



KANSAS LAWS AND REGULATIONS FOR STAFF SECURE FACILITIES

July 2015

Foster Care and Residential Facility Division
555 SW Kansas Avenue, 2nd Floor
Topeka, KS 66603
Fax: (785) 296-5937

FosterLicensing.dcf.ks.gov

KANSAS CHILD CARE LICENSING LAWS

TABLE OF CONTENTS

I. Kansas Child Care Licensing Laws, Revised July 2015

	Page
K.S.A. 65-501	License or temporary permit required; exemptions1
K.S.A. 65-503	Definitions1
K.S.A. 65-504	Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure2
K.S.A. 65-505	License fees; maternity centers and child care licensing fee fund.....4
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 prohibited5
K.S.A. 65-507	Records of maternity centers and child care facilities; confidentiality5
K.S.A. 65-508	Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations6
K.S.A. 65-510	Unlawful for child care facility to care for adults; exceptions7
K.S.A. 65-512	Inspections7
K.S.A. 65-513	Changes or alterations required to comply with law; notice; duty of licensee.....8
K.S.A. 65-514	Violations of article 5 of chapter 65; penalties; notice and hearing.....9
K.S.A. 65-515	Prosecutions9
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 agency9
K.S.A. 65-523	Grounds for limitation, modification or suspension of license or temporary permit13
K.S.A. 65-524	Suspension, limitation or modification of license or temporary permit prior to hearing; procedure14
K.S.A. 65-525	Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required14
K.S.A. 65-526	Civil fine assessed against licensee; limitations15
K.S.A. 65-527	Child care programs in recreation centers and schools; licensing of.....15
K.S.A. 65-528	Child care policy of state; desired outcome16
K.S.A. 65-529	Continuation of effect of license, registration or permit17
K.S.A. 65-530	Smoking prohibited in day care homes17
K.S.A. 65-531	Immunization information and records; disclosure18
K.S.A. 65-532	Lexie's law18
K.S.A. 65-534	Online information dissemination system; rules and regulations19
K.S.A. 65-535	Staff secure facility; requirements; services; rules and regulations ..19

Other Related Laws

K.S.A. 59-2123	Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions	21
K.S.A. 72-8236	Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition	22
K.S.A. 72-8237	Summer programs; establishment; fees, limitation; summer program fund; use of money, unencumbered balance in fund.....	22
K.S.A. 72-8238	Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund	23

II. Regulations for Staff Secure Facilities, March 2014

K.A.R. 28-4-1250	Definitions	25
K.A.R. 28-4-1251	Applicant, permittee, and licensee requirements	27
K.A.R. 28-4-1252	Terms of a temporary permit or license	29
K.A.R. 28-4-1253	Background checks	31
K.A.R. 28-4-1254	Administration	31
K.A.R. 28-4-1255	Staff member requirements.....	32
K.A.R. 28-4-1256	Records	36
K.A.R. 28-4-1257	Notification and reporting requirements.....	39
K.A.R. 28-4-1258	Admission and release of residents.....	41
K.A.R. 28-4-1259	Health care	42
K.A.R. 28-4-1260	Case management	48
K.A.R. 28-4-1261	Program.....	48
K.A.R. 28-4-1262	Behavior management	51
K.A.R. 28-4-1263	Staff member schedule; supervision of residents.....	53
K.A.R. 28-4-1264	Emergency plan; safety, security, and control	54
K.A.R. 28-4-1265	Environmental requirements	57
K.A.R. 28-4-1266	Food services	62
K.A.R. 28-4-1267	Laundry	67
K.A.R. 28-4-1268	Transportation	68
K.A.R. 28-4-1269	Animals	69

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.

REGULATIONS FOR STAFF SECURE FACILITIES

K.A.R. 28-4-1250. Definitions.

- (a) “Administrator” means the individual employed by a facility who is responsible for the daily operation of the facility.
- (b) “Applicant” means a person who has applied for a license but who has not yet been granted a temporary permit or a license to operate a facility.
- (c) “Auxiliary staff member” means a type of staff member working at a facility in food services, clerical services, or maintenance. This term shall also apply to individuals working in the facility for the purpose of observation of facility entrances and exits.
- (d) “Basement” means each area in a building with a floor level more than 30 inches below ground level on all sides.
- (e) “Case management” means the comprehensive written goals and services developed for each resident and the provision of those services directly by the staff members or through other resources.
- (f) “Case manager” means an individual who is designated by the permittee or licensee to coordinate the provision of services to residents by staff members or other individuals or agencies and who meets the requirements for a case manager in K.A.R. 28-4-1255(f).
- (g) “Clinical director” means the individual at a facility who is responsible for the mental health services and who meets the requirements for a clinical director in K.A.R. 28-4-1255(d).
- (h) “Department” means Kansas department of health and environment.
- (i) “Direct care staff member” means an individual whose primary responsibility is to implement the program on a daily basis, including providing direct supervision of, interaction with, and protection of the residents and who meets the requirements for a direct care staff member in K.A.R. 28-4-1255(h).
- (j) “Direct supervision” means the physical presence of staff members in proximity to allow for interaction and direct eye contact with residents.
- (k) “In-service training” means job-related training provided for staff members and volunteers.
- (l) “License capacity” means the maximum number of residents authorized to be in the facility at any one time.
- (m) “Licensed physician” means an individual who is licensed to practice either medicine and surgery or osteopathy in Kansas by the Kansas state board of healing arts.
- (n) “Licensee” means a person who has been granted a license to operate a facility.

- (o) “Living unit” means the self-contained building or portion of a building in which the facility is operated and maintained, including the sleeping rooms, bathrooms, and areas used by residents for activities, dining, classroom instruction, library services, and indoor recreation.
- (p) “Permittee” means a person who has applied for a license and has been granted a temporary permit by the secretary to operate a facility.
- (q) “Placing agent” means law enforcement, a state agency, or court possessing the legal authority to place a resident in a facility.
- (r) “Professional staff member” means a staff member who is one of the following:
 - (1) The clinical director;
 - (2) a licensed physician;
 - (3) an individual licensed by the Kansas behavioral sciences regulatory board;
 - (4) a teacher licensed by the Kansas state department of education;
 - (5) a physician’s assistant licensed in Kansas by the Kansas state board of healing arts;
 - (6) a professional nurse licensed by the Kansas state board of nursing;
 - (7) an advanced practice registered nurse (APRN) licensed by the Kansas state board of nursing;
 - (8) a dietician licensed by the Kansas department for aging and disability services; or
 - (9) a case manager.
- (s) “Program” means the comprehensive and coordinated set of activities and social services providing for the care, health, and safety of residents while in the care of the facility.
- (t) “Resident” means an individual who is placed in a facility as authorized by the revised Kansas code for the care of children, K.S.A. 2013 Supp. 38-2201 et seq., and K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (u) “Secretary” means secretary of the Kansas department of health and environment.
- (v) “Staff member” means any individual employed at a facility, including auxiliary staff members, direct care staff members, and professional staff members.
- (w) “Staff secure facility” and “facility” mean a type of “child care facility,” pursuant to K.S.A. 65-503 and amendments thereto, that meets the requirements in K.S.A. 2013 Supp. 65-535, and amendments thereto.

- (x) “Trauma-informed care” means the services provided to residents based on an understanding of the vulnerabilities and the emotional and behavioral responses of trauma survivors.
- (y) “Trauma-specific intervention” means intervention techniques designed specifically to address the consequences of trauma in residents and to facilitate recovery, including the interrelation between presenting symptoms of trauma and each resident’s past history of trauma.
- (z) “Tuberculosis test” means either the Mantoux skin test or an interferon gamma release assay (IGRA).
- (aa) “Volunteer” means an individual or group that provides services to residents without compensation.
- (bb) “Weapons” means any dangerous or deadly instruments, including the following:
 - (1) Firearms;
 - (2) ammunition;
 - (3) air-powered guns, including BB guns, pellet guns, and paint ball guns;
 - (4) any knives, except knives designed and used for table service;
 - (5) archery equipment; and
 - (6) martial arts equipment.

(Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 2013 Supp. 65-503 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1251. Applicant, permittee, and licensee requirements.

- (a) Each applicant shall submit a complete application on forms provided by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the facility and shall include the following:
 - (1) A description of the program and services to be offered, including the following:
 - (A) A statement of the facility’s purpose and goals; and
 - (B) the number, ages, and gender of prospective residents;
 - (2) the anticipated opening date;
 - (3) a request for the background checks for staff members and volunteers specified in K.A.R. 28-4-1253;

- (4) the facility's policies and procedures required in subsection (d); and
- (5) the license fee totaling the following:
 - (A) \$75; and
 - (B) \$1 multiplied by the maximum number of residents to be authorized under the license.
- (b) Each applicant shall be one of the following entities:
 - (1) A government or governmental subdivision, which shall employ an administrator; or
 - (2) a person, other than a government or governmental subdivision, with a governing board that is responsible for the operation, policies, finances, and general management of the facility. The applicant shall employ an administrator. The administrator shall not be a voting member of the governing board.
- (c) Each applicant, each permittee, and each licensee, if a corporation, shall be in good standing with the Kansas secretary of state.
- (d) Each applicant shall develop policies and procedures for operation of the facility to meet the requirements in these regulations and in K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (e) Each applicant shall submit to the department floor plans for each building that will be used as a facility. Each floor plan shall show how the facility is separated from any other child care facility. Each applicant shall obtain and submit to the department prior written approval from the Kansas state fire marshal regarding the safety of entrances and exits.
- (f) Each applicant shall notify the school district where the facility is to be located at least 90 calendar days before the planned opening date. 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. The notification to the school district shall include the following:
 - (1) The planned opening date and the number, age range, gender, and anticipated special education needs of the residents to be served;
 - (2) a statement that the residents will receive educational services on-site at the facility; and
 - (3) documentation that the notification was received by the school district at least 90 calendar days before the planned opening date.
- (g) Each applicant shall maintain documentation of completion of training required in K.A.R. 28-4-1255(k) by each staff member and each volunteer before the opening date of the facility.

- (h) Each applicant, each permittee, and each licensee shall maintain documentation of compliance with all applicable building codes, fire safety requirements, and zoning codes.
- (i) The granting of a license to any applicant may be refused by the secretary if the applicant is not in compliance with the requirements of all applicable statutes and regulations governing facilities.

(Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-501 and K.S.A. 2013 Supp. 65-504, 65-505, 65-508, 65-516, and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1252. Terms of a temporary permit or license.

- (a) Temporary permit or license required. No person shall operate a facility unless the person has been issued a temporary permit or a license by the secretary.
- (b) Requirements. Each permittee and each licensee shall ensure that the following requirements are met:
 - (1) Each temporary permit or license shall be valid only for the permittee or licensee and for the address specified on the temporary permit or the license. When an initial or amended license becomes effective, all temporary permits or licenses previously granted to the permittee or licensee at the same address shall become void.
 - (2) The maximum number, the age range, and the gender of residents authorized by the temporary permit or the license shall not be exceeded.
 - (3) The current temporary permit or the current license shall be posted conspicuously within the facility.
- (c) New application required. A new application and the fee specified in K.A.R. 28-4-1251(a) shall be submitted for each change of ownership or location at least 90 calendar days before the planned change.
- (d) Changes. Each applicant, each permittee, and each licensee shall obtain the secretary's written approval before making any change in any of the following:
 - (1) The use or proposed use of the buildings;
 - (2) the physical structure of any building, including the following:
 - (A) An addition or alteration as specified in K.A.R. 28-4-1265(a)(2)(B);
 - (B) the use of locked entrances; and
 - (C) any delayed-exit mechanisms;

- (3) the program, provided through either direct services or agreements with specified individuals or community resources; or
 - (4) orientation topics or required in-service training.
- (e) Renewals.
 - (1) No earlier than 90 calendar days before the renewal date but no later than the renewal date, each licensee shall complete and submit an application for renewal on forms provided by the department, including the requests for background checks specified in K.A.R. 28-4-1253, and the fee specified in K.A.R. 28-4-1251(a).
 - (2) Failure to submit the renewal application and fee within 30 days after the expiration of the license shall result in an assessment of a late renewal fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.
- (f) Exceptions. Any applicant, permittee, or licensee may request an exception to a specific facility regulation or any portion of a specific facility regulation. Each request shall be submitted to the secretary on a form provided by the department. A copy of each request shall be provided to the Kansas department for children and families and the office of the Kansas attorney general.
 - (1) A request for an exception may be granted if the secretary determines that the exception is not detrimental to the health, safety, and welfare of one or more residents or the family of a resident and the exception does not violate statutory requirements.
 - (2) Written notice from the secretary stating the nature of each exception and its duration shall be kept on file at the facility and shall be readily accessible to the department and the Kansas department for children and families.
- (g) Amendments. Any licensee may submit a written request for an amended license.
 - (1) Each licensee who intends to change the terms of the license, including the maximum number, the age range, or the gender of residents to be served, shall submit a request for an amendment on a form provided by the department and a nonrefundable amendment fee of \$35. An amendment fee shall not be required if the request to change the terms of the license is made at the time of license renewal.
 - (2) Each request for a change in the maximum number, the age range, or the gender of residents to be served shall include written documentation of the notification to the school district where the facility is located, as specified in K.A.R. 28-4-1251(f).

- (3) The licensee shall make no change to the terms of the license, including the maximum number of residents, the age range of residents to be served, the gender of residents, and the type of license, unless an amendment has been granted, in writing, by the secretary.
- (h) Closure. Any applicant or permittee may withdraw the application for a license. Any licensee may submit, at any time, a request to close the facility operated by the licensee. If an application is withdrawn or a facility is closed, the current temporary permit or license granted to the permittee or licensee for that facility shall become void.

(Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 2013 Supp. 65-504, 65-505, 65-508, 65-516, and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1253. Background checks.

- (a) With each initial application or renewal application, each applicant or licensee shall submit a request to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department for children and families in order to comply with K.S.A. 65-516, and amendments thereto. Each request shall be submitted on a form provided by the department. Each request shall list the required information for each individual 10 years of age and older who will be residing, working, or volunteering in the facility.
- (b) Each applicant, each permittee, and each licensee shall submit a request to the department to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department for children and families before each individual begins residing, working, or volunteering in the facility.
- (c) A background check shall not be required for any resident admitted to a facility.
- (d) A copy of each request for a background check shall be kept on file at the facility.

(Authorized by K.S.A. 2013 Supp. 65-508; implementing K.S.A. 2013 Supp. 65-516; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1254. Administration.

- (a) Each permittee and each licensee shall be responsible for the operation of the facility, including the following:
 - (1) Developing an organizational chart designating the lines of authority and ensuring that all staff members know which staff member is in charge at any time;
 - (2) developing and implementing administrative policies and procedures for the operation of the facility, which shall include sufficient staff members to supervise and provide services to residents;
 - (3) employing an administrator; and

- (4) employing a clinical director.
- (b) Each permittee and each licensee shall implement policies and procedures for the operation of the facility that shall include detailed descriptions of the roles and responsibilities for each staff member and each volunteer.
- (c) Each permittee and each licensee shall ensure the confidentiality of each resident's information.
- (d) Each permittee and each licensee shall ensure that the program, all services, and living units of the facility are separate from the children or youth in and the living units used by any other child care facility.
- (e) Each permittee and each licensee shall ensure that each staff member and each volunteer is informed of and follows all written policies and procedures necessary to carry out that staff member's or volunteer's job duties.
- (f) Each permittee and each licensee shall ensure that a copy of the regulations governing facilities is kept on the premises at all times. A copy of the regulations shall be made available to all staff members.
- (g) Each licensee shall ensure that all contracts, agreements, policies, and procedures are reviewed annually and updated as needed.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1255. Staff member requirements.

- (a) Staff members and volunteers. Each individual working or volunteering in a facility shall be qualified by temperament, emotional maturity, judgment, and understanding of residents necessary to maintain the health, comfort, safety, and welfare of residents.
- (b) Multiple duties. Each staff member performing duties of more than one position shall meet the minimum qualifications for each position held.
- (c) Administrator.
 - (1) Each administrator shall have a bachelor's degree in social work, human development, psychology, education, nursing, counseling, or family studies or in a related field. The degree shall be from an accredited college or university with accreditation standards equivalent to those met by Kansas colleges and universities.
 - (2) Each administrator shall demonstrate knowledge of the principles and practices of administration and management.

- (3) Each administrator shall have at least three years of supervisory experience within a child care facility providing treatment to children or youth.
- (d) Clinical director. Each clinical director shall be licensed or approved by the Kansas behavioral sciences regulatory board, the Kansas board of nursing, or the Kansas board of healing arts to diagnose and treat mental and behavioral disorders.
- (e) Substance abuse counselor. Each substance abuse counselor shall be responsible for the evaluation, assessment, and treatment of residents for substance abuse. The substance abuse counselor shall be licensed by the Kansas behavioral sciences regulatory board or the Kansas board of healing arts to evaluate, assess, and treat addictions or substance abuse.
- (f) Case manager. Each case manager shall be licensed by the Kansas behavioral sciences regulatory board.
- (g) Professional staff members. Each professional staff member shall maintain current licensure, certification, or registration for that staff member's profession.
- (h) Direct care staff members. Each direct care staff member shall meet all of the following requirements:
 - (1) Be 21 years of age or older;
 - (2) have a high school diploma or equivalent; and
 - (3) have completed one of the following:
 - (A) A bachelor's degree from an accredited college or university and one year of experience supervising children or youth in a child care facility;
 - (B) 60 semester hours from an accredited college or university and two years of experience supervising children or youth in a child care facility; or
 - (C) four years of experience supervising children or youth in a child care facility.
- (i) Auxiliary staff members. Each permittee and each licensee shall ensure that the following requirements are met for auxiliary staff members:
 - (1) Auxiliary staff members shall be available as needed for the operation of the facility and the provision of services to residents.
 - (2) No auxiliary staff member shall be included in meeting the minimum ratio of direct care staff members to residents. Direct care staff members shall maintain direct supervision of the residents.

- (3) Each auxiliary staff member working at the facility for the purpose of observing facility entrances and exits shall meet the requirements of K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (4) Each auxiliary staff member working in food service shall demonstrate compliance with all of the following requirements through ongoing job performance:
 - (A) Knowledge of the nutritional needs of residents;
 - (B) understanding of quantity food preparation and service;
 - (C) sanitary food handling and storage methods;
 - (D) understanding of individual, cultural, and religious food preferences; and
 - (E) ability to work with the case manager in planning learning experiences for residents about nutrition.
- (j) Volunteers. Each permittee and each licensee shall ensure that the following requirements are met for any volunteer who has direct contact with residents:
 - (1) There shall be a written plan for orientation, training, supervision, and tasks for each volunteer.
 - (2) Each volunteer shall submit to the administrator an application for volunteering at the facility.
 - (3) Each volunteer whose job description includes the provision of program services to residents shall meet the same requirements as those of a staff member in that position. No volunteer shall perform tasks for which the volunteer is not qualified or licensed.
 - (4) No volunteer shall be counted in the minimum ratio of direct care staff members to residents. Each volunteer shall be supervised at all times by a staff member.
- (k) Staff member and volunteer training. Each permittee and each licensee shall assess the training needs of each staff member and each volunteer and shall provide orientation and in-service training. Documentation of the training shall be kept in each staff member's and each volunteer's record and shall be accessible for review by the secretary or secretary's designee.
 - (1) Each staff member and each volunteer shall complete at least 10 clock-hours of orientation training within seven calendar days after the initial date of employment or volunteering. The orientation training shall include the following topics:
 - (A) Facility policies and procedures, including emergency procedures, behavior management, and discipline;

- (B) individual job duties and responsibilities;
 - (C) confidentiality;
 - (D) security procedures;
 - (E) recognition of the signs and symptoms and the reporting of suspected child abuse and neglect;
 - (F) the signs and symptoms of infectious disease, infection control, and universal precautions;
 - (G) statutes and regulations governing facilities;
 - (H) the schedule of daily activities;
 - (I) principles of trauma-informed care;
 - (J) indicators of self-harming behaviors or suicidal tendencies; and
 - (K) care and supervision of residents.
- (2) Each direct care staff member shall complete an additional 40 clock-hours of orientation training before assuming direct supervision and before being counted in the ratio of direct care staff members to residents. Each volunteer who has direct contact with residents shall complete the additional 40 clock-hours of training before providing services to residents. The additional training shall include the following topics:
- (A) Crisis management;
 - (B) human trafficking and exploitation;
 - (C) indicators of self-harming behaviors or suicidal tendencies and knowledge of appropriate intervention measures;
 - (D) indicators of gang involvement;
 - (E) intervention techniques for problem or conflict resolution, diffusion of anger, and de-escalation methods;
 - (F) principles of trauma-informed care and trauma-specific intervention; and
 - (G) report writing and documentation methods.

- (3) Each staff member shall complete at least 20 clock-hours of in-service training each year. In-service training topics shall be based on individual job duties and responsibilities, meet individual learning needs, and be designed to maintain the knowledge and skills needed to comply with facility policies and procedures and the regulations governing facilities.
- (4) At least one staff member who is counted in the ratio of direct care staff members to residents and who has current certification in first aid and current certification in cardiopulmonary resuscitation shall be at the facility at all times.
- (5) If nonprescription or prescription medication is administered to residents, each permittee and each licensee shall designate professional staff members or direct care staff members to administer the medication. Before administering any medication, each designated staff member shall receive training in medication administration approved by the secretary.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1256. Records.

- (a) Recordkeeping system. Each applicant, each permittee, and each licensee shall ensure that there is an organized recordkeeping system for the facility, which shall include the following:
 - (1) Provisions shall be made for the identification, security, confidentiality, control, retrieval, preservation, and retirement of all resident, staff member, volunteer, and facility records.
 - (2) All records shall be available at the facility for review by the department.
- (b) Resident records.
 - (1) Each permittee and each licensee shall maintain an individual record for each resident, which shall include the following information:
 - (A) Documentation of the preadmission screening;
 - (B) the admissions form;
 - (C) verification of custody status of the resident;
 - (D) a record of the resident's personal possessions as specified in K.A.R. 28-4-1258;
 - (E) a health record that meets the requirements in K.A.R. 28-4-1259;
 - (F) a copy of each written report of any incidents involving the resident and specified in K.A.R. 28-4-1257 and K.A.R. 28-4-1264;

- (G) documentation of the resident's receipt of the facility rule book; and
 - (H) the individualized plan of care.
- (2) Provisions shall be made for the transfer of a resident's record upon release of the resident to another child care facility. The record shall precede the resident or accompany the resident to that child care facility. All information that cannot be transferred at the time of the release of the resident shall be transferred within 72 hours of the release of the resident.
 - (3) Information from a resident's record shall not be released without written permission from the court, the Kansas department for children and families, or the resident's parent or legal guardian.
- (c) Staff member records. Each permittee and each licensee shall maintain an individual record for each staff member, which shall include the following information:
- (1) The application for employment, including the staff member's qualifications, references, and dates of previous employment;
 - (2) a copy of each applicable current professional license, certificate, or registration;
 - (3) the staff member's current job responsibilities;
 - (4) a health record that meets the requirements in K.A.R. 28-4-1259(f), including a record of the results of each health examination and each tuberculosis test;
 - (5) a copy of a valid driver's license of a type appropriate for the vehicle being used, for each staff member who transports any resident;
 - (6) documentation of all orientation and in-service training required in K.A.R. 28-4-1255(k);
 - (7) documentation of training in medication administration if medication administration is included in the staff member's job duties;
 - (8) a copy of each grievance or incident report concerning the staff member, including documentation of the resolution of each report; and
 - (9) documentation that the staff member has read, understands, and agrees to all of the following:
 - (A) The requirements for mandatory reporting of suspected child abuse, neglect, and exploitation;
 - (B) all regulations governing facilities;

- (C) the facility's policies and procedures that are applicable to the job responsibilities of the staff member; and
 - (D) the confidentiality of resident information.
- (d) Volunteer records. Each permittee and each licensee shall maintain an individual record for each volunteer at the facility, which shall include the following information:
 - (1) The application for volunteering at the facility;
 - (2) the volunteer's responsibilities at the facility;
 - (3) a health record that meets the requirements in K.A.R. 28-4-1259(f), including a record of the results of each health examination and each tuberculosis test, for each volunteer in contact with residents;
 - (4) documentation of all orientation and in-service training required for volunteers in K.A.R. 28-4-1255(k);
 - (5) a copy of each grievance or incident report concerning the volunteer, including documentation of the resolution of each report; and
 - (6) documentation that the volunteer has read, understands, and agrees to all of the following:
 - (A) The requirements for mandatory reporting of suspected child abuse, neglect, and exploitation;
 - (B) all regulations governing facilities;
 - (C) the facility's policies and procedures that are applicable to the responsibilities of the volunteer; and
 - (D) the confidentiality of resident information.
- (e) Facility records. Each applicant, each permittee, and each licensee shall ensure that the facility records are completed and maintained. These records shall include the following information:
 - (1) Documentation of the requests submitted to the department for background checks in order to meet the requirements of K.A.R. 28-4-1253;
 - (2) documentation of notification to the school district as specified in K.A.R. 28-4-1251(f);
 - (3) documentation of each approval granted by the secretary for each change, exception, or amendment;
 - (4) the facility's policies and procedures;

- (5) all documentation specified in K.A.R. 28-4-1264 for emergency plans, fire and tornado drills, and written policies and procedures on the security and control of the residents;
- (6) all documentation specified in K.A.R. 28-4-1264 for the inspection and the maintenance of security devices, including locking mechanisms and any delayed-exit mechanisms on doors;
- (7) documentation of approval of any private water or sewage systems as specified in K.A.R. 28-4-1265;
- (8) documentation of compliance with all applicable building codes, fire safety requirements, and zoning codes;
- (9) all documentation specified in K.A.R. 28-4-1268 for transportation;
- (10) documentation of vaccinations for any animal kept on the premises, as required by K.A.R. 28-4-1269(c); and
- (11) a copy of each contract and each agreement.

(Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-507 and K.S.A. 2013 Supp. 65-508, 65-516, and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1257. Notification and reporting requirements.

- (a) Each permittee and each licensee shall ensure that notification of each of the following is submitted verbally or in writing upon discovery of the incident or event, but no later than 24 hours after the discovery:
 - (1) Each instance of suspected abuse or neglect of a resident shall be reported to the Kansas department for children and families and to law enforcement.
 - (2) Each incident resulting in the death of any resident shall be reported to the following:
 - (A) Law enforcement;
 - (B) the resident's parent or legal guardian;
 - (C) the resident's placing agent;
 - (D) the Kansas department for children and families; and
 - (E) the department.

- (3) Each incident resulting in the death of a staff member or a volunteer while on duty at the facility shall be reported to the department and to any other entities in accord with the facility's policies.
- (4) Each incident resulting in a serious injury to any resident, including burns, lacerations, bone fractures, substantial hematomas, and injuries to internal organs, shall be reported to the following:
 - (A) The parent or legal guardian of any resident involved in the incident;
 - (B) the placing agent of any resident involved in the incident;
 - (C) the Kansas department for children and families; and
 - (D) the department.
- (5) Each incident of suspected sexual assault involving a resident as a victim or as a perpetrator shall be reported to the following:
 - (A) Law enforcement;
 - (B) the Kansas department for children and families;
 - (C) the resident's parent or legal guardian;
 - (D) the resident's placing agent; and
 - (E) the department.
- (6) Each suicide attempt by a resident shall be reported to the following:
 - (A) The resident's parent or legal guardian;
 - (B) the resident's placing agent;
 - (C) the Kansas department for children and families; and
 - (D) the department.
- (7) Each natural disaster shall be reported to the department.
- (8) Each instance of work stoppage shall be reported to the department.
- (9) Each incident that involves a riot or the taking of hostages shall be reported to the department.
- (10) Each fire shall be reported to the department and to the state fire marshal.

- (11) Each incident that involves any suspected illegal act committed by a resident while in the facility or by a staff member or a volunteer while on duty at the facility shall be reported to law enforcement and the department in accord with the facility's policies.
- (12) If any resident, staff member, or volunteer contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2, the permittee or licensee shall ensure that a report is submitted to the local county health department within 24 hours, excluding weekends and holidays.
- (b) Each permittee and each licensee shall complete a written report within five calendar days after the discovery of any incident or event identified in subsection (a). A copy of each written report shall be kept on file at the facility.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1258. Admission and release of residents.

- (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the admission and release of residents. These policies and procedures shall ensure that each individual is admitted unless at least one of the following conditions is met:
 - (1) The individual's placement is not authorized by the revised Kansas code for the care of children, K.S.A. 2013 Supp. 38-2201 et seq., or K.S.A. 2013 Supp. 65-535, and amendments thereto.
 - (2) The individual needs immediate medical care.
 - (3) Admission of the individual would cause the permittee or licensee to exceed the terms of the temporary permit or license.
- (b) Authorization of admission. Each permittee and each licensee shall ensure that no individual is admitted to the facility unless the placement is authorized by the revised Kansas code for the care of children, K.S.A. 2013 Supp. 38-2201 et seq., and K.S.A. 2013 Supp. 65-535, and amendments thereto.
- (c) Preadmission health screening. Each individual who shows evidence of being physically ill, injured, or under the influence of alcohol or drugs shall be assessed in accordance with the facility's policies and procedures to determine whether the individual needs immediate medical care.
- (d) Admission procedures. Each permittee and each licensee shall ensure that the admission procedures include the following:
 - (1) Informing each resident, or the resident's legal guardian if the resident is unable to understand, of the purposes for which information is obtained and the manner in which the information will be used;

- (2) completing an admission form, including verification of custody status and a life history of each resident;
 - (3) completing a health history checklist on a form approved by the department;
 - (4) completing an inventory that documents each resident's clothing and personal possessions;
 - (5) distributing personal hygiene items;
 - (6) providing for a shower and hair care;
 - (7) issuing clean, laundered clothing, if necessary; and
 - (8) assigning each resident to a sleeping room.
- (e) Guardianship. No permittee, licensee, staff member, or volunteer shall accept permanent legal guardianship of a resident.
 - (f) Release procedures. Each permittee and each licensee shall ensure that the following procedures are followed when a resident is released from a facility:
 - (1) Procedures for the release of a resident shall include the following:
 - (A) Verification of the identification and the authority of the individual to whom the resident is being released;
 - (B) verification of the identity of the resident;
 - (C) transportation arrangements;
 - (D) instructions for forwarding mail; and
 - (E) return of personal property to the resident, including a receipt for all personal property, signed by the resident.
 - (2) Facility release forms shall be signed and dated by the individual to whom the resident is released and by the staff member releasing the resident.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1259. Health care.

- (a) Policies and procedures for resident health care. Each permittee and each licensee, in consultation with a physician, shall implement written policies and procedures that include provisions for the following:

- (1) Completion of a health checklist and review for each resident upon admission, including the following:
 - (A) Current physical health status, including oral health;
 - (B) all allergies, including medication, food, and plant;
 - (C) all current pain, including cause, onset, duration, and location;
 - (D) preexisting medical conditions;
 - (E) current mood and affect;
 - (F) history and indicators of self-harming behaviors or suicidal tendencies;
 - (G) all infectious or contagious diseases;
 - (H) documentation of current immunizations specified in K.A.R. 28-1-20 or documentation of an exemption for medical or religious reasons pursuant to K.S.A. 65-508, and amendments thereto;
 - (I) all drug or alcohol use;
 - (J) all current medications;
 - (K) all physical disabilities;
 - (L) all sexually transmitted diseases; and
 - (M) if a female resident, menstrual history and any history of pregnancy;
 - (2) follow-up health care, including a health assessment and referrals for any concerns identified in the health checklist and review;
 - (3) if medically indicated, all required chronic care, convalescent care, and preventive care, including immunizations;
 - (4) care for minor illness, including the use and administration of prescription and nonprescription drugs;
 - (5) care for residents under the influence of alcohol or other drugs;
 - (6) infection-control measures and universal precautions to prevent the spread of blood-borne infectious diseases, including medically indicated isolation; and
 - (7) maternity care as required by K.A.R. 28-4-279.
- (b) Physical health of residents. Each permittee and each licensee shall ensure that emergency and ongoing medical and dental care is obtained for each resident by

providing timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services provided by qualified providers.

- (1) Each permittee and each licensee shall ensure that a health checklist is completed for each resident at the time of admission by the staff member who admits the resident. The health checklist shall serve as a guide to determine if a resident is in need of medical or dental care and to determine if the resident is using any prescribed medications.
- (2) Each permittee and each licensee shall ensure that a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating under the APRN's scope of practice is contacted for any resident who is taking a prescribed medication at the time of admission, to assess the need for continuation of the medication.
- (3) Each change of prescription or directions for administering a prescription medication shall be ordered by the authorized medical practitioner with documentation placed in the resident's record. Prescription medications shall be administered only to the designated resident as ordered by the authorized medical practitioner.
- (4) Nonprescription and prescription medication shall be administered only by a designated staff member who has received training on medication administration approved by the secretary. Each administration of medication shall be documented in the resident's record with the following information:
 - (A) The name of the staff member who administered the medication;
 - (B) the date and time the medication was given;
 - (C) each change in the resident's behavior, response to the medication, or adverse reaction;
 - (D) each alteration in the administration of the medication from the instructions on the medication label and documentation of the alteration; and
 - (E) each missed dose of medication and documentation of the reason the dose was missed.
- (5) Within 72 hours of each resident's admission, a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, an APRN, or a nurse approved to conduct health assessments shall review the health checklist. Based upon health indicators derived from the checklist, the reviewing physician, physician's assistant, APRN, or nurse shall conduct a health assessment.

- (6) Each permittee and each licensee shall ensure that a licensed physician, a physician's assistant operating under a written protocol as authorized by the responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating within the APRN's scope of practice is contacted for each resident who has acute symptoms of illness or who has a chronic illness.
- (7) Each permittee and each licensee shall ensure that the following procedures are followed for providing tuberculosis tests for residents:
 - (A) Each resident shall receive a tuberculosis test unless the resident has had a tuberculosis test within the last 12 months.
 - (B) A chest X-ray shall be taken of each resident who has a positive tuberculosis test or a history of a positive tuberculosis test, unless a chest X-ray was completed within the 12 months before the current admission to the facility.
 - (C) The results of the tuberculosis test, X-rays, and treatment shall be recorded in the resident's record, and the county health department shall be kept informed of the results.
 - (D) Compliance with the department's tuberculosis prevention and control program shall be followed for the following:
 - (i) Tuberculosis tests;
 - (ii) treatment; and
 - (iii) a resident's exposure to active tuberculosis disease.
- (8) Each permittee and each licensee shall ensure that the use of tobacco in any form by any resident while in care is prohibited.
- (c) Emergency medical treatment. Each permittee and each licensee shall ensure that the following requirements are met for the emergency medical treatment of residents:
 - (1) The resident's medical record and health assessment forms shall be taken to the emergency room with the resident.
 - (2) A staff member shall accompany the resident to emergency care and shall remain with the resident while the emergency care is being provided or until the resident is admitted. This arrangement shall not compromise the direct supervision of the other residents in the facility.
- (d) Oral health of residents. Each permittee and each licensee shall ensure that the following requirements are met for the oral health of residents:
 - (1) Dental care shall be available for all residents.

- (2) Each resident who has not had a dental examination within the 12 months before admission to the facility shall have a dental examination no later than 60 calendar days after admission.
 - (3) Each resident shall receive emergency dental care as needed.
 - (4) A plan shall be developed and implemented for oral health education and staff supervision of residents in the practice of good oral hygiene.
- (e) Personal health and hygiene of residents. Each permittee and each licensee shall ensure that the following requirements are met for the personal health and hygiene of the residents:
 - (1) Each resident shall have access to drinking water, a lavatory, and a toilet.
 - (2) Each resident shall be given the opportunity to bathe upon admission and daily.
 - (3) Each resident shall be provided with toothpaste and an individual toothbrush.
 - (4) Each resident shall be given the opportunity to brush that resident's teeth after each meal.
 - (5) Opportunities shall be available to each resident for daily shaving and haircuts as needed.
 - (6) Each resident's washable clothing shall be changed and laundered at least twice a week. Clean underwear and socks shall be available to each resident on a daily basis.
 - (7) Each female resident shall be provided personal hygiene supplies for use during that resident's menstrual cycle.
 - (8) Clean, individual washcloths and bath towels shall be issued to each resident at least twice each week.
 - (9) Each resident shall be allowed to have at least eight hours of sleep each night.
- (f) Personal health of staff members and volunteers.
 - (1) Each staff member and each volunteer shall meet the following requirements:
 - (A) Be free from all infectious or contagious disease requiring isolation or quarantine as specified in K.A.R. 28-1-6;
 - (B) be free of any physical, mental, or emotional health condition that adversely affects the individual's ability to fulfill the responsibilities listed in the individual's job description and to protect the health, safety, and welfare of the residents; and

- (C) be free from impaired ability due to the use of alcohol, prescription or nonprescription drugs, or other chemicals.
- (2) Each staff member and each volunteer who has contact with any resident or who is involved in food preparation or service shall have received a health assessment within one year before employment. This assessment shall be conducted by a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or a nurse authorized to conduct these assessments.
- (3) The results of each health assessment shall be recorded on forms provided by the department and shall be kept in the staff member's or volunteer's record.
- (4) A health assessment record may be transferred from a previous place of employment if the assessment occurred within one year before the staff member's employment at the facility and if the assessment was recorded on the form provided by the department.
- (5) The initial health examination of each staff member and each volunteer shall include a tuberculosis test. If there is a positive tuberculosis test or a history of a previous positive tuberculosis test, a chest X-ray shall be required unless there is documentation of a normal chest X-ray within the last 12 months. Proof of proper treatment, according to the department's tuberculosis prevention and control program's direction, shall be required. Documentation of each tuberculosis test, X-ray, and treatment results shall be kept on file in the individual's health record.
 - (A) Compliance with the department's tuberculosis prevention and control program shall be required following each exposure to active tuberculosis disease. The results of tuberculosis tests, X-rays, and treatment shall be recorded in the individual's health record.
 - (B) Each volunteer shall present documentation showing no active tuberculosis before serving in the facility.
- (6) If a staff member experiences a significant change in physical, mental, or emotional health, including showing any indication of substance abuse, an assessment of the staff member's current health status may be required by the permittee, the licensee, or the secretary. A licensed health care provider who is qualified to diagnose and treat the condition shall conduct the health assessment. A written report of the assessment shall be kept in the staff member's record and shall be submitted to the secretary on request.
- (g) Each permittee and each licensee shall ensure that tobacco products are not used inside the facility. Tobacco products shall not be used by staff members or volunteers in the presence of residents.

(Authorized by K.S.A. 2013 Supp. 65-508 and 65-535; implementing K.S.A. 65-507, K.S.A.

2013 Supp. 65-508, and K.S.A. 2013 Supp. 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1260. Case management. Each permittee and each licensee shall ensure that case management services are provided for each resident.

- (a) Each permittee and each licensee shall ensure that a case manager is assigned to provide or coordinate the case management services for each resident.
- (b) Each permittee and each licensee shall ensure that a plan of care is developed and implemented for each resident with input, as appropriate, of the resident, the placing agent, the resident's parent or legal guardian, and staff members. The plan shall list goals for the resident while at the facility and upon release and shall identify the services needed by the resident to meet the goals.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1261. Program.

- (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the program.
- (b) Daily routine. Each permittee and each licensee shall maintain a written schedule and daily routine for all residents during all waking hours, which shall include the following:
 - (1) Meals;
 - (2) personal hygiene;
 - (3) physical exercise;
 - (4) recreation;
 - (5) mental health services; and
 - (6) education.
- (c) Rest and sleep. Each permittee and each licensee shall ensure that the daily routine includes time for rest and sleep adequate for each resident.
- (d) Classroom instruction. Each permittee and each licensee shall ensure that classroom instruction is provided to each resident on-site by teachers holding appropriate licensure from the Kansas department of education.
 - (1) The staff members shall coordinate education services with the local school district.

- (2) The staff members shall provide a regular schedule of instruction and related educational services for each resident.
 - (3) Direct care staff members shall be stationed in proximity to the classroom, with frequent, direct, physical observation of the classroom activity at least every 15 minutes, to provide immediate support to the teacher.
- (e) Library services.
 - (1) Reading and other library materials shall be provided to each resident.
 - (2) Library materials shall be appropriate for various levels of competency.
 - (3) Reading material shall reflect a variety of interests.
- (f) Recreation.
 - (1) Each facility shall have indoor and outdoor equipment and recreational areas where security and visual supervision can be easily maintained. Unless restricted for health reasons, each resident shall be allowed to engage in supervised indoor or outdoor recreation on a daily basis.
 - (2) Art and craft supplies, books, current magazines, games, and other indoor recreational materials shall be provided for leisure time activities.
- (g) Work. Each permittee and each licensee shall ensure that the following requirements are met when residents participate in work activities:
 - (1) Work assignments shall not be used as a substitute for recreation.
 - (2) Residents shall be prohibited from performing any of the following duties:
 - (A) Providing personal services for the staff members;
 - (B) cleaning or maintaining areas away from the facility;
 - (C) replacing staff members; or
 - (D) engaging in any work classified as hazardous by the Kansas department of labor's regulations governing child labor.
- (h) Plan of care. Each permittee and each licensee shall ensure that the individualized plan of care for each resident is reviewed and updated based on the needs of the resident. In addition to the services required in subsections (b) through (g), the plan of care shall include the following:
 - (1) Mental health, substance abuse, and life skills training based on individual needs of the resident; and

- (2) any restrictions on visitation, communication with others, or the resident's movement or activities that are required to ensure the health and safety of the resident or other residents or the security of the facility.
- (i) Mental health services. Each permittee and each licensee shall ensure that mental health services are provided as needed to each resident, by a clinical director and appropriate staff members.
- (j) Substance abuse screening and treatment. Each permittee and each licensee shall ensure that substance abuse screening and treatment services are provided as needed to each resident, by a substance abuse counselor and appropriate staff members.
- (k) Life skills training. Each permittee and each licensee shall ensure that life skills training is provided as needed to each resident, by designated staff members. The resident's plan of care shall include the following:
 - (1) Life skills training appropriate to the age and developmental level of the resident, including daily living tasks, money management, and self-care;
 - (2) direct services, including assistance with career planning and housing; and
 - (3) referrals for community resources, including educational opportunities.
- (l) Visitation and communication. Each permittee and each licensee shall implement policies and procedures for visitation and communication by residents with individuals outside of the facility. The policies and procedures shall include the following:
 - (1) Private telephone conversations and visitations shall be allowed, except when a need to protect the resident is indicated as documented in the resident's individual plan of care or as specified by court order.
 - (2) No resident shall be denied the right to contact an attorney or court counselor. No court counselor or attorney shall be refused visitation with a resident to whom the counselor or attorney is assigned.
 - (3) No staff member shall open or censor mail or written communication, unless there is reason to believe that one of the following conditions exists:
 - (A) The mail or communication contains items or goods that are not permitted in the facility.
 - (B) The security of the facility is at risk.
 - (C) The safety or security of the resident is at risk.
 - (4) The conditions under which mail or communication shall be opened by staff in the presence of the resident shall be specified.

- (5) If mail or communication is to be censored, the resident shall be informed in advance.
- (6) The censorship of mail or written communication shall be included in the resident's plan of care.
- (7) The reason for each occasion of censorship shall be documented and kept in the resident's record.
- (8) Writing materials and postage for the purposes of correspondence shall be available to each resident. Materials and postage for at least two letters each week shall be provided for each resident.
- (9) First-class letters and packages shall be forwarded after the transfer or release of each resident.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1262. Behavior management.

- (a) Policies and procedures. Each permittee and each licensee shall implement policies and procedures for the behavior management of residents.
 - (1) Written policies shall provide for a behavior management system that assists residents to develop inner control and manage their own behavior in a socially acceptable manner. Procedures and practice shall include expectations that are age-appropriate and allow for special abilities and limitations.
 - (2) Written rules of conduct shall define expected behaviors.
 - (A) A rule book describing the expected behaviors shall be given to each resident and each direct care staff member.
 - (B) An acknowledgment of receipt of the rule book shall be signed by each resident and kept in each resident's file.
 - (C) If a literacy or language problem prevents a resident from understanding the rule book, a staff member or translator shall assist the resident in understanding the rules.
 - (3) Each staff member and each volunteer who has direct contact with residents shall be informed of the rules of resident conduct, the rationale for the rules, and the intervention options available for problem or conflict resolution, diffusion of anger, and de-escalation methods.
- (b) Prohibited punishment. Each permittee and each licensee shall ensure that each resident is protected against all forms of neglect, exploitation, and degrading forms of discipline.

- (1) No staff member or volunteer shall use any of the following means or methods of punishment of a resident:
 - (A) Punishment that is humiliating, frightening, or physically harmful to the resident;
 - (B) corporal punishment, including hitting with the hand or any object, yanking arms or pulling hair, excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the resident's health or safety;
 - (C) restricting movement by tying or binding;
 - (D) confining a resident in a closet, box, or locked area;
 - (E) forcing or withholding food, rest, or toilet use;
 - (F) mental and emotional cruelty, including verbal abuse, derogatory remarks about a resident or the resident's family, statements intended to shame, threaten, humiliate, or frighten the resident, and threats to expel a resident from the facility; or
 - (G) placing soap, or any other substance that stings, burns, or has a bitter taste, in the resident's mouth or on the tongue or any other part of the resident's body.
- (2) No staff member or volunteer shall make sexual remarks or advances toward, or engage in physical intimacies or sexual activities with, any resident.
- (3) No staff member or volunteer shall exercise undue influence or duress over any resident, including promoting sales of services or goods, in a manner that would exploit the resident for the purpose of financial gain, personal gratification, or advantage of the staff member, volunteer, or a third party.
- (c) Medications, remedies, and drugs. Each staff member and each volunteer shall be prohibited from using medications, herbal or folk remedies, or drugs to control or manage any resident's behavior, except as prescribed by a licensed physician, a physician's assistant operating under a written protocol as authorized by a responsible physician, or an APRN operating under a written protocol as authorized by a responsible physician and operating under the APRN's scope of practice.
- (d) Publicity or promotional activities. No resident shall be forced to participate in publicity or promotional activities.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1263. Staff member schedule; supervision of residents.

(a) Staff member schedule.

- (1) Each permittee and each licensee shall develop and implement a written daily staff member schedule. The schedule shall meet the requirements for the staffing ratios of direct care staff members to residents at all times.
 - (A) The schedule shall provide for sufficient staff members on the living unit to provide direct supervision to the residents at all times and to provide for each resident's physical, social, emotional, and educational needs.
 - (B) The schedule shall provide for a minimum staffing ratio of one direct care staff member on active duty to four residents during waking hours and one direct care staff member on active duty to seven residents during sleeping hours.
 - (C) At least one direct care staff member of the same sex as the residents shall be present, awake, and available to the residents at all times. If both male and female residents are present in the facility, at least one male and one female direct care staff member shall be present, awake, and available.
- (2) At no time shall there be fewer than two direct care staff members present on the living unit when one or more residents are in care.
- (3) Alternate qualified direct care staff members shall be provided for the relief of the scheduled direct care staff members on a one-to-one basis and in compliance with the staffing ratios of direct care staff members to residents.
- (4) Only direct care staff members shall be counted in the required staffing ratio of direct care staff members to residents.

(b) Supervision of residents.

- (1) No resident shall be left unsupervised.
 - (2) Electronic supervision shall not replace the ratio requirements.
 - (3) Staff members shall know the location of each resident at all times.
- (c) Movements and activities of residents. Each permittee and each licensee shall implement policies and procedures for determining when the movements and activities of a resident could, for treatment purposes, be restricted or subject to control through increased direct supervision.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1264. Emergency plan; safety, security, and control.

- (a) Emergency plan. Each permittee and each licensee shall implement an emergency plan to provide for the safety of residents, staff members, volunteers, and visitors in emergencies.
 - (1) The emergency plan shall include the following information:
 - (A) Input from local emergency response entities, including the fire departments and law enforcement;
 - (B) the types of emergencies likely to occur in the facility or near the facility, including fire, weather-related events, missing or runaway residents, chemical releases, utility failure, intruders, and an unscheduled closing;
 - (C) the types of emergencies that could require evacuating the facility and the types that could require the residents, staff members, volunteers, and visitors to shelter in place;
 - (D) participation in community practice drills for emergencies;
 - (E) procedures to be followed by staff members in each type of emergency;
 - (F) designation of a staff member to be responsible for each of the following:
 - (i) Communicating with emergency response resources, including the fire department and law enforcement;
 - (ii) ensuring that all residents, staff members, volunteers, and visitors are accounted for;
 - (iii) taking the emergency contact numbers and a cell phone; and
 - (iv) contacting the parent, legal guardian, or placing agent of each resident;
 - (G) the location and means of reaching a shelter-in-place area in the facility, including safe movement of any resident, staff member, volunteer, or visitor with special health care or mobility needs; and
 - (H) the location and means of reaching an emergency site if evacuating the facility, including the following:
 - (i) Safely transporting the residents, including residents with special health care or mobility needs;
 - (ii) transporting emergency supplies, including water, food, clothing, blankets, and health care supplies; and

- (iii) obtaining emergency medical care.
- (2) The emergency plan shall be kept on file in the facility.
- (3) Each staff member shall be informed of and shall follow the emergency plan.
- (4) The emergency plan shall be reviewed annually and updated as needed.
- (5) The location and means of reaching the shelter-in-place area or an emergency site if evacuating the facility shall be posted in a conspicuous place in the facility.
- (b) Fire drills. Each permittee and each licensee shall ensure that a fire drill is conducted at least quarterly and is scheduled to allow participation by each resident. The date and time of each drill shall be recorded and kept on file at the facility for one calendar year.
- (c) Tornado drills. Each permittee and each licensee shall ensure that a tornado drill is conducted at least quarterly and is scheduled to allow participation by each resident. The date and time of each drill shall be recorded and kept on file at the facility for one calendar year.
- (d) Facility security and control of residents. Each permittee and each licensee shall implement policies and procedures that include the use of a combination of direct supervision, inspection, and accountability to promote safe and orderly operations. The policies and procedures shall be developed with input from local law enforcement and shall include all of the following requirements:
 - (1) Written operational shift assignments shall state the duties and responsibilities for each assigned staff member.
 - (2) Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.
 - (3) All security devices, including locking mechanisms on doors and any delayed-exit mechanisms on doors, shall have current written approval from the state fire marshal and shall be regularly inspected and maintained, with any corrective action completed as necessary and recorded.
 - (4) The use of mace, pepper spray, and other chemical agents shall be prohibited.
 - (5) No resident shall have access to any weapons.
 - (6) Provisions shall be made for the control and use of keys, tools, medical supplies, and culinary equipment.
 - (7) No resident or group of residents shall exercise control or authority over another resident, have access to the records of another resident, or have access to or the use of keys that control security.

- (8) Provisions shall be made for handling runaways and unauthorized absences of residents.
- (9) Provisions shall be made for safety and security precautions pertaining to any vehicles used to transport residents.
- (10) Provisions shall be made for the prosecution of any illegal act committed while the resident is in care.
- (11) Provisions shall be made for documentation of all incidents, including riots and the taking of hostages.
 - (A) A written report of each incident shall be submitted to the administrator no later than the end of the shift during which the incident occurred. A copy of each report shall be kept in the record of each resident involved in the incident.
 - (B) A report of each incident shall be made as required in K.A.R. 28-4-1257.
- (12) Provisions shall be made for the control of prohibited items and goods, including the screening and searches of residents and visitors and searches of rooms, spaces, and belongings.
- (13) Requirements shall be included for 24-hour-a-day observation of all facility entrances and exits by an auxiliary staff member.
- (e) Storage and use of hazardous substances and unsafe items. Each permittee and each licensee shall ensure that the following requirements are met for storage and use of hazardous substances and unsafe items:
 - (1) No resident shall have unsupervised access to poisons, hazardous substances, or flammable materials. These items shall be kept in locked storage when not in use.
 - (2) Provisions shall be made for the safe and sanitary storage and distribution of personal care and hygiene items. The following items shall be stored in an area that is either locked or under the control of staff members:
 - (A) Aerosols;
 - (B) alcohol-based products;
 - (C) any products in glass containers; and
 - (D) razors, blades, and any other sharp items.
 - (3) Policies and procedures shall be developed and implemented for the safe storage and disposal of prescription and nonprescription medications.

- (A) All prescription and nonprescription medications shall be stored in a locked cabinet located in a designated area accessible to and supervised by only staff members.
 - (B) All refrigerated medications shall be stored under all food items in a locked refrigerator, in a refrigerator in a locked room, or in a locked medicine box in a refrigerator.
 - (C) Medications taken internally shall be kept separate from other medications.
 - (D) All unused medications shall be accounted for and disposed of in a safe manner, including being returned to the pharmacy, transferred with the resident, or safely discarded.
- (4) Each facility shall have first-aid supplies, which shall be stored in a locked cabinet located in a designated area accessible to and supervised by only staff members. First-aid supplies shall include the following supplies:
- (A) Assorted adhesive strip bandages;
 - (B) adhesive tape;
 - (C) a roll of gauze;
 - (D) scissors;
 - (E) a package of gauze squares;
 - (F) liquid soap;
 - (G) an elastic bandage;
 - (H) tweezers;
 - (I) rubbing alcohol; and
 - (J) disposable nonporous gloves in assorted sizes.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1265. Environmental requirements.

- (a) General building requirements.
 - (1) Each applicant, each permittee, and each licensee shall ensure that the facility is connected to public water and sewage systems, where available. If public water and sewage systems are not available, each applicant shall obtain approval for any

private water and sewage systems by the health authorities having jurisdiction over private water and sewage systems where the facility is located.

- (2) A licensed architect shall be responsible for the plans for any newly constructed building or for any major addition or major alteration to an existing building.
 - (A) For a new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the department for review before beginning the final working drawings and specifications. Each applicant, each permittee, and each licensee shall submit the final working drawings, construction specifications, and plot plans to the department for review and written approval before the letting of contracts.
 - (B) For an addition or alteration to an existing building, each applicant, each permittee, and each licensee shall submit a written statement defining the proposed use of the construction and detailing the plans and specifications to the department for review and written approval before beginning construction.
 - (C) If construction is not begun within one year of submitting a proposal for a new building or an addition or alteration to an existing building, each licensee shall resubmit the plans and proposal to the department before proposed construction begins.
- (b) Location and grounds requirements. Each permittee and each licensee shall ensure that the following requirements are met for the location and grounds of the facility:
 - (1) Community resources, including health services, police protection, and fire protection from an organized fire department, shall be available.
 - (2) There shall be at least 100 square feet of outside activity space available for each resident allowed to utilize each outdoor area at any one time.
 - (3) The outside activity area shall be free of physical hazards.
 - (4) Residents of the facility shall not share space with another child care facility for any indoor or outdoor activities.
- (c) Swimming pools. Each permittee and each licensee shall ensure that the following requirements are met if a swimming pool is located on the premises:
 - (1) The pool shall be constructed, maintained, and used in a manner that safeguards the lives and health of the residents.
 - (2) Legible safety rules shall be posted for the use of a swimming pool in a conspicuous location. If the pool is available for use, each permittee and each licensee shall read and review the safety rules weekly with each resident.

- (3) An individual with a lifesaving certificate shall be in attendance when residents are using a swimming pool.
 - (4) Each inground swimming pool shall be enclosed by a fence at least five feet high. Each gate in the fence shall be kept closed and shall be self-locking. The wall of a building containing a window designed to open or a door shall not be used in place of any side of the fence.
 - (5) Each aboveground swimming pool shall be at least four feet high or shall be enclosed by a fence at least five feet high with a gate that is kept closed and is self-locking. Steps shall be removed and stored away from the pool when the pool is not in use. Each aboveground pool with a deck or berm that provides a ground-level entry on any side shall be treated as an in-ground pool.
 - (6) Sensors shall not be used in place of a fence.
 - (7) The water shall be maintained between pH 7.2 and pH 7.8. The water shall be disinfected by free available chlorine between 1.0 parts per million and 3.0 parts per million, by bromine between 1.0 parts per million and 6.0 parts per million, or by an equivalent agent approved by the local health department.
 - (8) If a stabilized chlorine compound is used, the pH shall be maintained between 7.2 and 7.7 and the free available chlorine residual shall be at least 1.50 parts per million.
 - (9) The pool shall be cleaned and the chlorine or equivalent disinfectant level and pH level shall be tested every two hours during periods of use.
 - (10) The water temperatures shall be maintained at no less than 82 degrees Fahrenheit and no more than 88 degrees Fahrenheit while the pool is in use.
 - (11) Each swimming pool more than six feet in width, length, or diameter shall be equipped with either a ring buoy and rope or a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool.
- (d) Structural requirements and use of space. Each permittee and each licensee shall ensure that the facility design, structure, interior and exterior environment, and furnishings promote a safe, comfortable, and therapeutic environment for the residents.
- (1) Each facility shall be accessible to and usable by individuals with disabilities.
 - (2) Each facility's structural design shall facilitate personal contact and interaction between staff members and residents.
 - (3) Each sleeping room shall meet the following requirements:
 - (A) Each room shall be assigned to and occupied by only one resident.

- (B) No resident's room shall be in a basement.
 - (C) The minimum square footage of floor space shall be 80 square feet. At least one dimension of the usable floor space unencumbered by furnishings or fixtures shall be at least seven feet.
 - (D) The minimum ceiling height shall be seven feet eight inches over at least 90 percent of the room area.
 - (E) An even temperature of between 68 degrees Fahrenheit and 78 degrees Fahrenheit shall be maintained, with an air exchange of at least four times each hour.
 - (F) Each sleeping room shall have a source of natural light.
 - (G) Access to a drinking water source and toilet facilities shall be available 24 hours a day.
 - (H) A separate bed with a level, flat mattress in good condition shall be provided for each resident. All beds shall be above the floor level.
 - (I) Clean bedding, adequate for the season, shall be provided for each resident. Bed linen shall be changed at least once a week or, if soiled, more frequently.
- (4) Adequate space for study and recreation shall be provided.
 - (5) Each living unit shall contain the following:
 - (A) Furnishings that provide sufficient seating for the maximum number of residents expected to use the area at any one time;
 - (B) writing surfaces that provide sufficient space for the maximum number of residents expected to use the area at any one time; and
 - (C) furnishings that are consistent with the needs of the residents.
 - (6) Each facility shall have adequate central storage for household supplies, bedding, linen, and recreational equipment.
 - (7) If a facility has one or more dayrooms, each dayroom shall provide space for a variety of resident activities. Dayrooms shall be situated immediately adjacent to the residents' sleeping rooms, but separated from the sleeping rooms by a floor-to-ceiling wall. Each dayroom shall provide at least 35 square feet for each resident, exclusive of lavatories, showers, and toilets, for the maximum number of residents expected to use the dayroom area at any one time.
 - (8) Each room used for sports and other physical activities shall provide floor space

equivalent to at least 100 square feet for each resident utilizing the room for those purposes at any one time.

- (9) Sufficient space shall be provided for visitation between residents and visitors. The facility shall have space for the screening and search of residents and visitors, if screening and search are included in the facility's policies and procedures. Private space shall be available for searches as needed. Storage space shall be provided for the secure storage of visitors' coats, handbags, and other personal items not allowed into the visitation area.
 - (10) A working telephone shall be accessible to staff members in all areas of the building. Emergency numbers, including those for the fire department, the police, a hospital, a physician, the poison control center, and an ambulance, shall be posted by each telephone.
 - (11) A service sink and a locked storage area for cleaning supplies shall be provided in a room or closet that is well ventilated and separate from kitchen and living areas.
- (e) Bathrooms and drinking water. Each permittee and each licensee shall ensure that the following requirements are met for bathrooms and drinking water at the facility:
- (1) For each eight or fewer residents of each sex, at least one toilet, one lavatory, and either a bathtub or a shower shall be provided. All toilets shall be above floor level.
 - (2) Each bathroom shall be ventilated to the outdoors by means of either a window or a mechanical ventilating system.
 - (3) Toilet and bathing accommodations and drinking water shall be in a location accessible to sleeping rooms and living and recreation rooms.
 - (4) Drinking water and at least one bathroom shall be accessible to the reception and admission areas.
 - (5) Cold water and hot water not exceeding 120 degrees Fahrenheit shall be supplied to lavatories, bathtubs, and showers.
 - (6) Liquid soap, toilet paper, and paper towels shall be available in all bathrooms.
- (f) Building maintenance standards. Each permittee and each licensee shall ensure that the following requirements are met for building maintenance of the facility:
- (1) Each building shall be clean at all times and free from vermin infestation.
 - (2) The walls shall be smooth, easily cleanable, and sound. Lead-free paint shall be used on all painted surfaces.
 - (3) The floors and walking surfaces shall be kept free of hazardous substances at all times.

- (4) The floors shall not be slippery or cracked.
- (5) Each rug or carpet used as a floor covering shall be slip-resistant and free from tripping hazards. A floor covering, paint, or sealant shall be required over concrete floors for all buildings used by the residents.
- (6) All bare floors shall be swept and mopped daily.
- (7) A schedule for cleaning each building shall be established and maintained.
- (8) Washing aids, including brushes, dish mops, and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.
- (9) Mops and other cleaning tools shall be cleaned and dried after each use and shall be hung on racks in a well-ventilated place.
- (10) Pesticides and any other poisons shall be used in accordance with the product instructions. These substances shall be stored in a locked area.
- (11) Toilets, lavatories, sinks, and other such accommodations in the living areas shall be cleaned each day.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508 and 65-535; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1266. Food services. Each permittee and each licensee shall ensure that food preparation, service, safety, and nutrition meet the requirements of this regulation. For purposes of this regulation, “food” shall include beverages.

- (a) Sanitary practices. Each individual engaged in food preparation and food service shall use sanitary methods of food handling, food service, and storage.
 - (1) Only authorized individuals shall be in the food preparation area.
 - (2) Each individual who has any symptoms of an illness, including fever, vomiting, and diarrhea, shall be excluded from the food preparation area and shall remain excluded from the food preparation area until the individual has been asymptomatic for at least 24 hours or provides the administrator with written documentation from a health care provider stating that the symptoms are from a noninfectious condition.
 - (3) Each individual who contracts any infectious or contagious disease specified in K.A.R. 28-1-6 shall be excluded from the food preparation area and shall remain excluded from the food preparation area until the isolation period required for that disease is over or until the individual provides the administrator with written documentation from a health care provider that the individual is no longer a threat to the health and safety of others when preparing or handling food.

- (4) Each individual with an open cut or abrasion on the hand or forearm or with a skin sore shall cover the sore, cut, or abrasion with a bandage before handling or serving food.
 - (5) The hair of each individual shall be restrained when the individual is handling food.
 - (6) Each individual handling or serving food shall comply with both of the following requirements for handwashing:
 - (A) Each individual shall wash that individual's hands and exposed portions of the individual's arms before working with food, after using the toilet, and as often as necessary to keep the individual's hands clean and to minimize the risk of contamination.
 - (B) Each individual shall use an individual towel, disposable paper towels, or an air dryer to dry that individual's hands.
 - (7) Each individual preparing or handling food shall minimize bare hand and bare arm contact with exposed food that is not in a ready-to-eat form.
 - (8) Except when washing fruits and vegetables, no individual handling or serving food may contact exposed, ready-to-eat food with the individual's bare hands.
 - (9) Each individual shall use single-use gloves, food-grade tissue paper, dispensing equipment, or utensils, including spatulas and tongs, when handling or serving exposed, ready-to-eat food.
- (b) Nutrition.
- (1) The meals and snacks shall meet the nutritional needs of the residents. The meals and snacks shall include a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products. A sufficient quantity of food shall be prepared for each meal to allow each resident second portions of bread and milk and either vegetables or fruit.
 - (2) Special diets shall be provided for residents for either of the following reasons:
 - (A) Medical indication; or
 - (B) accommodation of religious practice.
 - (3) Each meal shall be planned and the menu shall be posted at least one week in advance. A copy of the menu of each meal served for the preceding month shall be kept on file and available for inspection.
- (c) Food service and preparation areas. If food is prepared on the facility premises, the food preparation area shall be separate from the eating area, activity area, laundry area, and

bathrooms and shall not be used as a passageway during the hours of food preparation and cleanup.

- (1) All surfaces used for food preparation and tables used for eating shall be made of smooth, nonporous material.
 - (2) Before and after each use, all food preparation surfaces shall be cleaned with soapy water and sanitized by use of a solution of one ounce of bleach to one gallon of water or a sanitizing solution used in accordance with the manufacturer's instructions.
 - (3) Before and after each use, the tables used for eating shall be cleaned by washing with soapy water.
 - (4) All floors shall be swept daily and mopped when spills occur.
 - (5) Garbage shall be disposed of in a garbage disposal or in a covered container. If a container is used, the garbage shall be removed at the end of each day or more often as needed to prevent overflow or to control odor.
 - (6) Each food preparation area shall have handwashing fixtures equipped with soap and hot and cold running water and with individual towels, paper towels, or air dryers. Each sink used for handwashing shall be equipped to provide water at a temperature of at least 100 degrees Fahrenheit. The water temperature shall not exceed 120 degrees Fahrenheit.
 - (A) If the food preparation sink is used for handwashing, the sink shall be sanitized before using it for food preparation by use of a solution of 1/4 cup of bleach to one gallon of water.
 - (B) Each facility with 25 or more residents shall be equipped with handwashing fixtures that are separate from the food preparation sink.
 - (7) Clean linen used for food preparation or service shall be stored separately from soiled linen.
- (d) Food storage and refrigeration. All food shall be stored and served in a way that protects the food from cross-contamination.
- (1) Nonrefrigerated food.
 - (A) All food not requiring refrigeration shall be stored at least six inches above the floor in a clean, dry, well-ventilated storeroom or cabinet in an area with no overhead drain or sewer lines and no vermin infestation.
 - (B) Dry bulk food that has been opened shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled with the contents and the date opened.

- (C) Food shall not be stored with poisonous or toxic materials. If cleaning agents cannot be stored in a room separate from food storage areas, the cleaning agents shall be clearly labeled and kept in locked cabinets not used for the storage of food.
- (2) Refrigerated and frozen food.
 - (A) All perishables and potentially hazardous foods requiring refrigeration shall be continuously maintained at 41 degrees Fahrenheit or lower in the refrigerator or 0 degrees Fahrenheit in the freezer.
 - (B) Each refrigerator and each freezer shall be equipped with a visible, accurate thermometer.
 - (C) Each refrigerator and each freezer shall be kept clean inside and out.
 - (D) All food stored in the refrigerator shall be covered, wrapped, or otherwise protected from contamination. Unserved, leftover perishable foods shall be dated, refrigerated immediately after service, and eaten within three days.
 - (E) Raw meat shall be stored in the refrigerator in a manner that prevents meat fluids from dripping on other foods.
 - (F) Ready-to-eat, commercially processed foods, including luncheon meats, cream cheese, and cottage cheese, shall be eaten within five days after opening the package.
- (3) Hot foods.
 - (A) Hot foods that are to be refrigerated shall be transferred to shallow containers in layers less than three inches deep and shall not be covered until cool.
 - (B) Potentially hazardous cooked foods shall be cooled in a manner to allow the food to cool within two hours from 135 degrees Fahrenheit to 70 degrees Fahrenheit or within six hours from 135 degrees Fahrenheit to 41 degrees Fahrenheit.
- (e) Meals or snacks prepared on the premises.
 - (1) All of the following requirements shall be met when meals or snacks are prepared on the facility premises:
 - (A) All dairy products shall be pasteurized. Powdered milk shall be used for cooking only.
 - (B) Meat shall be obtained from government-inspected sources.

- (C) Raw fruits and vegetables shall be washed thoroughly before being eaten or used for cooking.
 - (D) Frozen foods shall be defrosted in the refrigerator, under cold running water, in a microwave oven using the defrost setting, or during the cooking process. Frozen foods shall not be defrosted by leaving them at room temperature or in standing water.
 - (E) Cold foods shall be maintained and served at temperatures of 41 degrees Fahrenheit or less.
 - (F) Hot foods shall be maintained and served at temperatures of at least 140 degrees Fahrenheit.
- (2) The following foods shall not be served or kept:
- (A) Home-canned food;
 - (B) food from dented, rusted, bulging, or leaking cans; and
 - (C) food from cans without labels.
- (f) Meals or snacks catered. The following requirements shall be met for each meal or snack that is not prepared on the facility premises:
- (1) The snack or meal shall be obtained from a child care facility licensed by the department or from a food service establishment or a catering service licensed by the secretary of the Kansas department of agriculture.
 - (2) If food is transported to the facility, only food that has been transported promptly in clean, covered containers shall be served to the residents.
- (g) Table service and cooking utensils.
- (1) All of the table service, serving utensils, and food cooking or serving equipment shall be stored in a clean, dry location at least six inches above the floor. None of these items shall be stored under an exposed sewer line or a dripping water line or in a bathroom.
 - (2) Clean table service shall be provided to each resident, including dishes, cups or glasses, and forks, spoons, and knives, as appropriate for the food being served.
 - (A) Clean cups, glasses, and dishes designed for repeat use shall be made of smooth, durable, and nonabsorbent material and shall be free from cracks or chips.
 - (B) Disposable, single-use table service shall be of food grade and medium weight and shall be disposed of after each use.

- (3) If nondisposable table service and cooking utensils are used, the table service and cooking utensils shall be sanitized using either a manual washing method or a mechanical dishwasher.
 - (A) If using a manual washing method, all of the following requirements shall be met:
 - (i) A three-compartment sink with hot and cold running water to each compartment and a drainboard shall be used for washing, rinsing, sanitizing, and air-drying.
 - (ii) An appropriate chemical test kit, a thermometer, or another device shall be used for testing the sanitizing solution and the water temperature.
 - (B) If using a mechanical dishwasher, the dishwasher shall be installed and operated in accordance with the manufacturer's instructions and shall be maintained in good repair.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T-28-12-17-13, Dec. 27, 2013; effective March 28, 2014.)

K.A.R. 28-4-1267. Laundry.

- (a) If laundry is done at the facility, each permittee and each licensee shall ensure that the laundry sinks, the appliances, and the countertops or tables used for laundry are located in an area separate from food preparation areas and are installed and used in a manner that safeguards the health and safety of the residents. Adequate space shall be allocated for the laundry room and the storage of laundry supplies, including locked storage for all chemical agents used in the laundry area.
- (b) Each permittee and each licensee shall ensure that adequate space is allocated for the storage of clean and dirty linen and clothing. Soiled linen shall be stored separately from clean linen.
- (c) Each permittee and each licensee shall ensure that blankets are laundered at least once each month or, if soiled, more frequently. Blankets shall be laundered or sanitized before reissue.
- (d) Each permittee and each licensee shall ensure that each mattress is water-repellent and washed down and sprayed with disinfectant before reissue. The mattress materials and treatments shall meet the applicable requirements of the state fire marshal's regulations.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1268. Transportation. Each permittee and each licensee shall ensure that all of the following requirements are met when providing transportation for residents:

- (a) Each permittee and each licensee shall implement policies and procedures for transportation of residents, including the following:
 - (1) Procedures to be followed in case of an accident, injury, or other incident as specified in K.A.R. 28-4-1257;
 - (2) a list of all staff members authorized to transport residents; and
 - (3) for each staff member authorized to transport residents, documentation of a valid driver's license that meets the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto.
- (b) Each permittee and each licensee shall ensure that a safety check is performed on each transporting vehicle before being placed in service and annually. A record of each safety check and all repairs and improvements made shall be kept on file at the facility. When any resident is transported in a privately owned vehicle, the vehicle shall be in safe working condition.
- (c) Each vehicle used to transport any resident shall be covered by accident and liability insurance as required by the state of Kansas.
- (d) Each transporting vehicle owned or leased by the facility shall have a first-aid kit, which shall include disposable nonporous gloves, a cleansing agent, scissors, bandages of assorted sizes, adhesive tape, a roll of gauze, one package of gauze squares at least four inches by four inches in size, and one elastic bandage.
- (e) Each vehicle used to transport any resident shall be equipped with an individual seat belt for the driver and an individual seat belt for each passenger. The driver and each passenger shall be secured by a seat belt when the vehicle is in motion.
- (f) The health and safety of the residents riding in any vehicle shall be protected.
 - (1) All passenger doors shall be locked while the vehicle is in motion.
 - (2) Order shall be maintained at all times. The driver shall be responsible for ensuring that the vehicle is not in motion if the behavior of the occupants prevents the safe operation of the vehicle.
 - (3) All parts of each resident's body shall remain inside the vehicle at all times.
 - (4) Residents shall neither enter nor exit the vehicle from or into a lane of traffic.
 - (5) When the vehicle is vacated, the driver shall make certain that no resident is left in the vehicle.
 - (6) Smoking in the vehicle shall be prohibited.

- (7) Medical and surgical consent forms and health assessment records shall be in the vehicle if a resident is transported 60 miles or more from the facility.
- (g) Each resident shall be transported directly to the location designated by the permittee or the licensee. No unauthorized stops shall be made along the way, except in an emergency.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)

K.A.R. 28-4-1269. Animals. Each permittee and each licensee shall ensure that the following requirements are met for any animals on the facility premises:

- (a) If any animals are kept on the facility premises, the pet area shall be maintained in a sanitary manner, with no evidence of flea, tick, or worm infestation.
- (b) No animal shall be in the food preparation area.
- (c) Each domesticated dog and each domesticated cat shall have a current rabies vaccination given by a veterinarian. A record of all vaccinations shall be kept on file in the facility.
- (d) Each permittee and each licensee shall ensure that each animal that is in contact with any resident meets the following conditions:
 - (1) Is in good health, with no evidence of disease; and
 - (2) is friendly and poses no threat to the health, safety, and welfare of residents.

(Authorized by and implementing K.S.A. 2013 Supp. 65-508; effective, T-28-12-17-13, Dec. 17, 2013; effective March 28, 2014.)