

Board of Adult Care Home Administrators—Administrator Member Qualifications and Terms; Licensure of Adult Care Homes; HB 2471

HB 2471 establishes requirements for the appointment of the three state-licensed administrator members of the Board of Adult Care Home Administrators (Board), and makes changes to the terms of Board members. The bill also amends certain statutes regulating the licensure of adult care homes.

Board of Adult Care Home Administrators

The following specific changes are made with regard to the Board of Adult Care Home Administrators:

Administrator Member Nomination Procedure

The bill requires, at least 30 days prior to the expiration of each administrator member's term, at least one but not more than three names of persons of recognized ability and qualification be submitted to the Governor for consideration in making appointments to the Board. The names are to be submitted for the not-for-profit representative by LeadingAge Kansas, for the for-profit representative by the Kansas Health Care Association, and for the professional association representative by the Kansas Adult Care Executives, or the successors of such entities.

Administrator Member Qualifications

The administrator members of the Board are required to have been actively engaged in the administration of adult care homes within the state for the three years immediately preceding appointment and are required to remain actively engaged in the administration of adult care homes in Kansas while serving on the Board. Additionally, Board members must not have had any published disciplinary action taken against them by the Board, or have any such action taken while serving on the Board.

Administrator Member Terms

The bill changes Board member terms on the effective date of this act, by allowing each current board member's term to be extended by one year from the term expiration date. Board members appointed on or after the effective date of this act serve a term of three years or until otherwise disqualified from serving, and they cannot serve more than two consecutive terms.

Licensure of Adult Care Homes

The bill amends the definition of an intermediate care facility for the mentally retarded (ICF/MR) to apply to facilities which provide care for four or more individuals. The current definition applies to facilities caring for six or more individuals. The definition change clarifies the authority of the Kansas Department for Aging and Disability Services to license facilities which were licensed previously as ICF/MRs but did not meet the definition of an ICF/MR, as a result of having fewer than the required six or more individuals for which care was provided. The bill

prohibits the operation of an ICF/MR of five beds or less unless, on or before January 1, 2012, the facility was issued a license by the licensing agency or participated in the Medicaid program as an ICF/MR of five beds or less. This portion of the bill applies retroactively to the smaller ICF/MR facilities licensed on or before January 1, 2012.

Medicaid Program Definition

Under the bill, the Medicaid Program is defined as "the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder."

Waiting Period for Application

The bill provides when the licensing agency finds the adult care facility has substantially failed to comply with requirements, standards, or rules and regulations in the Adult Care Home Licensure Act, or a receiver has been appointed, the licensing agency is required to make an order denying, suspending, or revoking the license. The applicant or licensee whose license has been denied, suspended, or revoked is not eligible to apply for a new license for a period of two years from the date the license was denied, suspended, or revoked.

Two exceptions are created by the bill for the waiver of the two-year waiting period to apply for a new license or license reinstatement for a licensee or applicant whose license has been denied, revoked, or suspended. The waiting period is waived and the following individuals are allowed to apply at any time for a new license or license reinstatement by submitting a written waiver of rights under the Kansas Administrative Procedure Act and the Kansas Judicial Review Act to the licensing agency in a settlement agreement, or other manner approved by the licensing agency:

- A licensee or applicant who is issued an emergency order by the licensing agency denying, revoking, or suspending a license; or
- A licensee who is issued a notice of intent to take disciplinary action by the licensing agency.

Denial, Revocation, or Suspension of License

The bill adds the following reasons for which the licensing agency may deny, suspend, or revoke a license to operate an adult care home:

- The licensing authority of another state, territory, District of Columbia, or other country has:
 - denied, suspended, revoked, or limited a license;
 - censured or taken other disciplinary action; or
 - denied an application for licensure.

A certified copy of the record of such action is conclusive evidence of these actions;

- The individual has failed or refused to comply with Medicaid requirements or regulations, as evidenced by a certified copy of the record of such action; or
- The individual has failed or refused to comply with Medicare requirements or regulations, as evidenced by a certified copy of the record of such action.