

Article 50: Unlicensed Employees in Adult Care Homes

26-50-10. Definitions. Each of the following terms, as used in this article, shall have the meaning specified in this regulation: (a) “Clinical instruction” shall mean training in which the trainee demonstrates knowledge and skills while performing tasks on a person under the direct supervision of the instructor.

(b) “Course supervisor” shall mean an individual who has been approved by the secretary to provide general supervision of the nurse aide training course.

(c) “Direct care” shall mean assistance provided to perform activities of daily living.

(d) “Direct supervision” shall mean that a supervisor or an instructor is on the facility premises and is readily accessible for one-on-one consultation, instruction, and assistance, as needed.

(e) “Eligible for employment,” when describing a certified nurse aide, shall mean that the certified nurse aide meets the following criteria:

(1) Was employed to perform nursing or nursing-related services for at least eight hours in the preceding 24 months;

(2) has no record of medicare or medicaid fraud;

(3) has no record of abuse, neglect, and exploitation; and

(4) is not prohibited from employment based upon criminal convictions pursuant to K.S.A. 39-970, and amendments thereto.

(f) “General supervision” shall mean a course supervisor’s provision of the necessary guidance and maintenance of ultimate responsibility for a nurse aide training course in

accordance with the standards established by the department in the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” which are adopted by reference in K.A.R. 26-50-12.

(g) “Instructor” shall mean either of the following:

(1) An individual who has been approved by the nurse aide course supervisor to teach the nurse aide training course; or

(2) an individual who has been approved by the secretary to teach the home health aide or medication aide training courses.

(h) “Licensed nursing experience” shall mean experience as an RN or LPN.

(i) “Nurse aide trainee I” shall mean a nurse aide trainee who is in the process of completing part I of a 90-hour nurse aide course as specified in K.A.R. 26-50-20.

(j) “Nurse aide trainee II” shall mean a nurse aide trainee who has successfully completed part I of a 90-hour nurse aide course specified in K.A.R. 26-50-20 or whose training has been determined equivalent as specified in K.A.R. 26-50-26.

(k) “Qualified intellectual disability professional” shall mean an individual who meets the requirement specified in 42 C.F.R. 483.430 (a), as revised on July 16, 2012 and hereby adopted by reference.

(l) “Simulated laboratory” shall mean an enclosed area that is in a school, institution, adult care home, or other facility and that is similar to a resident’s room in an adult care home. A simulated laboratory may serve as a setting for nurse aide trainees to practice basic nurse aide skills with the instructor and to demonstrate basic nurse aide skills for competency evaluation.

26-50-10 (3)

(Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- 26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)

26-50-12. Curricula and instruction manuals. (a) The following departmental documents, which are hereby adopted by reference, shall apply to each certified nurse aide program:

(1) “Kansas certified nurse aide curriculum guidelines (90 hours),” dated May 10, 2013, including appendix C, except the resource list on page 172, and excluding the preface and appendices A and B; and

(2) the cover page and pages 1 through 16 in the “Kansas certified nurse aide course (90 hour) instruction manual,” dated May 10, 2013.

(b) The following departmental documents, which are hereby adopted by reference, shall apply to each certified medication aide program:

(1) “Kansas certified medication aide curriculum,” dated May 10, 2013, excluding the foreword and the appendices; and

(2) pages 1 through 20 in the “Kansas certified medication aide course instruction manual,” dated May 10, 2013. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T-26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)

26-50-20. Nurse aide; training program. (a) Each unlicensed employee who provides direct care to residents shall meet the following training program requirements:

(1) Successfully complete at least a 90-hour nurse aide course approved by the secretary;
and

(2) pass the state test as specified in K.A.R. 26-50-24.

(b) Each person shall be certified and shall be listed on the Kansas nurse aide registry upon completion of the training program requirements specified in subsection (a).

(c)(1) Each nurse aide trainee I in an approved 90-hour course shall be required to successfully complete part I of the course, including the nurse aide training and competency evaluation program task checklist to demonstrate initial competency, before being employed as a nurse aide trainee II. Any nurse aide trainee II may provide direct care to residents only under the direct supervision of an RN or LPN.

(2) Nurse aide trainee II status for employment shall be valid for only one four-month period from the beginning date of the course.

(d)(1) Each nurse aide course shall meet the following requirements:

(A) Consist of a combination of didactic and clinical instruction, with at least 50 percent of part I and at least 50 percent of part II of the curriculum provided as clinical instruction;

(B) be prepared and administered in accordance with the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” as adopted by reference in K.A.R. 26-50-12; and

(C) be sponsored by one of the following, except as specified in paragraph (d)(3):

(i) An adult care home;

(ii) a long-term care unit of a hospital; or

(iii) a postsecondary school under the jurisdiction of the state board of regents.

(2) Clinical instruction and demonstration of the skills specified in the part I nurse aide training and competency evaluation program task checklist shall be performed in only one or a combination of the following settings that offer the full range of clinical tasks and experiences as specified in the “Kansas certified nurse aide curriculum guidelines (90 hours)”:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a simulated laboratory.

(3) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the federal regulations for long-term care facilities listed in 42 C.F.R. 483.151(b)(2), as in effect on May 24, 2010.

(e) No correspondence course shall be approved as a nurse aide course.

(f) Each distance-learning offering and each computer-based educational offering of the nurse aide course shall meet the requirements specified in subsection (d). (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T-26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)

26-50-22. Nurse aide training course; personnel and course sponsor. (a) The training of nurse aides shall be performed by or under the general supervision of a course supervisor.

Each course supervisor shall meet the following requirements:

(1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license;

(2) have at least two years of full-time licensed nursing experience, which shall include at least 1,750 hours of licensed nursing experience in an adult care home or a long-term care unit of a hospital; and

(3) meet at least one of the following requirements:

(A) Completed a course in adult education;

(B) completed a professional continuing education offering on supervision or adult education;

(C) taught adults; or

(D) supervised nurse aides.

(b) When seeking approval as a course supervisor, the person shall submit a completed course supervisor application to the department at least three weeks before offering an initial training course and shall have obtained approval from the secretary before the beginning date of that training course.

(c) Each instructor of any nurse aide training course shall meet the following requirements:

(1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license;

(2) have at least two years of full-time licensed nursing experience;

(3) have completed at least seven hours of professional continuing education offerings on person-centered care in an adult care home or a long-term care unit of a hospital not more than one year before becoming an instructor of the nurse aide training course and each year while serving as an instructor; and

(4) meet at least one of the following requirements:

(A) Completed a course in adult education;

(B) completed a professional continuing education offering on supervision or adult education;

(C) taught adults; or

(D) supervised nurse aides.

(d) Any supplemental instructor may provide training in a subject area of the supplemental instructor's healthcare profession if that person has skills and knowledge in the subject area, has at least one year of full-time experience in that person's healthcare profession, and is under the direct supervision of the course supervisor or instructor.

(e) One person may serve as both course supervisor or instructor, if the person meets the qualifications of the designated positions as specified in subsections (a) and (c).

(f) Each course supervisor and course sponsor shall ensure that the following requirements are met:

(1) A completed course approval application shall be submitted to the department at least three weeks before offering any initial or subsequent nurse aide training course. Course approval

shall be obtained from the secretary before the beginning date of the initial course and each subsequent course. Each change in course supervisor, course location, or course schedule shall require prior approval by the secretary.

(2) All course objectives shall be accomplished.

(3) The course shall be prepared and administered in accordance with the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” as adopted by reference in K.A.R. 26-50-12.

(4) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be under the direct supervision of the instructor and shall be limited to clinical experiences that are only for the purpose of learning nursing skills.

(5) During the clinical instruction, the instructor shall perform no duties other than the provision of direct supervision to the nurse aide trainees.

(6) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I nurse aide training and competency evaluation program task checklist to an RN, as evidence of successful completion of the training course. The RN shall be licensed in the state of Kansas with no pending or current disciplinary action against that person’s license and shall have at least one year of licensed nurse experience in providing care for the elderly or chronically ill who are 16 years of age or older. This RN shall date and sign the checklist verifying the nurse aide trainee’s skills competency.

(7) Each course supervisor, instructor, and supplemental instructor shall meet the requirements of the designated positions as specified in subsections (a), (c), and (d).

(g) Any course supervisor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course supervisor or course sponsor. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T-26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)

26-50-24. Nurse aide; state test. (a) The state test for nurse aides shall consist of 100 multiple-choice questions. A score of 75 percent or higher shall constitute a passing score.

(b)(1) Only persons who have successfully completed an approved 90-hour nurse aide course or have completed education or training that has been deemed equivalent as specified in K.A.R. 26-50-26 shall be allowed to take the state test.

(2) Each person who has completed an approved 90-hour course as specified in K.A.R. 26-50-20 shall have no more than three attempts within 12 months after the beginning date of the course to pass the state test. If the person does not pass the state test within this 12-month period, the person shall be required to retake and successfully complete the entire nurse aide course.

(3) Each person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 26-50-26 shall have no more than one attempt to pass the state test, except as specified in this paragraph. If the person does not pass the state test, the person shall be required to successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 26-50-20 to be eligible to retake the state test. The person shall have no more than three attempts within 12 months after the beginning date of the course to pass the state test.

(c)(1) Each nurse aide trainee II shall pay a nonrefundable application fee of \$20.00 before taking the state test. A nonrefundable application fee shall be required each time the person is scheduled to take the state test.

(2) Each person who is scheduled to take the state test but fails to take the state test shall submit another nonrefundable application fee of \$20.00 before being scheduled for another opportunity to take the state test.

(3) Each instructor shall collect the application fee and application for each nurse aide trainee II who is eligible to take the state test and shall submit the application fees, application forms, class roster, and accommodation request forms to the department or its designated agent.

(d)(1) Any person who is eligible to take the state test may request reasonable test accommodation or an auxiliary aid to address the person's disability. Each time the person is scheduled to take the test, the person shall submit a request for reasonable accommodation or an auxiliary aid.

(2) Each person who requests a test accommodation shall submit an accommodation request form with the person's application form to the instructor. The instructor shall forward these forms to the department or its designated agent at least three weeks before the desired test date.

(3) 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 accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T-26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)

26-50-26. Nurse aide; out-of-state and allied health training equivalency. (a) Any person may be employed in the state without taking the Kansas state test if the person meets the following requirements:

(1) Has been employed as a nurse aide in another state and is eligible for employment in that state; and

(2) has been determined by the secretary to have successfully completed training or passed a test, or both, that is equivalent to the training and state test required in Kansas for nurse aides.

(b) Each person qualified under subsection (a) shall receive written notification from the department of the following:

(1) Exemption from the requirement to take the state test for nurse aides;

(2) placement on the Kansas nurse aide registry; and

(3) eligibility for employment.

(c) Each of the individuals specified in this subsection shall be determined to have training equivalent to the nurse aide training. Any of the following individuals may be deemed eligible to take the state test, as specified in K.A.R. 26-50-24:

(1) The person is currently licensed to practice as an RN or LPN in another state and has no pending or current disciplinary actions against that individual's license.

(2) The person is currently licensed to practice as a licensed mental health technician in Kansas or another state and has no pending or current disciplinary action against that individual's license.

(3) The person's license to practice as an RN, LPN, or licensed mental health technician has become inactive within the 24-month period immediately before the individual applied for equivalency, and the person has no pending disciplinary actions against that person's license.

(4) The person is currently enrolled in an accredited practical or professional nursing program or mental health technician training program and has successfully completed basic skills courses covering personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics.

(d) Any person eligible under subsection (c) may receive written approval from the secretary or the secretary's designee to take the state test. Upon receiving this written approval, that person may be employed by an adult care home as a nurse aide trainee II to provide direct care under the direct supervision of an RN or LPN. That person shall be required to pass the state test as specified in K.A.R. 26-50-24 for certification and placement on the Kansas nurse aide registry, within one four-month period beginning on the date of approval to take the state test, to continue employment providing direct care. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T-26-6-28-13, June 28, 2013; effective Oct. 25, 2013.)