KANSAS CHILD CARE LICENSING AND REGISTRATION LAWS

Chapter 65. PUBLIC HEALTH

Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES

65-501. License or temporary permit required.

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. 2000 Supp. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 2000 Supp. 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.

65-502. Maternity center defined.

"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, § 2; R.S. 1923, 65-502; L. 1994, ch. 279, § 5; July 1.

65-503. Definitions relating to child care facilities.

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) (1) "Child care facility" means:

(A) 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 related to the person by blood, marriage or legal adoption;

(B) 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;

(C) 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

(D) 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.

(2) "Child care facility" shall not include a family day care home defined in K.S.A. 65-517 and amendments thereto.

(d) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(e) "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.

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; July 1.

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. The license 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. 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 of social and rehabilitation services. The secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, 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 of social and rehabilitation services, 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 of social and rehabilitation services deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary of social and rehabilitation services 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 of social and rehabilitation services 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, comfort or welfare of the residents, the secretary of health and environment, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, shall issue an order revoking such license. 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 or for a certificate of registration to maintain a family day care home under K.S.A. 65-518 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

(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 act for judicial review and civil enforcement of agency actions.

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; July 1.

65-505. License fees.

(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, $75;

(2) for a child placement agency, $75;

(3) for a child care resource and referral agency, $75; and

(4) for any other child care facility, $35 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 person who fails to renew the person's license within the time required by rules and regulations of the secretary shall pay to the secretary a late renewal fee of $10.

(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 shall deposit the entire amount in the state treasury to the credit of the state general fund.

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, July 1.

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

The secretary of health and environment shall serve notice of the issuance, suspension or revocation of a license to conduct a maternity center or child care facility or the issuance, suspension or revocation of a certificate of registration for a family day care home to the secretary of social and rehabilitation services, 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 suspended, revoked or denied by the secretary of health and environment or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the suspension, revocation or denial. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any maternity patient or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment or family day care home not holding a certificate of registration from 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; July 1.

65-507. Records of maternity centers; 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 of social and rehabilitation services 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 of social and rehabilitation services 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 of social and rehabilitation services 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; July 1.

65-508. Equipment, supplies, accommodations; 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, comfort, safety and social welfare of the residents.

(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) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services 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 the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision

and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services 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.

(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; July 1.

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.

65-512. Inspections.
It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 12 months every maternity center or child care facility, and for that purpose it 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.

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; July 1.

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 of social and rehabilitation services 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; July 1.

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.

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.

65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility or family day care home.

(a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who:

(1) (A) Has a felony conviction for a crime against persons,

(B) has a felony conviction under the uniform controlled substances act,

(C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or

(D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a 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 and acts amendatory thereof or supplemental thereto, or is any act described in K.S.A. 21-4301 or 21-4301a 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 as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 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 department of social and rehabilitation services, or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, 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. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

(7) has infectious or contagious disease.

(b) No person shall maintain a child care facility or a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(c) Any person who resides in a child care facility or family day care home and who has been found to be a disabled person in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary 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 in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. 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. 65-516 and 65-519 and amendments thereto.

(e) No child care facility or family day care home 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.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator 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 act for judicial review and civil enforcement of agency actions.

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; July 1, 1997.

65-517. Family day care home defined.

(a) "Family day care home" means a place maintained for the purpose of providing children with food or lodging, or both, away from such children's home or homes, for less than 24 hours a day, if:

(1) Not more than six of the children cared for at such place are less than 16 years of age; and

(2) not more than three of the children cared for at such place are less than 18 months of age.

(b) Any child of a person maintaining a place referred to in subsection (a) shall count toward the limitations of subsection (a) if such child is less than 12 years of age and is cared for at such place.

(c) A person shall not be considered to be maintaining a family day care home as defined in subsection (a), if only children who are related by blood, marriage or legal adoption to such person are cared for.

History: L. 1980, ch. 184, § 3; L. 1994, ch. 279, § 16; July 1.

65-518. Registration of family day care homes; optional licensure.

Any person maintaining a family day care home shall register such home with the secretary of health and environment on forms furnished by the secretary. In lieu of registration, a person maintaining a family day care home may seek licensure for such home as a child care facility under article 5 of chapter 65 of Kansas Statutes Annotated and amendments to the provisions thereof and supplemental thereto.

History: L. 1980, ch. 184, § 4; L. 1994, ch. 279, § 17; July 1.

65-519. Certificate of registration; conditions; application for; immunizations; renewal; fees.

(a) The secretary shall issue a certificate of registration to any person who:

(1) Applies for registration on forms furnished by the secretary;

(2) attests to the safety of the family day care home for the care of children;

(3) submits a fee of not to exceed $15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and

(4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family

day care home. The fee 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) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home 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 family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(2) The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:

(A) 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

(B) 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.

(d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes. The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which has been signed and dated by the parent or guardian.

(e) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(f) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act 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. 1980, ch. 184, § 5; L. 1982, ch. 259, § 3; L. 1983, ch. 140, § 47; L. 1984, ch. 225, § 2; L.1986, ch. 230, § 3; L. 1992, ch. 55, § 1; L. 1994, ch. 279, § 18; L. 1995, ch. 183, § 10; L. 2001, ch. 5, § 218; July 1.

65-520. Same; complaints against registrant.
A certificate of registration shall be in force for one year after the date of issuance unless revoked pursuant to K.S.A. 65-521. The certificate shall specify that the registrant may operate a family day care home for six or fewer children. This section shall not be construed to limit the right of the secretary to enter a registered family day care home for the purpose of assessing compliance with K.S.A. 65-516 to 65-522, inclusive, after receiving a complaint against the registrant of such home.

History: L. 1980, ch. 184, § 6; July 1.

65-521. Denial, revocation or nonrenewal of certificate of registration; notice and hearing; application for certificate of registration or licensure after revocation or refusal to renew.

(a) The secretary may deny, revoke or refuse to renew a certificate of registration upon a determination by the secretary that the registrant falsified information on the application or willfully and substantially has violated K.S.A. 65-516 through 65-522, and amendments thereto. The secretary shall not revoke or refuse to renew any certificate without first giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act.

(b) If the secretary revokes or refuses to renew a certificate of registration, the registrant who has had a certificate of registration revoked or not renewed shall not be eligible to apply for a certificate of registration or for a license to maintain a child care facility under K.S.A.65-504 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

History: L. 1980, ch. 184, § 7; L. 1984, ch. 313, § 96; L. 1986, ch. 230, § 4; L. 1988, ch. 239, § 2; L. 1989, ch. 188, § 2; L. 1994, ch. 279, § 19; July 1.

65-522. Registration; rules and regulations.
The secretary shall adopt rules and regulations to implement the registration provisions of K.S.A. 65-516 to 65-522, inclusive.

History: L. 1980, ch. 184, § 8; July 1.

65-523. Grounds for suspension of license, certificate of registration or temporary permit.
The secretary may suspend any license, certificate of registration or temporary permit issued

under the provisions of K.S.A. 65-501 through 65-522, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee, registrant 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 child care facility or family day care home which is inimical to health, welfare or safety of either an individual in or receiving services from the facility or home or the people of this state;

(d) the conviction of a licensee, registrant or holder of a temporary permit, at any time during licensure or registration 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, registrant or holder of a temporary permit of subsection (b) of K.S.A. 2000 Supp. 65-530 and amendments thereto.

History: L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; July 1.

65-524. Suspension of license, certificate of registration or temporary permit prior to hearing; procedure.
The secretary may suspend any license, certificate of registration or temporary permit issued under the provisions of K.S.A. 65-501 through 65-522, 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 or family day care home from physical or mental abuse, abandonment or any other substantial threat to health or safety. 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; July 1.

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, maternity centers or family day care homes shall not be released publicly in a manner that would identify individuals, unless required by law.

(b) Records containing the name, address and telephone number of a child care facility, maternity center or family day care home in the possession of the department of heath and environment or its agents shall not be released publicly unless required by law.

(c) Records that cannot be released by subsection (a) or (b) may be released to: (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto; (2) a criminal justice agency; (3) any state or federal agency that provides child care services, funding for child care or child protective services; (4) any federal agency for the purposes of compliance with federal funding requirements; (5) any local fire department; (6) any child and adult care food program sponsoring agency; or (7) any local disaster agency.

(d) Any state or federal agency or any person receiving records under subsection (a) or (b) shall not disseminate the records without the consent of the person whose records will be disseminated unless required by law. Any state or federal agency or any person receiving records under subsection (e) may disseminate the information contained in the records without the consent of the person whose records will be disseminated.

(e) The secretary of health and environment may release the name, address and telephone number of a maternity center, child care facility or family day care home when the secretary determines that 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, child care facility or family day care home.

(f) Any records under subsection (a) or (b) 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.

(g) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 et seq. and amendments thereto, the hearing 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; July 1.

65-526. Civil fine assessed against licensee or registrant; 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, against a licensee or registrant 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 or family day care home. 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; July 1.

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.

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.

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.

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, a group day care home as defined under Kansas administrative regulation 28-4-113 and a family day care home as defined under K.S.A. 65-517 and amendments thereto.

(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 day care home registration certificate or 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 registration certificate or license shall be posted in a conspicuous place in the facility or facilities.

(d) 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.

History: L. 1994, ch. 279, § 26; July 1

65-531. Immunization information and records; disclosure.

(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 65-519, 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 and family day care homes, 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 65-519, 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 or 65-519, 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; July 1.

OTHER RELATED STATUTES

Article 21. Kansas Adoption and Relinquishment Act

59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; definitions.

(a) Except as otherwise provided in this section:

(1) No person shall advertise that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption;

(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 a licensed child placement agency operating as authorized by Kansas law or to the department of social and rehabilitation services.

(c) As used in this section:

(1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast 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 a class C misdemeanor.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; July 1.

Article 82. Organization, Powers and Finances of Boards of Education

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.

72-8237. Summer programs; authority to establish, operate and maintain; fees, collection, limitations, disposition; summer program 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.

(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; April 29.

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.