

March 24, 2009

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Cindy Luxem  
President and Chief Executive Officer  
Kansas Health Care Association  
117 SE 6<sup>th</sup> St.  
Topeka, Kansas 66603

Debra Zehr, President  
Kansas Association of Homes and Services  
For the Aging  
217 SE 8<sup>th</sup> Ave.  
Topeka, Kansas 66603

Dear Ms. Luxem and Ms. Zehr:

Staff of the Licensure, Certification and Evaluation Commission has completed a review of the comments received from the public hearing of February 24, 2009 related to the proposed adult care home regulation changes. We very much appreciate comments received from your organizations and members, as well as the discussion held with a number of adult care home representatives on January 27, 2009.

It is our hope that we may be able to present recommendations for adoption of the regulations to the Secretary in the very near future. There is one remaining issue which has created the most discussion and comment regarding the proposed regulations. This is related to the proposed changes regarding medication management at 26-41-205, 26-42-205, and 26-43-205. As discussed at the January 27, 2009 review meeting, it is not the intent of the Kansas Department on Aging to disallow the appropriate delegation of medication administration by a licensed nurse to medication aides. This would include reminders from staff to residents who are self administering medications. It appeared that representatives at that meeting understood the intent of the regulation was to more clearly establish distinctions between facility medication administration and resident self administration. To that end, the wording in current regulations related only to resident self administration *with assistance* was eliminated.

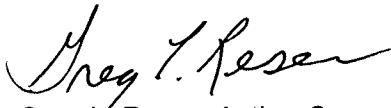
It has been long standing agency policy to recognize the ability of licensed nurses to delegate tasks, not prohibited by law or regulation, to medication aides. Regulation Interpretation 93-16 provides guidance on this issue. It can be viewed at: <http://www.aging.state.ks.us/PolicyInfo> and [Regs/ACH Current Regs/Reg Interp Manual 03.pdf](http://www.aging.state.ks.us/Regs/ACH%20Current%20Regs/Reg%20Interp%20Manual%2003.pdf).

The proposed regulations simply draw distinctions between medication administration by the facility and resident self administration. The regulations expect that the facility will identify which residents are physically, cognitively and functionally able to self administer medications, based upon a comprehensive assessment. Other residents are identified as having their medication administration managed by the facility which may include delegation of certain tasks. In order to further clarify the regulations, two amendments will be offered. The first, will appear at 26-41-205(a)(4) and will add a last sentence as follows: **Facility staff may remind residents to take medications or inquire as to whether medications were taken.** This amendment will alleviate many stated concerns related to staff giving medication reminders to residents.

The second amendment will occur at a new 26-41-205(d)(4) which will become: **A licensed nurse may delegate medication administration tasks not included in the medication aide curriculum to medication aides, under the Kansas nurse practice act, K.S.A. 65-1124 and amendments thereto.** This change recognizes delegation of medication aide tasks under nurse delegation authority while clearly placing responsibility for resident medication administration management with the facility for residents not assessed to be able to self administer medications.

These amendments would also appear in the applicable sections of the 26-42-205 and 26-43-205. I would appreciate receiving your comments or suggestions regarding these proposed changes by April 1, 2009, so the regulation adoption process can move forward.

Sincerely,



Greg L. Reser, Acting Commissioner  
Licensure, Certification and Evaluation Commission

c Kathy Greenlee, Secretary  
Vera VanBruggen, RN, Director, Long Term Care Division  
Susan Fout, RN, Director, Residential Health Care Facility Division