39-936. Statement on admission; qualified personnel; education and training of unlicensed personnel; examination and fees; state registry established; refresher course required; supplier of medication; limitations on involuntary transfer or discharge of resident; effect of reliance upon spiritual means or prayer for healing by resident.

...(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

28-39-156. PHARMACY SERVICES.

The nursing facility shall provide pharmaceutical services including policies and procedures that assure the accurate acquisition, receipt, and administration of all drugs and biologicals to meet the needs of each resident.

(a) Supervision by a licensed pharmacist.

(1) A pharmacist shall develop, coordinate, and supervise all pharmacy services.

(2) The pharmacist shall perform a monthly review of the methods, procedures, storage, administration, disposal, and record-keeping of drugs and biologicals.

(3) The pharmacist shall prepare a written report which includes recommendations for the administrator after each monthly review.

(b) Ordering and labeling.

(1) All drugs and biologicals shall be ordered pursuant to a written order issued by a licensed physician.

(2) The dispensing pharmacist shall label each prescription container in accordance with K.A.R. 68-7-14.

(3) Over-the-counter drugs. The facility shall ensure that any over-the-counter drug delivered to the facility is in the original, unbroken manufacturer’s package. The pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-
counter drugs are removed from the original manufacturer’s package other than for administration, the pharmacist shall label the drug as required for prescription drugs.

(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 the resident’s clinical record. The physician shall counter-sign all verbal orders within seven working days after receipt of the verbal order.

(c) Automatic stop orders. Drugs not specifically limited as to time or number of doses when ordered shall be controlled by automatic stop orders in accordance with written policies of the facility. A licensed nurse shall notify the physician of an automatic stop order before the administration of the last dose so that the physician may decide if additional drug is to be ordered.

(d) Storage.

(1) The licensed pharmacist shall ensure that all drugs and biologicals are stored according to state and federal laws.

(2) The nursing facility shall store all drugs and biologicals in a locked medication room or a locked medication cart located at the nurses’ station. Only the administrator and persons authorized to administer medications shall have keys to the medication room or the medication cart.

(3) The nursing facility shall store drugs and biologicals under sanitary conditions.

(4) The temperature of the medication room shall not exceed 85°F. The nursing facility shall store drugs and biologicals at the temperatures recommended by the manufacturer.

(e) The nursing facility shall develop and implement policies and procedures to assure that residents who self-administer drugs do so safely and accurately.

(f) Accountability and disposition. The nursing facility shall control and dispose of drugs and biologicals in a manner that ensures the safety of the resident.

(1) The nursing facility shall maintain records of receipt and disposition of all controlled substances in order that there can be an accurate reconciliation.

(2) The licensed pharmacist shall determine whether the records of drug and biological administration are in order and that an accurate account of all controlled substances was maintained and reconciled.

(3) The licensed pharmacist shall identify any deteriorated, outdated, or discontinued drugs and biologicals and any drugs or biologicals that are unused remaining from a discharged or deceased resident during the monthly pharmacy services review. The licensed pharmacist shall destroy, if appropriate, any deteriorated, outdated, unused, or discontinued drugs and biologicals at the nursing facility and in the presence of one witness who is a licensed nurse employed by the facility. A record shall be on file in the facility which contains the date, drug name, quantity of drugs and biologicals destroyed, and signatures of the pharmacist and licensed nurse.
(4) The nursing facility shall return to the dispensing pharmacy any drugs and biologicals which have been recalled and shall maintain documentation of this action in the facility.

(5) Staff members who have authority to administer drugs may provide drugs to residents or a responsible party during short-term absences from the facility.

(A) A staff member who has the authority to administer drugs may transfer drugs to a suitable container.

(B) The staff member preparing the drugs shall provide written instructions for the administration of the drugs to the resident or responsible party.

(6) The staff member preparing the drugs shall document the drugs provided and the instructions given in the resident's clinical record.

(7) The nursing facility may send drugs with a resident at the time of discharge, if so ordered by the physician.

(g) Drug regimen review.

(1) The licensed pharmacist shall review the drug regimen of each resident at least monthly.

(2) The licensed pharmacist shall document in the resident's clinical record that the drug regimen review has been performed.

(3) The licensed pharmacist shall report any irregularities to the attending physician, the director of nursing, and the medical director. The pharmacist or a licensed nurse shall act upon any responses by the physician to the report.

(4) The pharmacist shall document the drug regimen review in the resident's clinical record or on a drug regimen report form. A copy of the drug regimen review shall be available to the department.

(5) Any deviation between drugs ordered and drugs given shall be reported to the quality assessment and assurance committee.

(h) Emergency drug kits. A nursing facility may have an emergency drug kit available for use when needed.

(1) The medical director, director of nursing, and licensed pharmacist shall determine the contents of the emergency drug kit. The contents of the kit shall be periodically reviewed and drugs added and deleted as appropriate. Written documentation of these determinations shall be available in the facility.

(2) Policies and procedures shall be available for the use of the emergency drug kit.

(3) The facility shall have a system in place which ensures that drugs used from the emergency drug kit are replaced in a timely manner.

(4) The emergency drug kit shall be in compliance with K.A.R. 68-7-10 (d).
28-39-169A. MEDICATION AIDE.

(a) Each medication aide candidate shall be either a nurse aide who has been issued a certificate by the licensing agency or a qualified mental retardation professional as defined in 42 C.F.R. 483.430(a), revised October 1, 2001 and hereby adopted by reference, and shall meet the following requirements.

(1) Has completed a course in medication administration approved by the licensing agency; and

(2) has passed a state test as approved by the licensing agency.

(b) Each person who has met one of the following requirements shall be eligible to enroll in a medication aide course.

(1) Is a nurse aide who has a Kansas nurse aide certificate and who has been screened and tested for reading comprehension at an eighth-grade level; or

(2) is a qualified mental retardation professional employed by an intermediate care facility for the mentally retarded.

(c) A qualified mental retardation professional who is not a nurse aide, who has completed a course in medication administration as approved by the licensing agency, and who has passed the state test shall be allowed to administer medications only to residents in an intermediate care facility for the mentally retarded.

(d)(1) Each medication aide course shall meet the following requirements:

(A) Consist of a minimum of 75 total hours, which shall include a minimum of 25 hours of clinical instruction;

(B) be prepared and administered in accordance with the guidelines prescribed by the licensing agency and follow the content outlined in the "Kansas medication aide curriculum," dated April 1, 2003, and the "Kansas medication aide sponsor and instructor manual," pages 1 through 17, dated November 13, 2003, which are hereby adopted by reference and

(C) be sponsored by one of the following:

(i) A postsecondary school under the jurisdiction of the state board of regents;

(ii) a state-operated institution for the mentally retarded; or

(iii) a professional health care association approved by the licensing agency.

(2) No correspondence course shall be approved as a medication aide course.
(3) Distance-learning and computer-based educational offerings shall be required to meet the requirements specified in this subsection.

(e) Each medication aide course instructor shall meet the following requirements:

(1) Each person who intends to be a course instructor shall submit an instructor approval application form to the licensing agency at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.

(2) Each instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse. Any Kansas-licensed pharmacist actively working in the pharmacy field may conduct part of the training under the supervision of an approved instructor.

(f) Each course sponsor and course instructor shall be responsible for ensuring that the following requirements are met:

(1) Only persons who meet the qualifications specified in subsection (b) of this regulation shall be eligible to take the course.

(2) Each trainee shall be screened and tested for comprehension of the written English language at an eighth-grade reading level before enrolling in the course.

(3) The course shall be prepared and administered in accordance with the guidelines and follow the content in the “Kansas medication aide curriculum,” and the “Kansas medication aide sponsor and instructor manual,” as adopted in subsection (d) of this regulation.

(4) The clinical instruction and skills performance involving the administering of medications shall be under the direct supervision of the course instructor.

(5) During the clinical instruction and skills performance, the course instructor shall perform no other duties than the provision of direct supervision to the trainees.

(g) Any course instructor or course sponsor who does not fulfill the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

(h) Any person whose education or training has been deemed equivalent to the medication aide course by an approved sponsor as specified in paragraph (d)(1)(C) may apply to take the state test to become certified as a medication aide. Before requesting a determination of equivalency for a person’s education or training, that person shall be a Kansas-certified nurse aide and shall meet one of the following conditions:

(1) The person is currently credentialed to administer medications in another state. The licensing agency or the designated agent shall evaluate that state’s credentialed training for equivalency in content and skills level to the requirements for certification as a medication aide in Kansas.
(2) The person is currently enrolled in an accredited practical nursing or professional nursing program and has completed a course of study in pharmacology with a grade of C or better.

(3) The person is currently licensed in Kansas or another state, or has been licensed within 24 months from the date of application, as a licensed mental health technician, and there are no pending or current disciplinary actions against the individual’s license.

(4) The person has been licensed in Kansas or another state, within 24 months from the date of application, as a licensed practical nurse whose license is inactive or a registered nurse whose license is inactive, and there are no pending or current disciplinary actions against the individual’s license.

(Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1124; effective Dec. 29, 2003.)

28-39-169B. STATE MEDICATION AIDE TEST.

(a) The state test shall be administered by the licensing agency or the designated agent and in accordance with guidelines prescribed by the licensing agency as outlined in the “test administration manual for proctors of the medication aide tests,” dated October 17, 2002, which is hereby adopted by reference.

(1) Each person who has completed the medication aide course as specified in K.A.R. 28-39-169a shall have a maximum of two attempts to pass the state test within 12 months after the first day of the course. If the person does not pass the test within this 12-month period, the course shall be retaken. Each time the person successfully completes the course, the personal shall have two attempts to pass the state test within 12 months after the first day of the course. The number of times a person may retake the course shall be unlimited.

(2) Each person who is a Kansas-certified nurse aide and whose training has been deemed equivalent to the Kansas medication aide course shall have a maximum of one attempt to pass the test within 12 months after the date the equivalency is approved. If the person does not pass the test within this 12-month period, the person shall be required to take the medication aide course.

(3) There shall be three different forms of the state test. The different forms of the test shall be used on an alternating basis. Each of the three forms shall be comprised of 85 multiple-choice questions. The passing scores for the three forms of the test shall be as follows:

(A) A score of 57 or higher shall constitute a passing score for form 1 of the state test.

(B) A score of 61 or higher shall constitute a passing score for form 2 of the state test.

(C) A score of 63 or higher shall constitute a passing score for form 3 of the state test.

(4) Only persons who have met the requirements specified in K.A.R. 28-39-169a(a)(1) and (h) shall be eligible to take the state test.
(5) 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 accommodation. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.

(b) Each person shall be issued a medication aide certificate by the licensing agency and shall be listed on a public nurse aide registry upon successful completion of the requirements specified in K.A.R. 28-39-169a(a) and (h).

(c) The course instructor shall submit to the licensing agency a course roster of names, an application form, and a nonrefundable application fee of $20.00 for each medication aide who has completed the course and passed the state test.

(d) A replacement medication aide certificate for a medication aide whose certification is current shall be issued by the licensing agency upon the receipt and processing of a certificate replacement form and a nonrefundable fee of $20.00.

(Authorized by K.S.A. 65-1,121 and K.S.A. 75-5625; implementing K.S.A. 65-1, 121 and 65-1124; effective Dec. 29, 2003.)

28-39-169C. MEDICATION AIDE CONTINUING EDUCATION.

(a) Each person who has a certificate of completion for a medication aide training course as specified in K.A.R. 28-39-169a and who wishes to maintain the certificate shall complete, every two years, a program of 10 hours of continuing education approved by the licensing agency.

(b) The continuing education requirement shall include one or more of the following topics:

(1) Classes of drugs and new drugs;

(2) new uses of drugs;

(3) methods of administering drugs;

(4) alternative treatments, including herbal drugs and their potential interaction with traditional drugs;

(5) safety in the administration of drugs; or

(6) documentation.

(c) Each program of continuing education shall be sponsored by one of the following:

(1) A postsecondary school under the jurisdiction of the state board of regents;

(2) an adult care home;
(3) a long-term care unit of a hospital;

(4) a state-operated institution for the mentally retarded; or

(5) a professional health care association approved by the licensing agency.

(d) Each course instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse or a licensed practical nurse. Any Kansas-licensed pharmacist actively working in the pharmacy field may be selected to conduct part of the training under the supervision of the instructor.

(e) Each person who intends to be a course instructor shall submit an instructor approval application form to the licensing agency at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.

(f) Each sponsor and course instructor of continuing education shall be responsible for ensuring that the following requirements are met:

   (1) The course shall be prepared and administered as prescribed by regulation and the “Kansas medication aide sponsor and instructor manual,” as adopted in K.A.R. 28-39-169a.

   (2) A course approval application form shall be submitted to the licensing agency at least three weeks before offering a course, and course approval shall be required to be received before beginning the course.

   (3) A course roster of names, a renewal application form, and a nonrefundable renewal application fee of $20.00 for each medication aide who has completed the course shall be submitted to the licensing agency.

   (4) If clinical instruction in administering medications is included in the program, each student administering medications shall be under the direct supervision of the registered nurse instructor.

   (g) Any sponsor or instructor who does not fulfill the requirements specified in subsections (d), (e), and (f) of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.

   (h) College credits or vocational training may be approved by the licensing agency as substantially equivalent to medication aide continuing education. The instructor or nursing program coordinator shall submit a department-approved form attesting that the course content is substantially equivalent to the topics listed in paragraphs (b)(1) through (6) of this regulation.

   (i) Each certified medication aide shall be responsible for notifying the licensing agency of any change in the aide’s address or name.
(j) No correspondence course shall be approved for a medication aide continuing
education course.

(k) Distance-learning educational offerings and computer-based educational
offerings shall meet the requirements specified in subsections (b), (c), (d), (e), (f),
and (g) of this regulation.

(l) Each medication aide certificate shall be renewed upon the department's receipt
from the course instructor of the following:

(1) Verification of the applicant's completion of 10 hours of approved continuing
education;

(2) a renewal application form; and

(3) a nonrefundable renewal application fee of $20.00.

(m) Each medication aide certificate or renewed certificate shall be valid for two
years from the date of issue.

(n) Each applicant for renewal of certification shall have completed the required
number of hours of documented and approved continuing education during each
certification period immediately proceeding renewal of the certificate. Approved
continuing education hours completed in excess of the requirement shall not be
carried over to a subsequent renewal period.

(o) Each medication aide certificate that has been expired for three or fewer years
shall be reinstated upon the department's receipt of the following:

(1) Verification of the applicant's completion of 10 hours of approved continuing
education. This continuing education shall have been completed within the three‐
year period following expiration of the certification;

(2) a renewal application form; and

(3) a nonrefundable renewal application fee of $20.00.

(p) Each lapsed certificate renewed within the three-year period specified in
subsection

(o) shall be valid for two years from the date of issuance.

(q) Each person whose medication aide certification has been expired for more than
three years shall be required to retake the 75-hour medication aide course.

(Authorized by K.S.A. 65-1,121 and K.S.A. 75-5625; implementing K.S.A. 65-1,121 and 65-
1124; effective Dec. 29, 2003.)