



Sunflower Connection

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WORKFORCE ENHANCEMENT GRANTS

KDOA is again offering the Workforce Enhancement Grant (WEG). Under the grant educational programs are provided for all unlicensed staff and limited licensed staff in nursing homes and long term care units of hospitals. The objective of the grant program is to improve the quality of life and quality of care for residents in these facilities.

Proposals for educational programs are being accepted through November 10, 2012.

The Request for Proposal applications are available at:

<http://www.agingkansas.org/LongTermCare/WorkforceEnhancementGrant.html>

PEAK AWARD WINNERS Seven Nursing Homes Recognized for Culture Change

Topeka—The Kansas Department on Aging recognized seven nursing homes for their efforts to transition from the traditional institutional models of care to progressive home-environment models for their residents. The award program, Promoting Excellent Alternatives in Kansas (PEAK) promotes innovations that improve the quality of life in Kansas nursing homes. These innovations of “*culture change*” engage the residents and their families in the decision making process when transitioning into a nursing home environment. Each nursing home community was recognized by the Secretary on Aging, Shawn Sullivan, during an individual site visit.

The 2011 PEAK winners are:

- Arkansas City Presbyterian Manor, Arkansas City
- Medicalodges, Gardner,
- Schowalter Villa, Hesston
- Pleasant View Home, Inman
- Asbury Park, Newton
- Newton Presbyterian Manor, Newton
- Brookside Retirement Community, Overbrook

“Person-centered care is an important step forward in providing residents an opportunity to have input in their care and lives,” states Secretary Sullivan. “These communities embrace practices that enable



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homelike setting that fosters freedom, choice and a strong social network. Culture change restores control to elders and those who work closest with them. I am pleased to acknowledge these winners and their efforts to enhance the quality of life of our states elders. KDOA began recognizing adult care homes through the PEAK Awards in 2002.

REPORTING REASONABLE SUSPICION OF A CRIME IN LONG-TERM CARE FACILITIES

Section 1150B of the Social Security Act, as established by section 06703(b) (3) of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) requires specific individuals to report any reasonable suspicion of crimes to law enforcement and the State survey agency. This requirement applies to Medicare and Medicaid participating Nursing facilities (NF), Skilled nursing facilities (SNF), Hospices that provide services LTC facilities, and Intermediate Care Facilities for the Mentally Retarded (ICF-MR). S & C 11-30 Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC) provides detailed information on the requirements. http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11_30.pdf

S & C 11-30 does not define “*reasonable suspicion of a crime*”. The memorandum refers covered individuals to the definition in local law. The key to understanding the reporting requirement is to read the phrase in its entirety using common sense as a guide rather than attempting to focus on a technical definition of crime.

The United States Supreme Court has referenced a common sense definition of reasonable suspicion of a crime in a number of illustrative cases. A couple of quotes follow:

“Articulating precisely what “reasonable suspicion” and “probable cause” mean is not possible. They are commonsense, nontechnical conceptions that deal with “the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.” Ornelas v. U.S.,

517 U.S. 690, 695-697, 116 S.Ct. 1657, 1661 – 1662 (1996).

“The process does not deal with hard certainties, but with probabilities. Long before the law of probabilities was articulated as such, practical people formulated certain common sense conclusions about human behavior; jurors as factfinders are permitted to do the same and so by law enforcement officers.” U.S. v. Cortez, 449 U.S. 411, 417-422, 101 S.Ct. 690, 695 – 697(1981).

It is far simpler for covered individuals to focus on common sense as the definition of crimes varies greatly from state to state. One Kansas definition of crime is found at K.S.A. 21-3105 which states in part: *A crime is an act or omission defined by law and for which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized. Crimes are classified as felonies, misdemeanors, traffic infractions and cigarette or tobacco infractions...* Law enforcement entities and county, district or municipal attorney prosecutors in different counties or cities may view the same set of facts as supporting charges for different crimes. A determination of exactly what action constitutes a crime or crimes should be left to local law enforcement.

In summary, a covered individual who suspects wrongdoing has occurred based on anything more than a hunch should apply common sense. If the covered individual believes that a reasonable person who obtained the same information would also be suspicious, the covered individual must timely report as detailed in S&C 11-30.

The Long Term Care Facility responsibilities include but are not limited to:

- Determining applicability-facilities must determine annually whether they received at least \$10,000 in Federal funds under the ACT during the preceding fiscal year;
- Notifying Covered Individuals annually of their reporting responsibilities. Covered Individuals is defined as anyone who is an

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- owner, operator, employee, manager, agent or contractor of the LTC facility.
- Posting a notice for employees in a conspicuous and appropriate location specifying the employees' rights relative to the requirements.
 - Coordinating with law enforcement to determine what actions are considered crimes in their political subdivision.
 - Reviewing adherence to current CMS and state policies and procedure for reporting incidents and complaints and developing policies and procedures that ensure compliance with section 1150B.
 - Educating covered individuals to the required timeframes for reporting.
 - Ensuring that covered individuals do not experience retaliation as a result of reporting.
 - Reporting to Law enforcement and the State Agency within the required timeframes.

- Persons involved (resident victim, alleged perpetrator, witnesses, covered individuals with reason to suspect a crime has occurred)
- Date and time of the incident
- Description of the incident
- Injury, if any, to the resident
- Date and time report made to law enforcement
- Law Enforcement agency and case number
Complaint Hotline Staff will follow up with facilities during the next working day to complete the report.

SURVEY AND CERTIFICATION LETTERS

SUBJECT: Clarification of Self-Administration of Medications at 42 CFR §483.460(k)(4) Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

Ref: S&C: 11-14-ICF/MR

DATE: March 18, 2011

The State Survey Agency's responsibilities include:

- Recording information relative to the event, prioritizing the incident based on the alleged events and as appropriate, and investigating in accordance with existing CMS policies and procedures.
- Acting on allegations of a covered individual's failure to report.
- Acting on allegations of a facility's failure to comply with Section 1150B.
- Providing a mechanism for covered reporters to make a report to the State Agency 7 days a week, 24 hours a day.

Memorandum Summary

- It has been the expectation of ICF/MR surveyors pursuant to previous Centers for Medicare & Medicaid Services interpretations of §483.460(k)(4), that every client residing in an ICF/MR must participate at some level in a formal, self-administration program for medications.
- **Regulatory Requirement for Self Administration Programs:** There is no regulation that requires every client to have a formal, self-administration program for medications. The appropriateness of such a program for a client is determined by the interdisciplinary team in consideration of the comprehensive functional assessment data.
- **Regulatory Requirement for Those Clients Not in Self-Administration Programs:** The concept of continuous active treatment at §483.440(d)(1) requires that the facility utilize the time during medication administration by staff as a teaching opportunity for clients who have formal training programs for the

Facilities can make reports of events that constitute Reasonable Suspicion to the State Agency during the regular hotline hours of 8:00 am to 5:00 PM, Monday through Friday via phone, E-mail or FAX. Events that occur after hours that constitute reasonable suspicion of a crime can be made at any time by sending an e-mail to: suspectedcrime@aging.ks.gov.

The following information may be included in the e-mail:

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development of skills that are transferrable to the drug administration process.

SUBJECT: Clarification of Reporting Mistreatment, Neglect and Abuse and Injuries of Unknown Source at 42 CFR § 483.420(d)(2) – Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

Ref: S&C: 11-15-ICF/MR

DATE: March 18, 2011

Memorandum Summary

- **Reporting Requirements:** The regulations for ICFs/MR at 42 CFR § 483.420(d)(2) require that the facility ensure that all allegations of mistreatment, neglect or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures.
- **Clarification of Definitions:** This memorandum clarifies the definitions for the terms “injury of unknown source,” and “immediately”. It also clarifies that the Centers for Medicare & Medicaid Services (CMS) expects that all allegations will be reported to the administrator of the facility unless he/she is suspected to be a party to, or otherwise involved in, the occurrence.

SUBJECT: Changes to the Minimum Data Set Version 3.0 (MDS 3.0) Assessment Modification & Formatting Policies & Nursing Home Compare as a result of MDS 3.0 Implementation

Ref: S&C: 11-31-NH

DATE: July 1, 2011

Memorandum Summary

- **Changes to MDS 3.0 Assessment Modification Policy:** Effective April 1, 2011, nursing home and swing bed providers may not modify existing MDS 3.0 records to correct an event date or a reason for assessment.
- **Changes to MDS 3.0 Assessment Formatting Policy:** Effective February 1,

2011, Resident Assessment Validation and Entry system (jRAVEN) version 1.0.5 provides for more signature lines in Section Z of the MDS. In addition, the Centers for Medicare & Medicaid Services made a decision that the print format provided by jRAVEN for a MDS 3.0 assessment is acceptable for review in the nursing home survey process. (Facilities using software other than jRAVEN will want to read this information also.)

- **MDS 3.0 Impacts on Nursing Home Compare:** On April 23, 2011, CMS “froze” Quality Measure data and the Quality Measure (QM) ratings currently on the Nursing Home Compare website for a period of six months as a result of MDS 3.0-derived Quality Measure data not yet being available for display.

SUBJECT: The Use of Video Cameras in Common Areas in Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

Ref: S&C: 11-34-ICF/MR

DATE: July 29, 2011

Memorandum Summary

Use of video cameras in ICFs/MR: To ensure that client’s rights are protected, the use of video cameras in the ICF/MR must be reviewed, approved and monitored by the Specially Constituted Committee (SCC) of the facility as constituted per 42 CFR 483.440(f)(3)(i-iii).

- **Informed Consent:** If approved by the SCC, written informed consent must be obtained from every affected client or designated guardian prior to the implementation of video cameras. Video cameras may be used in common areas within the ICF/MR facility.
- **Prohibitions:** Video cameras may never be used for any reason in areas where there are the highest expectations of privacy such as bathrooms, areas for private visitation or areas for private phone calls. Video cameras may not be used as a substitute for or supplement to adequate staffing or supervision protocols.

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The cost of the video cameras must be incurred by the facility and not the clients.

SUBJECT: Mandate of Section 6121 of the Affordable Care Act for Nurse Aide Training in Nursing Homes

Ref: S&C: 11-35-NH
DATE: August 12, 2011

Memorandum Summary

Section 6121 of the Affordable Care Act mandates enhanced nurse aide training –

The law mandates the inclusion of training for nurse aides working in nursing homes on abuse prevention and care of persons with dementia;

- **Centers for Medicare & Medicaid Services Actions** - Interpretive Guidelines have been revised for the Inservice Training Tag (F497). CMS is developing a regulation to mandate these topics and training materials that nursing homes may use to train staff.
- **Training Products** provided in attachment of S&C letter

SUBJECT: Issuance of Revisions to Interpretive Guidance at F tag 322, as Part of Appendix PP, State Operations Manual (SOM)

Ref: S&C: 11-37-NH
DATE: September 7, 2011

Memorandum Summary

- **Revision to F tag 322:** Revisions have been made to Guidance to Surveyors at F tag 322 in Appendix PP of SOM concerning Feeding Tubes.
- **Collapsed F tag 321:** F tag 321 is deleted and the regulatory language and guidance moved to F tag 322.

SUBJECT: Compliance with Food Procurement Requirements for Nursing Homes with Gardens Producing Foods for Residents

Ref: S&C: 11-38-NH
DATE: September 7, 2011

Memorandum Summary

- **Policies and Procedures:** Facilities with nursing home gardens are compliant with the food procurement requirements at 42 CFR 483.35(i), Sanitary Conditions, Tag F371 as long as the facilities have and follow policies and procedures for maintaining the gardens.
- **Outbreaks of Food Borne Illness from any Cause:** The facility should immediately report any outbreaks of food borne illnesses, from any cause, to their local health department. Surveyors should request the policy and procedures for maintaining nursing home gardens if there is an outbreak of food-borne illness and the facility's primary food service source has been ruled out as the cause of the outbreak.

QUALITY OF CARE

C.F.R. 483.25 Quality of Care F309 states, **"Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care."** The following examples are findings of non-compliance with this regulation found by surveyors:

- Residents with ESRD receiving hemodialysis.
- Residents were served foods and fluids not allowed on their restricted diet and fluid intake. The residents' status was not monitored after their dialysis runs. Their dialysis access and its patency were not monitored. Nursing homes lacked policies for care of residents receiving hemodialysis. Staff lacked knowledge of the special care needs of these residents.
- Other residents on fluid restrictions also received greater amounts of fluid than ordered by physician. Nursing homes did not monitor in their intake.
- Residents with diabetes. Accu checks were not performed as ordered. Physicians were not notified when the residents' blood sugars were outside the ordered parameters.

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- Residents who experienced head strikes when they fell did not have follow-up assessment or neuro checks.
- Resident at risk for impaired skin did not have skin checks.
- The impaired skin of residents located on the face, perineal areas, toes, etc. was not assessed, monitored, or treated to prevent further skin problems or complications. Wounds were not measured or described. Nurses did not follow-up bruises and skin issues identified on bath report. Dressings ineffective in containing infected wound drainage were not reported to the physician. Nursing homes lacked policies and protocols for monitoring skin conditions and staff lacked knowledge on monitoring skin conditions.
- Skin tears of residents were not assessed or treated.
- Residents with surgical wound. Care was not planned or provided to promote healing of the surgical wound. The wound was not assessed on a regular basis. Residents were not positioned off their surgical wound and wound dressings were soiled with urine.
- The legs and feet of residents with circulatory problems of lower extremities were not monitored.
- Residents dependent on staff for repositioning were not repositioned for greater than 2 hours when in in their bed or wheelchair
- Residents with multiple seizure episodes did not receive post seizure assessments, vital signs, or neuro checks.
- Abnormal lab results were not followed up on residents who experienced UTIs and frequent falls. Low oxygen levels in residents with respiratory diseases were not reported to their physicians. Residents with anemia who received transfusion did not receive CBC as ordered.
- Residents experiencing severe pain and limited ROM after falls did not receive immediate follow up care by physician.
- Residents requiring assistance of staff with application of shoulder immobilizers wore them inconsistently and the placement was incorrect.
- Residents receiving hospice services. A lack of coordination of care between facility and hospice. Staff did not know when to report changes to hospice, services and supplies provided by hospice, or how to operate equipment provided by hospice.
- Residents who had repeated eye infections did not have a plan for reducing their touching of their eyes with soiled hands.
- Residents with pain. Lack of assessment: failure to treat both verbal and non-verbal complaints of pain; lack of treatment of breakthrough pain. CMAs did not report pain to nurses. No pharmacological or non-pharmacological interventions. Medications not received from pharmacy.
- Residents did not receive bowel monitoring and in turn timely follow-up treatment. Residents with history of constipation and fecal impactions did not receive adequate fluids, stool softeners, and other ordered treatments. Some experienced severe pain when impactions were removed and others experienced bowel obstructions resulting in death.

VISITORS IN THE NURSING HOME

Residents move into facilities bringing their lives with them, including possessions, pets, neighbors, relatives, friends, etc. Most situations work out well and may even contribute to the quality of life of others in the building. For instance, when a spouse brings a beloved pet to visit often the entire hall of residents takes a turn at saying "hello. If it's grandchildren that arrive, they are often greeted by a multitude of smiling "adopted" grandmother's and grandfathers.

Occasions do occur when conduct from a visitor creates a situation the staff isn't quite sure how to approach. Some examples that have been experienced include:

- * bringing in a pet that frightens other residents;
- * allowing children to run up and down halls or wander into other rooms uninvited;

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- * assisting a resident with cares the staff are responsible to provide, or
- * interfering with staff care of the resident;
- * behaving in a disrespectful manner to the resident, other residents or staff;
- * eating the resident's food; or
- * extending the stay beyond what the resident can enjoy or tolerate well.

Guidance is available to facilities in dealing with such situations.

At **CFR483.10(j)(1)** facilities are **told the resident has the right and the facility must provide immediate access to any resident...** and then provides a listing of professional and official persons who must be available to any resident as needed. As this listing ends the statement is made, **(vii) subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and (viii) subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident...**

Interpretive guidance continues to explain that while immediate family or other relatives are not subject to visiting hour limitations or other restrictions not imposed by the resident (and that facilities must provide 24-hour access to other non-relative visitors who are visiting with the consent of the resident) these visitors are subject to **"reasonable restrictions"** according to the regulatory language. These **reasonable restrictions** would be those imposed by a facility that protect the security of all the facility's residents, such as keeping the facility locked after a particular time of night, supervised access of a visitor found to have been abusing, exploiting, or coercing a resident, or denying access to an inebriated visitor or one behaving in a disruptive way. This may also cover situations as timing of a visit which disturbs the sleep of a roommate or demanding privacy with the resident without making arrangements with staff such as insisting use of the chapel in conflict with a scheduled service or wishing to have a private family meal without giving the facility advanced notice and time to set up.

Facilities should develop policies covering the conduct of visitors in their building that support enhanced quality of life for residents living there. These can to be communicated to residents and their family/friends upon admission and knowledgeable staff should be available thereafter to visit with residents and their visitors to work out necessary arrangements as needed. By working together in a cooperative manner both the visitors and staff will be able to turn most situations into a quality of life enhancing experience for the residents both care for.

**WAGE AND HOUR DIVISION
FIELD ASSISTANCE BULLETIN
NO. 2011-3
POWERED RESIDENT LIFT RESTRICTION**

July 13, 2011 the Department of Labor Wage and Hour Division (WHD) released Bulletin No. 2011-3: *Assisting in the Operation of Power Driven Patient/Resident Hoists/Lifts Under the Child Labor Provisions of the Fair Labor Standards Act.* Information in the bulletin states that nurse aides under 18-years or age, may not operate any floor-based vertical powered patient/resident lift devices, ceiling-mounted vertical powered patient/resident lift devices, or powered sit-to-stand patient/resident lift device by them self. The information further states that they may assist a trained adult employee who is over the age of 18 years in the operation of floor-based vertical powered patient/resident lift devices, ceiling-mounted vertical powered patient/resident lift devices, or powered sit-to-stand patient/resident lift devices when certain specific requirements have been met. The bulletin in its entirety and an easily understood guide that must be given to staff under age 18 is available at: http://www.dol.gov/whd/FieldBulletins/fab2011_3.htm

KDHE Health Occupations and Credentialing, the division that has oversight for the CNA training, continues to require training of CNA candidates in the use of lifts during their State CNA course, but since the initial July 19, 2010 ruling has not allowed those candidates under age 18 to demonstrate

competency in the use of the power-driven resident lift equipment. (See additional information at HOC Corner)

Federal regulation, F492 C.F.R.75(b) Compliance With Federal, State, and Local Laws and Professional Standards and State Statute, K.S.A. 39-938 Compliance with requirements and rules and regulations; exceptions; respectively apply to nursing homes and adult care homes. All nursing homes and other adult care homes must operate and provide services in compliance with the Department of Labor Wage and Hour ruling limiting the involvement of nurse aides under age 18 in the use of power-driven lifts.

Federal regulation, F498 C.F.R. 483.75(f) Proficiency of Nurse Aides and states, "The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care." The Kansas Administrative Regulations (K.A.R.) for each type of adult care home also address the requirement for qualified staff in the provision of care. All homes must assume responsibility for ensuring all their nurse aides demonstrate competency in skills and techniques in the use of power-driven resident lift equipment if used in the provision of care to the residents. For an employee under age 18 completing their nurse aide training after July 2010, the facility must ensure they demonstrate competency in skills and techniques in assisting with the use of power-driven resident lift equipment if used in the provision of care to the residents. Once the employee is 18 years of age, the facility must ensure they demonstrate competency in skills and techniques in operating power-driven resident lift equipment if used. Adult care home should place such competency demonstration documentation in the staff's personnel file.

For more information about the safe operation of patient/resident lifts and the federal child labor provisions administered by the WHD, the website is <http://www.wagehour.dol.gov> . The toll-free information and helpline is available 8 a.m. to 5 p.m., 1-866-4US-WAGE (1-866-487-9243)

HAIR MATTERS IN FOOD SAFETY

Guidance on Hair Restraints

Hair is one of the first things people notice about us. We have proof about its importance and what it says about who we are from sociological studies. The importance of hair changes in foodservice. People are sensitive about finding hair in their food and hair can be both a direct and indirect vehicle of contamination.¹

The FDA Food Code 2009 requires food employees to wear hair restraints that keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.²

The purpose of hair restraints is to keep dislodged hair from ending up in food and deter employees from touching their hair.¹ Examples of hair restraints include: hats, hair coverings or nets, beard restraints, and clothing that covers body hair.^{2,3}

With regard to beard restraints, there is no length limit or shortness limit in the regulatory text. Food employees who choose to sport a beard or mustache – even if kept closely trimmed – must wear beard restraints.

Food employees must also wear clothing which covers body hair and keep their hands and exposed portions of their arms clean -- cleaning procedures are defined in Section 2-301 of the Code.

Whatever type of hair restraints your food employees use, it must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.²

Certain food employees are not required to wear hair restraints. The Food Code regulatory text includes an exception for food employees who present minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.² Examples are (1) counter staff who only serve beverages and wrapped or packaged foods, (2) hostesses, and (3)

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wait staff.² This may include food employees who are assigned the task of placing the resident's food tray on the dining table.

Organizational policies on the use of hair restraints should be in-place and reviewed with food employees during new employee orientation and in-service training as appropriate.

REGULATORY TEXT: FDA Food Code 2009. Annex 3 – Public Health Reasons / Administrative Guidelines – Chapter 2, Management and Personnel. Subpart 2-402.11 Hair Restraint.

FDA Food Code 2009. Chapter 2 – Management and Personnel. Part 2-4 Hygienic Practices. Subpart 2-402.11 Hair Restraints

State Operations Manual (SOM).
Appendix PP. Guidance to Surveyors for Long Term Care Facilities. 42 CRF §483.35(i) Sanitary Conditions under Tag F371. Employee Health. Hair Restraints/Jewelry/Nail Polish
The website for accessing the FDA Food Code 2009 on-line is:
<http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2001>

ASK AL

QUESTION: What regulations in addition to the State regulations (K.A.R.s) must the owner or operator ensure an Adult Care Home is in compliance when constructing a new home, or changing the licensure category, or increasing the resident capacity?

ANSWER: Applicants for adult care home licenses are reminded that K.S.A 39-938 and the Physical Environment or Construction K.A.R.s* for each adult care home require the home to be in compliance with rules and regulations of the secretary of aging and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The home must also be in with compliance with

regulations and ordinances such as local building codes and zoning requirements. Owners and operators may wish to seek counsel from their attorney, architect, contractor, or other appropriate professional.

*Nursing Facility Regulations: K.A.R. 26-40-302 Nursing facility physical environment; applicants for initial licensure and new construction (b) and K.A.R. 26-40-303 Nursing facility physical environment; existing nursing facilities (b); Assisted Living and Residential Health Facilities Regulations: K.A.R. 28-38-254 Construction; general requirements (b); Home Plus Facilities Regulations: KAR 28-39-437 Construction; general requirements (b); Adult Day Care Facilities Regulations: KAR 28-39-289 Construction; general requirements (b).

QUESTION: Must the architect submit to KDOA a completed “final-punch list” before a licensure inspection is conducted?

ANSWER: Yes. K.A.R. 26-39-101 Licensure of adult care homes, tells when a new adult care home is constructed or an existing unlicensed building is converted to an adult care home or the altering or remodeling of an existing adult care home involves structural elements the applicant needs to submit to the department a 30-day notice of the date on which the architect estimates all construction will be completed. To promote an efficient licensure inspection and process, KDOA requires the applicant, architect, contractor or owner to complete and resolve all items found during their own internal final inspection (punch-list). The completed punch list must be sent to KDOA before staff conduct the licensure inspection.

QUESTION: For new construction what is the required number of private rooms in a resident unit in a Nursing Facility?

ANSWER: K.A.R. 26-40-302 (d) Resident Unit states, “A ‘resident unit’ shall mean a group of resident rooms, care support areas, and common rooms and areas as identified in this subsection and subsections (e) and (f). Each resident unit shall have a resident capacity of no more than 30 residents and shall be located within a single building. If the nursing facility is multilevel, each resident unit shall

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

MDS CORNER

MDS 3.0 Manual Update October 1, 2011

You must have the correct version to ensure accuracy in coding for care planning and reimbursement.

http://www.cms.gov/NursingHomeQualityInits/45_NHQIMDS30TrainingMaterials.asp#TopOfPage

KDOA MDS Website

http://www.aging.ks.gov/AdultCareHomes/Education/Info/Education_index.html

RAI Upcoming Education

November, 2011, Topeka

Check site for details

MDS 3.0 Resources

Links to the updated October 2011 MDS 3.0 Manual, MDS 3.0 (V.107) and RUG-IV Updates and Training for FY 2012 - Effective October 1, 2011; a Transition Document for Implementation of FY 2012 SNF PPS Policies (a must read to ensure correct reimbursement); and two set of CMS Released Frequently Asked Questions.

MDS 3.0 LISTSERV

All MDS Coordinators are encouraged to sign up on the Listserv to obtain MDS information the State RAI Coordinator receives from CMS.

MDS Section Q information

Section Q has generated confusion on the part of providers since its inception with MDS 3.0. One concept that appears to create uncertainty for nursing facility discharge planners is whether everyone who is discharging should be referred to the Local Contact Agency (LCA).

This statement is not correct. Every resident does not need to be referred to the LCA.

The process and skip patterns which begin at Q0400 will lead the person working with the resident in the completion of the assessment to one of several different paths: 1) the resident is referred to the LCA, 2) the resident has determined it is not feasible to return to the community, or 3) the resident believes it is possible to return to the community but is not yet ready to have the referral made to the LCA.

Some facility staff have expressed a reservation about not referring (Q0600 0 or 1) if an active discharge plan is noted as being in place (Q0400 A-1). They fear they will be cited at survey time for not referring the resident. If the actions taken are supported by documentation and express the decision of the resident/legally responsible party this is not to a cause for concern.

Every resident has the potential to discharge to the community (even those whom we might believe would not ever be able to do so.) Therefore, every resident has the right to access to information about the potential for discharge to the community. This does not mean that every resident will be able to transfer to a community placement, nor does it mean that every resident must be referred to the LCA.

RESOURCES

References to non-KDOA sources or sites are provided as a service and do not constitute or imply endorsement of these organizations or their programs by KDOA. KDOA is not responsible for the content of pages found at these sites. The uniform resource locators for internet addresses were current as of the date of this publication.

Pressure Ulcers

<http://www.npuap.org/resources.htm>

Oral Health Care and Assessment

<http://www.rgpc.ca/best/subjects/oral.cfm>

This website has resources useful for in-services relevant to other physical and mental health conditions in the geriatric population.

Health Fact Sheets in Spanish

New AHRQ Spanish-Language Guides on Heart Disease and Other Illnesses

A free, illustrated easy-to-read pamphlet that compares drugs for preventing heart attacks, heart failure or strokes in people with stable coronary heart disease is one of six new Spanish-language publications from HHS' Agency for Healthcare Research and Quality (AHRQ) that help patients compare treatments for common illnesses. These new Spanish-language guides are part of AHRQ's ongoing effort to give Hispanics the knowledge they need to take a greater role in their health care.

The guides are available online at <http://effectivehealthcare.ahrq.gov/index.cfm/informacion-en-espanol/>

To order printed copies, e-mail the AHRQ Publications Clearinghouse at: ahrqpubs@ahrq.gov or call (800) 358-9295.

For other AHRQ Spanish-language consumer tools, go to: <http://www.ahrq.gov/consumer/espanoix.htm>

To Err is Human

<http://www.nap.edu/openbook.php?isbn=0309068371>

Report by Quality of Health Care in America project initiated by the Institute of Medicine. It presents strategies for improving quality in health care. Adult care home leadership and Quality Assessment and Assurance Committee members are encouraged to read the report.

HOC CORNER

KANSAS CERTIFIED MEDICATION AIDE IMPLEMENTATION

Health Occupations Credentialing is pleased to announce that the revised Kansas Certified Medication Aide Curriculum, test and Sponsor/Instructor Manual have been implemented in Kansas State training programs. All courses beginning on or after October 3rd are based on the new curriculum, and the tests for those courses will be the revised tests. Program providers should be sure you have downloaded and are using the final version of the curriculum and manual from our

website, www.kdheks.gov/hoc. The guidelines can be found at both the CMA Resources link, and the Training Provider Materials link. The manual is at the Training Providers link, only. The necessary forms are listed in the manual and should be downloaded, separately, at the same website link.

The CMA training program was revised and reviewed by a committee of representatives from training programs, industry, and associations throughout Kansas, as well as the Kansas State Board of Nursing and a representative from the Kansas State Board of Pharmacy. The result is a thorough and current set of guidelines for training medication aides to work with our Kansas residents of long-term care facilities. Medications change frequently, so instructors will need to continue to be diligent in keeping materials current, but we are confident that you will be pleased with the revision.

To clarify, courses beginning before October 3rd are using the previous curriculum and test. Courses beginning October 3rd or following are using the revised curriculum and test.

The Kansas Certified Home Health Aide course revision is also well underway, and we will keep you apprised of the progress. When the HHA curriculum revision is complete, certified and unlicensed training programs will be current, and we will begin evaluating the next revision of the Kansas Certified Nurse Aide course.

If you have questions, please visit our website, or call or email Mary Flin at 785-296-0058, mflin@kdheks.gov.

CURRENT INFORMATION ON THE USE OF POWER LIFTS BY YOUNG CNAS AND COMPETENCY DEMONSTRATION

On July 13, 2011, the Department of Labor and Hour Division (WHD) released Bulletin No. 2011-3, which is a field assistance bulletin for facilities regarding the guidelines for use of lifts by CNAs who are under age 18. This bulletin states that, while the WHD continues to investigate safe practices, assistance in the use of lifts by young

CNAs may be permitted under very specific guidelines. The guidelines are listed, and the CNAs are to be provided a copy of the attachment which lists what they may and may not do.

This field assistance bulletin is a response questions regarding the Final Rule which was released in July of last year, restricting operation of lifts by young CNAs. When the 2010 Rule was released, HOC amended the NATCEP Task Checklist to preclude the demonstration of lifts by CNA candidates under age 18. All candidates were to be included in training and use, but young students could not demonstrate the skill.

In response to the 2011 field assistance bulletin, we are amending the checklist once again, and will include demonstration of assistance in the use of the lifts by young CNA candidates. Assistance in the use of equipment is a different skill from the primary operation of such equipment. Instructors should read the guidelines and train students in the assistance of lifts with patient and CNA safety in mind.

By federal law, all CNAs must have demonstrated the direct care skills necessary for the care of residence in long-term care facilities. Facilities will need to be aware that students under 18 who were trained between July of 2010 and upcoming CNA courses will need additional instruction in assistance with lifts and will need to demonstrate competency.

HOC will continue to watch regulations and update training requirements as necessary. As always, we remind all who are involved in aide training programs in Kansas to check our website frequently for updates in forms: www.kdheks.gov/hoc. A link to the Field Assistance Memo and Attachment A will be on our website. Specific information regarding the bulletin should be obtained from WHD. Facility information can be found from Kansas Department on Aging. For further questions regarding the training of Kansas CNAs regarding this topic, contact Mary Flin at mflin@kdheks.gov, or 785-296-0058.

WHO NEEDS A CRIMINAL RECORD CHECK?

In the regulatory environment, there are instances when a single word can impact the meaning of a statute or regulation. One example, found in the criminal record check statute (39-970), concerns the word “works” as it is used in the first sentence of the statute. The sentence states, “No person shall knowingly operate an adult care home if, in the adult care home, there **works** any person who has been convicted of or has been adjudicated a juvenile offender . . .” Notice the term is not “is employed.” Any individual working in a non-episodic capacity in the nursing facility is not excluded from the requirements of the statute. An example of non-episodic work would be when a nursing facility contracts out their housekeeping to a company that supplies individuals to do that work. Those individuals working for that company are in the facility on a regular basis for an extended period. Episodic would be like a plumber coming in to fix a sink. A record check not needed in that instance.

There are exceptions to the requirement. Licensed individuals as well as volunteers are exempt from the requirement.

Criminal record checks can be submitted online by going to www.kdhecr.org. However, a first time user must make sure that KDHE has a correct email address to send the access password.

One change that became effective July 1, 2011, is that the statute numbers for criminal offenses changed. There is an updated list of convictions that prohibit employment available at <http://www.kdheks.gov/hoc/criminal.html>. Click on the link titled [Criminal Offenses Checked Under Kansas Law](#).

For questions comments about the criminal record check process, contact the criminal record check staff at crcstaff@kdheks.gov.

KANSAS CULTURE CHANGE COALITION

<http://www.kansasculturechange.org/>

BOARD OF DIRECTORS

The following individuals were elected to the first Board of Directors of the Kansas Culture Change Coalition:

Stephanie Gfeller, Carol Job, Lee Kroencke, Vera VanBruggen, Belinda Vierthaler, Dana Weaver, Donna Fox, Heather Generali. Susan McDonald, Chris Osborn, Greta Wakefield, and Jalane White.

UPCOMING SEMINAR

The Best in Dining Innovations & The Valuable Universal Worker

October 7, 2011

Wondering where to begin your Culture Change journey? This workshop will provide the guidance for which you have been looking. Learn from experienced providers, consultants, and regulators. Check the website for more information.

CBC ON CNA AND CMA STUDENTS IN LTC FACILITIES

QUESTION: Does KDOA require facilities that have students of CNA and/or /CMA classes in their facilities to have Criminal Background Checks?

ANSWER: KDOA views students who are not employees of the facility as volunteers under K.S.A. 39-970 (h). They are not required to have a criminal background check. However, K.S.A. 39-970 (i) does grant the facility the right to request CNA and CMA students to have Criminal Background Checks.

CURRENT INFLUENZA SEASON

Question O0250 regarding influenza vaccines is handled a differently on the MDS 3.0 than the question on MDS 2.0. For MDS 3.0 this question is asked and answered all year long.

According to the CDC website, the flu vaccine became available in August. This would designate the beginning of the 2011 flu season. When coding whether the resident has received the vaccine in your building during the current flu season you will need to remember that the “current flu season” now has no “official” end and it continue until the flu vaccine becomes available the next year.

Reasons that the resident did not receive the vaccine in your building for the current season would include situations such as the resident discharging prior to the administration of the vaccine, the resident receiving the vaccine in another location (physician office, health fair, etc.) or resident or legally responsible spokesperson has declining the vaccine, etc. (RAI Manual Chapter 3 O-7) In the event there should be an issue with supply of the vaccine, the resident who is willing to be vaccinated should receive the vaccine when the supply is again available.

At times, a resident will admit with no recorded information regarding the vaccine and no one is available to give the information; in these situations, Code 9 is available. For further information regarding current influenza season you may review the CDC website on the topic at <http://www.cdc.gov/flu>.

NATIONAL COUNCIL OF CERTIFIED DEMENTIA PRACTITIONERS TOOL KIT

For the fourth year, the National Council of Certified Dementia Practitioners is offering The National Council of Certified Dementia Practitioners Alzheimer’s and Dementia Staff Education Week February 14th to 21st and Tool Kit. The Tool Kit is free and available at www.nccdp.org.

The tool kit includes many Power Point in-services for download beginning November 15 to March 1, 2011. Each in-service is designed to be taught in 30 minutes to health care professionals and front line staff.

The Tool Kit and the declaration by the NCCDP Alzheimer's and Dementia Education Week February 14th to the 21st was developed to bring national and international awareness to the importance of providing comprehensive dementia education by means of face to face interactive classroom environment to all healthcare professionals and line staff and to go above and beyond the minimum state requirements regarding dementia education.

Currently there are no national standards for dementia education. The regulations are different from state to state. The NCCDP recommends at minimum an initial 8 hours of dementia education to all staff. Throughout the year, additional dementia education should be provided that incorporates new advances, culture change and innovative ideas.

In addition to facilitating the Train the Trainer programs, The NCCDP promotes dementia education and certification of all staff who qualify as Certified Dementia Practitioners (CDP®). The NCCDP recommends that at minimum there should be one Certified Dementia Practitioner® per shift. The NCCDP recommends a trained and certified Alzheimer's and dementia instructor by the NCCDP to utilize up to date NCCDP training materials.

The NCCDP recognizes the importance of educated and certified dementia unit managers and certifying the Dementia Unit Manager as Certified Dementia Care Manager (CDCM®). Dementia Unit Managers report that they have received little training as a Dementia Unit Manager. Front Line First Responders and Law Enforcement need comprehensive Dementia training and the NCCDP provides Alzheimer's and Dementia training to First Responder and Law Enforcement educators and certification as Certified First Responder Dementia Trainer®.

The free tool kit includes:

- * **Free Power Point** In-services (Many topics) for Health Care Staff which include pre-test, post-tests, handouts, answers, in-service evaluation and in-service certificates.

- * Nurse Educator of the Year Nomination Forms
- * Nomination Forms for NCCDP Alzheimer's and Dementia Staff Education Week Contest
- * **Proclamations** for Senators and Mayor
- * **Letters** to the Editors Promoting Your Program
- * **97 Ways to Promote** Alzheimer's and Dementia Staff Education Week 2011
- * Resources and Important Web Sites

The National Council of Certified Dementia Practitioners®, LLC was formed in 2001 by a group of professionals with varying work and personal experiences in the field of dementia care. The Council was formed to promote standards of excellence in dementia and Alzheimer's education to professionals and other caregivers who provide services to dementia clients. As the number of dementia cases continues to increase nationally and worldwide, there is a great necessity to insure that care givers are well trained to provide appropriate, competent, and sensitive direct care and support for the dementia patient. The goal of the Council is to develop and encourage comprehensive standards of excellence in the health care profession and delivery of dementia care.

YOUR FACILITY HOME PAGE



Last year, KDOA created the "Facility Home Page" within our KDOA Web Application system. Initially, only the current licensing information on file with KDOA and a link to the Semi-Annual and/or Annual Long Term Care Facility Statistical Reports were available. In an effort to reduce paper and to increase the effectiveness of our "Facility Home Page", we have created several new online features for you to take advantage of the next time you sign in.

Online Forms Available:

- Change of Administrator/Operator
- Request for Dual Administrator/Operator
- Change of Address, E-Mail or Facility Webpage
- Change of Resident Capacity
- Change of use of Required Room
- Annual Renewal License Application is also now available online.

October 1, 2011

Other features include:

- Secure submission of payments for fees by credit card.
- A file upload option for the forms that require additional information to be attached.
- A Change Requests/Applications listing will display a history of change requests and applications submitted. It will also indicate whether the change has been processed by KDOA.

Note: If you start a change request or the application but do not submit it to KDOA, you can open it again to work on it from this listing.

- QIS Survey Feedback Questionnaire is now available – Tell us how we did on your last survey.
- Bed Assessment listing with links to the Private Pay Worksheet
- Select your mail preference – Select your facilities preferred correspondence type, E-Mail (which will be set as the default) or mail (postage).
- KDOA has an E-Mail Blast option to send out mass E-Mail messages to all or selected facilities. This option uses the Administrator or

Operator E-Mail address on file. Do we have the correct E-Mail address on file? Sign-in and double check. If not, use the Change of Address, E-Mail and Facility Webpage online form to request the change.

- A correspondence log will display any automated correspondence (E-Mail or letters) generated from the online application.

Note: Click on the link to open a copy of the correspondence.

We hope you find these changes useful as we work to make your “Home Page” better and more efficient. If you have any technical questions or comments please contact the KDOA HelpDesk at 785-296-4987.

To access your Facility Home Page click, on the blue KDOA Web Application icon located on the KDOA Provider Information Resource Website (www.aging.ks.gov). If you do not currently have access, complete a KDOA Security Agreement located on the Provider Information Resource Website and fax it to the KDOA HelpDesk at the number located at the bottom of the Security Agreement form.

EXEMPLARY AND NO DEFECIENCY FACILITIES

FACILITY	CITY	TYPE	NO DEF CERT/LET	SURVEY DATE
Hutchinson Home Plus	Hutchinson	HP	x	4/6/11
Reflection Living LLC	Wichita	HP	x	4/12/11
Halstead Place	Halstead	ALF	x	4/13/11
Independent Living LLC	Smith Center	BCH	x	4/13/11
Brewster Health Center	Topeka	SNF/NF	x	4/14/11
Claire Bridge of Topeka	Topeka	RHCF	x	4/20/11
Sunflower Adult Day Care	Kansas City	ADC	x	4/21/11
The Pines of Holton	Holton	ALF	x	4/21/11
Bethel House	Wichita	HP	x	4/25/11
Country Place Home Plus of Larned	Larned	ALF	x	4/27/11
Parkwood Village	Pratt	ALF	x	4/27/11
Tara Gardens	Iola	RHCF	x	4/27/11
Country Place Senior Living of Hoistington	Hoistington	ALF	x	4/28/11
Vintage Park at Gardner	Gardner	ALF	x	4/28/11
Angel Arms	McPherson	ALF	x	5/3/11
Vintage Park at Osawatomie	Osawatomie	ALF	x	5/3/11
Vintage Park at Ottawa	Ottawa	ALF	x	5/3/11
Carrington Retirement Community	Pittsburg	RHCF	x	5/5/11

Sunflower Connection

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FACILITY	CITY	TYPE	NO DEF CERT/LET	SURVEY DATE
Franklin House	Fort Scott	HP	x	5/5/11
Heartland Haven	Inman	ALF	x	5/5/11
Vintage Park at Holton	Holton	ALF	x	5/5/11
Loving Care of McPherson	McPherson	HP	x	5/10/11
Sterling House of Great Bend	Great Bend	ALF	x	5/10/11
Bethany Home Association	Lindsborg	SNF/NF	x	5/11/11
Vintage Place of Pittsburg	Pittsburg	ALF	x	5/10/11
Marion Assisted Living	Marion	ALF	x	5/11/11
The Wheatlands	Kingman	NF	x	5/11/11
Sterling House of Dodge City	Dodge City	ALF	x	5/12/11
Vintage Place at Baldwin City	Baldwin City	ALF	x	5/12/11
Cornerstone Ridge Plaza	Wichita	ALF	x	5/17/11
Haven House	Haven	HP	x	5/17/11
Vintage Place of El Dorado	El Dorado	RHCF	x	5/17/11
Village West	Ottawa	RHCF	x	5/19/11
Waldron Place	Hutchinson	ALF	x	5/19/11
Briarcliff Care Center	Topeka	RHCF	x	5/20/11
Deer Park Senior Group Home South	Meriden	HP	x	5/23/11
North Point Skilled Nursing Center	Paola	SNF/NF	x	5/23/11
Glenn Moore Meadows	Holton	HP	x	5/24/11
Plum Creek Plaza	Holyrood	ALF	x	5/24/11
Sterling House of Abilene I	Abilene	ALF	x	5/24/11
Harmony Adult Home Plus	McPherson	HP	x	5/25/11
Dignity Care Home	Salina	RHCF	x	5/26/11
Vintage Park of Atchison LLC	Atchison	ALF	x	5/26/11
The Homestead Adult Daycare Services	Kansas City	ADC	x	5/31/11
Vintage Park at Hiawatha LLC	Hiawatha	ALF	x	6/1/11
Medicalodge Kinsley	Kinsley	SNF/NF	x	6/2/11
Redbud Plaza	Onaga	ALF	x	6/2/11
Stoneybrook Assisted Living	Manhattan	ALF	x	6/2/11
Asbury Village	Coffeyville	RHCF	x	6/7/11
Prairie Homestead Assisted Living	Wichita	ALF	x	6/7/11
Rose Estates Assisted Living Community	Overland Park	ALF	x	6/7/11
Catholic Charities Adult Day Services	Wichita	ADC	x	6/8/11
River Bend Assisted Living	Great Bend	ALF	x	6/8/11
Guest Home Estates	Caney	RHCF	x	6/9/11
Oswego Home Place, Inc.	Oswego	RHCF	x	6/14/11
Vintage Park at Paola, Inc	Paola	ALF	x	6/16/11
Fort Scott Presbyterian Village	Fort Scott	ALF	x	6/22/11
Moore Adult Care Home	Topeka	BCH	x	6/22/11
Topeka Adult Care Center	Topeka	HP	x	6/22/11
Meadowlark Adult Care Home 4	Wichita	HP	x	6/23/11
Seniorcare Homes Waveny Park House	Overland Park	HP	x	6/23/11

ALF: Assisted Living Facility; RHCF: Residential Health Care Facility; BCH Boarding Care Home; HP: Home Plus; NF: Nursing Facility; SNF: Skilled Nursing Facility

October 1, 2011

2010-2011 ENFORCEMENT ACTIONS

Action	3rd Quarter July - Sept. 2010	4th Quarter Oct. - Dec. 2010	1st Quarter Jan. - March 2011	2nd Quarter April - Jun. 2011
Abuse, Neglect and Exploitation	0	0	0	
Adult Day Care	0	0	0	
Administration	30	5	16	7
Admission, Transfer, Discharge	1	1	0	
Delegation of Duties	6	1	2	2
Dietary Services	3	4	2	1
Emergency Preparedness	22	12	15	9
Employee Records	1	0	1	4
Environmental Issues	2	3	2	2
Functional Capacity Screen	10	3	6	7
Health Care Services	2	5	6	2
Inadequate Staffing	0	0	0	
Infection Control	7	8	9	5
Medication Management	36	26	17	22
Negotiated Service Agreement	21	13	8	17
Professional Standards of Quality	0	0	0	
Quality Care Issues	0	0	0	
Resident Funds	0	0	0	
Resident Records	3	3	2	1
Resident Rights	1	0	1	
Restraints -- Chemical, Physical	0	0	0	
Special Care Unit	1	0	1	
Staff Development	0	0	0	
Staff Qualifications	2	5	0	
Civil Money Penalties	5	1	1	1
Correction Orders*	43	29	23	24
Ban on New Admissions	7	1	5	2
FEDERAL REMEDIES				
Civil Monetary Penalties Recommended	9	3	7	1
Denial of Payment for New Admissions Imposed**	16	4	8	9
Terminations	0	0	0	0
No Opportunity to Correct	20	0	13	7

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

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

October 1, 2011

**LONG TERM CARE
REGULATION INTERPRETATION
Survey and Certification Commission**

K.A.R. 26-39-100(jjj): Definitions-Resident Capacity.

SUBJECT: Resident Capacity – Adult Day Care

DATE: August 19, 2011

NUMBER: 2011-1

INTERPRETATION: The number of adult day care slots denoting the resident capacity of an adult day care facility licensed by the Kansas Department on Aging shall be the maximum number of adult day care residents authorized to be on the premises at any one time.

DISCUSSION: The intent of this regulation is to ensure there is sufficient common-use space to accommodate the full range of program activities for all the residents at the facility at any given time and a sufficient number of qualified personnel are present to provide each resident with services and care in accordance with each resident's functional capacity screening, health care service plan, and negotiated service agreement.

K.A.R. 28-39-289. Construction; General Requirements specifies that each facility must have at least 60 square feet per resident and meet toilet room requirements specified in K.A.R. 28-39-289.

K.A. R. 26-43-102. Staff Qualifications specifies the staffing requirements.

Each Adult Day Care facility shall maintain a list (roster) of all enrolled residents of the adult day care facility and daily attendance records to ensure the number does not exceed required common use space or the sufficient number of qualified personnel.

Vera VanBruggen RN BA, Director
Long Term Care Division

Walter J. Ewert, Commissioner
Survey and Certification Commission