Understanding Nursing Home Regulations

With special focus on activities for all unlicensed staff

funded by a 2007 Workforce Enhancement in Nursing Facilities grant
from *The Kansas Department on Aging*

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Introduction

Unlicensed staff working at nursing homes say that they would be better able to perform their duties if they had a better understanding of nursing home regulations and laws about their departments. Regulations provide the big picture of how to carry out the details of laws. Everyone who works in a nursing home needs to understand what is required of them. To increase understanding of selected regulations, interpretive guidelines are also provided.

Federal laws and regulations are the mandated minimum quality of care allowed in nursing homes "certified" to receive reimbursement for care provided to residents on Medicare and/or Medicaid. States may have stricter regulations than those required by the federal government but they may not have less strict regulations. States "license" nursing homes to provide health care. The license allows the nursing home the ability to apply to become certified to provide reimbursed care for Medicare and Medicaid. The vast majority of nursing homes are certified for Medicare and/or Medicaid reimbursement.

The Kansas Department on Aging awarded KABC a Workforce Enhancement in Nursing Facilities grant to provide information about regulations. The following regulations and inspection protocols are taken from the Kansas Department on Aging Nursing Facility Regulations handbook, the Kansas Long-Term Care Regulation Interpretation Manual, the Surveyor's Guide to OBRA Regulations, Interpretive Guidelines and the LTC Survey Process (State Operations Manual).

This is a highly condensed version of selected regulations that can most benefit unlicensed staff from all departments within a nursing home. There are many technical terms used throughout the regulations. Please refer to the definitions and glossary for a better understanding of those technical terms.

Kansas Advocates for Better Care Mission:
*Advocating for **Quality** Long-Term Care*

Sources and disclaimer

Information contained within this publication is from state and federal government sources. This publication could contain inaccuracies or typographical errors, and is provided without warranty of any kind, either express or implied. KABC does not originate any of the information provided. For the complete version of Kansas regulations, see ***http://www.agingkansas.org/kdoa/lce/regs/reg_index.html***
For the complete version of federal regulations, see ***http://www.cms.hhs.gov/manuals/downloads/som107ap_pp_guidelines_ltcf.pdf***

Nursing Home Regulations

Resident Rights

The Resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. **According to Kansas Administrative Regulations (KAR 28-39-147 to 153), Kansas Statutes Annotated (KSA 39-1401), and federal regulations (42CFR 483.10 to 483.15) the home must protect and promote these rights:**

RIGHT TO EXERCISE RIGHTS

- The Resident must be allowed to exercise his/her rights as a citizen and a resident of a care home without interference, coercion, discrimination, or reprisal from the home.
- The Resident has the right to designate in advance a person who will assert resident rights if he/ she is unable to do so. (Appoint this person using a Durable Power of Attorney for Health Care Decisions.)
- A court appointed guardian exercises the resident's rights when the resident is adjudged incompetent.

RIGHT TO BE NOTIFIED OF RIGHTS

- Before being admitted to a home, the resident must be informed both orally and in writing of his/ her rights, rules of the home, rates and services of the home, and rules concerning Medicaid eligibility.
- Before the home can effect a change in charges or services, the resident must be informed, in writing, at least 30 days before the change takes place. **State Interpretation:** <u>***A thirty day written notice must be provided when the facility decides to change the charges for levels of care. A thirty day notice is not required each time facility staff determine that the resident is in need of a higher level of care or a lower level of care based on the criteria provided to the resident and/or their legal representative.***</u>

RIGHTS CONCERNING FINANCES & PROPERTY

- The Resident has the right to manage his/her financial affairs.
- If the Resident deposits funds with the home, it must manage and account for funds properly, including a quarterly written account of transactions on the account and the balance. If more that $50 is deposited with the home, the home must place the funds in an interest-bearing account in a Kansas financial institution.
- Any resident funds must be transferred to the executor of the resident's estate or to the probate court handling the estate within 30 days of the death of a resident.
- The home must have a written policy about protecting residents' possessions. If property is missing and the home is responsible for its loss, the resident may have a claim against the home to replace the item. Check with an attorney.

RIGHT TO INFORMATION ABOUT CARE

- The Resident has a right to be fully informed about care and treatment and any changes in that care or treatment that may affect the Resident's well-being.
- The Resident has the right to inspect and purchase photocopies of all records pertaining to the Resident upon written request and two days notice (excluding holidays and weekends) to the home. <u>**A facility must immediately inform the resident; consult with the resident's physician; and notify the resident's legal representative or an interested family member when there is (a) an accident, (b) a significant change, (c) a need to alter treatment significantly, or (d) a decision to transfer or discharge the resident.**</u>

Resident Rights, *continued*

RIGHT TO MAKE CARE DECISIONS

- The Resident has a right of free choice to: choose an attending physician; participate in developing an individual care plan or negotiated service agreement; refuse treatment; refuse to participate in experimental research; choose a pharmacy (but if the home uses a unit dose system to dispense medications, the pharmacy must also use that system.)
- The Resident has a right to check out of the home (without a doctor's order.)
- The Resident has a right to receive notice of changes concerning: physical, mental, or psychosocial status; altering of treatment; transfer or discharge; room or roommate change.
- The Resident has a right to refuse to perform services for the home. The Resident has a right to agree to perform voluntary or paid services for the home if there is no medical reason to contradict that right.
- Each Resident has a right to self-administer drugs (unless the attending physician and the home interdisciplinary team has determined for a particular Resident that this practice is unsafe.)
- The Resident has a right to be free from any physical restraints imposed or psychoactive drugs administered for the purposes of discipline or convenience and not required to treat the Resident's medical symptoms. **Federal interpretation:** ***When physical restraints are used, there shall be a written physician's order which includes the type of restraint to be applied, the duration of the application and the justification for the use of the restraint. The resident's surrogate or representative cannot give permission to use restraints for the sake of discipline or staff convenience, or when the restraint is not necessary to treat the resident's medical symptoms. "Physical restraints" include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions and lap trays the resident cannot remove.***
- The Resident has the right to be free from verbal, sexual, physical, or mental abuse, corporal punishment and involuntary seclusion.

KSA 39-1401: Abuse, neglect, exploitation statutes state:

(f) "Abuse" means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to a resident, including:

(1) Infliction of physical or mental injury.

(2) Any sexual act with a resident when the resident does not consent or when the other person knows or should know that the resident is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship.

(3) Unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm a resident.

(4) Unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the resident or another resident.

(5) A threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress to a resident;

(6) Fiduciary abuse (see item k below); or

(7) Omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

(g) "Neglect" means the failure or omission by one's self, caretaker or another person to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

(i) "Exploitation" means misappropriation of resident property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person.

(k) "Fiduciary abuse" means a situation in which any person who is the caretaker of, or who stands in a position of trust to, a resident, takes, secretes, or appropriates the resident's money or property, to any use or purpose not in the due and lawful execution of such person's trust.

KSA 39-1404 states:

The department on aging or the department of social and rehabilitation services upon receiving a report that a resident is being, or has been, abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services shall:

(1) When a criminal act has occurred or has appeared to have occurred, immediately notify, in writing, the appropriate law enforcement agency;

(2) Make a personal visit with the involved resident:

- (A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved resident;
- (B) Within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger; or
- (C) Within five working days for all reports of neglect or exploitation when the information from the reporter indicates no imminent danger.

(3) Complete, within 30 working days of receiving a report, a thorough investigation and evaluation to determine the situation relative to the condition of the involved resident and what action and services, if any, are required.

All adult care homes are required to report any knowledge it has of actions by a court of law against any employee, which would indicate unfitness for service as a nurse aide or other facility staff to the State nurse aide registry or licensing authority.

The following text is taken directly from State regulations KAR 28-39-150:

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

- (1) not use verbal, mental, sexual or physical abuse, including corporal punishment or seclusion;
- (2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected or exploited residents in an adult care home in the past;
- (3) ensure that all allegations of abuse, neglect or exploitation are investigated and reported immediately to the administrator of the facility and to the Kansas Department on Aging;
- (4) have evidence that all alleged violations are thoroughly investigated, and shall take measures to prevent further potential abuse, neglect and exploitation while the investigation is in progress;
- (5) report the results of all facility investigations to the administrator or the designated representative;
- (6) maintain a written record of all investigations of reported abuse, neglect and exploitation;
- (7) take appropriate corrective action if the alleged violation is verified.

Resident Rights, *continued*

RIGHT TO PRIVACY, CONFIDENTIALITY & DIGNITY

- The Resident has the right to personal privacy and confidentiality of his/her personal and clinical records.
- The Resident may approve or refuse the release of personal and clinical records to any individual outside the facility except when: the Resident is transferred to another health care institution, or record release is required by law or a third party payment contract.
- The Resident has the right to privacy in written communications, including the right to send and receive unopened mail promptly. The Resident has a right of access to stationery, postage and writing implements at the Resident's own expense.
- The Resident has a right to reasonable accommodation of individual needs and preferences except where the health or safety of the Resident or other Residents would be endangered.
- The Resident has a right to examine the results of the most recent survey of the home conducted by Federal or State surveyors and any plan of correction in effect for the home.
- The Resident has the right to visit and communicate with persons of his/her choice in privacy and at any reasonable hour. Immediate access must be given to family members, attending physician, and certain state officials, such as the Ombudsman or a surveyor from KDOA. The Resident retains the right to deny or withdraw consent at any time.
- The Resident has a right to have regular access to the private use of a telephone.
- The Resident has a right to retain and use personal possessions, including some furnishings and appropriate clothing, as space permits, unless to do so would infringe on the rights or health and safety of other Residents.
- The Resident has the right to share a room with his/her spouse when married Residents live in the same home and both spouses consent to the arrangement.
- The Resident has a right to organize and participate in Resident groups in the home, and the Resident's family has the right to meet within the home with families of other Residents.
- The Resident has the right to participate in social, religious and community activities that do not interfere with the rights of other Residents.

RIGHT TO ADDRESS GRIEVANCES

- The Resident has a right to voice grievances with respect to treatment or care, without discrimination or reprisal for voicing grievances, and a right to prompt efforts by the home to resolve grievances, including those with respect to the behavior of other Residents. The facility must post contact information of pertinent government and advocacy organizations.
- The Resident has a right to file a complaint concerning Resident abuse, neglect and misappropriation of Resident property in the home. Residents may file a complaint by calling 800-842-0078. For nursing home residents with developmental disabilities or with mental illness, the telephone number of the Kansas Advocacy and Protection Services, Inc. is 877-776-1541.
- The Resident has the right to contact the Long Term Care Ombudsman toll-free at 877-662-8362 for assistance with concerns related to the nursing home.

RIGHTS WHEN TRANSFERRED OR DISCHARGED

- The Resident has a right to receive advance notice of transfer/discharge. Residents required to receive this notice are: those whose health has improved and no longer require the services of the home; those who are documented to endanger the safety of individuals in the home; those who fail to pay the home; and those whose needs cannot be met, as documented by their physician. The notice should include the reason and effective date of transfer/discharge (30-day notice and/or may waive) and location to which the resident is to be transferred/discharged.
- The Resident has the right to an appeal process. The Resident has the right to appeal to the State through the complaint process. The toll-free telephone number for the State Long-Term Care Ombudsman is 877-662-8362.

Admission, Transfer and Discharge

KAR 28-39-148. Admission, transfer and discharge rights of residents in adult care homes.

- **The adult care home shall permit each resident to remain in the adult care home, and shall not transfer or discharge the resident from the adult care home unless:**
  (1) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the current adult care home;
  (2) The safety of other individuals in the adult care home is endangered;
  (3) The health of other individuals in the adult care home is endangered;
  (4) The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home; or
  (5) The adult care home ceases to operate.

- Before transferring or discharging a resident involuntarily, the adult care home shall:
  (1) Notify the resident and if known, a family member or legal representative of the resident, of the transfer or discharge and the reasons;
  (2) Document in the resident's clinical record the reason for the transfer or discharge. The documentation shall be made by:
    (A) The resident's physician when transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met by the adult care home;
    (B) The resident's physician when transfer or discharge is appropriate because the resident's health has improved sufficiently so that resident no longer needs the services provided by the adult care home; or
    (C) Any physician when transfer or discharge is necessary because the health or safety of other individuals in the adult care home is endangered.

- A notice of transfer or discharge shall be provided in writing to the resident or legal representative 30 days before the resident is transferred or discharged involuntarily except in an emergency when:
  (1) The safety of other individuals in the adult care home would be endangered; or
  (2) The resident's urgent medical needs require an immediate transfer.

- The written transfer or discharge notice shall include the following:
  (1) The reason for the transfer or discharge;
  (2) The effective date of the transfer or discharge;
  (3) The address and telephone number of the complaint program of the Kansas Department on Aging where a complaint related to involuntary transfer or discharge may be registered;
  (4) The address and telephone number of the long-term care; and
  (5) For residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas Advocacy and Protection Services, Inc.

- Each adult care home shall provide sufficient preparation and orientation to a resident to ensure safe and orderly transfer and discharge from the adult care home.

- The adult care home shall develop a discharge plan with the involvement of the resident, family or legal representative when practicable.

- Before a nursing facility, assisted living, residential health care, or home plus facility transfers a resident to a hospital or a resident goes on therapeutic leave, the facility shall provide written information to the resident and if known, a family member, or legal representative, that:

(1) The period of time during which the resident is permitted to return and resume residence in the facility;
(2) The cost to the resident, if any, to hold the resident's bedroom, apartment, individual living unit or slot in adult day care until the resident's return; and
(3) That when the resident's hospitalization or therapeutic leave exceeds the period identified in the policy of a nursing facility, the resident will be readmitted to the nursing facility immediately upon the first availability of a bed in a semi-private room if the resident requires the services provided by the nursing facility.

- Admission policy. Each licensee shall have written admission policies regarding admission of residents. The admission policy shall meet the following requirements.
  (1) The adult care home shall admit only those persons whose physical, mental and psychosocial needs can be met within the accommodations and services available in the care home.
  (A) Each resident in a nursing facility shall be admitted under the care of a physician licensed to practice in Kansas.
  (B) The adult care home shall not admit children under the age of 16.
  (C) Any person in need of specialized services for mental illness shall be admitted only to an adult care home which can provide the accommodations and treatment which will assist that person to achieve and maintain the highest practicable level of physical, mental and psychosocial functioning.
  (2) Before admission, the adult care home shall inform the prospective resident or legal representative in writing of the rates and charges for the adult care home's services and of the resident's obligations regarding payment. This information shall include the refund policy of the adult care home.
  (3) At the time of admission, the adult care home shall execute a written agreement with the resident or legal representative which describes in detail the services and goods which the resident will receive, and sets forth the obligations that the resident has toward the adult care home.
  (4) An admission agreement shall <u>not</u> include a general waiver of liability for the health and safety of residents. (Kansas statutes hold facilities accountable for the care and services provided to residents. Residents or their legal representatives have a right to refuse a service. When this happens, the facility should address this issue in care plans and in risk agreements. The facility has an obligation to try to offer alternatives to the resident and to educate the resident of the possible negative outcomes if they do not receive the care and services facility staff believes are appropriate. Residents and their legal representatives must be given enough information to be able to make an informed consent.)
  (5) Each admission agreement shall be written in clear and unambiguous language and printed clearly in black type which is not less than 12-point type.

- At the time of admission, the adult care home shall inform the resident or legal representative in writing of the state statutes related to advance medical directives.
  (1) A copy of any advance medical directives executed by the resident shall be on file in the resident's record.
  (2) The adult care home shall develop and implement policies and procedures related to the advance medical directives.

- The adult care home shall provide a copy of resident rights, the adult care home's policies and procedures for advance medical directives and the adult care home's grievance policy to each resident or the resident's legal representative before the prospective resident signs any admission agreement.

Protection of Resident Funds & Possessions

KAR 28-39-149. Protection of resident funds and possessions in nursing facilities.
The nursing facility shall have written policies and procedures which ensure the security of residents' possessions and residents' funds accepted by the facility for safekeeping.

(a) The facility shall afford each resident the right to manage the resident's own financial affairs and the facility shall not require any resident to deposit the resident's personal funds with the facility.

(b) Upon written authorization of a resident, the resident's legal representative or power of attorney or an individual who has been appointed conservator for the resident, the facility shall hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility.

(c) The facility shall establish and maintain a system that assures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

- The facility shall deposit any resident's funds in excess of $50 in one or more interest bearing accounts which are separate from any of the facility's operating accounts, and which credit all interest when earned on the resident's account to the personal account of the resident.

State interpretation: ***<u>Nursing facilities may choose to place all resident funds deposited by residents in an interest bearing account. Monies from this account may be used by the facility to maintain a petty cash fund for the benefit of the residents whose funds are handled by the facility. The amount transferred from the interest bearing account to the petty cash fund shall represent $50 or less for each resident with funds in the pooled account.</u>***

> *<u>Here is one example of possible multiple citations for non-compliance. A citation of F159 is given for mismanagement of personal funds. As well, if funds records are not treated with privacy, the citation is F164. If there are unauthorized fees charged by the facility, the citation is F156.</u>*

- All resident funds deposited by the facility shall be deposited in a Kansas financial institution.
- Within 30 days after the death of a resident with personal funds deposited with the facility, the facility shall convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

(d) The facility shall have written policies and procedures which ensure the security of each resident's personal possessions.

(1) A written inventory of the resident's personal possessions, signed by the resident or the resident's legal representative shall be completed at the time of admission and updated at least annually.
(2) If a resident requests that the facility hold personal possessions within the facility for safekeeping, the facility shall:
(A) Maintain a written record; and
(B) Give a receipt to the resident or the resident's legal representative.

KAR 28-39-150. Resident behavior and nursing facility practices.

(a) Restraints. The resident shall be free from any physical restraints imposed or psychopharmacologic drugs administered for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms.
State interpretation: ***When a facility uses side rails, it must ensure that the side rail is designed specifically for the make or type of bed and that the mattress fits tightly against the side rail on both sides. Mattresses as they age may no longer fit a bed with side rails. Mattresses which do not fit tightly against the side rail can cause entrapment of the resident's head and may result in death. Residents have died from chest compression when they have tried to exit a bed with both half side rails in place. It is very important when side rails are used that the resident has been assessed for the safe use of this device and the side rails are appropriate for the bed and mattress.***

(1) When physical restraints are used there shall be:

(A) A written physician's order which includes the type of restraint to be applied, the duration of the application and the justification for the use of the restraint;

(B) Evidence that at least every two hours the resident is released from the restraint, exercised, and provided the opportunity to be toileted;

(C) Regular monitoring of each resident in restraints at intervals of at least 30 minutes;

(D) Documentation in the resident's clinical record which indicates that less restrictive methods to ensure the health and safety of the resident were not effective or appropriate;

(E) Evaluation of the continued necessity for the physical restraint at least every three months and more frequently when there is a significant change in the resident's condition.

(2) Equipment used for physical restraints shall be designed to assure the safety and dignity of the resident.

(3) Staff who work with residents in physical restraints shall be trained in the appropriate application of the restraint and the care of a resident who is required to be physically restrained.

(4) In the event of an emergency, a physical restraint may be applied following an assessment by a licensed nurse which indicates that the physical restraint is necessary to prevent the resident from harming him or herself or other residents and staff members. The nursing facility shall obtain physician approval within 12 hours after the application of any physical restraint.

(b) The facility staff and consultant pharmacist shall monitor residents who receive psychopharmacologic drugs for desired responses and adverse effects.

Resident Assessment

KAR 28-39-151. Resident assessment. Each nursing facility shall conduct at the time of admission, and periodically thereafter, a comprehensive assessment of a resident's needs on an instrument approved by the secretary (of KDOA).

- A comprehensive assessment shall be completed:
  (1) Not later than 14 days after admission;
  (2) Not later than 14 days after a significant change in the resident's physical, mental, or psychosocial condition; and
  (3) At least once every 12 months.

Here is one example of possible multiple deficiencies for non-compliance. A facility may be cited for F314 based on the comprehensive assessment whereby the resident entered the facility without pressure ulcers and then developed the pressure ulcers. As well, citations F325 and F327 may be given for non-compliance of nutrition and hydration requirements. Non-compliance citations may also be given for F157-lack of notification of changes; F272-inadequate assessment of skin condition; F279-failure to develop comprehensive care plan consistent with resident's condition; F280-inadequate revision of care plan; F281-inadequate services provided to meet professional standards; F309-lack of measures for pain management; F353-insufficient qualified staff to provide necessary care; F385-inadequate physician assessment and treatment plan; and F501-lack of medical director assistance with policies and procedures for prevention of pressure ulcers.

- The nursing facility staff shall examine each resident at least once every three months, and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

- Comprehensive care plans.
  (A) Developed within seven days after completion of the comprehensive assessment; and
  (B) Prepared by an interdisciplinary team including the attending physician, a registered nurse with responsibility for the care of the resident, and other appropriate staff in other disciplines as determined by the resident's needs, and with the participation of the resident, the resident's legal representative, and the resident's family to the extent practicable.

Infection Control (including housekeeping)

KAR 28-39-161. Infection control. Each nursing facility shall establish and maintain an infection control program to provide a safe, sanitary, and comfortable environment for residents and to prevent the development and transmission of disease and infection. The program shall meet these requirements:

(1) Prevent, control and investigate infections in the facility.

(2) ...implement policies/procedures that require all employees to adhere to universal precautions to prevent the spread of blood-borne infectious diseases… (For example, the January 2007 Sunflower Connection says, "Viral Hepatitis C is transmitted by direct contact with human blood. It is possible for razors, nail clippers, tweezers and similar personal care items to come in contact with infected blood. The sharing of these items is discouraged.")

(3) ...implement policies/procedures about isolation of residents with suspected or diagnosed communicable diseases...

(4) Develop policies/procedures related to employee health...

(5) Assure that at least one private room that is well ventilated and contains a separate toilet facility is designated for isolation of a resident with an infectious disease requiring a private room.

(6) Include in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting.

(7) Maintain a record of incidents and corrective actions related to infection that is reviewed and acted upon by the quality assessment and assurance committee.

- Preventing the spread of infection.

(1) When a physician or licensed nurse determines that a resident requires isolation to prevent the spread of infection, the facility shall isolate the resident according to the policies and procedures developed.

(2) The facility shall prohibit employees with a communicable disease or infected skin lesions from coming in direct contact with residents, any resident's food, or resident care equipment until the condition is resolved.

(3) Tuberculosis skin testing shall be administered to each new resident and employee as soon as residency or employment begins, unless the resident or employee has documentation of a previous significant reaction.

(4) Staff shall wash their hands after each direct resident contact.

State Interpretation: ***Personnel should always wash their hands: before performing invasive procedures; before taking care of particularly susceptible residents; before and after touching wounds; after situations during which microbial contamination of hands is likely to occur, especially involving contact with mucous membranes, blood or body fluids, secretions, or excretions; after touching equipment likely to be contaminated; after taking care of a resident with an infection; between contacts with different residents when providing direct care such as bathing, perineal care, and oral care.***

- Linens and resident clothing. Handle linens and clothing as little as possible to prevent microbial contamination of air. Place linen and clothing in bags or carts; do not sort in resident-care areas. Deposit linens or clothing containing blood or body fluids in bags that prevent leakage. Wash linens with detergent in water of at least 160 degrees F. If the facility chooses to wash linens and clothing in water at less than 160 degrees, specific conditions must be met.

Quality of Life - Activities and Social Services

KAR 28-39-153. **Quality of life**. Each nursing facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life. Each facility shall promote respect of each resident.

The nursing facility shall afford each resident the right to:

- Choose activities, schedules, and health care consistent with resident's interests, assessments and care plans.
- Interact with members of the community both inside and outside the facility.
- Participate in resident and family groups.

When a resident or family group exists, the facility shall consider the views, grievances, and recommendations of residents and their families concerning proposed policy and operational decisions affecting resident care and life in the facility. The nursing facility shall maintain a record of the written requests and the facility responses or actions.

The facility shall provide an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests of and promote the physical, mental, and psychosocial well-being of each resident.

This is the federal government definition of activities:
"Activities refer to any endeavor, other than routine ADLs (activities of daily living), in which a resident participates that is intended to enhance his/her sense of well-being and to promote or enhance physical, cognitive, and emotional health."

NOTE: ADL-related activities, such as manicures/pedicures, hair styling, and makeovers, may be considered part of the activities program.

NOTE: For residents with no discernable response, service provision is still expected and may include one-to-one activities such as talking to the resident, reading to the resident about prior interests, or applying lotion while stroking the resident's hands or feet.

Federal Interpretive Guideline: ***The activities program should provide stimulation or solace; promote physical, cognitive and/or emotional health; enhance, to the extent practicable, each resident's physical and mental status; and promote each resident's self-respect by providing, for example, activities that support self-expression and choice. Activities can occur at any time, and are not limited to formal activities being provided by activity staff. Others involved may be any facility staff, volunteers and visitors.***

Quality of Life - Activities and Social Services *(continued)*

According to study results from the federal government, “Residents wanted a variety of activities, including those that are not childish, require thinking (such as word games), are gender-specific, produce something useful, related to previous work of residents, allow for socializing with visitors and participating in community events, and are physically active… In (person-centered care) neighborhoods/households, all staff may be trained as nurse aides and are responsible to provide activities, and activities may resemble those of a private home.”

Interventions. The federal government has identified adaptations for specific conditions. Here are some of their examples.

For the resident with visual impairments, provide:
- higher levels of lighting without glare
- magnifying glasses
- large print items
- audio books

For the resident with hearing impairments, provide:
- small group activities
- placement of resident near the activity leader
- decreased background noise
- written instructions
- use of gestures or sign language

For the resident who has physical limitations, facilitate:
- use of adaptive equipment
- correct placement of supplies and materials
- proper seating

For the resident with cognitive impairment, provide:
- task segmentation
- programs using retained long-term memory, such as puzzles
- smaller groups without interruption
- one-to-one activities, such as sensory stimulation, directed conversation, spiritual support, task-oriented activities

For the resident with a language barrier, provide:
- translation tools
- translators
- publications in resident’s language

For residents who are terminally ill, provide or encourage:
- life review
- quality time with chosen persons
- spiritual support
- massage
- music
- reading to the resident

Quality of Life - Activities and Social Services *(continued)*

For the resident with pain, provide palliative care and:

- spiritual support
- relaxation program
- music
- massage
- aromatherapy and/or pet therapy

For the resident who prefers to stay in her/his own room, provide:

- in-room visits by staff or volunteers
- massage
- aromatherapy
- reading materials
- radio programs
- audio books

For the resident with varying sleep patterns, encourage:

- staff read a newspaper with resident
- dietary staff makes finger foods available
- maintenance staff take resident on night rounds
- staff give early morning delivery of coffee/juice

For the younger resident, provide:

- music that fits the resident's taste
- magazines, movies
- computer use
- video games
- opportunity to play musical instruments

For residents from diverse ethnic and cultural backgrounds, provide:

- special events
- visits from their spiritual leaders
- printed materials about the resident's culture

For the resident who is constantly walking, provide:

- space that encourages physical exercise such as a walking path
- a room with a calming atmosphere (with music and rocking chair, etc.)
- aromatherapy
- conversation with the resident about what they are seeking

For the resident who engages in name-calling, hitting, yelling, sexual behavior or compulsive behavior, encourage:

- a calm environment such as sorting or matching
- using one-to-one activities
- walking quietly with staff or volunteer
- eating a favorite snack
- exercise

Quality of Life - Activities and Social Services *(continued)*

For the resident who disrupts group activities, offer:
- other activities such as involvement in occupation-related activities
- involvement in physical activities such as walking
- exercise or projects requiring concentration such as model building, music, art, ceramics, weight lifting, punching bag, or slow exercise such as rocking chair

For the resident who goes through others' belongings, use:
- normalizing activities such as sorting, putting supplies away, providing a dresser for rummaging
- non-entry cues such as "Do not disturb"

For the resident who has withdrawn from activities and routines, provide:
- activities just before or after meals
- in-room visits with volunteers
- having resident assist another resident
- exercise such as aerobics and light weight lifting

For the resident who excessively seeks attention, facilitate inclusion in:
- social programs
- small group activities
- service projects

For the resident who lacks awareness of personal safety, facilitate:
- avoiding sharp objects and small items
- involving in activities that use the hands
- activities that are emotionally soothing like music

For the resident who has delusional/hallucinatory behavior, offer:
- focus on actual surroundings
- verbal reassurance
- acknowledgement that the resident's experience is real to her/him

The facility shall provide medically-related **social services** to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Federal Interpretive Guideline: ***Medically-related social services might include: obtaining needed adaptive equipment, clothing, and personal items; obtaining services from outside entities such as talking books, absentee ballots, community wheelchair transportation. Where needed services are not covered by the Medicaid State plan, nursing facilities are still required to attempt to obtain these services. Types of conditions to which the facility should respond with social services: lack of an effective family/support system; behavioral symptoms; depression; chronic or acute pain; difficulty with socialization skills; inability to cope with loss of function.***

Quality of Care

KAR 28-39-152. Quality of care. The nursing facility shall 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 the plan of care. The facility shall ensure:

(a) Each resident's abilities in activities of daily living improve or are maintained except as an unavoidable result of the resident's clinical condition.
State interpretation: ***A physician's orders are not required for restorative nursing services. Restorative nursing services assist or promote the resident's ability to attain the highest practicable level of physical functioning and self-care. These activities are carried out and/or supervised by licensed nurses. Restorative nursing activities include, but are not limited to, range of motion, training and skill practice in transfer, eating, walking, toileting, and grooming activities.***

- Each resident is given the appropriate treatment and services to maintain or improve the level of functioning.
- Any resident who is unable to perform activities of daily living receives the necessary services.
- Residents are bathed to ensure skin integrity, cleanliness, and control of body odor.
- Oral care is provided so that the oral cavity and dentures are cleaned and odor is controlled.
- Residents are dressed and groomed in a manner that preserves personal dignity.
- Residents who are unable to eat without assistance are offered fluids and food in a manner that maintains adequate hydration and nutrition.

(b) Residents who are incontinent at the time of admission or who become incontinent after admission are assessed, and based on that assessment a plan is developed and implemented to assist the resident to become continent, unless the resident's clinical condition demonstrates that incontinency is unavoidable.

(c) A skin integrity program is developed for each resident identified to be at risk for pressure ulcers. The program shall include the following:

- Frequent changes of position at least one time every two hours.
- Protection of the skin from items that could promote loss of skin integrity.
- Use of protective devices over vulnerable areas.
- Methods to assist the resident to remain in good body alignment.

(d) Range of motion. Any resident with a decrease in range of motion receives appropriate treatment and services to increase range of motion, if practicable, and to prevent further decrease in range of motion. Any resident who is identified as at risk for experiencing a decrease in range of motion is provided appropriate treatment and services to prevent the decrease.
State interpretation: ***The generally accepted definition for range of motion is that active range of motion is performed by the resident themselves and passive range of motion is when someone provides assistance. Either can be done within licensed nursing judgment, and does not require specific physician's order.***

Quality of Care, *continued*

(i) Accident hazards. The facility shall ensure the residents' environment, which is usually the responsibility of housekeeping and maintenance, remains free of accident hazards. ***(For example the area must be free from: loose handrails, rough edges on wheelchairs or doorways, loose bed rails, leaking whirlpools, frayed wires, wet floors, etc.)*** Each resident must receive adequate supervision and assistance devices to prevent accidents, including falls.

(j) Nutrition. The facility shall ensure all of the following for each resident:

- Maintenance of acceptable parameters of nutritional status, including usual body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible.
- For residents at risk for malnutrition, the provision of monitoring, and appropriate treatment and services to prevent malnutrition.

State interpretation: ***The nursing staff must be aware of the nutritional needs and fluid and food intake of residents. Nursing facilities must develop a consistent method for monitoring and reporting nutritional information to the licensed nurse and when appropriate, the attending physician. Documentation which reflects the facility policy must be available for review by surveyors. One commonly used method is the documentation of the percentage of the diet consumed. It would be appropriate for those residents who are at risk for nutritional problems to have additional evaluations of food eaten. This assessment process could include documentation of the percentage of foods eaten from each of the major food groups for a specific time period. Regardless of the methodology, the information must be available for the staff and surveyors to review.***

(k) Hydration. The facility shall provide each resident: fresh water, with or without ice according to the preference of the resident, shall be accessible to each resident at all times except when not appropriate due to resident's clinical condition.

(m) Drug Therapy. Drugs are prepared and administered by the same person. The resident is identified before administration of a drug, and the dose of the drug administered to the resident is recorded on the resident's individual drug record by the person who administers the drug.

State interpretation: ***The facility shall be responsible for determining the accepted procedure for administration of medications. All staff responsible for administering medications shall receive in-service education to assure that documentation of medications is in conformance with acceptable standards of practice. The licensed nurse, certified medication aide or licensed mental health technician who administers medications is responsible to see that the resident receiving the medication ingests the medication. It is not acceptable to leave medications on bedside tables, meal trays, dining room tables or at other locations.***

Nursing Services

KAR 28-39-154. Nursing services. Each nursing facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

State interpretation: ***Delegation of nursing tasks to designated medication aides and nurse aides in adult care homes shall comply with the following:***

1. ***Each licensed nurse shall assess the resident's nursing care needs and formulate a written plan before delegating a nursing task to a nurse aide or medication aide.***
2. ***The selected nursing task to be delegated shall be one that a reasonable and prudent licensed nurse would determine to be within the scope of sound nursing judgment and which can be performed properly and safely by a nurse aide or medication aide.***
3. ***Specialized nursing tasks such as, but not limited to, catheterization, ostomy care, and administration of tube feedings, care of skin with managed integrity, shall be assessed and delegated as appropriate.***
4. ***The selected nursing task shall not require the designated nurse aide or medication aide to exercise nursing judgment or intervention such as assessment.***
5. ***In an anticipated health crisis identified in the care plan by the licensed nurse, the nurse aide or medication aide may provide care for which instruction has been provided.***

- A registered nurse shall be on duty at least eight consecutive hours per day, seven days per week.
- A licensed nurse shall be on duty 24 hours per day, seven days per week.
- At least two nursing personnel shall be on duty at all times in the facility.
- Direct care staff shall wear identification badges to identify name and position.
- Per facility, there shall be a weekly average of 2.0 hours of direct care staff time per resident.
- **The licensing agency (KDOA) and the federal certification agency (Centers for Medicare and Medicaid Services - CMS) may require an increase in the number of nursing personnel above minimum levels under certain circumstances. The circumstances may include the following:**

  - location of resident rooms;
  - locations of nurses' stations;
  - the acuity level of residents; or
  - that the health and safety needs of residents are not being met.

Physician Services

KAR 28-39-155 Physician Services. Each resident in a nursing facility shall be admitted and shall remain under the care of a physician.

- The facility shall ensure that the medical care of each resident is supervised by a physician.

- The physician shall perform the following duties:
  (1) At the time of the resident's admission to the facility, provide orders for the immediate care of the resident, current medical findings, and diagnosis. The physician shall provide a medical history within seven days after admission of the resident;
  (2) Review the resident's total program of care, including medications and treatments at each visit;
  (3) Write, sign, and date progress notes at each visit; and
  (4) Sign all written orders at the time of the visit and all telephone orders within seven days of the date the order was given.

- A physician shall see the resident for all of the following:
  (1) If it is necessary due to a change in the resident's condition determined by the physician or licensed nursing staff;
  (2) If the resident or legal representative requests a physician visit; and
  (3) At least annually.

- The physician may delegate resident visits to an advanced registered nurse practitioner or a physician assistant.

- At admission, the resident or the resident's legal representative shall designate the hospital to which the resident is to be transferred in a medical emergency.

- Death of resident. The nursing facility shall obtain an order from a physician before allowing removal of the body of a deceased resident.

Pharmacy Services

KAR 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.

- 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.

- 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) The facility shall ensure that any over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package.
  (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.

- 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.

- 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 degrees F. The nursing facility shall store drugs and biologicals at the temperatures recommended by the manufacturer.

- 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.

Dietary Services

KAR 28-39-158. Dietary services. The nursing facility shall provide each resident with nourishing, palatable, attractive, non-contaminated foods that meet the daily nutritional and special dietary needs of each resident. A facility that has a contract with an outside food management company shall be found to be in compliance with this regulation if the company meets the requirements of these regulations.

(a) Staffing.
- Overall supervisory responsibility for the dietetic services shall be the assigned responsibility of a full-time employee who is a licensed dietitian or a dietetic services supervisor who receives regularly scheduled onsite supervision from a licensed dietitian.
- The nursing facility shall implement written policies and procedures for all functions of the dietetic services department.

(b) Menus and nutritional adequacy. Menus shall meet the nutritional needs of the residents in accordance with:
- Each resident's comprehensive assessment;
- The attending physician's orders; and
- The recommended dietary allowances of the food and nutrition board of the national research council.

(c) Food. Each facility shall comply with the following provisions:
- Dietary service staff shall prepare the food by methods that conserve nutritive value, flavor, appetizing aroma, and appearance.
- Food shall be attractive, flavorful, well-seasoned, and served at the proper temperature.
- The facility shall prepare the food using standardized recipes adjusted to the number of residents served.
- The facility shall prepare the food in a form designed to meet individual resident needs.
- **When a resident refuses a food served, the facility shall serve the resident food of similar nutritive value as a substitute**.

(d) Therapeutic diets. The attending physician shall prescribe any therapeutic diets.

(e) Frequency of meals. Each resident shall receive and the facility shall:
- Provide at least three meals daily, at regular times;
- Offer nourishment at bedtime to all residents unless clinically contra-indicated; and
- Provide between-meal nourishments when clinically indicated or requested when not clinically contra-indicated.

(f) Assistive devices. Each facility shall provide, based on the comprehensive assessment, special eating equipment and utensils for residents who need them.

(g) Sanitary conditions. Each facility shall comply with the following provisions.

- The facility shall procure all foods from sources approved or considered satisfactory by federal, state and local authorities.
- The facility shall store, prepare, display, distribute, and serve foods to residents, visitors and staff under sanitary conditions.

(h) Service. The facility shall provide dining room service for all capable residents.

(i) Dietary employees shall:

- **Thoroughly wash their hands and exposed portions of their arms with soap and water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet.**
- **Keep their fingernails clean and trimmed.**
- **Wear clean outer clothing.**
- **Use effective hair restraints to prevent contamination of food and food-contact surfaces.**
- **Use cloths or sponges for wiping food spills on food and non-food contact surfaces which are clean, rinsed frequently in a sanitizing solution and stored in the sanitizing solution which is maintained at an effective concentration.**

(j) The facility shall ensure that only persons authorized by the facility are in the dietary services area or areas.

(k) The facility shall ensure that the food preparation area is not used as a dining area.

(l) Cleaning procedures. The facility shall establish and follow cleaning procedures to ensure that all equipment and work areas, including walls, floors and ceilings are clean.

Dental Services

KAR 28-39-159. Dental services. Each nursing facility shall assist residents in obtaining routine and 24-hour emergency dental care. The facility shall:

(a) Maintain a list of available dentists for residents who do not have a dentist;
(b) Assist residents, if requested or necessary, in arranging for appropriate dental services; and
(c) Assist residents in arranging transportation to and from the dentist's office.

Other Resident Services

KAR 28-39-160. Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.

(1) The facility shall designate a specific portion of the facility for the special care section.
(2) The facility shall develop admission criteria which identifies the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the section.
(3) A written physician's order shall be required for placement.
(4) Direct care staff shall be present in the section at all times.
(5) Before admission to a special care section, the facility shall inform the resident or resident's legal representative in writing of the services and programs available in the special care section which are different from those services and programs provided in the other sections of the facility.
(6) The facility shall provide a training program for each staff member before the member's assignment to the section. Evidence of completion of the training shall be on file in the employees' personnel records.
(7) The facility shall provide in-service training specific to the needs of the residents in the special care section to staff at regular intervals.

Administration

KAR 28-39-163 Administration.

Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.

(1) The facility shall regularly conduct and document an orientation program for all new employees.

(2) Orientation of direct care staff shall include review of the facility's policies and procedures and evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.

(3) The facility shall provide regular, planned in-service education for all staff.

(A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.

(B) The facility shall provide direct care staff with in-service education in techniques that assist residents to function at their highest practicable physical, mental, and psychosocial level.

(C) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-service education each year.

(D) The facility shall maintain documentation of in-service education.

(E) The facility shall record attendance at in-service education in the employee record of each staff member.

Clinical records. The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:

- Be complete;
- Be accurately documented; and
- Be systematically organized.

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

- Transfer to another health care institution;
- Law;
- Third party payment contract;
- The resident or legal representative; or
- In the case of a deceased resident, the executor of the resident's estate, or the resident's spouse, adult child, parent, or adult brother or sister.

Administration, *continued*

Documentation by direct care staff shall meet the following criteria:

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

Quality assessment and assurance.

(1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:

*The director of nursing services;

*A physician designated by the facility; and

*At least three other members of the facility's staff.

(2) The quality assessment and assurance committee shall perform the following:

*Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and

*Develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies.

Mechanical Requirements - maintenance and housekeeping

KAR 28-39-162c. Preventive maintenance program.

The facility shall implement a preventive maintenance program to ensure all of the following: electrical and mechanical equipment is maintained in good operating condition; the interior and exterior of the building are safe, clean, and orderly; resident care equipment is maintained in a safe, operating, and sanitary condition; building and equipment supplies shall be stored in areas not accessible to residents.

Housekeeping services. The facility shall provide housekeeping services to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections; the facility shall be kept free of insects, rodents, and vermin; the grounds shall be free from accumulation of rubbish and other health or safety hazards; wastebaskets shall be located at all lavatories.

The Nursing Home Inspection

Kansas Statute 39-935 (inspections) states:

The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each adult care home within 15 months of any previous inspection for the purpose of determining whether the adult care home is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the adult care home.

Every adult care home shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the adult care home.

Kansas Statute 39-940 (records open for inspection) states:

All prescribed records shall be open to inspection by the designated agents of the agencies administering this act. It shall be unlawful to:

(1) Make false entries in such records.
(2) Omit any information required or make any false report concerning any adult care home, or;
(3) File or cause to be filed such false or incomplete records or reports with any agency administering this act, knowing that such records or reports are false or incomplete.

The Kansas Department on Aging conducts an unannounced annual inspection survey at each licensed care home. Surveys can occur at 9 to 15 month intervals. The following information about inspection survey tasks is excerpted from the State Operations Manual.

Inspection Survey Tasks

As of late 2005, Kansas has two types of inspection surveys: the traditional standard survey and the pilot project Quality Indicator Survey (QIS). Kansas has been designated as a demonstration state by the federal Centers for Medicare and Medicaid Services (CMS). Some nursing homes will be surveyed using the QIS as the survey, but most will be surveyed using the standard survey. Both rely on the federal regulations and interpretive guidance as the basis of their findings. This section will provide some details about the standard survey, with side notes distinguishing how the new QIS differs from the standard.

A standard survey is composed of seven tasks, and is a resident-centered, outcome-oriented inspection which relies on a mixed sample of residents to gather information about the facility's compliance with requirements. Outcomes include both actual and potential negative outcomes, as well as failure of a facility to help residents achieve their highest practicable level of well-being. A standard survey assesses:

- Compliance with residents' rights and quality of life requirements. ***(For example, surveyors look for evidence of mandatory trainings about resident rights and abuse, neglect and exploitation.)***
- Accuracy of residents' comprehensive assessments and the adequacy of care plans.
- Quality of care and services furnished, as measured by indicators of medical, nursing,

rehabilitative care and drug therapy, dietary and nutrition services, activities and social participation, sanitation and infection control. ***(This can be monitored through quality assurance meetings.)***

- Effectiveness of the physical environment to empower residents, accommodate resident needs, and maintain resident safety, including whether requested room variances meet health, safety and quality of life needs for the affected residents. ***(This can be accomplished by focus on resident-centered services.)***

Task 1 - Offsite Survey Preparation

- Identify and pre-select concerns for Phase 1 of the survey, based on the Facility Quality Indicator (QI) Profile. ***(Surveyors have a computer printout of this information before arriving at the nursing home.)***
- Pre-select potential residents for Phase 1 of the survey based on the Resident Level Summary. *(Resident Level Summary provides resident-specific QI information. This report is generated using the most current MDS records in the state database at the time the report was generated. It is used to pre-select residents for the Phase 1 sample of residents who have conditions representing the concerns selected using the Facility Quality Indicator Profile.)*
- Note concerns based on other sources of information. Note other potential residents who could be selected for the sample. ***(Surveyors will interview additional residents based on concerns discovered.)***
- Determine if the areas of potential concerns or special features of the facility require the addition of any specialty surveyors to the team.
- Review results of Complaint Investigations. ***(Complaint investigations are referred to as abbreviated surveys.)***
- Review information from the State (Long-Term Care) Ombudsman Office.

In any facility in which the team has noted concerns with weight loss, dehydration, and/or pressure ulcers, select approximately 1/2 of the pre-selected sample as residents who have one or more of these conditions. ***(Surveyors will focus their review on additional residents with these problems.)***

Surveyors using the QIS process ask the nursing home for these items: an alphabetical list of residents and their room numbers and birth dates; a list of new admissions and discharges over the last 30 days.

Task 2 - Entrance Conference/Onsite Preparatory Activities

- The team coordinator informs the facility's administrator (or designee) about the survey and introduces team members.
- After the introduction to the administrator, the other team members proceed to the Initial Tour (Task 3), while the team coordinator conducts the entrance conference. ***(The tour starts as soon as possible after informing staff of the inspection.)***

The team coordinator:

- Requests a copy of the actual working schedules for licensed and registered nursing staff.
- Informs facility staff that the survey team will be communicating with them throughout the survey. (***Surveyors will likely ask staff to clarify issues that have been discovered.)***
- Explains the survey process and answers questions.

- Informs the administrator that there will be interviews with individual residents, groups of residents, family members, friends, and legal representatives, and that these interviews are conducted privately, unless the interviewees request the presence of staff.
- Asks the administrator to provide information:
  1) List of key facility personnel.
  2) A copy of the information that is provided to residents regarding their rights. ***(This is in the resident admission packet.)***
  3) Meal times, dining locations, copies of all menus, including therapeutic menus.
  4) Medication pass times.
  5) Admissions during the past month and transfers or discharges during the past 3 months.
  6) A copy of the facility's layout.
  7) A copy of the facility admission contracts for all residents.
  8) Facility policies and procedures. ***(Staff should be aware of <u>all</u> policies that are applicable to their department.)***
  9) Evidence that the facility monitors accidents and incidents. ***(Surveyors will want to see proof of incident reports, investigations, and the training on abuse and neglect.)***
  10) The current resident activity schedule/calendar.
  11) The names of any residents age 55 and under.
  12) The names of any residents who communicate with non-oral communication devices, sign language, or who speak a language other than the dominate language of the facility.

While it is not a requirement, many facilities take a proactive stance and place the requested checklist information in a three ring binder prior to the anticipated survey date. To ensure the information remains current, a person may be assigned to check the information weekly, i.e. residents admitted or discharged, employees hired, and specific lists of the resident.

<u>Task 3 - Initial Tour</u>

General Objectives: The Initial Tour is designed to:
- Provide an initial review of the facility, the residents and the staff. ***(This is where the surveyors are introduced to residents.)***
- Obtain an initial evaluation of the environment of the facility, including the facility kitchen.
- Confirm or invalidate the pre-selected concerns (if any) and add concerns discovered onsite. ***(Surveyors use the quality indicator report and other reports.)***

Observations of All Residents During the Tour: Inspection Surveyors
- Ask staff to identify those residents who have no family or significant others.
- Have staff identify newly admitted residents (those admitted within the past 14 days).
- Have staff identify any residents for whom transfer or discharge is planned within the next 30 days.

During the tour, focus is on the following:

Observations for Quality of Life which focus on:
- Resident grooming and dress.
- Staff-resident interaction; the way staff talk with residents.

Inspection Survey Tasks, *continued*

Emotional and behavioral conduct of the residents and the reactions and interventions by the staff:
- Resident behaviors such as crying out.
- The manner in which these behaviors are being addressed by staff.

Care issues, how care is provided, and prevalence of special care needs:
- Skin conditions.
- Skin tears, bruising or evidence of fractures.
- Dehydration risk factors.
- Clinical signs such as edema, emaciation and contractures.
- Functional risk factors such as poor positioning and use of physical restraints. ***(For example, surveyors look at bed rails.)***
- Side effects of anti-psychotic drug use.
- Presence or prevalence (numbers) of infections.
- Pressure ulcers. ***(For example, surveyors look to see if sores were acquired in the nursing home or elsewhere.)***
- Amputation.
- Significant weight loss. ***(Surveyors look to see if protocols are in place, such as reweighing and other interventions.)***
- Feeding tubes.
- Ventilators, oxygen, or intravenous therapies.

Impact of the facility environment and safety issues:
- Infection control practices.
- Functional and clean equipment.
- Presentation and maintenance of a safe, homelike and clean environment.
- Availability, use and maintenance of assistive devices. ***(For example, surveyors look to see if devices are stored safely to avoid falls.)***

Surveyors using the QIS process use the tour for the following purpose. It is an initial brief review to gain information about the resident population, staff, and facility layout. The purpose is not to select a sample of residents for review nor to gather detailed information regarding specific concerns.

Task 4 - Sample Selection

The objective of this task is to select a sample of facility residents (for comprehensive reviews/interviews) based on quality indicators, and other sources of information.

Special Factors to Consider in Sample Selection:
- New admissions.
- Residents most at risk of neglect and abuse. ***(For example, surveyors look for residents who have no family, or have inappropriate behaviors, or have manipulative personalities.)***
- Residents receiving hospice services.
- Residents with end-stage renal disease (who are on dialysis).
- Residents under the age of 55.

- Residents with mental illness or mental retardation.
- Residents who communicate with non-oral communication devices..

Surveyors using the QIS process have four samples that are selected using the "data collection tool": (1) Offsite sample - residents with a minimum data set (MDS) within 180 days prior to the survey; (2) Random admission sample - 30 residents admitted more than 30 days prior to the survey who had an MDS within 180 days prior to the survey; (3) Random census sample - 40 residents currently in the home selected through offsite and onsite activities; and (4) Surveyor-initiated sample - residents selected at surveyor's discretion.

Task 5 - Information Gathering, which provides data to note deficiencies

Task 5 includes the following subtasks:

- Assessment of the environment of the facility affecting the resident's life, health and safety.
- Assessment of the facility's food storage, preparation and service.
- Resident Review: Assessment of drug therapies, the quality of life of the resident as affected by his/her room environment and daily interactions with staff.
- Assessment of residents' quality of life through individual interviews, a group interview, family interviews and overall observations by inspectors.
- Medication Pass Observation: Evaluate for the presence of any unnecessary drugs. ***(The surveyor looks to see if all drugs ordered are actually given as ordered and given in accordance with the standard of practice. Also, they review the medication regimen for the presence of possible Adverse Drug Reactions (ADR) or side effects.)***
- Assessment of the facility's Quality Assessment and Assurance program to determine if the facility identifies and addresses specific care and quality issues and implements a program to resolve those issues. ***(Surveyors expect staff to know who all is on the committee and when they meet.)***
- Determine whether the facility had policies and procedures designed to protect residents from abuse, neglect, involuntary seclusion, and misappropriation of their property. ***(Surveyors expect staff to know about the policies book and mandatory in-service trainings, from their orientation.)***

Surveyors using the QIS process have a preliminary investigation of all regulatory areas in admission, census, and surveyor-initiated samples. A second stage of investigation is triggered based on findings during the preliminary investigation. The surveyors follow consistent protocols for making observations, conducting interviews and reviewing charts. The group interview is replaced by Resident Council President/representative interview, and is supplemented by individual resident interviews. Each team member uses a laptop personal computer throughout the process to record findings that are then synthesized and organized by the computer.

Inspection Survey Tasks, *continued*

Task 6 - Determination of Compliance

General Objectives

- To review and analyze all information collected and to determine whether or not the facility has failed to meet one or more of the regulatory requirements; and
- To determine whether to conduct an extended survey.

Evidence Evaluation: Potential or Actual Physical, Mental or Psychosocial Injury or Deterioration to a Resident, Including Violation of Resident's Rights. Some situations which illustrate this level of harm could be:

- Development of, or worsening of, a pressure ulcer;
- Loss of dignity such as lying in a urine-saturated bed for a prolonged period; and
- Social isolation caused by staff failure to assist the resident in participating in scheduled activities.

Lack of (or the Potential for Lack of) Reaching the Highest Practicable Level of Physical, Mental or Psychosocial Well-Being. No deterioration occurred, but the facility failed to provide necessary care for resident improvement. For example:

- The facility identified the resident's desire to reach a higher level of ability, e.g., improvement in ambulation, and care was planned accordingly. The facility failed to implement, or failed to consistently implement the plan of care, and the resident failed to improve. ***(For example, if a resident is to have restorative therapy 3 to 5 times per week but there is no documentation that it occurred, that is a problem.)***
- The facility identified a need in the comprehensive assessment, but the facility did not develop a care plan or prioritize this need of the resident. ***(For example, if a resident's MDS triggered a need but there was nothing in the care plan, that is a problem.)***
- The facility failed to identify the resident's need/problem/ability to improve, and therefore did not plan care appropriately. ***(For example, if a resident's MDS was not accurate resulting in lack of care in the plan, that is a problem.)***

Special Circumstances which cause an extended survey to occur. Substandard quality of care and immediate jeopardy findings trigger additional survey tasks and must be determined during the information gathering tasks of the survey and/or during information analysis and decision-making. (***Immediate jeopardy*** *is defined as a situation in which the facility's failure to meet one or more requirements caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.)*

Task 7 - Exit Conference

- The general objective of the exit conference is to inform the facility of the survey team's observations and preliminary findings.
- The exit conference is held with facility personnel, ombudsman, and officer of the organized residents group. Also, one or two residents are invited to attend. ***(This is a formal meeting that is for the purpose of discussing what deficient practices, which are written on form 2567, were found during the inspection. It cites the regulations violated.)***

KAR 28-39-144. Definitions.

- **"Activities director"** means an individual who meets one of the following requirements: Has a degree in therapeutic recreation; has two years of experience in a social or recreational program within the last five years, one of which was full-time in a patient activities program in a health care setting; is registered in Kansas as an occupational therapist or occupational therapy assistant; has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field; or has completed a course approved by the department in resident activities coordination and receives consultation from a therapeutic recreation specialist, an occupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.
- **"Administrator"** means any individual who is charged with the general administrations of a nursing facility, nursing facility for mental health, assisted living facility, or residential health care facility, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with KSA 65-3501, et seq., and amendments thereto.
- **"Adult care home"** means any of the following facilities licensed by the state.

(1) **"Nursing facility"** means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(2) **"Nursing facility for mental health"** means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(3) **"Intermediate care facility for the mentally retarded"** means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by mental retardation or related conditions need services to compensate for activities of daily living limitations.

(4) **"Assisted living facility"** means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(5) **"Residential health care facility"** means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree or relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24 hour, seven day a week basis for the support of resident independence. The

provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) **"Home plus"** means any residence or facility caring for not more than eight individuals.

(7) **"Adult day care"** means any place or facility operating less than 24 hours a day caring for individuals.

(8) **"Boarding care home"** means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals.

- **"Direct care staff"** means individuals employed by an adult care home who assist residents in activities of daily living. These activities may include the following:
  (1) grooming;
  (2) eating;
  (3) toileting;
  (4) transferring; and
  (5) ambulation.
- **"Director of nursing"** means an individual who meets the following criteria:
  (1) Is licensed in Kansas as a registered nurse;
  (2) is employed full-time in a nursing facility; and
  (3) has the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in a nursing facility.
- **"Drug administration"** means an act in which a single dose of a prescribed drug or biological is given by injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of drugs and biologicals. Drug administration shall entail the following: removing an individual dose from a labeled container, including a unit dose container; verifying the drug and dose with the physician's orders; administering the dose to the proper resident; and documenting the dose in the resident's clinical record.
- **"Legal representative"** means an individual person who has been appointed by a court of law as a guardian or has been selected by a resident in a durable power of attorney for health care decisions.
- **“Licensed nurse"** means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse. **"Licensed practical nurse"** means an individual who is licensed by the Kansas board of nursing as a licensed practical nurse.
- **"Medication aide"** means an individual who has completed a training program in medication administration as prescribed in K.A.R. 28-39-169 through K.A.R. 28-39-171.
- **"Nurse aide"** means an individual who has a nurse aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-165. **"Nurse aide trainee"** means an individual who is in the process of completing a nurse aide training program as prescribed in K.A.R. 28-39-165 or K.A.R. 28-39-167 and has not been issued a nurse aide certificate by the Kansas department of health and environment.
- **"Physical restraint"** means any method or any physical device, material, or equipment attached or adjacent to the resident's body and meeting the following criteria: Cannot be easily removed by the resident; and restricts freedom of movement or normal access to the resident's body.
- **"Significant change in condition"** means a decline or improvement in a resident's mental, psychosocial, or physical functioning that would result in the need for amendment of the resident's comprehensive plan of care or negotiated service agreement.

Glossary of Terms

Activities of Daily Living (ADL)
Activities you usually do during a normal day, such as getting in and out of bed, dressing, bathing, eating, and using the bathroom

Care Plan
A written plan for your care. It tells what services you will get to reach and keep your best physical, mental, and social well being.

Case Mix
The distribution of patients into categories reflecting differences in severity of illness or resource consumption.

Code of Federal Regulation (CFR)
The official compilation of federal rules and requirements.

Contractures
An abnormal, often permanent shortening, as of muscle or scar tissue, that results in distortion or deformity, especially of a joint of the body.

Edema
An accumulation of an excessive amount of watery fluid in cells, tissues, or serous cavities.

Emaciation
The process of losing so much flesh as to become extremely thin; wasting.

In-Service
Taking place or continuing while one is a full-time employee: in-service training workshops.

Minimum Data Set (MDS)
The form used for nursing home resident assessment and care screening about: customary routine cognitive patterns, communication/hearing patterns, vision patterns, mood and behavior patterns, psychosocial well-being, physical functioning and structural problems, continence (in last 14 days), disease diagnoses, health conditions, oral/ nutritional status, oral/ dental status, skin condition, activity pursuit patterns, and special treatments and procedures.

Outcome
The result of performance (or nonperformance) of a function or process.

Glossary of Terms *(continued)*

Pressure Ulcers (bedsore)

A pressure-induced ulceration of the skin occurring in persons confined to bed for long periods of time. (Also called decubitus ulcer.)

Quality Indicators (QI)

A key clinical value or quality characteristic used to measure, over time, the performance, processes, and outcomes of an organization or some component of health care delivery.

Examples of quality measures found on the CMS website are:

- Percent of Residents Whose Need for Help With Daily Activities Has Increased
- Percent of Residents Who Have Moderate to Severe Pain
- Percent of High-Risk Residents Who Have Pressure Sores
- Percent of Low-Risk Residents Who Have Pressure Sores
- Percent of Residents Who Were Physically Restrained
- Percent of Residents Who are More Depressed or Anxious
- Percent of Low-Risk Residents Who Lose Control of Their Bowels or Bladder
- Percent of Residents Who Have/Had a Catheter Inserted and Left in Their Bladder
- Percent of Residents with a Urinary Tract Infection

Resident-Centered

Pursuing "non-traditional" models of care with progressive home-like environments. Ongoing culture change activities such as staff empowerment, home-like environment and community involvement.

Special Care Section (or Unit) for Alzheimer's or Dementia residents

Specially designed programs or environments that are different from those provided in a traditional nursing home setting. Dementia-oriented programs include small group activities, short programs, and activities arranged by functional or cognitive ability levels. Dementia-oriented environmental design features include secured exits, small dining rooms, single occupancy rooms, and special indoor or outdoor areas for wandering.

Sources

Centers for Medicare/Medicaid (CMS) website: *http://www.cms.hhs.gov/glossary*
Online Dictionary: *http://dictionary.reference.com/*
Alzheimer's Support website: *http://www.alzheimersupport.com/library*

Summary for All Staff

Some regulations are applicable for all nursing home employees. The key topics to know and understand include:

- **Resident rights**, including the right of the resident to be free from abuse, neglect and exploitation.

The facility shall:

(1) not use verbal, mental, sexual or physical abuse, including corporal punishment or seclusion;
(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected or exploited residents in an adult care home in the past;
(3) ensure that all allegations of abuse, neglect or exploitation are investigated and reported immediately to the administrator of the facility and to the Kansas Department on Aging;
(4) have evidence that all alleged violations are thoroughly investigated, and shall take measures to prevent further potential abuse, neglect and exploitation while the investigation is in progress;
(5) report the results of all facility investigations to the administrator or the designated representative;
(6) maintain a written record of all investigations of reported abuse, neglect and exploitation;
(7) take appropriate corrective action if the alleged violation is verified.

- **Infection control** with focus on (1) proper and frequent hand washing and (2) discourage the sharing of personal care items.

Personnel should always wash their hands: before performing invasive procedures; before taking care of particularly susceptible residents; before and after touching wounds; after situations during which microbial contamination of hands is likely to occur, especially involving contact with mucous membranes, blood or body fluids, secretions, or excretions; after touching equipment likely to be contaminated; after taking care of a resident with an infection; between contacts with different residents when providing direct care such as bathing, perineal care, and oral care.

- **Activities**, and remember that all staff can participate with providing activities.

- **In-service programs**. Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-service education each year. The facility shall record attendance at in-service education in the employee record of each staff member. The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.

About Kansas Advocates

Founded in 1975 as *Kansans for Improvement of Nursing Homes (KINH)*, Kansas Advocates for Better Care continues to be the only statewide consumer-based non-profit organization working to improve the *quality* of long-term care in Kansas.

This 501(c)(3) organization is supported entirely by membership dues, contributions, sales from consumer information products, and grants for special projects. Members and contributors receive newsletters with news about licensed adult care homes throughout Kansas. The volunteer Board of Directors includes consumers, health care providers and business leaders from across the state.

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