

SENATE BILL No. 453

AN ACT concerning health professions and practices; relating to unlicensed employees working in adult care homes; requiring unlicensed employee training courses to be taught and evaluated by professional licensed nurses; requiring a demonstration of skills to successfully complete training courses; licensees of the behavioral sciences regulatory board; allowing board-approved postgraduate experience to count toward graduate level supervised clinical practicum of supervised professional experience; permitting current master's and clinical level licensees to take the addiction counselor's test; amending K.S.A. 39-936 and 65-5115 and K.S.A. 2021 Supp. 65-6306 and 65-6610 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person ~~or persons~~ shall be in attendance at all times ~~upon when~~ residents ~~receiving~~ receive accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person ~~or persons~~ attendant upon the residents.

(c) (1) The licensing agency shall require ~~unlicensed employees of unlicensed employees working in~~ an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability that has been granted an exception by the secretary for aging and disability services upon a finding by the licensing agency that an ~~appropriate approved~~ training program for ~~unlicensed employees certified nurse aides~~ is in place for such adult care home, ~~employed on and after the effective date of this act~~ who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary for aging and disability services or are not participating in such a course ~~on the effective date of this act~~ to complete successfully 40 hours of training in basic resident care skills. Any ~~unlicensed person unlicensed employee~~ who has not completed ~~at least 40 hours of the certified nurse aide training relating to resident care and treatment~~ approved by the secretary for aging and disability services ~~or who is not making progress to complete the course of education and training required by the secretary for aging and disability services under paragraph (2) within four months following completion of such 40 hours~~ shall not provide direct, individual care to residents.

(A) The 40 hours of training ~~shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary for aging and disability services and remaining hours in the certified nurse aide training shall be performed under the general supervision of a course supervisor. The course supervisor shall be defined in rules and regulations and approved by the secretary for aging and disability services. As used in this subparagraph, "supervision" means the same as defined in K.S.A. 65-1165, and amendments thereto.~~ The 40 hours of training may be prepared and administered by an adult care home, hospital, as defined in K.S.A. 65-425, and amendments thereto, hospice or program for all-inclusive care for the elderly or by any other qualified

~~person~~ course sponsor and may be conducted on the premises of the adult care home, hospital, hospice or program for all-inclusive care for the elderly. The 40 hours of training required in this section shall be a part of ~~any course of education and training~~ an approved certified nurse aide training course required by the secretary for aging and disability services under subsection (c)(2).

(B) Each instructor under the supervision of a course supervisor of the certified nurse aide training course shall be licensed to practice in Kansas and in good standing. As used in this subparagraph, "in good standing" includes the possession of a license, certificate or registration that is subject to probation or non-disciplinary conditions, limitations or restrictions, but does not include a license, certificate or registration that is revoked, canceled or surrendered or subject to pending license-related disciplinary action. If the records of the Kansas department for aging and disability services reflect that an individual has a prohibiting offense, such license, certificate or registration shall not be considered "in good standing." Any license, certificate or registration that is subject to disciplinary conditions, limitations or restrictions shall remain subject to such conditions, limitations or restrictions.

(C) Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, that meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require ~~unlicensed employees of unlicensed employees~~ working in an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability that has been granted an exception by the secretary for aging and disability services upon a finding by the licensing agency that an appropriate training program for ~~unlicensed employees certified nurse aides~~ is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents and who do not meet the definition of paid nutrition assistant under K.S.A. 39-923(a)(27), and amendments thereto, after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home.

(A) A course of instruction may be prepared and administered by any adult care home, hospital, as defined in K.S.A. 65-425, and amendments thereto, hospice or program for all-inclusive care for the elderly or by any other qualified person. A course of instruction prepared and administered by an adult care home, hospital, hospice or program for all-inclusive care for the elderly may be conducted on the premises of the adult care home, hospital, hospice or program for all-inclusive care for the elderly that prepared and that will administer the course of instruction.

(B) As evidence of successful completion of the training course, such unlicensed employees shall demonstrate competency in a list of skills that are identified and prescribed by the secretary for aging and disability services. The skills demonstration shall be evaluated by a registered professional nurse licensed, including multistate licensure privilege, and in good standing in this state. Such registered professional nurse shall have at least one year of licensed nurse experience providing care for the elderly or chronically ill in a healthcare setting approved by the secretary for aging and disability services. As used in this subparagraph, "in good standing" includes the possession of a license, certificate or registration that is subject to probation or non-disciplinary conditions, limitations or restrictions, but does not include a license, certificate or registration that is

*revoked, canceled or surrendered or subject to pending license-related disciplinary action. If the records of the Kansas department for aging and disability services reflect that an individual has a prohibiting offense, such license, certificate or registration shall not be considered "in good standing." Any license, certificate or registration that is subject to disciplinary conditions, limitations or restrictions shall remain subject to such conditions, limitations or restrictions.*

(3) The licensing agency shall not require ~~unlicensed employees of unlicensed employees working in~~ an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary for aging and disability services shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction.

(4) ~~Unlicensed employees of~~ *Unlicensed employees working in* adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be:

(A) Prescribed by the secretary for aging and disability services; ~~shall be;~~

(B) reasonably related to the duties performed by ~~unlicensed employees of unlicensed employees working in~~ adult care homes who provide direct, individual care to residents and who do not administer medications to residents; and ~~shall be~~

(C) the same examination given by the secretary for aging and disability services to all ~~unlicensed employees of unlicensed employees working in~~ adult care homes who provide direct, individual care to residents and who do not administer medications.

(3)(5) The secretary for aging and disability services shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection. The fee shall be fixed by rules and regulations of the secretary for aging and disability services. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the health occupations credentialing fee fund created by K.S.A. 39-979, and amendments thereto.

(4)(6) The secretary for aging and disability services shall establish a state registry containing information about ~~unlicensed employees of certified nurse aides working in~~ adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, subtitle C, as amended November 5, 1990.

(5)(7) No adult care home shall use an individual ~~as an unlicensed employee of the~~ *working as a certified nurse aide in an* adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6)(8) (A) ~~Beginning July 1, 1993, The adult care home must shall~~ require any ~~unlicensed employee of the certified nurse aide working in~~ an adult care home ~~who to complete an approved refresher course if such employee:~~

- (i) Provides direct, individual care to residents ~~and who;~~
- (ii) does not administer medications; and ~~who~~

(iii) ~~since passing the examination required under paragraph (2) of this subsection, has had a continuous period of 24 consecutive months during none of which~~ *when the unlicensed employee certified nurse aide has not provided direct, individual care to residents to complete an approved refresher course.*

(B) The secretary for aging and disability services shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as ~~an unlicensed employee of a certified nurse aide working in~~ an adult care home in another state may be so employed in this state without an examination if the secretary for aging and disability services determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of ~~a physician authorized~~ *person licensed by the state board of healing arts to practice under the laws of this state medicine and surgery* and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection ~~(f)~~ shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

Sec. 2. K.S.A. 65-5115 is hereby amended to read as follows: 65-5115. (a) The secretary may require, as a condition to continued employment by a home health agency that home health aides, within 90 days of employment, successfully complete an approved course of instruction and take and satisfactorily pass an examination prescribed by the secretary.

(b) A course of instruction for home health aides may be prepared and administered by any home health agency or by any other qualified person. A course of instruction prepared and administered by a home health agency may be conducted on the premises of the home health agency ~~which that~~ prepared and ~~which~~ will administer the course of instruction. The secretary shall not require home health aides to enroll in any particular approved course of instruction, but the secretary shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction.

(c) The secretary ~~may~~ *shall* not require that home health aides complete the course of instruction and pass the examination established pursuant to K.S.A. ~~39-936(e)(3)~~ *39-936(c)(5)*, and amendments thereto, before enrolling in an approved course of instruction authorized by this section. Home health aides may enroll in any approved course of instruction.

(d) The examination required ~~under~~ *by* this section shall be prescribed by the secretary and shall be reasonably related to the duties performed by home health aides. The same examination shall be given

by the secretary to all home health aides.

(e) The secretary shall fix, charge and collect an examination fee to cover all or any part of the cost of the examination required ~~under subsection (a)~~ *by this section*. The examination fee shall be fixed by rules and regulations of the secretary. The examination fee shall be deposited in the state treasury and credited to the state general fund.

Sec. 3. K.S.A. 2021 Supp. 65-6306 is hereby amended to read as follows: 65-6306. (a) The board shall issue a license as a baccalaureate social worker to an applicant who has:

(1) A baccalaureate degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) passed an examination approved by the board for this purpose; and

(3) satisfied the board that the applicant is a person who merits the public trust.

(b) The board shall issue a license as a master social worker to an applicant who has:

(1) *Except as provided in subsection (f)*, a master's degree from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) passed an examination approved by the board for this purpose; and

(3) satisfied the board that the applicant is a person who merits the public trust.

(c) The board shall issue a license in one of the social work specialties to an applicant who has:

(1) A master's or doctor's degree from an accredited graduate school of social work, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board;

(2) had two years of full-time post-master's or post-doctor's degree experience under the supervision of a licensed social worker in the area of the specialty in which such applicant seeks to be licensed;

(3) passed an examination approved by the board for this purpose; and

(4) satisfied the board that the applicant is a person who merits the public trust.

(d) (1) The board shall issue a license as a specialist clinical social worker to an applicant who:

(A) Has met the requirements of subsection (c);

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (c) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of the following content areas: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience, including psychotherapy and assessment, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual *or additional postgraduate supervised experience as determined by the board*;

(D) has completed as part of or in addition to the requirements of subsection (c) not less than two years of postgraduate supervised professional experience, in accordance with a clinical supervision plan

approved by the board of not less than 3,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 100 hours of face-to-face clinical supervision, as defined by the board in rules and regulations, including not less than 50 hours of individual supervision, except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (c) prior to July 1, 2003, in lieu of the education and training requirements under subparagraphs (B) and (C), has completed the education requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

(F) for persons who apply for and are eligible for a temporary license to practice as a specialist clinical social worker on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under subparagraphs (B), (C) and (D), has completed the education and training requirements for licensure as a specialist clinical social worker in effect on the day immediately preceding the effective date of this act;

(G) has passed an examination approved by the board; and

(H) has paid the application fee.

(2) A licensed specialist clinical social worker may engage in the social work practice and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed specialist clinical social worker shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed specialist clinical social worker may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(3) Notwithstanding any other provision of this subsection, a licensed master social worker who has provided to the board an acceptable clinical supervision plan for licensure as a specialist clinical social worker prior to the effective date of this act shall be licensed as a specialist clinical social worker under this act upon completion of the requirements in effect for licensure as a specialist clinical social worker at the time the acceptable training plan is submitted to the board.

(4) A person licensed as a specialist clinical social worker on the day immediately preceding the effective date of this act shall be deemed to be a licensed specialist clinical social worker under this act. Such person shall not be required to file an original application for licensure as a specialist clinical social worker under this act.

(e) The board shall adopt rules and regulations establishing the criteria ~~which~~ *that* a social work program of a college or university shall satisfy to be recognized and approved by the board under this section. The board may send a questionnaire developed by the board to any college or university conducting a social work program for which the board does not have sufficient information to determine whether the program should be recognized and approved by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be

completed and returned to the board in order for the program to be considered for recognition and approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about a social work program of a college or university. In entering such contracts the authority to recognize and approve a social work program of a college or university shall remain solely with the board.

*(f) (1) Notwithstanding any pending candidacy for accreditation of the masters of social work program at Fort Hays state university, the board shall:*

*(A) Accept a master's degree from such program as from an accredited college or university for the purpose of issuing a license as a master social worker to an applicant under subsection (b); and*

*(B) not impose any additional or alternative requirements to accreditation upon an applicant with such degree based on such program's pending candidacy for accreditation.*

*(2) The provisions of this subsection shall apply retroactively and shall expire on July 1, 2023.*

Sec. 4. K.S.A. 2021 Supp. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained 21 years of age;

(2) (A) has completed at least a baccalaureate degree from an addiction counseling program that is part of a college or university approved by the board;

(B) has completed at least a baccalaureate degree from a college or university approved by the board. As part of, or in addition to, the baccalaureate degree coursework, such applicant shall also complete a minimum number of semester hours of coursework on substance use disorders as approved by the board; ~~or~~

(C) is currently licensed in Kansas as a licensed baccalaureate social worker and has completed a minimum number of semester hours of coursework on substance use disorders as approved by the board; *or*

*(D) is currently licensed in Kansas by the board as a master social worker, specialist clinical social worker, professional counselor, clinical professional counselor, marriage and family therapist, clinical marriage and family therapist, master's level psychologist, clinical psychotherapist or psychologist. Such licensees shall be eligible to take the examination as required by paragraph (3);*

(3) has passed an examination approved by the board;

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) has paid the application fee established by the board under K.S.A. 65-6618, and amendments thereto.

(b) Applications for licensure as a master's addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Has attained 21 years of age;

(B) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board;

(ii) has completed at least a master's degree from a college or university approved by the board. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; *or*

(iii) is currently licensed in Kansas as a licensed master social

worker, licensed professional counselor, licensed marriage and family therapist or licensed master's level psychologist;

(C) has passed an examination approved by the board;

(D) has satisfied the board that the applicant is a person who merits the public trust; and

(E) has paid the application fee fixed under K.S.A. 65-6618, and amendments thereto; or

(2) (A) has met the following requirements on or before July 1, 2016:

(i) Holds an active license by the board as an addiction counselor; and

(ii) has completed at least a master's degree in a related field from a college or university approved by the board; and

(B) has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date.

(c) Applications for licensure as a clinical addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) Has attained 21 years of age;

(2) (A) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 3,000 hours of supervised professional experience, including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 100 hours of face-to-face clinical supervision, as defined by the board in rules and regulations, including not less than 50 hours of individual supervision, except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, except that the board may waive  $\frac{1}{2}$  of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required  $\frac{1}{2}$  of the hours in not less than one year of supervised professional experience; or

(B) (i) has completed at least a master's degree from a college or university approved by the board. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 3,000 hours of supervised professional experience, including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 100 hours of face-to-face clinical supervision, as defined by the board in rules and regulations, including not less than 50 hours of individual supervision, except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental

disorders of the American psychiatric association, except that the board may waive  $\frac{1}{2}$  of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required  $\frac{1}{2}$  of the hours in not less than one year of supervised professional experience; or

(C) (i) has completed a master's degree from a college or university approved by the board and is licensed by the board as a licensed master's addiction counselor; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 3,000 hours of supervised professional experience, including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 100 hours of face-to-face clinical supervision, as defined by the board in rules and regulations, including not less than 50 hours of individual supervision, except that the board may waive the requirement that such supervision be face-to-face upon a finding of extenuating circumstances, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, except that the board may waive  $\frac{1}{2}$  of the hours required by this clause for an individual who has a doctoral degree in addiction counseling or a related field approved by the board and who completes the required  $\frac{1}{2}$  of the hours in not less than one year of supervised professional experience; or

(D) is currently licensed in Kansas as a licensed psychologist, licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical psychotherapist or licensed clinical marriage and family therapist and provides to the board an attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders;

(3) has passed an examination approved by the board;

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) has paid the application fee fixed under K.S.A. 65-6618, and amendments thereto.

Sec. 5. K.S.A. 39-936 and 65-5115 and K.S.A. 2021 Supp. 65-6306 and 65-6610 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*