

Article 42.—LICENSING OF NONMEDICAL RESIDENT CARE FACILITIES

30-42-6. Definitions.

- (a) "Applicant" means any facility which applies for a license issued by the department to provide residential care.
- (b) "Department" means the Kansas state department of social and rehabilitation services.
- (c) "Facility" means any private person, group, association or corporation, or any community or local government department undertaking to provide residential care within the meaning of these regulations.
- (d) "Handicapped" means a physical, mental, or emotional impairment which limits one or more major life activities.
- (e) "Mental or emotional abuse" means any method of inflicting or causing mental injury or causing deterioration of the individual. Mental or emotional abuse includes failure to maintain reasonable care or treatment to such an extent that the individual's emotional well-being is in danger.
- (f) "Secretary" means the secretary of the department of social and rehabilitation services.
- (g) "Staff" means employees of the facility who spend a majority of their work time in the supervision of residents. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-7. Licensing procedures.

- (a) Each facility shall apply for a license on application forms provided by the department.
- (b) Each application for renewal of a license shall be submitted by the licensed facility to the department at least 60 days before expiration of the license. This provision may be waived by the department upon a showing of good cause by the facility.
- (c) At the discretion of the department, a provisional license may be issued to any facility that is substantially in compliance with the licensing regulations, if the facility presents evidence that any deficiency is temporary and if efforts to correct the deficiency are agreed to or are in progress. Each provisional license shall become a regular license at the end of a period of 180 days if the department agrees, in writing, that the previously noted deficiencies have been corrected. If the deficiencies have not been corrected, the provisional license shall automatically lapse at the end of the 180-day period.
- (d) Each license issued shall specify and shall be valid only for the facility and the operator named on the license. A new application shall be required for each change of operator. A facility which changes operators may

continue to provide the same care which it was licensed to provide under its last prior operator for the period of time that is required for the facility to pursue all administrative avenues available under these regulations for obtaining licensure under the facility's new operator.

(e) The license shall be issued for a specified period of time not to exceed one year.

(f) The department, upon request, may waive any specific licensing standard for good cause if such waiver does not affect the health, safety or welfare of a facility's residents. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-8. Capacity. Each license shall specify the maximum number of residents who may be served at any one time in the facility. That maximum number shall not be less than five nor more than 40. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-9. Suspension or revocation of license.

(a) The license of any facility shall be suspended or revoked according to the provisions of

this subsection (a) whenever:

(1) The department finds that the facility has failed to comply with the provisions of K.A.R. 30- 2-15 or of any licensing regulations set forth in this article and there is reason to believe that the facility will be in further non-compliance; or

(2) the department finds that the facility is in continuing non-compliance with K.A.R. 30-2-15 or of any licensing regulations set forth in this article.

(b) Procedures for the suspension or revocation of a license.

(1) Subject to the provisions of paragraph (2) of this subsection, when the department finds that a licensed facility is not in compliance with the provisions of any licensing regulations set forth in this article, the department shall informally advise the facility's operator or chief officer in person or by telephone of a finding of non-compliance. This informal communication shall be confirmed in writing within five working days of the informal advice. The written confirmation of the advice shall:

(A) Specify in detail the noted items of noncompliance;

(B) inform the facility of the action required to correct the non-compliance;

(C) inform the facility that failure to provide evidence that the non-compliance has been corrected will result in suspension or revocation of the facility's license;

(D) inform the facility of the time period within which the item of non-compliance can be corrected without temporary or permanent loss of license.

This time period shall not be less than 45 days from the date of written confirmation; and

(E) inform the facility of the name and address of the person within the department to whom evidence must be provided demonstrating that the item of non-compliance has been corrected.

(2) The department shall immediately suspend the license of any facility whose non-compliance with these regulations is of a nature so serious that such non-compliance will constitute an immediate threat to the health, safety or welfare of the facility's residents. The department shall immediately initiate an action to revoke such a license according to these regulations.

(3) Whenever a facility has failed to satisfy the department that an item of non-compliance has been corrected as provided in paragraph (1) of this subsection, or whenever the department has suspended a facility's license under paragraph (2) of this subsection, action shall be commenced to revoke the facility's license. Prior to revocation of a facility's license, the department shall send to the facility a written notification of the proposed revocation and the reasons therefor. The notice shall state whether the facility's license has been suspended pending further proceedings. If the decision is to revoke the facility's license as herein provided, the department shall issue a written order of revocation setting forth the effective date of such revocation and the basic underlying facts supporting the order. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-10. Prerequisites for license.

(a) Any applicant for licensure shall be at least 18 years of age at the time of application.

(b) Each facility for eight or more persons shall be approved by the Kansas department of health and environment as meeting the standards for a lodging establishment under the food service and lodging act.

(c) Each facility shall meet the legal requirement of the community for zoning, fire protection, water supply and sewage disposal.

(d) Each facility shall obtain and retain on file a fire life safety code report issued within the previous 12 months by the state fire marshal, or persons designated in K.S.A. 31-137 and amendments thereto. Deficiencies noted on the report shall be the subject of an acceptable plan of correction submitted to the state fire marshal within the time-frame established by the state fire marshal. The facility shall adhere to the plan of correction as well as the date, if any, by which the correction is to be made.

(e) Each facility shall provide and maintain fire protection equipment. This equipment shall be approved as adequate by the state fire marshal.

- (f) Each facility shall employ at least one staff person certified in the administration of first-aid. All other staff shall receive training in the administration of first-aid within 30 days of employment and every two years thereafter. The date of that training shall be recorded for each staff person and retained on file.
- (g) Each facility shall provide adequate care of residents and shall not exceed a maximum ratio of 20 residents to one staff person.
- (h) Each facility shall allow residents the right of privacy and the right to see relatives, friends and participate in regular community activities.
- (i) Corporal punishments restraints or punitive measures shall not be used by any facility.
- (j) Each facility shall develop a current, written grievance procedure for residents.
- (k) Each facility shall see that arrangements are made for emergency and regular medical care for residents.
- (l) Each facility shall allow the secretary and authorized representatives of the secretary access to the home, grounds, residents and to records related to residents.
- (m) Facility personnel shall not accept permanent guardianship or conservatorship of residents. However, guardianship or conservatorship of blood relatives shall be permitted.
- (n) Each facility shall maintain official policies and make them available for review by the department, staff, residents, and guardians and relatives of residents. The official policies of each facility shall contain statements regarding the provisions of subsections (g), (h), (i), (j) and (k) set forth above. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-11. Admission and discharge policies.

- (a) Each facility shall have on file and shall provide to the department an admissions policy. At a minimum, the admissions policy shall indicate the types of residents the facility will accept indicating:
 - (1) Age range;
 - (2) sex;
 - (3) type of disability; and
 - (4) the types of residents the facility will not accept.
- (b) The facility shall make an inventory of each resident's major personal items within 24 hours of the resident's admission to the facility. Documentation of the inventory shall be retained on file.
- (c) Prior to or within 24 hours of admission, the facility shall obtain and retain on file a document signed by the resident and guardian, if any, verifying that they have received in writing the phone number which they

may call at any time to complain about exploitation, neglect, or abuse, including mental or emotional abuse.

(d) The facility shall be responsible for encouraging residents to seek and utilize available services when needed.

(e) The facility shall agree to refer a resident to other appropriate residential facilities as soon as it determines that the needs of a resident can no longer be met by the facility.

(f) The resident shall not be involuntarily transferred or discharged from the facility except:

(1) For medical or behavioral reasons which render the facility an inappropriate placement;

(2) for the welfare of the resident or others; or

(3) for non-payment of the rates and charges imposed by the facility.

(g) Except in emergencies, the resident and legal guardian, if any, shall be given written notice at least seven days in advance of a transfer or discharge of the resident. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-12. Disaster policies. The facility shall, in consultation with the fire inspector or other appropriate resources, develop a written disaster plan to provide for the care and safety of residents and employees in emergencies and in occurrences of serious illness or injury. The residents and employees shall be informed of the disaster plan and the plan, including an exit diagram, shall be posted. Evacuation drills shall be conducted each quarter and the date and the length of time for evacuation shall be recorded. A telephone shall be located on the premises and readily available. Emergency numbers shall be posted by each phone. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-13. Health policies.

(a) The facility may assist with the taking of medication when the medication is in a labeled bottle dispensed by a pharmacist which clearly shows a physician's orders and when the resident requires assistance because of tremor, visual impairment, or other physical or mental handicapping conditions. The facility may assist the residents with such physical activities as eating, bathing, dressing, help with brace or walker, and transferring from wheelchairs when such assistance is needed on a temporary or intermittent basis.

(b) Each facility shall provide a sanitary environment and shall follow proper techniques of asepsis and isolation for residents with infections and contagious diseases.

(c) All outdated or discontinued medication shall be discarded in the presence of the supervisor.

(d) Each employee infected with a disease in a communicable form or having communicable skin lesions shall be restricted from work until the disease is no longer communicable. Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-14. Financial policies. The personal money of each resident shall be kept in the resident's individual account. The individual account shall be separate from the funds of the facility, owner, operator, employees, and other residents. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-15. Adult residential sleeping quarters.

(a) Sleeping quarters shall have a minimum of 70 square feet per person of free floor space in single rooms and an average of not less than 55 square feet per person in rooms accommodating more than one person.

(b) Rooms used as sleeping quarters shall have windows that are operable without a tool. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)

30-42-16. Environmental standards.

(a) Each facility shall comply with the standards set forth below. The department may consider, but need not accept, written statements of compliance with environmental requirements from other authorized licensing agencies or groups.

(b) The building shall be clean, in good state of repair, and free from accumulated dirt or trash and vermin infestation.

(c) Aisles, hallways, stairways, and main routes of travel shall be maintained free of obstacles and stored materials.

(d) Furniture shall be clean and in good state of repair.

(e) Rooms shall be well-ventilated, adequately lighted, and appropriately heated or cooled.

(f) Each resident shall have a separate bed with a level, flat mattress in good condition, and sufficient and clean bedding.

(g) Bathroom fixtures shall be accessible, clean, and in good state of repair.

(h) Kitchenware and tableware shall be clean and in good condition.

(i) Meals and snacks, when provided, shall be appropriate to the nutritional needs of the residents. Menus shall be posted and shall follow the basic food group requirements.

(j) The outside area shall be free of physical hazards and be free of accumulated garbage and trash. (Authorized by and implementing K.S.A. 1985 Supp. 75-3307b, as amended by L. 1986, Ch. 324, Sec. 2; effective, T-87-20, Sept. 1, 1986; effective May 1, 1987.)