

KANSAS DEPARTMENT OF HEALTH AND
ENVIRONMENT

KANSAS LAWS AND REGULATIONS
FOR LICENSING FAMILY CHILD CARE
HOMES

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KANSAS CHILD CARE LICENSING LAWS

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

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

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

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

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

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

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

prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

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

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

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

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

license. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary for children and families. The secretary of health and environment may issue, without the approval of the secretary for children and families, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary for children and families, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

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

to the death or serious bodily harm of a child under such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

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

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

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

- (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:
 - (1) For a maternity center, \$150;
 - (2) for a child placement agency, \$150;
 - (3) for a child care resource and referral agency, \$150; and
 - (4) for any other child care facility, \$75 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

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

- (b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.
- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such

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

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

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

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

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

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

- (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary for children and families which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms

prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary for children and families may require. Each maternity center licensee and each child care facility licensee shall apply to and shall receive without charge from the secretary of health and environment and the secretary for children and families forms for such records as may be required, which forms shall contain a copy of this act.

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

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

K.S.A. 65-508. Equipment, supplies, accommodations; competent supervision and care of children; safe sleep practices; 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) In addition to any rules and regulations adopted under this section for safe sleep practices, child care facilities shall ensure that all of the following requirements are met for children under 12 months of age:
 - (1) A child shall only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment;
 - (2) the sleep surface shall be free from soft or loose bedding, including, but not limited to, blankets, bumpers and pillows; and
 - (3) the sleep surface shall be free from toys, including mobiles and other types of play equipment or devices.
 - (e) Child care facilities shall ensure that children over 12 months of age only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment.
 - (f) The secretary of health and environment may exercise discretion to make exceptions to requirements in subsections (d) and (e) where special health needs exist.
 - (g) 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.

- (h) The immunization requirement of subsection (g) 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; L. 2017, ch. 41, § 1; 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. 2017 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; child care criminal background and fingerprinting fund.

- (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 been convicted of a crime that is classified as a person felony under the Kansas criminal code;
 - (B) has been convicted of a felony 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 been convicted of any act that 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. 2018 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2018 Supp. 21-5301, and amendments thereto, to commit any such act or been convicted of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2018 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of any other state or the federal government;
 - (D) has been convicted of any act that is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2018 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government; or
 - (E) has been convicted of any act that is described in K.S.A. 21-3718 or 21-3719, prior to their repeal, or K.S.A. 2018 Supp. 21-5812, and amendments thereto, or similar statutes of any other state or the federal government;
- (2) has been adjudicated a juvenile offender because of having committed an act that

if done by an adult would constitute the commission of a felony and that 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. 2018 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or similar statutes of any other state 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. 2018 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government;

- (3) has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry;
- (4) 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. 2018 Supp. 38-2226, and amendments thereto, or any similar child abuse and neglect registries maintained by any other state or the federal government and:
 - (A) The person has failed to successfully complete a corrective action plan that had been deemed appropriate and approved by the Kansas department for children and families or requirements of similar entities in any other state or the federal government; or
 - (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families or similar entities in any other state or the federal government;
- (5) has had a child removed from home based on a court order pursuant to K.S.A. 2018 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;

has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2018 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. 2018 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 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. 2018 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) Local and state law enforcement officers and agencies shall assist the secretary in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the department.
- (g) (1) The secretary shall adopt rules and regulations on or before January 1, 2019, to fix a fee for fingerprinting persons residing, working or regularly volunteering in a child care facility, as may be required by the department to reimburse the department for the cost of the fingerprinting.
- (2) The secretary shall remit all moneys received from the fees established under 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 shall deposit the entire amount in the state treasury to the credit of the child care criminal background and fingerprinting fund.

- (h) The child care criminal background and fingerprinting fund is hereby created in the state treasury to be administered by the secretary of health and environment. All moneys credited to the child care criminal background and fingerprinting fund shall be used to pay local and state law enforcement officers and agencies for the processing of fingerprints and criminal history background checks for the department. All expenditures from the child care criminal background and fingerprinting fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.
- (i) 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 subsections (a)(1) through (8) with regard to the person who is the subject of the review.
- (j) 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.
- (k) 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.
- (l) 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 on 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 department of corrections; and
 - (F) the courts.
- (6) A violation of the provisions of subsection (1)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.
- (m) 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; L. 2017, ch. 41, § 2; L. 2018, ch. 47, § 1; 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. Drop-in programs and school-age programs in schools and public recreation centers; licensing of.

- (a) As used in this section:
 - (1) "Drop-in program" means a child care facility that is not located in an individual's residence, that serves exclusively school-age children and youth and where the operator permits children and youth to arrive at and depart from the program at the child or youth's own volition at unscheduled times.
 - (2) "Public recreation center" means any building used by a political or taxing subdivision of this state, or by an agency of such subdivision, for recreation programs that serve children who are less than 18 years of age.
 - (3) "School" means any building used for instruction of students enrolled in kindergarten or any of the grades one through 12 by a school district or an accredited nonpublic school.
 - (4) "School-age program" means a child care facility that serves exclusively school-age children and youth but does not include a drop-in program.
- (b) No license for a drop-in program or school-age program shall be denied, suspended or revoked on the basis that the building does not meet requirements for licensure if the building:
 - (1) Is a public recreation center or school and is used by school-age children and youth the same age as children and youth cared for in the drop-in program or school-age program;
 - (2) complies, during all hours of operation of the drop-in program or school-age program, with the Kansas fire prevention code or a building code that is by law deemed to comply with the Kansas fire prevention code; and
 - (3) complies, except as provided in subsection (c), during all hours of operation of the drop-in program or school-age program, with all local building code provisions that apply to recreation centers, if the building is a public recreation center, or schools, if the building is a school.
- (c) If the standards that a building is required to comply with pursuant to subsections (b)(2) and (b)(3) conflict or are otherwise inconsistent, then the standards provided by subsection (b)(2) shall control.
- (d) No license for a drop-in program or school-age program that operates in accordance with subsection (b)(1) shall be denied, suspended or revoked based on an environmental deficiency if:
 - (1) The environmental deficiency does not pose an imminent risk to children and youth;

- (2) the environmental deficiency is outside the applicant's or licensee's immediate authority to correct; and
- (3) the applicant or licensee has notified the public recreation center or school of the environmental deficiency.

History: L. 1992, ch. 125, § 1; L. 2018, ch. 30, § 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 staff monitoring 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, as appropriate, for the duration of the placement:
 - (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) A staff secure facility may be on the same premises as that of another licensed facility. 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 for children and families, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2017.
 - (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; L. 2016, ch. 102, § 20; July 1.

OTHER RELATED LAWS

Chapter 72. SCHOOLS

Article 82. ORGANIZATION, POWERS AND FINANCES OF BOARDS OF EDUCATION

K.S.A. 72-1421. 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 Kansas school equity and enhancement act, K.S.A. 2017 Supp. 72-5131 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; L. 2017, ch. 95, § 81; July 1.

K.S.A. 72-3238. Summer programs; establishment; fees, limitation; summer program fund; use of money.

- (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. 72-3239. Extraordinary school programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; fund.

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain an extraordinary school program for pupils who meet the district's criteria for attendance of such programs;
 - (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of an extraordinary school program for pupils; and
 - (3) prescribe and collect fees for providing an extraordinary school program for pupils or provide such program without charge.
- (b) Fees for providing an extraordinary school program for pupils shall be prescribed and collected only to recover the cost incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
- (c) No school district may collect fees for providing an extraordinary school program for pupils who are required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child or who are eligible for free or reduced price meals under the national school lunch act.
- (d) There is hereby established in every district which establishes, operates and maintains an extraordinary school program a fund which shall be called the extraordinary school program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for extraordinary school programs shall be credited to the extraordinary school program fund. The expenses of a district directly attributable to extraordinary school programs shall be paid from the extraordinary school program fund.
- (e) As used in this section, the term “extraordinary school program” means a program which is established by the board of education of a school district, operated before or after

regular school hours during the regular school term, and maintained for any or all of the following purposes:

- (1) Providing pupils with additional time to achieve learner exit or improvement plan outcomes;
- (2) giving pupils remedial instruction or independent study assistance;
- (3) affording pupils an opportunity to strengthen or attain mastery of basic or higher order thinking skills; and
- (4) conducting special projects and activities designed to enrich and enhance the educational experience of pupils.

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

GENERAL REGULATIONS FOR ALL PROGRAM TYPES

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

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

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

K.A.R. 28-4-93. Online information dissemination system. This regulation shall apply to the department's online information dissemination system for child care facilities, as defined in K.S.A. 65-503 and amendments thereto.

- (a) Definitions. The following terms shall have the meanings specified in this regulation:

- (1) “Applicant” means a person who has applied for a license to operate a child care facility but who has not yet been granted the license.
 - (2) “Applicant with a temporary permit” means a person who has been granted a temporary permit to operate a child care facility.
 - (3) “Department” means Kansas department of health and environment.
 - (4) “Licensee” means a person who has been granted a license to operate a child care facility.
 - (5) “Online information dissemination system” means the electronic database of the department that is accessible to the public.
- (b) Identifying information. Each applicant, each applicant with a temporary permit, and each licensee that wants the department to display the address and the telephone number of the child care facility on the online information dissemination system shall notify the department on a form provided by the department.

(Authorized by and implementing K.S.A. 2010 Supp. 65-534; effective Feb. 3, 2012.)

K.A.R. 28-4-95. Fee for fingerprint-based background checks. Each applicant, applicant with a temporary permit, and licensee shall submit a nonrefundable fee of \$48 to the department for the cost of each required fingerprint-based background check, as follows:

- (a) For each day care home, group day care home, child care center, and preschool, each individual specified in K.A.R. 28-4-125;
- (b) for each school-age program, each individual specified in K.A.R. 28-4-584; and
- (c) for each drop-in program, each individual specified in K.A.R. 28-4-705.

(Authorized by and implementing K.S.A. 65-516; effective Nov. 26, 2018.)

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

K.A.R. 28-4-122. Requirements and definitions for general regulations.

- (a) Requirements. The requirements of K.A.R. 28-4-123 through 28-4-133 shall apply to the following:
- (1) Family child care home, day care home, or group day care home as defined in K.A.R. 28-4-113;
 - (2) preschool and child care center as defined in K.A.R. 28-4-420; and
 - (3) residential center and group boarding home as defined in K.A.R. 28-4-268.
- (b) Definitions. For the purposes of K.A.R. 28-4-123 through K.A.R. 28-4-133, the following definitions shall apply:
- (1) “Animal” means any living creature, other than a human being, that has the ability to move voluntarily, including any mammal, rodent, fish, reptile, spider, insect, and bird.
 - (2) “Applicant” means a person who has applied for a license but has not yet been granted a license to operate a facility, residential center, or group boarding home.
 - (3) “Applicant with a temporary permit” means a person who has applied for a license and who has been granted a temporary permit to operate a facility, residential center, or group boarding home.
 - (4) “Department” means Kansas department of health and environment.
 - (5) “Disinfect” means full surface application of a disinfectant solution of fragrance-free, environmental protection agency (EPA)-registered chlorine bleach mixed according to the directions on the label or an alternate fragrance-free, EPA-registered disinfectant used according to the directions on the label to any inanimate object.
 - (6) “Facility” means a family child care home, day care home, group day care home, a preschool, or a child care center, but shall not include a residential center or group boarding home.
 - (7) “Licensee” means a person who has been granted a license to operate a facility, residential center, or group boarding home.
 - (8) “Pool” means any fixture or structure designed or utilized to hold water for swimming, wading, recreation, exercise, therapeutics, bathing, or any other purpose. The definition of pool shall not include indoor bath tubs or fully

enclosed containers used to store water.

- (9) “Primary care provider” means an applicant with a temporary permit, a licensee, or the designee of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.
- (10) “Program director” means an individual in a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b) or (c) and who is responsible for implementing and supervising the program.
- (11) “Provider” means an individual who cares for and supervises children in a family child care home and has responsibility for the health, safety, and well-being of children, including the following:
 - (A) A primary care provider;
 - (B) an individual who is at least 16 years of age and who is working in the family child care home; and
 - (C) a substitute.
- (12) “Regularly volunteering” means working in a facility without compensation on a recurring basis. This term shall not apply to guest speakers or to individuals who make one or more presentations on a specific subject.
- (13) “Sanitize” means full surface application of an EPA regulated food-safe sanitizing solution or heat treatment of any inanimate object used for food preparation or service.
- (14) “Secretary” means secretary of the Kansas department of health and environment or the secretary’s designee.
- (15) “Shelter-in-place area” means a designated location in the facility to which children and others may relocate in an emergency.
- (16) “Staff member” means an employee, a substitute, or a volunteer in a facility, a residential center, or a group boarding home.
- (17) “Substitute” means an individual who supervises children in the temporary or extended absence of an employee or volunteer.
- (18) “Tobacco product” means any product that is made or derived from tobacco, or that contains nicotine, that is intended for human absorption, inhalation, or ingestion, including by consuming or using a cigarette, cigar, pipe, chewing tobacco, snuff, snus, or vape device.

- (19) “Volunteer” means an individual 14 years of age or older who is working in the facility without compensation.

(Authorized by and implementing K.S.A. 65-508; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended March 28, 2008; amended August 2, 2024.)

K.A.R. 28-4-123. Parental access.

- (a) Each parent and each legal guardian of a child enrolled in a facility shall have access to the premises during all hours of operation. Each residential center and group boarding home shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent.
- (b) If video cameras are used in a facility for the purpose of monitoring children’s activities or to provide remote visual access to parents and legal guardians, each applicant with a temporary permit and each licensee shall ensure that the following requirements are met:
- (1) The parent or legal guardian of each child in care shall be informed in writing that cameras are used in the facility.
 - (2) All staff members shall be informed if cameras are used.
 - (3) The use of cameras shall not replace any requirements for supervision of children in care.
 - (4) Each applicant with a temporary permit and each licensee shall give the secretary’s designee access to video camera recordings and viewing privileges for the purpose of investigating compliance.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 65-512; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended August 2, 2024.)

K.A.R. 28-4-124. Parental permission for children to go off-premises. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this regulation are met.

- (a) Residential centers and group boarding homes shall be exempt from the requirements of this regulation.
- (b) Written permission on a form supplied by the department shall be obtained from the parent or legal guardian of each child who will be transported or allowed to participate in any off-premises field trip.
- (c) For each location a child is transported and for each off-premises trip, the destination, the time children leave the facility, the adults responsible for the children, and the estimated time of return shall be provided to parents and legal guardians.
- (d) The child’s emergency medical treatment form and medical record shall be accessible when any child is participating in any off-premises trip or activity.

- (e) Written permission on a form supplied by the department shall be obtained from the parent or legal guardian of each school age child who will be biking or walking without adult supervision to or from activities away from the facility.

(Authorized by and implementing K.S.A. 65-508; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990; amended August 2, 2024.)

K.A.R. 28-4-125. Background checks. Each applicant, applicant with a temporary permit, and licensee shall meet the following requirements:

- (a) Submit to the department the identifying information necessary to complete background checks for each individual who works or regularly volunteers in the facility, each individual at least 10 years of age who resides in the facility, and any other individual in the facility whose activities involve either supervised or unsupervised access to children. The identifying information shall be submitted as follows:
 - (1) When submitting an application for a license;
 - (2) when submitting an application to renew a license; and
 - (3) before allowing any individual to work, regularly volunteer, or reside in the facility and before allowing any individual whose activities involve either supervised or unsupervised access to children to be in the facility;
- (b) ensure that fingerprint-based background checks are completed for each of the following:
 - (1) The applicant;
 - (2) the applicant with a temporary permit;
 - (3) the licensee;
 - (4) each provider in a day care home or group day care home;
 - (5) each individual at least 18 years of age who resides in a day care home or group day care home;
 - (6) each employee in a preschool or child care center;
 - (7) each volunteer counted in the staff-child ratio; and
 - (8) any other individual regularly in the facility if the individual's activities involve unsupervised access to children;
- (c) ensure that the information submitted for each individual specified in subsection (b) includes the required information for background checks from each state of residence

throughout the five-year period before allowing the individual to work, regularly volunteer, or reside in the facility;

- (d) ensure that name-based background checks by the Kansas bureau of investigation and the Kansas department for children and families are completed for each of the following:
 - (1) Each individual at least 10 years of age who resides in a day care home or group day care home;
 - (2) each volunteer who is not counted in the staff-child ratio and whose activities do not involve unsupervised access to children;
 - (3) each student of an accredited secondary or postsecondary school who is at least 16 years of age and who is participating in an educational experience arranged by the school, if the student is not counted in the staff-child ratio and does not have unsupervised access to children; and
 - (4) any other individual regularly in the facility whose activities do not involve unsupervised access to children; and
- (e) ensure that no individual works, regularly volunteers, or resides in the facility until the results of the individual's background checks verify that the individual is not prohibited from working, regularly volunteering, or residing in a facility pursuant to K.S.A. 65-516, and amendments thereto.

(Authorized by K.S.A. 2017 Supp. 65-508; implementing K.S.A. 2017 Supp. 65-508 and 65-516; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990; amended June 7, 2018.)

K.A.R. 28-4-126. Health of individuals at least 16 years of age. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this regulation are met.

- (a) Health requirements.
 - (1) Each individual caring for children shall be free from any physical, mental, or emotional conditions that prevent the individual's ability to protect the health, safety, and welfare of the children, shall be qualified by temperament and emotional maturity, demonstrate an understanding of children, and shall act with sound judgment.
 - (2) No individual in contact with children shall be in a state of impaired ability due to the use of alcohol, prescription or nonprescription drugs, or other substances.
- (b) Health status forms. Each individual at least 16 years of age who is caring for children shall attest to that individual's health status on a form supplied by the department or approved by the secretary.

- (1) The health status form shall indicate if the individual has been exposed to an active case of tuberculosis or has been diagnosed with suspected or confirmed active tuberculosis.
 - (2) Each individual shall update the health status form annually or more often if there is a change in the health status or if the individual has been exposed to an active case of tuberculosis.
- (c) Tuberculosis testing.
- (1) Each individual at least 16 years of age who is living, working, or regularly volunteering in the facility shall have a record of a negative tuberculosis test or x-ray obtained not more than two years before the date of employment or initial application for a license or not later than 30 days after the date of employment or initial application.
 - (2) Compliance with the tuberculosis prevention and control program of the department shall be required following each exposure to active tuberculosis disease.
- (d) Records. The health status form and each tuberculosis test shall be recorded on forms provided by the department and shall be kept in each individual's record at the facility.
- (e) In addition to meeting the requirements in K.A.R. 28-4-126(c) and (d), each resident 16 years or older in a residential center or group boarding home shall have a health assessment conducted by a licensed physician, a physician assistant, or by a nurse trained to perform health assessments.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended Feb. 26, 1990; amended August 2, 2024.)

K.A.R. 28-4-127. Telephone; emergency medical treatment; reporting requirements. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this regulation are met.

- (a) Telephone. A working telephone shall be on the premises and available for use at all times. Emergency telephone numbers shall be readily accessible or be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.
- (b) Emergency medical treatment.
 - (1) The following documentation shall be on file at the facility, residential center, or group boarding home for each child:
 - (A) Written permission of the parent or legal guardian for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given; and

- (B) the name and telephone number of a physician and hospital preference.
- (2) Residential centers and group boarding homes providing emergency care shall be exempt from K.A.R. 28-4-127(b)(1)(A).
- (3) Provisions shall be made at a hospital or medical clinic for emergency treatment for children in care.
- (4) The medical record and emergency medical treatment form shall be taken to the hospital or medical clinic with any child needing emergency medical treatment.
- (5) When a staff member accompanies a child to emergency medical treatment, that individual shall remain with the child until the child's parent or legal guardian assumes responsibility for the child. The individual's absence shall not compromise the supervision of the other children in the facility.

(c) Reporting illnesses, injuries, and deaths.

- (1) Residential centers and group boarding homes. Each applicant with a temporary permit and each licensee for each residential center or group boarding home shall:
 - (A) Have on file at the residential center or group boarding home written policies on reporting of illnesses and injuries of adults and children. The policies shall be approved by the Kansas department for children and families.
 - (B) Report any injury or illness which results in the death of a child in care to the Kansas department for children and families by the next working day.
- (2) Facilities. Each applicant with a temporary permit and each licensee for each facility shall:
 - (A) Report by the end of the same day to the parent or legal guardian of each injury of a child which requires any first aid provided by an individual caring for children.
 - (B) Immediately notify the parent or legal guardian if a child becomes ill while attending the program.
 - (C) Report if an applicant with a temporary permit, a licensee, a staff member, or a child in care contracts an infectious or contagious disease listed in K.A.R. 28-1-2. The report shall be made by the next working day to the secretary's designee who serves the county in which the facility is located.
 - (D) Fully cooperate with any investigation, disease control, or surveillance procedures initiated by the local health department or the department.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended August 2, 2024.)

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

- (a) Emergency plans; drills.
 - (1) Each applicant, each applicant with a temporary permit, and each licensee shall develop and implement a written emergency plan to provide for the safety of children and staff members in emergencies. The emergency plan shall include the following information:
 - (A) Procedures for emergencies likely to occur on or near the premises, including a fire, a weather-related event, a missing or runaway child, a chemical release, a utility failure, an intruder, an act of terrorism, a lockdown, and an unscheduled closing;
 - (B) a designated shelter-in-place area, a designated off-premises relocation site, and evacuation routes for each area and for each site;
 - (C) procedures to meet the needs of individual children, including each child with special needs and chronic medical conditions;
 - (D) procedures for responding to and preventing allergic reactions of individual children;
 - (E) procedures for notifying each parent or adult responsible for a child of any off-premises relocation;
 - (F) procedures for reuniting each child with each parent or adult responsible for the child;
 - (G) procedures for continuity of operations, including backing up or retrieving health and other required records; and
 - (H) procedures designating the tasks to be followed by each staff member in an emergency, including the following:
 - (i) As appropriate, contacting 911 or other emergency response entities;
 - (ii) assisting the children, including children with special needs, to move to a designated shelter-in-place area and to a designated off-premises relocation site; and
 - (iii) ensuring that emergency supplies are readily available.
 - (2) Each emergency plan shall be kept on file on the premises. Each applicant with a

temporary permit and each licensee shall ensure that the plan is reviewed with parents or legal guardians of children enrolled.

- (3) Each staff member shall be informed of and shall follow the emergency plan.
 - (4) Each licensee shall review the emergency plan at least annually and update it as needed.
 - (5) Each licensee shall ensure that each staff member practices, at least annually, the procedures for assisting the children to move to a designated shelter-in-place area and to a designated off-premises relocation site. The date and time of each practice and a list of all participating staff members shall be recorded and kept on file on the premises.
 - (6) Each licensee shall ensure that each staff member and child participate in the following drills:
 - (A) A fire drill shall be conducted monthly. A record of the date and time of each fire drill and a record of each evacuation time shall be kept on file on the premises for one year.
 - (B) A tornado drill shall be conducted monthly. A record of the date and time of each tornado drill and a record of each evacuation time shall be kept on file on the premises for one year.
- (b) Standard precautions for handling blood and other bodily fluids or waste. Each applicant, applicant with a temporary permit, and each licensee shall ensure that each staff member complies with the following standard precautions when handling blood and other bodily fluids or waste:
- (1) Each staff member shall avoid coming into direct contact with blood and other bodily fluids or waste.
 - (2) Each staff member shall wear single-use gloves in the following situations:
 - (A) When cleaning contaminated surfaces or areas;
 - (B) before dressing a cut or sore that is leaking body fluids; and
 - (C) when cleaning up each spill, including urine, feces, blood, saliva, vomit, and tissue discharge.
 - (3) Each contaminated surface or area on which a spill occurs shall be cleaned by removing any visible spill from the surface or area with a water-saturated disposable paper towel or wipe. After the surface or area has been cleaned, the surface or area shall be sanitized by wetting the entire surface or area with a disinfectant solution of chlorine bleach mixed according to the directions on the label, or an appropriate commercial disinfectant used according to the directions

on the label.

- (4) Each mop used to clean up a contaminated area shall be cleaned and rinsed in a disinfecting solution, wrung as dry as possible, and hung to dry.
 - (5) Each paper towel, sponge, or other material used for cleaning up a contaminated area shall be placed in a plastic bag with a secure tie and thrown away in a covered container.
- (c) Each applicant with a temporary permit and each licensee shall maintain first-aid supplies in a first-aid kit, carrying case, box, or other container. The first-aid supplies shall include the following:
- (A) First-aid manual;
 - (B) single-use gloves;
 - (C) adhesive bandages of assorted sizes;
 - (D) adhesive tape;
 - (E) a roll of sterile gauze;
 - (F) sharp scissors;
 - (G) sterile gauze squares at least four inches by four inches in size;
 - (H) a cleansing agent or liquid soap;
 - (I) an elastic bandage;
 - (J) tweezers; and
 - (K) a bottle of water for washing and cleansing.

*Note: KDHE is aware of the numbering error in K.A.R. 28-4-128(c) and is working to fix it.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended Feb. 26, 1990; amended August 2, 2024.)

K.A.R. 28-4-129. Swimming and wading activities. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the requirements of this regulation are met.

- (a) Pools, hot tubs, and spas on the premises.
 - (1) No child shall have unsupervised access to a pool, a hot tub, or a spa.
 - (2) If a pool, a hot tub, or a spa is on the premises, it shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.

- (3) Required staff-child ratios shall be maintained at all times that children are involved in swimming or wading activities.
 - (4) The number and ages of children using a pool shall be limited to allow supervision by each individual caring for children.
 - (5) Legible safety rules for the use of each pool shall be posted in a clearly visible location near the pool area.
 - (6) Each individual responsible for the supervision of any child using a pool shall review the safety rules with each child before the child participates in the activity.
- (b) Pools on the premises. Pools containing less than 12 inches of water and not permanently affixed to the premises shall be exempt from this subsection. If a pool is on the premises, the following requirements shall be met:
- (1) Each inground pool shall be enclosed by a fence at least five feet high, with openings no greater than 3.5 inches, and constructed and maintained in good repair to discourage children and unwanted visitors from accessing the pool area. The wall of a building may be used as one side of the fence if the wall has no openings, including windows and doors, capable of providing direct access to the pool area.
 - (2) Each gate in the fence shall be at least five feet high, self-closing, self-locking, and kept closed and locked.
 - (3) Each aboveground pool shall have non-climbable sidewalls that are at least four feet high, or shall be enclosed by a fence at least five feet high to prevent chance access by children. The fence and the gate shall meet the requirements in paragraphs (b)(1) and (b)(2). Steps and ladders 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 inground pool.
 - (4) Sensors shall not be used in lieu of a fence.
 - (5) Water in the pool 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.
 - (6) 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 1.5 parts per million.
 - (7) 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. The results of these tests shall be recorded and available for review by the secretary's designee.

- (8) Each pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool. The equipment shall be available at all times, including times when the pool is not in use.
- (9) 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.
- (c) Hot tubs or spas on the premises. If a hot tub or a spa is on the premises, the following requirements shall be met:
 - (1) Each hot tub and each spa shall be covered with an insulated, rigid cover secured by straps or locks or surrounded by a fence and gate that meets the requirements of paragraphs (b)(1) and (b)(2).
 - (2) Children in facilities shall not be permitted to use a hot tub or a spa. Children in residential centers and group boarding homes shall be permitted to use hot tubs when medically indicated.
- (d) Ponds and lakes. Ponds and lakes may be used for wading or swimming only by children over six years of age, and shall be approved for swimming by the local health department, the department, or the designated authority in the state in which the wading or swimming site is located. Required staff-child ratios shall be maintained at all times, and a certified life guard shall be on duty.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended Feb. 26, 1990; amended August 2, 2024.)

K.A.R. 28-4-130. Transportation. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this regulation are met when the facility, residential center, or group boarding home arranges for or provides transportation for children in care.

- (a) Each driver shall be at least 18 years of age.
- (b) Each driver shall hold 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.
- (c) Each driver shall be informed of the requirements of this regulation.
- (d) Each transporting vehicle shall be maintained in safe operating condition.
- (e) Each transporting vehicle owned or leased by the facility, residential center, or group boarding home shall have an annual mechanical safety check. The safety check shall be documented on a form provided by the department. A record of the date of the safety check and corrections made shall be kept on file at the facility, residential center, or group boarding home.

- (f) Trailers, camper shells, or truck beds shall not be used for transportation of children.
- (g) Fifteen-passenger vans shall not be used to transport children. Any 15-passenger van purchased or leased before December 31, 2023, shall be exempt from this requirement.
- (h) Each vehicle shall be covered by accident and liability insurance in an amount of not less than \$100,000 for personal injury or death in any one accident, \$300,000 for injury or death to two or more persons in any one accident; and \$50,000 for loss to property of others.
- (i) Emergency release forms and health assessment records shall be in the vehicle when children enrolled in residential centers or group boarding homes are transported more than 60 miles from the residential center or group boarding home, or if children are in emergency medical care.
- (j) Each transporting vehicle owned or leased by the facility, residential center, or group boarding home shall have a first-aid kit that meets the requirements in K.A.R. 28-4-128.
- (k) The following requirements regarding the use of seat belts and child safety seats shall apply:
 - (1) Each individual shall be secured by the use of a seat belt or a child safety seat when the vehicle is in motion.
 - (2) No more than one individual shall be secured in any seat belt or child safety seat.
 - (3) Each seat belt shall be properly anchored to the vehicle.
 - (4) When a child safety seat, including a booster seat, is required, the seat shall meet the following requirements:
 - (A) Has current federal approval;
 - (B) has a label with the date of manufacture, date of expiration, and model number;
 - (C) according to the label, is not past the expiration date;
 - (D) has not been recalled;
 - (E) has no missing parts or cracks in the frame;
 - (F) has not been in a crash;
 - (G) is installed according to the manufacturer's instructions and vehicle owner's manual;

- (H) is appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions and state statutes and regulations; and
- (I) is properly maintained.
- (5) The manufacturer's instructions for use shall be kept on file at the facility, residential center, or group boarding home.
- (l) For each child younger than five years of age after August 31 of the current school year, each facility, residential center, or group boarding home shall utilize an age and size-appropriate child safety restraining system when transporting a child in a school bus or a bus operated by a common carrier.
- (m) The safety of each child riding in each vehicle shall be protected as follows:
 - (1) All doors shall be locked while the vehicle is in motion.
 - (2) Discipline shall be maintained at all times.
 - (3) All parts of each child's body shall remain inside the vehicle at all times.
 - (4) No child shall either enter or exit the vehicle into a lane of traffic.
 - (5) No child shall be left in a vehicle unattended by an adult.
 - (6) When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.
 - (7) Tobacco product use in the vehicle shall be prohibited while children are being transported.
 - (8) No cell phone or other electronic device shall be used by the driver when the vehicle is in motion. If a cell phone or electronic device is used for navigation, it shall be in hands-free mode only.
 - (9) Each facility shall maintain applicable staff-child ratios in the vehicle when children are being transported.
 - (10) Residential centers and group boarding homes shall maintain applicable staff-child ratios when children under six are being transported.
- (n) A copy of the requirements in subsection (m) shall be posted in each vehicle or given to each driver.
- (o) Each child shall be transported directly to the location designated by the applicant with a temporary permit or the licensee. No unauthorized stops shall be made along the way, except in an emergency.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended August 2, 2024.)

K.A.R. 28-4-131. Animals. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for any animals on the premises.

- (a) If any animal is kept on the premises, each area in which the animal is permitted shall be maintained in a sanitary manner. There shall be no evidence of disease, flea, tick, or worm infestation.
- (b) No animal shall be in the kitchen while food is being prepared.
- (c) Parents and legal guardians shall be informed whenever children in care have access to animals at the facility.
- (d) Each domesticated dog and each domesticated cat shall have a current rabies vaccination given by a licensed veterinarian or a person acting under the direct supervision of a veterinarian as specified in K.S.A. 21-1213, and amendments thereto. A record of vaccinations shall be kept on file at the facility.
- (e) When animals that represent a possible risk of harm to children are on the premises, children shall be protected from them.
- (f) Any non-domesticated or aggressive animal, including animals that have a history of inflicting injury or have shown signs of aggression, shall be prohibited, unless the animals are in an animal exhibit and are under the control of professional animal care personnel presenting the exhibit.
- (g) Before handling any animal, each child in care shall be taught safety procedures to follow when handling them.
- (h) Each contact between a child and an animal shall be supervised by an adult who is close enough to intervene immediately if either of the following circumstances occurs:
 - (1) The animal shows signs of distress or aggression; or
 - (2) the child shows signs of treating the animal inappropriately.
- (i) Each individual shall wash that individual's hands after feeding or handling any animal. Each individual caring for children shall ensure each child washes that child's hands or be assisted in washing that child's hands after feeding or handling any animal.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended Feb. 26, 1990; amended August 2, 2024.)

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

- (a) Supervision. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that supervision is provided by a person 16 years of age or older who is responsible for the health, safety, and well-being of each child in care.
- (b) Behavior management practices.
 - (1) Behavior management practices shall be consistent with the goals and purposes of the program and appropriate to the age and developmental level of the child.
 - (2) Each individual caring for children shall practice methods of behavior management that are designed to help each child develop inner controls and manage the child's own behavior in a socially acceptable manner. No individual caring for children shall use prohibited methods of punishment.
 - (3) Each applicant, each applicant with a temporary permit, and each licensee shall develop and implement a written discipline policy indicating the methods of guidance appropriate for the ages of the children in care. Parents and legal guardians shall be informed of the policy.
- (c) Prohibited punishment. Punishment that is humiliating, frightening, or physically harmful to any child shall be prohibited.
 - (1) Prohibited methods of punishment. Prohibited methods of punishment shall include the following:
 - (A) Corporal punishment, including hitting with the hand or any implement, slapping, swatting, shaking, pulling hair, yanking the arm, excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the child's health or safety;
 - (B) mental and emotional cruelty, including verbal abuse, threats, derogatory remarks about the child or the child's family, or statements which tend to shame, humiliate, or frighten the child;
 - (C) binding or tying the child to restrict movement;
 - (D) confining the child in a high chair, a play yard, a crib, a closet, a locked room or area, a box, or a similar enclosure;
 - (E) withholding or forcing foods, toilet use, or rest; and
 - (F) placing soap or any other substances that stings, burns, or has a bitter taste in the child's mouth, on the tongue or on or in any other part of the child's body.
 - (2) Each individual who cares for children shall be prohibited from giving any child

any medications, herbal or folk remedies, or drugs to control or manage behavior, unless prescribed by a licensed physician, physician assistant, or advanced practice registered nurse.

- (d) Hand washing. Hands shall be washed using soap and warm running water and dried with an individual towel or disposable product. When cloth towels and washcloths are used, they shall be labeled with the child's name, and shall be laundered at least weekly. When soap and running water are not readily available, an alcohol-based hand sanitizer may be used only by adults and, under adult supervision, by children two years of age and older.
 - (1) Each individual caring for children shall wash that individual's hands as needed when hands are soiled and when each of the following occurs:
 - (A) At the start of the hours of operation or when first arriving at the facility;
 - (B) returning from being outdoors;
 - (C) after toileting, diapering, assisting a child with toileting, or handling any bodily fluids;
 - (D) before preparing each snack and each meal and before and after eating each snack and each meal;
 - (E) before and after administering any medication; and
 - (F) after feeding or handling any animal.
 - (2) Each individual caring for children shall ensure each child washes that child's hands or be assisted in washing that child's hands as needed when hands are soiled and when each of the following occurs:
 - (A) First arriving at the facility;
 - (B) returning from being outdoors;
 - (C) after toileting, being diapered, or changing wet or soiled clothing;
 - (D) before and after eating each snack and each meal; and
 - (E) after feeding or handling any animal.
- (e) Clothing, diapers, and bedding. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the following requirements are met for clothing, diapers, and bedding:
 - (1) Each child's clothing, diaper, training pants, or bedding shall be changed without delay whenever wet or soiled. The diaper or training pants of each child shall be checked at least every two hours to determine if a change is needed.

- (2) Each child under three years of age shall have at least two complete changes of clothing available.
- (f) Hand washing sinks. Sinks for hand washing shall be in or readily accessible to each diaper-changing area and each toileting area.
 - (g) Diapering. This subsection shall apply if any child in care requires diapering.
 - (1) Each applicant, each applicant with a temporary permit, each licensee, and each individual caring for children shall follow the diapering procedures provided by the department.
 - (2) A copy of the procedures shall be posted in each diaper-changing area.
 - (3) Each area used for diaper changing shall meet the following requirements:
 - (A) Be located in an area away from the food preparation area;
 - (B) be located in an area that allows the individual who is changing a diaper to maintain supervision of the other children in care; and
 - (C) have a covered, hands-free trash container located within reach of the changing surface.
 - (4) Each child in a family child care home shall be diapered in the child's own crib or playpen, on a clean, moisture-proof, nonabsorbent pad on the floor, or on a changing table.
 - (5) Each infant unit and each toddler unit in a child care center shall have a changing table.
 - (6) No child shall be left unattended on a diaper-changing surface.
 - (7) If a changing table is used, the table shall meet the following requirements:
 - (A) Have a moisture-proof, nonabsorbent, smooth surface that is undamaged, does not trap soil, and is easily cleaned;
 - (B) be sturdy;
 - (C) be equipped with railings or with safety straps that are secured to the changing table; and
 - (D) if equipped with safety straps, have straps that are easily cleaned and disinfected after each diaper change.
 - (8) Washable diapers or training pants shall not be rinsed out. They shall be stored in

a labeled covered container or plastic bag and returned to the parent or legal guardian.

- (9) Disposable diapers and disposable training pants shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control. Each covered container used for disposable diapers and disposable training pants shall be cleaned and disinfected at the end of each day.
 - (10) Each diaper-changing surface shall be cleaned and disinfected after each use. The surface shall be cleaned by removing any visible soil from the surface with a water saturated disposable paper towel or wipe. After the surface has been cleaned, the surface shall be disinfected.
- (h) Toilet training. This subsection shall apply if any child in care is learning to use the toilet.
- (1) Toilet training shall begin when the individual caring for children or program director and the parent or legal guardian of a child determine that the child is ready for toilet training.
 - (2) No child shall be forced to participate in toilet training if the child is not ready.
 - (3) No child shall be punished or shamed for toileting accidents.
 - (4) If a toilet training device is used, the following requirements shall be met:
 - (A) Each toilet training device shall be used and stored in the bathroom.
 - (B) The wastes shall be disposed of immediately in a flush toilet.
 - (C) Each toilet training device, including the container shall be cleaned and disinfected after each use.
 - (D) Toilet training devices shall not be counted as toilets.
- (i) Medication administration.
- (1) Each individual caring for children shall complete medication administration training before administering any medication to any child, as specified in K.A.R. 28-4-114a and K.A.R. 28-4-428a.
 - (2) If nonprescription medication is to be administered to a child, each individual caring for children shall meet the following requirements:
 - (A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;

- (B) require that each medication supplied by a parent or legal guardian for the child be in the original container;
 - (C) ensure that the container is labeled with the first and last name of the child for whom the medication is intended; and
 - (D) administer each medication according to the instructions on the label.
- (3) If prescription medication is administered to a child, each individual caring for children shall meet the following requirements:
- (A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;
 - (B) keep each medication in the original container labeled by a pharmacist, with the following information:
 - (i) The child's first and last name;
 - (ii) the name of the licensed physician, physician assistant (PA), or advanced practice registered nurse (APRN) who ordered the medication;
 - (iii) the date the prescription was filled;
 - (iv) the expiration date of the medication; and
 - (v) specific, legible instructions for administration and storage of the medication;
 - (C) consider the instructions on each label to be the order from the licensed physician, PA, or APRN;
 - (D) administer the medication only to the child designated on the prescription label; and
 - (E) administer the medication in accordance with the instructions on the label.
- (4) Documentation of each medication administered shall be kept on a form provided by the department and maintained in each child's file.
- (5) A copy of the documentation of each medication administered shall be made available to the parent or legal guardian of the child.
- (j) Each residential center and group boarding home shall be exempt from subsections (a) through (c).

(Authorized by and implementing K.S.A. 65-508; effective Feb. 26, 1990; amended August 2,

2024.)

K.A.R. 28-4-133. Reporting critical incidents. This regulation shall apply to each facility.

- (a) Reports to parents and legal guardians. Each primary care provider and each program director shall ensure that each of the following critical incidents is immediately reported to the parent or legal guardian of any child affected by the critical incident:
 - (1) Fire damage or other damage to the facility, or any damage to the property that affects the structure of the facility or the safety of the children in care;
 - (2) a vehicle collision involving any child in care;
 - (3) a missing child;
 - (4) an injury to a child that requires treatment by a health care professional;
 - (5) an injury to a child by any animal;
 - (6) the death of any of the following:
 - (A) A child; or
 - (B) a staff member in the facility; and
 - (7) any other occurrence that jeopardizes the safety of any child in care.
- (b) Written reports to the department. Each primary care provider and each program director shall ensure that a written report of any critical incident specified in subsection (a) is submitted by the next working day to the department. The report shall be submitted on a form provided by the department. A copy of each critical incident report shall be kept on file at the facility for at least one year from the date of the critical incident.

(Authorized by and implementing K.S.A. 65-508; effective Dec. 27, 2019; amended August 2, 2024.)

REGULATIONS FOR FAMILY CHILD CARE HOMES

K.A.R. 28-4-113. Definitions.

- (a) “Applicant” means a person who has applied for a license but who has not yet been granted a license to operate a facility.
- (b) “Applicant with a temporary permit” means a person who has applied for a license and who has been granted a temporary permit to operate a facility.
- (c) “Care provider” and “provider” mean an individual who cares for and supervises children in a facility and has responsibility for the health, safety, and well-being of children, including the following:
 - (1) A primary care provider;
 - (2) an individual who is at least 16 years of age and who is working in the facility; and
 - (3) a substitute.
- (d) “Department” means Kansas department of health and environment.
- (e) “Disinfect” means full surface application of a disinfectant solution of fragrance-free, environmental protection agency (EPA)-registered chlorine bleach mixed according to the directions on the label or an alternate fragrance-free, EPA-registered disinfectant used according to the directions on the label to any inanimate object.
- (f) “Evening care” means care after 6:00 p.m. and before 1:00 a.m. the following day for children enrolled at a facility and present during operating hours.
- (g) “Extended absence” means time away from a facility for a period of more than three hours in a day.
- (h) “Facility” means a family child care home, a day care home, or a group day care home.
- (i) “Family child care home,” “day care home,” or “group day care home” means the premises on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age as specified in K.A.R. 28-4-114(e).
- (j) “Fire inspector” means a person approved by the state fire marshal to conduct fire safety inspections.
- (k) “Large motor activity” means any movement involving the arms, legs, feet, or entire body, including crawling, running, and jumping.
- (l) “License capacity” means the maximum number of children who are authorized to be on

the premises 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 or who practices either medicine and surgery or osteopathy in another state and is licensed under the licensing statutes of that state.
- (n) “Licensee” means a person who has been granted a license to operate a facility.
- (o) “Medical record” means the immunization record, health assessment, and medical history of each child.
- (p) “Overnight care” means care after 1:00 a.m. and before 6:00 a.m. the same day for children enrolled at a facility and present during operating hours.
- (q) “Primary care provider” means an applicant with a temporary permit, a licensee, or the designee of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.
- (r) “Professional development training” means training approved by the secretary that is related to working with children in care.
- (s) “Sanitize” means full surface application of an EPA regulated food-safe sanitizing solution or heat treatment of any inanimate object used for food preparation or service.
- (t) “Small motor activity” means any movement involving the hands or fingers, including using scissors, brushing teeth, and threading beads.
- (u) “Substitute” means an individual who supervises children in the temporary absence or extended absence of the primary care provider and who meets the following requirements:
 - (1) In the temporary absence of the primary care provider, the substitute shall be at least 16 years of age and shall meet all of the requirements specified in K.A.R. 28-4-114a.
 - (2) In the extended absence of the primary care provider, the substitute shall be at least 18 years of age and shall meet all of the requirements specified in K.A.R. 28-4-114a.
- (v) “Temporary absence” means time away from a facility for a period not to exceed three hours in a day.
- (w) “Tobacco product” means any product that is made or derived from tobacco, or that contains nicotine, that is intended for human absorption, inhalation, or ingestion, including by consuming or using a cigarette, cigar, pipe, chewing tobacco, snuff, snus, or vape device.

- (x) “Use zone” means the surface under and around a piece of equipment onto which a child falling from or exiting the equipment would be expected to land.
- (y) “Visual motor activity” means any movement involving the coordination of hand or body movements with vision, including drawing, throwing items, or catching items.
- (z) “Weapons” means any of the following:
 - (1) Firearms;
 - (2) ammunition;
 - (3) air-powered guns, including BB guns, pellet guns, and paint ball guns;
 - (4) hunting and fishing knives;
 - (5) archery equipment; or
 - (6) martial arts equipment.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-503 and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended August 2, 2024.)

K.A.R. 28-4-114. Applicant; licensee.

- (a) Application process.
 - (1) Any person desiring to operate a facility shall apply for a license on forms provided by the department.
 - (2) Each applicant and each licensee shall submit the fee specified in K.A.R. 28-4-92 for a license or for the renewal of a license. The applicable fee shall be submitted at the time of license application or renewal and shall not be refundable.
 - (3) The granting of a license to any applicant or applicant with a temporary permit may be refused by the secretary if the applicant or applicant with a temporary permit is not in compliance with the applicable requirements of the following:
 - (A) K.S.A. 65-504 through 65-506, and amendments thereto;
 - (B) K.S.A. 65-508, and amendments thereto;
 - (C) K.S.A. 65-512, and amendments thereto;
 - (D) K.S.A. 65-530 and 65-531, and amendments thereto; and

- (E) all regulations governing facilities.
- (4) Failure to submit the application forms and fee for renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.
- (b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee, if an individual, shall meet the following requirements:
- (1) Be at least 18 years of age;
 - (2) not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and
 - (3) not be engaged in either business or social activities that interfere with the care or supervision of children.
- (c) Multiple child care facilities.
- (1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503, and amendments thereto, shall maintain each child care facility as a separate entity.
 - (2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.
- (d) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.
- (e) Maximum group size for family child care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.
- (1) The maximum group size for a family child care home shall be the following:

TABLE I – MAXIMUM GROUP SIZE, ONE PROVIDER

| Maximum Number of Children Under 12 Months | Maximum Number of Children at Least 12 Months but Under 5 Years of Age | Maximum Number of Children at Least 5 Years but Under 10 Years of Age | Maximum Group Size |
|--|--|---|--------------------|
| 0 | 8 | 2 | 10 |
| 1 | 6 | 3 | 10 |
| 2 | 5 | 2 | 9 |
| 3 | 3 | 2 | 8 |

TABLE II – MAXIMUM GROUP SIZE, ONE PROVIDER

| Ages of Children Enrolled | Maximum Group Size |
|--|--------------------|
| At Least 2.5 Years but Under 10 Years of Age | 10 |
| At Least 3 Years but Under 10 Years of Age | 11 |
| At Least 5 Years but Under 10 Years of Age | 12 |

TABLE III – MAXIMUM GROUP SIZE, TWO PROVIDERS*

| Maximum Number of Children Under 12 Months | Maximum Number of Children at Least 12 Months but Under 5 Years of Age | Maximum Number of Children at Least 5 Years but Under 10 Years of Age | Maximum Group Size* |
|--|--|---|---------------------|
| 0 | 10 | 2 | 12 |
| 1 | 9 | 2 | 12 |
| 2 | 8 | 2 | 12 |
| 3 | 7 | 2 | 12 |
| 4 | 5 | 3 | 12 |
| 5 | 4 | 3 | 12 |

*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.

- (2) If the ages of children enrolled are at least 2.5 years but under 10 years of age, the maximum group size for two providers is 12.
- (3) Children at least 10 years of age but under 16 years of age unrelated to the provider on the premises for the purpose of receiving child care in the facility shall be included in the maximum group size if child care for this age group as a whole exceeds five hours a week.
- (f) Developmental levels. Any child who does not function according to age-appropriate expectations shall be counted in the age group that reflects the developmental age level of the child.
- (g) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for additional children permitted in subsection (i).
- (h) Group size not exceeded. Except as provided by subsection (i), each applicant with a temporary permit and each licensee shall ensure the following requirements are met:
 - (1) The maximum number of children in each age category, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum number of children in each age

category as specified in subsection (e), except as specified in paragraph (h)(3).

- (2) The total number of children on the premises, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum group size based on the age of the youngest child present and the number of providers present as specified in subsection (e).
 - (3) For each child under five years of age not in attendance, the maximum number of children ages five and older may be increased by one. The total number of children in attendance shall not exceed the maximum group size.
- (i) Additional children on the premises. In addition to the number of children permitted under the terms of the temporary permit or the license and specified in subsection (e), other children may be permitted on the premises.
- (1) Not more than two additional children 2.5 years of age or older who attend part-day preschool or part-day kindergarten may be present at any time between the hours of 11:00 a.m. and 1:00 p.m. for the noon meal on days that school is in session.
 - (2) Not more than two additional children at least five years of age but under 10 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. The additional children may be present as follows:
 - (A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and
 - (B) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.
 - (3) Not more than two additional children 10 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:
 - (A) The additional children are not on the premises for the purpose of receiving child care in the facility.
 - (B) The additional children are visiting the applicant's or the licensee's own child or children.
 - (C) The additional children are supervised by a provider if they have access to the children in care.
- (j) Substitute. Each applicant with a temporary permit and each licensee shall arrange for a

substitute to care for children in the event of a temporary absence or extended absence of the primary care provider.

- (k) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post any temporary permit or license conspicuously as required by K.S.A. 65-504, and amendments thereto. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.
- (l) Closure. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, any temporary permit or license granted to the applicant or licensee for that facility shall become void.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504, K.S.A. 65-505, and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended August 2, 2024.)

K.A.R. 28-4-114a. Initial and ongoing professional development training. If an applicant, an applicant with a temporary permit, or a licensee is not an individual, the applicant, applicant with a temporary permit, or licensee shall designate an individual to meet the requirements of this regulation.

- (a) Orientation.
 - (1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a facility, provided by the secretary's designee that serves the county in which the facility will be located.
 - (2) Each applicant, each applicant with a temporary permit, and each licensee shall provide orientation to each provider about the policies and practices of the facility, including duties and responsibilities for the care and supervision of children enrolled. Each provider shall complete the orientation before the provider is given sole responsibility for the care and supervision of children. The orientation shall include the following:
 - (A) Licensing regulations;
 - (B) the policies and practices of the facility, including emergency procedures, behavior management, and discipline;
 - (C) the schedule of daily activities;
 - (D) care and supervision of children in care, including any special needs and known allergies;
 - (E) health and safety practices; and

- (F) confidentiality.
- (b) Health and safety training. Each applicant, each applicant with a temporary permit, each licensee, and each provider shall complete health and safety training approved by the secretary.
- (1) Each applicant and each applicant with a temporary permit shall complete the training not later than 30 calendar days after submitting an application for a license.
 - (2) Each provider shall complete the training before the date of employment or not later than 30 calendar days after the date of employment. Each provider shall complete the training before being given sole responsibility for the care and supervision of children.
 - (3) The health and safety training shall include the following subject areas:
 - (A) Recognizing the signs of child abuse or neglect, knowledge on the prevention of child maltreatment, shaken baby syndrome and abusive head trauma, and the reporting of suspected child abuse or neglect;
 - (B) basic child development, including:
 - (i) supervision of children;
 - (ii) cognitive, social, emotional, physical development; and
 - (iii) approaches to learning;
 - (C) safe sleep practices and sudden infant death syndrome;
 - (D) recognizing when a child is ill and prevention and control of infectious diseases, including immunizations;
 - (E) prevention of and response to emergencies due to food and allergic reactions;
 - (F) building and premises safety, including identification of and protection from hazards that could cause bodily injury, including electrical hazards, bodies of water, and vehicular traffic;
 - (G) emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event, including violence at a facility;
 - (H) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants, including blood and other bodily fluids or waste;

- (I) precautions when transporting children, if transportation is provided; and
 - (J) medication administration training.
- (c) Pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) certifications. Each applicant, each applicant with a temporary permit, each licensee, and each provider shall obtain certification in pediatric first aid and pediatric CPR as specified in this subsection.
 - (1) Certifications shall include a practical application component and be demonstrated in front of an instructor certified by a nationally recognized first aid and CPR training organization.
 - (2) Each applicant and each applicant with a temporary permit shall obtain the certifications not later than 30 calendar days after submitting an application for a license.
 - (3) Each provider shall obtain the certifications before the date of employment or not later than 30 calendar days after the date of employment.
 - (4) Each individual required to obtain the certifications shall maintain current certifications.
 - (5) Each applicant with a temporary permit and each licensee shall ensure that at least one provider who has current certification in pediatric first aid and current certification in pediatric CPR is present at all times.
- (d) Annual professional development training requirements.
 - (1) For purposes of this subsection, “licensure year” shall mean the period beginning on the effective date and ending on the expiration date of a license.
 - (2) In each licensure year, each provider shall complete 16 clock-hours of professional development training. Four of the 16 clock-hours shall include the subject areas specified in paragraphs (b)(3)(A), (b)(3)(C) through (J), or subsection (c).
- (e) Documentation. Documentation of all orientation, training, and certifications for each individual shall be kept in that individual’s file in the facility.

(Authorized by and implementing K.S.A. 65-508; effective Feb. 3, 2012; amended May 12, 2017; amended August 2, 2024.)

K.A.R. 28-4-115. Facility.

- (a) Water supply and sewerage systems. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that public water and sewerage systems, where available, are used. If a nonpublic source for the water supply is used, the water shall be

safe for drinking and shall be tested annually by a department-certified laboratory. If a well is used, the well shall be approved by the local authority for private well permitting, the department, or a licensed water well contractor. A copy of the test results and the approval shall be kept on file at the facility. Each private sewerage system shall be maintained in compliance with all applicable state and local laws.

- (b) Drinking water for children under 12 months of age. If children under 12 months of age are enrolled in a facility using water from a nonpublic source, including private well water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms that the nitrate content of the private well water is not more than 10 milligrams per liter (10 mg/l) as nitrogen.
- (c) General environmental requirements. Each facility shall have 25 square feet of available play space per child and shall be constructed, arranged, and maintained to provide for the health and safety of children in care. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the facility meets the following requirements:
 - (1) Has walls that are in good condition;
 - (2) is skirted and anchored if a mobile home;
 - (3) has a 2A 10B:C fire extinguisher;
 - (4) has a working smoke detector on each level of the facility;
 - (5) is uncluttered, visibly clean, and free from any evidence of vermin infestation and any objects or materials that constitute a danger to children in care;
 - (6) has kitchen and outdoor trash and garbage in covered containers or in tied plastic bags;
 - (7) meets all of the following requirements for each heating appliance:
 - (A) Has a protective barrier for each freestanding heating appliance to protect from burns; and
 - (B) has each heating appliance using combustible fuel vented to the outside;
 - (8) has each electrical outlet covered or inaccessible to prevent easy access by a child when the outlet is not in use;
 - (9) has any power strip or extension cord positioned in a manner that prevents a tripping or shock hazard;
 - (10) has each stairway with more than two stairs railed;
 - (11) if any children under 2.5 years of age are in care, meets all of the following requirements:

- (A) Has each stairway equipped with balusters not more than four inches apart or guarded to prevent a child's head or body from falling through;
 - (B) has each stairway guarded by a secured door or gated to prevent unsupervised access by the child, including a latching device that an adult can open readily in an emergency;
 - (C) does not have any accordion gate in use; and
 - (D) does not have a pressure gate at the top of any stairway;
- (12) has a readily available second means of escape from the first floor;
 - (13) has each lockable interior door designed to permit the door to be unlocked from either side in case of an emergency;
 - (14) is maintained at a temperature of not less than 65 degrees Fahrenheit and not more than 85 degrees Fahrenheit in the play area;
 - (15) does not have any window coverings with strings or cords accessible to children in care;
 - (16) has at least one bathroom with at least one sink and one flush toilet. All fixtures shall be in working order at all times. An individual towel and washcloth or disposable products shall be provided for each child. The use of common towels shall be prohibited. Hand soap shall be readily accessible in each bathroom; and
 - (17) has interior and exterior surfaces of the facility that are free from peeling, chipping, cracking, scaling, and loose paint.
- (d) Fire safety. Each facility shall be approved for fire safety by a fire inspector.
 - (e) Basements and other floors. A basement or a second floor used for child care in a facility shall be approved for fire safety by a fire inspector before use. A third floor shall not be used for child care.
 - (f) Refrigerator. A refrigerator shall be available for the storage of perishable foods. Refrigerated medications shall be in a locked box.
 - (g) Storage, handling, and disposal of hazardous items. The following hazardous items shall be safely stored, handled, and disposed:
 - (1) All household supplies, cleaning supplies, dangerous chemicals, and all bodily care products containing alcohol or bearing warning labels to keep out of reach of children shall be in locked storage or stored out of reach of children under six years of age. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a sink.

- (2) All medications shall be in locked storage or stored out of the reach of children under 10 years of age.
 - (3) Chemicals and cleaning supplies shall be used and disposed of in accordance with the product safety label.
 - (4) Sharp instruments shall be stored in drawers or cabinets equipped with childproof devices to prevent access by children or stored out of reach of children.
 - (5) Tobacco products, ashtrays, lighters, and matches shall be stored out of reach of children.
- (h) Storage of weapons. No child in care shall have access to weapons. All weapons shall be stored in a locked room, closet, container, or cabinet. Ammunition shall be kept in locked storage separate from other weapons.
- (i) Outdoor play area. The designated area for outdoor play and large motor activities on the premises shall meet all of the following requirements:
- (1) The outdoor play area shall be fenced if the play area adjoins that of another child care facility, as defined in K.S.A. 65-503, and amendments thereto, or if the area surrounding, or the conditions existing outside, the play area present hazards that could be dangerous to the safety of the children, which may include any of the following:
 - (A) A fish pond or a decorative pool containing water;
 - (B) railroad tracks; or
 - (C) a water hazard, including a ditch, a pond, a lake, and any standing water.
 - (2) Outdoor play equipment that is safely constructed and in good repair shall be available and placed in an area free of health, safety, and environmental hazards.
 - (3) The use of a trampoline shall be prohibited during the hours of operation of the facility. If a trampoline is on the premises, the trampoline shall be made inaccessible to children during the facility's hours of operation.
 - (4) Climbing equipment and swings shall be either anchored in the ground with metal straps or pins or set in cement, to prevent movement of the equipment and swings.
 - (5) All surfaces under and around climbing equipment and swings shall meet the following requirements:
 - (A) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored equipment over four feet in height, including climbing equipment, slides, and swings.

- (B) Impact-absorbent surfacing material shall consist of material intended for playground use, including shredded bark mulch, wood chips, fine sand, fine gravel, shredded rubber, unitary surfacing material, or synthetic impact material.
- (C) Hard-surfacing materials, including asphalt and concrete, shall not be used in any use zone. Hard-packed dirt shall be covered with an impact-absorbent surfacing material as specified in paragraph (i)(5)(B). This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.
- (D) Surfaces made of loose material shall be maintained by replacing, leveling, or raking the material.
- (6) Swings shall not have wooden or metal seats.
- (7) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under five years of age.
- (j) Each facility licensed on and after March 1, 2012 shall have a designated area for outdoor play and large motor activities as part of the licensed premises.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 65-530; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended Feb. 3, 2012; amended August 2, 2024.)

K.A.R. 28-4-115a. Supervision.

- (a) Supervision plan.
 - (1) Each applicant, each applicant with a temporary permit, and each licensee shall develop a supervision plan for children in care that includes all age ranges of children for whom care will be provided. A copy of the plan shall be available for review by the parents or legal guardians of children in care and by the department. The plan shall include the following:
 - (A) A description of the rooms, levels, or areas of the facility including indoor and outdoor areas in which the child will participate in activities, have snacks or meals, nap, or sleep;
 - (B) the manner in which supervision will be provided; and
 - (C) any arrangements for the provision of evening or overnight care.
 - (2) Each applicant, each applicant with a temporary permit, and each licensee shall

update the supervision plan when changes are made in any of the requirements of paragraph (a)(1).

- (3) Each provider shall follow the supervision plan.
- (b) General supervision requirements. Each applicant with a temporary permit and each licensee shall ensure that supervision is provided as necessary to protect the health, safety, and well-being of each child in care.
- (1) Each child in care shall be under the supervision of a provider who is responsible for the child's health, safety, and well-being.
 - (2) Each provider shall be aware at all times of the location of each child in that provider's care and the activities in which the child is engaged. Each provider shall perform the following:
 - (A) Interact with the child and attend to the child's needs;
 - (B) respond immediately if the child is crying or in distress in order to determine the cause and to provide comfort and assistance;
 - (C) investigate immediately any change in the activity or noise level of the child; and
 - (D) respond immediately to any emergency that could impact the health, safety, and well-being of the child.
 - (3) No provider shall engage in business, social, or personal activities that interfere with the care and supervision of children.
 - (4) If used, electronic monitoring devices, including infant monitors, shall not replace any of the supervision requirements of this regulation.
- (c) Indoor supervision requirements. When any child is indoors, each provider shall ensure that all of the following requirements are met, in addition to the requirements of subsection (b):
- (1) For each child who is under 2 1/2 years of age and who is awake, the provider shall be within sight of and in proximity to the child, watching and overseeing the activities of the child. When the provider is attending to personal hygiene needs or engaging in other child care duties and is temporarily unable to remain within sight of the child, the provider shall meet all of the following conditions:
 - (A) The provider has first ensured the safety of each child.
 - (B) The provider is able to respond immediately to any child in distress.
 - (C) The provider remains within hearing distance of each child.

- (2) For each child 2 1/2 years of age and older who is awake, the provider may permit the child to go unattended to another room within the facility to engage in activities if all of the following conditions are met:
 - (A) The provider determines, based on observations of the child's behavior and information from the parent or legal guardian, that the child can go unattended to another room within the facility.
 - (B) The door to each room remains open.
 - (C) The provider remains within hearing distance of the child.
 - (D) The provider visually checks on the child and responds as necessary to meet the needs of the child.
- (3) Each applicant with a temporary permit and each licensee shall ensure that supervision is provided for each child who is napping or sleeping.
 - (A) Each child who is napping or sleeping shall be within sight or hearing distance of the provider and shall be visually checked on by the provider at least once every 15 minutes.
 - (B) The provider shall meet all of the requirements of K.A.R. 28-4-116a for any child who is under 12 months of age and is napping or sleeping.
 - (C) When any child is napping or sleeping in a room separate from the provider, the door to that room shall remain open.
 - (D) When a child awakens and is ready to get up, the provider shall attend to the child's needs and assist the child in moving to another activity.
- (d) Outdoor supervision requirements. When any child is outdoors, each provider shall ensure that all of the following requirements are met, in addition to the requirements of subsection (b):
 - (1) For each child under five years of age, the provider shall be outdoors at all times and remain within sight of and in proximity to each child, watching and directing the activities of the child.
 - (2) For each child five years of age and older, the provider may permit the child to go unattended to the facility's designated outdoor play area on the premises if all of the following conditions are met:
 - (A) The designated play area on the premises is enclosed with a fence.
 - (B) The provider determines that the area is free of any potential hazards to the health and safety of the child.

- (C) The provider remains within hearing distance of the child.
 - (D) The provider visually checks on the child and responds as necessary to meet the needs of the child.
- (e) Evening care and overnight care. Each applicant with a temporary permit and each licensee who provide evening care or overnight care shall ensure that the following requirements are met:
- (1) All requirements of subsections (a) through (d) shall be met.
 - (2) When overnight care is provided in a day care home, at least one provider shall remain awake at all times.
 - (3) When overnight care is provided in a group day care home, a second provider shall remain awake at all times if the number of children who are awake exceeds the requirements of K.A.R. 28-4-114 (e), table I.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012.)

K.A.R. 28-4-116. Daily care of children.

- (a) Daily activities.
 - (1) Each applicant with a temporary permit and each licensee shall provide daily activities that promote healthy growth and development, take into consideration the cultural background and traditions that are familiar to the children, and incorporate both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care.
 - (2) Each child shall be offered a choice of activities and the opportunity to participate. Age-appropriate toys, play equipment, books, and other learning materials shall be available in sufficient quantities to allow each child a choice of activities.
 - (3) The activities, supplies, and equipment shall be designed to promote the following:
 - (A) Large, small, and visual motor development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying;
 - (B) creative expression, which may include dramatic play, music, and art;
 - (C) math and science skills, which may include sorting, matching, counting, and measuring; and
 - (D) language development and literacy, which may include reading, singing,

finger plays, writing, and stories.

- (4) Each child shall be given the opportunity for at least one hour of physical activity daily, either outdoors as described in paragraph (a)(7) or indoors.
 - (5) Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met if the daily activities include any media viewing:
 - (A) Each media program shall be age-appropriate and, if rated, shall have a rating appropriate for the ages and developmental levels of the children who view the program.
 - (B) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.
 - (6) Toys and other items used by children shall meet the following requirements:
 - (A) Be clean, of safe construction, and in good repair;
 - (B) be washed and sanitized daily when used by children under 18 months of age; and
 - (C) be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.
 - (7) Unless prohibited by the child's medical condition or extreme weather conditions, each child in care shall be taken outdoors daily. Each child 12 months of age or older shall have the opportunity for at least one hour of outdoor play daily.
- (b) Self-help and personal care. Each provider shall ensure that each child is assisted as needed with hand washing, toileting, dressing, and other personal care.
 - (c) Tobacco products. No provider shall use tobacco products while providing direct physical care to children. Smoking in any room, enclosed area, or other enclosed space on the premises shall be prohibited when children are in care pursuant to K.S.A. 65-530, and amendments thereto.
 - (d) Nutrition and food service. Each applicant with a temporary permit and each licensee shall develop and implement menu plans for meals and snacks that contain a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products.
- (1) If children under 18 months of age are in care, the following requirements shall be met:
 - (A) Each child shall be held when bottle-fed until the child can hold the child's own bottle.

- (B) No child shall be allowed to sleep with a bottle in the child's mouth.
 - (C) If prepared formula is used, the following requirements shall be met:
 - (i) Each bottle that contains prepared formula shall be stored in the refrigerator with the nipple covered.
 - (ii) Each bottle shall be labeled with the child's name, the contents, and the time and date prepared, and shall be used within 24 hours of the time of preparation on the label.
 - (iii) If a child does not finish a bottle, the contents of the bottle shall be discarded within one hour from when the feeding from that bottle started.
 - (D) If breast milk is used, the following requirements shall be met:
 - (i) All breast milk shall be labeled with the child's name and the time and date expressed.
 - (ii) Unfrozen breast milk shall be stored in a refrigerator and shall be used within 96 hours from the time it was expressed.
 - (iii) Frozen breast milk shall be stored in a freezer and shall be used within six months from the time it was expressed and within 24 hours from the time it was thawed.
 - (iv) If a child does not finish the bottle of breast milk within two hours from when the feeding from that bottle started, the contents shall be discarded.
 - (v) Accommodations shall be provided that enable the child's parent to breastfeed their child.
 - (E) No formula or breast milk shall be heated in a microwave oven.
 - (F) Solid foods shall be offered when the provider and the parent or legal guardian of the child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and stored in the refrigerator.
- (2) Each applicant with a temporary permit and each licensee shall serve nutritious meals and snacks based on the amount of time a child is in care.
- (A) Each child who is in care at least 2.5 hours but under four hours shall be served at least one snack.

- (B) Each child who is in care at least four hours but under eight hours shall be served at least one snack and at least one meal.
 - (C) Each child who is in care at least eight hours but under 10 hours shall be served at least two snacks and one meal or at least one snack and two meals.
 - (D) Each child who is in care for 10 or more hours shall be served at least two meals and at least two snacks.
- (3) Each applicant with a temporary permit and each licensee shall include the following items in meals and snacks:
- (A) Breakfast shall include the following:
 - (i) A fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
 - (ii) bread or grain product; and
 - (iii) milk.
 - (B) Noon and evening meals shall include one item from each of the following:
 - (i) Meat or a meat alternative;
 - (ii) two vegetables or two fruits, or one vegetable and one fruit;
 - (iii) bread or a grain product; and
 - (iv) milk.
 - (C) Midmorning and midafternoon snacks shall include at least two of the following:
 - (i) Milk;
 - (ii) fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
 - (iii) meat or a meat alternative; or
 - (iv) bread or grain product.
 - (D) For snacks, juice shall not be served when milk is served as the only other item.

- (4) A sufficient quantity of food shall be prepared for each meal to allow each child to have a second portion of bread, milk, and either vegetables or fruits.
- (5) Drinking water shall be available to each child at all times when the child is in care.
- (6) All milk products served shall be pasteurized.
- (7) If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.
- (8) If any child has a food allergy or special dietary need, the provider and the parent or legal guardian of the child shall make arrangements for the provision of alternative foods or beverages.
- (9) If meals are catered or delivered from an off-site location, the following requirements shall be met:
 - (A) Food provided from a central kitchen or vendor and delivered to the facility shall be obtained from a source licensed or inspected by the Kansas department of agriculture or equivalent food safety licensing agency in another state.
 - (B) Food shall be transported in covered and temperature-controlled containers and shall not be allowed to stand. Hot foods shall be maintained at not less than 140 degrees Fahrenheit, and cold foods shall be maintained at 45 degrees Fahrenheit or less.
- (10) Meals and snacks shall be served to each child using individual tableware that is appropriate for the food or beverage being served. Food shall be served on tableware appropriate for that food and shall not be served directly on a bare surface, including a tabletop.
- (11) Tableware shall be washed, rinsed, and air-dried or placed in a dishwasher after each meal.
- (12) Sanitary methods of food handling and storage shall be followed.
- (13) A washable or disposable towel and washcloth shall be provided for each child.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 65-530; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Feb. 26, 1990; amended Feb. 3, 2012; amended August 2, 2024.)

K.A.R. 28-4-116a. Napping and sleeping.

- (a) Rest period. Each child shall have a daily, supervised rest period as needed. Each child who does not nap or sleep shall be given the opportunity for quiet play.
- (b) Safe sleep practices for children in care.
 - (1) Each applicant with a temporary permit and each licensee shall develop a written plan for safe sleep practices and implement safe sleep practices for children in care who are napping or sleeping.
 - (2) Each applicant with a temporary permit and each licensee shall ensure that the safe sleep practices are shared with the parent or legal guardian of each child before the first day of care.
 - (3) Each provider shall follow the safe sleep practices of the facility.
 - (4) Each child who is 12 months of age or older shall nap or sleep on a bed, a cot, the lower bunk of a bunk bed, or a pad over a carpet or area rug on the floor.
 - (5) Children under 12 months of age. Each applicant with a temporary permit and each licensee shall ensure that all of the following requirements are met for each child in care who is under 12 months of age:
 - (A) The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.
 - (B) If the child falls asleep on a surface other than a crib or playpen, the child shall be moved to a crib or playpen.
 - (C) A crib or playpen shall be provided and used for each child in attendance at any one time. The child shall not nap or sleep in the same crib or playpen occupied by another child at the same time.
 - (D) The child shall be placed on the child's back to nap or sleep.
 - (E) When the child is able to turn over independently from front to back and back to front, the child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.
 - (F) The child shall sleep in a crib or a playpen that is free of any soft items, including pillows, quilts, blankets, bumpers, comforters, sheepskins, flat sheets, cloth diapers, bibs, stuffed animals, and toys.
 - (G) The child may nap or sleep in sleep clothing, including sleepers and sleep sacks. Swaddling shall not be permitted.

- (c) Napping or sleeping surfaces. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for all napping or sleeping surfaces:
- (1) Clean, individual bedding shall be provided for each child.
 - (2) Each surface used for napping or sleeping shall be kept clean, of safe construction, and maintained in good repair.
 - (3) Each crib and each playpen shall be used only for children who meet the manufacturer's recommendations for use, including any age, height, or weight limitations. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file at the facility.
 - (4) Each crib and each playpen shall have a firm, tightfitting mattress and a fitted sheet. The mattress shall be set at its lowest point when any child using the crib or playpen becomes able either to sit up or to pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.
 - (5) If a crib or playpen is slatted, the slats shall be spaced not more than 2.375 inches apart.
 - (6) Each applicant, each applicant with a temporary permit, and each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.
 - (7) Each pad used for napping or sleeping shall be at least 0.5 inch thick, washable or enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.
 - (8) Cribs, cots, playpens, and pads, when in use for napping or sleeping, shall be separated by at least 24 inches in all directions except when bordering on the wall.
 - (9) When not in use, cribs, cots, playpens, pads, and bedding shall be stored in a clean and sanitary manner.
 - (10) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in the child utilizing the sleeping surface.
- (d) Consumer warning or recall. Each applicant with a temporary permit and each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.
- (e) Transition from crib or playpen. The determination of when a child who is 12 months of age or older is ready to transition from a crib or a playpen to another napping or sleeping surface shall be made by the parent or legal guardian of the child and by either

the applicant with a temporary permit or the licensee. The requirements of paragraphs (c)(3) and (4) for a child using a crib or playpen shall apply.

(Authorized by and implementing K.S.A. 65-508; effective Feb. 3, 2012; amended August 2, 2024.)

K.A.R. 28-4-117. Health care requirements for children under 16 years of age and recordkeeping.

- (a) A completed medical record on the form provided by the department shall be on file for each child under 10 years of age enrolled for care and for each child under 16 years of age living in the child care facility and shall include the following:
 - (1) The results of a health assessment conducted by a nurse approved to perform health assessments, a licensed physician, or physician assistant. The health assessment shall be conducted not more than twelve months before and obtained not later than 60 calendar days after the child's initial enrollment in a child care facility and;
 - (2) a medical history obtained from the parent or legal guardian. Each applicant with a temporary permit and each licensee shall review with each child's parent or legal guardian that child's medical history at least once every 12 months.
- (b) A child under 16 years of age shall not be required to have routine tuberculin tests.
- (c) Immunizations for each child, including each child of the provider under 16 years of age shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be obtained not later than 60 calendar days after the child's initial enrollment in a child care facility and shall be maintained on the child's medical record.
- (d) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the facility.
- (e) If an infant who has not been immunized against measles, mumps, rubella, and varicella because of the age of that child is enrolled and there are children in care who have not had measles, mumps, rubella, and varicella immunizations due to an exception, including the children of the provider, the parents of the infant at risk shall sign a statement that the parents have been informed of the risk to their child. This statement shall be in the infant's file at the facility.
- (f) If a child is moved to a different child care facility, a new health assessment shall not be required if the previous health assessment is available.
- (g) Each applicant with a temporary permit and each licensee shall provide information to parents of children about the benefits of annual well-child health assessments for children under the age of six years and biennial health assessments for children six years of age

and older. Each applicant with a temporary permit and each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information shall be given on a form provided by the department to the parent when the child is enrolled or be posted in a conspicuous place, with copies of the form available to parents on request.

- (h) Recordkeeping. Each applicant with a temporary permit and each licensee shall ensure that a file is maintained for each child. Each file shall include the following information:
- (1) The full name, home and business addresses, and telephone numbers of the child's parent or parents or legal guardian and the name, address, and telephone number of the individual to notify in case of emergency;
 - (2) the full name and telephone number of each individual authorized to remove the child from the facility;
 - (3) a medical record as required by K.A.R. 28-4-117(a); and
 - (4) written permission from the parent or legal guardian for emergency medical care and for the child to go off the premises as required by K.A.R. 28-4-124 and 28-4-127(b)(1)(A) and (B).

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008; amended August 2, 2024.)

K.A.R. 28-4-118. Reporting suspected child abuse or neglect. Each provider shall report to the Kansas department for children and families or to law enforcement any suspected child abuse or neglect within 24 hours.

(Authorized by and implementing K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1986; amended Feb. 26, 1990; amended May 12, 2017; amended August 2, 2024.)

K.A.R. 28-4-119b. Compliance with regulations.

- (a) An exception to a regulation may be allowed by the department if:
 - (1) The applicant requests an exception from the department on a form supplied by the department; and
 - (2) The secretary determines the exception to be in the best interests of the day care child or children and their families.
- (b) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1984; amended Feb. 26, 1990.)