



KANSAS LAWS AND REGULATIONS FOR LICENSING FAMILY FOSTER HOMES FOR CHILDREN

July 2015

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KANSAS CHILD CARE LICENSING LAWS

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KANSAS CHILD CARE LICENSING LAWS

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

K.S.A. 65-501. License or temporary permit required; exemptions.

It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility for children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment. Nothing in this act shall apply to:

- (a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or
- (b) a summer instructional camp that:
 - (1) Is operated by a Kansas educational institution as defined in K.S.A. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto;
 - (2) is operated for not more than five weeks;
 - (3) provides instruction to children, all of whom are 10 years of age and older; and
 - (4) is accredited by an agency or organization acceptable to the secretary of health and environment.

History: L. 1919, ch. 210, § 1; R.S. 1923, 65-501; L. 1974, ch. 352, § 85; L. 1978, ch. 236, § 1; L. 1985, ch. 209, § 1; L. 1994, ch. 279, § 4; L. 2001, ch. 101, § 1; April 26.

K.S.A. 65-503. Definitions. As used in this act:

- (a) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.
- (b) “Child care resource and referral agency” means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.
- (c) “Child care facility” means:
 - (1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary for children and families who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

- (2) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
 - (3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
 - (4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.
- (d) "Day care facility" means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.
 - (e) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.
 - (f) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.
 - (g) "Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

History: L. 1919, ch. 210, § 3; R.S. 1923, 65-503; L. 1978, ch. 236, § 2; L. 1978, ch. 237, § 2; L. 1980, ch. 184, § 1; L. 1983, ch. 140, § 45; L. 1994, ch. 279, § 6; L. 1998, ch. 166, § 1; L. 2007, ch. 130, § 1; L. 2010, ch. 161, § 4; L. 2012, ch. 99, § 1; L. 2014, ch. 115, § 248; July 1.

K.S.A. 65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.

- (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. A license granted to maintain a maternity center or child care facility shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. A license granted to maintain a day care facility shall have on its face an expiration sticker stating the date of expiration of the license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has

complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary for children and families. The secretary of health and environment may issue, without the approval of the secretary for children and families, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary for children and families, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

- (b)
 - (1) In all cases where the secretary for children and families deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary for children and families or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.
 - (2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.
- (c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.
- (d) When the secretary of health and environment finds upon investigation or is advised by the secretary for children and families that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, safety or welfare of any woman or child, the secretary of health and environment may issue an order revoking such license after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. The order shall clearly state the reason for the revocation.
- (e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of one year subsequent to the date such revocation or refusal to renew becomes final. If the secretary revokes or refuses to renew a license of a licensee who is a repeat, three or more times, violator of statutory requirements or rules and regulations or is found to have contributed to the death or serious bodily harm of a child under such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

- (f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

History: L. 1919, ch. 210, § 4; R.S. 1923, 65-504; L. 1951, ch. 358, § 1; L. 1961, ch. 285, § 1; L. 1974, ch. 352, § 86; L. 1978, ch. 236, § 3; L. 1982, ch. 258, § 3; L. 1983, ch. 147, § 2; L. 1984, ch. 313, § 93; L. 1985, ch. 209, § 2; L. 1988, ch. 239, § 1; L. 1989, ch. 188, § 1; L. 1990, ch. 145, § 37; L. 1991, ch. 184, § 1; L. 1994, ch. 279, § 7; L. 2000, ch. 137, § 1; L. 2010, ch. 161, § 5; L. 2012, ch. 99, § 2; L. 2014, ch. 115, § 249; July 1.

K.S.A. 65-505. License fees; maternity centers and child care licensing fee fund.

- (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:

- (1) For a maternity center, \$150;
- (2) for a child placement agency, \$150;
- (3) for a child care resource and referral agency, \$150; and
- (4) for any other child care facility, \$75 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311, and amendments thereto. Fees in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

- (b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.
- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section 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, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of

accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or by a person or persons designated by the secretary. Notwithstanding any other law to the contrary, no moneys shall be transferred or otherwise revert from this fund to the state general fund by appropriation act or other act of the legislature. Moneys available under this section by the creation of the maternity centers and child care licensing fee fund shall not be substituted for or used to reduce or eliminate moneys available to the department of health and environment to administer the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated. Nothing in this act shall be construed to authorize a reduction or elimination of moneys made available by the state to local units of government for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated.

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; L. 1994, ch. 279, § 8; L. 2001, ch. 5, § 217; L. 2010, ch. 161, § 6; July 1.

K.S.A. 65-506. Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited.

The secretary of health and environment shall serve notice of the issuance, limitation, modification, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary for children and families, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license limited, modified, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the limitation, modification, suspension, revocation or denial. Neither the secretary for children and families nor any other person shall place or cause to be placed any woman or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; L. 2010, ch. 161, § 7; L. 2012, ch. 99, § 3; L. 2014, ch. 115, § 250; July 1.

K.S.A. 65-507. Records of maternity centers and child care facilities; confidentiality.

- (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary for children and families which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary for children and families may require. Each maternity center licensee and each child care facility licensee shall apply to and

shall receive without charge from the secretary of health and environment and the secretary for children and families forms for such records as may be required, which forms shall contain a copy of this act.

- (b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

History: L. 1919, ch. 210, § 7; R.S. 1923, 65-507; L. 1951, ch. 358, § 3; L. 1974, ch. 352, § 89; L. 1978, ch. 236, § 6; L. 1994, ch. 279, § 10; L. 2014, ch. 115, § 251; July 1.

K.S.A. 65-508. Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations.

- (a) Any maternity center or child care facility subject to the provisions of this act shall:
 - (1) Be properly heated, plumbed, lighted and ventilated;
 - (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and
 - (3) be operated with strict regard to the health, safety and welfare of any woman or child.
- (b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.
- (c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

- (2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.
- (d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.
- (e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:
 - (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
 - (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

History: L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; L. 2010, ch. 161, § 8; L. 2012, ch. 99, § 4; L. 2014, ch. 115, § 252; July 1.

K.S.A. 65-510. Unlawful for child care facility to care for adults; exceptions.

It shall be unlawful for any child care facility to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

History: L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, § 17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; L. 1994, ch. 279, § 12; July 1.

K.S.A. 65-512. Inspections.

- (a) It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 15 months prior to July 1, 2012, and once every 12 months thereafter, every maternity center or child care facility, unless otherwise provided in subsections (b) and (c). For the purpose of inspection the secretary or the secretary's authorized agent shall have the right of entry and access thereto in every department and

to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

- (b) (1) On or after the effective date of this act, the secretary of health and environment shall commence the inspection of registered family day care homes pursuant to K.S.A. 2012 Supp. 65-533, and amendments thereto.
 - (2) The secretary of health and environment shall conduct an inspection of any child care facility upon receiving a complaint. Any new child care facility shall be inspected prior to issuance of a license. The secretary may conduct an inspection of any child care facility that has a record of repeated complaints or serious violations at any time. The secretary shall inspect any child care facility that provides services to military families receiving military assistance for child care every 12 months.
- (c) (1) Except as provided in subsection (b)(2), the following categories of child care facilities which were in compliance on the effective date of this act are not required to be inspected until July 1, 2011: Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-420; preschools, as defined in K.A.R. 28-4-420; school-age programs, as defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R. 28-4-700.
 - (2) The provisions of this subsection shall expire on July 1, 2011.

History: L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; L. 1994, ch. 279, § 13; L. 2010, ch. 161, § 9; July 1.

K.S.A. 65-513. Changes or alterations required to comply with law; notice; duty of licensee.

Whenever an authorized agent of the secretary of health and environment or secretary for children and families finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

History: L. 1919, ch. 210, § 13; R.S. 1923, 65-513; L. 1951, ch. 358, § 5; L. 1974, ch. 352, § 92; L. 1978, ch. 236, § 10; L. 1984, ch. 313, § 94; L. 1994, ch. 279, § 14; L. 2014, ch. 115, § 253; July 1.

K.S.A. 65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.

Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

History: L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

K.S.A. 65-515. Prosecutions.

The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.

History: L. 1919, ch. 210, § 15; R.S. 1923, 65-515; L. 1974, ch. 352, § 94; July 1.

K.S.A. 65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency.

- (a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:
 - (1) (A) Has a felony conviction for a crime against persons;
 - (B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;
 - (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and

amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or

- (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;
- (3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto, and
 - (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the Kansas department for children and families, or
 - (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families;
- (4) has had a child removed from home based on a court order pursuant to K.S.A. 2013 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;
- (5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2013 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

- (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2013 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or
- (7) has an infectious or contagious disease.
- (b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
- (c) Any person who resides in a child care facility and who has been found to be a person in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.
- (d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2013 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.
- (e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.
- (f) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsection (a)(1) through (7) with regard to the person who is the subject of the review.
- (g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

- (h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:
- (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and
 - (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.
- (i) In regard to Kansas issued criminal history records:
- (1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.
 - (2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.
 - (3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.
 - (4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history or record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.
 - (5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:
 - (A) The person who is the subject of the request for information;
 - (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;
 - (C) the department of health and environment;
 - (D) the Kansas department for children and families;
 - (E) the juvenile justice authority; and
 - (F) the courts.

- (6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.
- (j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010 or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

History: L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; L. 2002, ch. 114, § 74; L. 2006, ch. 169, § 116; L. 2007, ch. 147, § 1; L. 2009, ch. 32, § 53; L. 2010, ch. 74, § 13; L. 2010, ch. 155, § 18; L. 2011, ch. 30, § 235; L. 2012, ch. 99, § 5; L. 2012, ch. 166, § 10; L. 2014, ch. 115, § 254; July 1.

K.S.A. 65-523. Grounds for limitation, modification or suspension of license or temporary permit.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

- (a) Violation by the licensee or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;
- (b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;
- (c) conduct in the operation or maintenance, or both the operation and maintenance, of a maternity center or child care facility which is inimical to the health, safety or welfare of any woman or child receiving services from such maternity center or child care facility, or the public;
- (d) the conviction of a licensee or holder of a temporary permit, at any time during licensure or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65-516, and amendments thereto; and
- (e) a third or subsequent violation by the licensee or holder of a temporary permit of subsection (b) of K.S.A. 65-530, and amendments thereto.

History: L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; L. 2010, ch. 161, § 11; L. 2012, ch. 99, § 6; July 1.

K.S.A. 65-524. Suspension, limitation or modification of license or temporary permit prior to hearing; procedure.

The secretary may limit, modify or suspend any license or temporary permit issued under the provisions of K.S.A. 65-501 through 65-516, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility from physical or mental abuse, abandonment or any other substantial threat to health, safety or welfare. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

History: L. 1985, ch. 209, § 4; L. 1994, ch. 279, § 21; L. 2010, ch. 161, § 12; L. 2012, ch. 99, § 7; July 1.

K.S.A. 65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required.

- (a) Records in the possession of the department of health environment or its agents regarding child care facilities or maternity centers shall not be released publicly in a manner that would identify individuals, except individual names of licensees, applicants, facilities and maternity centers may be released. Nothing in this section prohibits release of any information as required by law.
- (b) Records in the possession of the department of health and environment or its agents regarding child care facilities or maternity centers may be released to:
 - (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto;
 - (2) any local, state or federal government entity or subdivision thereof;
 - (3) any child and adult care food program sponsoring agency; or
 - (4) any disaster or emergency entity.
- (c) The secretary of health and environment shall prohibit the release of the name, address and telephone number of a maternity center or child care facility when the secretary determines that prohibition of the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center or child care facility.
- (d) Any records under subsection (a), (b) or (c) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.

- (e) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 et seq., and amendments thereto, the presiding officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

History: L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; L. 2004, ch. 145, § 19; L. 2010, ch. 161, § 13; July 1, 2011.

K.S.A. 65-526. Civil fine assessed against licensee; limitations.

- (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility. Each civil fine assessed under this section shall not exceed \$500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.
- (b) All fines assessed and collected under this section 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 state general fund.

History: L. 1988, ch. 239, § 3; L. 1994, ch. 279, § 22; L. 1999, ch. 19, § 1; L. 2001, ch. 5, § 219; L. 2004, ch. 145, § 20; L. 2010, ch. 161, § 14; July 1.

K.S.A. 65-527. Child care programs in recreation centers and schools; licensing of.

- (a) As used in this section:
 - (1) “Child care program” means a day care center, group day care home or day care home.
 - (2) “Recreation center” means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.
 - (3) “School” means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.
- (b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:
 - (1) Is a recreation center or school;
 - (2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;

- (3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and
 - (4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.
- (c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

History: L. 1992, ch. 125, § 1; July 1.

K.S.A. 65-528. Child care policy of state; desired outcome.

- (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:
- (1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.
 - (2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.
 - (3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.
 - (4) Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.
 - (5) Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.
 - (6) Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.

(7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.

(b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

History: L. 1994, ch. 279, § 1; July 1.

K.S.A. 65-529. Continuation of effect of license, registration or permit.

Any license, certificate of registration or temporary permit which was issued prior to the effective date of this act and which is in effect on the effective date of this act shall continue in effect until the expiration thereof, unless suspended or revoked prior to such time.

History: L. 1994, ch. 279, § 23; July 1.

K.S.A. 65-530. Smoking prohibited in day care homes.

(a) As used in this section:

(1) “Day care home” means a day care home as defined under Kansas administrative regulation 28-4-113 and a group day care home as defined under Kansas administrative regulation 28-4-113.

(2) “Smoking” means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.

(b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.

(c) Each child care license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The license shall be posted in a conspicuous place in the facility or facilities.

(d) Each day care home shall be equipped with a fire extinguisher which shall be maintained in an operable condition in a readily accessible location.

- (e) The secretary of health and environment may levy a civil fine under K.S.A. 65-526, and amendments thereto, against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523, and amendments thereto.
- (f) In addition to any civil fine which may be levied pursuant to subsection (d), any day care home that violates any provision of this section may also be subject to criminal punishment pursuant to K.S.A. 21-4012 and amendments thereto.

History: L. 1994, ch. 279, § 26; L. 2010, ch. 8, § 7; L. 2011, ch. 91, § 28; July 1.

K.S.A. 65-531. Immunization information and records; disclosure. On and after July 1, 1996:

- (a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:
 - (1) Employees of public agencies or departments;
 - (2) health records staff of child care facilities, including, but not limited to, facilities licensed by the secretary of health and environment;
 - (3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and
 - (4) health care professionals.
- (b) Notwithstanding K.S.A. 60-427, and amendments thereto, or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.
- (c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

History: L. 1996, ch. 229, § 156; L. 2010, ch. 161, § 16; July 1.

K.S.A. 65-532. Lexie's law. The changes to law in this act shall be known as Lexie's law.

History: L. 2010, ch. 161, § 1; July 1.

K.S.A. 65-534. Online information dissemination system; rules and regulations. On or before July 1, 2011, the secretary of health and environment shall establish or cause to be established an online information dissemination system that is accessible to the public, including names of licensees, applicants and history of citations and substantiated findings. The secretary of health and environment shall adopt rules and regulations which are consistent with the requirements for the receipt of child care ARRA funds and which provide for the establishment of an online information dissemination system in accordance with the provisions of this subsection. The notice of hearing on the initial rules and regulations proposed to be adopted under this subsection shall be published in the Kansas register after February 14, 2011, but prior to March 11, 2011.

History: L. 2010, ch. 161, § 18; July 1.

K.S.A. 65-535. Staff secure facility; requirements; services; rules and regulations.

- (a) A staff secure facility shall:
- (1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;
 - (2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;
 - (3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;
 - (4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;
 - (5) implement written policies and procedures for the screening and searching of both residents and visitors;
 - (6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and
 - (7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.
- (b) A staff secure facility shall provide the following services to children placed in such facility:
- (1) Case management;
 - (2) life skills training;

- (3) health care;
 - (4) mental health counseling;
 - (5) substance abuse screening and treatment; and
 - (6) any other appropriate services.
- (c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.
- (d) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.
- (e) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.
- (f) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

History: L. 2013, ch. 120, § 6; L. 2014, ch. 28, § 7; July 1.

OTHER RELATED LAWS

Chapter 59. PROBATE CODE Article 21. ADOPTION

K.S.A. 59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions.

- (a) Except as otherwise provided in this section:
 - (1) Any person who advertises that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;
 - (2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and
 - (3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.
- (b) The provisions of subsection (a)(1) shall not apply to the Kansas department for children and families or to an individual seeking to adopt a child.
- (c) As used in this section:
 - (1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.
 - (2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.
 - (3) "Maternity center" means the same as provided in K.S.A. 65-502, and amendments thereto.
- (d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each violation.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; L. 2008, ch. 140, § 1; L. 2014, ch. 115, § 202; July 1.

Chapter 72. SCHOOLS
Article 82. ORGANIZATION, POWERS AND FINANCES OF BOARDS OF
EDUCATION

K.S.A. 72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a child care facility;
 - (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;
 - (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and
 - (4) prescribe and collect fees for providing care at a child care facility.
- (b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the classroom learning assuring student success act, section 4 et seq., and amendments thereto, and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.
- (c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated, and amendments thereto.
- (d) As used in this section, the term “child” means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

History: L. 1993, ch. 186, § 1; L. 2015, ch. 4, § 53; July 1.

K.S.A. 72-8237. Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a summer program for pupils;

- (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and
 - (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.
- (b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
 - (c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.
 - (d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. Amounts deposited in the summer program fund may be used for the payment of expenses directly attributable to the program or may be transferred to the general fund of the school district as approved by the board of education.
 - (e) As used in this section, the term “summer program” means a program which is established by the board of education of a school district and operated during the summer months for the purpose of giving remedial instruction to pupils or for the purpose of conducting special projects and activities designed to enrich and enhance the educational experience of pupils, or for both such purposes.

History: L. 1993, ch. 264, § 15; L. 2011, ch. 107, § 12; L. 2012, ch. 155, § 14; L. 2013, ch. 121, § 13; L. 2015, ch. 4, § 54; July 1.

K.S.A. 72-8238. Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain an extraordinary school program for pupils who meet the district's criteria for attendance of such programs;
 - (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of an extraordinary school program for pupils; and
 - (3) prescribe and collect fees for providing an extraordinary school program for pupils or provide such program without charge.

- (b) Fees for providing an extraordinary school program for pupils shall be prescribed and collected only to recover the cost incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
- (c) No school district may collect fees for providing an extraordinary school program for pupils who are required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child or who are eligible for free or reduced price meals under the national school lunch act.
- (d) There is hereby established in every district which establishes, operates and maintains an extraordinary school program a fund which shall be called the extraordinary school program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for extraordinary school programs shall be credited to the extraordinary school program fund. The expenses of a district directly attributable to extraordinary school programs shall be paid from the extraordinary school program fund.
- (e) As used in this section, the term “extraordinary school program” means a program which is established by the board of education of a school district, operated before or after regular school hours during the regular school term, and maintained for any or all of the following purposes:
 - (1) Providing pupils with additional time to achieve learner exit or improvement plan outcomes;
 - (2) giving pupils remedial instruction or independent study assistance;
 - (3) affording pupils an opportunity to strengthen or attain mastery of basic or higher order thinking skills; and
 - (4) conducting special projects and activities designed to enrich and enhance the educational experience of pupils.

History: L. 1994, ch. 310, § 1; July 1.

FAMILY FOSTER HOMES FOR CHILDREN AND YOUTH

K.A.R. 28-4-311. Definition.

“Family foster home” means a child care facility that is a private residence, including any adjacent grounds, in which a licensee provides care for 24 hours a day for one or more children in foster care and for which a license is required by K.A.R. 28-4-801.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-503 and 65-508; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; amended March 28, 2008.)

REGULATIONS FOR FAMILY FOSTER HOMES FOR CHILDREN

K.A.R. 28-4-800. Definitions. For the purposes of K.A.R. 28-4-800 through K.A.R. 28-4-825, the following definitions shall apply:

- (a) “Age-mates” means children whose difference in age does not exceed three years.
- (b) “Applicant” means an individual who has applied for a license but who has not yet been granted a license to operate a family foster home. This term shall include an applicant who has been granted a temporary permit to operate a family foster home.
- (c) “Basement” means the lowest level or story of a family foster home that has its floor below ground level on all sides.
- (d) “Caregiver” means any individual who provides care to a child in foster care in or away from the family foster home, including the following:
 - (1) An applicant who has been granted a temporary permit to operate a family foster home or a licensee;
 - (2) a substitute caregiver;
 - (3) an adult member of a family providing informal visitation;
 - (4) an individual who comes into the family foster home to provide care when the licensee is present; and
 - (5) any respite care provider.
- (e) “Case plan” means the comprehensive written plan of care developed for each child in foster care by the child’s child-placing agent.
- (f) “Child in foster care” means either of the following:
 - (1) Any individual under 16 years of age who is placed for care in a family foster home; or
 - (2) any individual who is at least 16 years of age but not yet 23 years of age and who is in the custody of the state of Kansas and is placed for care in a family foster home.
- (g) “Child-placing agent” means a person that possesses the legal right to place a child into a family foster home. This term shall include the child’s parent, legal guardian, a public or private child-placing agency, and the court.
- (h) “De-escalation methods” means types of intervention used to help reduce a child’s level of anxiety or anger. This term shall include physical restraint.
- (i) “Department” means the Kansas department of health and environment.

- (j) “Discipline” means positive methods of child behavior management, including instruction, redirection, and de-escalation methods.
- (k) “Exception” means a waiver of compliance with a specific family foster home regulation or any portion of a specific family foster home regulation that is granted by the secretary to an applicant or a licensee.
- (l) “Exotic animal” means either of the following:
 - (1) Any non-human mammal that is not one of the following:
 - (A) A domesticated dog, a domesticated cat, a feral cat, or a domesticated ferret;
 - (B) a hoofed animal, including a cow, sheep, goat, pig, and llama, that is kept for farming or ranching purposes;
 - (C) a horse;
 - (D) a pet rabbit; or
 - (E) a pet rodent, including a mouse, rat, hamster, gerbil, guinea pig, and chinchilla; or
 - (F) a potbellied pig; or
 - (2) any animal that typically lives in the wild and is determined by the secretary to be a substantial threat to the health and safety of a child in foster care.
- (m) “Family foster home” means a type of child care facility as defined in K.A.R. 28-4-311.
- (n) “Foster family” means all of the individuals living in a family foster home other than the child in foster care.
- (o) “High-risk sport or recreational activity” means any sport or recreational activity, including watercraft activities and motorized activities, that poses a significant risk of injury to the participant. Safe participation in the activity shall require specialized instruction and may require protective safety gear.
- (p) “Informal visitation” means visitation by a child in foster care in the home of an extended family member of the licensee that is for 48 hours or less each month and that is for the purpose of normal socialization for the child in foster care.
- (q) “Licensee” means an individual who has been granted a license to operate a family foster home.
- (r) “Living space” means the rooms in a family foster home that are used for family activities, including the living room, dining room, family room, game or television room, and sleeping rooms. This term shall not include bathrooms, laundry rooms, and garages.

- (s) “Long-term respite care” means respite care that is provided to a child in foster care for 24 hours or more each week.
- (t) “Physical restraint” means the bodily holding of a child in foster care by a caregiver as a means to help the child regain self-control when the child is behaving in a manner that presents a danger to self or others.
- (u) “Respite care” means the temporary care of a child in foster care in a family foster home other than the family foster home in which the child is placed. This term shall not include any activity that is solely for the purpose of socialization of a child in foster care.
- (v) “Secretary” means the secretary of the Kansas department of health and environment.
- (w) “Short-term respite care” means respite care that is provided to a child in foster care for less than 24 hours each week.
- (x) “Sleepover” means an overnight social event with age-mates, away from the family foster home, that does not exceed a 24-hour period.
- (y) “Smoking” means being in possession of a lighted cigarette, cigar, pipe, or burning tobacco in any device.
- (z) “Sponsoring child-placing agency” means the public or private child-placing agency responsible for sponsoring the family foster home, including providing assessment, training, support, inspection, and monitoring for the licensee’s compliance with the regulations governing family foster homes.
- (aa) “Substitute caregiver” means an individual who provides care and supervision in the family foster home for a child in foster care in the absence of the licensee.
- (bb) “Water hazard” means a body of water at least 24 inches deep that is not a swimming pool, wading pool, or hot tub.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-504, and 65-508; effective March 28, 2008.)

K.A.R. 28-4-801. License required.

- (a) An individual shall obtain a license to operate a family foster home when providing 24-hour care to one or more children under 16 years of age who are unrelated to the individual, in the absence of the child’s parent or guardian.
- (b) No individual shall be required to obtain a license to operate a family foster home under any of the following circumstances:
 - (1) All of the following conditions are met:
 - (A) The individual provides 24-hour care for one or more children less than 16 years of age.

- (B) The total number of days the individual provides care does not exceed 90 calendar days during a calendar year.
 - (C) The individual does not receive payment or other compensation for providing care.
 - (D) The individual does not provide care for any children who are in the custody of the state of Kansas.
 - (E) The individual does not provide care for any children placed in Kansas from other states through the interstate compact for the placement of children (ICPC) or any successor compact.
- (2) The individual provides care solely for the purpose of enabling the child to participate in a social activity that is normal for the child's age and development.
 - (3) The individual provides informal visitation as defined in K.A.R. 28-4-800.

(Authorized by K.S.A. 2012 Supp. 65-508; implementing K.S.A. 2012 Supp. 65-504 and K.S.A. 2012 Supp. 65-508; effective March 28, 2008; amended Sept. 6, 2013.)

K.A.R. 28-4-802. License requirements. Each individual shall meet all of the following requirements to obtain a license and to maintain a license:

- (a) Submit a complete application for a license on forms provided by the department, including requests for the background checks specified in K.A.R. 28-4-805;
- (b) be at least 21 years of age;
- (c) have sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with all regulations governing family foster homes;
- (d) participate in an initial family assessment, a family assessment for each renewal, and any additional family assessments conducted by the sponsoring child-placing agency. Each family assessment shall include at least one individual interview with each household member at least seven years of age and at least one visit in the family foster home;
- (e) meet the training requirements in K.A.R. 28-4-806; and
- (f) obtain and maintain ongoing sponsorship by a public or private child-placing agency, including a recommendation by the sponsoring child-placing agency that the home be used for placement of children in foster care.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective March 28, 2008.)

K.A.R. 28-4-803. Licensing procedure. The granting of a license to any applicant may be refused by the secretary if the applicant is not in compliance with the requirements of the following:

- (a) K.S.A. 65-501 through 65-516, and amendments thereto;
- (b) K.S.A. 65-523 through 65-529, and amendments thereto;
- (c) K.S.A. 65-531, and amendments thereto; and
- (d) all regulations governing family foster homes.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective March 28, 2008.)

K.A.R. 28-4-804. Terms of license; validity of temporary permit or license; renewal of license; amendments; exceptions; withdrawal of application or request to close.

- (a) Terms of license.
 - (1) A temporary permit or a license may be granted to an applicant for a maximum of four children in foster care, with a maximum total of six children in the home, including the applicant's or licensee's own children under 16 years of age. There shall be no more than two children in the home under 18 months of age.
 - (2) Each child in foster care shall be at least five years younger than the youngest applicant or licensee.
 - (3) The maximum number of children and the age range authorized by the temporary permit or license shall not be exceeded and shall be limited by the following:
 - (A) The number of sleeping rooms that meet the requirements of these regulations;
 - (B) the assessment and recommendation of the sponsoring child-placing agency; and
 - (C) the ability of the applicant or licensee to maintain compliance with the statutes and regulations governing family foster homes.
 - (4) A license to maintain a family foster home shall not be granted or held in conjunction with any license or certificate authorizing another form of child care in a family foster home.
 - (5) An applicant or a licensee shall not provide care in the family foster home to any adult unrelated to the applicant or licensee.

- (b) Validity of temporary permit or license.
 - (1) Each temporary permit or license shall be valid only for the individual or individuals and the address specified on the temporary permit or license.
 - (2) Each temporary permit or license shall be posted conspicuously in the family foster home.
 - (3) When an initial or amended license becomes effective, all temporary permits or licenses previously granted to the applicant or licensee at the same address shall become void.
- (c) Renewal of license. Before each renewal date, the licensee shall complete and submit an application for renewal on forms provided by the department, including requests for the background checks specified in K.A.R. 28-4-805.
- (d) Amendments. Each licensee who intends to change the terms of the license, including the maximum number or the age of children served, shall submit a request for an amendment on a form supplied by the department.
- (e) Exceptions.
 - (1) Any applicant or licensee may request an exception from the secretary. Any request for an exception may be granted if the secretary determines that the exception is in the best interest of a child in foster care and the exception does not violate statutory requirements.
 - (2) Written notice from the secretary stating the nature of the exception and its duration shall be kept on file in the family foster home and shall be readily accessible to the department, the child-placing agent, the sponsoring child-placing agency, the Kansas department of social and rehabilitation services, and the Kansas juvenile justice authority.
- (f) Withdrawal of application or request to close. Any applicant may withdraw the application for a license. Any licensee may submit, at any time, a request to close the family foster home operated by the licensee. If an application is withdrawn or a family foster home is closed, the current temporary permit or license granted to the applicant or licensee for that family foster home shall become void.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504, 65-505, and 65-508; effective March 28, 2008.)

K.A.R. 28-4-805. Background checks.

- (a) With each initial application or renewal application, the applicant or licensee shall submit a request to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department of social and rehabilitation services in order to comply with the provisions of K.S.A. 65-516, and amendments thereto. Each request shall be submitted to the department on a form provided by the department. The request shall list the required information for the following:
 - (1) Each individual 10 years of age and older who resides, works, or regularly volunteers in the family foster home, excluding children placed in foster care;
 - (2) each caregiver 14 years of age and older; and
 - (3) each resident of a home in which informal visitation occurs who is at least 10 years of age.

- (b) Each licensee shall submit a request to the department to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department of social and rehabilitation services before any of the following occurs:
 - (1) A new individual at least 10 years of age begins residing, working, or regularly volunteering in the family foster home, excluding children placed in foster care.
 - (2) A new caregiver at least 14 years of age begins caring for the child in foster care in the family foster home.
 - (3) A new individual at least 10 years of age begins residing in a home in which informal visitation occurs.

- (c) Each individual submitting an initial application for a family foster home license shall obtain the following:
 - (1) For each individual 18 years of age and older residing in the home, a child abuse and neglect background check from each previous state of residence throughout the five-year period before the date of application; and
 - (2) for each applicant or licensee, a fingerprint-based background check from the national crime identification databases (NCID).

- (d) Each individual who received a family foster home license on or after July 1, 2007 shall obtain the following:
 - (1) For each individual 18 years of age and older residing in the home, a child abuse and neglect background check from each previous state of residence throughout the five-year period before the date of application; and
 - (2) for each licensee, a fingerprint-based background check from the national crime identification databases (NCID).

- (e) Each licensee shall obtain background checks on any additional individual at least 10 years of age who resides, works, or regularly volunteers in the family foster home if requested by the department or the sponsoring child-placing agency.
- (f) Background checks shall be obtained following the procedures of the department.
- (g) All fees associated with obtaining child abuse and neglect background checks from other states and NCID checks shall be the responsibility of the applicant or the licensee.

(Authorized by K.S.A. 65-508; implementing K.S.A. 2007 Supp. 65-516; effective March 28, 2008.)

K.A.R. 28-4-806. Training.

- (a) Prelicensure training. Before a license is issued, each applicant shall participate in and successfully complete the following:
 - (1) A face-to-face, instructor-led family foster home preparatory program approved by the department;
 - (2) a face-to-face, instructor-led first aid training course that lasts at least three clock-hours;
 - (3) training in universal precautions; and
 - (4) medication administration training.
- (b) In-service training. Each licensee shall obtain at least eight clock-hours of training in each licensing year, including at least two clock-hours obtained through participation in group training, including workshops, conferences, and academic coursework. The training topics shall provide the opportunity to develop competency in two or more of the following areas:
 - (1) Attachment issues and disorders;
 - (2) behavior and guidance, including managing aggressive behavior and de-escalation methods, including the use of time-out;
 - (3) child development;
 - (4) communicating with the families of children in foster care;
 - (5) constructive problem solving;
 - (6) health;
 - (7) home safety;

- (8) human sexuality;
 - (9) interactions with children;
 - (10) regulations governing family foster homes;
 - (11) medication administration;
 - (12) post-traumatic stress disorder;
 - (13) separation issues; and
 - (14) specific topics related to children with special needs.
- (c) Additional training requirements.
- (1) Each licensee shall participate in any additional or alternative training required by the sponsoring child-placing agency.
 - (2) Each caregiver using physical restraint shall have a current certificate documenting completion of physical restraint and de-escalation training approved by the secretary.
- (d) Failure to meet training requirements.
- (1) Each licensee who fails to meet training requirements for any licensing year shall complete a corrective action plan developed with the sponsoring child-placing agency to comply with prior licensing year requirements. The training hours obtained under the corrective action plan shall apply only to the prior licensing year. Failure to successfully complete the corrective action plan within 30 days after the initiation of the corrective action plan may result in an enforcement action.
 - (2) Each corrective action plan shall include the licensee's plan for maintaining compliance with this regulation.
 - (3) A licensee shall not accept any new child for placement until the sponsoring child-placing agency documents that the corrective action plan has been successfully completed by the licensee and the training obtained by the licensee that meets the requirements of subsection (b).

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-807. Reporting requirements for infectious or contagious disease; positive tuberculin test; critical incidents; abuse and neglect.

- (a) Reporting infectious or contagious disease. Each licensee shall be responsible for reporting if any resident of the family foster home, including a child in foster care, contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2 as follows:
 - (1) Each licensee shall report the disease to the local county health department by the next working day. Each licensee shall follow the protocol recommended by the county health department and shall cooperate with any investigation, disease control, or surveillance procedures initiated by the county health department or the department.
 - (2) Each licensee shall notify the sponsoring child-placing agency of the incident for each child in foster care.
- (b) Hospitalization or emergency room care. If a child in foster care requires hospitalization or emergency room care, the licensee shall notify the sponsoring child-placing agency in accordance with the sponsoring child-placing agency's policies and procedures.
- (c) Positive tuberculin test. If any individual residing, working, or volunteering in the family foster home who is required to have tuberculin testing has a positive tuberculin test, each licensee shall report the results to the department's TB control program by the next working day.
- (d) Reporting critical incidents.
 - (1) Each licensee shall report any of the following critical incidents immediately to the child's child-placing agent and the sponsoring child-placing agency:
 - (A) Fire damage or other damage to the dwelling or damage to the property that affects the structure of the dwelling or the safety of the child in foster care;
 - (B) a vehicle accident involving any child in foster care;
 - (C) a missing or runaway child in foster care;
 - (D) the physical restraint of a child in foster care;
 - (E) the injury of a child in foster care that requires medical attention;
 - (F) the death of a child or any other resident of the family foster home;
 - (G) the arrest of a child in foster care;
 - (H) any incident involving the presence of law enforcement;

- (I) all complaint investigations by the department or the Kansas department of social and rehabilitation services; and
 - (J) any other incident that jeopardizes the safety of a child in foster care.
- (2) Each licensee shall submit a written report for each critical incident specified in paragraph (d)(1) to the sponsoring child-placing agency by the next working day. This report shall contain the following information:
- (A) The child's name and birth date;
 - (B) the date and time of the incident;
 - (C) a factual summary of the incident, including the name of each individual involved;
 - (D) a factual summary of the immediate action taken, including the name of each individual involved;
 - (E) the signature of the licensee; and
 - (F) the date of the report.
- (3) Each licensee shall ensure that a report is submitted to the department by the next working day. The report shall contain all known facts concerning the time, place, manner, and circumstances of the death of a child in foster care or any individual living in the family foster home.
- (4) A copy of each critical incident report shall be kept on file at the family foster home.
- (e) Reporting abuse and neglect.
- (1) For the purposes of this subsection, "neglect," "physical, mental, or emotional abuse," and "sexual abuse" shall have the meanings specified in K.S.A. 38-2202, and amendments thereto.
 - (2) Each caregiver shall report any suspected neglect, physical, mental, or emotional abuse, and sexual abuse of a child in foster care within 24 hours of discovery, by telephone or in writing, to the secretary of the Kansas department of social and rehabilitation services or to the local law enforcement agency.
 - (3) Each licensee shall notify the sponsoring child-placing agency of suspected neglect, physical, mental, or emotional abuse, and sexual abuse of a child in foster care within 24 hours of discovery, by telephone or in writing.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-808. Recordkeeping requirements; confidentiality. Each licensee shall ensure that all records pertaining to the licensure and operation of the family foster home, including the records specified within this regulation, are kept at the family foster home and are accessible to the secretary and the sponsoring child-placing agency.

- (a) Family foster home records. Each licensee shall keep the following documents in the family foster home:
 - (1) The sponsoring child-placing agency's approval for any of the following, if applicable:
 - (A) Approval for the licensee to provide respite care;
 - (B) approval for use of informal visitation; and
 - (C) an approved outdoor safety plan;
 - (2) a copy of the safety rules for the use of the swimming, wading pools, or hot tubs posted as specified in K.A.R. 28-4-824;
 - (3) any exceptions that have been granted;
 - (4) a copy of the regulations governing family foster homes;
 - (5) documentation of the information submitted for background checks as specified in K.A.R. 28-4-805;
 - (6) a copy of the licensee's documentation of each critical incident for each child in foster care as specified in K.A.R. 28-4-807;
 - (7) a copy of the record of each rabies vaccination for each domesticated dog and each domesticated cat owned by any occupant of the family foster home; and
 - (8) documentation of accident and liability insurance for each vehicle used to transport children in foster care.
- (b) Caregiver records. A file that contains the following information shall be kept for each caregiver:
 - (1) Documentation of the training specified in K.A.R. 28-4-806;
 - (2) a health assessment that meets the requirements in K.A.R. 28-4-819 and documentation of a negative tuberculosis test or chest X-ray;
 - (3) a copy of a valid driver's license, if applicable. A copy of the license shall also be provided to the sponsoring child-placing agency; and
 - (4) all information for the extended family members identified for informal visitation, as specified in K.A.R. 28-4-814.

- (c) Foster family members 16 years of age and older. The record for each child 16 years of age and older, excluding children placed in foster care, shall include the following information:
 - (1) A health assessment that meets the requirements specified in K.A.R. 28-4-819 and documentation of any negative tuberculosis test or chest X-ray;
 - (2) a current immunization record; and
 - (3) a copy of a valid driver's license, if transporting any child in foster care. A copy of the license shall also be provided to the sponsoring child-placing agency.
- (d) Foster family members less than 16 years of age. The records for each child less than 16 years of age who was born to, or adopted by, the licensee shall include a health assessment that meets the requirements in K.A.R. 28-4-819 and documentation of immunizations as specified in K.A.R. 28-4-819.
- (e) Child in foster care. Each licensee shall keep a file for each child in foster care that contains the following information:
 - (1) All required placement information specified in K.A.R. 28-4-809;
 - (2) authorization, if any, regarding disclosure of confidential information for the child in foster care;
 - (3) documentation, if applicable, of a case plan authorizing the use of physical restraint;
 - (4) documentation, if applicable, of each use of physical restraint on a physical restraint report form as specified in K.A.R. 28-4-815;
 - (5) medical and surgical consent forms;
 - (6) the name, address, and telephone number of a physician to be called in case of emergency; and
 - (7) the medical information record specified in K.A.R. 28-4-819.
- (f) Confidentiality of records of each child in foster care. Each licensee shall keep each child's recorded information confidential. The records shall be kept on file at the family foster home in a manner that ensures confidentiality. Nothing in this regulation shall prevent access to the child's records by the child's child-placing agent, the sponsoring child-placing agency, the department, law enforcement, or the court.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective March 28, 2008.)

K.A.R. 28-4-809. Basic placement information; other required placement information; departure requirements.

- (a) Basic placement information. Any licensee may accept a child in foster care for placement if the following information is received before or at the time of placement:
 - (1) The approval of the sponsoring child-placing agency;
 - (2) signed medical and surgical consent forms or, in the case of an after-hours emergency placement, a provision for obtaining medical and surgical consent forms;
 - (3) a completed placement agreement or a completed emergency placement form;
 - (4) a description of the circumstances leading to the current placement and, if known, the reason the child in foster care came into custody;
 - (5) a description of the child's recent circumstances, including any medical problems, mental health concerns, and safety concerns, including any assaultive behavior and victimization concerns, if known;
 - (6) information about the child's medication and dietary needs, and the name of each of the child's current health care providers, if known;
 - (7) any allergies from which the child suffers, if known; and
 - (8) the name, address, and telephone number of the contact individual for the last educational program the child attended.

- (b) Other required placement information.
 - (1) No later than 14 calendar days after placement, each licensee shall review the following information:
 - (A) A copy of the court order or other document authorizing the child-placing agent to place the child in foster care;
 - (B) a designation of the race or cultural heritage of the child, including tribal affiliation, if any;
 - (C) a completed and signed placement agreement, including emergency contact information, if not received at the time of placement;
 - (D) signed medical and surgical consent forms, if not received at the time of placement;
 - (E) the name, address, and telephone number of the child's parents or legal guardian;

- (F) the spiritual or religious affiliation of the child and the child's family;
 - (G) the child's placement history summary, including the name, address, and telephone number of any advocates;
 - (H) a description of positive attributes and characteristics of the child and, if available, any related information from the child, the child's family including siblings, and concerned individuals in the child's life;
 - (I) the name, address, telephone number, and, if applicable, the e-mail address of the child-placing agent who is responsible for supervising the child's placement; and
 - (J) a copy of the current case plan, if completed. If this plan has not been completed, the licensee shall obtain a copy within 14 calendar days of the completion of the plan.
- (2) If the licensee does not have the information specified in paragraph (b)(1), the licensee shall request the information from the sponsoring child-placing agency and shall document the request.
- (c) **Departure requirements.** When any child in foster care moves from the family foster home, the licensee shall send the following with the child:
- (1) All possessions brought with the child in foster care to the family foster home that are usable or that have special significance to the child;
 - (2) all savings from gifts, allowances, and earnings;
 - (3) all usable clothing, school supplies, recreational equipment, gifts, and any other items purchased specifically for and given to the child during placement in the family foster home, including items provided by the foster parents; and
 - (4) the child's life book, which may include birth family history, placement history, pictures, school information, and a record of personal achievements.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-810. Case plan.

- (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan.
- (b) The licensee's participation shall include the following:
 - (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of

developmentally appropriate life skills that the child needs to become functional in the community;

- (2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan;
 - (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and
 - (4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.
- (c) A licensee shall not disclose medical or social information relating to any child in foster care without authorization from the child's child-placing agent, unless the disclosure is directly related to obtaining necessary services for the child or to ensuring safe involvement in age-appropriate activities.
- (d) In order to meet the needs of each child placed in the home, each licensee shall implement the provisions assigned to the licensee in the case plan and shall follow the policies of the sponsoring child-placing agency for the care of the child.
- (e) Each licensee shall seek consultation and direction from the child's child-placing agent or the sponsoring child-placing agency if issues arise that cannot be resolved between the licensee and the child in foster care.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-811. Caregiver qualifications; supervision.

- (a) Caregiver qualifications. Each caregiver shall be qualified by the temperament, emotional maturity, judgment, and the understanding of children necessary to maintain the health, comfort, safety, and welfare of children in foster care pursuant to K.S.A. 65-504 and 65-508, and amendments thereto.
- (b) General supervision. Each licensee shall ensure that each child in foster care is supervised in accordance with the child's age, maturity, risk factors, and developmental level. Additional supervision shall be provided for any child in foster care of any age in any of the following situations:
 - (1) The child has mental health issues that place the child at higher concern for risk-taking behaviors that could result in unintentional injury or drowning.
 - (2) The child would be a danger to self or others.
 - (3) The child functions below the child's chronological age level.
 - (4) The child is unable to engage in self-care.

- (c) Substitute care and supervision. Each licensee shall ensure that substitute care and supervision are provided in each of the following situations:
 - (1) During the absence of the licensee between the hours of six a.m. and midnight, the following requirements shall apply:
 - (A) For an absence of less than four hours, the substitute caregiver shall be at least 14 years of age and at least three years older than the oldest child in foster care; and
 - (B) for an absence of four to 10 hours, the substitute caregiver shall be at least 16 years of age and at least three years older than the oldest child in foster care.
 - (2) In the absence of the licensee for more than 10 hours or for any period between the hours of midnight and six a.m., the substitute caregiver shall be at least 18 years of age and at least three years older than the oldest child in foster care.
- (d) Self-care. Any child in foster care at least 12 years of age may be permitted to stay at home without adult supervision for certain periods of time between the hours of six a.m. and midnight if all of the following requirements and conditions are met:
 - (1) The potential for self-care is identified and written approval is included in the child's case plan.
 - (2) Each child in foster care's specific risk factors, including age, maturity level, behavior disorders, suicidal tendencies, developmental delays, thrill-seeking behavior, and difficulty with anger control, shall be considered in developing the self-care plan.
 - (3) Each licensee has established a written self-care plan for the care and supervision for each child in foster care in the home in the absence of the licensee. The written self-care plan shall take into consideration the number of children in the home, the behavior, emotional stability, and maturity level of the children in the home, and any neighborhood safety issues. The self-care plan shall be approved by the sponsoring child-placing agency and the child's child-placing agent.
 - (4) Only children residing in the home may be present during self-care.
 - (5) The following minimum age and maximum time limits for self-care for each child in foster care shall apply:
 - (A) Any child who is at least 12 years of age may be in self-care for a maximum of two consecutive hours, for no more than four hours each day.
 - (B) Any child who is at least 14 years of age may be in self-care for no more than four hours each day.

- (C) Any child who is at least 16 years of age may be in self-care for no more than 10 hours each day.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-812. Respite care.

- (a) Requirements. Respite care may be provided for a child placed in another foster home if both of the following requirements are met:
 - (1) The respite care provider shall be in compliance with all regulations governing family foster homes.
 - (2) The sponsoring child-placing agency shall have approved the family foster home to provide respite care and the written approval is on file in the family foster home.
- (b) Short-term respite care. The number and age range authorized by the temporary permit or the license may be exceeded by a maximum of two additional children in foster care or a sibling group of any size. If short-term respite care is provided during sleeping hours, an individual bed shall be available for each child.
- (c) Long-term respite care. Long-term respite care may be provided if the addition of the child in foster care to be receiving long-term respite care does not cause the license capacity for the family foster home in which respite care will be provided to be exceeded.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-813. Child growth and development.

- (a) Social development. Each licensee shall provide for the growth and development of each child in foster care by providing the following:
 - (1) Contact with the family of the child in foster care in accordance with the case plan prepared by the child's child-placing agent;
 - (2) access to individual, school, and community recreational activities according to the child's age and interest; and
 - (3) privacy.
- (b) Culture and religion. Each licensee shall meet the cultural and religious needs of each child in foster care placed in the family foster home.
- (c) Recreational development. Each licensee shall provide an adequate supply of play equipment, materials, and books that meet the following requirements:

- (1) Are suitable to the developmental needs and interests of each child in foster care; and
 - (2) are safe, clean, and in good repair.
- (d) Education and basic skills. Each licensee shall provide the following to each child in foster care:
- (1) Facilitation of the child's timely enrollment and school attendance in a local school district or, when appropriate, the child's district of residence and facilitation of the child's regular attendance at school or any other place of instruction in accordance with the child's individual education plan; and
 - (2) assistance to each child in learning basic life skills that allow the opportunity to improve self-concept and strengthen identity in preparation for life after foster care.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-814. Family life.

- (a) Family activities. Taking into consideration the age, needs, and case plan of each child in foster care, each licensee shall provide the following opportunities for each child in foster care:
- (1) Inclusion of the child in foster care in the daily life of the family, including eating meals with the family and participating in recreational activities;
 - (2) ensuring that each child in foster care is provided with the same opportunities that are provided to the other children residing in the home; and
 - (3) ensuring that each child in foster care is provided access to schools, church, recreational and health facilities, and other community resources.
- (b) Daily routine. Each licensee shall provide a daily routine in accordance with the age and needs of each child in foster care that includes the following:
- (1) Active and quiet play, both indoors and outdoors, weather permitting;
 - (2) rest and sleep; and
 - (3) nutritious meals and snacks.
- (c) Essential and special items.
- (1) Each licensee shall ensure that each child in foster care is provided with essential items to meet each child's needs, including the following:

- (A) Food and shelter;
 - (B) nonprescription medical needs;
 - (C) clothing and shoes;
 - (D) toiletries and personal hygiene products; and
 - (E) birthday and holiday gifts.
- (2) Each licensee shall notify the sponsoring child-placing agency and the child's child-placing agent when a licensee identifies a need for additional resources to provide a special item for a child in foster care. Special items may include the following:
- (A) Clothing and fees for instructional or extracurricular activities;
 - (B) school pictures;
 - (C) athletic and band instrument fees; and
 - (D) cap and gown rental and prom clothing.
- (d) Allowance. Each licensee shall provide an allowance to each child in foster care equal to that of any other children of similar age in the family foster home who receive an allowance.
- (e) Work opportunity. Each child in foster care shall have the opportunity to earn spending money at tasks or jobs according to the child's age, ability, and case plan. The money shall be the child's, and the child shall not be forced to provide for needs that otherwise would be provided by the licensee.
- (f) Routine tasks. Each licensee shall permit each child in foster care to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability.
- (g) Informal visitation. Any licensee may identify extended family members 18 years of age and older as resources for informal visitation.
- (1) For each extended family member identified as a resource, each licensee shall meet the following requirements:
- (A) Describe the relationship of the individual to the licensee;
 - (B) submit a request for background checks as specified in K.A.R. 28-4-805;
 - (C) obtain a copy of the current driver's license for each individual who could provide transportation during visitation;

- (D) provide to the sponsoring child-placing agency documentation that each individual has read and agrees to follow the confidentiality policy and the discipline policy of the sponsoring child-placing agency;
 - (E) ensure that each individual has emergency contact numbers and a crisis plan in case of emergency; and
 - (F) ensure that either an original or a copy of each medical consent form and each health assessment is provided for each child in foster care participating in informal visitation.
- (2) Each licensee shall obtain the sponsoring child-placing agency's approval of the informal visitation plan before using informal visitation.
 - (3) Each licensee shall provide the sponsoring child-placing agency with the information specified in paragraphs (g)(1)(A) through (F) and shall keep a copy on file in the family foster home.
 - (4) Each licensee shall report the following to the sponsoring child-placing agency:
 - (A) The date on which each informal visitation occurs; and
 - (B) the identified extended family member's name and address.
 - (5) Each licensee shall ensure that both of the following conditions are met:
 - (A) Each identified extended family member 18 years of age and older is informed of the content of the regulations governing family foster homes.
 - (B) Supervision that ensures the health, safety, and welfare of each child in foster care is provided by an individual 18 years of age and older.
- (h) Sleepovers. Any licensee may permit a child in foster care to participate in sleepovers in unlicensed homes if all of the following conditions are met:
- (1) The purpose of the stay is to allow the child to participate in a social event that is normal for the child's age and development.
 - (2) Participation in sleepovers is not precluded in the child's case plan.
 - (3) The licensee confirms the invitation with the parent of the child to be visited and determines that supervision will be provided by an individual 18 years of age and older to ensure the health, safety, and welfare of the child.
- (i) High-risk sport or recreational activity. Any licensee may permit a child in foster care to engage in any high-risk sport or recreational activity if all of the following conditions are met:

- (1) Written permission for the specific activity is obtained from the parent, legal guardian, or legal custodian of the child in foster care and from the child's child-placing agent.
 - (2) The licensee assesses the individual child-specific risk factors before giving permission. These factors shall include the age and maturity level of the child, behavior disorders, suicidal tendencies, developmental delays, thrill-seeking behavior, and difficulty with anger control.
 - (3) Protective safety gear is used, if required for the sport or activity.
 - (4) A safety plan is developed and followed. This plan shall include instruction on the activity and compliance with any manufacturer's specifications and general safety guidelines.
 - (5) Direct supervision by an individual 18 years of age and older is provided to ensure safe participation.
- (j) The use of trampolines in home settings shall be prohibited for children in foster care.

(Authorized by and implementing K.S.A. 2012 Supp. 65-508; effective March 28, 2008; amended Sept. 6, 2013.)

K.A.R. 28-4-815. Behavior management practices; prohibited punishment; physical restraint; notification requirements.

- (a) Behavior management practices.
- (1) Each licensee shall ensure that positive methods are used for behavior management that are appropriate to the age and developmental level of the child in foster care and encourage cooperation, self-direction, and independence.
 - (2) Each caregiver shall use methods of behavior management that are designed to help each child in foster care develop inner controls and manage the child's own behavior in a socially acceptable manner.
 - (3) If time-out is used to manage behavior, the child in foster care shall remain in time-out in accordance with the child's age and developmental level and only long enough to regain self-control.
 - (4) For each child in foster care who is not able to develop self-control or self-management, behavior management techniques shall be approved, in writing, by the case planning team.
- (b) Prohibited punishment.
- (1) No individual shall use any of the following means or methods of punishment of a child:

- (A) Punishment that is humiliating, frightening, or physically harmful to the child;
 - (B) corporal punishment, including hitting with the hand or any object, yanking arms or pulling hair, excessive exercise, exposure to extreme temperatures, or any other measure that produces physical pain or threatens the child's health or safety;
 - (C) restricting movement by tying or binding;
 - (D) confining a child in a closet, box, or locked area;
 - (E) forcing or withholding food, rest, or toilet use;
 - (F) refusing a child access to the family foster home;
 - (G) mental and emotional cruelty, including verbal abuse, derogatory remarks about a child in foster care or the child's family, statements intended to shame, threaten, humiliate, or frighten the child, or threats to expel a child from the home; and
 - (H) placing soap, or any other substance that stings, burns, or has a bitter taste, in the child's mouth or on the tongue or any other part of the child's body.
- (2) Each caregiver shall be prohibited from giving medications, herbal or folk remedies, and drugs to control or manage behavior, except as prescribed by the licensed physician or licensed nurse practitioner of the child in foster care.
 - (3) No child in foster care shall be forced to participate in publicity or promotional activities.
 - (4) Each caregiver shall be prohibited from publicly identifying any child in foster care to the embarrassment of the child.
 - (5) No child in foster care shall be forced to acknowledge dependency on the family foster home or to express gratitude to the licensee.
 - (6) Each caregiver shall be prohibited from using physical restraint to manage behavior unless all of the requirements of subsection (c) are met.
- (c) Physical restraint.
- (1) Each caregiver shall ensure that before using physical restraint, other de-escalation methods are used. If other de-escalation methods fail and the behavior of the child in foster care makes physical restraint necessary for the child's own protection or the protection of others, the child shall be held as gently as possible to manage the child's behavior.
 - (2) No bonds, ties, or straps shall be used to restrict movement. The child in foster care shall be held only until one of the following is achieved:

- (A) The child regains behavioral control.
 - (B) The child is no longer a threat to self or others.
 - (C) The restraint has lasted 20 minutes with no improvement in the child's behavior.
- (3) Each caregiver using physical restraint in any situation other than an emergency shall have a current certificate on file documenting the training in de-escalation methods and physical restraint procedures and techniques specified in K.A.R. 28-4-806.
 - (4) The licensee shall have on file a case plan authorizing the use of physical restraint for each child in foster care whose behavior cannot be managed by other less intrusive methods and whose behavior requires the use of ongoing physical restraint on a recurring basis for the child's protection or the protection of others.
- (d) Notification requirements. Each caregiver shall inform the child's child-placing agent and the sponsoring child-placing agency each time physical restraint is used.
 - (1) The licensee shall document each use of physical restraint on a form that contains the following:
 - (A) The child's name and birth date;
 - (B) the date and the start and end times of the physical restraint;
 - (C) a description of the other de-escalation methods attempted before the use of physical restraint;
 - (D) a description of the child's behaviors and condition and the incidents that led to the use of physical restraint;
 - (E) a description of the child's behavior during and following the physical restraint;
 - (F) a description of any follow-up actions taken;
 - (G) the name of the individual who used physical restraint on the child; and
 - (H) the name of the licensee completing the report and the date completed.
 - (2) Each licensee shall file the report with the sponsoring child-placing agency no later than the next working day following the use of physical restraint. The use of physical restraint as an emergency intervention shall be reported to the sponsoring child-placing agency at the conclusion of the intervention when the child is no longer a danger to self or others.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-816. Transportation. Each licensee shall ensure that all of the following requirements are met:

- (a) If a vehicle used for transportation of a child in foster care is owned or leased by a foster family member or is driven by a child in foster care, the following requirements shall be met:
 - (1) Trailers pulled by another vehicle, camper shells, and truck beds shall not be used for the transportation of children in foster care.
 - (2) The transporting vehicle shall be maintained in a safe operating condition.
 - (3) The transporting vehicle shall be covered by accident and liability insurance as required by the state of Kansas.
 - (4) A first-aid kit shall be in the transporting vehicle and shall include disposable nonporous gloves, a cleansing agent, scissors, bandages of assorted sizes, adhesive tape, a roll of gauze, one package of gauze squares at least four inches by four inches in size, and one elastic bandage.
- (b) Each driver of any vehicle that is used to transport any child in foster care shall hold a valid driver's license appropriate for the type of vehicle being used.
- (c) The use of seat belts and child safety seats shall include the following:
 - (1) Each individual shall be secured by the use of a seat belt or a child safety seat when the vehicle is in motion.
 - (2) No more than one individual shall be secured in any seat belt or child safety seat.
 - (3) Each seat belt shall be properly anchored to the vehicle.
 - (4) When a child safety seat, including booster seat, is required, the seat shall meet the following requirements:
 - (A) Have current federal approval;
 - (B) be installed according to the manufacturer's instructions and vehicle owner's manual;
 - (C) be appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions and Kansas statutes and regulations;
 - (D) be maintained in a safe operating condition at all times;
 - (E) have a label with the date of manufacture and model number, for use in case of a product recall; and

- (F) have no missing parts or cracks in the frame and have not been in a crash.
- (d) The health and safety of the children riding in the vehicle shall be protected as follows:
- (1) All passenger doors shall be locked while the vehicle is in motion.
 - (2) Order shall be maintained at all times. The driver shall be responsible for ensuring that the vehicle is not in motion if the behavior of the occupants prevents safe operation of the vehicle.
 - (3) All parts of each child's body shall remain inside the vehicle at all times.
 - (4) Children shall neither enter nor exit from the vehicle from or into a lane of traffic.
 - (5) Children less than 10 years of age shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain that no child is left in the vehicle.
 - (6) Smoking in the vehicle shall be prohibited when a child in foster care is in placement in a family foster home, whether or not the child in foster care is physically present in the vehicle.
 - (7) Medical and surgical consent forms and health assessment records shall be in the vehicle when a child in foster care is transported 60 miles or more from the family foster home.
- (e) Before a child in foster care is allowed to drive, all of the following requirements shall be met:
- (1) The licensee, child-placing agent, or sponsoring child-placing agency shall obtain permission from the parent or legal guardian.
 - (2) The privilege of driving shall be included in the child's case plan.
 - (3) The child shall possess a valid driver's license and shall meet the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto.
- (f) Any resident of the home who is at least 16 years of age but not yet 18 years of age may transport a child in foster care who attends middle school or junior high school to and from school without an accompanying adult if all of the following conditions are met:
- (1) All of the requirements of subsections (a) through (e) are met.
 - (2) The driver has a valid driver's license and meets the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto.
 - (3) The parent or legal guardian of the child in foster care and the child's child-placing agent give their written approval.

- (g) Any child in foster care who attends high school may be transported to and from school, work, or social activities without an accompanying adult by a driver who is at least 16 years of age but not yet 18 years of age if both of the following conditions are met:
 - (1) The driver has a valid driver's license and meets the requirements of the Kansas motor vehicle drivers' license act K.S.A. 8-234a et seq. and amendments thereto.
 - (2) The parent or legal guardian of the child in foster care and the child's child-placing agent give their written approval.
- (h) Any child in foster care who is a parent and who meets the requirements of subsections (a) through (e) may transport any child of that parent.

(Authorized by and implementing 2012 Supp. K.S.A. 65-508; effective March 28, 2008; amended Sept. 6, 2013.)

K.A.R. 28-4-817. Nutrition; food handling and storage.

- (a) Each licensee shall ensure that, for each child in foster care, all of the following requirements are met:
 - (1) Each child less than 12 months of age shall be held when bottle-fed until the child can hold the child's own bottle.
 - (2) No child shall be allowed to sleep with a bottle in the child's mouth.
 - (3) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be refrigerated with the nipple covered and shall be used within 24 hours.
 - (4) For each child less than 12 months of age, solid foods shall be introduced in consultation with the child's health care provider.
- (b) Nutritious meals and snacks shall be planned and shall be served in accordance with the food and drug administration's recommended daily allowances.
- (c) A sufficient quantity of food shall be available to allow each child in foster care to have second servings of bread, milk, and either vegetables or fruit.
- (d) Only pasteurized milk products shall be served.
- (e) Food allergies and special dietary needs of each child in foster care shall be accommodated.
- (f) Dishes shall be either washed, rinsed, and stacked or placed in a dishwasher after each meal, but no later than the next day.

- (g) Sanitary methods of food handling and storage shall be followed.
 - (1) Each individual engaged in food preparation and food service shall use sanitary methods of food handling, food service, and storage.
 - (2) Each individual involved in food handling shall wash the individual's hands with soap and running water immediately before engaging in food preparation and service.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-818. Storage and administration of medication.

- (a) Storage of medication. Each licensee shall ensure that all prescription and nonprescription medication is kept in the original container at the recommended temperature in accordance with the instructions on the label and, except as specified in paragraph (e)(4), in locked storage and inaccessible to children.
- (b) Nonprescription medication.
 - (1) When nonprescription medication is administered to any child in foster care, each caregiver shall administer the medication from the original container and according to instructions on the label.
 - (2) Substances including herbal supplements, folk remedies, natural medicines, and vitamin supplements other than a daily multivitamin shall be administered only with documented approval by a licensed medical practitioner.
- (c) Prescription medication. When prescription medication is administered to a child in foster care, each licensee shall ensure compliance with the following requirements:
 - (1) Prescription medication shall be administered only to the designated child and in accordance with instructions on the label.
 - (2) Each prescription medication shall be kept in the original container labeled by a pharmacist with the following information:
 - (A) The first and last name of the child;
 - (B) the date the prescription was filled;
 - (C) the name of the licensed physician who wrote or approved the prescription;
 - (D) the expiration date of the medication; and
 - (E) specific, legible instructions for administration and storage of the medication.

- (3) The instructions on each label shall be considered the order from the licensed physician.
- (4) If a daily or weekly medication container is used for a child in foster care, all of the following requirements shall be met:
 - (A) The medication container shall be labeled with the child's name.
 - (B) The medication container shall be used only for medications that are not affected by exposure to air or light and that can touch other medications without affecting the efficacy of any of the medications.
 - (C) The medications shall be placed in the medication container by the licensee.
 - (D) Each dose shall be placed in the medication container according to the correct time of day.
 - (E) The medication container shall be kept in locked storage.
 - (F) The remainder of each of the child's medications shall be stored in the respective original container until the prescription is completed or discontinued.
 - (G) If any child in foster care is required to receive medication during a visit or during any absence from the foster home, all medication sent for the child shall be in containers that meet the requirements of paragraph (c)(2) and shall be given to the individual taking responsibility for the child.
 - (H) When a child in foster care moves from the family foster home, all current medications shall be in the individual original containers and shall be given to the individual taking responsibility for the child.
 - (I) At no time shall any medication be in the possession of a child in foster care, except as specified in paragraph (e)(4).
- (d) Requirements for administering prescription and nonprescription medication.
 - (1) Before administering medication, each licensee shall receive training in medication administration as specified in K.A.R. 28-4-806. Each licensee shall ensure that each individual administering medication knows the purpose, side effects, and possible contraindications of each medication.
 - (2)
 - (A) For prescription medications, each caregiver shall record on each child's medication record the following information:
 - (i) The name of the individual who administered each medication;
 - (ii) the date and time the medication was given;

- (iii) any change in the child's behavior, any response to the medication, or any adverse reaction;
 - (iv) any change in the administration of the medication from the instructions on the label or a notation about each missed dose; and
 - (v) any direction from the physician to change the order as written on the label.
 - (B) Each medication record shall be signed by the caregiver and shall be made a part of the child's medical record.
- (e) Self-administration of medication.
 - (1) Any licensee may permit each child in foster care with a condition requiring prescription medication on a regular basis to self-administer the medication under adult supervision. Each licensee shall obtain written permission for the child to self-administer medication from the licensed physician, licensed physician's assistant, or advanced registered nurse practitioner treating the child's condition.
 - (2) Written permission for self-administration of medication shall be kept in the child's file at the family foster home.
 - (3) Self-administration of each medication shall follow the procedures specified in paragraph (b)(2).
 - (4) Each child in foster care who is authorized to self-administer medication shall have access to the child's medication for self-administration purposes. The child shall have immediate access to medication prescribed for a condition for which timely treatment is a life-preserving requirement. Each child with asthma, allergies, or any other life-threatening condition shall have immediate access to that child's own medication for emergency purposes. Each licensee shall ensure the safe storage of self-administered medication to prevent unauthorized access by others.
 - (5) The date and time that each medication was self-administered shall be recorded on the child's medication record. Any noted adverse reactions shall be documented. Each licensee shall review the record for accuracy and shall check the medication remaining in the container against the expected remaining doses.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-819. Health care.

- (a) Infectious or contagious disease. Each individual residing in the family foster home shall be free from any infectious or contagious disease specified in K.A.R. 28-1-6.

(b) Health of caregivers.

- (1) Each caregiver shall be in a state of physical, mental, and emotional health, as necessary to protect the health, safety, and welfare of the children in foster care.
- (2) No caregiver shall be in a state of impaired ability due to the use of alcohol or other chemicals, including prescription and nonprescription drugs.
- (3) Each individual regularly caring for a child in foster care in the family foster home shall have a health assessment conducted by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to perform health assessments. Each health assessment shall be conducted no earlier than one year before the date of the initial application for a license, employment, or volunteering and no later than 30 days after the date of the initial application, employment, or volunteering. The results of each assessment shall be recorded on a form provided by the department.
- (4) If a caregiver experiences a significant change in the caregiver's physical, mental, or emotional health, including indications of substance abuse, an assessment of the caregiver's current health status may be requested by the secretary or by the sponsoring child-placing agency.
 - (A) The assessment or evaluation shall be performed at the expense of the licensee or other caregiver and by a practitioner who is licensed or certified in Kansas to diagnose and treat the specific condition that is the basis for the assessment or evaluation.
 - (B) Each licensee shall ensure that at least one potential practitioner has been approved by the requesting department or the sponsoring child-placing agency in order to have the assessment or evaluation accepted by the requesting department or child-placing agency.
 - (C) Each licensee shall provide the requesting department or sponsoring child-placing agency with an executed release of medical information to enable the department or the child-placing agency to obtain information directly from the practitioner.

(c) Health of the foster family members.

- (1) Each individual living in the family foster home, other than the child in foster care, shall have a health assessment conducted by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to perform health assessments. Each assessment shall be conducted within one year before the date of application or the individual residing in the home and no later than 30 days after the date of the licensee's initial application or the individual becoming a resident of the home. The results of the health assessment shall be recorded on forms provided by the department.

- (2) Each child born to or adopted by the licensee who is less than 16 years of age and is living in the home shall have current immunizations. An exemption from this requirement shall be permitted only with one of the following:
 - (A) A written certification from a physician with a current license to practice in Kansas stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or
 - (B) a written statement from the child's parent or legal guardian that the child is an adherent of a religious denomination whose teachings are opposed to immunizations.
- (d) Medical and dental health of each child in foster care.
 - (1) Each licensee shall ensure that emergency and ongoing medical and dental care is obtained for each child in foster care by providing timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services provided by qualified practitioners.
 - (2) Each licensee shall ensure that, at the time of the initial placement, each child in foster care has had a health assessment conducted within the past year by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to conduct assessments.
 - (3) A health assessment shall be obtained annually for each child in foster care who is less than six years of age and every two years for each child in foster care who is six years of age and older.
 - (4) Each health assessment required in paragraphs (d)(2) and (3) shall be on file at the family foster home within 30 days after the child's placement in the home.
 - (5) The immunizations for each child in foster care less than 16 years of age shall be current or in process at the time the license is issued. An exemption from this requirement shall be permitted only with one of the following:
 - (A) A written certification from a physician with a license to practice in Kansas stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or
 - (B) a written statement from the child's parent or legal guardian that the child is an adherent of a religious denomination whose teachings are opposed to immunizations.
 - (6) An annual dental examination shall be obtained for each child in foster care who is three years of age or older. Follow-up care shall be provided. The child's dental record shall be recorded on forms provided by the department and shall be kept current.

- (7) The medical information record for each child in foster care shall be kept current and shall document each illness, the action taken by the licensee, and the date of the child's medical, psychological, or dental care. When the child leaves the family foster home, the licensee shall ensure that the record, including the health assessments, dental records, medication administration record, immunization record, medical and surgical consent forms, and emergency medical treatment authorization, is given to the child's child-placing agent.
- (e) Tuberculin testing.
- (1) Each individual 16 years of age and older living, working, or regularly volunteering in the family foster home and each child in foster care 16 years of age and older shall be required to have a record of a negative tuberculin test or X-ray obtained not more than two years before the employment or initial application for a license or shall obtain the required record no later than 30 days after the date of employment, initial application, or becoming a resident of or volunteer in the home.
 - (2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs or if symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and the results of the follow-up shall be recorded on the individual's health record. The department shall be informed of each occurrence described within this paragraph.
 - (3) The results of each tuberculin test shall be recorded on, or attached to, the health assessment form and kept on file at the family foster home. Each licensee shall report any positive tuberculin skin test to the department's TB control program by the next working day.
 - (4) A child in foster care less than 16 years of age shall not be required to have tuberculin tests unless the child has been recently exposed to tuberculosis or exhibits symptoms compatible with tuberculosis.
- (f) Tobacco use limitations.
- (1) To prevent exposure of a child in foster care to secondhand smoke, each licensee shall ensure that both of the following conditions are met:
 - (A) Smoking is prohibited inside the family foster home when a child in foster care is in placement, whether the child is physically present on the premises or not.
 - (B) Smoking by any member of the foster family is prohibited outside the family foster home within 10 feet of a child in foster care.
 - (2) Each licensee shall prohibit smoking and the use of any other tobacco product by a child in foster care less than 18 years of age.

(g) Handwashing.

- (1) Each caregiver shall wash the caregiver's hands with soap and water before preparing food, before eating, after toileting, after petting animals, and after diapering or changing soiled clothing.
- (2) Each caregiver shall encourage each child in the family foster home to wash the child's hands with soap and water before and after eating, after petting an animal, and after toileting.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective March 28, 2008.)

K.A.R. 28-4-820. General environmental requirements. Each licensee shall ensure that all of the requirements in this regulation are met.

- (a) Local requirements. Each family foster home shall meet the legal requirements of the community as to zoning, fire protection, water supply, and sewage disposal.
- (b) Sewage disposal. If a private sewage disposal system is used, the system shall meet the requirements specified in K.A.R. 28-4-55.
- (c) Use of private water supply. If a private water system is used, the system shall meet the requirements specified in K.A.R. 28-4-50. The water supply shall be safe for human consumption. Testing of the water supply shall be completed at the time of initial licensing and annually thereafter to document the nitrate and bacteria levels. Additional testing may be required if there is a change in environmental conditions that could affect the integrity of the water supply. If children less than 12 months of age receive care in a family foster home that uses private well water, then commercially bottled drinking water shall be used for these children until a laboratory test confirms that the nitrate content is not more than 10 milligrams per liter (10 mg/l) as nitrogen.
- (d) Family foster home structural and furnishing requirements. The family foster home shall be constructed, arranged, and maintained to provide for the health, safety, and welfare of all occupants and shall meet the following requirements:
 - (1) The home shall contain sufficient furnishings and equipment to accommodate both the foster family and each child in foster care.
 - (2) The floors shall be covered, painted, or sealed in all living areas of the home, kept clean, and maintained in good repair.
 - (3) The interior finish of all ceilings, stairs, and hallways shall meet generally accepted standards of building, including safety requirements.
 - (4) Each closet door shall be designed to be opened from the inside and shall be readily opened by a child.

- (5) Each stairway with two or more stairs and a landing shall have a handrail and be guarded on each side if there is a drop-off of more than 21 inches from the stairs or landing to the floor or ground.
 - (6) If any stairway is guarded by balusters, and the family foster home is or is intended to be licensed for children in foster care less than six years of age, the space between balusters shall not exceed four inches, except as specified in this paragraph. If the space between balusters exceeds four inches, the licensee shall make provisions necessary to prevent a child's head from becoming entrapped in the balusters or a child's body from falling through the balusters or becoming entrapped in them.
 - (7) When a child in foster care less than three years of age is present, each stairway with two or more stairs and a landing shall be gated to prevent unsupervised access by the child. Each gate shall have a latching device that an adult can open readily in an emergency. Accordion gates shall be prohibited throughout the premises, and pressure gates shall be prohibited for use at the top of any stairway.
 - (8) If the family foster home is or is intended to be licensed for children in foster care less than six years of age, each electrical outlet shall be covered.
 - (9) At least one bathroom in the family foster home shall have at least one sink, one flush toilet, and one tub or shower. All fixtures shall be working at all times.
 - (10) Each bathroom shall have a solid door that affords privacy to the occupant and that can be opened from each side without the use of a key in case of an emergency.
 - (11) A working telephone shall be on the premises and available for use at all times. Emergency telephone numbers shall be readily accessible or be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center. The name, address, and telephone number of the primary care physician used for each child in foster care shall be posted next to the telephone or readily accessible in case of an emergency.
 - (12) A working smoke detector shall be centrally installed on each level of the home and in each room used for sleeping by a child in foster care and by the licensee.
 - (13) One working carbon monoxide detector shall be installed according to the manufacturer's instructions in an area adjacent to each room used for sleeping by a child in foster care and by the licensee.
- (e) Cleanliness. The interior of the family foster home shall be free from accumulation of visible dirt, any evidence of vermin infestation, and any objects or materials that could cause injury to children in foster care.

- (f) Lighting and ventilation.
 - (1) All rooms used for living space shall be lighted, vented, heated, and plumbed pursuant to K.S.A. 65-508, and amendments thereto.
 - (2) Each window and door used for ventilation shall be screened to minimize the entry of insects.
 - (3) The family foster home shall have lighting of at least 10 foot-candles in all parts of each room, within each living area of the home. There shall be lighting of at least 30 foot-candles in each area used for reading, study, or other close work.

- (g) Firearms and other weapons.
 - (1) No child in the home shall have unsupervised access to any of the following:
 - (A) Firearms, ammunition, and other weapons;
 - (B) air-powered guns, including BB guns, pellet guns, and paint ball guns;
 - (C) hunting and fishing knives; and
 - (D) any archery and martial arts equipment.
 - (2) All firearms, including air-powered guns, BB guns, pellet guns, and paint ball guns, shall be stored unloaded in a locked container, closet, or cabinet. If the locked container, closet, or cabinet is constructed in whole or in part of glass or plexiglass, each firearm shall be additionally secured with a hammer lock, barrel lock, or trigger guard.
 - (3) Ammunition shall be kept in a separate locked storage container or locked compartment designed for that purpose.
 - (4) All archery equipment, hunting and fishing knives, and other weapons shall be kept in a locked storage compartment.
 - (5) Each key to a locked storage container, closet, or compartment of guns, ammunition, and other weapons, and to gun locks shall be in the control of a licensee at all times.

- (h) Storage of household chemicals, personal care products, tools, and sharp instruments. The following requirements shall apply when a child in foster care is in placement in the family foster home:
 - (1) All household cleaning supplies and all personal care products that have warning labels advising the consumer to keep those supplies and products out of reach of children or that contain alcohol shall be kept in locked storage or stored out of reach of children less than six years of age.

- (2) All chemicals and household supplies with warning labels advising the consumer to keep those chemicals and supplies out of reach of children shall be kept in locked storage or stored out of reach of children less than 10 years of age.
 - (3) Sharp instruments shall be stored in drawers equipped with childproof devices to prevent access by children or stored out of reach of children less than six years of age.
 - (4) Tobacco, tobacco products, cigarette lighters, and matches shall be inaccessible to individuals less than 18 years of age.
 - (5) Tools shall be inaccessible to each child in foster care when the tools are not in use and shall be used by a child in foster care only with supervision by an individual 18 years of age and older.
- (i) Heating appliances.
- (1) Each heating appliance using combustible fuel, including a wood-burning stove or a fireplace, shall be vented to the outside.
 - (2) Each fireplace and each freestanding heating appliance using combustible fuel, including a wood-burning stove, shall stand on a noncombustible material according to the manufacturer's specifications, Kansas state statutes, and regulations, and local ordinances.
 - (3) Each heating appliance designed by the manufacturer to be unvented shall be used according to the manufacturer's specifications, Kansas statutes and regulations, and local ordinances.
 - (4) If a child in foster care less than three years of age is in placement in the family foster home, a protective barrier shall be provided for each fireplace and each freestanding heating appliance as necessary to protect from burns.
 - (5) If a propane heater is used, the heater shall be installed in accordance with the manufacturer's recommendations, Kansas statutes and regulations, and local ordinances.
 - (6) Each flue or chimney of any heating appliance that uses combustible fuel shall be checked annually and cleaned as recommended by a qualified chimney sweep.
- (j) Clothes dryers. Each clothes dryer shall be vented to the outside or to a venting device installed and used according to the manufacturer's specifications, Kansas statutes, and regulations, and local ordinances.
- (k) Play space. Each family foster home shall have a space for indoor play and access to an outdoor play space.
- (l) Mobile home requirements. In addition to requirements specified in this regulation, if the family foster home is a mobile home, both of the following requirements shall be met:

- (1) The mobile home shall have two exits that are located at least 20 feet apart, with one exit within 35 feet of each bedroom door.
 - (2) Each mobile home shall be skirted with latticed or solid skirting and securely anchored by cable to the ground.
- (m) Special inspections. A special inspection of the family foster home by a fire, health, sanitation, or safety official may be required by the secretary or the sponsoring child-placing agency to assist in making a decision about the safety of the home for a child in foster care.

(Authorized by and implementing K.S.A. 2012 Supp. 65-508; effective March 28, 2008; amended Sept. 6, 2013.)

K.A.R. 28-4-821. Sleeping arrangements.

- (a) Each licensee shall ensure that sufficient space for sleeping is provided to accommodate the number of foster family members and each child in foster care. Sleeping space shall not include any of the following places:
- (1) An unfinished attic;
 - (2) an unfinished basement;
 - (3) a hall;
 - (4) a closet;
 - (5) a laundry room;
 - (6) a garage;
 - (7) any living space that is normally used for other than sleeping arrangements; or
 - (8) any room that provides routine passage to a common use room, to another bedroom, or to the outdoors.
- (b) Each licensee shall ensure that each bedroom used for sleeping by a child in foster care meets the following requirements:
- (1) Each bedroom shall have at least 70 square feet.
 - (2) Each bedroom shall have at least 45 square feet for each individual sharing the room.
 - (3) The exit path from each bed to each outside exit shall have a minimum ceiling height of six feet eight inches.

- (4) Each bedroom shall have a solid door to ensure privacy.
 - (5) Each bedroom shall have at least two means of escape. Each means of escape shall be easily opened from the inside.
 - (A) At least one means of escape shall be an unobstructed pathway leading to an exit door to the outside.
 - (B) The second means of escape shall give direct access to the outside and shall be an unobstructed door or window that is able to be opened from the inside without the use of tools.
 - (C) For each window used as a means of escape, all of the following requirements shall be met:
 - (i) The window shall have a width of at least 20 inches and a height of at least 24 inches.
 - (ii) The window shall be within 44 inches of the floor or shall have permanent steps or another immovable fixture that brings the window to within 44 inches of the top of the steps or fixture.
 - (iii) If the window is screened, the screen shall be easily removed from the inside.
 - (iv) The licensee shall ensure that each occupant of the bedroom can easily exit through the window.
 - (D) If one means of escape is a sliding glass door, the door shall be easily opened from the inside.
 - (6) All false ceilings, curtains, drapes, or fabric used in decoration for ceilings or walls in each room used for sleeping shall be made of fire-rated materials.
- (c) Privacy for the occupants of all bedrooms shall be ensured.
 - (d) Each child in foster care shall have a separate bed or crib that meets the following requirements:
 - (1) Is intact, fully functional, and in good repair to prevent injury or entrapment of the child;
 - (2) is of sufficient size to accommodate the size and weight of the child;
 - (3) has a mattress that is clean and has a waterproof covering, if needed; and
 - (4) has bedding adequate to the season and appropriate to the age of the child.
 - (e) Each bed that requires bed springs shall have springs in good condition.

- (f) If a bunk bed is used by any child in foster care, the following requirements shall be met:
 - (1) The upper bunk shall be protected on all sides with rails. Headboards and footboards may substitute for rails on the ends of the bed.
 - (2) Each child in foster care using the upper bunk shall be at least six years of age.
- (g) No rollaway bed, hideaway bed, or other temporary bed shall be used, except when children in foster care are visiting in the family foster home for a social event or for short-term respite care.
- (h) Each child in foster care less than 12 months of age shall sleep in a crib. For the purposes of a nap, the child may sleep in a playpen. Each crib and each playpen shall meet the following requirements:
 - (1) If a crib or playpen is slatted, the slats shall be spaced no more than 2 3/8 inches apart.
 - (2) Each crib shall have a firm mattress fitted so that no more than two fingers can fit between the mattress and the crib side when the mattress is set in the lowest position.
 - (3) The crib corner post extensions shall not exceed 1 1/16 inch.
 - (4) When the crib is in use, the drop side of the crib shall be secured in the up position.
 - (5) No pillow, quilt, comforter, blanket, bumpers, or other soft product that could cause suffocation shall be used in the crib or the playpen when a child who is less than 12 months of age is sleeping in the crib or playpen.
- (i) Each child in foster care who is less than 12 months of age shall be put to sleep on the child's back unless ordered otherwise by the child's physician. If the child in foster care is able to turn over independently, that child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child.
- (j) Each child in foster care 12 months and older may sleep in a crib until that child is 18 months of age or until the child is of such height that the upper rail of the crib is at the child's breast level when the child is standing and the crib mattress is at the lowest level.
- (k) Each child in foster care 18 months but not yet 30 months of age may sleep in a crib when prescribed by that child's physician.
- (l) At night each caregiver shall sleep within hearing distance of the child in foster care.
- (m) When any child in foster care five years of age or older shares a room, the following requirements shall be met:
 - (1) The child shall share the room only with children of the same sex.

- (2) The children sharing the room shall be age-mates, unless the following requirements have been met:
 - (A) The licensee shall notify the family foster home's sponsoring child-placing agency of the proposed sleeping arrangement.
 - (B) The licensee shall request that the sponsoring child-placing agency and the child's placing agent determine if the proposed sleeping arrangement is appropriate.
 - (C) The licensee shall maintain documentation of the approval of the sponsoring child-placing agency for the sleeping arrangement.
- (3) A child who is known to be a sexual perpetrator or a sexual abuse victim shall not share a room until the following conditions are met:
 - (A) The potential roommate arrangements are assessed by the child's placing agent, the home's sponsoring child-placing agency, and the licensee; and
 - (B) based on the assessment, a determination is made by the child's placing agency that it is unlikely that further sexual abuse will result from the child sharing a room.
- (n) If any child in foster care under five years of age shares a room with any other child, all of the children sharing the room shall be age-mates or shall be under five years of age. The children sharing the room may be of the opposite sex if all of the children are under five years of age.
- (o) A child in foster care who is a parent may share a room with the parent's own child or children. The room shall meet the requirements in paragraph (b)(2).
- (p) A child in foster care may sleep in the bedroom of the licensee under any of the following circumstances:
 - (1) The child in foster care is less than 12 months of age.
 - (2) The child in foster care is ill.
 - (3) The child in foster care has special developmental or medical needs requiring close supervision as documented by a physician.
- (q) If a child in foster care sleeps in the licensee's bedroom, the bedroom shall have at least 130 square feet.
- (r) Each licensee shall ensure that separate and accessible drawer space for personal belongings and closet space for clothing are available for each child in foster care.

(Authorized by and implementing K.S.A. 2012 Supp. 65-508; effective March 28, 2008; amended Sept. 6, 2013.)

K.A.R. 28-4-822. Safety procedures; emergency plan; drills.

- (a) Each licensee shall make the following preparations for emergencies:
 - (1) Each licensee shall ensure that a telephone and emergency information are available as specified in K.A.R. 28-4-820.
 - (2) Each licensee shall develop an emergency plan for the family foster home to provide for the safety of all residents of the home in emergencies including fires, tornadoes, storms, floods, and serious injuries.
 - (3) Each emergency plan shall be posted in a conspicuous place in the family foster home.
 - (4) Each licensee and each individual providing care in the family foster home shall be informed of and shall follow the emergency plan.
- (b) Each licensee shall ensure that prior arrangements are made at a hospital or clinic for emergency treatment for each child in foster care and shall ensure that all medical and surgical consent forms are acceptable to the hospital or clinic.
- (c) If the child in foster care is taken to the hospital or clinic for emergency treatment, each licensee shall ensure that the child's health assessment forms and the medical and surgical consent forms are taken to the hospital or clinic.
- (d) If a caregiver accompanies a child in foster care to the source of emergency care, that caregiver shall remain with the child. Each licensee shall ensure that an arrangement is made and followed to ensure supervision of the other children in the family foster home if a child requires emergency care.
- (e) Each licensee shall ensure that a fire drill is conducted monthly and that the drills are scheduled to allow participation by each family member and child in foster care. The date and time of each drill shall be recorded and kept on file in the family foster home.
- (f) Each licensee shall ensure that a tornado drill is conducted monthly during April through September and that the drill is scheduled to allow participation by each resident of the family foster home. The date and time of each drill shall be recorded and kept on file in the family foster home.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-823. Outside premises. Each licensee shall ensure that all of the following requirements are met:

- (a) General safety.
 - (1) The outside premises of the home shall be free from any objects, materials, and conditions that constitute a danger to the health or safety of each child in foster care.
 - (2) No child less than six years of age shall have unsupervised access to either of the following:
 - (A) A fish pond or a decorative pool containing water 24 inches deep or less;
or
 - (B) any safety hazard specified in subsection (d).
- (b) Outdoor play area.
 - (1) The play area shall be located, arranged, and maintained to allow for supervision by the caregiver and to reduce the risk of injury.
 - (2) The play area shall be well drained and free of known health, safety, and environmental hazards.
 - (3) Play equipment shall be located in an area free from hazards, be age-appropriate, and be in good repair. The play equipment shall be placed far enough away from potential hazards, including trees, structures, fences, and power lines, to minimize the risk of injury while the play equipment is in use. Equipment that is broken, hazardous, or unsafe shall not be used. Swings and climbing equipment shall be anchored and shall not be used over hard-surfaced materials, including asphalt, concrete, and bare, hard-packed dirt.
- (c) Trampolines. Trampolines shall be prohibited on the premises of the family foster home.
- (d) Protection from safety hazards.
 - (1) Each licensee shall ensure that each child in foster care is protected from all safety hazards adjacent to or within 50 yards of the house, as follows:
 - (A) A busy street;
 - (B) railroad tracks; or
 - (C) a water hazard, including a ditch, a pond, a lake, and any standing water over 24 inches deep.
 - (2) The licensee shall develop and follow a written outdoor safety plan before a child in foster care is allowed to be outdoors in an unfenced area of the family foster

home. The plan shall be approved by the sponsoring child-placing agency and shall include all of the following:

- (A) A description of any safety hazard and of any natural or man-made barrier separating the area from the safety hazard;
- (B) the approximate distance from the unfenced area to each safety hazard;
- (C) a description of the provisions made for increased supervision; and
- (D) a requirement for a caregiver to be outdoors with each child in foster care less than six years of age.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-824. Swimming pools, wading pools, and hot tubs; off-premises swimming and wading activities.

- (a) General safety on the premises of the family foster home.
 - (1) If any swimming pool or wading pool with water over 12 inches deep or any hot tub is on the premises, the pool or tub shall be constructed, maintained, and used in such a manner that safeguards the lives and health of the children in foster care.
 - (2) If children in foster care have access to a swimming pool, wading pool, or hot tub, at least one adult shall be physically present and shall directly supervise the children. A minimum ratio of one adult to six children, including children in foster care, shall be maintained.
 - (3) Each licensee shall post legible safety rules for the use of a swimming pool or hot tub in a conspicuous location. If the pool or hot tub is available for use, the licensee shall read and review the safety rules weekly with each child in foster care.
- (b) Swimming pools on the premises.
 - (1) Each in-ground swimming pool shall be enclosed by a fence at least five feet high. Each gate in the fence shall be kept locked and shall be self-locking. The wall of a house or other building containing a window designed to open or a door shall not be used in lieu of a fence.
 - (2) Each aboveground swimming pool shall be at least four feet high or shall be enclosed by a fence at least five feet high with a gate that is kept closed and is self-locking. Steps shall be removed and stored away from the pool when the pool is not in use. Each aboveground pool with a deck or berm that provides a ground-level entry on any side shall be treated as an in-ground pool.
 - (3) Sensors or pool covers shall not be used in lieu of a fence.

- (4) The pH of the water in the swimming pool shall be maintained between 7.2 and 8.2. The available chlorine content shall be between 0.4 and 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level shall be tested before each use. The results of these tests shall be recorded and available if requested.
 - (5) An individual with a life-saving certificate or an individual with training in CPR who can swim shall be in attendance while any child in foster care is using a swimming pool.
 - (6) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool.
- (c) Wading pools on the premises.
- (1) No child in foster care shall be permitted to play without adult supervision in any area where there is a wading pool containing water.
 - (2) The water in each wading pool shall be emptied daily.
- (d) Hot tubs on the premises.
- (1) Each hot tub shall be covered when not in use with an insulated, rigid cover secured by locks or surrounded by a fence that meets the requirements of paragraph (b)(1).
 - (2) The chlorine and pH levels shall be tested and maintained as required by the manufacturer's specifications for use.
 - (3) Each licensee shall ensure that no child in foster care less than four years of age uses a hot tub. Each licensee shall ensure that each child in foster care four years of age and older is permitted to use the hot tub only in accordance with the manufacturer's specifications and recommendations for use.
- (e) General safety off the premises of the family foster home. Any child in foster care who knows how to swim and who is at least six years of age may be permitted to swim in ponds, lakes, rivers, and other natural bodies of water that are approved for swimming by the county health department, the Kansas department of health and environment, or the designated authority in the state in which the swimming site is located.
- (1) Each licensee shall ensure that each child in foster care while wading, swimming, or involved in other activities near, in, or on a pond, lake, river, or other natural body of water is directly supervised by a designated adult.
 - (2) Each child in foster care who is a nonswimmer or who is less than six years of age shall wear a safety vest certified by the manufacturer as appropriate for the child's

age and weight specifications, when wading or playing near a pond, lake, river, or other natural body of water or when boating.

- (3) Each caregiver shall review boating and swimming safety rules with each child in foster care before the activity and shall be responsible for enforcing the safety rules.
- (4) If a certified lifeguard is not on duty, an individual with a life-saving certificate or training in CPR who can swim shall be in attendance.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

K.A.R. 28-4-825. Animals.

- (a) Each licensee shall ensure that when any animal is kept on the premises, the pet area is kept clean, with no evidence of flea, tick, or worm infestation in the area.
- (b) Each licensee shall ensure that each animal that is in contact with any child in foster care meets the following requirements:
 - (1) Is in good health, with no evidence of disease; and
 - (2) is friendly and poses no threat to the health, safety, and well-being of children.
- (c) Each domesticated dog and each domesticated cat shall have a current rabies vaccination that is given by a veterinarian or given under the direct supervision of a veterinarian.
- (d) A record of each current rabies vaccination shall be kept on file in the family foster home, and a copy shall be supplied to the sponsoring child-placing agency.
- (e) If any animal that represents a hazard to children is on the premises, each child in foster care shall be protected from that animal.
- (f) Pit bulls, exotic animals, and venomous or constricting reptiles shall not be kept or brought on to the family foster home premises.

(Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)