

## **SKILLED NURSING LICENSURE UPDATE: CHANGES TO KANSAS SKILLED NURSING CHANGE OF OWNERSHIP LAW**

On April 22, 2019, Governor Laura Kelly approved **Kansas Senate Bill 15** (the "New Law") into law. The New Law contains several changes to the Kansas change of ownership provision in the Kansas Adult Care Home Licensure Act ("Act") and was effective May 9, 2019.

### **CHANGES TO KANSAS' SKILLED NURSING CHANGE OF OWNERSHIP ("CHOW") LAWS**

Under the Act, an "adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by Kansas.

The New Law revised Kansas Statutes Annotated Section 39-923. In addition to the affirmative evidence of the applicant's ability to comply with standards, rules and regulations adopted under the provisions of the Act, the New Law requires that an application for a license to operate an adult care home contain the following additional information:

- A detailed projected budget for the first 12 months of operation prepared according to generally accepted accounting principles and certified by the principal officer of the applicant, accompanied by evidence of access to sufficient working capital to operate the adult care home in accordance with the budget, in the form of cash on deposit, a line of credit, applicant's equity or any combination of these; and
- A list of each current or previously licensed facility in Kansas or any other state, territory, country or the District of Columbia in which the applicant has or previously had any percentage of ownership in the operations or the real property of the facility.

Previously, Kansas only required the review of one month of financial documentation for an individual or entity applying for a license to operate an adult care home.

### **RESTRICTIONS ON NEW LICENSE OR REINSTATEMENT AFTER RECEIVERSHIP**

Under the Act, the Kansas Secretary of Aging, the owner of an adult care home or the person licensed to operate an adult care home, may file an application with the Kansas courts asking the court to appoint the Kansas Secretary of Aging or a designee as receiver to operate an adult care home whenever:

- Conditions exist in the adult care home that are life-threatening or endangering to the residents of the adult care home;
- The adult care home is insolvent; or
- The Kansas Secretary of Aging has issued an order revoking the license of the adult care home.

The New Law adds the term "insolvent" and defines it as when the adult care home, or any individual or entity that operates an adult care home or appears on the adult care home license, has stopped paying debts in the ordinary course of business or is unable to pay debts as they come due in the ordinary course of business.

When the Kansas courts appoint a receiver for an adult care home, the New Law added provisions that prohibit an applicant or licensee under the receivership from being eligible to apply for a new or reinstated license for ten years from the date of termination of the receivership action.

### **PRACTICAL TAKEAWAYS**

- New Kansas operators and Kansas operators transferring skilled nursing facilities need to keep in mind the requirements needed for the new operator to obtain a Kansas licensure since Kansas has added new requirements for new Kansas operators.
- Investors and providers considering the purchase of a Kansas adult care home should be aware of the proposed budget component of the licensure application and have documentation of sufficient working capital readily available to complete the application.

If you have questions or would like additional information about this topic, please contact:

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