DEFINITIONS:
"Adult care home'' means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging. "Nursing facility'' means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

39-926A. LIMITATION ON NUMBER OF PERSONS LICENSED TO OPERATE ADULT CARE HOME; APPLICATION OF SECTION; SECTION SUPPLEMENTAL TO ADULT CARE HOME LICENSURE ACT.
(a) Except as otherwise provided in this section, no more than three different persons shall be licensed to operate any one adult care home under the adult care home licensure act, and no license to operate any one adult care home shall be issued under that act to more than three different persons. The provisions of this section shall not apply to any license to operate an adult care home which is in effect on the effective date of this act and which is issued to more than three different persons, or the renewal of any such license, unless subsequent to the effective date of this act three or fewer persons operate the adult care home or the license to operate the adult care home is denied or revoked.
(b) This section shall be part of and supplemental to the adult care home licensure act.

39-932A. ADULT CARE HOMES IN LESS THAN AN ENTIRE BUILDING.
The licensing agency shall provide by rules and regulations for the licensing of adult care homes in any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, in addition to licensing of adult care homes in entire buildings. In the case of adult care homes in less than an entire building, the licensing agency shall prescribe acceptable use and occupancy of the balance of such building, and shall prohibit those uses and occupancies which are deemed to be contrary to the public interest.

26-39-101. LICENSURE OF ADULT CARE HOMES.
...(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.
...(g) 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.
(h) 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.

(i) 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.

(j) 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.

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

28-39-150. RESIDENT BEHAVIOR AND NURSING FACILITY PRACTICES.

...(d) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. The facility shall:

1. Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion;

2. not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home in the past;

3. ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator of the facility and to the Kansas department of health and environment;

4. have evidence that all alleged violations are thoroughly investigated, and shall take measures to prevent further potential abuse, neglect and exploitation while the investigation is in progress;
(5) report the results of all facility investigations to the administrator or the designated representative;
(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and
(7) take appropriate corrective action if the alleged violation is verified.

28-39-160. OTHER RESIDENT SERVICES.

(a) Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.
(1) The facility shall designate a specific portion of the facility for the special care section.
(2) The facility shall develop admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician’s progress notes, or both shall justify admission to the section.
(3) A written physician’s order shall be required for placement.
(4) Direct care staff shall be present in the section at all times.
(5) Before admission to a special care section, the facility shall inform the resident or resident’s legal representative in writing of the services and programs available in the special care section that are different from those services and programs provided in the other sections of the facility.
(6) The facility shall provide a training program for each staff member before the member’s assignment to the section. Evidence of completion of the training shall be on file in the employee’s personnel records.
(7) The facility shall provide in-service training specific to the needs of the residents in the special care section to staff at regular intervals.
(8) The facility shall develop and make available to the clinical care staff policies and procedures for operation of the special care section.
(9) The facility shall provide a substation for use by the direct care staff in the special care section. The design of the substation shall be in accordance with the needs of the special care section and shall allow for visibility of the corridors from that location.
(10) Staff in the section shall be able to observe and hear resident and emergency call signals from the corridor and nurse substation.
(11) The facility shall provide living, dining, activity, and recreational areas in the special care section at the rate of 27 square feet per resident, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.
(12) The comprehensive resident assessment shall indicate that the resident would benefit from the program offered by the special care section.
(13) The resident comprehensive care plan shall include interventions that effectively assist the resident in correcting or compensating for the identified problems or need.
(14) Control of exits shall be the least restrictive possible for the residents in the section.
(b) Adult day care. A nursing facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services.
(1) The nursing facility shall develop written policies and procedures for provision of adult day care services.
(2) The nursing facility shall develop criteria for admission to and discharge from the adult day care service.
(3) The nursing facility shall maintain a clinical record of services provided to clients in the adult day care program.
(4) The provision of adult day care services shall not adversely affect the care and services offered to residents of the facility.
(c) Respite care. A nursing facility may provide respite care to individuals on a short-term basis of not more than 30 consecutive days.
(1) The facility shall develop policies and procedures for the provision of respite care.
(2) All requirements for admission of a resident to a nursing facility shall be met for an individual admitted for respite care.
(3) The facility may obtain an order from the resident's physician indicating that the resident may return to the facility at a later date for respite care.
(A) The facility may identify the resident's clinical record as inactive until the resident returns.
(B) Each time the resident returns to the facility for subsequent respite services, the resident's physician shall review the physician plan of care and shall indicate any significant change that has occurred in the resident's medical condition since the previous stay.
(C) The facility shall review and revise the comprehensive assessment and care plan, if needed.
(D) The facility shall conduct a comprehensive assessment after any significant change in the resident's physical, mental, or psychosocial functioning and not less often than once a year.
(E) Any facility with a ban on admissions shall not admit or readmit residents for respite care.

28-39-161. INFECTION CONTROL.

(a) Each facility shall establish an infection control program under which the facility meets the following requirements:
...(6) includes in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting...
(c) Linens and resident clothing.
...(5) The facility may choose to wash linens and soiled resident clothing in water at less than 160° F if the following conditions are met:
...(E) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations.
(7) maintains a record of incidents and corrective actions related to infection that is reviewed and acted upon by the quality assessment and assurance committee.

29-39-163. ADMINISTRATION

Each nursing facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident
(a) Governing body.
(1) Each facility shall have a governing body or shall designate a group of people to function as a governing body. The governing body shall be legally responsible for
establishing and implementing policies regarding the management and operation of the facility.

(2) the governing body shall appoint an administrator who meets the following criteria:
(A) is licensed by the state; and
(B) has full authority and responsibility for the operation of the facility and compliance with licensing requirements.

(3) The licensee shall adopt a written position description for the administrator that includes responsibility for the following:
(A) Planning, organizing, and directing the operation of the facility;
(B) implementing operational policies and procedures for the facility; and
(C) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator’s behalf in the administrator’s absence.

(4) Each facility may request approval from the department for an administrator to supervise more than one nursing facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department. Each facility shall meet all of the following conditions:
(A) The facilities are in a proximate location that would facilitate on-site supervision daily, if needed.
(B) The combined resident capacity does not exceed 120 residents.
(C) The administrator appointed to operate the facilities has had at least two years of experience as an administrator of a nursing facility and has demonstrated the ability to assure the health and safety of residents.
(D) When a change in administrator occurs, the facilities submit the credentials of the proposed new administrator for approval by the department.

(b) Policies and procedures.
(1) Each licensee shall adopt and enforce written policies and procedures to ensure all of the following:
(A) Each resident attains or maintains the highest practicable physical, mental, and psychosocial well-being.
(B) Each resident is protected from abuse, neglect, and exploitation.
(C) The rights of resident are proactively assured.
(2) The facility shall revise all policies and procedures as necessary and shall review all policies and procedures at least annually.
(3) Policies and procedures shall be available to staff at all times. Policies and procedures shall be available, on request, to any person during normal business hours. The Facility shall post a notice of availability in a readily accessible place for residents.

(c) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, guardianship or conservatorship.

(d) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator shall submit the report on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(e) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees on each nursing unit for use in emergencies.
facility shall post adjacent to this telephone the names and telephone numbers of persons or places commonly required in emergencies.

(f) Smoking. If smoking is permitted, there shall be designated smoking areas.
(1) The designated areas shall not infringe on the rights of nonsmokers to reside in a smoke-free environment.
(2) The facility shall provide areas designated as smoking areas both inside and outside the building.

(g) Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.
(1) The facility shall regularly conduct and document an orientation program for all new employees.
(2) Orientation of direct care staff shall include review of the facility’s policies and procedures and evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.
(3) The facility shall provide regular, planned in-service education for all staff.
   (A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.
   (B) The facility shall provide direct care staff with in-service education in techniques that assist residents to function at their highest practicable physical, mental, and psychosocial level.
(3) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-services education each year.

(D) The facility shall maintain documentation of in-services education offerings. Documentation shall include a content outline, resume of the presenter, and record of staff in attendance.
(E) The facility shall record attendance at in-service education in the employee record of each staff member.

(h) Professional staff qualifications.
(1) The facility shall employ on a full-time, part-time, or consultant basis any professionals necessary to carry out the requirements of these regulations.
(2) The facility shall document evidence of licensure, certification, or registration of full-time, part-time, and consultant professional staff in employee records.
(3) The facility shall perform a health screening, including tuberculosis testing, on each employee before employment or not later than seven days after employment.

(i) Use of outside resources. Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for the following:
(1) Obtaining services that meet professional standards and principles that apply to professionals providing services; and
(2) assuring the timeliness of the services.

(j) Medical director.
(1) The facility shall designate a physician to serve as medical director.
(2) The medical director shall be responsible for the following:
   (A) Implementation of resident care policies reflecting accepted standards of practice;
(B) coordination of medical care in the facility; and
(C) provision of consultation to the facility staff on issues related to the medical care of residents.

(k) Laboratory services. The facility shall provide or obtain clinical laboratory services to meet the needs of the residents. The facility shall be responsible for the quality and timeliness of the services.

(1) If the facility provides its own clinical laboratory services, it shall meet all of the following requirements:
(A) The services shall meet applicable statutory and regulatory requirements for a clinical laboratory.
(B) The facility staff shall follow manufacturer’s instructions for performance of the test.
(C) The facility shall maintain a record of all controls performed and all results of tests performed on residents.
(D) The facility shall ensure that staff who perform laboratory tests do so in a competent and accurate manner.

(2) If the facility does not provide the laboratory services needed by its residents, the facility shall have written arrangements for obtaining these services from a laboratory as required in 42 CFR 483.75(j), as published on October 1, 1993, and hereby adopted by reference.

(3) All laboratory services shall be provided only on the order of a physician.
(4) The facility shall ensure that the physician ordering the laboratory service is notified promptly of the findings.
(5) The facility shall ensure that the signed and dated clinical reports of the laboratory findings are documented in each resident’s clinical record.
(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of laboratory services.

(l) Radiology and other diagnostic services. The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents.

(1) If the facility provides its own radiology and diagnostic services, the services shall meet applicable statutory and regulatory requirements for radiology and other diagnostic services.

(2) If the facility does not provide the radiology and diagnostic services needed by its resident, the facility shall have written arrangements for obtaining these services from a licensed provider or supplier.

(3) All radiology and diagnostic services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the radiology or diagnostic services is notified promptly of the findings.

(5) The facility shall document signed and dated clinical reports of the radiological or diagnostic findings in the resident’s clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of radiology or diagnostic services.

(m) Clinical records.

(1) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:
(A) Be complete;
(B) be accurately documented; and
(C) be systematically organized.
(2) Clinical records shall be retained according to the following schedule:

(A) At least five years following the discharge or death of a resident; or
(B) for a minor, five years after the resident reaches 18 years of age.

(3) Resident records shall be the property of the facility.

(4) the facility shall keep confidential all information in the resident’s records, regardless of the form or storage method of the records, except when release is required by any of the following:

(A) transfer to another health care institution;
(B) law;
(C) third party payment contract;
(D) the resident or legal representative; or
(E) in the case of a deceased resident, the executor of the resident’s estate, or the resident’s spouse, adult child, parent, or adult brother or sister.

(5) The facility shall safeguard clinical record information against loss, destruction, fire, theft, and unauthorized use.

(6) The clinical record shall contain the following:

(A) Sufficient information to identify the resident;
(B) a record of the resident’s assessments;
(C) admission information;
(D) the plan of care and services provided;
(E) a discharge summary or report from the attending physician and a transfer form after a resident is hospitalized or transferred from another health care institution;
(F) Physician’s orders;
(G) medical history;
(H) reports of treatments and services provided by facility staff and consultants;
(I) records of drugs, biologicals, and treatments administered; and
(J) documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action.

(7) the physician shall sign all documentation entered or directed to be entered in the clinical record by the physician.

(8) Documentation by direct care staff shall meet the following criteria:

(A) List drugs, biologicals, and treatments administered to each resident;
(B) be an accurate and functional representation of the actual experience of the resident in the facility;
(C) be written in chronological order and signed and dated by the staff person making the entry;
(D) include the resident’s response to changes in condition with follow-up documentation describing the resident’s response to the interventions provided;
(E) not include erasures or use of white-out. Each error shall be lined through and word “error” added. The staff person making the correction shall sign and date the error. AN entry shall not be recopied; and
(F) in the case of computerized resident records, include a system to ensure that when an error in documentation occurs, the original entry is maintained and the person making the correction enters the date and that person’s electronic signature in the record.

(9) Clinical record staff.

(A) The facility shall assign overall supervisory responsibility for maintaining the residents’ clinical records to a specific staff person.
(B) The facility shall maintain clinical records in a manner consistent with current standards of practice.
(C) If the clinical record supervisor is not a qualified medical record practitioner, the facility shall provide consultation through a written agreement with a qualified medical record practitioner.
(n) Disaster and emergency preparedness.
(1) the facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including, fire, flood, severe weather, tornado, explosion, natural gas leak, lack of electrical or water service, and missing residents.
(2) The plan shall be coordinated with area governmental agencies.
(3) The plan shall include written agreements with agencies that will provide needed services, including providing a fresh water supply, evacuation site, and transportation of resident to an evacuation site.
(4) the facility shall ensure disaster and emergency preparedness by the following means:
(A) Orienting new employees at the time of employment to the facility’s emergency management plan;
(B) periodically reviewing the plan with employees; and
(C) annually carrying out a tornado or disaster drill with staff and residents.
(5) The emergency management plan shall be available to staff, residents, and visitors.
(o) Transfer agreement.
The facility shall have in effect a written transfer agreement with one or more hospitals that reasonably assures both of the following:
(1) Residents will be transferred from the facility to the hospital, and timely admitted to the hospital, when transfer is medically appropriate, as determined by the attending physician.
(2) Medical and other information needed for care and treatment of residents will be exchanged between the institutions.
(p) Quality assessment and assurance.
(1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:
(A) the director of nursing services;
(B) a physician designated by the facility; and
(C) at least three other members of the facility’s staff.
(2) The quality assessment and assurance committee shall perform the following:
(A) Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and
(B) develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies

28-39-165. NURSE AIDE TRAINING PROGRAM.

(a) Requirements. Unlicensed employees who provide direct individual care to residents shall be required to perform the following:
(1) Successfully complete at least a 90-hour nurse aide course that has been approved by the secretary; and
(2) pass a state test as specified in K.A.R. 28-39-168.
(b) Certification. Each person shall be issued a nurse aide certificate by the secretary and shall be listed on a public registry upon completion of the requirements specified in subsection (a).

(c) Employment as a trainee.
(1) Each nurse aide trainee I in an approved 90-hour course shall be required to successfully complete part I of the course to demonstrate initial competency before being employed or used as a nurse aide trainee II. A nurse aide trainee II may provide direct care to residents only under the direct supervision of a registered nurse or licensed practical nurse.
(2) Each nurse aide trainee II in an approved 90-hour course shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in subsection (a), within four months from the beginning date of the initial course in order to continue employment providing direct care. Nurse aide trainee II status for employment shall be for one four-month period only.

(d) 90-hour nurse aide course.
(1) Each nurse aide course shall be prepared and administered in accordance with the guidelines established by the department in the “Kansas certified nurse aide curriculum guidelines (90 hours),” including the appendices, dated May 2008, and the “Kansas 90-hour certified nurse aide sponsor and instructor manual,” pages 1 through 20 and the appendices, dated May 2008, which are hereby adopted by reference.
(2) Each nurse aide course shall consist of a combination of didactic and clinical instruction. At least 50 percent of part I and part II of the course curriculum shall be provided as clinical instruction.
(3) Each nurse aide course shall be sponsored by one of the following:
   (A) An adult care home;
   (B) a long-term care unit of a hospital; or
   (C) a postsecondary school under the jurisdiction of the state board of regents.
(4) Clinical instruction shall be conducted in one or a combination of the following locations:
   (A) An adult care home;
   (B) a long-term care unit of a hospital; or
   (C) a simulated laboratory.
(5) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the medicare certification regulations listed in 42 C.F.R. 483.151(b)(2), as in effect on October 1, 2007.

(e) Correspondence courses. No correspondence course shall be approved as a nurse aide course.

(f) Other offerings. Distance-learning offerings and computer-based educational offerings shall meet the standards specified in subsection (d).

(a) Approval and qualifications.
(1) Each person who intends to be a course instructor shall submit a completed instructor approval application form to the department at least three weeks before offering an initial course and shall receive approval as an instructor before the first day of an initial course.
(2) Each course instructor shall be a registered nurse with a minimum of two years of licensed nursing experience, with at least 1,750 hours of experience in either or a combination of an adult care home or long-term care unit of a hospital. Each course instructor shall have completed a course in teaching adults, shall have completed a professional continuing education offering on supervision or adult education, or shall have experience in teaching adults or supervising nurse aides.

(b) Course instructor and course sponsor responsibilities.
(1) Each course instructor and course sponsor shall be responsible for ensuring that the following requirements are met:
(A) A completed course approval application form shall be submitted to the department at least three weeks before offering a course. Approval shall be obtained from the secretary at the beginning of each course whether the course is being offered initially or after a previous approval. Each change in course location, schedule, or instructor shall require approval by the secretary.
(B) All course objectives shall be accomplished.
(C) Only persons in health professions having the appropriate skills and knowledge shall be selected to conduct any part of the training. Each person shall have at least one year of experience in the subject area in which that person is providing training.
(D) Each person providing a part of the training shall do so only under the direct supervision of the course instructor.
(E) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be limited to clinical experiences that are for the purpose of learning nursing skills under the direct supervision of the course instructor.
(F) When providing clinical instruction, the course instructor shall perform no other duties but the direct supervision of the nurse aide trainees.
(G) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I task checklist before the checklist is signed and dated by the course instructor as evidence of successful completion of part I of the course.
(H) The course shall be prepared and administered in accordance with the guidelines in the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas 90-hour certified nurse aide sponsor and instructor manual,” as adopted in K.A.R. 28-39-165.
(2) Any course instructor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(a) Each person whom the secretary has determined to have successfully completed training or passed a test, or both, that is equivalent to the training or test required by this state may be employed without taking this state's test.
(b) Each person whom the secretary has determined not to be exempt from examination pursuant to subsection (a) but who meets any one of the following requirements shall be deemed to have met the requirements specified in K.A.R. 28-39-165 if that person passes a state test as specified in K.A.R. 28-39-168:
(1) Each person who has received nurse aide training in another state, is listed on another state’s registry as a nurse aide, and is eligible for employment as a nurse aide shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168. Each person whose
training in another state is endorsed and who has passed the state test shall be issued a nurse aide certificate.

(2) Each person who meets any of the following criteria shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168:

(A) Has completed training deemed equivalent to the requirements specified in K.A.R. 28-39-165;
(B) is currently licensed in Kansas or another state to practice as a registered nurse, licensed practical nurse, or licensed mental health technician, with a license that has not been suspended or revoked; or
(C) has a license to practice as a registered nurse, licensed practical nurse, or licensed mental health technician that has expired within the 24-month period before applying for equivalency, but has not been suspended or revoked.

(3) Each person who has received training from an accredited nursing or mental health technician training program within the 24-month period before applying for equivalency and whose training included a basic skills component comprised of personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics shall be deemed eligible to take the state test as specified in K.A.R. 28-39-168.

(c) Each person qualified under subsection (a) shall receive written notification from the department of exemption from the requirement to take this state’s test and the fact that the person is eligible for employment.

(d) Each person qualified under subsection (b) shall receive written approval from the department or its designated agent to take the state test. Upon receiving written approval from the department or its designated agent to take the state test, that person may be employed by an adult care home as a nurse aide trainee II to provide direct care under the direct supervision of a registered nurse or licensed practical nurse. Each person employed as a nurse aide trainee II shall be issued a nurse aide certificate by the secretary, upon completion of the requirements specified in K.A.R. 28-39-165, within one four-month period starting from the date of approval, in order to continue employment providing direct care.


(a) Composition of state nurse aide test. The state test shall be comprised of 100 multiple-choice questions. A score of 75 percent or higher shall constitute a passing score.

(b) State nurse aide test eligibility.

(1) Only persons who have successfully completed an approved 90-hour nurse aide course or completed education or training that has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 shall be allowed to take the state test.

(2) Each person shall have a maximum of three attempts within 12 months from the beginning date of the course to pass the state test after completing an approved 90-hour course as specified in K.A.R. 28-39-165.

(3) If the person does not pass the state test within 12 months after the starting date of taking an approved 90-hour course, the person shall retake the entire course.

(4) If a person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 28-39-167 and the person does not pass the state test on the first attempt, the person shall successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 28-39-165 to retake the state test. Each person whose training was
endorsed or deemed equivalent, who failed the state test, and who has successfully completed an approved nurse aide course shall be eligible to take the test three times within a year after the beginning date of the course.

(c) Application fee.
(1) Each nurse aide trainee shall pay a nonrefundable application fee of $20.00 before taking the state test. A nonrefundable application fee shall be required each time the test is scheduled to be taken. Each person who is scheduled to take the state test, but fails to take the state test, shall submit another fee before being scheduled for another opportunity to take the test.
(2) Each course instructor shall collect the application fee for each nurse aide candidate eligible to take the state test and shall submit the fees, class roster, application forms, and accommodation request forms to the department or its designated agent.

(d) Each person who is eligible to take the state test and who has submitted the application fee and application form shall be issued written approval, which shall be proof of eligibility to sit for the test.

(e) Test accommodation.
(1) Any reasonable test accommodation or auxiliary aid to address a disability may be requested by any person who is eligible to take the state test. Each request for reasonable accommodation or auxiliary aid shall be submitted each time a candidate is scheduled to take the test.
(2) Each person requesting a test accommodation shall submit an accommodation request form along with an application form to the instructor. The instructor shall forward these forms to the department or its designated agent at least three weeks before the desired test date. Each instructor shall verify the need for the accommodation by signing the accommodation request form.
(3) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.

(f) This regulation shall not apply to any person who meets the requirement of K.A.R. 28-39-167(a).