

STATE OF KANSAS
KANSAS DEPARTMENT ON AGING

NOTICE OF PUBLIC HEARING ON PROPOSED ADMINISTRATIVE REGULATIONS

A public hearing will be conducted on Tuesday, November 9, 2010 at 9:00 a.m. in the Kansas Department on Aging's Office, 503 S. Kansas Ave., Topeka, to consider the adoption of proposed rules and regulations of the Kansas Department on Aging (KDOA) on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Patsy Samson, Policy Analyst, Kansas Department on Aging, 500 S. Kansas, Topeka, 66603 or by e-mail to Patsy.Samson@aging.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Patsy Samson at (785) 296-0378 or TTY (785) 291-3167. Handicapped parking is located on the east side of the New England Building's entrance on Kansas Avenue.

Summaries of the proposed regulations follow. These regulations will have an economic impact on businesses and consumers of nursing facility care. Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website: <http://www.agingkansas.org/index.htm>.

K.A.R. 26-39-100 - Definitions. The amendment to this KDOA regulation coincides with the proposed Nursing Facility (NF) Physical Environment regulations listed below, with the following revisions incorporated: 1) Definitions for "addition," "alteration," "minor alteration," and "renovation" of an adult care home have been added or revised; 2) nursing unit in a nursing facility has been re-defined to serve no more than 30 residents; and 3) certain terminology has been changed to promote resident-centered care.

K.A.R. 26-39-101 - Licensure of adult care homes. The amendment to this KDOA regulation updates regulatory references to coincide with the proposed NF Physical Environment regulations listed below. In addition, requirements have been removed for providers who are making alterations, remodeling, or relocating required rooms that do not involve structural elements.

K.A.R. 26-39-105 - Adoptions by reference. The amendment to this KDOA regulation coincides with the proposed NF Physical Environment regulations listed below and centralizes adopted standards applicable to adult care homes into a single regulation. Certain materials adopted by reference in existing KDHE NF Physical Environment regulations have been incorporated into this regulation and updated to reflect current standards.

K.A.R. 26-40-301 - Nursing facility physical environment; construction and site requirements. This is a new regulation that updates the standards and terminology that were originally adopted by the Kansas Department of Health and Environment's (KDHE's) K.A.R.

28-39-162. Minor provisions have been added, including requirements for adequate parking and access for service vehicles.

K.A.R. 26-40-302 - Nursing facility physical environment; applicants for initial licensure and new construction. This is a new regulation that updates the standards and terminology that were originally adopted by KDHE's K.A.R. 28-39-162a. Please note that requirements established by KDHE's regulation have been separated into two new regulations. K.A.R. 26-40-302 establishes standards for new licensure and new construction, whereas K.A.R. 26-40-303 establishes standards for currently licensed nursing facilities. Changes to requirements for new licensure and new construction reflect the movement in nursing home care to a smaller group of residents living in a home environment. Significant changes in regulatory requirements include an increase in square footage in resident rooms and other certain areas; an increase in the minimum percentage of private rooms from 5% to 50%; and an increase in the minimum number of resident toilet rooms and showers.

K.A.R. 26-40-303 - Nursing facility physical environment; existing nursing facilities. This is a new regulation that adopts the standards that were originally adopted by KDHE's K.A.R. 28-39-162a. This regulation applies only to nursing facilities licensed as of the date this regulation becomes effective and primarily reflects current regulatory standards. However, this regulation does limit the number of residents in a single room to two and will impose minimal changes to other regulatory requirements, e.g. updating the Food Code that is adopted by reference. The regulation has been reformatted and the terminology revised to enable stakeholders to more readily identify and understand regulatory requirements.

K.A.R. 26-40-304 - Nursing facility physical environment; details and finishes. This is a new regulation that updates the standards and terminology that were originally adopted by KDHE's K.A.R. 28-39-162b. This regulation is applicable to both new and existing nursing facilities; however, provisions have been included that allow nursing facilities licensed before certain dates specified in the regulation to maintain regulatory compliance. The regulation has been reformatted and includes applicable requirements previously included in other regulations.

K.A.R. 26-40-305 - Nursing facility physical environment; mechanical, electrical, and plumbing systems. This is a new regulation that updates the standards and terminology that were originally adopted by KDHE's K.A.R. 28-39-162c. However, most of the technologically-related mechanical, electrical, and plumbing requirements included in KDHE's regulation have been replaced with the adoption of professional codes and standards. The regulation has also undergone significant reformatting. Changes to ventilation and lighting requirements reflect recommendations obtained from professional sources.

K.A.R. 28-39-162; K.A.R. 28-39-162a; K.A.R. 28-39-162b; and K.A.R. 28-39-162c are being revoked.