

Kansas Department of Health and Environment
Kansas Laws and Regulations of
Licensing Birth Centers
July 2014



Bureau of Community Health Systems
Health Facilities Program
1000 SW Jackson Street, Suite 330
Topeka, Kansas 66612-1365

(785) 296-0127

www.kdheks.gov

TABLE OF CONTENTS

I. Kansas Child Care Licensing Laws, Revised July 2014

		Page
K.S.A. 65-501	License or temporary permit required; exemptions.....	1
K.S.A. 65-503	Definitions	1
K.S.A. 65-504	Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure	2
K.S.A. 65-505	License fees; maternity centers and child care licensing fee fund	4
K.S.A. 65-506	Notice of issuance, limitation, modification, suspension or revocation of license; notice to parents or guardians of enrollees of limitation, modification, suspension, revocation or denial; unlicensed placements prohibited	5
K.S.A. 65-507	Records of maternity centers and child care facilities; confidentiality	5
K.S.A. 65-508	Equipment, supplies, accommodations; competent supervision and care of children; rules and regulations; immunizations	6
K.S.A. 65-510	Unlawful for child care facility to care for adults; exceptions	7
K.S.A. 65-512	Inspections	7
K.S.A. 65-513	Changes or alterations required to comply with law; notice; duty of licensee.....	8
K.S.A. 65-514	Violations of article 5 of chapter 65; penalties; notice and hearing.....	9
K.S.A. 65-515	Prosecutions	9
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	9
K.S.A. 65-523	Grounds for limitation, modification or suspension of license or temporary permit	13
K.S.A. 65-524	Suspension, limitation or modification of license or temporary permit prior to hearing; procedure	14
K.S.A. 65-525	Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required	14
K.S.A. 65-526	Civil fine assessed against licensee; limitations	15
K.S.A. 65-527	Child care programs in recreation centers and schools; licensing of.....	15
K.S.A. 65-528	Child care policy of state; desired outcome	16
K.S.A. 65-529	Continuation of effect of license, registration or permit	17
K.S.A. 65-530	Smoking prohibited in day care homes	17
K.S.A. 65-531	Immunization information and records; disclosure	18
K.S.A. 65-532	Lexie's law	18
K.S.A. 65-534	Online information dissemination system; rules and regulations	19
K.S.A. 65-535	Staff secure facility; requirements; services; rules and regulations...	19

Other Related Laws

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

II. General Regulation, Amended December 2010

K.A.R. 28-4-92	License fees.....	25
----------------	-------------------	----

III. Regulations for Birth Centers, Effective July 2010

K.A.R. 28-4-1300	Definitions	26
K.A.R. 28-4-1301	Applicant and licensee requirements	27
K.A.R. 28-4-1302	Application procedures	28
K.A.R. 28-4-1303	Terms of a temporary permit or a license	28
K.A.R. 28-4-1304	Temporary permit or license; amended license; exceptions; notification; renewal	29
K.A.R. 28-4-1305	Administration	31
K.A.R. 28-4-1306	Clinical staff member qualifications; employee schedules; training	32
K.A.R. 28-4-1307	Records	33
K.A.R. 28-4-1308	Reporting requirements	35
K.A.R. 28-4-1309	Quality assurance	36
K.A.R. 28-4-1310	Clinical services and patient care	36
K.A.R. 28-4-1311	Transfers	40
K.A.R. 28-4-1312	Health-related requirements.....	41
K.A.R. 28-4-1313	Environmental standards	42
K.A.R. 28-4-1314	Birth center and birthing room furnishings, equipment and supplies	44
K.A.R. 28-4-1315	Maintenance	46
K.A.R. 28-4-1316	Safety	47
K.A.R. 28-4-1317	Food service	48
K.A.R. 28-4-1318	Laundry	49

KANSAS CHILD CARE LICENSING LAWS

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (b) Any licensee who fails to renew such license within 30 days after the expiration of the license shall pay to the secretary the renewal fee plus a late fee in an amount equal to the fee for the renewal of a license.
- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer, notwithstanding any other law to the contrary, shall deposit the entire amount in the state treasury to the credit of the maternity centers and child care licensing fee fund. All expenditures from the maternity centers and child care licensing fee fund shall be made only for the purposes of article 5 of chapter 65 of the Kansas Statutes Annotated in accordance with appropriation acts upon warrants of the director of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:
 - (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and
 - (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

- (i) In regard to Kansas issued criminal history records:
 - (1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.
 - (2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.
 - (3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.
 - (4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history or record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.
 - (5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:
 - (A) The person who is the subject of the request for information;
 - (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;
 - (C) the department of health and environment;
 - (D) the Kansas department for children and families;
 - (E) the juvenile justice authority; and
 - (F) the courts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against a licensee for each violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility. Each civil fine assessed under this section shall not exceed \$500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.
- (b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OTHER RELATED LAWS

Chapter 59. PROBATE CODE

Article 21. ADOPTION

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

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

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

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

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

- (a) The board of education of any school district may:
 - (1) Establish, operate and maintain a child care facility;
 - (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;
 - (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and
 - (4) prescribe and collect fees for providing care at a child care facility.
- (b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act 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.
- (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; July 1.

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

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

- (2) enter into cooperative or interlocal agreements with one or more other boards of education for the establishment, operation and maintenance of a summer program for pupils; and
 - (3) prescribe and collect fees for providing a summer program for pupils or provide such program without charge.
- (b) Fees for providing a summer program for pupils shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the program.
 - (c) No school district may collect fees for providing a summer program for pupils required to attend such a program in accordance with the provisions of law, rules and regulations of the state board of education, policy of the board of education, or an individualized education plan developed for an exceptional child.
 - (d) There is hereby established in every district which establishes, operates and maintains a summer program a fund which shall be called the summer program fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. All moneys received by a district from fees collected under this section or from any other source for summer programs shall be credited to the summer program fund. The expenses of a district directly attributable to summer programs shall be paid from the summer program fund. Any unencumbered balance of moneys remaining in the summer program fund of a school district on June 30, 2012, may be expended in the school year that immediately succeeds such date by the school district for general operating expenses 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; July 1.

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

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

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

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

GENERAL REGULATION

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

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

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

REGULATIONS FOR BIRTH CENTERS

K.A.R. 28-4-1300. Definitions. For the purposes of K.A.R. 28-4-1300 through K.A.R. 28-4-1318, the following terms shall have the meanings specified in this regulation:

- (a) “Apgar scores” means a measure of a newborn’s physical condition at one, five, and 10 minutes after birth.
- (b) “Applicant” means a person who has applied for a license but who has not yet been granted a license to operate a birth center. This term shall include an applicant who has been granted a temporary permit to operate a birth center.
- (c) “Birthing room” means a room designed, equipped, and arranged to provide for the care of a patient, a newborn, and the patient’s support person or persons during and following childbirth.
- (d) “Certified midwife” means an individual who is educated in the discipline of midwifery and who is currently certified by the American college of nurse-midwives or the American midwifery certification board, inc.
- (e) “Certified nurse-midwife” means an individual who meets the following requirements:
 - (1) Is educated in the two disciplines of nursing and midwifery;
 - (2) is currently certified by the American college of nurse-midwives or the American midwifery certification board, inc; and
 - (3) has a current nursing license in Kansas.
- (f) “Certified professional midwife” means an individual who is educated in the discipline of midwifery and who is currently certified by the North American registry of midwives.
- (g) “Clinical director” means an individual who is appointed by the licensee and is responsible for the direction and oversight of clinical services at a birth center as specified in K.A.R. 28-4-1305.
- (h) “Clinical staff member” means an individual employed by or serving as a consultant to the birth center who is one of the following:
 - (1) The clinical director or acting clinical director;
 - (2) a licensed physician;
 - (3) a certified nurse-midwife;
 - (4) a certified professional midwife;
 - (5) a certified midwife; or

- (6) a registered professional nurse.
- (i) “Department” means Kansas department of health and environment.
- (j) “Exception” means a waiver of an applicant’s or a licensee’s compliance with a specific birth center regulation or any portion of a specific birth center regulation, granted by the secretary to the applicant or licensee.
- (k) “License capacity” means the maximum number of patients that can be cared for in a birth center during labor, delivery, and recovery.
- (l) “Licensee” means a person who has been granted a license to operate a birth center.
- (m) “Maternity center” has the meaning specified in K.S.A. 65-502, and amendments thereto, and may also be referred to as a “birth center.”
- (n) “Normal, uncomplicated delivery” means a delivery that results in a vaginal birth and that does not require the use of general, spinal, or epidural anesthesia.
- (o) “Normal, uncomplicated pregnancy” means a pregnancy that is initially determined to be at a low risk for a poor pregnancy outcome and that remains at a low risk throughout the pregnancy.
- (p) “Patient” means a woman who has been accepted for services at a birth center during pregnancy, labor, delivery, and recovery.
- (q) “Poor pregnancy outcome” means any outcome other than a live, healthy patient and newborn.
- (r) “Premises” means the location, including each building and any adjoining grounds, of a birth center.
- (s) “Secretary” means secretary of the Kansas department of health and environment.

(Authorized by K.S.A. 65-508 and 65-510; implementing K.S.A. 65-502 and 65-508; effective July 9, 2010.)

K.A.R. 28-4-1301. Applicant and licensee requirements.

- (a) Each applicant, if an individual, shall be at least 21 years of age at the time of application.
- (b) Each applicant and each licensee, if a corporation, shall be in good standing with the Kansas secretary of state.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective July 9, 2010.)

K.A.R. 28-4-1302. Application procedures.

- (a) Each person, in order to obtain a license, shall submit a complete application on the form provided by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the birth center and shall include all of the following:
 - (1) A detailed description of the services to be provided;
 - (2) a detailed floor plan and site plan for the premises to be licensed; and
 - (3) the nonrefundable license fee specified in K.A.R. 28-4-92.

- (b) At the time of the initial inspection, each applicant shall have the following information on file:
 - (1) Written verification from the applicable local authorities showing that the premises are in compliance with all local codes and ordinances, including all building, fire, and zoning requirements;
 - (2) written verification from the state fire marshal showing that the premises are in compliance with all applicable fire codes and regulations;
 - (3) written verification from local or state authorities showing that the private water supply and sewerage systems conform to all state and local laws; and
 - (4) documentation of the specific arrangements that have been made for the removal of biomedical waste and human tissue from the premises.

- (c) The granting of a license to any applicant may be refused by the secretary if the applicant is not in compliance with the requirements of the following:
 - (1) K.S.A. 65-504 through 65-508, and amendments thereto;
 - (2) K.S.A. 65-512 and 65-513, and amendments thereto;
 - (3) K.S.A. 65-531, and amendments thereto; and
 - (4) all regulations governing birth centers.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505, and 65-508; effective July 9, 2010.)

K.A.R. 28-4-1303. Terms of a temporary permit or a license.

- (a) License capacity. The maximum number of patients authorized by a temporary permit or a license shall not be exceeded.

- (b) Posting temporary permit or license. The current temporary permit or the current license shall be posted conspicuously within the birth center.

- (c) Validity of temporary permit or a license. Each temporary permit or license shall be valid for the applicant or licensee and the address specified on the temporary permit or the license. When an initial or amended license becomes effective, all temporary permits or licenses previously granted to the applicant or licensee at the same address shall become invalid.
- (d) Advertising. The advertising for each birth center shall conform to the statement of services included with the application. A claim for specialized services, even if specified on the application for a birth center, shall not be made unless the birth center is staffed and equipped to offer those services. No general claim of being “state-approved” shall be made until the applicant has been issued a temporary permit or a license by the secretary.
- (e) Withdrawal of application or request to close. Any applicant may withdraw the application for a license. Any licensee may, at any time, request to close a birth center. If an application is withdrawn or a birth center is closed, each temporary permit or license granted for that birth center shall become invalid.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective July 9, 2010.)

K.A.R. 28-4-1304. Temporary permit or license; amended license; exceptions; notification; renewal.

- (a) Temporary permit or license required. Each person shall obtain a temporary permit or a license from the secretary to operate a birth center before providing any birth center services.
- (b) New temporary permit or license required. Each applicant or licensee shall submit a new application, the required verifications and documentation, and license fee and shall obtain a temporary permit or a license from the secretary under any of the following circumstances:
 - (1) Before a birth center that has been closed is reopened;
 - (2) if there is a change in the location of the birth center; or
 - (3) if there is a change of ownership of the birth center.
- (c) Amended license.
 - (1) Any licensee may submit a request for an amended license. Each licensee who intends to change the terms of the license, including the maximum number of patients to be served, shall submit a request for an amended license on a form provided by the department and a nonrefundable amendment fee of \$35. An amendment fee shall not be required if the request to change the terms of the license is made at the time of the renewal.

- (2) The licensee shall make no change to the terms of the license unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the previous license shall no longer be in effect.
- (d) Exceptions.
- (1) Any applicant or licensee may request an exception from the secretary. Any request for an exception may be granted if the secretary determines that the exception is in the best interest of one or more patients or newborns and the exception does not violate statutory requirements.
 - (2) Written notice from the secretary stating the nature of the exception and the duration of the exception shall be kept on file at the birth center and shall be readily accessible to the department.
- (e) Notification. Each applicant and each licensee shall notify the secretary, in writing, before changing any of the following:
- (1) The clinical services or activities offered by the birth center;
 - (2) the physical structure of the birth center due to new construction or substantial remodeling; or
 - (3) the use of any part of the premises that affects the use of the space or affects the license capacity.
- (f) Renewal. No earlier than 90 days before but no later than the renewal date, each licensee wishing to renew the license shall submit the following:
- (1) The nonrefundable license fee specified in K.A.R. 28-4-92; and
 - (2) an application to renew the license on the form provided by the department.
- (g) Late renewal. Failure to submit the renewal application and fee as required by subsection (f) shall result in an assessment of a late renewal fee specified in K.S.A. 65-505, and amendments thereto, and may result in closure of the birth center.
- (h) Copy of current regulations. A copy of the current Kansas administrative regulations governing birth centers shall be kept on the premises and shall be available to all employees.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-504, 65-505, and 65-508; July 9, 2010.)

K.A.R. 28-4-1305. Administration.

- (a) Each licensee shall be responsible for the operation of the birth center, including the following:
 - (1) Establishing and maintaining a written organizational plan, including an organizational chart designating the lines of authority;
 - (2) providing employees, facilities, equipment, supplies, and services to patients, newborns, and families;
 - (3) developing and implementing administrative policies and procedures for the operation of the birth center;
 - (4) developing and implementing policies and procedures for quality assurance;
 - (5) appointing an administrator to oversee the operation of the birth center;
 - (6) appointing a clinical director and hiring employees;
 - (7) appointing an acting clinical director to provide direction and oversight of clinical services in the absence of the clinical director; and
 - (8) documenting all of the information specified in this subsection.
- (b) Each licensee shall ensure that all birth center contracts, agreements, policies, and procedures are reviewed annually and updated as needed.
- (c) Each licensee shall ensure the development and implementation of written policies that set out the necessary qualifications for each position and govern employee selection. A job description for each position shall be available at the birth center.
- (d) Each licensee shall ensure that all employees are informed of and follow all written policies, procedures, and clinical protocols necessary to carry out their job duties.
- (e) Each administrator shall oversee the daily operation and maintenance of the birth center and implement the policies and procedures in compliance with licensing requirements for birth centers.
- (f) Each clinical director shall provide direction and oversight of clinical services, including the development and implementation of policies, procedures, and signed protocols regarding all matters related to the medical management of pregnancy, birth, postpartum care, newborn care, and gynecologic health care.
- (g) Each licensee shall develop and implement written policies and procedures regarding a patient's options for the disposition or taking of fetal remains if a fetal death occurs.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 2009 Supp. 65-67a10; effective July 9, 2010.)

K.A.R. 28-4-1306 Clinical staff member qualifications; employee schedules; training.

- (a) Clinical staff member qualifications. Each licensee shall ensure that the following requirements for the clinical staff members are met:
 - (1) The clinical director and the acting clinical director shall be one of the following:
 - (A) A physician with a current license to practice in Kansas; or
 - (B) a certified nurse-midwife.
 - (2) Each clinical staff member attending labor and delivery shall meet the following qualifications:
 - (A) Practice within the scope of the clinical staff member's training and experience; and
 - (B) hold, at a minimum, current certification in adult CPR equivalent to American heart association class C basic life support and current certification in neonatal CPR equivalent to that of the American academy of pediatrics or the American heart association.
- (b) Employee schedules.
 - (1) Each licensee shall ensure that there are sufficient qualified employees on duty and on call for the safe maintenance and operation of the birth center and for the provision of clinical services.
 - (2) Each licensee shall ensure that a written work schedule is readily accessible to all employees.
- (c) Training.
 - (1) Each licensee shall develop and provide an orientation for all new employees and ongoing in-service training for all employees that shall meet the following requirements:
 - (A) Is based on individual job duties and responsibilities;
 - (B) is designed to meet individual employee training needs; and
 - (C) is designed to maintain the knowledge and skills necessary to ensure compliance with policies, procedures, and clinical protocols of the birth center.
 - (2) Orientation and in-service training shall include the following:
 - (A) Emergency clinical procedures;

- (B) recognition of the signs and symptoms of infectious diseases, infection control, and universal precautions;
 - (C) recognition of signs and symptoms of domestic violence; and
 - (D) recognition of the signs and symptoms and the reporting of child abuse and neglect.
- (3) The documentation of the orientation and the in-service training shall be maintained in each employee's individual record.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1307. Records.

- (a) Policies and procedures. Each licensee shall ensure that there is an organized recordkeeping system, with policies and procedures that provide for identification, security, confidentiality, control, retrieval, and preservation of all employee records, patient records, and birth center information. All records shall be available at the birth center for review by the secretary.
- (b) Employee records. Each licensee shall ensure that an individual record is maintained at the birth center for each employee that includes the following information:
 - (1) A description of the terms of employment or the volunteer agreement and a copy of the job description;
 - (2) a copy of the job application detailing the employee's qualifications and employment dates;
 - (3) copies of current professional licenses, certifications, or registrations;
 - (4) documentation of the results of any health assessments and tuberculin tests specified in K.A.R. 28-4-1312;
 - (5) documentation of the orientation and the in-service training specified in K.A.R. 28-4-1306; and
 - (6) documentation that each employee has access to the following:
 - (A) The current regulations governing birth centers; and
 - (B) the birth center policies, procedures, and clinical protocols.
- (c) Patient records.
 - (1) Each licensee shall ensure that a current and complete clinical record for each patient accepted for care in the birth center includes the following:

- (A) Identifying information, including the patient's name, address, and telephone number;
 - (B) documentation of the initial history and physical examination, including laboratory findings and dates;
 - (C) a signed and dated informed consent form;
 - (D) all obstetrical risk assessments, including the dates of the assessments;
 - (E) documentation of instruction and education related to the childbearing process;
 - (F) the date and time of the onset of labor;
 - (G) the course of labor, including all pertinent examinations and findings;
 - (H) the exact date and time of birth, the presenting part of the newborn's body, the sex of the newborn, the numerical order of birth in the event of more than one newborn, and the Apgar scores;
 - (I) the time of expulsion and the condition of the placenta;
 - (J) all treatments rendered to the patient and newborn, including prescribing medications and the time, type, and dose of eye prophylaxis;
 - (K) documentation of metabolic and any other screening tests completed by a clinical staff member;
 - (L) the condition of the patient and newborn, including any complications and action taken at the birth center;
 - (M) all medical consultations concerning the patient and the newborn;
 - (N) all referrals for medical care and transfers to medical care facilities, including the reasons for each referral or transfer;
 - (O) the results of all examinations of the newborn and of the postpartum patient; and
 - (P) the written instructions given to the patient regarding postpartum care, family planning, care of the newborn, arrangements for metabolic testing, immunizations, and follow-up pediatric care.
- (2) Each entry in each patient's record shall be dated and signed by the attending clinical staff member.

- (3) The patient record shall be confidential and shall not be released without the written consent of the patient. Nothing in this regulation shall preclude the review of patient records by the secretary.
- (4) All patient records shall be retained for at least 25 years from the date of discharge.
- (d) Quality assurance documentation. Each licensee shall maintain on file for at least three calendar years all documentation required for the quality assurance findings specified in K.A.R. 28-4-1309.
- (e) Inventory. Each licensee shall maintain on file an inventory of the birth center furnishings, equipment, and supplies.
- (f) Drills. Each licensee shall maintain on file for at least one calendar year a record of all disaster and evacuation drills.
- (g) Changes. Each applicant and each licensee shall maintain on file at the birth center the documentation of any changes specified in K.A.R. 28-4-1304 and approved by the secretary.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective July 9, 2010.)

K.A.R. 28-4-1308. Reporting requirements.

- (a) Each licensee shall ensure that the following incidents are reported to the department by the next working day, on a form provided by the department, and to any other authorities in accordance with state statute:
 - (1) A stillbirth or the death of a patient or a newborn;
 - (2) the death of an employee while on duty;
 - (3) any intentional or unintentional injuries sustained by any patient, newborn, or employee while on duty;
 - (4) any fire damage or other damage to the premises that affects the safety of any patient, newborn, or employee; and
 - (5) any other incident that, in the judgment of the clinical director or the acting clinical director, compromises the ability of the birth center to provide appropriate and safe care to patients and newborns.
- (b) If a licensee, employee, patient, or newborn contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2, the licensee shall ensure that the disease is reported to the county health department as specified in K.A.R. 28-1-2.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1309. Quality assurance.

- (a) Each licensee shall develop and implement a quality assurance program to evaluate, at least annually, the quality of patient care and the appropriateness of clinical services.
- (b) The quality assurance program shall include a system for the assessment of patient and newborn outcomes, clinical protocols, recordkeeping, and infection control.
- (c) The quality assurance findings shall be documented and used for the ongoing assessment of clinical services, problem resolution, and plans for service improvement.
- (d) All quality assurance findings shall be available at the birth center for review by the secretary. Nothing in this regulation shall preclude the review of patient records by the secretary.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, and 65-512; effective July 9, 2010.)

K.A.R. 28-4-1310. Clinical services and patient care.

- (a) Each licensee shall ensure that the clinical services provided at the birth center are limited to those services associated with a normal, uncomplicated pregnancy and a normal, uncomplicated delivery.
- (b) Each licensee shall ensure that only the clinical services approved by the clinical director are performed at the birth center.
- (c) Each clinical staff member providing services shall work under the direction of and in consultation with the clinical director or the acting clinical director.
- (d) Each clinical staff member shall have access to patient diagnostic facilities and services, including a clinical laboratory, sonography, radiology, and electronic monitoring.
- (e) Each licensee shall make available to each patient, in writing, information concerning the following:
 - (1) The clinical services provided by the birth center;
 - (2) the rights and responsibilities of the patient and the patient's family, including confidentiality, privacy, and consent;
 - (3) information on the qualifications of the clinical staff members;
 - (4) the risks and benefits of childbirth at the birth center;
 - (5) the possibility of patient or newborn transfer if complications arise during pregnancy, labor, or delivery and the procedures for transfer; and

- (6) if a fetal death occurs, the patient's options for the taking or disposition of the fetal remains.
- (f) Each licensee shall limit patients to those women who are initially determined to be at low maternity risk by a clinical staff member and who are evaluated regularly throughout the pregnancy to ensure that each patient continues to be at low risk for a poor pregnancy outcome. Each clinical director shall establish a written maternity risk assessment, including screening criteria, which shall be a part of the approved policies.
- (g) When conducting the maternity risk assessment, each clinical staff member shall assess the health status and maternity risk factors of each patient after obtaining a detailed medical history, performing a physical examination, and taking into account family circumstances and psychological factors.
- (h) The screening criteria of the maternity risk assessment shall be used as a baseline on which the risk status of each potential patient or patient is determined. The screening criteria shall apply to each potential patient before acceptance for birth center services and throughout the pregnancy for continuation of services. The screening criteria shall include the specific qualifications of the clinical staff members and the availability of supplies and equipment needed to provide clinical services safely.
- (i) The factors to be considered in the development of the maternity risk assessment shall include the following:
 - (1) Age of the patient as a possible factor in determining the potential additional risk of poor pregnancy outcome;
 - (2) major medical problems including any of the following:
 - (A) Chronic hypertension, heart disease, or pulmonary embolus;
 - (B) any congenital heart defect assessed as pathological by a cardiologist that places the patient or fetus at risk;
 - (C) a renal disease;
 - (D) a drug addiction or required use of anticonvulsant drugs;
 - (E) diabetes mellitus;
 - (F) thyroid disease; or
 - (G) a bleeding disorder or hemolytic disease;
 - (3) previous history of significant obstetrical complications, including any of the following:
 - (A) RH sensitization;

- (B) a previous uterine wall surgery, including caesarean section;
 - (C) seven or more term pregnancies;
 - (D) a previous placental abruption; or
 - (E) a previous preterm birth; and
- (4) medical indication of any of the following:
- (A) Pregnancy-induced hypertension;
 - (B) polyhydramnios or oligohydramnios;
 - (C) a placental abruption;
 - (D) chorioamnionitis;
 - (E) a known fetal anomaly;
 - (F) multiple gestations;
 - (G) an intrauterine growth restriction;
 - (H) fetal distress;
 - (I) alcoholism or drug addiction;
 - (J) thrombophlebitis; or
 - (K) pyelonephritis.
- (j) Each patient found to be at high obstetrical risk based on the maternity risk assessment shall be referred to a qualified physician.
- (k) Each licensee shall ensure that the policies and procedures include a program of education that prepares patients and their families for childbirth, including the following:
- (1) Anticipated changes during pregnancy;
 - (2) the need for prenatal care;
 - (3) nutritional requirements during pregnancy;
 - (4) the effects of smoking, alcohol, and substance use;
 - (5) the signs of preterm labor;

- (6) preparation for labor and delivery, including pain management and obstetrical complications and procedures;
 - (7) breast-feeding and care of the newborn;
 - (8) signs of depression during pregnancy and after childbirth and instructions for treatment;
 - (9) instruction on understanding the patient and newborn health record information;
 - (10) sibling preparation; and
 - (11) preparation needed for discharge of the patient and the newborn following delivery.
- (l) Each licensee shall ensure that the policies, procedures, and clinical protocols are followed for each patient during labor, delivery, and postpartum care.
 - (m) Each patient shall be admitted for labor and delivery by a physician, a certified nurse-midwife, a certified professional midwife, or a certified midwife.
 - (n) At least one clinical staff member shall be available for each patient in labor.
 - (o) At least two employees shall be available for each patient during delivery. One shall be a clinical staff member. The other shall be another clinical staff member or a licensed practical nurse (LPN) practicing within the scope of the LPN's training and experience and working under the direct supervision of a licensed physician, a certified nurse-midwife, or a registered professional nurse.
 - (p) A clinical staff member shall monitor the progress of the labor and the condition of each patient and fetus as clinically indicated to identify abnormalities or complications at the earliest possible time.
 - (q) The patient or newborn shall be transferred to a medical care facility if a clinical staff member determines that medical or surgical intervention is needed.
 - (r) The patient's family or support persons shall be instructed as needed to assist the patient during labor and delivery.
 - (s) The surgical procedures performed at the birth center shall be limited to the following:
 - (1) Episiotomy;
 - (2) repair of episiotomy or laceration; and
 - (3) circumcision.

- (t) Each clinical director shall develop and implement policies and procedures for the discharge of postpartum patients and their newborns, which shall be followed by all clinical staff members.
 - (1) An individual, written discharge plan shall be developed for each patient and newborn, including follow-up visits and needed referrals. Each patient shall receive a copy of the plan at the time of discharge.
 - (2) Each patient and each newborn shall be discharged no later than 24 hours after birth and in accordance with policies, procedures, and clinical protocols.
 - (3) Each birth or death certificate shall be completed and filed as required by state law.
 - (4) A follow-up visit shall be conducted by a designated clinical staff member between 24 hours and 72 hours after discharge of the patient to perform the following:
 - (A) A health assessment of the patient;
 - (B) a health assessment of the newborn; and
 - (C) the required newborn screening tests.
 - (5) The policies and procedures shall include a program of postpartum education and care, including the following:
 - (A) Newborn care;
 - (B) postpartum examinations;
 - (C) family planning; and
 - (D) a plan for well-woman routine gynecologic health care.

(Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, K.S.A. 65-508, and K.S.A. 2009 Supp. 65-67a10; effective July 9, 2010.)

K.A.R. 28-4-1311. Transfers.

- (a) Each licensee shall develop and implement policies, procedures, and clinical protocols for the transfer of patients and newborns. Each licensee shall ensure that these policies, procedures, and clinical protocols are readily accessible and followed.
- (b) The policies, procedures, and clinical protocols shall include a written plan on file designating who will be responsible for the transfer of a patient or newborn. The plan shall include the following:

- (1) (A) A written agreement with an obstetrician and a pediatrician or with a group of practitioners that includes at least one obstetrician and at least one pediatrician; or
 - (B) a written agreement with a medical care facility providing obstetrical and neonatal services; and
 - (2) a plan for transporting a patient or a newborn by an emergency medical services (EMS) entity.
- (c) Each licensee shall ensure that all employees attending labor and delivery have immediate access to a working telephone or another communication device and to contact information for transferring a patient or a newborn in case of an emergency.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1312. Health-related requirements.

- (a) Tobacco use prohibited. Each licensee shall ensure that tobacco products are not used at any time in the birth center.
- (b) Health of licensee and employees working in the birth center.
 - (1) Each licensee, if an individual, and each individual working at the birth center shall meet the following requirements:
 - (A) Be free from physical, mental, and emotional conditions to the extent necessary to protect the health, safety, and welfare of the patients and newborns;
 - (B) be free from the influence of alcohol or illegal substances, or impairment due to the use of prescription or nonprescription drugs; and
 - (C) be free from all infectious or contagious diseases, as specified in K.A.R. 28-1-6.
 - (2) Each licensee, if an individual, and each individual working in the birth center shall have a health assessment conducted within six months before employment or upon employment. Subsequent health assessments shall be given periodically in accordance with the policies of the birth center.
 - (3) The results of each health assessment shall be recorded on forms provided by the department, and a copy shall be kept in each licensee's or employee's record at the birth center.
 - (4) If an individual who works in the birth center experiences a significant change in physical, mental, or emotional health, including any indication of substance abuse, an assessment of the individual's current health status may be required by the secretary or the licensee. A licensed health care provider qualified to diagnose

and treat the condition shall conduct the health assessment. A written report of the assessment shall be kept in the individual's employee record and shall be submitted to the secretary on request.

- (c) Tuberculin testing of licensee and employees working in the birth center.
 - (1) Each licensee, if an individual, and each individual working in the birth center shall have a record of a tuberculin test or chest X-ray obtained not more than six months before employment or upon employment. The results of the tuberculin test or chest X-ray shall be recorded on the health assessment form.
 - (2) Additional tuberculin testing shall be required if any individual working in the birth center is exposed to an active case of tuberculosis or if the birth center serves an area identified by the local health department or the secretary as a high-risk area for tuberculosis exposure.
- (d) Hepatitis B. Each licensee, if an individual, and each individual working in the birth center whose job duties include exposure to or the handling of blood shall be immunized against hepatitis B or shall provide written documentation of refusal of the immunization.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1313. Environmental standards.

- (a) Premises.
 - (1) Each licensee shall ensure that the birth center is connected to public water and sewerage systems where available.
 - (2) If a center uses a nonpublic source for the water supply, 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 an agent of the local environmental protection program (LEPP).
 - (A) A copy of the test results and the approval shall be kept on file at the birth center.
 - (B) Each private sewerage system shall be maintained in compliance with all applicable state and local laws.
 - (3) Outdoor areas on the premises shall be well drained and kept free of hazards, litter, and trash.
- (b) General building requirements.
 - (1) Each licensee shall ensure that the birth center is located in a building that meets the following criteria:

- (A) Meets the requirements specified in K.S.A. 65-508 and amendments thereto, all applicable building codes, and local ordinances;
 - (B) is a permanent structure; and
 - (C) is free from known environmental hazards.
- (2) Each birth center shall be accessible to and usable by individuals with disabilities.
- (c) Structural requirements. Each licensee shall ensure that the following requirements are met:
- (1) Space shall be provided for the services to be offered, including the following:
 - (A) A secure space for the storage of medical records;
 - (B) waiting or reception area;
 - (C) family area, including play space for children;
 - (D) designated toilet and lavatory facilities for employees, families of patients, or the public separate from designated toilet, lavatory, and bathing facilities for each patient;
 - (E) a birthing room or rooms;
 - (F) employee area;
 - (G) utility and work room;
 - (H) a designated storage area;
 - (I) space for the provision of laboratory services; and
 - (J) space for food preparation and storage.
 - (2) The birth center shall be heated, cooled, and ventilated for the comfort of the patients and newborns and shall be designed to maintain a minimum temperature of 68 degrees Fahrenheit and a maximum temperature of 90 degrees Fahrenheit. If natural ventilation is used, all opened windows or doors shall be screened. If mechanical ventilation or cooling systems are employed, the system shall be maintained in working order and kept clean. Intake air ducts shall be designed and installed so that dust and filters can be readily removed.
 - (3) Each interior door that can be locked shall be designed to permit the door to be opened from each side in case of an emergency.
 - (4) All floors shall be smooth and free from cracks, easily cleanable, and not slippery. All floor coverings shall be kept clean and maintained in good repair.

- (5) All walls shall be smooth, easily cleanable, and sound. Lead-free paint shall be used on all painted surfaces.
- (6) All areas of the birth center shall have light fixtures capable of providing at least 20 foot-candles of illumination. Additional illumination shall be available to permit observation of the patient and the newborn, cleaning, and maintenance. The light fixtures shall be maintained in working order and kept clean.
- (7) Each birthing room shall have emergency lighting for use during a power outage.
- (8) Each birth center shall be equipped with a scrub sink equipped with an elbow, knee, or foot control.
- (9) Each birthing room shall be located on the ground level and shall provide unimpeded, rapid access to an exit of the building that will accommodate patients, newborns, emergency personnel, emergency transportation vehicles, and equipment.
- (10) Each birthing room shall meet the following requirements:
 - (A) Have at least 180 square feet of floor space; and
 - (B) provide enough space for the equipment, employees, supplies, and emergency procedures necessary for the physical and emotional care of the patient and the newborn.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1314. Birth center and birthing room furnishings, equipment, and supplies.

- (a) Each licensee shall provide furnishings, equipment, and other supplies in the quantity necessary to meet the needs of patients, newborns, and employees and to provide a safe, home-like environment.
- (b) Each licensee shall provide the specialized furnishings, equipment, and supplies necessary for the clinical staff members to perform the clinical services offered by the birth center. No specialized clinical services shall be provided unless the birth center is equipped to allow the clinical staff members to safely perform those services.
- (c) All furnishings, equipment, and supplies shall be kept clean and free from safety hazards.
- (d) The furnishings shall include, at a minimum, the following:
 - (1) A bed or table for delivery;
 - (2) at least one chair; and
 - (3) a wall clock with a second hand.

- (e) The equipment and supplies shall include, at a minimum, the following:
- (1) An examination light;
 - (2) a sphygmomanometer;
 - (3) a stethoscope;
 - (4) a doppler unit or fetoscope;
 - (5) a clinical thermometer;
 - (6) disposable nonporous gloves in assorted sizes;
 - (7) an infant scale;
 - (8) a mechanical suction device or a bulb suction device;
 - (9) a tank of oxygen with a flowmeter and a mask, a cannula, or an equivalent;
 - (10) all necessary emergency medications and intravenous fluids with supplies and equipment for administration;
 - (11) resuscitation equipment for patients and newborns, which shall include resuscitation bags and oral airways;
 - (12) a laryngoscope and a supply of endotracheal tubes of assorted sizes appropriate for a newborn;
 - (13) a firm surface suitable for resuscitation;
 - (14) sterilized instruments for delivery, episiotomy, and repair of an episiotomy or a laceration;
 - (15) an infant warmer that provides radiant heat;
 - (16) a readily accessible emergency cart or tray for the patient and for the newborn that meets the following requirements:
 - (A) Is equipped for the clinical staff members to carry out the written emergency procedures of the birth center;
 - (B) is securely placed; and
 - (C) has a written log of routine maintenance;

- (17) clean bed linens and towels; and
 - (18) emergency lighting.
- (f) All equipment, furnishings, and supplies shall be used as intended and shall be securely stored when not in use to prevent injury or misuse.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1315. Maintenance.

- (a) Each licensee shall ensure that the building is kept clean at all times and free from accumulated dirt and from vermin infestation.
- (b) Each licensee shall develop and implement a maintenance plan to ensure that all of the following conditions are met:
 - (1) A schedule for cleaning the birth center is established.
 - (2) All floors and walking surfaces are kept free of hazards, maintained in good repair, and kept clean at all times.
 - (3) Housekeeping services are provided to maintain a sanitary environment.
 - (4) Each birthing room, including equipment, is cleaned after each delivery and before reuse.
 - (5) The toilets, lavatories, sinks, and other facilities are clean at all times.
 - (6) The mops and other cleaning tools are cleaned after each use and stored in a well-ventilated place on racks.
 - (7) All pesticides and other poisons are used in accordance with product instructions and stored in a locked area.
 - (8) Safe storage for cleaning and laundry supplies is provided.
 - (9) Each indoor trash container is emptied, as needed, to control odor and to prevent the overflowing of contents.
 - (10) The methods used to dispose of trash, including biomedical waste, human tissue, and sharp instruments, are safe and sanitary.
 - (11) Hot and cold running water is supplied to each sink and all bathing facilities.
 - (12) The hot water temperature does not exceed 120 degrees Fahrenheit.

- (13) Toilet paper, soap, and either paper towels or hand dryers are available in each restroom and each bathroom in the birth center.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1316. Safety.

- (a) Each licensee shall ensure the safety of all patients, newborns, employees, and visitors according to the following requirements:
 - (1) Each birth center shall have a working telephone on the premises and available for use at all times. Emergency telephone numbers shall be posted by each telephone or shall be readily accessible. These telephone numbers shall include telephone numbers for the fire department, hospital, ambulance, and police.
 - (2) Each exit shall be marked. No exit shall be blocked at any time.
 - (3) All drugs, chemicals, and medications shall be kept in locked storage and secured in specifically designated and labeled cabinets, drawers, closets, storerooms, or refrigerators and shall be made accessible only to authorized employees.
- (b) Each licensee shall ensure the development and implementation of a disaster plan to provide for the evacuation and safety of patients, newborns, employees, and visitors in case of fire, tornadoes, storms, floods, power outages, and other types of emergencies specific to the geographic area in which the birth center is located.
 - (1) The disaster plan shall be posted in a conspicuous place in each indoor room.
 - (2) Each employee shall be informed of and shall follow the disaster plan.
 - (3) A review of the disaster plan, including fire and tornado drills, shall be conducted with the employees at least once every six months, and the date of each review shall be recorded.
 - (4) Fire and tornado drills shall be conducted with the employees at least quarterly, and the date of each drill shall be recorded.
- (c) Heating appliances, when used, shall be used as intended, safely located, equipped with a protective barrier as needed to prevent injury, and maintained in operating condition. If combustible fuel is used, the appliance shall be vented to the outside.
- (d) Each licensee shall develop and implement policies and procedures regarding the storage and handling of firearms and other weapons on the premises.
- (e) Pets and any other animals shall be prohibited in the birth center, with the exception of service animals.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1317. Food service.

- (a) Each licensee shall ensure that the birth center has arrangements to provide patients with nutritious liquids and foods. Foods may be provided by means of any of the following:
 - (1) Obtained from a food service establishment or a catering service licensed by the secretary of the Kansas department of agriculture;
 - (2) prepared on-site by employees; or
 - (3) provided by any patient's family for the sole use of that patient and the patient's family.
- (b) All food that is designed to be served hot and is prepared on-site by employees shall be heated, maintained, and served at a temperature of at least 140 degrees Fahrenheit. A tip-sensitive thermometer shall be used to determine whether food is cooked and held at the proper temperature.
- (c) Each licensee shall ensure that the food is handled and stored in a sanitary manner, which shall include meeting all of the following requirements:
 - (1) All perishable foods and liquids shall be continuously maintained at 41 degrees Fahrenheit or lower in the refrigerator or 0 degrees Fahrenheit or lower in a freezer. A clearly visible, accurate thermometer shall be provided in each refrigerator and in each freezer.
 - (2) At least one refrigerator shall be designated for only food storage.
 - (3) All food stored in the refrigerator shall be covered, wrapped, or otherwise protected from cross-contamination. Raw meat shall be stored in the refrigerator in a manner that prevents meat fluids from dripping on other foods. Unused, leftover perishable foods shall be dated, refrigerated immediately after service, and eaten within three days.
 - (4) Surfaces used for food preparation or eating shall be made of smooth, nonporous material.
 - (5) All table service designed for repeat use shall be made of smooth, durable, and nonabsorbent material and shall be free from cracks or chips.
 - (6) All nondisposable table service shall be sanitized using either a manual method or a mechanical dishwasher.
 - (A) If using a manual washing method, each licensee shall meet both of the following requirements:
 - (i) A three-compartment sink with hot and cold running water to each compartment and a drainboard shall be used for washing, rinsing, sanitizing, and air-drying.

(ii) An appropriate chemical test kit, a thermometer, or another device shall be used for testing the sanitizing solution and the water temperature.

(B) If using a mechanical dishwashing machine, each licensee shall ensure that the machine is installed and operated in accordance with the manufacturer's instructions and shall be maintained in good repair.

(d) Prepackaged, disposable formula units shall be used when newborns are not breast-fed.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)

K.A.R. 28-4-1318 Laundry. Each licensee shall ensure that all of the following requirements are met:

(a) If laundry is done at the birth center, the laundry sinks, appliances, and countertops or tables used for laundry shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the patients, newborns, employees, and visitors.

(b) Space shall be provided and areas shall be designated for the separation of clean and soiled clothing, linen, and towels.

(c) If laundry facilities are not available at the birth center, all laundry shall be cleaned by a commercial laundry.

(Authorized by and implementing K.S.A. 65-508; effective July 9, 2010.)