days
Humalog 75/25	labeled exp date	28 days	28 days
Novolin R	labeled exp date	30 days	30 days
Novolin N	labeled exp date	30 days	30 days
Novolin 70/30	labeled exp date	30 days	30 days
Novolog	labeled exp date	28 days	28 days
Novolog 70/30	labeled exp date	28 day	28 days
Lantus	labeled exp date	28 days	28 days

Pen	Unopened refrigerated	Unopened room temp	In use Room temp
Humulin N Pen	labeled exp date	14 days	14 days
Humulin 70/30 Pen	labeled exp date	10 days	10 days
Humalog Pen	labeled exp date	28 days	28 days
Humalog Mix 75/25 Pen	labeled exp date	10 days	10 days
Humalog 3.0 ml cartridge	labeled exp date	28 days	28 days**
Lantus 3.0 ml cartridge	labeled exp date	28 days	28 days
Lantus OptiClik 3.0 ml cartridge Inserted into OptiClik			28 days <b>(Do not refrigerate)</b>
Novolog 3 mL PenFill Cartridges	labeled exp date	28 days	28 days <b>(Do not refrigerate)</b>
Novolog 3 mL FlexPen	labeled exp date	28 days	28 days <b>(Do not refrigerate)</b>

### Vials

If opened vials cannot be refrigerated, the vial can be kept unrefrigerated for up to 28 days away from direct light, as long as the temperature is not greater than 86 degrees Fahrenheit

Potency loss may occur after the bottle has been in use for > 1 month, especially if stored at room temperature.

Insulin should not be stored in the freezer and should be discarded if frozen.

Lantus should not be mixed with other insulin products.

### Pens and/or cartridges

Opened pens (in use) should be stored at room temperature below 86 degrees Fahrenheit and should not be refrigerated.

Manufacturers recommend not refrigerating pens in use.

Opened cartridges should be kept in the pen and stored at room temperature; if the cartridge must be kept outside of the pen, the opened cartridge may be kept at room temperature or in the refrigerator.

Information regarding Lantus received from Aventis Pharmaceutical via fax on 7/7/2004, information regarding Humalog and Humulin received from Eli Lilly and company via fax on 7/6/04, and information regarding Novolin and Novolog received from Novo Nordisk via fax on 7/6/04.

## QUESTIONS AND ANSWERS

**Q:** Can Lantus insulin be pre-drawn?

**A:** No, if it is pre-drawn it becomes turbid and not considered stable.

**Q:** Can a CMA (certified medication aide) order medications from pharmacy for refill by either phone or fax?

**A:** Each facility must have a policy and procedure for ordering medications from a pharmacy. A CMA may reorder medications if the facility allows.

**Q:** Can a CMA fax any new medication orders to pharmacy for delivery?

**A:** A licensed nurse must review the order and transmit the order to the pharmacy.

## WITNESS STATEMENTS

Enclosed in this edition of Sunflower Connection is a copy of the "Complaint Investigation Witness Statement" that has primarily been used by state surveyors up to this point. This Witness statement is now being provided to facilities for use in their facility self-investigations. The Witness statement is posted on the KDOA website along with the rest of the facility self-investigation forms and may be printed off for use by facilities. Please note below an explanation of the importance of using this witness form properly in order to provide a sworn affidavit that can be used in the prosecution of Abuse, Neglect and Exploitation cases.

The Kansas Department on Aging ("KDOA"), Complaint Program, reviews hundreds of witness statements each year to determine if any adult care home residents have been abused, neglected, or exploited. KDOA is required to conduct these reviews pursuant to both federal and state law. The Kansas statutes begin at K.S.A. 39-1401.

When there is sufficient reason to believe that an act of abuse, neglect, or exploitation has occurred, an agency attorney drafts a legal notice which is sent to the person accused of abuse, neglect, or exploitation. If the accused person challenges the agency's finding, a hearing is held in Topeka.

In order for an agency attorney to protect the alleged victim and the accused, all witness statements need to be sworn before a notary public. Only sworn statements can be used to resolve cases without a hearing where the facts are not disputed. Moreover, statements which are not sworn may require reopening the investigation. This places additional burdens on witnesses, adult care home administrators, and agency staff.

In an effort to assist adult care homes in conducting internal investigations of abuse, neglect, and exploitation, the KDOA Complaint Program has prepared the attached form for use in taking statements from witnesses.

It is important to understand the difference between a mere "acknowledgment" and a "sworn affidavit." An affidavit is a written statement of facts sworn to by a person before someone authorized to administer oaths, such as a notary public. The person making the sworn statement must appear before a notary and the notary must complete a written certification that the person signed the statement under oath.

It is not enough for a notary to sign a written document and stamp it with a seal. A notary's signature and stamp do not turn a document into an affidavit. The witness must sign the statement under oath and the notary must complete a proper certification before the affidavit is legal.

Certifications similar to the following example should appear on all affidavits mailed to the KDOA Complaint Program:

I, \_\_\_\_\_ of lawful age, being first duly sworn, on oath, declare the above to be a true statement.

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_

If you have questions regarding the use of this witness form, please contact Mary Jane Kennedy at (785) 296-1265.

**COMPLAINT INVESTIGATION WITNESS STATEMENT OF FACTS  
BEFORE THE KANSAS DEPARTMENT ON AGING**

State of Kansas, County of \_\_\_\_\_ Case# \_\_\_\_\_  
In the Matter of: \_\_\_\_\_  
(Alleged Perpetrator's Name)

**WITNESS INFORMATION**  
I was employed as \_\_\_\_\_ at \_\_\_\_\_  
(Job Title) (Name of Facility)  
in \_\_\_\_\_, Kansas. On or about \_\_\_\_\_ in the year 200\_\_\_\_, I  
was investigated/witnessed the following incident (describe below) involving \_\_\_\_\_  
\_\_\_\_\_  
(Resident(s) Involved)

**EVENT:** In your own words, describe what happened: 1) as accurately as possible; 2) telling when it happened, how it happened and what happened; 3) describing any injury or harm done to the resident/s; and 4) listing the names and titles of other witnesses (if any).

(Continued on Back)

I, \_\_\_\_\_ of lawful age, being first duly sworn,  
on oath, declare the above to be a true statement.

\_\_\_\_\_  
(Signature of Witness, Title)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone Number)

SUBSCRIBED AND SWORN TO before me, the undersigned authority, of this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
(My appointment expires)

\_\_\_\_\_  
(Notary Public)

**ADMISSION, TRANSFER AND DISCHARGE IN FREE-STANDING ASSISTED  
LIVING/RESIDENTIAL HEALTH CARE FACILITIES  
ARE RESIDENTS BEING ADMITTED AND RETAINED INAPPROPRIATELY?**

**Clarissa Ashdown, Regional Manager, Mental Health/Residential Facilities.**

Following a meeting of Assisted Living/Residential Health Care Facility providers, a provider asked what they should do in the following situation: *A couple was recently admitted into the ALF/RHCF; one spouse was very difficult to serve and the other was very pleasant to serve and in fact was blossoming in the new setting. One of the persons had access to a vehicle and after having a disagreement with their spouse, left the facility in the vehicle without signing out or telling staff. The provider had the understanding that relatives had removed keys to the vehicle from the person. The person was found by police in another state; confused but not harmed.*

The provider asked if they could modify the couple's negotiated service agreement to include a 'waiver of liability' if this person had future disagreements their spouse and left the facility in their vehicle again. Such waivers are not allowed per regulation.

The real question here, "Is one of these two persons not in the appropriate setting?"

KAR 28-39-242: States the following:

(a) Each assisted living or residential health care facility shall develop and implement written admission, transfer and discharge policies which protect the rights of residents as required by K.A.R. 28-39-148. In addition, the facility shall not admit or retain residents who have one or more of the following conditions unless the negotiated service agreement includes hospice or family support services which are available 24 hours a day or similar resources:

- (1) Incontinence, where the resident cannot or will not participate in management of the problem;
  - (2) Immobility, where the resident requires total assistance in exiting the building;
  - (3) Any ongoing condition requiring a two-person transfer;
  - (4) Any ongoing skilled nursing intervention needed 24 hours a day for an extended period of time; or
  - (5) Any behavioral symptom that exceeds manageability.
- (b) The facility shall not admit or retain residents whose clinical condition requires the use of physical restraints.
- (c) The facility shall not charge a rental fee beyond the date dated in a 30-day written notice of discharge provided by a resident or resident's legal representative or by the facility as required by K.A.R. 28-39-148 (d).

ASPEN Survey data from 10/2002 to present shows that KAR 28-39-242 has been cited a total of 24 times at 23 different ALF/RHCFs. Fourteen of the 24 citations (58%) resulted in a scope and severity of "G" and above. The severity data trend from 2002 to present shows increasingly that ALF/RHCF's are being cited at "G" and above for retaining persons who meet one or more of the above criteria.

Thus, the answer to the real question is obviously yes. One spouse is exhibiting behavior "that exceeds the manageability" of the facility. The family is not able or is unwilling to provide 24-hour support services to the person by their presence or the assistance of services such as

volunteers or companion services. The facility is not able to provide the 24 hour support services required to monitor the person's unpredictable behavior of leaving the facility without signing out or notifying staff.

The provider needs to make a decision. They must decide if they can provide the person served with the 24-hour level of support needed to keep the person safe or request that the family provides the 24-hour level of support needed to keep the person safe. If neither can be provided, the person should be discharged.

## **ASSISTED LIVING AND RESIDENTIAL HEALTH CARE FACILITIES Q AND A**

**Q:** Should only personnel who are currently working or employed be listed on the Personnel Record Review Form?

**A:** No, **all** new personnel who worked in the facility over the past 12 months should be listed. This may include even persons who worked only a short time before they quit or were terminated.

**Q:** Is there a specific time requirement by which the annual Negotiated Service Agreement must be reviewed and revised, if needed?

**A:** KAR 28-39-244 (e) The negotiated service agreement shall be reviewed at least annually, revised if necessary, and revised more frequently if....

No longer than 366 days should pass between the annual review and revision of the NSA. It is acceptable to review it earlier but not later.

**Q:** What are the parameters for a resident who is incontinent? What are the parameters for a two-person transfer?

**A:** Admission, Transfer, and Discharge K.A.R 28-39-242 (a) Each assisted living facility or residential health care facility shall develop and implement written admission, transfer, and discharge policies that protect the right of residents as required by K.A.R. 28-39-148. In addition, the facility shall not admit or retain residents who have one or more of the following conditions unless the negotiated service agreement includes hospice or family support services which are available 24 hours a day or similar resources:

- (1) Incontinence, where the resident cannot or will not participate in management of the problem;
- (2) Immobility, where a resident requires total assistance in exiting the building;
- (3) Any ongoing condition requiring a two-person transfer;

**Q:** What is meant by "orders" in 28-39-247(e) on the Entrance/Tour Checklist Form.

**A:** The entrance checklist reference is based on Regulation K.A.R 28-39-247(e) which states:

- (e) Ordering and labeling.
  - (1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.
  - (4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record

the verbal order in each resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

## SMOKING ROOMS IN NFs

2000 edition of the Life Safety Code K066 18.7.4, 19.7.4 Smoking. Smoking regulations shall be adopted and shall include not less than the following provisions: (1) Smoking shall be prohibited in any room, ward, or compartment where flammable liquids, combustible gases, or oxygen is used or stored and in any other hazardous locations, and such areas shall be posted with signs that read NO SMOKING or shall be posted with the international symbol for no smoking. *Exception: In health care occupancies where smoking is prohibited and signs are prominently placed at all major entrances, secondary signs with language that prohibits smoking shall not be required.*

Nursing Facility KAR 28-39-163(f) If smoking is permitted, there shall be designated smoking areas. (2) The facility shall provide areas designated as smoking areas both inside and outside the building.

Recent surveys by the Fire Marshall enforcing the above LSC regulation has caused facilities to look at the location of their inside smoking rooms and has resulted in some facilities thinking they can eliminate the inside smoking room entirely.

Facilities must realize the room used for smoking should not be located in the same compartment (an area enclosed by fire doors) as the rooms of residents who use continuous or PRN oxygen. There may be instances when a resident on oxygen may need to ambulate or locomote through the compartment on which the smoking room is present or the EMS personnel with oxygen tanks will need to enter or exit through the compartment on which the smoking room is present. It would be appropriate for the facility to have a policy requesting individuals in the smoking room to not smoke during those times and to have the door to the smoking room closed at all times. However, if the smoking area is located in a high traffic compartment it would be appropriate for the facility to relocate the smoking room. Residents who do smoke should not be unduly restricted from smoking due to the location of the smoking room.

Facilities choosing to become non-smoking may address it in the admission agreement but must still provide inside and outside smoking areas for their current residents who smoke. Facilities would also be wise to contact the State Fire Marshal with alternative plans or policies to meet compliance with the regulation if relocation of the room used for smoking will result in extensive and costly remodeling.

## ENFORCEMENT ACTIONS

*Licensure Category	1st	2nd	3rd	4th
ANE Issues	8	3	4	
Disaster Preparedness	2	3	-	
General Sanitation and Safety	8	10	17	
Health Care Services	5	9	8	
Inadequate Administration	5	2	4	
Inadequate Admissions	1	2	4	
Inadequate Accounting of Funds	-	-	-	
Inadequate Documentation of Employee Records	-	1	-	
Inadequate Documentation of Resident Records	8	2	7	
Inadequate Drug Regimen Review	5	3	4	
Inadequate Inservice Education	1	-	-	
Inadequate Policies/Procedures Regarding Infection Control	-	-	-	
Inadequate Policies and Procedures for Special Care Unit	-	-	-	
Inadequate Range of Motion Services	-	1	-	
Inadequate Supervision	-	2	-	
Inadequate or Unqualified Staffing	8	1	7	
Inadequate or Inappropriate Dietary/Nutritional Services	3	3	6	
Inadequate or Inappropriate Hygiene and Skin Care	1	-	1	
Inappropriate Admissions	-	2	2	
Inappropriate or Unauthorized Use of Restraint	1	-	-	
Negotiated Service Agreement	14	8	14	
Physician Verbal Orders for Licensed Personnel	-	-	-	
Resident Functional Capacity Screen	3	7	7	
TB for Residents/Staff	3	2	3	
Unsafe Medication Administration or Storage	2	9	5	
Other	-	-	-	
Civil Penalties	4	6	3	
Correction Orders	22	16	24	
Bans on New Admissions	4	10	10	
<b>FEDERAL REMEDIES</b>	<b>1st</b>	<b>2nd</b>	<b>3rd</b>	<b>4th</b>
Civil Monetary Penalties Recommended	13	9	13	
**Denial of Payment for New Admissions Imposed	29	19	40	
Terminations	-	1	-	
No Opportunity to Correct	17	23	33	

\*A correction order on civil penalty may consist of multiple issues summarized

\*\* Total figures for previous quarters are updated as this remedy becomes effective.