State of Kansas Department of Health and Environment

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Division of Health, Bureau of Child Care and Health Facilities, will conduct a public hearing at 9:30 a.m. Wednesday, July 27, in the Santa Fe Trail Conference Room, Suite 200, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of proposed amended regulation K.A.R. 28-38-18, concerning licensure of adult care home administrators. At 10:30 a.m. Wednesday, July 27 at the same location, the Kansas Department of Health and Environment, Division of Health, Bureau of Child Care and Health Facilities, will conduct a public hearing to consider the adoption of proposed amended regulations K.A.R. 28-39-169a, 28-39-169b, and 28-39-169c, concerning certified medication aides. A summary of the proposed regulations and the estimated economic impact follows:

Summary of Regulation Related to Licensure of Adult Care Home Administrators:

K.A.R. 28-38-18. Establishes a time frame within which candidates for licensure may take the national licensure examination; imposes criteria for candidates who fail the national examination which must be met in order to retake the national examination; updates the name of the national examination agency; updates statutory references; includes minor language

RECEIVED Clarification.

Summary of Regulations Related to Certification of Medication Aides:

K.A.R. 28-39-169a. Adopts the revised medication aide curriculum; adopts the revised Certified Medication Aide Sponsor and Instructor Manual; updates statutory references; includes minor language clarification.

K.A.R. 28-39-169b. Adopts the revised state test for certification as a medication aide; changes the pass score for the certified medication aide test; updates statutory references;



includes minor language clarification.

K.A.R. 28-39-169c. Updates language related to administration of medications; updates statutory references; includes minor language clarification.

Economic Impact:

Amendments to K.A.R. 28-38-18 related to the licensure of adult care home administrators: There may be costs to the applicants in seeking additional education and/or training in order to qualify to apply to take the national examination subsequent to three failed attempts to pass the examination. Such costs would be dependent on the applicant's choice of additional education and/or training.

Amendments to K.A.R. 28-39-169a, 28-39-169b and 28-39-169c related to the certification of medication aides: These amendments will have no economic impact to the agency, other government agencies or units or to persons who will be affected by the changes.

There will be no increased fees or costs to the medication aide candidates.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public

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comments on the proposed amended regulations. At any time during the public comment period interested parties may submit written comments to Marla Rhoden, KDHE, Director of Health Occupations Credentialing, Curtis State Office Building, 1000 S.W. Jackson, Suite 200, Topeka 66612-1365, by fax to (785) 296-3075, or by e-mail to mrhoden@kdheks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations during the hearing. To give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Complete copies of the proposed regulations and the corresponding economic impact statement may be accessed on the Health Occupations Credentialing Web site at www.kdheks.gov/hoc or obtained by contacting Marla Rhoden at the contact information above

or by calling (785) 296-1281. Questions regarding the proposed regulations should be directed to Marla Rhoden.

Any individual with a disability may request 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 should remade at least five working days in advance of the hearing by contacting Marla Rhoden.

Robert Moser, MD

Secretary of Health and Environment

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- 28-38-18. Licensing examinations. (a) Each candidate for licensure as an adult care home administrator shall be required to pass a national examination and a state law examination for adult care home administration approved by the board. Each candidate shall take the national examination within 12 months of completing an administrator-in-training practicum unless the board grants an extension for good cause.
- (b) Each candidate for licensure shall pay the required examination fee for the national examination directly to the testing agency. An examination fee shall be required each time a candidate takes the national examination.
- (c) The minimum passing scaled score for the national examination shall be 113. The minimum passing raw score for the state law examination shall be 75 percent.
- (d) Each candidate for licensure who has been disqualified for failing the national examination shall be given written notification by the board of the disqualification and the reason or reasons for failing, including a breakdown of the subject areas passed and failed.
- (e) A candidate who has failed three national examinations shall not submit a new application for examination until the candidate has eompleted received board approval for a course of additional education submitted or training, or both, signed by the candidate, the preceptor, and the candidate's practicum coordinator and approved by the board. The course of additional education or training, or both, shall include an additional 40 hours of administrator-intraining instruction in each of the "domains of practice," as defined in K.A.R. 28-38-29, for which the candidate received a raw score below 75 percent on the national examination.
- (f) Each candidate who completes the required 40 hours of additional administrator-intraining education or training, or both, in each of the domains of practice for which the candidate

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new application for the national examination. If the candidate fails the fourth attempt, the candidate shall remain eligible to submit an application for a fifth attempt to pass the national examination.

- (g) A candidate who has failed five national examinations shall not submit a new application for examination until the candidate has completed a second 480-hour administrator-in-training practicum that is conducted by an accredited college or university or an equivalent educational training practicum, as specified in K.A.R. 28-38-19(a)(2).
- (h) Each candidate who has completed a second 480-hour administrator-in-training practicum shall be given three additional attempts to pass the national examination. A candidate who has failed three national examinations after completing a second 480-hour administrator-in-training practicum shall not be allowed to submit an additional application for examination.
- (i) Each candidate shall have a period of 36 months from the date the candidate completed an initial administrator-in-training practicum or a second practicum under subsection (g) to take and pass the national examination.
- (j) Any candidate who fails the state examination may retake the state law examination until the candidate passes this examination.
- (g) (k) The national association of boards of examiners for adult care home administrators long term care administrator boards (NAB) examination shall be the approved national examination for licensure. (Authorized by K.S.A. 2007 2010 Supp. 65-3503; implementing K.S.A. 2007 2010 Supp. 65-3503 and 65-3504; effective May 1, 1981; amended

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K.A.R. 28-38-18, page 3

July 1, 1981; amended, E-82-12, June 17, 1981; amended May	1, 1982; amended Sept. 24, 1990;
amended May 10, 1993; amended July 14, 2000; amended Jan.	17, 2003; amended Oct. 3, 2003;
amended Dec. 5, 2008; amended P)

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28-39-169a. Medication aide. (a) Each medication aide candidate shall be either a nurse aide who has been issued a certificate by the licensing agency department or a qualified mental retardation professional as defined in 42 C.F.R. 483.430(a), revised October 1, 2001 2010 and hereby adopted by reference, and shall meet the following requirements:

- Has completed a course in medication administration approved by the licensing agency department; and
 - (2) has passed a state test as approved by the licensing agency department.
- (b) Each person who has met one of the following requirements shall be eligible to enroll in a medication aide course:
- (1) Is a nurse aide who has a Kansas nurse aide certificate and who has been screened and tested for reading comprehension at an eighth-grade level; or
- (2) is a qualified mental retardation professional employed by an intermediate care facility for the mentally retarded.
- (c) A qualified mental retardation professional who is not a nurse aide, who has completed a course in medication administration as approved by the licensing agency department, and who has passed the state test shall be allowed to administer medications only to residents in an intermediate care facility for the mentally retarded.
 - (d) (1) Each medication aide course shall meet the following requirements:
- (A) Consist of a minimum of 75 total hours, which shall include a minimum of 25 hours of clinical instruction;
- (B) be prepared and administered in accordance with the guidelines prescribed by the licensing agency department and follow the content outlined in the "Kansas certified medication

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K.A.R. 28-39-169a, page 2

aide curriculum;" and appendices, dated April 1, 2003 February 2011, and the "Kansas certified medication aide sponsor and instructor manual," pages 1 through 17 2 through 21, dated November 13, 2003 February 2011, which are hereby adopted by reference; and

- (C) be sponsored by one of the following:
- (i) A postsecondary school under the jurisdiction of the state board of regents;
- (ii) a state-operated institution for the mentally retarded; or
- (iii) a professional health care association approved by the licensing agency department.
- (2) No correspondence course shall be approved as a medication aide course.
- (3) Distance-learning and computer-based educational offerings shall be required to meet the requirements specified in this subsection.
 - (e) Each medication aide course instructor shall meet the following requirements:
- (1) Each person who intends to be a course instructor shall submit an instructor approval application form to the licensing agency department at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.
- (2) Each instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse. Any Kansas-licensed pharmacist actively working in the pharmacy field may conduct part of the training under the supervision of an approved instructor.
- (f) Each course sponsor and course instructor shall be responsible for ensuring that the following requirements are met:

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- (1) Only persons who meet the qualifications specified in subsection (b) of this regulation shall be eligible to take the course.
- (2) Each trainee shall be screened and tested for comprehension of the written English language at an eighth-grade reading level before enrolling in the course.
- (3) The course shall be prepared and administered in accordance with the guidelines and follow the content in the "Kansas <u>certified</u> medication aide curriculum," and the "Kansas <u>certified</u> medication aide sponsor and instructor manual," as adopted in subsection (d) of this regulation.
- (4) The clinical instruction and skills performance involving the administering of medications shall be under the direct supervision of the course instructor.
- (5) During the clinical instruction and skills performance, the course instructor shall perform no other duties than the provision of direct supervision to the trainees.
- (g) Any course instructor or course sponsor who does not fulfill the requirements of this regulation may be subject to withdrawal of approval to serve as a course instructor or a course sponsor.
- (h) Any person whose education or training has been deemed equivalent to the medication aide course by an approved sponsor as specified in paragraph (d)(1)(C) may apply to take the state test to become certified as a medication aide. Before requesting a determination of equivalency for a person's education or training, that person shall be a Kansas-certified nurse aide and shall meet one of the following conditions:
 - (1) The person is currently credentialed to administer medications in another state. The

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licensing agency department or the designated agent shall evaluate that state's credentialed training for equivalency in content and skills level to the requirements for certification as a medication aide in Kansas.

- (2) The person is currently enrolled in an accredited practical nursing or professional nursing program and has completed a course of study in pharmacology with a grade of C or better.
- (3) The person is currently licensed in Kansas or another state, or has been licensed within 24 months from the date of application, as a licensed mental health technician, and there are no pending or current disciplinary actions against the individual's license.

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28-39-169b. State medication aide test. (a) The state test shall be administered by the licensing agency department or the designated agent and in accordance with guidelines prescribed by the licensing agency department as outlined in the "certified medication aide test administration manual for proctors of the medication aide tests," on pages 24 through 31 of the "Kansas certified medication aide sponsor and instructor manual," dated October 17, 2002, which is February 2011. These pages are hereby adopted by reference.

- (1) Each person who has completed the medication aide course as specified in K.A.R. 28-39-169a shall have a maximum of two attempts to pass the state test within 12 months after the first day of the course. If the person does not pass the test within this 12-month period, the course shall be retaken. Each time the person successfully completes the course, the person shall have two attempts to pass the state test within 12 months after the first day of the course. The number of times a person may retake the course shall be unlimited.
- (2) Each person who is a Kansas-certified nurse aide and whose training has been deemed equivalent to the Kansas medication aide course shall have a maximum of one attempt to pass the test within 12 months after the date the equivalency is approved. If the person does not pass the test within this 12-month period, the person shall be required to take the medication aide course.
- (3) There shall be three different forms of the state test. The different forms of the test shall be used on an alternating basis. Each of the three forms shall be comprised of 85 multiplechoice questions. The passing scores score for each of the three forms of the test shall be as follows:
 - (A) A score of 57 or higher shall constitute a passing score for form 1 of the state test.
 - (B) A score of 61 or higher shall constitute a passing score for form 2 of the state test.

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- (C) A score of 63 or higher shall constitute a passing score for form 3 of the state test 65 or higher.
- (4) Only persons who have met the requirements specified in K.A.R. 28-39-169a(a)(1) and (h) shall be eligible to take the state test.
- (5) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodation. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.
- (b) Each person shall be issued a medication aide certificate by the licensing agency department and shall be listed on a public nurse aide registry upon successful completion of the requirements specified in K.A.R. 28-39-169a(a) and (h).
- (c) The course instructor shall submit to the licensing agency department a course roster of names, an application form, and a nonrefundable application fee of \$20.00 for each medication aide who has completed the course and passed the state test.

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28-39-169c. Medication aide continuing education. (a) Each person who has a certificate of completion for a medication aide training course as specified in K.A.R. 28-39-169a and who wishes to maintain the certificate shall complete, every two years, a program of 10 hours of continuing education approved by the licensing agency secretary.

- (b) The continuing education requirement shall include one or more of the following topics:
 - (1) Classes of drugs and new drugs;
 - (2) new uses of drugs;
 - (3) methods of administering drugs medications;
- (4) alternative treatments, including herbal drugs and their potential interaction with traditional drugs;
 - (5) safety in the administration of drugs medications; or
 - (6) documentation.
 - (c) Each program of continuing education shall be sponsored by one of the following:
 - (1) A postsecondary school under the jurisdiction of the state board of regents;
 - (2) an adult care home;
 - (3) a long-term care unit of a hospital;
 - (4) a state-operated institution for the mentally retarded; or
 - (5) a professional health care association approved by the licensing agency secretary.
- (d) Each course instructor shall be a registered nurse with a current Kansas license and two years of clinical experience as a registered nurse or a licensed practical nurse. Any Kansaslicensed pharmacist actively working in the pharmacy field may be selected to conduct part of

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the training under the supervision of the instructor.

- (e) Each person who intends to be a course instructor shall submit an instructor approval application form to the licensing agency department at least three weeks before offering an initial course and shall be required to receive approval as an instructor before the first day of an initial course.
- (f) Each sponsor and course instructor of continuing education shall be responsible for ensuring that the following requirements are met:
- (1) The course shall be prepared and administered as prescribed by regulation and the "Kansas <u>certified</u> medication aide sponsor and instructor manual," as adopted in K.A.R. 28-39-169a.
- (2) A course approval application form shall be submitted to the licensing agency department at least three weeks before offering a course, and course approval shall be required to be received before beginning the course.
- (3) A course roster of names, a renewal application form, and a nonrefundable renewal application fee of \$20.00 for each medication aide who has completed the course shall be submitted to the licensing agency department.
- (4) If clinical instruction in administering medications is included in the program, each student administering medications shall be under the direct supervision of the registered nurse instructor.
- (g) Any sponsor or instructor who does not fulfill the requirements specified in subsections (d), (e), and (f) of this regulation may be subject to withdrawal of approval to serve

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as a course instructor or a course sponsor.

- (h) College credits or vocational training may be approved by the licensing agency secretary as substantially equivalent to medication aide continuing education. The instructor or nursing program coordinator shall submit a department-approved form attesting that the course content is substantially equivalent to the topics listed in paragraphs (b)(1) through (6) of this regulation.
- (i) Each certified medication aide shall be responsible for notifying the licensing agency department of any change in the aide's address or name.
- (j) No correspondence course shall be approved for a medication aide continuing education course.
- (k) Distance-learning educational offerings and computer-based educational offerings shall meet the requirements specified in subsections (b), (c), (d), (e), (f), and (g) of this regulation.
- (l) Each medication aide certificate shall be renewed upon the department's receipt from the course instructor of the following:
- (1) Verification of the applicant's completion of 10 hours of approved continuing education;
 - (2) a renewal application form; and
 - (3) a nonrefundable renewal application fee of \$20.00.
- (m) Each medication aide certificate or renewed certificate shall be valid for two years from the date of issue.

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K.A.R. 28-39-169c, page 4

- (n) Each applicant for renewal of certification shall have completed the required number of hours of documented and approved continuing education during each certification period immediately preceding renewal of the certificate. Approved continuing education hours completed in excess of the requirement shall not be carried over to a subsequent renewal period.
- (o) Each medication aide certificate that has been expired for three or fewer years shall be reinstated upon the department's receipt of the following:
- (1) Verification of the applicant's completion of 10 hours of approved continuing education. This continuing education shall have been completed within the three-year period following expiration of the certification;
 - (2) a renewal application form; and
 - (3) a nonrefundable renewal application fee of \$20.00.
- (p) Each lapsed certificate renewed within the three-year period specified in subsection(o) shall be valid for two years from the date of issuance.
- (q) Each person whose medication aide certification has been expired for more than three years shall be required to retake the 75-hour medication aide course. (Authorized by K.S.A. 65-1,121 and K.S.A. 75-5625; implementing K.S.A. 65-1,121 and K.S.A. 2010 Supp. 65-1124; effective Dec. 29, 2003; amended P-________.)

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Kansas Department of Health and Environment Economic Impact Statement

Pursuant to the requirements of KSA 2010 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement.

Regulation(s):

(List each regulation number.)

1.

KAR 28-38-18

2. acco	Brief description of each regulation(s) and what is intended to be mplished by adoption.
of the	-18 updates statutory references; includes minor language clarifications; updates the Long Term care Administrators Boards (NAB); adds guidelines and criteria related er of times an applicant for licensure can apply to take the national licensure
	is regulation(s) mandated by federal law as a requirement for participating in uplementing a federally subsidized or assisted program?
Yes	NoX
If ye	s, please explain.
Do t	he proposed regulations exceed the requirements of applicable federal law?
Yes	NoX_
If ye	s, please explain.
Desc	eription of Costs:
a.	Cost to the agency: None.
b.	Cost to persons who will bear the costs and those who will be affected, (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement: There may be costs the applicants in seeking additional education and/or training in order to qualify apply to take the national examination subsequent to three failed attempts to pass
	Is the or in Yes If yes Description

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the test. Such costs would be dependent on the applicant's choice of additional education and/or training.

- c. Costs to other governmental agencies or units: None.
- 6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.

The Board of Adult Care Homes thoroughly considered the means by which applicants for licensure who were unsuccessful at passing the national test could obtain the necessary education/training to achieve a passing score. Current regulations allow alternatives that have proven to be ineffective in reducing the number of attempts it takes to pass the national test for applicants who are unsuccessful after the first 3-5 attempts.

 Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.

The above mentioned regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to KSA 77-416.

Yes	No_X
If yes:	
Date Contacted and by what means (i.e., letter, FAX, etc.));
Response and comments received by:	
League of Kansas Municipalities:	
Kansas Association of Counties:	
Kansas Association of School Boards	

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April 15, 2011

Kansas Department of Health and Environment **Economic Impact Statement**

Pursuant to the requirements of KSA 2010 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement.

1.	Regulation(s): (List each regulation number.)
KAI	28-39-169a, KAR 28-39-169b, KAR 28-39-169c
2.	Brief description of each regulation(s) and what is intended to be accomplished by adoption.
	28-39-169a Adopts the revised Certified Medication Aide (CMA) Curriculum, tests, and sor and instructor manual; includes language clarification; updates statutory references.
sets	228-39-169b Adopts the revised test administration manual for proctors of the CMA tests the pass score for the three forms of the test; includes language clarification; updates tory references.
KAI	228-39-169c Includes language clarification; updates statutory references.
3.	Is this regulation(s) mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program? Yes NoX_ If yes, please explain.
4.	Do the proposed regulations exceed the requirements of applicable federal law?
	Yes NoX
5.	Description of Costs:
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- a. Cost to the agency: None.
- b. Cost to persons who will bear the costs and those who will be affected, (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement: No increased fees and/or costs to the medication aide candidates.
- c. Costs to other governmental agencies or units: None.
- 6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations. Not applicable.
- 7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.

The above mentioned regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to KSA 77-416.

Yes	No_X_
If yes:	
Date Contacted and by what means (i.e., letter, FAX, et	c.):
Response and comments received by:	
League of Kansas Municipalities:	
Kansas Association of Counties:	
Kansas Association of School Boards	

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