



KANSAS LAWS AND REGULATIONS FOR LICENSING RESIDENTIAL CENTERS AND GROUP BOARDING HOMES FOR CHILDREN AND YOUTH

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.

GENERAL REGULATION

K.A.R. 28-4-92. License fees. When an applicant or licensee submits an application for a license or for the renewal of a license, the applicant or licensee shall submit to the secretary the appropriate nonrefundable license fee specified in this regulation:

- (a) For each maternity center as defined in K.S.A. 65-502 and amendments thereto, \$75;
- (b) for each child placement agency as defined in K.S.A. 65-503 and amendments thereto, \$75;
- (c) for each child care resource and referral agency as defined in K.S.A. 65-503 and amendments thereto, \$75;
- (d) for each of the following child care facilities, \$75 plus \$1 times the maximum number of children to be authorized under the license:
 - (1) Day care home or group day care home, as defined in K.A.R. 28-4-113; and
 - (2) child care center, as defined in K.A.R. 28-4-420; and
- (e) for each of the following child care facilities with a license capacity of 13 or more children, \$35 plus \$1 for each child included in the license capacity, with the total not to exceed \$75, and for each of the following child care facilities with a license capacity of 12 or fewer children, \$15:
 - (1) Attendant care facility, as defined in K.A.R. 28-4-285;
 - (2) detention center or secure care center, as defined in K.A.R. 28-4-350;
 - (3) preschool, as defined in K.A.R. 28-4-420;
 - (4) psychiatric residential treatment facility, as defined in K.A.R. 28-4-1200;
 - (5) residential center or group boarding home, as defined in K.A.R. 28-4-268; and
 - (6) secure residential treatment facility, as defined in K.A.R. 28-4-330.

(Authorized by and implementing K.S.A. 65-505, as amended by L. 2010, ch. 161, sec. 6; effective, T-83-24, Aug. 25, 1982; effective May 1, 1983; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended, T-87-22, Aug. 21, 1986; amended May 1, 1987; amended, T-28-8-16-10, Aug. 16, 2010; amended Dec. 17, 2010.)

GENERAL REGULATION

K.A.R. 28-4-94. Background check requests for residential centers, group boarding homes, and child placement agencies.

- (a) Initial and renewal background check requests. Each applicant submitting an initial application and each licensee submitting a renewal application shall submit a background check request on a form provided by the department. The request form shall be submitted with the application and shall include the name and all other required information for each individual who is at least 10 years old and is residing, working, or regularly volunteering in the residential center, group boarding home, or child placement agency.
- (b) Additional background check requests. Each applicant with a temporary permit and each licensee shall submit a background check request on a form provided by the department before any individual who is at least 10 years old begins residing, working, or regularly volunteering in the residential center, group boarding home, or child placement agency.
- (c) Background check not required. No background check request form shall be submitted for any individual admitted for care.
- (d) Documentation. A copy of each background check request form shall be kept on file at the residential center, group boarding home, or child placement agency.

(Authorized by K.S.A. 2014 Supp. 65-508; implementing K.S.A. 2014 Supp. 65-516; effective May 15, 2015.)

GENERAL REGULATIONS FOR LICENSED DAY CARE HOMES, GROUP DAY CARE HOMES, CHILD CARE CENTERS, PRESCHOOLS, RESIDENTIAL CENTERS AND GROUP BOARDING HOMES

K.A.R. 28-4-122. General regulations for family day care homes and child care facilities.

K.A.R. 28-4-123 through 28-4-132 shall apply to the following:

- (a) Family day care home as defined in K.S.A. 65-517, and amendments thereto;
- (b) day care home and group day care home as defined in K.A.R. 28-4-113;
- (c) preschool and child care center as defined in K.A.R. 28-4-420; and
- (d) residential center and group boarding home as defined in K.A.R. 28-4-268.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended March 28, 2008.)

K.A.R. 28-4-123. Parental access to child care facilities.

Each parent or guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986.)

K.A.R. 28-4-124. Parental permission for children to go off-premises.

Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517, and any amendments to it shall obtain a signed parental permission for each location to which children go off of the premises on a form supplied by the department of health and environment. The destination, the time children leave the child care facility, the adults responsible for the children while off premises, and the estimated time of return shall be posted in a place accessible to parents.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-125. Criminal history and child abuse registry information for the purpose of obtaining criminal and child abuse histories.

- (a) Each child care facility subject to licensing or registration by the secretary of health and environment shall at the time of initial application and reapplication report the name, address, and birthdate of each person over 10 years of age who resides, works or

regularly volunteers in the facility, excluding children placed in care. The report shall be forwarded to the Kansas department of health and environment on departmental forms.

- (b) Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed with the Kansas department of health and environment.
- (c) A copy of each report required by K.A.R. 28-4-125(a) and (b) shall be kept on file at the facility.

(Authorized by and implementing K.S.A. 1988 Supp. 65-516; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-126. Health of Persons 16 years or older in child care facilities.

- (a)
 - (1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.
 - (2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.
- (b)
 - (1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.
 - (2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).
- (c) Tuberculin testing.
 - (1) Each person living, working or regularly volunteering in the facility shall 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 certificate of registration or not later than 30 days after the date of employment or initial application.
 - (2) Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

- (d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.
- (e) Each resident 16 years or older in a residential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(b), (c) and (d).

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-127. Emergencies.

- (a) A working telephone shall be on the premises. Emergency telephone numbers shall be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.
- (b) Emergency medical treatment.
 - (1) Each facility shall have on file at the facility for each child:
 - (A) written permission of the parent, guardian, or legal custodian for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given; and
 - (B) the name, address and telephone number of a physician to be called in case of emergency.
 - (2) Residential facilities providing emergency care shall be exempt from K.A.R. 28-4-127(b)(1)(A).
 - (3) Provisions shall be made at a hospital or clinic for emergency treatment for children.
- (c) Health assessment forms and emergency release forms shall be taken to the emergency room with the child.
- (d) When a staff member accompanies a child to the source of emergency care, that person shall remain with the child unless or until a parent or parent's designee assumes responsibility for the child. Such an arrangement shall not compromise the supervision of the other children in the facility.
- (e) Reporting illnesses and injuries:
 - (1) (A) Residential facilities shall have on file at the facility written policies on reporting of illnesses and injuries of adults and children.
 - (B) The policies shall be approved by the licensing agency.

- (2) Day care facilities shall report immediately to the parent or guardian each illness or injury of a child which requires medical attention.
- (3) Communicable diseases shall be reported to the county health department by the next working day.
- (f) Any injury or illness which results in the death of a child in care shall be reported by the next working day to the county health department or the Kansas department of health and environment.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

K.A.R. 28-4-128. Safety procedures.

- (a) Each facility shall develop an emergency plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, and serious injury.
- (b) Each emergency plan shall be posted in a conspicuous place in the facility. Staff in day care facilities shall review the plan with parents of children enrolled.
- (c) Each person responsible for the children, including each substitute, shall be informed of and shall follow the emergency plans.
- (d) A fire drill shall be conducted monthly and scheduled to allow participation by each child. Each date and time shall be recorded.
- (e) A tornado drill shall be conducted monthly, April through September, and scheduled to allow participation by each child. Each date and time shall be recorded.
- (f) Each person regularly caring for children shall have first-aid training. Documentation of the training shall be on file at the facility.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-129. Swimming and wading activities.

- (a) Swimming and wading pools on the premises.
 - (1) If swimming pools with water over 24 inches deep, wading pools, or hot tubs are on the premises, they shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.
 - (2) The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members.
 - (3) Required staff/child ratios shall be maintained at all times that children are involved in swimming or wading activities.

- (4) Legible safety rules for the use of swimming pools shall be posted in a conspicuous location, and shall be read and reviewed weekly by each staff member responsible for the supervision of children.
- (b) Swimming pools on the premises.
- (1) Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.
 - (2) Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.
 - (3) Sensors shall not be used in lieu of a fence.
 - (4) Water in the swimming pool shall be maintained between pH 7.2 and pH 8.2. Available free 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 daily. The results of these tests shall be recorded and available.
 - (5) A person with a life saving certificate or a person with training in CPR who can swim shall be in attendance when children are 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 shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from its edge.
- (c) Wading pools on the premises.
- (1) Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.
 - (2) Water in wading pools shall be emptied daily.
- (d) Hot tubs or spas on the premises.
- (1) Each hot tub or spa shall be covered with an insulated cover secured by straps or locks.
 - (2) Children in day care facilities shall not be permitted to use hot tubs. Children in residential facilities shall be permitted to use hot tubs when medically indicated.
- (e) Ponds and lakes may be used only for children over six years of age, and shall be approved for swimming by the county health department or Kansas department of health and environment or like departments in other states. Required staff/child ratios shall be maintained at all times, and a certified life guard shall be on duty.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-130. Transportation.

- (a) Facility-owned or leased vehicles.
 - (1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used. Trailers pulled by another vehicle, camper shells or truck beds shall not be used for transportation of children.
 - (2)
 - (A) Each transporting vehicle shall be maintained in safe operating condition.
 - (B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield, wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights, exhaust system, and outside mirror. A record of the date of the annual safety check and corrections made shall be kept on file at the facility.
 - (3) The vehicle shall be covered by accident and liability insurance in amount of not less than \$100,000 for personal injury or death in any one accident, \$300,000 for injury or death to two or more persons in any one accident; and \$50,000 for loss to property of others.
 - (4)
 - (A) Emergency release forms and health assessment records shall be in the vehicle when children are transported. Residential facilities shall be exempt from K.A.R. 28-4-130(a)(4)(A) unless children are being transported more than 60 miles from the facility, or if children are in emergency care.
 - (B) A first-aid kit shall be in the transporting vehicle and shall include band-aids of all sizes; adhesive tape; a roll of gauze; scissors; one package of 4x4 inch gauze squares; a cleansing agent; and one elastic bandage.
 - (5) Each vehicle shall be equipped with an individual restraint for each child as follows:
 - (A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.
 - (B) A child able to sit up without support shall be provided with one of the following restraints:
 - (i) A shield-type device;
 - (ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or
 - (iii) a safety harness.

- (C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.
 - (D) Not more than one child shall be restrained in each lap belt.
 - (E) Buses of the type used by schools shall not be required to be equipped with individual restraints if the buses are used to transport only school-age children.
- (6) The safety of the children riding in the vehicle shall be protected as follows:
- (A) All doors except the front door on the driver's side shall be locked while the vehicle is in motion.
 - (B) Discipline shall be maintained at all times.
 - (C) All parts of the child's body shall remain inside the vehicle at all times.
 - (D) Children shall neither enter nor exit the vehicle into a lane of traffic.
 - (E) Children under 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 no child is left in the vehicle.
 - (F) Smoking in the vehicle shall be prohibited while children are being transported.
 - (G)
 - (i) Day care facilities defined by K.S.A. 65-517, K.A.R. 28-4-113 and K.A.R. 28-4-420 shall maintain applicable staff/child ratios.
 - (ii) Residential facilities as defined by K.A.R. 28-4-268 and K.A.R. 28-4-311 shall maintain applicable staff/child ratios when children under six are being transported.
 - (H) The driver shall transport the child to the intended location, person, agency or institution as designated by the child's parent or legal guardian, or by the agency person in charge.
- (b) Vehicles owned by staff or volunteers.
- (1) When a vehicle used for transportation of children is owned by staff or volunteers the vehicle shall be covered by accident and liability insurance required by K.S.A. 40-3104 and 40-3118 and any amendments to it.
 - (2) Each such vehicle shall meet the requirements of K.A.R. 28-4-130(a)(1); (a)(2)(A); (a)(4)(A); (a)(5); and (a)(6)(A) through (H).

- (c) (1) Each driver shall be informed of the provisions of K.A.R. 28-4-130.
- (2) Paragraphs (A) through (H) of subsection (a)(6) of K.A.R. 28-4-130 shall be posted in the vehicle or given to the driver.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

K.A.R. 28-4-131. Animals, birds, or fish.

- (a) When animals, birds, or fish are kept on the premises, the pet area shall be maintained in a sanitary manner. No animal or bird shall be in the kitchen while food is being prepared. Parents shall be informed whenever children have access to pets in the child care facility.
- (b) Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file in the facility.
- (c) When animals that represent a hazard to children are on the premises, children shall be protected from them. Pit bulldogs shall be prohibited. If animals are displayed as part of an animal exhibit, they shall be supervised by appropriate animal care personnel.

(Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

K.A.R. 28-4-132. Child care practices.

- (a) Supervision. Each child in day care shall be under the supervision of a person 16 years of age or older who is responsible for the child's health, safety and well-being.
- (b) Discipline.
 - (1) There shall be a written discipline policy indicating methods of guidance appropriate to the age of the children enrolled. Parents shall be informed of the policy.
 - (2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:
 - (A) corporal punishment such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity;
 - (B) verbal abuse, threats, or derogatory remarks about the child or the child's family;
 - (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle;
 - (D) withholding or forcing foods; and

- (E) placing substances which sting or burn on the child's mouth or tongue or other parts of the body.
 - (3) If isolation is used in residential facilities as defined in K.A.R. 28-4-268, the isolation policies shall be approved by the department of social and rehabilitation services before implementation.
 - (4) Each staff member and care provider's discipline practices shall comply with K.A.R. 28-4-132.
- (c) Diapering and toileting.
- (1) Each child's clothing or bedding shall be changed whenever wet or soiled.
 - (2) Each child under three years of age shall have at least one complete change of clothing at the facility.
 - (3) (A) Handwashing facilities shall be in or readily accessible to the diaper-changing area.

(B) Each person caring for children shall wash hands with soap and water after changing diapers or soiled clothing.
 - (4) Children shall be diapered in their own cribs or playpens, on a clean pad on the floor, or on a changing table. Each unit in a child care center as defined by K.A.R. 28-4-420 shall have a changing table.
 - (5) Changing tables and pads shall have a waterproof, undamaged surface. Tables shall be sturdy, and shall be equipped with railing or safety straps. Children shall not be left unattended on the changing table.
 - (6) Changing tables and pads shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.
 - (7) The following procedures shall be followed when washable diapers or training pants are used:
 - (A) Day care facilities. Washable diapers or training pants shall not be rinsed out. They shall be stored in a labeled covered container or plastic bag and returned home with the parents.
 - (B) Residential facilities. Sanitary laundering procedures which promote infection control shall be followed.
 - (8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control.

- (9) (A) Potty chairs when used shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily.
- (B) There shall be one potty chair or child-sized toilet for every five toddlers in a child care center as defined by K.A.R. 28-4-420. Potty chairs shall not be counted as toilets.
- (10) Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2 1/2 years of age.

(Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective Feb. 26, 1990.)

Kansas Department of Health and Environment

Bureau of Child Care and Health Facilities
1000 SW Jackson, Suite 200
Topeka, KS 66612-1274
Phone: 785-296-1270 Fax: 785-296-0803
Website: www.kdheks.gov/kidsnet

IF YOU HAVE DIAPERED CHILDREN IN YOUR CHILD CARE PROGRAM:

Always use this method for changing diapers. This is the best way to stop diseases that spread through the intestinal tract.

1. CHECK to make sure the supplies you need are ready.
 - fresh diaper or clothes;
 - freshly dampened paper towels or pre-moistened towelettes; and
 - plastic bag for soiled diaper
2. PLACE roll paper or a disposable towel on the part of the diapering table where the child's bottom will be.
3. HOLD the child AWAY from your body when you pick him up. When you know a child has soiled his diaper use only your hands to carry him. LAY the child on the paper or towel.
4. REMOVE soiled diaper or clothes.
 - Put disposable diapers in a plastic bag or a plastic lined receptacle.
 - Put soiled clothes in a plastic bag for parents to take home with the child at the end of the day.

Tell the parents that washing or rinsing clothes soiled with stool at the day care center might cause disease germs to spread.
5. CLEAN the child's bottom with:
 - a pre-moistened disposable towelette, or
 - a damp paper towel.

Put the used towelette or paper towel in the plastic bag or plastic-lined receptacle.
6. REMOVE the paper or towel from beneath the child and dispose of it in the plastic bag or plastic-lined receptacle.
7. WIPE your hands with a pre-moistened disposable towelette or a damp paper towel and dispose of it in the plastic bag or plastic-lined receptacle. If you are wearing a glove, dispose of it now.
8. DIAPER or dress the child.

Now you can hold him close to you.
9. WASH the CHILD'S hands:

IMPORTANT: If you must walk from the diapering table to the sink

 - be sure the child cannot fall, or
 - carry him with you.
10. RETURN the child to his CRIB.
11. CLEAN and DISINFECT
 - diapering area;
 - equipment or supplies touched; and
 - soiled crib or cot, if necessary.
12. WASH your hands.

Reprinted from: *What You Can Do to Stop Disease in the Child Day Care Center*
U.S. Department of Health and Human Services
Public Health Service, Centers for Disease Control
Atlanta, Georgia

December, 1984

**REGULATIONS FOR GROUP BOARDING HOMES AND RESIDENTIAL CENTERS
FOR CHILDREN AND YOUTH**

K.A.R. 28-4-268. Definitions.

- (a) “Basement” means each area with a floor level more than 30 inches below ground level on all four sides.
- (b) “Child” means each individual under 16 years of age.
- (c) “Corporal punishment” means each activity directed toward modifying a child's behavior by means of adverse physical contact such as spanking with the hand or an implement, slapping, swatting, pulling hair, or any similar activity.
- (d) “Developmental disability” means any physical, emotional, or mental disability which constitutes a substantial handicap to the individual as defined in public law 91-517.
- (e) “Discipline” means the on-going process of helping children develop inner control so that they can manage their own behavior in a socially-approved manner.
- (f) “Emergency care” means residential care not to exceed 30 days.
- (g) “Emergency shelter” means residential care and protection not to exceed 30 days.
- (h) “Facility” means a group boarding home or residential center that provides residential care.
- (i) “Group boarding home” means a non-secure facility providing residential care for not less than five nor more than ten persons unrelated to the caregivers, and includes emergency shelters and maternity homes.
- (j) “Isolation” means removal of a resident from other residents to a separate locked room or quarters.
- (k) “License” means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a group boarding home or residential center.
- (l) “Living unit” means a group of residents living together as an established unit within a residential center.
- (m) “Maternity care” means residential care which includes services to women during pregnancy.
- (n) “Maternity home” means a facility whose primary function is to provide services to women during pregnancy.

- (o) “Non-secure facility” means a facility which provides the resident access to the surrounding community.
- (p) “Placing agent” means the person, social agency or court possessing the legal right to place a child.
- (q) “Program” means the comprehensive and coordinated sets of activities and services providing for the care, protection and development of the residents.
- (r) “Resident” means any child, youth or pregnant woman accepted for care in the residential facility.
- (s) “Residential care” means 24-hour care.
- (t) “Residential center” means a non-secure facility which provides residential care for more than 10 residents unrelated to the caregivers, and includes emergency shelters and maternity homes.
- (u) “Temporary care” means residential care not to exceed 90 days.

(Authorized by and implementing K.S.A. 65-508; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986.)

K.A.R. 28-4-269. Licensing procedures.

- (a) A person shall not conduct a group boarding home or residential center for children under 16 years of age unless a license is issued by the secretary.
- (b) Each person desiring to conduct a group boarding home or residential center shall submit the following:
 - (1) An application for a license, which shall be submitted on forms supplied by the department; and
 - (2) the license fee as specified in K.S.A. 65-505, and amendments thereto.
- (c) A license shall not be issued until all of the following information is submitted:
 - (1) A written proposal that details the following:
 - (A) The purpose of the facility;
 - (B) the administration plan for the program, including an organizational chart;
 - (C) the financing plan for the program;
 - (D) staffing for the program, including job descriptions;

- (E) the services to be offered, including the number, age range, and sex of residents to be served; and
- (F) admission criteria and a description of the level of care to be provided to the residents through either of the following:
 - (i) Direct services; or
 - (ii) agreements with specified community resources;
- (2) a copy of the written notification provided to the school district where the facility is located, including the following:
 - (A) The anticipated opening date;
 - (B) the number, age range, and anticipated special education needs of the residents to be served; and
 - (C) a request for educational services or a request for approval of proposed alternative formal schooling to be provided by the facility as required by K.A.R. 28-4-274(d);
- (3) documentation that the notification required by paragraph (c)(2) was received by the school district at least 90 days before the planned opening date;
- (4) floor plans for each building to be used as a group boarding home or residential center; and
- (5) documentation of the state fire marshal's approval.
- (d) The proposal required by paragraph (c)(1) shall be approved by the secretary before a license is issued.
- (e) A license shall be issued by the secretary if the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and the regulations promulgated pursuant to those statutes, and has made full payment of the license fee.
- (f) Each licensee shall notify the secretary and obtain written approval from the secretary before making any change in any of the following:
 - (1) The admission criteria;
 - (2) the use of the buildings; or
 - (3) the program, including the level of care provided through either of the following:
 - (A) Direct services; or

- (B) agreements with specified community resources.
- (g) The notification of a proposed change in the program, the admission criteria, or the level of care of the residents shall include the following:
 - (1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and
 - (2) documentation that the notification required in paragraph (g)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.
- (h) Renewals. Each licensee who wishes to renew the license shall apply for renewal of the license annually on forms supplied by the department and shall submit the fee as specified in K.S.A. 65-505, and amendments thereto.
- (i) Request to withdraw an application or terminate a license.
 - (1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and a new fee shall be required before opening a facility. No applicant shall admit a child before the applicant receives a license.
 - (2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the facility is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a new license. That person shall not reopen the facility or admit any child before receiving a new license.
- (j) A new application and fee shall be submitted for each change of ownership, sponsorship, or location.
- (k) Grievance procedures.
 - (1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to request an administrative hearing by the secretary and subsequently of the right of appeal to the district court.
 - (2) If an applicant or licensee disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or licensee may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or licensee, the applicant or licensee may submit a written request to the secretary for reconsideration of the finding. The written request shall identify the finding in question and explain

why the applicant or licensee believes that the finding should be changed. This request shall be made to the secretary within 10 days after receiving the explanation.

(l) Exceptions.

- (1) An applicant or a licensee may submit a written request for an exception to a regulation to the secretary. An exception may be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.
- (2) Each licensee shall post with the license the written notice from the secretary stating the nature and duration of the exception.

(m) Amended license.

- (1) Each licensee shall submit a request for an amended license and a \$35.00 fee to the secretary if the licensee desires to make any change in any of the following:
 - (A) The license capacity;
 - (B) the age of children to be served; or
 - (C) the living units.
- (2) Each request for a change in the license capacity or the age range of children to be served shall include the following:
 - (A) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and
 - (B) documentation that the notification required by paragraph (m)(2)(A) was received by the school district at least 90 days before the anticipated date of any proposed change.
- (3) The licensee shall make no change unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the prior license shall no longer be in effect.

(n) Waiver of 90-day notification to the local school district. The 90-day notification to the local school district may be waived by the secretary upon receipt of a written agreement by the local school district.

This regulation shall be effective on and after July 30, 2002. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, and 65-508; effective May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

K.A.R. 28-4-270. Terms of license.

- (a) The maximum number and age range of residents who may be cared for in each facility shall be specified on the license.
- (b) Each facility license issued shall be valid only for the firm, corporation or association and the address appearing on the license.
- (c) The license does not give permission for placement of children.
- (d) Activities which would interfere with the care of the residents shall not be carried out in the facility by child care personnel.
- (e) Advertisements shall conform to the statement of services as given on the application. Claims for specialized services shall not be made unless the facility is staffed and equipped to offer the services, or arrangements have been made for services as outlined in K.A.R. 28-4-271(e)(4). A general claim of "state approval" shall not be made unless the facility has obtained a license issued by the Kansas department of health and environment.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-271. Administration.

- (a) Organization. The facility shall have plans and policies of organization and administration clearly defining legal responsibility, administrative authority and responsibility for comprehensive services. Changes in policies shall be submitted to the appropriate agency for licensing approval.
- (b) Finances.
 - (1) The facility shall have sound and sufficient finances to insure licensing compliance and effective services. A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations.
 - (2) The facility shall be covered by liability and casualty insurance.
 - (3) Residents' personal money shall be kept separate from the facility's funds and individual accounts shall be kept.
 - (4) Residents shall not be exploited in campaigns or publicity efforts to raise funds.
 - (5) Solicitation of funds by charitable organizations shall be made in Kansas only after compliance with K.S.A. 17-1740.

- (c) Personnel policies.
 - (1) The facility shall have written personnel policies and operating practices which shall be made available to its staff members. The various services of the facility and the duties and responsibilities of each staff member shall be clearly defined and followed.
 - (2) A personnel record shall be maintained on each staff member and made available to the staff member on request.
- (d) Child care personnel.
 - (1) The facility shall have an administrator whose responsibility is administration of the program.
 - (2) There shall be adequate staff 18 years of age and older to supervise the residents at all times, and to provide for their physical, social, emotional and educational needs. There shall be an additional adult available in case of emergency.
 - (3) Each facility shall have a minimum of one child care staff member on duty and available for every seven residents during waking hours and a minimum of one for every ten during sleeping hours. When residents are on the premises at least one staff member shall be physically present. Children of the staff shall be included in the ratio if living in the facility.
 - (4) Child care personnel shall be provided for the relief of regular staff.
 - (5) Substitute staff shall be available to work in case of illness or emergency of regular or relief staff.
- (e) Staff qualifications.
 - (1) Administrator. The administrator shall have previous administrative experience and shall have a working knowledge of child development principles.
 - (A) Each administrator of a residential center shall have at least a bachelor's degree.
 - (B) Each administrator of a group boarding home shall have at least a high school diploma, or its equivalent.
 - (C) Each administrator shall be familiar with statutes and regulations governing group boarding homes or residential centers.
 - (2) Child care staff.
 - (A) Child care staff with direct responsibility for the residents shall have at least a high school diploma or its equivalent.

- (B) Child care staff shall practice accepted methods of child care.
 - (C) Child care staff shall have a working knowledge of all agency policies and procedures and of the current status of residents.
- (3) Relief staff.
- (A) Relief staff shall practice accepted methods of child care.
 - (B) Relief staff with direct responsibility for the residents shall have at least a high school diploma or its equivalent.
- (4) Substitute staff shall practice accepted methods of child care.
- (5) Child care personnel including substitute staff, shall have a working knowledge of policies and procedures relative to discipline, child abuse reporting and health.
- (6) Child care personnel, excluding substitute staff, shall attend a minimum of 18 hours of training annually, to improve their knowledge, understanding and practice of child development principles.
- (7) Food service staff shall:
- (A) Have a knowledge of nutritional needs of children and youth;
 - (B) understand quantity food preparation and service;
 - (C) practice sanitary methods of food handling and storage;
 - (D) be sensitive to individual, cultural and religious food preferences of the residents; and
 - (E) be willing to work with the administrator in planning learning experiences for the residents relative to nutrition.
- (8) Consultant services. The facility shall arrange for consultation by social workers, physicians, psychologists, psychiatrists, teachers, nurses, speech therapists and other consultants as required to meet the needs of the residents served.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987.)

K.A.R. 28-4-272. Records.

- (a) Resident's records.
 - (1) A report of residents in care shall be submitted quarterly to the Kansas department of social and rehabilitation services on forms supplied by the Kansas department of health and environment.

- (2) An individual record shall be kept on each resident. Each record shall include:
 - (A) Date of admission and discharge;
 - (B) a health assessment record, an immunization record and a dental record on forms supplied by the Kansas department of health and environment;
 - (C) consent for emergency medical treatment signed by a parent or legal guardian or other person authorized by statute to consent as custodian; and
 - (D) each accident report.
 - (3) Each facility providing treatment or social service programs shall have a social service record for each resident. The record shall include a treatment plan and progress report made every three months.
 - (4) There shall not be disclosure of confidential records or information regarding the resident.
 - (5) Each facility providing emergency care shall be exempt from K.A.R. 28-4-272(a)(2) and (3).
- (b) Staff records. A file shall be kept at the administrative office for each employee. Duplicate health certificates shall be on file at the facility. The file shall include:
- (1) Terms of employment;
 - (2) education and experience;
 - (3) health certificates;
 - (4) work references; and
 - (5) a statement signed by the employee that the employee has read the following documents and agrees to abide by them:
 - (A) Discipline policies;
 - (B) child abuse reporting policies; and
 - (C) health policies.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-273. Admission policies.

- (a) Written admission policies shall be prepared by the applicant in accordance with goals and purposes of the facility. The policies shall include a nondiscrimination statement.

- (b) Children under three years of age shall be given care in a residential facility only as follows:
 - (1) To provide emergency care for not more than 30 days; or
 - (2) To keep siblings together for a maximum of 90 days.
- (c) Any facility not specifically designed to serve developmentally disabled persons shall admit residents with special problems only as follows:
 - (1) Any person with mild development disabilities shall be enrolled at the discretion of the licensee.
 - (2) Any person showing significant developmental disabilities, including severe mental retardation, emotional disturbance or physical handicap, shall be enrolled at the discretion of the licensee following a developmental evaluation of the person and approval from the Kansas department of health and environment and the Kansas state department of social and rehabilitation services.
- (d) Any child or youth who requires long term nursing care shall not be kept in the facility.
- (e) Placement agreements between placing agent and facility.
 - (1) The goal of residential placement shall be to return the resident to the resident's home when such a placement is in the resident's best interest.
 - (2) There shall be a written policy regarding the facility's responsibility to the resident's family while the resident is in placement.
 - (3) There shall be a written agreement at the time of placement between the placing agent and the facility setting forth the terms of placement and removal with the understanding that the person or agency having custody shall retain the right to withdraw the resident. Parental rights and responsibilities shall be clearly defined.
 - (4) Written visitation and communication policies shall be available to all residents, parents, legal guardians, and legal representatives.
 - (5) The placing agency or other person responsible under the law for the care and custody of each resident shall make arrangements at the time of placement for the financial responsibility for services of the facility and for necessary specialized services.
 - (6) Acceptance of out-of-state residents shall be made according to Kansas laws and interstate compact procedures.

- (7) Any facility shall not accept legal guardianship of a child unless the facility is licensed as a child placing agency.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-274. Services.

- (a) Services shall be provided in accordance with the stated purpose and goals of the facility.
- (b) Social services. Treatment and social service facilities shall have a specific plan for the provision of social services for each resident in care. These services shall be provided by a private or public social agency or through a licensed social worker on the facility staff.
- (c) Discipline.
 - (1) Each resident shall be treated as a member of the group during the period of care, sharing privileges and duties of the household according to age and capacity, and receiving care and training according to special abilities and limitations.
 - (2) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the residents. Residents shall not be permitted to discipline other residents.
 - (3) Prohibited punishment. Punishment or a threat of punishment which is humiliating, frightening or physically harmful to the resident shall be prohibited. Prohibited methods of punishment include:
 - (A) Corporal punishment;
 - (B) verbal abuse or derogatory remarks about the child or the child's family;
 - (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle;
 - (D) withholding or forcing foods; or
 - (E) isolation.
 - (4) Facilities with isolation policies approved by the department of social and rehabilitation services shall be exempt from K.A.R. 28-4-274(c)(3)(E).
- (d) Education. Each resident shall be helped to secure the maximum amount of education of which they are capable and be provided the optimum conditions under which they can receive the greatest benefit from the school experience. Alternative formal schooling provided by the facility shall have received approval by the local school district or the Kansas state department of education.
- (e) Religion. Each resident shall be allowed to participate in religious worship.

- (f) Work experiences.
 - (1) Whenever possible, residents shall have an opportunity to earn and manage money by working either at the facility or in the community. They shall not be used as substitutes for regular staff.
 - (2) Vacation, after school, and other jobs shall be permitted with the administrator's approval.
 - (3) Hazardous work experiences shall not be allowed.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-275. Health care.

- (a) General health policies.
 - (1) Smoking shall be confined to designated smoking areas in the facility.
 - (2) Alcohol or non-prescribed controlled substances, as defined in K.S.A. 65-4101 and any amendments to it, shall not be consumed by any resident, by any staff person while on duty, or by any staff person in the presence of residents.
- (b)
 - (1) The licensee, in consultation with a physician or community health nurse, shall develop written policies for implementing the health program in the following areas:
 - (A) Health examination for residents and staff;
 - (B) continuing health care;
 - (C) dental examination and follow-up dental care;
 - (D) corrections of medical problems;
 - (E) special examinations such as vision, hearing and neurological exams;
 - (F) care of minor illness including use of nonprescription drugs; and
 - (G) consultation for the individual child when indicated.
 - (2)
 - (A) Use of sharp or dangerous instruments and tools by residents shall be supervised by staff.
 - (B) Firearms and ammunition, and household poisons and other hazardous substances shall be in locked storage.

- (C) Internal and external medications shall be in separate locked storage in a supervised location.
 - (3) Each prescription medicine shall have the name of the individual recipient and the physician, and shall show the dosage and time. A record shall be kept in the resident's file as to who gave the medication and when it was given. Each unused or expired medication shall be safely discarded.
 - (4) Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.
- (c) Physical health of residents and children of staff.
- (1) Physical health.
 - (A) A health assessment for each resident and for each child of a staff member shall be obtained within six months prior to or not more than 30 days after admission of the resident or employment of the parent. The assessment shall be conducted by a licensed physician or by a nurse approved by the Kansas department of health and environment to conduct the assessment.
 - (B) Health assessments shall be required annually for residents to age six and every three years for residents over the age of six. Results of the health assessment shall be recorded on forms supplied by the Kansas department of health and environment.
 - (C) Each person under 16 years of age who lives in the facility shall have current immunizations according to the schedule recommended by the center for disease control.
 - (2) Health care.
 - (A) A current health record shall be kept for each resident. The record shall include pertinent information about health status, developmental progress, and special needs, with appropriate plans to meet these needs.
 - (B) The staff shall update the health information as determined by the program's specific health policies and use the information as a basis for review and evaluation of the resident's health status.
 - (3) Residents in emergency care shall be exempt from K.A.R. 28-4-275(c)(1) and (2).
 - (4) Each child care staff member shall be trained in observation of symptoms of illness, in elementary principles of first aid, and accident prevention.

- (5) The staff of the facility shall obtain immediate medical treatment for any resident who is seriously injured or ill, and shall notify the placing agent, the parent, as dictated by the care plan, and the local health department of the injury or illness as soon as possible.
 - (6) Staff members, as required by law, shall report any evidence of suspected child abuse or neglect of residents to the Kansas state department of social and rehabilitation services, or the appropriate law enforcement agency when Kansas state department of social and rehabilitation services offices are closed.
- (d) Dental health of residents.
- (1) A pre-admission dental examination obtained within a year prior to or within 60 days after admission shall be required for each resident except residents in emergency care.
 - (2) Follow-up dental correction shall be provided, and shall be noted in the resident's file.
 - (3) The facility staff shall develop plans for dental health education and supervise the residents in the practice of good oral hygiene.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987.)

K.A.R. 28-4-276. Mental health policies.

- (a) The residential program shall supplement and support the family-child relationship.
- (b) The views of the parents, the resident, and the placing agency, concerning factors important to them in the emotional development of the resident, shall be considered by the staff in the services provided.
- (c) The cultural heritage of the resident shall be recognized and respected.
- (d) Mental health concepts, as an integral aspect of total child development, shall be included in staff training and in parent-child conferences.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-277. Environmental standards.

- (a) General requirements.
 - (1) Community resources, such as schools, churches, recreational and health services, police protection and fire protection from an organized fire department, shall be available to the facility.

- (2) The building shall meet the legal requirements of the community as to building codes, zoning, and fire protection. Where local fire regulations do not exist, fire safety approval shall be obtained from the state fire marshal.
 - (3) Plans for constructing a proposed building or for any major addition or alteration shall be the responsibility of a licensed architect.
 - (A) New buildings. Preliminary plans and outline specifications including plot plans shall be submitted to the Kansas department of health and environment for review prior to commencing construction.
 - (B) Additions or alterations. A written statement defining the proposed use of the construction shall accompany the plans and specifications. The statement shall be submitted to the Kansas department of health and environment for review prior to beginning construction.
 - (4) If construction is not commenced within the year, plans and proposals shall be resubmitted to the department before proposed construction begins.
- (b) Premises.
- (1) There shall be sufficient outside play space available as determined by the number and ages of residents.
 - (2) The outdoor play area shall be free of physical hazards including bodies of water, ravines, and drainage ditches.
 - (3) Playground equipment, such as climbing apparatus, slides and swings, shall be provided as appropriate for the age of residents, and shall be firmly anchored. A hard-surfaced area or gravel shall not be used under anchored play equipment.
 - (4) Each facility shall develop a written maintenance policy which shall be followed. The facility and outside area shall be maintained in good condition and shall be clean at all times, free from accumulated dirt, trash, vermin and rodent infestation. Garbage and outdoor trash containers shall be covered. Contents of outdoor containers shall be removed at least weekly.
 - (5) The structure of the facility shall be large enough to house the number of residents for which the facility was planned, the staff, substitute staff and children of the staff who are to live in it.
 - (6) Living rooms and indoor play space shall have proper heating, cooling, lighting and ventilation. There shall be adequate space for recreation and study.
 - (7) All quarters occupied by the residents shall have lighting of a minimum of 20 foot candles in all parts of the room. There shall be lighting of a minimum of 35 foot candles in areas used for reading, study or other close work.
 - (8) There shall be a telephone located in each facility and readily available.

- (9) Windows and doors shall be screened as needed unless areas are air conditioned.
 - (10) Low windows and glass doors which present a hazard to children shall be effectively screened and guarded.
 - (11) All stairs shall be provided with sturdy handrails.
 - (12) The facility shall contain adequate central storage for household supplies, bedding, linen, out-of-season clothing, luggage and play equipment in addition to adequate closet and storage space in bedrooms for the residents and child care staff.
 - (13) (A) Asbestos shall not be used in new or remodeling construction.
(B) If friable asbestos is present, it shall be covered and sealed so as to provide a protective barrier between the asbestos and the occupants of the building.
 - (14) Floors shall be smooth, free from cracks, and easily cleanable. They shall not be slippery. Floor covering for living quarters shall be required over concrete slabs in contact with the ground.
 - (15) Walls shall be smooth, easily cleanable and in sound condition.
 - (16) Electrical outlets within the reach of children under six years shall be covered with safety devices.
 - (17) Appropriate physical facilities, equipment and furnishings shall be provided.
 - (18) Care for children with handicapping conditions. Care for non-ambulatory children shall be provided on the ground floor. All exits and steps shall have ramps properly equipped with crosstreads. Each ramp shall have an incline of no more than two inches to the foot.
- (c) Sleeping facilities.
- (1) Sleeping facilities shall be limited to first and second floors. The minimum square footage of floor space exclusive of built in furniture, storage space or closets shall be 80 square feet per person in single rooms and an average of not less than 60 square feet per person in rooms accommodating more than one person. Minimum ceiling height shall be 7' 8" over 90% of the room area.
 - (2) Each sleeping room shall be an outside room with operable windows, and shall be well ventilated, adequately lighted, and appropriately heated or cooled.
 - (3) A separate bed with level flat mattress in good condition and adequate bedding shall be provided for each resident.

- (4) Children of staff who reside in the center shall have separate sleeping areas if sex or age is different from that of residents.
- (d) Water supply.
- (1) The water supply shall be from a source approved and certified by the county health officer and shall be under pressure. Water coming into the premises shall come from a public or municipal source, or from a private water supply which has been investigated and approved by the responsible health authorities. The plumbing shall have been installed according to local or state plumbing codes.
 - (2) Sanitary drinking facilities shall be provided for the residents. The following methods are acceptable:
 - (A) Disposable cups and an appropriate water dispenser which is available to the residents;
 - (B) a fountain of approved design with water under pressure so that the stream is not less than three inches high; or
 - (C) a glass washed after each use.
- (e) Toilet and lavatory facilities.
- (1) All plumbing fixtures and building sewers shall be connected to public sewers if the public sewer line is within 50 yards of the building.
 - (2) Where a public sewer is not available, a private sewage disposal system meeting requirements of the health authority and installed and connected to all plumbing fixtures and building sewers shall be used.
 - (3) Toilet and bathing facilities shall be convenient to sleeping quarters, living and recreation rooms.
 - (4) Cold water and hot water not exceeding 120° F., shall be supplied under pressure to lavatory and bathtub or shower.
 - (5) For each five or fewer residents of each sex there shall be at least one toilet, one lavatory and a bathtub or shower.
 - (6) Separate bathroom facilities shall be provided for live-in staff.
 - (7) Each bathroom shall be ventilated. An inside bathroom shall have a mechanical system to the outdoors with a minimum of four air changes per hour.
 - (8) Facilities serving non-ambulatory children shall have toilets and washbasins designed to accommodate them.

- (f) Laundry facilities.
 - (1) If laundry is done at the facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the residents.
 - (2) If needed, the type of diapers and diaper service shall be determined by the facility director with approval of the health nurse.
 - (3) Soiled linen shall be kept in areas separate from clean linen.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

K.A.R. 28-4-278. Food service.

- (a) Food preparation and storage.
 - (1) The major food preparation area shall be adequately equipped for the sanitary preparation and storage of food and washing of dishes and utensils. Food shall be prepared and served in a sanitary manner. Kitchens which serve 25 or more persons shall provide separate hand washing facilities in the kitchen. Personnel shall wash their hands before handling food.
 - (2) Dishes shall have hard-glazed surfaces and shall be entirely free of cracks or chips.
 - (3) Dishes, kitchen utensils and feeding equipment shall be maintained in a sanitary condition using one of the following methods:
 - (A) A three-compartment sink supplied with hot and cold running water to each compartment and a drain board for washing, sanitizing, and air-drying;
 - (B) a domestic-type dishwasher for groups of 24 or fewer persons;
 - (C) a commercial-type dishwasher with a 12-second rinse with 180° F. water, for groups of 25 persons or more; or
 - (D) disposable plates, cups, and plastic utensils of food-grade medium weight. Disposable table service shall be used only one time and then destroyed.
 - (4) Tables shall be washed before and after meals, and floors shall be swept after meals.
 - (5) Poisonous or toxic materials shall not be stored with, under, or over food.
 - (6) All perishables and potentially hazardous foods shall be continuously maintained at 45° F. or lower in the refrigerator, or 10° F. or lower in the freezer, with 0° F.

recommended. Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

- (7) All foods stored in the refrigerator shall be covered.
 - (8) All foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other approved areas with no overhead drain nor sewer lines.
 - (9) Dry bulk food which is not in an original, unopened container shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled.
- (b) Food safety.
- (1) All dairy products shall be pasteurized. Dry milk shall be used only for cooking.
 - (2) Beef, pork and poultry shall be obtained from government-inspected sources.
 - (3) Commercially canned food from dented, rusted, bulging or leaking cans, or food from cans without labels, shall not be used. Home-canned foods, other than jams and jellies, shall not be used.
- (c) Nutrition.
- (1) Meals and snacks shall meet the nutrient needs of the residents according to recommended dietary allowances for age and sex.
 - (2) Special diets shall be provided for residents as ordered by attending physicians. Efforts shall be made to accommodate religious practices.
 - (3) Copies of menus served for one month shall be kept on file and available for inspection.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

K.A.R. 28-4-279. Maternity care.

- (a) Any facility may provide care for a pregnant resident if the requirements of this regulation are met, and the plan is approved by the department. If the facility does not meet the maternity care regulations or does not plan to maintain the resident through the pregnancy, the resident's child placing agent shall be notified within seven days of the determination of pregnancy and the resident shall be moved within 30 days thereafter.
- (b) Any facility which provides maternity care shall meet the following additional requirements:
 - (1) Each resident shall receive the services of a licensed physician on a regular and continuing basis throughout pregnancy, delivery and post-delivery checkup.

- (2) The facility shall consult with a board-certified obstetrician who is available in case of emergency or complication.
- (3) There shall be a written plan for all deliveries to take place in a licensed hospital or maternity center. The plan shall state the name and location of the facility and of an alternate hospital for use if services are unavailable at the primary hospital or maternity center.
- (4) The facility shall be within 30 minutes of the licensed hospital or maternity center providing maternity services.
- (5) Complaints of alleged inadequate or improper care by a physician or hospital shall be reported in writing immediately to the Kansas department of health and environment.
- (6) Ambulance service shall be readily available for emergencies.
- (7) Special arrangements shall be available for bed and nursing care for each resident who develops complications during pregnancy but who does not require hospitalization.
- (8) Each resident's medical record shall include the medical consent form, the name of her physician, a schedule of appointments, the expected date of delivery and any special needs or problems.
- (9) The facility shall contract for the services of a registered nurse to provide at least weekly instruction to the pregnant residents regarding childbirth preparation, nutrition, general health and hygiene, post-partum care, post-natal care, contraception and venereal disease, and the psychology and physiology of pregnancy. The residents shall be given a tour of the hospital where delivery is planned. The nurse shall also serve as a consultant to the staff regarding the development of general health policies.
- (10) Special nutrition policies for pregnant residents shall be developed in consultation with a physician, nutritionist or nurse. Residents shall be referred to the WIC program when appropriate and available.
- (11) Specific policies shall be developed for support to the mother during labor and delivery and for the care of any new mother who returns to the facility following delivery.
- (12) Upon dismissal from the facility, each resident shall be given written information regarding her post-partum care. A referral shall be made to the appropriate community resource for follow-up services.
- (13) Casework services shall be provided by an approved social agency in the community or the facility's own professional staff.

- (A) If the facility's professional staff provides casework services, the following requirements shall be met:
 - (i) There shall be at least one social worker for each fourteen residents.
 - (ii) Casework services shall be provided to each pregnant resident immediately upon admission to the facility.
 - (iii) Casework interviews shall be regularly scheduled with reasonable frequency based on the service plan.
 - (iv) Casework service shall include help in adjustment to pregnancy, to separation from the resident's natural environment and to group living. Casework services shall include psychological and psychiatric help as needed to facilitate diagnosis and treatment.
 - (v) The caseworker shall be responsible for providing help in formulating a long-term plan for the mother and baby.
 - (vi) Each resident shall have the right to make the decision as to whether to keep or relinquish her infant. This decision shall be made without undue pressure or influence.
 - (vii) The caseworker, at the request of the pregnant resident, shall arrange for referral to a licensed child placing agency for any baby needing adoptive placement or other foster care.
- (B) If casework services are provided by a community social agency, K.A.R. 28-4-279(b)(13)(A)(iii)(iv)(v)(vi) and (vii) requirements shall be met.
- (14) The maternity care staff, board, or any other person connected with the facility shall not directly or indirectly place or arrange for placement of children for adoption or foster care. Such an action shall result in immediate revocation or denial of license.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-502, 65-506, 65-507 and L. 1984, Chapter 224, Section 1; effective May 1, 1986.)

K.A.R. 28-4-280. Residential services to mothers and infants. Each maternity home or residential facility which provides residential services to mothers and infants after delivery shall meet the following requirements:

- (a) Physical plant.
 - (1) A maximum of five mothers and infants shall be served.
 - (2) The mother/infant unit shall be separate from units serving pregnant and non-pregnant residents.

- (3) A nursery shall be provided.
 - (A) The nursery shall have adequate space and equipment for the number and age of infants in care.
 - (B) Age-appropriate toys and play equipment shall be available.
 - (4) Rooming-in may be allowed if it is determined to be in the best interest of the newborn as documented in the resident's social service plan.
 - (5) A quiet area shall be provided for infant feeding.
 - (6) Laundry facilities shall be readily available.
 - (7) There shall be facilities for the safe preparation and storage of formula.
 - (8) The environment shall be free of substances potentially hazardous to mother and infant.
- (b) Parenting education.
- (1) Techniques of care of the newborn shall be taught on an individual basis.
 - (2) Residents shall be provided instruction in child development and child care, infant development and stimulation, first aid, and infant nutrition by the agency or through community resources.
- (c) Policies.
- (1) There shall be written policies which specify:
 - (A) The length of time the mother may remain in the unit;
 - (B) prohibition against the assumption of child care responsibilities by any resident other than the mother of the newborn; and
 - (C) substitute child care arrangements when the mother is ill or otherwise away from her newborn.
- (d) Services.
- (1) The facility shall contract with a pediatrician to supervise the health care of the infants in the unit.
 - (2) There shall be casework services as outlined in KAR 28-4-279(a)(14).
 - (3) Staff shall be trained in the use of monitors and infant CPR.

(e) Records. The following records shall be maintained for each mother/infant:

- (1) Medical consent;
- (2) health care instructions; and
- (3) infant medical record.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)