

Proposed

State of Kansas
Department of Health and Environment
Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment (KDHE), Division of Public Health, Bureau of Family Health, will conduct a public hearing at 9:00 a.m. Tuesday, June 4, 2024, Memorial Hall Auditorium, 120 SW 10th, Topeka, Kansas, to consider the adoption of proposed KDHE Article 4 Maternal and Child Health regulations.

A summary of the proposed regulations and estimated economic impact follows:

The proposed amended Article 4 regulations **K.A.R. 28-4-113, 28-4-114, 28-4-114a, 28-4-115, 28-4-116, 28-4-116a, 28-4-117, 28-4-118, 28-4-122, 28-4-123, 28-4-124, 28-4-126, 28-4-127, 28-4-128, 28-4-129, 28-4-130, 28-4-131, 28-4-132, 28-4-133, 28-4-420, 28-4-421, 28-4-422, 28-4-423, 28-4-426, 28-4-427, 28-4-428, 28-4-428a, 28-4-429, 28-4-430, 28-4-434, 28-4-435, 28-4-436, 28-4-437, 28-4-438, 28-4-439, 28-4-440, and 28-4-441** pertain to family child care homes, child care centers, preschools, and residential centers and group boarding homes. K.A.R. 28-4-113 through 118 are for family child care homes, and the amendments to these regulations update defined terms, specify the process for applying for a license, specify applicant and licensee requirements, amend facility capacity for family child care homes, update and clarify initial and ongoing professional development training, specify additional requirements for facility safety, update requirements for daily care of children, update napping and sleeping requirements, update health requirements for children under 16 years of age, and clarify reporting of suspected abuse and neglect. K.A.R. 28-4-122 through 133 are general regulations which govern family child care homes, child care centers, and preschools, and the amendments to these regulations update defined terms, specify parental access and video usage at facilities,

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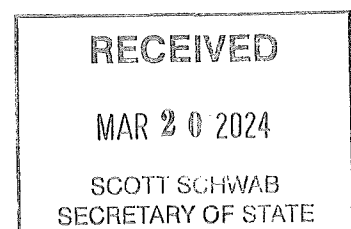
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specify requirements for children to go off-premises, update health requirements for individuals at least 16 years of age, update requirements for reporting and handling emergencies, specify safety and emergency procedures, specify requirements for pools, hot tubs, and spas, update requirements related to the transportation of children in care, update and clarify requirements for animals on the child care premises, specify behavior management and prohibited punishment requirements, and specify critical incident report requirements. K.A.R. 28-4-420 through 441 are for child care centers and preschools, and the amendments to these regulations update defined terms, specify the terms of a temporary permit or license, specify the process for applying for a license, specify applicant and licensee requirements, update physical plant requirements, specify child care center and preschool administration requirements, update and clarify programmatic requirements, specify staff requirements and responsibilities, update and clarify initial and ongoing professional development training, specify staff qualifications, specify health requirements for children under 16 years of age, specify tableware requirements, update and clarify requirements for programs serving children with special health care needs and disabilities, update napping and sleeping requirements, update outside play area requirements, clarify requirements of media usage, update and clarify language related to food service, update and clarify requirements for infant and toddler programs, and update and clarify requirements for school-age children.

K.A.R. 28-4-442 is proposed for revocation because the requirements of this regulation are no longer relevant or in use.

Economic Impact

Cost to the agency: There are no increased costs to the agency from the proposed Article 4 regulations.



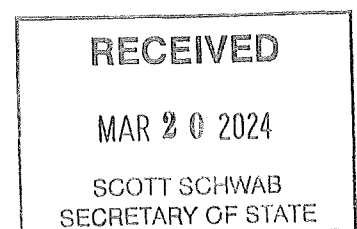
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Cost to the public and regulated community: Overall, the proposed amendments will enhance business activities for licensees and have the potential to contribute to economic stability and growth for Kansas communities. These proposed amendments increase program flexibility, capacity, and reduce administrative and fiscal burdens. The total cost of implementation and compliance costs from the proposed Article 4 regulations to the regulated community is estimated at \$104,881.50. The maximum potential cost of requiring medication administration training is estimated at \$104,881.50 if all 15,300 estimated staff members are required to attend half an hour of additional training at the median wage of \$13.71 reported by the U.S. Bureau of Labor Statistics for child care providers in Kansas. For child care centers, the infant-specific training will require all lead teachers to have an additional four hours of professional development training. Using the median wage of \$13.71, the average cost to facilities to pay for their lead teaching staff within infant units will be an estimated \$54.84 per lead teacher in each infant unit. However, this is for new incoming lead teachers within infant units and not an additional requirement for current lead teachers within infant units. Thus, there is no immediate fiscal impact.

Costs to other governmental agencies or units: There will be no costs related to the proposed Article 4 regulations that are reasonably expected to be incurred by other governmental agencies or units.

There are no costs to the agency, affected businesses, local governments, or members of the public resulting from the proposed revocation of K.A.R. 28-4-442.

A detailed economic impact is provided in the Economic Impact Statement for the proposed regulations that is available from the designated KDHE contact staff person or at the Child Care Licensing website, as listed below.

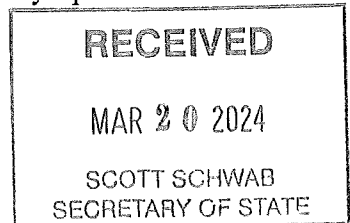


The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Alyson Dalrymple, Kansas Department of Health and Environment, Bureau of Family Health, Curtis State Office Bldg., 1000 SW Jackson, Suite 200, Topeka, KS 66612 or by email to Alyson.Dalrymple@ks.gov. Written comments also may be submitted on the online submission form available at <https://arcg.is/1Wfyy50>. Interested parties are encouraged to participate in the public hearing by submitting written comments.

During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations as well as an opportunity to submit their written comments. It is requested that each individual giving oral comments also provide a written copy of the comments for the record. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to limit each presenter of oral comment to an appropriate time frame.

Complete copies of the proposed Article 4 Maternal and Child Health regulations and the corresponding Economic Impact Statement may be obtained from the KDHE Child Care Licensing website at <https://www.kdhe.ks.gov/280/Child-Care-Licensing> or by contacting Alyson Dalrymple at Alyson.Dalrymple@ks.gov or 785-296-1316. Questions pertaining to the proposed regulations should be directed to Alyson Dalrymple at the contact information above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Alyson Dalrymple.



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Janet Stanek
Secretary
Department of Health and Environment

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K.A.R. 28-4-113. Definitions. (a) "Applicant" means a person who has applied for a license but who has not yet been granted a license to operate a facility.

(b) "Applicant with a temporary permit" means a person who has applied for a license and who has been granted a temporary permit to operate a facility.

(c) "Care provider" and "provider" mean an individual who cares for and supervises children in a facility and has responsibility for the health, safety, and well-being of children, including the following:

(1) A primary care provider;

(2) an individual who is at least 16 years of age and who is working in the facility;

and

(3) a substitute.

~~(d) "Day care home" means the premises on which care is provided for a maximum of 10 children under 16 years of age, with a limited number of children under five years of age in accordance with K.A.R. 28-4-114(e).~~

~~(e) "Department" means Kansas department of health and environment.~~

(e) "Disinfect" means full surface application of a disinfectant solution of fragrance-free, environmental protection agency (EPA)-registered chlorine bleach mixed according to the directions on the label or an alternate fragrance-free, EPA-registered disinfectant used according to the directions on the label to any inanimate object.

~~(f) "Emergency care" means care for a period not to exceed two weeks for children not regularly enrolled in a facility.~~

~~(g) "Evening care" means care after 6:00 p.m. and before 1:00 a.m. the following day for~~

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children enrolled at a facility and present during operating hours.

(h) (g) "Extended absence" means time away from a facility for a period of more than three hours in a day.

(i) (h) "Facility" means a ~~day~~ family child care home, a day care home, or a group day care home.

(i) "Family child care home," "day care home," or "group day care home" means the premises on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age as specified in K.A.R. 28-4-114(e).

(j) "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(k) "~~Group day care home" means the premises on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age in accordance with K.A.R. 28-4-114(f).~~

(l) "Large motor activity" means any movement involving the arms, legs, feet, or entire body, including crawling, running, and jumping.

(m) (l) "License capacity" means the maximum number of children who are authorized to be on the premises at any one time.

(n) (m) "Licensed physician" means an individual who is licensed to practice either medicine and surgery or osteopathy in Kansas by the Kansas state board of healing arts or who practices either medicine and surgery or osteopathy in another state and is licensed under the licensing statutes of that state.

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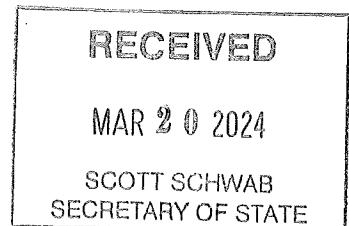
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(n) "Licensee" means a person who has been granted a license to operate a facility.

(o) "Medical record" means the immunization record, health assessment, and medical history of each child.

(p) "Overnight care" means care after 1:00 a.m. and before 6:00 a.m. the same day for children enrolled at a facility and present during operating hours.

(q) "Primary care provider" means an applicant with a temporary permit, a licensee, or the designee of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.

(r) "Professional development training" means training approved by the secretary that is related to working with children in care.

(s) "Sanitize" means full surface application of an EPA regulated food-safe sanitizing solution or heat treatment of any inanimate object used for food preparation or service.

(t) "Small motor activity" means any movement involving the hands or fingers, including using scissors, brushing teeth, and threading beads.

(u) "Substitute" means an individual who supervises children in the temporary absence or extended absence of the primary care provider and who meets the following requirements:

(1) In the temporary absence of the primary care provider, the substitute shall be at least 16 years of age and shall meet all of the requirements ~~for a provider~~ specified in K.A.R. 28-4-114a ~~(a)(2), (b)(4)(C), and (e).~~

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(2) In the extended absence of the primary care provider, the substitute shall be at least 18 years of age and shall meet all of the requirements ~~for a primary care provider~~ specified in K.A.R. 28-4-114a.

(t) ~~(v)~~ "Temporary absence" means time away from a facility for a period not to exceed three hours in a day.

(w) "Tobacco product" means any product that is made or derived from tobacco, or that contains nicotine, that is intended for human absorption, inhalation, or ingestion, including by consuming or using a cigarette, cigar, pipe, chewing tobacco, snuff, snus, or vape device.

(u) ~~(x)~~ "Use zone" means the surface under and around a piece of equipment onto which a child falling from or exiting the equipment would be expected to land.

(y) "Visual motor activity" means any movement involving the coordination of hand or body movements with vision, including drawing, throwing items, or catching items.

~~(v)~~ ~~(z)~~ "Weapons" means any of the following:

- (1) Firearms;
- (2) ammunition;
- (3) air-powered guns, including BB guns, pellet guns, and paint ball guns;
- (4) hunting and fishing knives;
- (5) archery equipment; or
- (6) martial arts equipment. (Authorized by K.S.A. 2010 ~~Supp.~~ 65-508; implementing K.S.A. 2010 ~~Supp.~~ 65-503 and K.S.A. 2010 ~~Supp.~~ 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984;

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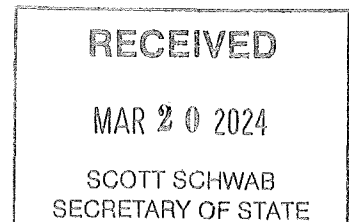
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amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended P-

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K.A.R. 28-4-114. Applicant; licensee. (a) Application process.

(1) Any person desiring to operate a facility shall apply for a license on forms provided by the department.

(2) Each applicant and each licensee shall submit the fee specified in K.A.R. 28-4-92 for a license or for the renewal of a license. The applicable fee shall be submitted at the time of license application or renewal and shall not be refundable.

(3) The granting of a license to any applicant or applicant with a temporary permit may be refused by the secretary if the applicant or applicant with a temporary permit is not in compliance with the applicable requirements of the following:

- (A) K.S.A. 65-504 through 65-506, and amendments thereto;
- (B) K.S.A. 65-508, and amendments thereto;
- (C) K.S.A. 65-512, and amendments thereto;
- (D) K.S.A. 65-530 and 65-531, and amendments thereto; and
- (E) all regulations governing facilities.

(4) Failure to submit the application forms and fee for renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.

(b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee, if an individual, shall meet the following requirements:

- (1) Be at least 18 years of age;
- (2) not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and

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(3) not be engaged in either business or social activities that interfere with the care or supervision of children.

(c) Multiple child care facilities.

(1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503, and amendments thereto, shall maintain each child care facility as a separate entity.

(2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.

(d) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.

(e) ~~License capacity for day~~ Maximum group size for family child care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.

(1) ~~The maximum number of children for which a day~~ group size for a family child care home ~~may be licensed~~ shall be the following:

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TABLE I – LICENSE CAPACITY MAXIMUM GROUP SIZE, ONE PROVIDER

Maximum Number of Children Under 18 <u>12</u> Months	Maximum Number of Children at Least 18 <u>12</u> Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 11 <u>10</u> Years of Age*	<u>License Capacity</u> <u>Maximum Group Size</u>
0	7 <u>8</u>	3 <u>2</u>	10
1	5 <u>6</u>	4 <u>3</u>	10
2	4 <u>5</u>	3 <u>2</u>	9
3	3	2	8

*Children five years of age and over may be substituted for younger children in the license capacity.

(2) Children at least 11 years of age but under 16 years of age who are unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.

(f) Maximum capacity for group day care homes. Each applicant with a temporary permit and each licensee shall ensure that all of the requirements of this subsection are met.

(1) The maximum number of children for which a group day care home may be licensed shall be the following:

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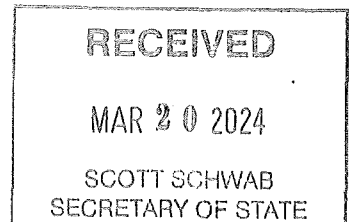


TABLE II – ~~LICENSE CAPACITY~~ MAXIMUM GROUP SIZE, ONE PROVIDER

<u>Age</u> Ages of Children Enrolled	<u>License Capacity</u> <u>Maximum Group Size</u>
At Least 2 1/2 <u>2.5</u> Years but Under 11 <u>10</u> Years of Age	<u>9</u> <u>10</u>
At Least 3 Years but Under 11 <u>10</u> Years of Age	10 <u>11</u>
At Least 5 Years but Under 11 <u>10</u> Years of Age	12

TABLE III – ~~LICENSE CAPACITY~~ MAXIMUM GROUP SIZE, TWO PROVIDERS*

<u>Maximum Number of Children Under</u>	<u>Maximum Number of Children at Least</u>	<u>Maximum Number of Children at Least</u>	<u>License Capacity</u>
<u>18</u> <u>12</u> Months	<u>12</u> Months but Under	<u>5</u> Years but Under 11	<u>Maximum Group Size</u> *
	<u>5</u> Years of Age	<u>10</u> Years of Age**	
<u>0</u>	<u>10</u>	<u>2</u>	<u>12</u>
<u>1</u>	<u>8</u> <u>9</u>	<u>3</u> <u>2</u>	12
<u>2</u>	<u>7</u> <u>8</u>	<u>3</u> <u>2</u>	12
<u>3</u>	<u>6</u> <u>7</u>	<u>3</u> <u>2</u>	12
<u>4</u>	<u>4</u> <u>5</u>	<u>2</u> <u>3</u>	10 <u>12</u>
<u>5</u>	<u>4</u>	<u>3</u>	<u>12</u>

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

**~~Children five years of age and over may be substituted for younger children in the license capacity.~~

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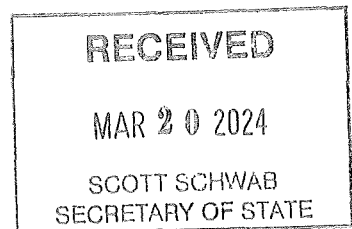


TABLE IV—LICENSE CAPACITY, TWO PROVIDERS*

Maximum Number of Children Under 18 Months	Maximum Number of Children at Least 18 Months but Under 2 1/2 Years of Age	Maximum Number of Children at Least 2 1/2 Years but Under 11 Years of Age**	License Capacity*
0	5	7	12

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

**Children five years of age and over may be substituted for younger children in the license capacity.

(2) If the ages of children enrolled are at least 2.5 years but under 10 years of age, the maximum group size for two providers is 12.

(3) Children at least 11 10 years of age but under 16 years of age unrelated to the provider on the premises for the purpose of receiving child care in the facility shall be included in the license capacity maximum group size if child care for this age group as a whole exceeds three five hours a week.

(g) (f) Developmental levels. Any child who does not function according to age-appropriate expectations shall be counted in the age group that reflects the developmental age level of the child.

(h) (g) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under

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~~11~~ 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for additional children permitted in subsection ~~(j)~~ (i).

~~(j) (h) Emergency care. Emergency care may be provided if the additional children do not cause the license capacity to be exceeded. Group size not exceeded. Except as provided by subsection (i), each applicant with a temporary permit and each licensee shall ensure the following requirements are met:~~

(1) The maximum number of children in each age category, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum number of children in each age category as specified in subsection (e), except as specified in paragraph (h)(3).

(2) The total number of children on the premises, including children under 10 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the maximum group size based on the age of the youngest child present and the number of providers present as specified in subsection (e).

(3) For each child under five years of age not in attendance, the maximum number of children ages five and older may be increased by one. The total number of children in attendance shall not exceed the maximum group size.

~~(j) (i)~~ (i) Additional children on the premises. In addition to the number of children permitted under the terms of the temporary permit or the license and specified in ~~subsections subsection (e) and (f)~~, other children may be permitted on the premises.

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(1) Not more than two additional children ~~2-1/2~~ 2.5 years of age or older who attend part-day preschool or part-day kindergarten may be present at any time between the hours of 11:00 a.m. and 1:00 p.m. for the noon meal on days that school is in session.

(2) Not more than two additional children at least five years of age but under ~~11~~ 10 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. The additional children may be present as follows:

(A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and

(B) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.

(3) Not more than two additional children ~~11~~ 10 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:

(A) The additional children are not on the premises for the purpose of receiving child care in the facility.

(B) The additional children are visiting the applicant's or the licensee's own child or children.

(C) The additional children are supervised by a provider if they have access to the children in care.

~~(k)~~ (j) Substitute. Each applicant with a temporary permit and each licensee shall arrange

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

(+) (k) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post any temporary permit or license conspicuously as required by K.S.A. 65-504, and amendments thereto. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.

(m) (l) Closure. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, any temporary permit or license granted to the applicant or licensee for that facility shall become void. (Authorized by K.S.A. ~~2010-Supp.~~ 65-508; implementing K.S.A. ~~2010-Supp.~~ 65-504, K.S.A. ~~2010-Supp.~~ 65-505, and K.S.A. ~~2010-Supp.~~ 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended P-_____.)

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

(a) Orientation.

(1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a facility, provided by ~~the health department or the secretary's~~ designee that serves the county in which the facility will be located.

(2) Each applicant, each applicant with a temporary permit, and each licensee shall provide orientation to each provider ~~individual who will be caring for children~~ about the policies and practices of the facility, including duties and responsibilities for the care and supervision of children enrolled. Each provider shall complete the orientation before the provider is given sole responsibility for the care and supervision of children. The orientation shall include the following:

(A) Licensing regulations;

(B) the policies and practices of the facility, including emergency procedures, behavior management, and discipline;

(C) the schedule of daily activities;

(D) care and supervision of children in care, including any special needs and known allergies;

(E) health and safety practices; and

(F) confidentiality.

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(b) Health and safety training. Each applicant, each applicant with a temporary permit, each licensee, and each provider shall complete health and safety training approved by the secretary.

(1) Each applicant and each applicant with a temporary permit shall complete the training not later than 30 calendar days after submitting an application for a license.

(2) Each provider shall complete the training before the date of employment or not later than 30 calendar days after the date of employment. Each provider shall complete the training before being given sole responsibility for the care and supervision of children.

~~(3) Each licensee whose license was issued before July 1, 2017 and who has completed the training in the subject areas specified in paragraphs (b)(4)(A), (B), and (C) shall be exempt from training in the subject areas specified in paragraphs (b)(4)(D) through (I). Each provider who was employed at the facility before July 1, 2017 and who has completed the training in the subject areas specified in paragraphs (b)(4)(A), (B), and (C) shall be exempt from training in the subject areas specified in paragraphs (b)(4)(D) through (I).~~

(4) The health and safety training shall include the following subject areas:

(A) Recognizing the signs of child abuse or neglect, including knowledge on the prevention of child maltreatment, shaken baby syndrome and abusive head trauma, and the reporting of suspected child abuse or neglect;

(B) basic child development, including:

(i) supervision of children;

(ii) cognitive, social, emotional, physical development; and

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(iii) approaches to learning;

(C) safe sleep practices and sudden infant death syndrome;

(D) recognizing when a child is ill and prevention and control of infectious diseases, including immunizations;

(E) prevention of and response to emergencies due to food and allergic reactions;

(F) building and premises safety, including identification of and protection from hazards that could cause bodily injury, including electrical hazards, bodies of water, and vehicular traffic;

(G) emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event, including violence at a facility;

(H) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants, including blood and other bodily fluids or waste; ~~and~~

(I) precautions when transporting children, if transportation is provided; and

(J) medication administration training.

(c) Pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) certifications.

Each applicant, each applicant with a temporary permit, each licensee, and each provider shall obtain certification in pediatric first aid and pediatric CPR as specified in this subsection.

(1) Certifications shall include a practical application component and be demonstrated in front of an instructor certified by a nationally recognized first aid and CPR training organization.

(2) Each applicant and each applicant with a temporary permit shall obtain the certifications not later than 30 calendar days after submitting an application for a license.

(~~2~~) (3) Each provider shall obtain the certifications before the date of employment or not later than 30 calendar days after the date of employment.

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~~(3)~~ (4) Each individual required to obtain the certifications shall maintain current certifications.

~~(5)~~ Each applicant with a temporary permit and each licensee shall ensure that at least one provider who has current certification in pediatric first aid and current certification in pediatric CPR is present at all times.

~~(d)~~ Medication administration training.

~~(1)~~ Each of the following individuals shall complete the medication administration training as specified in this subsection:

~~(A)~~ Applicant;

~~(B)~~ applicant with a temporary permit;

~~(C)~~ licensee; and

~~(D)~~ provider designated to administer medications.

~~(2)~~ The training shall be approved by the secretary.

~~(3)~~ Each applicant and each applicant with a temporary permit shall complete the training not later than 30 calendar days after submitting an application for a license and before administering medication to any child.

~~(4)~~ Each licensee whose license was issued before July 1, 2017 shall complete the training not later than December 31, 2017. The licensee shall not administer medications after December 31, 2017 unless the licensee has completed the training.

~~(5)~~ Each provider designated to administer medications who is employed at the facility before July 1, 2017 shall complete the training not later than December 31, 2017. The

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~~designated provider shall not administer medications after December 31, 2017 unless the designated provider has completed the training.~~

~~(6) Each provider designated to administer medications who is employed at the facility on or after July 1, 2017 shall complete the training before administering medication to any child.~~

~~(e) Annual professional development training requirements.~~

(1) For purposes of this subsection, "licensure year" shall mean the period beginning on the effective date and ending on the expiration date of a license.

(2) In each licensure year, each ~~primary care~~ provider shall complete 16 clock-hours of professional development training, as follows: Four of the 16 clock-hours shall include the subject areas specified in paragraphs (b)(3)(A), (b)(3)(C) through (J), or subsection (c).

~~(A) For each licensure year ending during the 2017 calendar year, five clock hours;~~

~~(B) for each licensure year ending during the 2018 calendar year, five clock hours;~~

~~(C) for each licensure year ending during the 2019 calendar year, 12 clock hours; and~~

~~(D) for each licensure year ending during the 2020 calendar year, and for each subsequent licensure year, 16 clock hours.~~

~~(E)~~ (e) Documentation. Documentation of all orientation, training, and certifications for each individual shall be kept in that individual's file in the facility. (Authorized by and implementing K.S.A. 2016 Supp. 65-508; effective Feb. 3, 2012; amended May 12, 2017; amended P-_____.)

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K.A.R. 28-4-115. Facility. (a) Water supply and sewerage systems. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that public water and sewerage systems, where available, are used. If a nonpublic source for the water supply is used, the water shall be safe for drinking and shall be tested annually by a department-certified laboratory. If a well is used, the well shall be approved by the local authority for private well permitting, the department, or a licensed water well contractor. A copy of the test results and the approval shall be kept on file at the facility. Each private sewerage system shall be maintained in compliance with all applicable state and local laws.

(b) Drinking water for children under 12 months of age. If children under 12 months of age are enrolled in a facility using water from a nonpublic source, including private well water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms that the nitrate content of the private well water is not more than 10 milligrams per liter (10 mg/l) as nitrogen.

(c) General environmental requirements. Each facility shall have 25 square feet of available play space per child and shall be constructed, arranged, and maintained to provide for the health and safety of children in care. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the facility meets the following requirements:

- (1) Has walls that are in good condition;
- (2) is skirted and anchored if a mobile home;
- (3) has a 2A 10B:C fire extinguisher;
- (4) has a working smoke detector on each level of the facility;
- (5) is uncluttered, visibly clean, and free from any evidence of vermin infestation and any

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objects or materials that constitute a danger to children in care;

(6) has kitchen and outdoor trash and garbage in covered containers or in tied plastic bags;

(7) meets all of the following requirements for each heating appliance:

(A) Has a protective barrier for each freestanding heating appliance to protect from burns; and

(B) has each heating appliance using combustible fuel vented to the outside;

(8) has each electrical outlet covered or inaccessible to prevent easy access by a child when the outlet is not in use;

(9) has any power strip or extension cord positioned in a manner that prevents a tripping or shock hazard;

(10) has each stairway with more than two stairs railed;

(11) if any children under ~~2-1/2~~ 2.5 years of age are in care, meets all of the following requirements:

(A) Has each stairway equipped with balusters not more than four inches apart or guarded to prevent a child's head or body from falling through;

(B) has each stairway guarded by a secured door or gated to prevent unsupervised access by the child, including a latching device that an adult can open readily in an emergency;

(C) does not have any accordion gate in use; and

(D) does not have a pressure gate at the top of any stairway;

(12) has a readily available second means of escape from the first floor;

(13) has each lockable interior door designed to permit the door to be unlocked from

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either side in case of an emergency;

(14) is maintained at a temperature of not less than 65 degrees Fahrenheit and not more than 85 degrees Fahrenheit in the play area;

(15) does not have any window coverings with strings or cords accessible to children in care; ~~and~~

(16) has at least one bathroom with at least one sink and one flush toilet. All fixtures shall be in working order at all times. An individual towel and washcloth or disposable products shall be provided for each child. The use of common towels shall be prohibited. Hand soap shall be readily accessible in each bathroom; and

(17) has interior and exterior surfaces of the facility that are free from peeling, chipping, cracking, scaling, and loose paint.

(d) Fire safety. Each facility shall be approved for fire safety by a fire inspector.

(e) Basements and other floors. A basement or a second floor used for child care in a facility shall be approved for fire safety by a fire inspector before use. A third floor shall not be used for child care.

(f) Refrigerator. A refrigerator shall be available for the storage of perishable foods. Refrigerated medications shall be in a locked box.

(g) Storage, handling, and disposal of hazardous items. The following hazardous items shall be safely stored, handled, and disposed:

(1) All household supplies, cleaning supplies, dangerous chemicals, and all bodily care products containing alcohol or bearing warning labels to keep out of reach of children ~~or~~

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~~containing alcohol~~ shall be in locked storage or stored out of reach of children under six years of age. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a ~~bathroom or kitchen~~ sink.

(2) ~~Dangerous chemicals, household supplies with warning labels to keep out of reach of children, and~~ All medications shall be in locked storage or stored out of the reach of children under 10 years of age.

(3) Chemicals and cleaning supplies shall be used and disposed of in accordance with the product safety label.

(4) Sharp instruments shall be stored in drawers or cabinets equipped with childproof devices to prevent access by children or stored out of reach of children.

(4) (5) Tobacco products, ashtrays, lighters, and matches shall be stored out of reach of children.

(h) Storage of weapons. No child in care shall have access to weapons. All weapons shall be stored in a locked room, closet, container, or cabinet. Ammunition shall be kept in locked storage separate from other weapons.

(i) Outdoor play area. The designated area for outdoor play and large motor activities on the premises shall meet all of the following requirements:

(1) The outdoor play area shall be fenced if the play area adjoins that of another child care facility, as defined in K.S.A. 65-503, and amendments thereto, or if the area surrounding, or the conditions existing outside, the play area present hazards that could be dangerous to the safety of the children, which may include any of the following:

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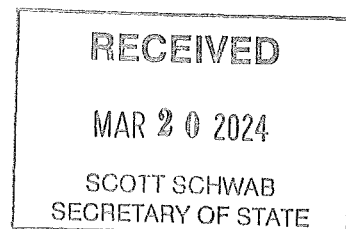
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(A) A fish pond or a decorative pool containing water;

(B) railroad tracks; or

(C) a water hazard, including a ditch, a pond, a lake, and any standing water.

(2) Outdoor play equipment that is safely constructed and in good repair shall be available and placed in an area free of health, safety, and environmental hazards.

(3) The use of a trampoline shall be prohibited during the hours of operation of the facility. If a trampoline is on the premises, the trampoline shall be made inaccessible to children during the facility's hours of operation.

(4) Climbing equipment and swings shall be either anchored in the ground with metal straps or pins or set in cement, to prevent movement of the equipment and swings.

(5) All surfaces under and around climbing equipment and swings shall meet the following requirements:

(A) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored equipment over four feet in height, including climbing equipment, slides, and swings.

(B) Impact-absorbent surfacing material shall consist of material intended for playground use, including shredded bark mulch, wood chips, fine sand, fine gravel, shredded rubber, unitary surfacing material, or synthetic impact material.

(C) Hard-surfacing materials, including asphalt, and concrete, and ~~hard-packed dirt~~, shall not be used in any use zone. Hard-packed dirt shall be covered with an impact-absorbent surfacing material as specified in paragraph (i)(5)(B). This requirement shall apply regardless of

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the height of the climbing equipment, slides, and swings.

(D) Surfaces made of loose material shall be maintained by replacing, leveling, or raking the material.

(6) Swings shall not have wooden or metal seats.

(7) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under five years of age.

(j) Each facility licensed on and after March 1, 2012 shall have a designated area for outdoor play and large motor activities as part of the licensed premises. (Authorized by K.S.A. 65-508; and implementing K.S.A. 2010 Supp. 65-508 and K.S.A. 65-530; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended Feb. 3, 2012; amended P-_____.)

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K.A.R. 28-4-116. Daily care of children. (a) Daily activities.

(1) Each applicant with a temporary permit and each licensee shall provide daily activities that promote healthy growth and development, take into consideration the cultural background and traditions that are familiar to the children, and incorporate both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care.

(2) Each child shall be offered a choice of activities and the opportunity to participate. Age-appropriate toys, play equipment, books, and other learning materials shall be available in sufficient quantities to allow each child a choice of activities.

(3) The activities, supplies, and equipment shall be designed to promote the following:

(A) Large, ~~motor and~~ small, and visual motor development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying;

(B) creative expression, which may include dramatic play, music, and art;

(C) math and science skills, which may include sorting, matching, counting, and measuring; and

(D) language development and literacy, which may include reading, singing, finger plays, writing, and stories.

(4) Each child shall be given the opportunity for at least one hour of physical activity daily, either outdoors as described in paragraph (a)(7) or indoors.

(5) Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met if the daily activities include any media viewing:

(A) Each media program shall be age-appropriate and, if rated, shall have a rating

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appropriate for the ages and developmental levels of the children who view the program.

(B) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.

(6) Toys and other items used by children shall meet the following requirements:

(A) Be clean, of safe construction, and in good repair;

(B) be washed and sanitized daily when used by children under 18 months of age; and

(C) be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.

(7) Unless prohibited by the child's medical condition or extreme weather conditions, each child in care shall be taken outdoors daily. Each child 12 months of age or older shall have the opportunity for at least one hour of outdoor play daily.

(b) Self-help and personal care. Each provider shall ensure that each child is assisted as needed with hand washing, toileting, dressing, and other personal care.

~~(c) Hand washing. Hands shall be washed using soap and warm running water and dried with a paper towel or a single use towel. When soap and running water are not readily available, an alcohol based hand sanitizer may be used only by adults and, under adult supervision, by children two years of age and older.~~

~~(1) Each provider shall wash that provider's hands as needed when hands are soiled and when each of the following occurs:~~

~~(A) At the start of the hours of operation or when first arriving at the facility;~~

~~(B) returning from being outdoors;~~

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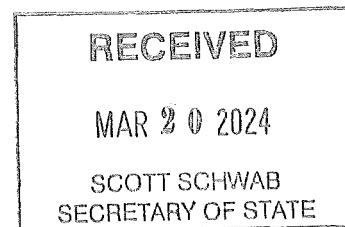
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~~(C) after toileting, diapering, assisting a child with toileting, or handling any bodily fluids;~~

~~(D) before preparing each snack and each meal and before and after eating each snack and each meal;~~

~~(E) before and after administrating any medication; and~~

~~(F) after feeding or handling any pet.~~

~~(2) Each child shall wash that child's hands or be assisted in washing that child's hands as needed when hands are soiled and when each of the following occurs:~~

~~(A) First arriving at the facility;~~

~~(B) returning from being outdoors;~~

~~(C) after toileting;~~

~~(D) before and after eating each snack and each meal; and~~

~~(E) after feeding or handling any pet.~~

~~(d) Smoking prohibited Tobacco products. No provider shall smoke use tobacco products while providing direct physical care to children. Smoking in any room, enclosed area, or other enclosed space on the premises shall be prohibited when children are in care pursuant to K.S.A. 65-530, and amendments thereto.~~

~~(e) (d) Nutrition and food service. Each applicant with a temporary permit and each licensee shall develop and implement menu plans for meals and snacks that contain a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products.~~

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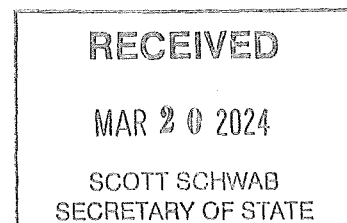
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(1) If children under 18 months of age are in care, the following requirements shall be met:

(A) Each child shall be held when bottle-fed until the child can hold the child's own bottle.

(B) No child shall be allowed to sleep with a bottle in the child's mouth.

(C) ~~Each bottle that contains prepared formula or breast milk shall be stored in the refrigerator with the nipple covered. The bottle shall be labeled with the child's name, the contents, and the date received and shall be used within 24 hours of the date on the label. If prepared formula is used, the following requirements shall be met:~~

(i) Each bottle that contains prepared formula shall be stored in the refrigerator with the nipple covered.

(ii) Each bottle shall be labeled with the child's name, the contents, and the time and date prepared, and shall be used within 24 hours of the time of preparation on the label.

(iii) If a child does not finish a bottle, the contents of the bottle shall be discarded within one hour from when the feeding from that bottle started.

~~(D) If a child does not finish a bottle, the contents of the bottle shall be discarded. If breast milk is used, the following requirements shall be met:~~

(i) All breast milk shall be labeled with the child's name and the time and date expressed.

(ii) Unfrozen breast milk shall be stored in a refrigerator and shall be used within 96 hours from the time it was expressed.

(iii) Frozen breast milk shall be stored in a freezer and shall be used within six months

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from the time it was expressed and within 24 hours from the time it was thawed.

(iv) If a child does not finish the bottle of breast milk within two hours from when the feeding from that bottle started, the contents shall be discarded.

(v) Accommodations shall be provided that enable the child's parent to breastfeed their child.

(E) No formula or breast milk shall be heated in a microwave oven.

(F) Solid foods shall be offered when the provider and the parent or legal guardian of the child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and stored in the refrigerator.

(2) Each applicant with a temporary permit and each licensee shall serve nutritious meals and snacks based on the amount of time a child is in care.

(A) Each child who is in care at least ~~2-1/2~~2.5 hours but under four hours shall be served at least one snack.

(B) Each child who is in care at least four hours but under eight hours shall be served at least one snack and at least one meal.

(C) Each child who is in care at least eight hours but under 10 hours shall be served at least two snacks and one meal or at least one snack and two meals.

(D) Each child who is in care for 10 or more hours shall be served at least two meals and at least two snacks.

(3) Each applicant with a temporary permit and each licensee shall include the following

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items in meals and snacks:

(A) Breakfast shall include the following:

- (i) A fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
- (ii) bread or grain product; and
- (iii) milk.

(B) Noon and evening meals shall include one item from each of the following:

- (i) Meat or a meat alternative;
- (ii) two vegetables or two fruits, or one vegetable and one fruit;
- (iii) bread or a grain product; and
- (iv) milk.

(C) Midmorning and midafternoon snacks shall include at least two of the following:

- (i) Milk;
- (ii) fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
- (iii) meat or a meat alternative; or
- (iv) bread or grain product.

(D) For snacks, juice shall not be served when milk is served as the only other item.

(4) A sufficient quantity of food shall be prepared for each meal to allow each child to have a second portion of bread, milk, and either vegetables or fruits.

(5) Drinking water shall be available to each child at all times when the child is in care.

(6) ~~Only pasteurized milk products shall be served~~ All milk products served shall be pasteurized.

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~~(7) Milk served to any child who is two years of age or older shall have a fat content of one percent or less, unless a medical reason is documented in writing by a licensed physician.~~

~~(8) If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.~~

~~(9) (8) If any child has a food allergy or special dietary need, the provider and the parent or legal guardian of the child shall make arrangements for the provision of alternative foods or beverages.~~

(9) If meals are catered or delivered from an off-site location, the following requirements shall be met:

(A) Food provided from a central kitchen or vendor and delivered to the facility shall be obtained from a source licensed or inspected by the Kansas department of agriculture or equivalent food safety licensing agency in another state.

(B) Food shall be transported in covered and temperature-controlled containers and shall not be allowed to stand. Hot foods shall be maintained at not less than 140 degrees Fahrenheit, and cold foods shall be maintained at 45 degrees Fahrenheit or less.

(10) Meals and snacks shall be served to each child using individual tableware that is appropriate for the food or beverage being served. Food shall be served on tableware appropriate for that food and shall not be served directly on a bare surface, including a tabletop.

(11) Tableware shall be washed, rinsed, and air-dried or placed in a dishwasher after each meal.

(12) Sanitary methods of food handling and storage shall be followed.

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(13) A washable or disposable individual cup, towel, and washcloth shall be provided for each child.

~~(f) Recordkeeping. Each applicant with a temporary permit and each licensee shall ensure that a file is maintained for each child, including each child enrolled for emergency care.~~

~~Each file shall include the following information:~~

~~(1) The full name, home and business addresses, and telephone numbers of the child's parent or parents or legal guardian and the name, address, and telephone number of the individual to notify in case of emergency;~~

~~(2) the full name and telephone number of each individual authorized to pick up the child and to provide transportation to and from the facility;~~

~~(3) a medical record as required by K.A.R. 28-4-117 (a), except that each child enrolled for emergency care shall be exempt from K.A.R. 28-4-117 (a)(2); and~~

~~(4) written permission from the parent or legal guardian for emergency medical care and for the child to go off the premises as required by K.A.R. 28-4-124 and 28-4-127 (b)(1)(A).~~

~~(Authorized by K.S.A. 2010 Supp. 65-508; implementing K.S.A. 65-507 and K.S.A. 2010 Supp. 65-508 and K.S.A. 65-530; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Feb. 26, 1990; amended Feb. 3, 2012; amended P-_____.)~~

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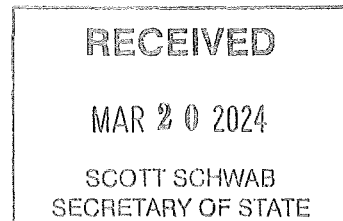
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K.A.R. 28-4-116a. Napping and sleeping. (a) Rest period. Each child shall have a daily, supervised rest period as needed. Each child who does not nap or sleep shall be given the opportunity for quiet play.

(b) Safe sleep practices for children in care.

(1) Each applicant with a temporary permit and each licensee shall develop a written plan for safe sleep practices and implement safe sleep practices for children in care who are napping or sleeping.

(2) Each applicant with a temporary permit and each licensee shall ensure that the safe sleep practices are ~~discussed~~ shared with the parent or legal guardian of each child before the first day of care.

(3) Each provider shall follow the safe sleep practices of the facility.

(4) Each child who is 12 months of age or older shall nap or sleep on a bed, a cot, the lower bunk of a bunk bed, or a pad over a carpet or area rug on the floor.

(5) Children under 12 months of age. Each applicant with a temporary permit and each licensee shall ensure that all of the following requirements are met for each child in care who is under 12 months of age:

(A) The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.

(B) If the child falls asleep on a surface other than a crib or playpen, the child shall be moved to a crib or playpen.

(C) A crib or playpen shall be provided and used for each child in attendance at any one time. The child shall not nap or sleep in the same crib or playpen ~~as that~~ occupied by another

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child at the same time.

(D) The child shall be placed on the child's back to nap or sleep.

(E) When the child is able to turn over independently from front to back and back to front, the child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.

(F) The child shall sleep in a crib or a playpen that is free of any soft items, ~~which may include~~ including pillows, quilts, heavy blankets, bumpers, comforters, sheepskins, flat sheets, cloth diapers, bibs, stuffed animals, and toys.

(G) ~~If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the child's chest. The head of the child shall remain uncovered.~~ The child may nap or sleep in sleep clothing, including sleepers and sleep sacks, ~~in place of a lightweight blanket.~~ Swaddling shall not be permitted.

(c) Napping or sleeping surfaces. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for all napping or sleeping surfaces:

(1) Clean, individual bedding shall be provided for each child.

(2) Each surface used for napping or sleeping shall be kept clean, of safe construction, and maintained in good repair.

(3) Each crib and each playpen shall be used only for children who meet the manufacturer's recommendations for use, including any age, height, or weight limitations. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file at the facility.

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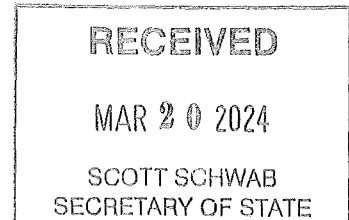
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(4) Each crib and each playpen shall have a firm, tightfitting mattress and a fitted sheet.

The mattress shall be set at its lowest point when any child using the crib or playpen becomes able either to sit up or to pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.

(5) If a crib or playpen is slatted, the slats shall be spaced not more than ~~2-3/8~~ 2.375 inches apart.

(6) ~~On and after December 28, 2012,~~ Each applicant, each applicant with a temporary permit, and each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.

(7) Each pad used for napping or sleeping shall be at least ~~1/2~~ 0.5 inch thick, washable or enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.

(8) Cribs, cots, playpens, and pads, when in use for napping or sleeping, shall be separated by at least 24 inches in all directions except when bordering on the wall.

(9) When not in use, cribs, cots, playpens, pads, and bedding shall be stored in a clean and sanitary manner.

(10) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in the child utilizing the sleeping surface.

(d) Consumer warning or recall. Each applicant with a temporary permit and each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.

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(e) Transition from crib or playpen. The determination of when a child who is 12 months of age or older is ready to transition from a crib or a playpen to another napping or sleeping surface shall be made by the parent or legal guardian of the child and by either the applicant with a temporary permit or the licensee. The requirements of paragraphs (c)(3) and (4) for a child using a crib or playpen shall apply. (Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012; amended P-_____.)

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K.A.R. 28-4-117. Health care requirements for children under 16 years of age and recordkeeping. (a)(1) A completed medical record on the form provided by the department shall be on file for each child under ~~14~~ 10 years of age enrolled for care and for each child under 16 years of age living in the child care facility: and shall include the following:

(2) ~~(1) Each medical record shall include~~ The results of a health assessment conducted by a nurse ~~trained~~ approved to perform health assessments ~~or~~, a licensed physician, or physician assistant. The health assessment shall be conducted not more than twelve within six months before and obtained not later than 60 calendar days after the child's initial enrollment in a child care facility; and;

(3) ~~(2) Each medical record shall include~~ a medical history obtained from the parent or legal guardian. Each applicant with a temporary permit and each licensee shall review with each child's parent or legal guardian that child's medical history at least once every 12 months.

(b) A child under 16 years of age shall not be required to have routine tuberculin tests.

(c) Immunizations for each child, including each child of the provider under 16 years of age shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be obtained not later than 60 calendar days after the child's initial enrollment in a child care facility and shall be maintained on the child's medical record.

(d) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the ~~child care~~ facility.

(e) If an infant who has not been immunized against measles, mumps, rubella, and

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varicella because of the age of that child is enrolled and there are children in care who have not had measles, mumps, rubella, and varicella immunizations due to ~~exemption~~ an exception, including the children of the provider, the parents of the infant at risk shall sign a statement that the parents have been informed of the risk to their child. This statement shall be in the infant's file at the ~~day care or group day care home~~ facility.

(f) If a child is moved to a different child care facility provider, a new health assessment shall not be required if the previous ~~medical record~~ health assessment is available.

(g) Each applicant with a temporary permit and each licensee shall provide information to parents of children ~~in the licensee's program~~ about the benefits of annual well-child health assessments for children under the age of six years and biennial health assessments for children six years of age and older. Each applicant with a temporary permit and each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information ~~may~~ shall be given on a form provided by the department to the parent when the child is enrolled or be posted in a conspicuous place, with copies of the form available to parents on request.

(h) Recordkeeping. Each applicant with a temporary permit and each licensee shall ensure that a file is maintained for each child. Each file shall include the following information:

(1) The full name, home and business addresses, and telephone numbers of the child's parent or parents or legal guardian and the name, address, and telephone number of the individual to notify in case of emergency;

(2) the full name and telephone number of each individual authorized to remove the child

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from the facility;

(3) a medical record as required by K.A.R. 28-4-117(a); and

(4) written permission from the parent or legal guardian for emergency medical care and for the child to go off the premises as required by K.A.R. 28-4-124 and 28-4-127(b)(1)(A) and (B). (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008; amended P-_____.)

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K.A.R. 28-4-118. Medication administration and Reporting suspected child abuse or neglect. (a)
~~Medication administration.~~

~~(1) Each applicant with a temporary permit and each licensee shall designate at least one provider to administer medications to children.~~

~~(2) If nonprescription medication is to be administered to a child, each designated provider shall meet the following requirements:~~

~~(A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;~~

~~(B) require that each medication supplied by a parent or legal guardian for the child be in the original container;~~

~~(C) ensure that the container is labeled with the first and last name of the child for whom the medication is intended; and~~

~~(D) administer each medication according to the instructions on the label.~~

~~(3) If prescription medication is administered to a child, each designated provider shall meet the following requirements:~~

~~(A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;~~

~~(B) keep each medication in the original container labeled by a pharmacist, with the following information:~~

~~(i) The child's first and last name;~~

~~(ii) the name of the licensed physician, physician assistant (PA), or advanced practice registered nurse (APRN) who ordered the medication;~~

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~~(iii) the date the prescription was filled;~~

~~(iv) the expiration date of the medication; and~~

~~(v) specific, legible instructions for administration and storage of the medication;~~

~~(C) consider the instructions on each label to be the order from the licensed physician, PA, or APRN;~~

~~(D) administer the medication only to the child designated on the prescription label; and~~

~~(E) administer the medication in accordance with the instructions on the label.~~

~~(4) Documentation of each medication administered shall be kept on a form provided by the department and maintained in each child's file.~~

~~(5) A copy of the documentation of each medication administered shall be made available to the parent or legal guardian of the child.~~

~~(b) Reporting suspected child abuse or neglect. Each provider shall report to the Kansas department for children and families or to law enforcement any suspected child abuse or neglect within 24 hours. (Authorized by and implementing K.S.A. 2016 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1986; amended Feb. 26, 1990; amended May 12, 2017; amended P-~~

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

Requirements and definitions for general regulations. (a) Requirements. The requirements of

~~K.A.R. 28-4-123 through 28-4-132~~ 28-4-133 shall apply to the following:

~~(a) Family day care home as defined in K.S.A. 65-517, and amendments thereto;~~

~~(b) (1) Day care home and group day~~ Family child care home, day care home, or group day care home as defined in K.A.R. 28-4-113;

~~(c) (2) preschool and child care center as defined in K.A.R. 28-4-420; and~~

~~(d) (3) residential center and group boarding home as defined in K.A.R. 28-4-268.~~

(b) Definitions. For the purposes of K.A.R. 28-4-123 through K.A.R. 28-4-133, the following definitions shall apply:

(1) "Animal" means any living creature, other than a human being, that has the ability to move voluntarily, including any mammal, rodent, fish, reptile, spider, insect, and bird.

(2) "Applicant" means a person who has applied for a license but has not yet been granted a license to operate a facility, residential center, or group boarding home.

(3) "Applicant with a temporary permit" means a person who has applied for a license and who has been granted a temporary permit to operate a facility, residential center, or group boarding home.

(4) "Department" means Kansas department of health and environment.

(5) "Disinfect" means full surface application of a disinfectant solution of fragrance-free, environmental protection agency (EPA)-registered chlorine bleach mixed according to the directions on the label or an alternate fragrance-free, EPA-registered disinfectant used according to the directions on the label to any inanimate object.

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(6) "Facility" means a family child care home, day care home, group day care home, a preschool, or a child care center, but shall not include a residential center or group boarding home.

(7) "Licensee" means a person who has been granted a license to operate a facility, residential center, or group boarding home.

(8) "Pool" means any fixture or structure designed or utilized to hold water for swimming, wading, recreation, exercise, therapeutics, bathing, or any other purpose. The definition of pool shall not include indoor bath tubs or fully enclosed containers used to store water.

(9) "Primary care provider" means an applicant with a temporary permit, a licensee, or the designee of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.

(10) "Program director" means an individual in a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b) or (c) and who is responsible for implementing and supervising the program.

(11) "Provider" means an individual who cares for and supervises children in a family child care home and has responsibility for the health, safety, and well-being of children, including the following:

(A) A primary care provider;

(B) an individual who is at least 16 years of age and who is working in the family child

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care home; and

(C) a substitute.

(12) "Regularly volunteering" means working in a facility without compensation on a recurring basis. This term shall not apply to guest speakers or to individuals who make one or more presentations on a specific subject.

(13) "Sanitize" means full surface application of an EPA regulated food-safe sanitizing solution or heat treatment of any inanimate object used for food preparation or service.

(14) "Secretary" means secretary of the Kansas department of health and environment or the secretary's designee.

(15) "Shelter-in-place area" means a designated location in the facility to which children and others may relocate in an emergency.

(16) "Staff member" means an employee, a substitute, or a volunteer in a facility, a residential center, or a group boarding home.

(17) "Substitute" means an individual who supervises children in the temporary or extended absence of an employee or volunteer.

(18) "Tobacco product" means any product that is made or derived from tobacco, or that contains nicotine, that is intended for human absorption, inhalation, or ingestion, including by consuming or using a cigarette, cigar, pipe, chewing tobacco, snuff, snus, or vape device.

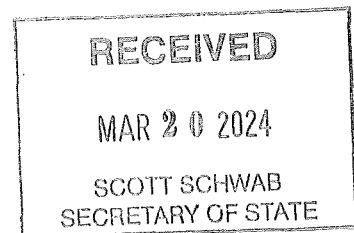
(19) "Volunteer" means an individual 14 years of age or older who is working in the facility without compensation. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended March 28, 2008; amended P-

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K.A.R. 28-4-123. Parental access to ~~child care facilities~~. (a) Each parent or and each legal guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility center and group boarding home as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent.

(b) If video cameras are used in a facility for the purpose of monitoring children's activities or to provide remote visual access to parents and legal guardians, each applicant with a temporary permit and each licensee shall ensure that the following requirements are met:

(1) The parent or legal guardian of each child in care shall be informed in writing that cameras are used in the facility.

(2) All staff members shall be informed if cameras are used.

(3) The use of cameras shall not replace any requirements for supervision of children in care.

(4) Each applicant with a temporary permit and each licensee shall give the secretary's designee access to video camera recordings and viewing privileges for the purpose of investigating compliance. (Authorized by K.S.A. 65-508; and implementing K.S.A. 65-508 and K.S.A. 65-522 65-512; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended P-_____.)

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

(a) ~~Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517, and any amendments to it shall obtain a signed parental permission on a form supplied by the department of health and environment. Residential centers and group boarding homes shall be exempt from the requirements of this regulation.~~

(b) Written permission on a form supplied by the department shall be obtained from the parent or legal guardian of each child who will be transported or allowed to participate in any off-premises field trip.

(c) For each location a child is transported and for each off-premises trip, the destination, the time children leave the child care facility, the adults responsible for the children while off premises, and the estimated time of return shall be posted in a place accessible provided to parents and legal guardians.

(d) The child's emergency medical treatment form and medical record shall be accessible when any child is participating in any off-premises trip or activity.

(e) Written permission on a form supplied by the department shall be obtained from the parent or legal guardian of each school age child who will be biking or walking without adult supervision to or from activities away from the facility. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990; amended P-_____.)

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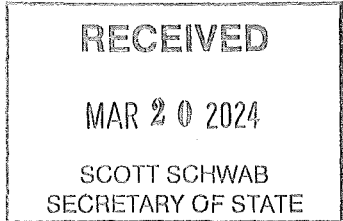
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K.A.R. 28-4-126. Health of ~~persons~~ individuals at least 16 years of age or older in child-care facilities. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this regulation are met.

(a) Health requirements.

(1) Each ~~person~~ individual caring for children shall be free from any physical, mental, or emotional handicaps as necessary conditions that prevent the individual's ability to protect the health, safety, and welfare of the children, and shall be qualified by temperament, and emotional maturity, sound judgment, and demonstrate an understanding of children, and shall act with sound judgment.

(2) ~~Persons~~ No individual in contact with children shall ~~not~~ be in a state of impaired ability due to the use of alcohol, prescription or nonprescription drugs, or other substances.

(b) Health status forms. Each individual at least 16 years of age who is caring for children shall attest to that individual's health status on a form supplied by the department or approved by the secretary.

(1) ~~Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment for shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application. The health status form shall indicate if the individual has been exposed to an active case of tuberculosis or has been diagnosed with suspected or confirmed active tuberculosis.~~

(2) ~~Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517~~

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shall be exempt from K.A.R. 28-4-126(b)(1). Each individual shall update the health status form annually or more often if there is a change in the health status or if the individual has been exposed to an active case of tuberculosis.

(c) ~~Tuberculin~~ Tuberculosis testing.

(1) Each ~~person~~ individual at least 16 years of age who is living, working, or regularly volunteering in the facility shall have a record of a negative tuberculin tuberculosis test or x-ray obtained not more than two years before the date of employment or initial application for a license or certificate of registration or ~~or~~ not later than 30 days after the date of employment or initial application.

(2) ~~Additional tuberculin testing shall be required if significant exposure to an active case of tuberculosis occurs, or symptoms compatible with tuberculosis develop. Proper treatment or prophylaxis shall be instituted, and results of the follow-up shall be recorded on the person's health record. The Kansas department of health and environment shall be informed of each case described within this paragraph. Compliance with the tuberculosis prevention and control program of the department shall be required following each exposure to active tuberculosis disease.~~

(d) Records. The health status form results of the health assessment and tuberculin each tuberculosis test shall be recorded on forms supplied provided by the Kansas department of health and environment and shall be kept on file in each individual's record at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

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(e) In addition to meeting the requirements in K.A.R. 28-4-126(c) and (d), each resident 16 years or older in a residential facility center or group boarding home as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(b), (c) and (d) shall have a health assessment conducted by a licensed physician, a physician assistant, or by a nurse trained to perform health assessments. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990; amended P-_____.)

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

(a) Telephone. A working telephone shall be on the premises and available for use at all times. Emergency telephone numbers shall be readily accessible or be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.

(b) Emergency medical treatment.

(1) ~~Each facility shall have~~ The following documentation shall be on file at the facility, residential center, or group boarding home for each child:

(A) Written permission of the parent, or legal guardian, ~~or legal custodian~~ for emergency medical treatment on a form that meets the requirements of the hospital or clinic where emergency medical care will be given; and

(B) the name, ~~address and telephone number of a physician~~ and hospital preference ~~to be called in case of emergency.~~

(2) Residential ~~facilities~~ centers and group boarding homes providing emergency care shall be exempt from K.A.R. 28-4-127(b)(1)(A).

(3) Provisions shall be made at a hospital or medical clinic for emergency treatment for children in care.

(e) (4) The medical record health assessment forms and emergency release forms ~~medical treatment form~~ shall be taken to the ~~emergency room~~ hospital or medical clinic with the any child needing emergency medical treatment.

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~~(d)~~ (5) When a staff member accompanies a child to the source of emergency care medical treatment, that person individual shall remain with the child ~~unless or~~ until a the child's parent or ~~parent's designee~~ legal guardian assumes responsibility for the child. ~~Such an arrangement~~ The individual's absence shall not compromise the supervision of the other children in the facility.

~~(e)~~ (c) Reporting illnesses, and injuries, and deaths:

(1) Residential centers and group boarding homes. Each applicant with a temporary permit and each licensee for each residential center or group boarding home shall:

(A) Residential facilities shall Have on file at the facility residential center or group boarding home written policies on reporting of illnesses and injuries of adults and children.

~~(B)~~ The policies shall be approved by the Kansas department for children and families licensing agency.

(B) Report any injury or illness which results in the death of a child in care to the Kansas department for children and families by the next working day.

(2) Facilities. Each applicant with a temporary permit and each licensee for each facility shall:

~~(A) Day care facilities shall report immediately~~ Report by the end of the same day to the parent or legal guardian of each illness or injury of a child which requires medical attention any first aid provided by an individual caring for children.

(B) Immediately notify the parent or legal guardian if a child becomes ill while attending the program.

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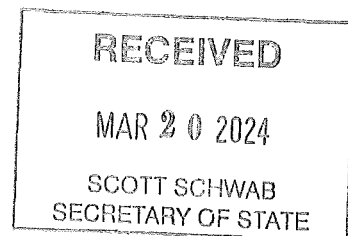
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(C) Report if an applicant with a temporary permit, a licensee, a staff member, or a child in care contracts an infectious or contagious disease listed in K.A.R. 28-1-2. The report shall be made by the next working day to the secretary's designee who serves the county in which the facility is located.

(D) Fully cooperate with any investigation, disease control, or surveillance procedures initiated by the local health department or the department.

~~(3) Communicable diseases shall be reported to the county health department by the next working day.~~

~~(f) Any injury or illness which results in the death of a child in care shall be reported by the next working day to the county health department or the Kansas department of health and environment. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended P-
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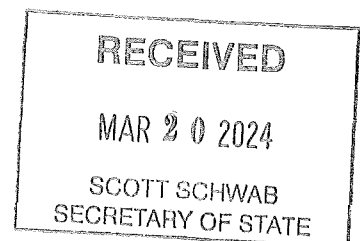
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K.A.R. 28-4-128. Safety and emergency procedures. (a) Emergency plans; drills. Each facility shall develop an emergency plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, and serious injury.

(1) Each applicant, each applicant with a temporary permit, and each licensee shall develop and implement a written emergency plan to provide for the safety of children and staff members in emergencies. The emergency plan shall include the following information:

(A) Procedures for emergencies likely to occur on or near the premises, including a fire, a weather-related event, a missing or runaway child, a chemical release, a utility failure, an intruder, an act of terrorism, a lockdown, and an unscheduled closing;

(B) a designated shelter-in-place area, a designated off-premises relocation site, and evacuation routes for each area and for each site;

(C) procedures to meet the needs of individual children, including each child with special needs and chronic medical conditions;

(D) procedures for responding to and preventing allergic reactions of individual children;

(E) procedures for notifying each parent or adult responsible for a child of any off-premises relocation;

(F) procedures for reuniting each child with each parent or adult responsible for the child;

(G) procedures for continuity of operations, including backing up or retrieving health and other required records; and

(H) procedures designating the tasks to be followed by each staff member in an emergency, including the following:

(i) As appropriate, contacting 911 or other emergency response entities;

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(ii) assisting the children, including children with special needs, to move to a designated shelter-in-place area and to a designated off-premises relocation site; and

(iii) ensuring that emergency supplies are readily available.

(b) (2) Each emergency plan shall be posted in a conspicuous place in the facility kept on file on the premises. Staff in day care facilities Each applicant with a temporary permit and each licensee shall review ensure that the plan is reviewed with parents or legal guardians of children enrolled.

(c) (3) Each person responsible for the children, including each substitute, staff member shall be informed of and shall follow the emergency plans plan.

(4) Each licensee shall review the emergency plan at least annually and update it as needed.

(5) Each licensee shall ensure that each staff member practices, at least annually, the procedures for assisting the children to move to a designated shelter-in-place area and to a designated off-premises relocation site. The date and time of each practice and a list of all participating staff members shall be recorded and kept on file on the premises.

(6) Each licensee shall ensure that each staff member and child participate in the following drills:

(d) (A) A fire drill shall be conducted monthly and scheduled to allow participation by each child. Each date and time shall be recorded. A record of the date and time of each fire drill and a record of each evacuation time shall be kept on file on the premises for one year.

(e) (B) A tornado drill shall be conducted monthly, April through September, and

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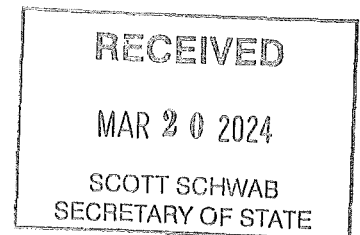
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~~scheduled to allow participation by each child. Each date and time shall be recorded. A record of the date and time of each tornado drill and a record of each evacuation time shall be kept on file on the premises for one year.~~

~~(f) (b) Each person regularly caring for children shall have first-aid training.~~

~~Documentation of the training shall be on file at the facility. Standard precautions for handling blood and other bodily fluids or waste. Each applicant, applicant with a temporary permit, and each licensee shall ensure that each staff member complies with the following standard precautions when handling blood and other bodily fluids or waste:~~

~~(1) Each staff member shall avoid coming into direct contact with blood and other bodily fluids or waste.~~

~~(2) Each staff member shall wear single-use gloves in the following situations:~~

~~(A) When cleaning contaminated surfaces or areas;~~

~~(B) before dressing a cut or sore that is leaking body fluids; and~~

~~(C) when cleaning up each spill, including urine, feces, blood, saliva, vomit, and tissue discharge.~~

~~(3) Each contaminated surface or area on which a spill occurs shall be cleaned by removing any visible spill from the surface or area with a water-saturated disposable paper towel or wipe. After the surface or area has been cleaned, the surface or area shall be sanitized by wetting the entire surface or area with a disinfectant solution of chlorine bleach mixed according to the directions on the label, or an appropriate commercial disinfectant used according to the directions on the label.~~

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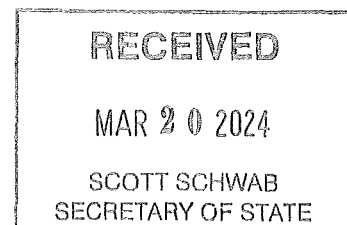
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(4) Each mop used to clean up a contaminated area shall be cleaned and rinsed in a disinfecting solution, wrung as dry as possible, and hung to dry.

(5) Each paper towel, sponge, or other material used for cleaning up a contaminated area shall be placed in a plastic bag with a secure tie and thrown away in a covered container.

(c) Each applicant with a temporary permit and each licensee shall maintain first-aid supplies in a first-aid kit, carrying case, box, or other container. The first-aid supplies shall include the following:

(A) First-aid manual;

(B) single-use gloves;

(C) adhesive bandages of assorted sizes;

(D) adhesive tape;

(E) a roll of sterile gauze;

(F) sharp scissors;

(G) sterile gauze squares at least four inches by four inches in size;

(H) a cleansing agent or liquid soap;

(I) an elastic bandage;

(J) tweezers; and

(K) a bottle of water for washing and cleansing. (Authorized by and implementing K.S.A.

65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990; amended P-

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

(a) ~~Swimming and wading Pools, hot tubs, and spas~~ on the premises.

(1) No child shall have unsupervised access to a pool, a hot tub, or a spa.

(1) (2) ~~If a swimming pools pool, with water over 24 inches deep, wading pools, or hot tubs are a hot tub, or a spa is~~ on the premises, they it shall be constructed, maintained, and used in such a manner as to safeguard the lives and health of the children.

(2) ~~The number and ages of children using either swimming or wading pools shall be limited to allow appropriate supervision by adult staff members.~~

(3) Required ~~staff/child~~ staff-child ratios shall be maintained at all times that children are involved in swimming or wading activities.

(4) The number and ages of children using a pool shall be limited to allow supervision by each individual caring for children.

(4) (5) Legible safety rules for the use of each swimming pools pool shall be posted in a ~~conspicuous~~ clearly visible location near the pool area, and

(6) ~~shall be read and reviewed weekly by each staff member~~ Each individual responsible for the supervision of ~~children~~ any child using a pool shall review the safety rules with each child before the child participates in the activity.

(b) ~~Swimming Pools~~ on the premises. Pools containing less than 12 inches of water and not permanently affixed to the premises shall be exempt from this subsection. If a pool is on the premises, the following requirements shall be met:

(1) ~~Below-ground swimming pools~~ Each inground pool shall be enclosed by a

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fence not less than at least five feet high, with openings no greater than 3.5 inches, and constructed and maintained in good repair to prevent chance access by discourage children and unwanted visitors from accessing the pool area. The wall of a building may be used as one side of the fence if the wall has no openings, including windows and doors, capable of providing direct access to the pool area.

(2) Each gate in the fence shall be at least five feet high, self-closing, self-locking, and kept closed and locked.

(2) (3) Each above-ground aboveground swimming pools pool shall be have non-climbable sidewalls that are at least four feet high, or shall be enclosed with by a fence not less than at least five feet high to prevent chance access by children. The fence and the gate shall meet the requirements in paragraphs (b)(1) and (b)(2). Steps and ladders shall be removed and stored away from the pool when the pool is not in use. Each aboveground pool with a deck or berm that provides a ground-level entry on any side shall be treated as an inground pool.

(3) (4) Sensors shall not be used in lieu of a fence.

(4) (5) Water in the swimming pool shall be maintained between pH 7.2 and pH 8.2 7.8. The water shall be disinfected by free available free chlorine content shall be between 0.4 1.0 parts per million and 3.0 parts per million, by bromine between 1.0 parts per million and 6.0 parts per million, or by an equivalent agent approved by the local health department.

(6) If a stabilized chlorine compound is used, the pH shall be maintained between 7.2 and 7.7 and the free available chlorine residual shall be at least 1.5 parts per million.

(7) The pool shall be cleaned daily, and the chlorine or equivalent disinfectant level and

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pH level shall be tested daily every two hours during periods of use. The results of these tests shall be recorded and available for review by the secretary's designee.

~~(5) A person with a life saving certificate or a person with training in CPR who can swim shall be in attendance when children are using a swimming pool.~~

~~(6)~~ (8) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. ~~Such~~ The equipment shall be of sufficient length to reach the center of the pool from its each edge of the pool. The equipment shall be available at all times, including times when the pool is not in use.

(9) The water temperatures shall be maintained at no less than 82 degrees Fahrenheit and no more than 88 degrees Fahrenheit while the pool is in use.

(c) ~~Wading pools on the premises.~~

~~(1) Children shall never be permitted to play without supervision in areas where there is a wading pool containing water.~~

~~(2) water in wading pools shall be emptied daily.~~

~~(d) Hot tubs or spas on the premises. If a hot tub or a spa is on the premises, the following requirements shall be met:~~

~~(1) Each hot tub or and each spa shall be covered with an insulated, rigid cover secured by straps or locks or surrounded by a fence and gate that meets the requirements of paragraphs (b)(1) and (b)(2).~~

~~(2) Children in day-care facilities shall not be permitted to use a hot tubs tub or a spa.~~

~~Children in residential facilities centers and group boarding homes shall be permitted to use hot~~

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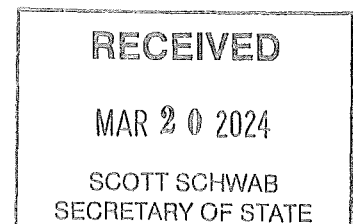
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tubs when medically indicated.

(e) ~~(d)~~ Ponds and lakes. Ponds and lakes may be used for wading or swimming only for by children over six years of age, and shall be approved for swimming by the ~~county~~ local health department, ~~or Kansas the department of health and environment, or like departments in other states~~ the designated authority in the state in which the wading or swimming site is located. Required ~~staff/child~~ staff-child ratios shall be maintained at all times, and a certified life guard shall be on duty. (Authorized by and implementing K.S.A. 65-508 and ~~65-522~~; effective May 1, 1986; amended Feb. 26, 1990; amended P-_____.)

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

(a) ~~Facility-owned or leased vehicles.~~

(1) ~~When a vehicle used for transportation of children is owned or leased by the facility, the~~ Each driver shall be at least 18 years of age or older, and,

(b) ~~Each driver shall hold an operator's a valid driver's license of a type appropriate for the vehicle being used that meets the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto. Trailers pulled by another vehicle, camper shells or truck beds shall not be used for transportation of children.~~

(c) Each driver shall be informed of the requirements of this regulation.

(2)(A) (d) Each transporting vehicle shall be maintained in safe operating condition.

(B) (e) ~~The~~ Each transporting vehicle owned or leased by the facility, residential center, or group boarding home shall have a yearly an annual mechanical safety check of tires, lights, windshield, wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights, exhaust system, and outside mirror. The safety check shall be documented on a form provided by the department. A record of the date of the ~~annual~~ safety check and corrections made shall be kept on file at the facility, residential center, or group boarding home.

(f) Trailers, camper shells, or truck beds shall not be used for transportation of children.

(g) Fifteen-passenger vans shall not be used to transport children. Any 15-passenger van purchased or leased before December 31, 2023, shall be exempt from this requirement.

(3) (h) ~~The~~ Each vehicle shall be covered by accident and liability insurance in an

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amount of not less than \$100,000 for personal injury or death in any one accident, \$300,000 for injury or death to two or more persons in any one accident; and \$50,000 for loss to property of others.

~~(4)(A) (i) Emergency release forms and health assessment records shall be in the vehicle when children enrolled in residential centers or group boarding homes are transported. Residential facilities shall be exempt from K.A.R. 28-4-130(a)(4)(A) unless children are being transported more than 60 miles from the facility residential center or group boarding home, or if children are in emergency medical care.~~

~~(B) (j) Each transporting vehicle owned or leased by the facility, residential center, or group boarding home shall have a first-aid kit shall be in the transporting vehicle and shall include band-aids of all sizes; adhesive tape; a roll of gauze; scissors; one package of 4X4 inch gauze squares; a cleansing agent; and one elastic bandage; that meets the requirements in K.A.R. 28-4-128.~~

~~(5) Each vehicle shall be equipped with an individual restraint for each child as follows:~~

~~(A) An infant unable to sit up without support shall be provided with an infant car carrier which faces the rear.~~

~~(B) A child able to sit up without support shall be provided with one of the following restraints:~~

~~(i) A shield type device;~~

~~(ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds;~~

or

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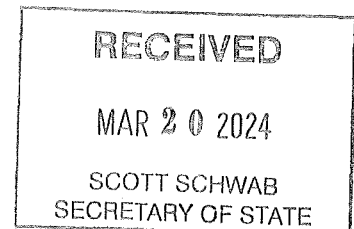
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~~(iii) a safety harness.~~

~~(C) A child four years of age or older, or weighing 40 pounds or more, shall have a lap belt. Shoulder straps shall be used if they do not cross the child's neck or face.~~

~~(D) Not more than one child shall be restrained in each lap belt.~~

~~(E) Buses of the type used by schools shall not be required to be equipped with individual restraints if the buses are used to transport only school-age children.~~

(k) The following requirements regarding the use of seat belts and child safety seats shall apply:

(1) Each individual shall be secured by the use of a seat belt or a child safety seat when the vehicle is in motion.

(2) No more than one individual shall be secured in any seat belt or child safety seat.

(3) Each seat belt shall be properly anchored to the vehicle.

(4) When a child safety seat, including a booster seat, is required, the seat shall meet the following requirements:

(A) Has current federal approval;

(B) has a label with the date of manufacture, date of expiration, and model number;

(C) according to the label, is not past the expiration date;

(D) has not been recalled;

(E) has no missing parts or cracks in the frame;

(F) has not been in a crash;

(G) is installed according to the manufacturer's instructions and vehicle owner's manual;

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(H) is appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions and state statutes and regulations; and

(I) is properly maintained.

(5) The manufacturer's instructions for use shall be kept on file at the facility, residential center, or group boarding home.

(1) For each child younger than five years of age after August 31 of the current school year, each facility, residential center, or group boarding home shall utilize an age and size-appropriate child safety restraining system when transporting a child in a school bus or a bus operated by a common carrier.

~~(6) (m)~~ The safety of ~~the children~~ each child riding in the each vehicle shall be protected as follows:

~~(A) (1)~~ All doors ~~except the front door on the driver's side~~ shall be locked while the vehicle is in motion.

~~(B) (2)~~ Discipline shall be maintained at all times.

~~(C) (3)~~ All parts of the each child's body shall remain inside the vehicle at all times.

~~(D) (4) Children shall neither~~ No child shall either enter nor or exit the vehicle into a lane of traffic.

~~(E) (5) Children under 10 years of age~~ No child shall not be left in a vehicle unattended by an adult.

(6) When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

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~~(F)~~ (7) Smoking Tobacco product use in the vehicle shall be prohibited while children are being transported.

~~(8)~~ No cell phone or other electronic device shall be used by the driver when the vehicle is in motion. If a cell phone or electronic device is used for navigation, it shall be in hands-free mode only.

~~(G)(i)~~ (9) Day care facilities defined by K.S.A. 65-517, K.A.R. 28-4-113 and K.A.R. 28-4-420 Each facility shall maintain applicable staff/child staff-child ratios in the vehicle when children are being transported.

~~(ii)~~ (10) Residential facilities centers and group boarding homes as defined by K.A.R. 28-4-268 and K.A.R. 28-4-311 shall maintain applicable staff/child staff-child ratios when children under six are being transported.

~~(n)~~ A copy of the requirements in subsection (m) shall be posted in each vehicle or given to each driver.

~~(H)~~ (o) The driver shall transport the child to the intended location, person, agency or institution as designated by the child's parent or legal guardian, or by the agency person in charge. Each child shall be transported directly to the location designated by the applicant with a temporary permit or the licensee. No unauthorized stops shall be made along the way, except in an emergency.

~~(b)~~ Vehicles owned by staff or volunteers.

~~(1)~~ When a vehicle used for transportation of children is owned by staff or volunteers the vehicle shall be covered by accident and liability insurance required by K.S.A. 40-3104 and 40-

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~~3118 and any amendments to it.~~

~~(2) Each such vehicle shall meet the requirements of K.A.R. 28-4-129(a)(1); (a)(2)(A); (a)(4)(A); (a)(5); and (a)(6)(A) through (H).~~

~~(c)(1) Each driver shall be informed of the provisions of K.A.R. 28-4-130.~~

~~Paragraphs (A) through (H) of subsection (a)(6) of K.A.R. 28-4-130 shall be posted in the vehicle or given to the driver. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended P-~~

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

~~(a) When animals, birds, or fish are~~ If any animal is kept on the premises, the pet area each area in which the animal is permitted shall be maintained in a sanitary manner. There shall be no evidence of disease, flea, tick, or worm infestation.

~~(b) No animal or bird shall be in the kitchen while food is being prepared.~~

~~(c) Parents and legal guardians shall be informed whenever children in care have access to pets in animals at the child-care facility.~~

~~(b) (d) Dogs and cats~~ Each domesticated dog and each domesticated cat shall have a current immunizations as recommended rabies vaccination given by a licensed veterinarian or a person acting under the direct supervision of a veterinarian as specified in K.S.A. 21-1213, and amendments thereto. A record of immunizations vaccinations shall be kept on file in at the facility.

~~(e) (e) When animals that represent a hazard~~ possible risk of harm to children are on the premises, children shall be protected from them.

~~(f) Pit-bulldogs~~ Any non-domesticated or aggressive animal, including animals that have a history of inflicting injury or have shown signs of aggression, shall be prohibited., If unless the animals are displayed as part of in an animal exhibit, they shall be supervised by appropriate and are under the control of professional animal care personnel presenting the exhibit.

~~(g) Before handling any animal, each child in care shall be taught safety procedures to follow when handling them.~~

~~(h) Each contact between a child and an animal shall be supervised by an adult who is~~

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close enough to intervene immediately if either of the following circumstances occurs:

(1) The animal shows signs of distress or aggression; or

(2) the child shows signs of treating the animal inappropriately.

(i) Each individual shall wash that individual's hands after feeding or handling any animal. Each individual caring for children shall ensure each child washes that child's hands or be assisted in washing that child's hands after feeding or handling any animal. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990; amended P-_____.)

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K.A.R. 28-4-132. Child care practices. (a) Supervision. ~~Each child in day care shall be under the supervision of a person 16 years of age or older who is responsible for the child's health, safety and well-being. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that supervision is provided by a person 16 years of age or older who is responsible for the health, safety, and well-being of each child in care.~~

(b) Behavior management practices.

(1) Behavior management practices shall be consistent with the goals and purposes of the program and appropriate to the age and developmental level of the child.

(2) Each individual caring for children shall practice methods of behavior management that are designed to help each child develop inner controls and manage the child's own behavior in a socially acceptable manner. No individual caring for children shall use prohibited methods of punishment.

(3) Each applicant, each applicant with a temporary permit, and each licensee shall develop and implement a written discipline policy indicating the methods of guidance appropriate for the ages of the children in care. Parents and legal guardians shall be informed of the policy.

~~(b)~~ (c) Discipline Prohibited punishment.

~~(1) There shall be a written discipline policy indicating methods of guidance appropriate to the age of the children enrolled. Parents shall be informed of the policy.~~

~~(2) Prohibited punishment. Punishment which that is humiliating, frightening, or physically harmful to the any child shall be prohibited.~~

(1) Prohibited methods of punishment. Prohibited methods of punishment shall include

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the following:

(A) Corporal punishment, including hitting such as spanking with the hand or any implement, slapping, swatting, shaking, pulling hair, yanking the arm, or any similar activity excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the child's health or safety;

(B) mental and emotional cruelty, including verbal abuse, threats, or derogatory remarks about the child or the child's family, or statements which tend to shame, humiliate, or frighten the child;

(C) binding or tying the child to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle;

(D) confining the child in a high chair, a play yard, a crib, a closet, a locked room or area, a box, or a similar enclosure;

(E) withholding or forcing foods, toilet use, or rest; and

(F) placing substances which sting or burn on soap or any other substances that stings, burns, or has a bitter taste in the child's mouth, or on the tongue or on or in any other part part of the child's body.

(2) Each individual who cares for children shall be prohibited from giving any child any medications, herbal or folk remedies, or drugs to control or manage behavior, unless prescribed by a licensed physician, physician assistant, or advanced practice registered nurse.

(3) If isolation is used in residential facilities as defined in K.A.R. 28-4-268, the isolation policies shall be approved by the department of social and rehabilitation services before

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implementation.

~~(4) Each staff member and care provider's discipline practices shall comply with K.A.R. 28-4-132.~~

(e) (d) Diapering and toileting Hand washing. Hands shall be washed using soap and warm running water and dried with an individual towel or disposable product. When cloth towels and washcloths are used, they shall be labeled with the child's name, and shall be laundered at least weekly. When soap and running water are not readily available, an alcohol-based hand sanitizer may be used only by adults and, under adult supervision, by children two years of age and older.

(1) Each individual caring for children shall wash that individual's hands as needed when hands are soiled and when each of the following occurs:

(A) At the start of the hours of operation or when first arriving at the facility;

(B) returning from being outdoors;

(C) after toileting, diapering, assisting a child with toileting, or handling any bodily fluids;

(D) before preparing each snack and each meal and before and after eating each snack and each meal;

(E) before and after administrating any medication; and

(F) after feeding or handling any animal.

(2) Each individual caring for children shall ensure each child washes that child's hands or be assisted in washing that child's hands as needed when hands are soiled and when each of

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the following occurs:

(A) First arriving at the facility;

(B) returning from being outdoors;

(C) after toileting, being diapered, or changing wet or soiled clothing;

(D) before and after eating each snack and each meal; and

(E) after feeding or handling any animal.

(e) Clothing, diapers, and bedding. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the following requirements are met for clothing, diapers, and bedding:

(1) Each child's clothing, diaper, training pants, or bedding shall be changed without delay whenever wet or soiled. The diaper or training pants of each child shall be checked at least every two hours to determine if a change is needed.

(2) Each child under three years of age shall have at least ~~one~~ two complete change changes of clothing at the facility available.

(f) Hand washing sinks.

(3) (A) Handwashing facilities Sinks for hand washing shall be in or readily accessible to the each diaper-changing area and each toileting area.

(B) Each person caring for children shall wash hands with soap and water after changing diapers or soiled clothing.

(g) Diapering. This subsection shall apply if any child in care requires diapering.

(1) Each applicant, each applicant with a temporary permit, each licensee, and each

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individual caring for children shall follow the diapering procedures provided by the department.

(2) A copy of the procedures shall be posted in each diaper-changing area.

(3) Each area used for diaper changing shall meet the following requirements:

(A) Be located in an area away from the food preparation area;

(B) be located in an area that allows the individual who is changing a diaper to maintain supervision of the other children in care; and

(C) have a covered, hands-free trash container located within reach of the changing surface.

(4) ~~Children~~ Each child in a family child care home shall be diapered in ~~their~~ the child's own ~~cribs or playpens~~ crib or playpen, on a clean, moisture-proof, nonabsorbent pad on the floor, or on a changing table.

(5) Each infant unit and each toddler unit in a child care center as defined by K.A.R. 28-4-420 shall have a changing table.

(6) No child shall be left unattended on a diaper-changing surface.

(5) (7) ~~Changing tables and pads shall have a waterproof, undamaged surface. Tables shall be sturdy, and shall be equipped with railing or safety straps. Children shall not be left unattended on the changing table. If a changing table is used, the table shall meet the following requirements:~~

(A) Have a moisture-proof, nonabsorbent, smooth surface that is undamaged, does not trap soil, and is easily cleaned;

(B) be sturdy;

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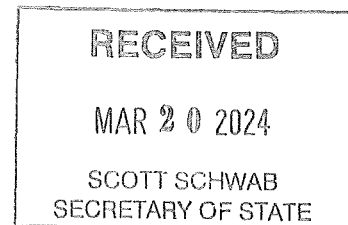
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(C) be equipped with railings or with safety straps that are secured to the changing table;

and

(D) if equipped with safety straps, have straps that are easily cleaned and disinfected after each diaper change.

~~(6) Changing tables and pads shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.~~

~~(7) (8) The following procedures shall be followed when washable diapers or training pants are used: (A) Day care facilities. Washable diapers or and washable training pants shall not be rinsed out. They shall be stored in a labeled covered container or plastic bag and returned home with to the parents parent or legal guardian.~~

~~(B) Residential facilities. Sanitary laundering procedures which promote infection control shall be followed.~~

~~(8) (9) Disposable diapers and disposable training pants shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control. Each covered container used for disposable diapers and disposable training pants shall be cleaned and disinfected at the end of each day.~~

~~(9) (10) Each diaper-changing surface shall be cleaned and disinfected after each use. The surface shall be cleaned by removing any visible soil from the surface with a water saturated disposable paper towel or wipe. After the surface has been cleaned, the surface shall be disinfected.~~

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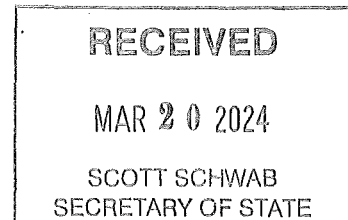
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(h) Toilet training. This subsection shall apply if any child in care is learning to use the toilet.

(1) Toilet training shall begin when the individual caring for children or program director and the parent or legal guardian of a child determine that the child is ready for toilet training.

(2) No child shall be forced to participate in toilet training if the child is not ready.

(3) No child shall be punished or shamed for toileting accidents.

(4) If a toilet training device is used, the following requirements shall be met:

(A) Potty chairs Each toilet training device when used shall be left used and stored in the toilet room bathroom.

(B) The wastes shall be disposed of immediately in a flush toilet.

(C) The Each toilet training device, including the container shall be sanitized cleaned and disinfected after each use and shall be washed with soap and water daily.

(D) There shall be one potty chair or child-sized toilet for every five toddlers in a child care center as defined by K.A.R. 28-4-420. Potty chairs Toilet training devices shall not be counted as toilets.

(10) Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2 1/2 years of age.

(i) Medication administration.

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(1) Each individual caring for children shall complete medication administration training before administering any medication to any child, as specified in K.A.R. 28-4-114a and K.A.R. 28-4-428a.

(2) If nonprescription medication is to be administered to a child, each individual caring for children shall meet the following requirements:

(A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;

(B) require that each medication supplied by a parent or legal guardian for the child be in the original container;

(C) ensure that the container is labeled with the first and last name of the child for whom the medication is intended; and

(D) administer each medication according to the instructions on the label.

(3) If prescription medication is administered to a child, each individual caring for children shall meet the following requirements:

(A) Obtain written permission from each child's parent or legal guardian before administering medication to that child;

(B) keep each medication in the original container labeled by a pharmacist, with the following information:

(i) The child's first and last name;

(ii) the name of the licensed physician, physician assistant (PA), or advanced practice registered nurse (APRN) who ordered the medication;

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(iii) the date the prescription was filled;

(iv) the expiration date of the medication; and

(v) specific, legible instructions for administration and storage of the medication;

(C) consider the instructions on each label to be the order from the licensed physician,

PA, or APRN;

(D) administer the medication only to the child designated on the prescription label; and

(E) administer the medication in accordance with the instructions on the label.

(4) Documentation of each medication administered shall be kept on a form provided by the department and maintained in each child's file.

(5) A copy of the documentation of each medication administered shall be made available to the parent or legal guardian of the child.

(i) Each residential center and group boarding home shall be exempt from subsections (a) through (c). (Authorized by and implementing K.S.A. 65-508 and ~~K.S.A. 65-522~~; effective Feb. 26, 1990; amended P-_____.)

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28-4-133. Reporting critical incidents. This regulation shall apply to ~~all day care homes, group day care homes, preschools, and child care centers~~ each facility.

(a) Reports to parents and legal guardians. ~~In addition to meeting the reporting requirements in K.A.R. 28-4-127,~~ Each primary care provider and each program director shall ensure that each of the following critical incidents is immediately reported to the parent or legal guardian of any child affected by the critical incident:

(1) Fire damage or other damage to the facility, or any damage to the property that affects the structure of the facility or the safety of the children in care;

(2) a vehicle collision involving any child in care;

(3) a missing child;

(4) an injury to a child that requires treatment by a health care professional;

(5) an injury to a child by any animal;

(6) the death of any of the following:

(A) A child; or

(B) a provider staff member in the facility; ~~a day care home or group day care home;~~

(C) ~~an employee in a preschool or child care center; or~~

(D) ~~a volunteer in a day care home, group day care home, preschool, or child care center;~~

and

(6) (7) any other occurrence that jeopardizes the safety of any child in care.

(b) Written reports to the department. Each primary care provider and each program director shall ensure that a written report of any critical incident specified in subsection (a) is submitted by the next working day to the department. The report shall be submitted on a form

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provided by the department. A copy of each critical incident report shall be kept on file at the facility for at least one year from the date of the critical incident. (Authorized by and implementing K.S.A. 65-508; effective Dec. 27, 2019; amended P-_____)

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K.A.R. 28-4-420. Definitions. (a) "Administrator" means the staff member of a child care center or preschool who is responsible for the general and fiscal management of the facility.

(b) "Attendance" means the number of children present at any one time.

(c) "Assistant teacher" means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(g) and is responsible for assisting the lead teacher in the care of children within a unit. Each assistant teacher shall demonstrate the following:

(1) Ability to carry out assigned tasks competently under the guidance of another staff member;

(2) skills and ability to implement age-appropriate activities;

(3) understanding of and the ability to respond appropriately to children's needs;

(4) the ability to foster positive, healthy relationships with children; and

(5) interpersonal skills necessary to communicate clearly and appropriately.

(d) "Applicant" means a person who has applied for a license but who has not yet been granted a license to operate a facility.

(e) "Applicant with a temporary permit" means a person who has applied for a license and who has been granted a temporary permit to operate a facility.

(e) (f) "Basement" means an area in which all four outside walls are more than two-thirds below ground level.

(d) (g) "Child care center" means a facility:

(1) ~~which~~ that provides care and educational activities for ~~13 or more~~ children two weeks to 16 years of age ~~for more than~~ at least three hours and ~~less than 24 hours~~ per day including day

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time, evening, and ~~nighttime care~~ and overnight care for; ~~or~~

(A) 13 or more children; or

(2) ~~(B) which provides before and after school care for school-age children. A facility may have fewer than 13 children and be~~ if licensed as a center and ~~if the program and building meet child care center regulations; and~~

(2) that may have hours of operation for more than 24 continuous hours, provided no individual child is present for 24 or more hours of continuous care.

(e) ~~“Child with handicaps” means a child in care who does not function according to age-appropriate expectations to such an extent that the child requires special help, program adjustment, and support services on a regular basis.~~

(f) ~~“Corporal punishment” means activity directed toward modifying a child's behavior by means of physical contact such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.~~

(g) ~~“Discipline” means the on-going process of helping children develop inner control so that they can manage their own behavior in a socially approved manner.~~

(h) “Disinfect” means full surface application of a disinfectant solution of fragrance-free, environmental protection agency (EPA)-registered chlorine bleach mixed according to the directions on the label or an alternate fragrance-free, EPA-registered disinfectant used according to the directions on the label to any inanimate object.

(h) (i) ~~“Enrollment” means the total number of children for whom services are available.~~

(i) (j) ~~“Evening care” means care provided between 6 o'clock after 6:00 p.m. and~~

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midnight of the same day before 1:00 a.m. the following day for children enrolled at a facility and present during operating hours.

(j) ~~(k)~~ "Fire inspector" means a person approved by the state fire marshal to conduct fire safety inspections.

(k) ~~(l)~~ "Infant" means a child who is between two weeks and 12 months of age, or a child over 12 months who has not learned to walk.

(l) ~~"In-service training" means job-related training provided for employed staff and volunteers.~~

(m) ~~"Integrated unit" means a center or preschool program serving both handicapped and non-handicapped children, in which not less than 1/3 and not more than 2/3 of the children are handicapped.~~ "Lead teacher" means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(e) and who is responsible for the care and supervision of children within a unit. Each lead teacher shall demonstrate the following:

(1) Knowledge of licensing regulations applicable to their duties;

(2) knowledge of child development, early childhood education, and indicators that a child may not be meeting developmental milestones;

(3) skills and availability to implement age-appropriate activities;

(4) the ability to recognize signs of illnesses, safety and injury hazards, and respond with prevention interventions;

(5) understanding of and ability to respond appropriately to children's needs;

(6) the ability to foster positive, healthy relationships with children; and

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(7) interpersonal skills necessary to communicate clearly and appropriately.

~~(n) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a child care center or preschool.~~

~~(o) (n) "License capacity" means the maximum number of children that is are allowed to attend a facility at any one time.~~

~~(p) (o) "Licensed physician" means a person licensed to practice medicine and surgery in Kansas as set forth in K.S.A. 65-2869 and 65-2870, and any amendments thereto means an individual who is licensed to practice either medicine and surgery or osteopathy in Kansas by the Kansas state board of healing arts or who practices either medicine and surgery or osteopathy in another state and is licensed under the licensing statutes of that state.~~

~~(q) (p) "Licensee" means a person, corporation, firm, association, educational group or other organization which operates or maintains a child care center or preschool who has been granted a license to operate a facility.~~

~~(r) "Media" means cable and broadcast television, internet streaming, or other similar digital entertainment.~~

~~(s) "Mother's day out" means a program operating more than five consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week~~ "Medical record" means the immunization record, health assessment and medical history of each child.

~~(t) "Nighttime care" means care provided after six o'clock p.m. and continuing until after midnight~~ "Overnight care" means care provided after 1:00 a.m. and before 6:00 a.m. the same

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day for children enrolled at a facility and present during operating hours.

(t) "Preschool" means a facility:

(1) ~~which~~ that provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed in K.S.A. 72-1107(e) 72-3118(c), and ~~any~~ amendments thereto, and who are 30 months of age or older;

(2) ~~which~~ that conducts sessions not exceeding three hours per session;

(3) ~~which~~ that does not enroll any child more than one session per day; and

(4) ~~which~~ that does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives.

A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

(u) "Preschool age" means a child who is between 30 months of age and the age of eligibility to enter kindergarten as prescribed in K.S.A. 72-1107(e) 72-3118(c), and ~~any~~ amendments thereto.

(v) "Professional development training" means training approved by the secretary that is related to working with children in care.

(~~v~~) (w) "Program" means a comprehensive and coordinated plan of activities providing for the education, care, protection, and development of children who attend a preschool or a child care center.

(~~w~~) (x) "Program director" means the staff member of a child care center or preschool who meets the requirements specified in K.A.R. 28-4-429(b); or (c), (~~d~~) ~~or~~ (e) and who is

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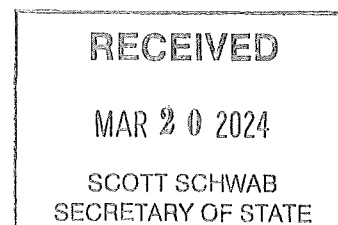
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responsible for implementing and supervising the program. Each program director shall demonstrate the following:

(1) Knowledge of child development, early childhood education, and indicators that a child may not be meeting developmental milestones;

(2) knowledge of licensing regulations applicable to child care centers and preschools;

(3) administrative, leadership, and management skills in facility operations;

(4) interpersonal skills necessary to communicate clearly and appropriately;

(5) capability in curriculum design and implementation; and

(6) knowledge of community resources available to families, children and children with special health care needs.

(y) "Sanitize" means full surface application of an EPA regulated food-safe sanitizing solution or heat treatment of any inanimate object used for food preparation or service.

(z) "School-age" means a child who will attain the age of eligibility to enter kindergarten as specified in K.S.A. 72-3118(c), and amendments thereto of six years on or before the first day of September of any school-year, but who is not 16 years of age or older.

(aa) "Self-contained unit" means an area separated by walls or partitions not less than five feet high which contains indoor learning materials for the maximum number of children permitted in one group as specified in K.A.R. 28-4-428(a).

(bb) "Sick child" means a child who has a contagious disease or shows other signs or symptoms of an acute illness.

(cc) "Special purpose unit" means a program in which more than two-thirds of the

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~~children enrolled have severe or mild handicaps.~~ “Substitute” means an individual who supervises children in the absence of the staff member.

~~(bb) “Summer program for school-age children” means a program in which school-age children are enrolled for more than three hours daily for more than two consecutive weeks, and shall include summer camps.~~

~~(cc) “Swimming pool” means an enclosed body of water more than 12 inches deep.~~

(dd) “Tobacco product” means any product that is made or derived from tobacco, or that contains nicotine, that is intended for human absorption, inhalation, or ingestion, including by consuming or using a cigarette, cigar, pipe, chewing tobacco, snuff, snus, or vape device.

~~(dd) (ee) “Toddler” means a child who has learned to walk and who is between 12 and 30 months of age.~~

~~(ee) (ff) “Unit” means the number of children that may be present in one group, as specified in K.A.R. 28-4-428(a).~~

(gg) “Use zone” means the surface under and around a piece of equipment onto which a child falling from or exiting the equipment would be expected to land.

(hh) “Volunteer” means an individual 14 years of age or older who is working in the facility without compensation and meets the requirements specified in K.A.R. 28-4-428a.

(ii) “Weapons” means any of the following:

(1) Firearms;

(2) ammunition;

(3) air-powered guns, including BB guns, pellet guns, and paint ball guns;

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(4) hunting and fishing knives;

(5) archery equipment; or

(6) martial arts equipment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended P-
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28-4-421. Terms of temporary permit or license. (a) ~~License~~ The license capacity for each child care center and each preschool shall be specified on the temporary permit or license.

(1) ~~License capacity shall be determined by age of children, available space, program director qualifications, and number of self-contained units per facility.~~

(2) ~~Permission for a change of license capacity, age of children to be enrolled or number of units shall be requested on forms prescribed by the Kansas department of health and environment. No change shall be made unless permission is granted in writing by Kansas department of health and environment. If granted, permission shall be posted~~ Each applicant with a temporary permit and each licensee shall ensure that the license capacity as stated on the temporary permit or license is not exceeded.

(3) ~~Permission for an overlap period of attendance to accommodate lunch time and shift changes shall be requested from the Kansas department of health and environment, and if granted, shall be posted~~ No change to the terms of the license, including a change in the license capacity, age of children enrolled, or the number of units, shall be made unless written approval is granted by the secretary.

(4) ~~Children enrolled on an irregular basis shall not cause the center or preschool to exceed its license capacity.~~

(b) Validity of the temporary permit or license.

(5) (1) Each temporary permit or license shall be valid only for the licensee person and the address appearing specified on the temporary permit or license.

(2) When an initial or amended license becomes effective, all previous temporary permits or licenses issued to the applicant with a temporary permit or licensee shall become invalid.

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(b) (c) ~~A copy of "regulations for licensing child care centers and preschools," provided by the Kansas department of health and environment shall be kept on the premises at all times~~
Posting the temporary permit or license and the availability of regulations. Each applicant with a temporary permit and each licensee shall post each temporary permit or license in a conspicuous place on the premises that is visible to parents. A copy of the current regulations governing child care centers and preschools shall be readily available to all staff. (Authorized by K.S.A. 65-508; implementing K.S.A. 1983 Supp. 65-504 and K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; P-_____.)

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K.A.R. 28-4-422. Proceedures Applicant requirements; exclusions; application process; amended license; renewal; exceptions; advertising. (a) General Applicant requirements. Each person operating a child care center or preschool shall have a temporary permit or license to operate a child care center or preschool before children are in attendance.

~~(1) Any person, corporation, firm, association, or other organization desiring to conduct a child care center or preschool which will operate for more than five consecutive hours or more than one day per week shall apply for a license on forms supplied by the Kansas department of health and environment~~ Each individual applying for a license shall be 18 years of age or older at the time of application.

~~(2) In lieu of being licensed, preschools operated on the premises of private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools~~ Each corporation applying for a license shall be in good standing with the Kansas secretary of state.

~~(3) Each application for a license or an application for renewal of license shall be accompanied by the license fee which shall not be refundable.~~

~~(4) Children shall not be in attendance at the center or preschool until a license has been issued by the Kansas department of health and environment.~~

~~(5) Applicants shall be 18 years of age or older at time of application.~~

~~(6) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 et seq. and amendments thereof, and the rules and regulations promulgated pursuant to those statutes, and that the applicant has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof.~~

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~~(A) A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations.~~

~~(B) It shall be the responsibility of the licensee to provide the financial resources necessary to maintain compliance with licensing regulations.~~

~~(b) Statement of services offered. When making application to the Kansas department of health and environment for a license to conduct a child care center or preschool, the applicant shall state what services will be provided. Advertisements shall conform to the written statement of services. No claims as to specialized services shall be made unless the facility is staffed and equipped to offer those services. No general claim as to "state approval" shall be made unless the facility has obtained a license issued by the Kansas department of health and environment. The licensing agency shall be notified of any change in the position of program director or any change in program which effects licensure. Exclusions. The following shall not be considered child care facilities:~~

~~(1) A pre-kindergarten program that is operated by an accredited non-public school when all of the following conditions are met:~~

~~(A) The program is on the premises of an accredited non-public school;~~

~~(B) The program operates only during the academic school year, during academic school hours, and follows the academic school calendar of the accredited non-public school; and~~

~~(C) The program services exclusively children who attained the age of four years on or before August 31 of the academic school year.~~

~~(2) A program operating less than five consecutive hours or less than two days a week~~

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and which does not enroll any child more than one session per day.

(c) ~~Initial application~~ Site approval.

(1) ~~Site approval.~~ Each applicant shall submit for review by the secretary or designee a detailed building and site plan designating the premises to be licensed and showing the following:

(A) ~~The proposed site shall be approved by the Kansas department of health and environment, the local building inspector when required, and a fire safety inspector. Inspection reports shall accompany the application for license.~~ Each entrance and exit;

(B) ~~When a building is to be constructed or an existing building is to be remodeled, construction or remodeling plans shall be submitted to the Kansas department of health and environment.~~ the location and measurements for each room to be used by children;

(C) ~~When additional space in an existing building is to be used, prior approval shall be obtained from the Kansas department of health and environment.~~ the location and layout of the kitchen and laundry facilities;

(D) each bathroom designated for use by children, including the number of toilets and hand sinks;

(E) each hand sink not located in a bathroom that will be used for handwashing;

(F) any other rooms on the premises labeled for intended use;

(G) the location, relative to the building of each outdoor play area, including the measurements of the space to be used, the means of access to the area from the building, and the placement of anchored equipment;

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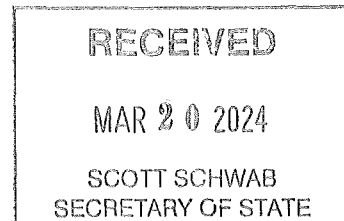
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(H) the style, height and location of any fence on the premises; and

(I) additional documentation as determined necessary by the secretary.

(2) A working telephone shall be on the premises and available at all times for use by staff. Each applicant shall obtain approval of the building and site plan from the secretary before beginning new construction or the renovation of an existing building. If changes to the approved plan are made following the secretary's approval, the applicant shall submit a description of the proposed changes to the secretary for approval before construction work begins.

(d) Renewals. Application process. Each person desiring to conduct a child care center or preschool shall submit a complete application on forms supplied by the department and shall include the following:

(1) Before an existing license expires, the licensee shall apply for renewal of the license on forms supplied by the Kansas department of health and environment. A statement of services including the following:

(A) The number and ages of children to be served;

(B) the number of units and anticipated license capacity;

(C) a description of any specialized services; and

(D) the anticipated opening date and projected hours, days, and months of operation;

(2) Any application may be withdrawn at any time upon request by the applicant. The applicant shall submit a new application to the Kansas department of health and environment prior to reopening a facility. the nonrefundable fee specified in K.A.R. 28-4-92;

(3) A new application and fee shall be submitted for each change of ownership;

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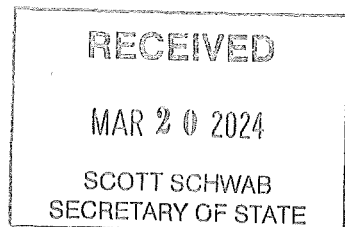
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~~sponsorship or location.~~ a request for background checks specified in K.A.R. 28-4-125;

(4) a copy of the detailed building and site plan specified in subsection (c);

(5) fire safety approval, including occupancy, from the State fire marshal; and

(6) local city or county code approval, including sanitarian approval when the building is not connected to a public water or sewer system.

~~(e) Grievance procedures~~ Provisions for issuing a license. The granting of a license to any applicant or applicant with a temporary permit may be denied by the secretary if the applicant or applicant with a temporary permit is not in compliance with the following applicable requirements:

~~(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently of the right of appeal to the district court. K.S.A. 65-504 through 65-506, and amendments thereto;~~

~~(2) Each applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may appeal in writing to the Kansas department of health and environment. K.S.A. 65-508, and amendments thereto;~~

(3) K.S.A. 65-512, and amendments thereto;

(4) K.S.A. 65-531, and amendments thereto;

(5) all regulations governing child care centers and preschools.

~~(f) Exceptions~~ Multiple child care facilities.

~~(1) Any~~ Each applicant with a temporary permit or licensee may submit a written request

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for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated who operates more than one child care facility, as defined in K.S.A. 65-503, and amendments thereto, shall maintain each child care facility as a separate entity.

(2) ~~Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license~~ A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with child care regulations.

(g) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.

(h) New temporary permit or license required. Each applicant with a temporary permit and each licensee shall submit a new application, the required forms, and the license fee, and shall obtain a new temporary permit or license from the secretary, as follows:

(1) Before a child care center or preschool that has been closed is reopened;

(2) if there is a change in the location of the program; or

(3) if there is a change of ownership of the program.

(i) Amended license.

(1) Each licensee who intends to change the terms of the license, including the license capacity, age of children enrolled, or number of units shall submit an application for an amended license on a form provided by the department.

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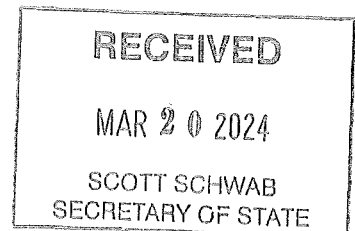
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(2) If the physical structure of the building changes due to new construction or remodeling or a change in use of space affects the terms of the license, each applicant with a temporary permit or licensee shall submit a building and site plan as specified in subsection (c) of this regulation and fire safety approval from the State fire marshal.

(3) The licensee shall not consider the amendment granted until the amended license is issued by the secretary.

(j) Notification requirements. Each applicant, applicant with a temporary permit and each licensee shall notify the secretary in writing before withdrawing an application, closing the child care center or preschool, or changing the program director;

(k) Annual renewal.

(1) Before the annual renewal date, each licensee desiring to renew the license shall submit the annual nonrefundable renewal license fee and shall complete and submit an application to renew the license, on forms supplied by the department, to the secretary.

(2) Failure to submit the application forms and fee for the renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.

(l) Exceptions.

(1) Each applicant and licensee may submit a written request for an exception to a regulation on a form supplied by the department.

(2) An exception may be granted if the secretary determines that the exception is in the best interest of the child or children and their families and does not violate statutory

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requirements.

(3) If an exception is granted each applicant and licensee shall receive written notice of the approval of the exception and the exception's duration. The approval shall be posted next to the license. The exception shall not be considered granted until approval is given by the secretary.

(m) Advertising. If an applicant, applicant with a temporary permit or licensee advertises the availability of services, the advertisement shall not contradict the written description of services submitted with the application. The applicant, applicant with a temporary permit or licensee shall not make a claim of specialized services unless the facility is staffed and equipped to offer those services. No generalized claim of "state approval" shall be made until the secretary issues a temporary permit or license. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505 and 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended P-_____.)

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K.A.R. 28-4-423. Physical plant. (a) Premises.

(1) ~~The~~ Each building in which child care is provided shall meet the legal requirements of the community as to fire protection, water supply, and sewage disposal.

(2) A building used as a residence shall be licensed as a child care center only if there is a room or rooms designated exclusively for child care use.

~~(2)~~ (3) The Each area designated area for children's activities shall contain a minimum of ~~thirty-five~~ 35 square feet of floor space per child, exclusive of kitchen, passageways, storage areas, and bathrooms.

~~(3)~~ (4) The Each building in which child care is provided shall have at least two exits approved by a fire inspector. ~~One~~ At least one exit shall lead directly to the outside.

(4) ~~(5)~~ Second floors approved by a fire inspector may be used for children ~~2-1/2~~ 2.5 years or over. Second-floor windows shall be guarded unless used as a means of egress.

~~(5)~~ (6) Finished basements approved by a fire inspector may be used for children ~~2-1/2~~ 2.5 years or older. Basements shall be dry and well-ventilated, heated and cooled as specified in paragraph ~~(a)(20)~~ (a)(19) of this regulation, and lighted as specified in paragraph ~~(a)(18)~~ (a)(17) of this regulation.

~~(6)~~ (7) When mobile classroom units are used, they shall be securely anchored to the ground and shall meet all requirements for permanent structures.

(7) (8) All stairs ~~which~~ that have more than two steps shall be provided with sturdy handrails. When balusters are more than four inches apart, provisions shall be made to prevent a child's head or body from falling through.

~~(8)~~ (9) Landings or mounted gates shall be provided beyond each exterior door; and ~~any~~

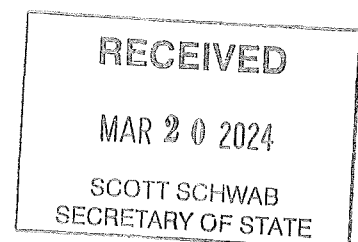
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each door opening onto a full-length stairway.

~~(9)~~ (10) Ceiling height in each room used for child care shall be not be less than seven feet, six inches.

~~(10)~~ (11) Windows and doors.

(A) Each window and glass door shall be screened or guarded.

(B) Each window and door opened for ventilation shall be screened.

~~(11)~~ (12) Floors shall be smooth and not slippery, free from cracks, clean and in good condition. A floor covering shall be required over concrete. A floor covering, paint, or sealant shall be required over concrete floors.

~~(12)~~ (13) Carpeting shall be clean and in good repair. Newly installed carpeting shall meet fire safety requirements of the state fire marshal.

~~(13)~~ (14) Walls shall be clean and free of cracks.

~~(14) All surfaces shall be free of toxic materials.~~

~~(15) Electrical outlets within the reach of children under five years of age shall be covered or inaccessible to prevent access by a child provided with receptacle covers when not in use.~~

~~(16) Extension cords shall not be used or power strips shall be positioned in a manner that prevents a tripping or shock hazard.~~

~~(17) Each room occupied by children shall have a minimum of 20 foot-candles of light be sufficiently lighted in all parts of the room for any activity in which each child is engaged. Each sleeping When children are napping and during rest periods, each room shall be lighted to allow~~

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freedom of movement and to ensure staff members are able to observe the breathing of each child.

(18) The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Each outdoor trash and garbage container shall be covered, and the contents shall be removed at least weekly.

(19) Each room occupied by the children shall be heated, ventilated and cooled. The temperature in each room shall not be less than 65°F, degrees Fahrenheit nor more than 90°F 85 degrees Fahrenheit. Each area room occupied by children shall be free of drafts.

(20) Each electric fan, if used, shall be mounted high on the wall or shall be guarded.

(21) When a gas heater is used, it shall be approved by a fire inspector before use. Open-faced heaters shall be prohibited.

(22) All heating elements, including hot water pipes, shall be insulated or installed in such a way that children cannot come in contact with them. Asbestos insulation shall not be used. Fireplaces shall not be used when children are present.

(23) ~~Medicines, household poisons, and other Dangerous substances and instruments,~~ including sharp or pointed objects, shall be in locked storage.

(24) ~~Storage of firearms in any area used for children's activities shall be prohibited.~~ Firearms stored in any other area of the premises shall be in locked storage, or shall be equipped with trigger locks. No child in care shall have access to weapons. All weapons shall be stored in a locked room, closet, container, or cabinet. Ammunition shall be kept in locked storage separate

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from weapons.

(25) The interior and exterior surfaces of the facility shall be free from peeling, chipping, cracking, scaling, and loose paint.

(b) Water supply.

(1) The water supply shall be from a source approved by a the local health department, or by the ~~Kansas~~ department of ~~health and environment~~.

(2) The nitrate content of water for children under one year of age shall not exceed 10 milligrams per liter (10 mg/l) as nitrogen.

~~(2)~~ (3) Sanitary drinking facilities shall be available to children while indoors or outdoors. One of the following methods shall be used:

(A) Individual disposable cups and a water dispenser;

(B) individually-marked glasses or cups which shall be washed daily; or

(C) a fountain designed so that a child can get a drink of water without assistance.

~~(3)~~ (4) Drinking fountains shall not be plumbed to sinks.

(4) (5) Water from drinking fountains shall be under pressure so that the stream is not less than three inches high.

~~(5)~~ (6) Cold water and hot water ~~not exceeding 110° F.~~ shall be supplied to lavatory fixtures accessible to children. Hot water shall maintain a minimum temperature of 90 degrees Fahrenheit and shall not exceed 120 degrees Fahrenheit.

(c) Toilet and lavatory facilities.

(1) All plumbing fixtures and building sewers shall be connected to public sewers where

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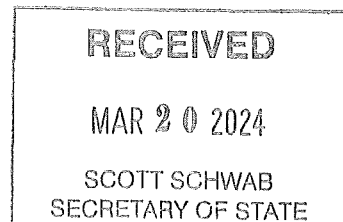
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available.

(2) When a public sewer is not available, a private sewage disposal system meeting requirements of the ~~county~~ local health department or the ~~Kansas~~ department of ~~health and environment~~ shall be installed and connected to all plumbing fixtures.

(3) Plumbing shall be installed and maintained according to local and state plumbing codes.

(4) Bathroom facilities shall be readily accessible to the children, and toilets and hand washing sinks shall be placed low or be provided with safety steps.

(5) There shall be one toilet and one ~~washbasin~~ hand washing sink for each fifteen children.

(6) Bathroom facilities shall be planned to assure privacy for staff.

(7) ~~Soap, individual cloth towels~~ Individual towels or ~~paper towels~~ disposable products, and toilet paper shall be provided for each child. The use of common towels and ~~wash cloths~~ washcloths shall be prohibited. When cloth towels and ~~wash cloths~~ washcloths are used, they shall be labeled with the child's name, and laundered at least weekly. Hand soap shall be readily accessible in each bathroom.

(d) Laundry facilities.

(1) If laundry is done at the facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner to safeguard the health and safety of the children.

(2) Separate areas shall be provided for soiled and clean items.

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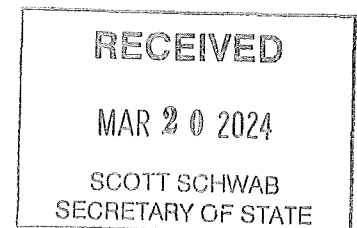
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(e) Storage, handling, and disposal of hazardous items. The following hazardous items shall be safely stored, handled, and disposed:

(1) All household supplies, cleaning supplies, dangerous chemicals and all bodily care products bearing warning labels to keep out of reach of children shall be in locked storage, except that hand sanitizers, disinfectant solutions used daily to disinfect surfaces, and diapering supplies may be kept unlocked at least five feet above the floor and out of reach of children. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a bathroom or sink.

(2) All medications and products containing alcohol shall be in locked storage.

(3) Tobacco products, ashtrays, lighters, and matches shall be kept in locked storage.

(4) Chemicals and cleaning supplies shall be used and disposed of in accordance with the product safety label. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; Amended P-_____.)

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K.A.R. 28-4-426. Administration. (a) Line of authority. There shall be a written delegation of administrative authority designating the person in charge in the facility for all hours of operation.

(b) Admission policy.

(1) Arrangements for the admission of children shall be made prior to the admission date to the center or preschool.

(2) Each admission policy shall be non-discriminatory in regard to race, color, religion, national origin, ancestry, ~~physical handicap~~ disability, or sex, in accordance with K.S.A. 44-1009. A copy of the admission policy shall be available for review.

(3) Each parent shall be informed of services offered.

(4) Each parent shall be informed when religious training is included in the program.

(c) Insurance.

(1) Accident insurance shall be carried on children.

(2) Liability insurance shall be carried by the center or preschool to provide recourse to parents of children enrolled in the event of negligence.

(3) ~~Documentation~~ Before the start of care, documentation of insurance coverage shall be on file, including the name of the insurance company or companies, policy number or numbers and dates of coverage.

(d) Staff records. The following records shall be maintained for each staff person:

(1) A record of education and experience;

(2) date of employment;

(3) a record of scheduled hours;

(4) a record of ~~in-service~~ professional development training;

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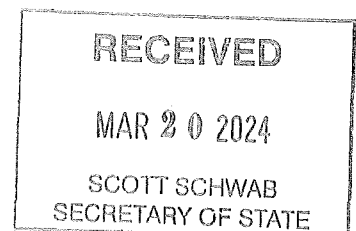
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(5) a health ~~certificate~~ status form; and

(6) work references.

(e) Children's records.

(1) A daily attendance record shall be maintained and kept on file at the facility.

(2) The following ~~emergency~~ information shall be readily accessible and near the telephone:

(A) Name, and date of birth, ~~and sex~~ of child;

(B) name, home and business address, and phone numbers of parents or legal guardian;

(C) name, ~~address~~, and telephone number of physician, hospital, and person to notify in case of emergency; and

(D) persons authorized to ~~call for~~ remove the child from the facility.

(3) A file shall be maintained for each child ~~which~~ that includes:

(A) The application for enrollment, ~~including~~ beginning date of attendance, and date of termination;

(B) a record of scheduled hours and days of attendance;

(C) a ~~health assessment and immunization record~~ medical record as specified in K.A.R. 28-4-430;

(D) each accident report; and

(E) signed parental permission for field trips, transfer of records, and when applicable, walking to and from activities away from the facility.

(4) Children's records shall be confidential. Staff shall not disclose nor discuss personal

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information regarding children and their relatives with any unauthorized person.

(5) Each child's records and reports shall be made available to the child's parents on request. ~~Children's~~ Each child's health records shall be returned to the parents when the ~~children~~ are child is no longer enrolled. (Authorized by K.S.A. 65-508; and implementing K.S.A. 65-507 and K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986; amended P-_____.)

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K.A.R. 28-4-427. Program. (a) Self-contained units. Programs shall be conducted in self-contained units with staff and children designated for each unit. ~~Centers or preschools which~~ Applicants that cannot develop self-contained units shall present a plan for ~~space use~~ of space to the ~~Kansas department of health and environment~~ for approval.

(b) Equipment, furnishings, and materials.

(1) Low, open shelves shall be provided for play equipment and materials so that they are readily accessible to the children.

(2) Equipment Furnishings, including tables and chairs, shall be scaled to the size of the children.

(3) Equipment, materials, and toys used by children shall be of sound construction, ~~with~~ no free from sharp, rough, loose, ~~nor or~~ pointed edges, and in good operating condition.

(4) Equipment, furnishings, materials, and toys shall be placed to avoid danger of accident or collision, and to permit freedom of movement.

(5) Equipment, materials, and toys shall be provided in a sufficient quantity so that each child has a choice of at least three activities ~~when all children are using equipment at the same~~ time.

(6) Storage space located conveniently for the staff shall be provided for supplies and equipment not in use.

(7) Each child shall have individual space for the child's garments, clothing, and possessions during the session attended.

(8) Toys and other items used by children shall be clean and be washed and disinfected before being used by another child if contaminated by saliva or other bodily fluids.

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(c) Learning experiences.

(1) Each applicant with a temporary permit and each licensee shall ensure there is a written lesson plan that provides daily activities that promote healthy growth and development, take into consideration the cultural background and traditions that are familiar to the children, and incorporate both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care. The activities, supplies, and equipment shall be designed to promote the following: There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop:

(A) Self-esteem and positive self-image;

(B) social interaction skills, self-expression, and communication skills;

(C) self-expression and communication skills; math and science skills, which may include sorting, matching, counting, and measuring;

(D) creative expression; language development and literacy, which may include reading, singing, finger plays, writing, and stories;

(E) large and small muscle skills large motor, small motor, and visual motor coordination and development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying; and

(F) intellectual growth, creative expression, which may include dramatic play, music, and art.

(2) The program schedule shall be planned to provide a balance of active, quiet,

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~~individual and group activities. Written lesson plans for each unit shall be made accessible to parents, staff, and the secretary's designee.~~

~~(3) A written program plan shall be posted in each unit. A daily schedule shall be planned to provide a balance of active, quiet, individual, and group activities.~~

~~(4) The daily schedule shall be posted in each unit.~~

~~(d) Discipline.~~

~~(1) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the children enrolled. This policy shall be made available to staff and parents.~~

~~(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:~~

~~(A) Corporal punishment;~~

~~(B) verbal abuse, threats, or derogatory remarks about the child or the child's family;~~

~~(C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; and~~

~~(D) withholding or forcing foods. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended P-_____.)~~

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K.A.R. 28-4-428. Staff requirements. Each licensee shall ensure that all of the following requirements are met:

(a) Minimum staff-child ratio.

(1) The ratio between staff members and children shall be determined by the ages of the children and the type of care provided.

(2) The minimum staff-child ratio and the maximum number of children per unit shall be the following, at all times:

<u>Age</u> <u>Ages</u> of children	Minimum staff-child ratio	Maximum number of children per unit
Infants*	<u>A. 1 to 3</u>	<u>A. 9</u>
	<u>or</u>	<u>or</u>
	<u>B. 1 to 4</u>	<u>B. 8</u>
Infants and other children under the age of 6	1 to <u>4 6</u> (including not more than <u>2 3</u> infants)	8 <u>12</u> (including not more than <u>4 6</u> infants)
Toddlers	1 to 5 <u>6</u>	10 <u>12</u>
Children at least 2 years of age but under the age of 3	1 to 7	14
Children at least 2 1/2 <u>2.5</u> years of age but under school-age	1 to 10 <u>12</u>	20 <u>24</u>
Children at least 3 years of age but under school-age	1 to 12	24

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Kindergarten enrollees	1 to 14	28
School-age	1 to 16	32

* Only one staff-child ratio may be used at any one time for each infant unit.

(3) No child shall be left unsupervised.

(4) The staff-child ratio shall be considered in compliance when a staff member counted in the staff-child ratio leaves the unit without a substitute for no more than five minutes provided that another staff member remains in the room at all times. If a staff member counted in the staff-child ratio is absent for more than five minutes, but less than 20 minutes, the staff-child ratio shall be considered in compliance when another staff member substitutes for the absent staff member counted in the staff-child ratio.

(5) Each applicant with a temporary permit or each licensee may move any child into the next age appropriate unit not earlier than 30 calendar days before and not later than 30 calendar days after the child reaches the minimum age of the unit. Upon agreement with the parent or legal guardian that the move is in the best interest of the child, a plan to move any child to the next age appropriate unit shall be developed and communicated with the parent or legal guardian.

(6) Any school age child not yet attending kindergarten may remain in a preschool unit until the first day of the academic school year in which the child is enrolled in kindergarten.

(7) Any school age child not yet attending first grade may remain enrolled in a unit licensed for children 2.5 years to school age until the first day of the academic school year.

(b) Substitute staff. ~~Each preschool and each child care center shall have two additional~~

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~~adults who are available to work in case of illness or emergency. These adults' names and phone numbers shall be posted and these individuals' health certificates shall be on file at the preschool or child care center.~~ Each applicant with a temporary permit or licensee shall ensure that substitutes are available to work if there is an emergency or a staff member absence. Each substitute shall meet the requirements for the staff member whom the substitute is replacing.

(c) Volunteers. Each volunteer shall be at least 14 years of age. Any volunteer may be counted in the staff-child ratio if the individual is at least 16 years of age, ~~completes the education and training requirements for a volunteer specified in K.A.R. 28-4-428a, and is~~ Each volunteer not counted in the staff-child ratio shall be supervised at all times by a staff member who is not a volunteer when activities involve access to children.

(d) Program director.

(1) Each preschool and each child care center shall have on staff a program director who is employed full time.

(2) Each preschool and each child care center licensed for more than 60 children shall employ have on staff a program director who has no other assigned ~~responsibilities~~ tasks or responsibilities that interfere with the essential functions of the job.

(3) Each preschool and each child care center licensed for more than 60 children shall have on staff an administrator, who may also be the program director.

(4) Each preschool and each child care center licensed for more than 100 children shall have on staff a program director who meets the requirements as specified in K.A.R. 28-4-429(c) and who has one year of experience in program administration or management in early childhood

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care or early childhood education.

(e) ~~References. Each staff member shall provide work references to the licensee at the time of application for employment.~~ Assistant program director.

(1) Facilities licensed for more than 100 children shall have on staff an assistant program director who meets the program director requirements specified in K.A.R. 28-4-429(c) and K.A.R. 28-4-428a.

(2) Facilities licensed for more than 160 children shall have on staff an assistant program director who meets the program director requirements specified in K.A.R. 28-4-429(c) and K.A.R. 28-4-428a and shall not be assigned any tasks or responsibilities that interfere with the essential functions of the job. (Authorized by and implementing K.S.A. 2016 Supp. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 12, 2017; P-_____.)

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K.A.R. 28-4-428a. Education and training requirements. (a) Orientation.

(1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a preschool or a child care center. If the person is not an individual, the person shall designate an individual to meet this requirement. The orientation shall be provided by ~~the county health department~~ or the secretary's designee that serves the county in which the preschool or child care center will be located.

(2) Each licensee shall provide orientation to each program director not later than seven calendar days after the date of employment and before the program director is given sole responsibility for implementing and supervising the program.

(3) Each licensee shall ensure that orientation is completed by each staff member ~~who will be counted in the staff-child ratio~~ and by each volunteer ~~who will be counted in the staff-child ratio~~. Each staff member and each volunteer shall complete the orientation within seven calendar days after the date of employment or volunteering. Each staff member shall complete the orientation before being given sole responsibility for the care and supervision of children.

(4) Each licensee shall ensure that the orientation for each program director, staff member, and volunteer is related to work duties and responsibilities and includes the following:

(A) Licensing regulations;

(B) the policies and practices of the preschool or child care center, including emergency procedures, behavior management, and discipline;

(C) the schedule of daily activities;

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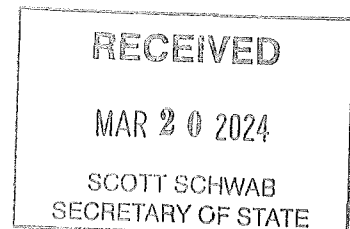
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(D) care and supervision of children in care, including any special needs and known allergies;

(E) health and safety practices; and

(F) confidentiality.

(b) Health and safety training.

(1) Each staff member who is counted in the staff-child ratio, each volunteer who is counted in the staff-child ratio, and each program director shall complete health and safety training either before employment or volunteering or not later than 30 calendar days after the date of employment or volunteering. Each staff member shall complete the training before being given sole responsibility for the care and supervision of children.

(2) The health and safety training shall be approved by the secretary and shall include the following subject areas:

(A) Recognizing the signs of child abuse or neglect, ~~including~~ knowledge on the prevention of child maltreatment, shaken baby syndrome, and abusive head trauma, and the reporting of suspected child abuse or neglect;

(B) basic child development, including:

(i) Supervision of children;

(ii) cognitive, social, emotional, physical development; and

(iii) approaches to learning;

(C) safe sleep practices and sudden infant death syndrome ~~if the individual will be caring for children under 12 months of age;~~

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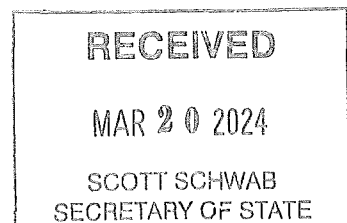
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(D) recognizing a sick child and prevention and control of infectious diseases, including immunizations;

(E) prevention of and response to emergencies due to food and allergic reactions;

(F) building and premises safety, including identification of and protection from hazards that could cause bodily injury, including electrical hazards, bodies of water, and vehicular traffic;

(G) emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event, including violence at a facility;

(H) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants, including blood and other bodily fluids or waste; and

(I) precautions when transporting children, if transportation is provided; and

(J) medication administration training.

~~(3) Each staff member counted in the staff-child ratio, each volunteer counted in the staff-child ratio, and each program director who was employed at the facility before July 1, 2017 and who has completed the training in the subject areas specified in paragraphs (b)(2)(A), (B), and (C) shall be exempt from training in the subject areas specified in paragraphs (b)(2)(D) through (I).~~

(c) Pediatric first aid and cardiopulmonary resuscitation (CPR) certifications.

(1) Each staff member counted in the staff-child ratio, each volunteer counted in the staff-child ratio, and each program director shall obtain certification in pediatric first aid and in pediatric CPR as specified in this subsection either before the date of employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

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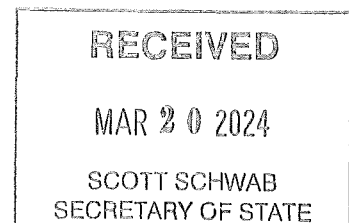
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(2) First aid and CPR training and certification shall include a practical application component and be demonstrated in front of an instructor certified by a nationally recognized certification program.

~~(2)~~ (3) Each individual who is required to obtain the certifications shall maintain current certifications.

~~(3)~~ (4) Each licensee shall ensure that, for each unit in a preschool or child care center, at least one staff member or volunteer counted in the staff-child ratio who has current certification in pediatric first aid and current certification in pediatric CPR is present at all times.

~~(d) Medication administration training. Each program director and each staff member designated to administer medications shall complete the training in medication administration as specified in this subsection.~~

~~(1) The training shall be approved by the secretary.~~

~~(2) Each program director and each staff member designated to administer medications who was employed at the facility before July 1, 2017 shall complete the training not later than December 31, 2017. The program director or the staff member designated to administer medications shall not administer medications after December 31, 2017 unless the individual has completed the training.~~

~~(3) Each program director and each staff member designated to administer medications who is employed at the facility on or after July 1, 2017 shall complete the training before administering medication to any child.~~ Infant care training. In addition to the training specified in paragraphs (a) through (c) of this regulation, each lead teacher in an infant unit shall complete

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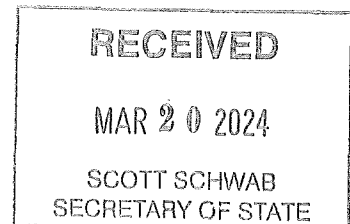
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four hours of professional development training in an infant-specific subject either before the date of employment or volunteering or not later than 30 calendar days after the date of employment or volunteering.

~~(e) Education requirements. Each program director shall be a high school graduate or the equivalent. For each unit in a preschool or child care center, there shall be present at all times at least one staff member who has a high school diploma or the equivalent, as required in K.A.R. 28-4-429.~~

~~(f) Annual in-service professional development training requirements.~~

(1) For purposes of this subsection, "licensure year" shall mean the period beginning on the effective date and ending on the expiration date of a license.

(2) In each licensure year, each program director shall assess the training needs of each staff member counted in the staff-child ratios and each volunteer counted in the staff-child ratios and shall provide or arrange for annual ~~in-service~~ professional development training as needed appropriate to the age of children being supervised.

(3) In each licensure year, each program director shall complete 16 clock-hours of in-service professional development training. Four of the 16 clock-hours shall include the subject areas specified in paragraphs (b)(2)(A), (b)(2)(C) through (J), or subsection (c) and six of the 16 clock-hours shall be in program administration, management, or a related topic, as follows:

~~(A) For each licensure year ending during the 2017 calendar year, five clock hours;~~

~~(B) for each licensure year ending during the 2018 calendar year; five clock hours;~~

~~(C) for each licensure year ending during the 2019 calendar year, 12 clock hours; and~~

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~~(D) for each licensure year ending during the 2020 calendar year, and for each subsequent licensure year, 16 clock-hours.~~

(4) In each licensure year, each staff member counted in the staff-child ratio and each volunteer counted in the staff-child ratio shall complete 16 clock-hours of in-service professional development training as follows, based on the staff member's or volunteer's job responsibilities and the training needs identified by the program director: Four of the 16 clock-hours shall include the subject areas specified in paragraphs (b)(2)(A), (b)(2)(C) through (J), or subsection (c).

~~(A) For each licensure year ending during the 2017 calendar year, 10 clock-hours;~~

~~(B) for each licensure year ending during the 2018 calendar year, 10 clock-hours;~~

~~(C) for each licensure year ending during the 2019 calendar year, 12 clock-hours; and~~

~~(D) for each licensure year ending during the 2020 calendar year, and for each subsequent licensure year, 16 clock-hours.~~

(5) In each licensure year, each staff member counted in the staff-child ratio and each volunteer counted in the staff-child ratio caring for infants shall complete four of the 16 clock-hours of professional development training in an infant-specific subject.

(6) The training shall be approved by the secretary.

(g) (f) Documentation. Each licensee shall ensure that documentation of all orientation, training, certifications, and education requirements is kept in each individual's file in the preschool or child care center. (Authorized by and implementing K.S.A. 2016 Supp. 65-508; effective Feb. 3, 2012; amended May 12, 2017; amended P-_____.)

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K.A.R. 28-4-429. Staff qualifications. (a) ~~Program directors shall be 18 years of age or older and shall meet the training requirements for the license capacity of the facility. Each staff member shall demonstrate an understanding of children and shall act with sound judgment.~~

(b) ~~Facilities with fewer than 13 children shall have a program director who meets the training requirements by one of the following options: Program director requirements for facilities licensed for less than 24 children. Each applicant, each applicant with a temporary permit, and each licensee shall hire a program director that has the following requirements:~~

(1) ~~Option 1: Six months' teaching experience in licensed facilities with children of the same age as enrolled in present facility. At least 18 years of age;~~

(2) ~~Option 2: (A) Five sessions of observation for not less than 2 1/2 consecutive hours per observation in licensed facilities with children of the same age as enrolled in present facility high school diploma or equivalent; and~~

~~(B) 10 clock hours of workshops approved by the state licensing staff;~~

(3) ~~Option 3: (A) A minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources; and~~

~~(B) supervised observation in high school or college or three months' work experience with children of the same age as enrolled in present facility; or one of the following:~~

~~(A) Associate degree or a higher degree in early childhood, child development, or a related academic discipline from a regionally accredited college or university;~~

~~(B) child development associate credential;~~

~~(C) technical certificate or diploma in early childhood;~~

~~(D) three months of experience in early childhood education providing direct care and~~

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supervision to children and three semester hours of academic study or equivalent training in early childhood, child development, or a related academic discipline from a regionally accredited college or university; or

(E) six months of experience in early childhood education providing direct care and supervision to children.

~~(4) Option 4: A child development associate credential.~~

~~(c) Facilities licensed for not less than 13 and not more than 24 children shall have a program director who meets the training requirements by one of the following options: Program director requirements for facilities licensed for 24 or more children. Each applicant, each applicant with a temporary permit, and each licensee shall hire a program director that has the following requirements:~~

~~(1) Option 1: (A) Five sessions of observation for not less than 2 1/2 consecutive hours per observation in licensed preschools or child care centers. Child care center staff shall plan their observations so that daily activities during morning, lunch, nap time and late afternoon can be observed; and At least 18 years of age;~~

~~(B) one year of teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or~~

~~(2) Option 2: (A) Seven to nine semester hours of academic credit or equivalent training in child development or early childhood education high school diploma or equivalent; and~~

~~(B) three months' teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or~~

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(3) ~~Option 3: A child development associate credential, one of the following:~~

(A) Bachelor's degree or a higher degree in early childhood, child development, or a related academic discipline from a regionally accredited college or university and three months of experience in early childhood education providing direct care and supervision to children;

(B) bachelor's degree in a non-related academic discipline from a regionally accredited college or university and any of the following options:

(i) Six months of experience in early childhood education providing direct care and supervision to children;

(ii) twelve semester hours of academic study or equivalent training in early childhood, child development, or a related academic discipline;

(iii) child development associate credential; or

(iv) technical certificate or diploma in early childhood;

(C) associate degree in early childhood, child development, or a related academic discipline from a regionally accredited college or university and six months of experience in early childhood education providing direct care and supervision to children;

(D) twelve semester hours of academic study or equivalent training in early childhood, child development, or a related academic discipline from a regionally accredited college or university and any of the following options:

(i) Six months of experience in early childhood education providing direct care and supervision to children;

(ii) child development associate credential; or

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(iii) technical certificate or diploma in early childhood;

(E) child development associate credential and one year of experience in early childhood education providing direct care and supervision to children; or

(F) six years of experience in early childhood education providing direct care and supervision to children or four years of experience in a licensed facility providing direct care and supervision to children.

(d) ~~Facilities licensed for more than 24 children shall have a program director who meets the training requirements by one of the following options: Each individual who has obtained approval of program director qualifications by the secretary or the secretary's designee before December 31, 2023, shall be exempt from the requirements in paragraph (b)(3) and (c)(3).~~

~~(1) Option 1: (A) Twelve semester hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and~~

~~(B) six months' teaching experience in licensed centers or preschools;~~

~~(2) Option 2: A child development associate credential and one year of teaching experience in licensed centers or preschools, or supervised practicum in licensed centers or preschools;~~

~~(3) Option 3: (A) An associate of arts degree or a two-year certificate in child development; and~~

~~(B) one year of teaching experience in licensed centers or preschools, or a supervised practicum in licensed centers or preschools;~~

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- (4) Option 4: (A) An A.B. or B.S. degree in child development or early childhood education, including a supervised practicum; and
- (B) three months' teaching experience in licensed centers or preschools; or
- (5) Option 5: (A) An A.B. or B.S. degree in a related academic discipline, and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and
- (B) six months teaching experience in licensed centers or preschools.
- (c) Facilities licensed for more than one hundred children shall have a program director who meets the following requirements: Lead teacher. There shall be a lead teacher present with each unit of children in the facility. Each lead teacher shall have the following qualifications:
- (1) (A) A degree in child development or early childhood education; or At least 18 years of age;
- (B) an A.B. or B.S. degree in a related academic discipline and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and
- (2) one year of experience as a program director in a center licensed for more than 24 children, or one year of experience as an assistant program director in a center licensed for more than 100 children. high school diploma or equivalent; and
- (3) one of the following:

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(A) Associate degree or a higher degree in early childhood, child development, or a related academic discipline from a regionally accredited college or university;

(B) technical certificate or diploma in early childhood;

(C) child development associate credential;

(D) three semester hours of academic study or equivalent training in early childhood, child development, or a related academic discipline from a regionally accredited college or university and three months of experience in early childhood education providing direct care and supervision to children of the same age range they will be serving; or

(E) six months of experience in early childhood education providing direct care and supervision to children of the same age range they will be serving.

~~(f) Facilities licensed for more than 100 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d)~~ Each program director in a facility licensed for less than 24 children may also serve as a lead teacher in the facility.

~~(g) Facilities licensed for more than 160 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d), and who has no other assigned responsibilities~~ Assistant teacher. Assistant teachers shall be at least 16 years of age.

~~(h) Each unit shall have one staff person who is at least 18 years of age and who has a high school diploma or its equivalent. Units enrolling fewer than 13 children shall have a staff person who meets the training requirements specified in subsection (b) of this rule and regulation. Units enrolling 13 to 24 children shall have a staff person who meets the training requirements specified in subsection (c) of this rule and regulation. Units enrolling more than 24~~

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~~school-age children shall have a staff person who meets the requirements specified in subsection (d) of this rule and regulation.~~

~~(i) Assistant teachers shall be at least 16 years of age and shall participate in staff orientation at time of employment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; P-_____.)~~

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K.A.R. 28-4-430. Health practices; illness and abuse; general health requirements for staff.

(a) ~~Children's health assessments~~ Medical record. A completed medical record on the form provided by the department shall be on file at the facility for each child.

(1) ~~A preentrance~~ Each medical record shall include the results of a health assessment conducted ~~within six~~ not more than twelve months before and obtained not later than 60 calendar days after the child's initial enrollment shall be required for each child in a child care facility.

The assessment shall be conducted by a licensed physician, a physician assistant, or by a nurse approved to perform health assessments.

(2) ~~The results of the health assessment shall be kept on file at the child care facility~~ Each medical record shall include a medical history obtained from the parent or legal guardian. Each applicant with a temporary permit and each licensee shall review with each child's parent or legal guardian that child's medical history at least once every 12 months.

(3) Children transferring from one child care facility to another shall not be required to obtain a new health assessment if the previous health assessment record is available.

(4) ~~Tuberculin~~ Tuberculosis testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of the examination shall ~~become a part of~~ be maintained in the child's health record.

(5) Immunizations for each child in care shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be obtained not later than 60 calendar days after the child's initial enrollment in a child care facility and shall be maintained on the child's medical record form.

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(6) Exceptions to the requirements for immunizations shall be permitted as specified in K.S.A. 65-508, and amendments thereto. Documentation of each exception shall be maintained on file at the child care facility.

(7) Each licensee shall provide information to the parents of children in care about the benefits of annual, well-child health assessments for children under six years of age, and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be either given on a form provided by the ~~Kansas~~ department of ~~health and environment~~ to the parent at the time the child is enrolled or posted in a conspicuous place, with copies of the form available to parents on request.

(b) Health practices.

~~(1) Each child's hands shall be washed with soap and water before and after eating and after toileting.~~ Each child shall be provided an individual toothbrush for that child's use. Each child shall brush that child's teeth or be assisted in brushing that child's teeth at least once daily. Each toothbrush shall be stored in a sanitary manner and out of reach of children.

(2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

(1) If a child is absent due to a communicable disease, staff shall inform all parents or legal guardians of the nature of the illness without disclosing the child's identity.

(2) Each communicable disease shall be reported to the local county health department.

~~(3) Each staff member shall be trained to observe symptoms of illness, neglect, and child~~

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~~abuse, and shall observe each child's physical condition daily.~~

~~(4) Symptoms of illness shall be reported upon discovery to parents.~~

~~(5) All evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record, and shall be reported upon discovery to the program director or, in the absence of the program director, the person designated in charge of the child care facility.~~

~~(6) (3) The program director or, in the absence of the program director, the person designated in charge of the facility Each staff member shall report within 24 hours to the Kansas department of social and rehabilitation services for children and families any evidence of suspected child abuse or neglect. ~~When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.~~~~

~~(7) (4) If Each applicant with a temporary permit or licensee providing care of sick children is to be provided, shall submit written plans regarding the needs of a sick child and the care of a sick child to the department. The plans shall be prepared in consultation with the a public health nurse and shall be presented to the parents at time of enrollment. The requirements for the infectious and contagious diseases specified in K.A.R. 28-1-2 and for the isolation and quarantine of individuals with the infectious and contagious diseases specified in K.A.R. 28-1-6 shall be met.~~

~~(8) (5) A quiet area shall be provided for any sick children. ~~Each sick child~~ Sick children shall be supervised by an adult at all times.~~

~~(9) Non-prescription medications shall not be administered to any child except on written~~

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~~order of the parent or guardian. Each order shall be renewed yearly. Each non-prescription medication shall be administered by a designated staff member.~~

~~(10) Each prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the child's name, the name of the medication, the dosage and dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.~~

~~(11) A record of the name of the designated staff member who administered the medication and the date and time the medication was given to the child shall be kept in the child's file.~~

(d) Staff.

(1) ~~Smoking~~ The use of tobacco products shall be prohibited ~~in~~ on the premises ~~child care center or preschool.~~

(2) Alcohol as defined in K.S.A. 41-102, and amendments thereto, and non-prescribed controlled substances, as defined in K.S.A. 65-4101, and amendments thereto, shall not be consumed on the licensed premises during the hours of operation and shall not be consumed while children are present.

(3) Each child residing in the same location as that of a child care center or preschool shall meet the requirements specified in subsection (a). (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended July 11, 2008; P-_____.)

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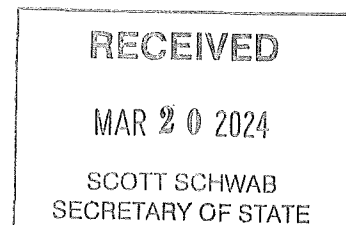
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K.A.R. 28-4-434. Preschools. (a) Inside area. Any building used as a residence shall be licensed as a preschool only if there is a room or rooms designated exclusively for preschool use.

(b) Nutrition.

(1) A nutritious snack shall be provided daily and shall include at least one of the following foods:

(A) Milk, milk product, or food made with milk;

(B) fruit, vegetable, or full-strength fruit or vegetable juice;

(C) meat;

(D) peanut butter; or

(E) bread or cereal product.

(2) Fluid dairy products shall be ~~Grade~~ grade A pasteurized. Solid dairy products shall be pasteurized.

(3) Refrigeration shall be provided for perishable foods.

(4) If reusable ~~table service~~ tableware is used for snacks, appropriate dishwashing methods shall be followed as specified in K.A.R. 28-4-439~~(k)~~(q)(2).

(5) Appropriate ~~table service~~ tableware shall be used for serving snacks. Children's food shall not be placed on the bare table.

(c) Outdoor play. Outdoor play space shall not be required. If outdoor play is included in the preschool program, the requirements of K.A.R. 28-4-437 shall be met. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended P-

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K.A.R. 28-4-435. Programs serving children with ~~handicapping conditions~~. special health care needs and disabilities. (a) Records. ~~Written parental permission shall be on file for evaluation and placement of children.~~ Each applicant with a temporary permit and each licensee shall maintain on file a copy of the most recent individual family service plan or individual education plan for each child with special health care needs and disabilities enrolled. The plan shall be reviewed by staff in the unit and in consultation with the child's parent or legal guardian upon enrollment and at least annually.

(b) Physical plant.

(1) Programs which include ~~non-ambulatory children~~ who are non-ambulatory shall be conducted on the ground floor. All exits and steps shall have ramps approved by a fire inspector.

(2) Facilities Each unit enrolling children with impaired mobility ~~who use walkers or wheelchairs~~ shall have 50 square feet of space for each child with impaired mobility ~~physically handicapped child~~.

(3) When ~~physically handicapped children~~ with impaired mobility are enrolled, toilets and ~~washbasins~~ sinks used for hand washing shall be designed to accommodate them.

(c) Each child with special health care needs or disabilities shall be allowed to utilize adaptive equipment as necessary. ~~Transportation. A second adult shall ride in the rear seat of the vehicle when three or more handicapped children are being transported.~~

(d) ~~Staff requirements. Facilities shall have staff who meet the qualifications listed in K.A.R. 28-4-429. The following additional requirements shall be met:~~

(1) ~~The parent of a child enrolled in the unit shall not be a teacher in that unit.~~

(2) ~~Each unit shall have a staff person who has a minimum of six hours of academic~~

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credits or equivalent clock hours in understanding the needs of handicapped children, and in developing individual program plans.

(3) ~~Consultants shall meet the educational requirements of their profession.~~

(e) ~~Minimum staff/child ratios. If fewer than one-third of the children enrolled have handicapping conditions, the minimum staff/child ratios shall be those as specified in K.A.R. 28-4-428. If one-third or more of the children enrolled have handicapping conditions, the following minimum staff/child ratios shall be maintained: Each applicant with a temporary permit and each licensee enrolling children with special health care needs and disabilities shall determine, by an individual assessment of each child's needs, whether a lower staff-child ratio is required. The staff-child ratio shall allow the needs of all children enrolled to be met.~~

	Integrated unit or center		Special purpose unit or center	
Age of children	Adult/child	Max. unit	Adult/child	Max. unit
Under 2 1/2 years	1 to 3	9	1 to 2	6
2 years to 3 years	1 to 4	12	1 to 3	9
2 1/2 years and above	1 to 6	18	1 to 4	12

(f) ~~In-service training. All staff shall have 10 clock hours of annual in-service training specific to handicapping conditions.~~

(g) ~~Program. A written individual program plan shall be on file for each handicapped child enrolled, and in consultation with the parents, shall be reviewed and revised annually. The plan shall assign responsibility for the delivery of services, and shall indicate the anticipated change in the child's behavior, and how these changes will be measured. (Authorized by and~~

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K.A.R. 28-4-436. Child care centers: ~~physical plant napping and sleeping.~~ (a) ~~Inside area.~~ A building used as a residence shall be licensed as a child care center only if there is a room or rooms designated exclusively for child care use. Rest period. Each child attending for more than four hours shall be encouraged to nap or rest according to their individual needs. Children who do not sleep shall be permitted to have a quiet time through the use of equipment or activities.

(b) ~~Napping and sleeping~~ Safe sleep practices for children in care.

(1) ~~Children remaining at the center more than four hours shall be encouraged to nap or rest according to their individual needs. Children who do not sleep shall be permitted to have a quiet time through the use of equipment or activities which will not disturb other children.~~ Each applicant with a temporary permit and each licensee shall develop a written plan for safe sleep practices and implement safe sleep practices for children in care who are napping or sleeping.

(2) Each applicant with a temporary permit and each licensee shall ensure that the safe sleep practices are shared with the parent or legal guardian of each child before the first day of care.

(3) Each staff member shall follow the safe sleep policies and practices of the child care center.

(2) (4) ~~Centers~~ Each child who is 12 months of age or older shall nap or sleep have a crib, on a cot or pad for each child. Pads shall be enclosed in washable covers and shall be used only over carpet. When pads are used, they shall be long enough so that the child's head does not rest on the carpet. Bunk beds shall be prohibited.

(5) Each applicant with a temporary permit and each licensee shall ensure that all of the following requirements are met for each infant in care:

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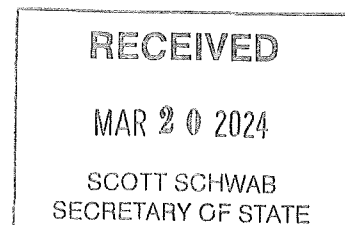
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(A) The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.

(B) A crib or playpen shall be provided and used for each child in attendance. The child shall not nap or sleep in the same crib or playpen occupied by another child at the same time.

(C) If the child falls asleep on a surface other than a crib or playpen, the child shall be moved to a crib or playpen.

(D) The child shall be placed on the child's back to nap or sleep.

(E) When the child is able to turn over independently from front to back and back to front, the child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.

(F) The child shall sleep in a crib or a playpen that is free of any soft items, including pillows, quilts, blankets, bumpers, comforters, sheepskins, flat sheets, cloth diapers, bibs, stuffed animals, and toys.

(G) The child may nap or sleep in sleep clothing, including sleepers and sleep sacks. Swaddling shall not be permitted.

~~(3) Each crib or cot shall be equipped with individually-labeled bottom sheet. Every child shall have a cover. Children shall not share bedding.~~

~~(4) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in occupancy. Blankets shall be laundered monthly.~~

~~(5) Cribs, cots, or pads, when in use, shall be separated from each other by at least two~~

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~~feet in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.~~

~~(6) Nighttime~~

~~(A) Movable screens shall be available to insure privacy as needed.~~

~~(B) Separate sleeping areas shall be provided for boys and girls over six years of age.~~

~~(C) A center in which children sleep for more than three consecutive hours shall be provided with a smoke detector installed in consultation with a fire inspector.~~

(c) Laundry facilities. Napping and sleeping surfaces. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for all napping and sleeping surfaces:

(1) If laundry is done at the center, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner as to safeguard the health and safety of the children. Clean, individual bedding shall be provided for each child. There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in the child utilizing the sleeping surface. Blankets shall be laundered monthly.

(2) Separate areas shall be provided for soiled and clean items. Each surface used for napping and sleeping shall be kept clean, of safe construction, and maintained in good repair.

(3) Each crib, playpen, cot, and pad shall be used only for children who meet the manufacturer's recommendations for use, including any age, height, or weight limitations. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file

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at the facility.

(4) Cribs, playpens, cots, or pads, when in use for napping or sleeping, shall be separated from each other by at least 24 inches in all directions except when bordering on the wall.

(5) When not in use, cribs, playpens, cots, pads, and bedding shall be stored in a clean and sanitary manner.

(6) Each crib and each playpen shall have a firm, tightfitting mattress and a fitted sheet. The mattress shall be set at its lowest point when any child using the crib or playpen becomes able to either sit up or to pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.

(7) If a crib or playpen is slatted, the slats shall be spaced not more than 2.375 inches apart.

(8) All sides of each crib or playpen shall be up while the crib or playpen is in use.

(9) Each applicant, each applicant with a temporary permit, and each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.

(10) Each pad used for napping and sleeping shall be at least 0.5 inch thick, washable or enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.

(11) Each piece of sleeping equipment shall be labeled and designated for use by a single child.

(d) Consumer warning or recall. Each applicant with a temporary permit and each licensee shall make any necessary changes to follow the recommendations of any consumer

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warning or recall of a crib or a playpen as soon as the warning or recall is known.

(e) Evening and overnight care. Staff-child ratios shall be met during all hours of care.

(Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended P-

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K.A.R. 28-4-437. Child care centers: outside area. (a) ~~There shall be~~ Each child care center shall have at least 75 square feet of outdoor play space on the premises for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater.

(b) The boundaries of outdoor play space shall be enclosed with a fence not less than four feet high.

(c) The outdoor play space shall be located to provide both sunshine and shade. ~~A hard-surfaced area or gravel shall not be used under anchored play equipment.~~

(d) The outdoor play space shall be well drained and free of hazards.

(e) Outdoor play equipment that is safely constructed and in good repair shall be available and placed in an area free of health, safety, and environmental hazards.

(f) Children shall not be allowed access to a trampoline.

(g) Climbing equipment and swings shall be either anchored in the ground with metal straps or pins or set in cement to prevent movement of the equipment and swings.

(h) All surfaces under and around climbing equipment and swings shall meet the following requirements:

(1) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored equipment over four feet in height, including climbing equipment, slides, and swings.

(2) Impact-absorbent surfacing material shall consist of material intended for playground use, including shredded bark mulch, wood chips, fine sand, fine gravel, shredded rubber, unitary surfacing material, or synthetic impact material.

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(3) Hard-surfacing materials including asphalt and concrete shall not be used in any use zone. Hard-packed dirt shall be covered with an impact-absorbent surfacing material as specified in paragraph (h)(2). This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.

(4) Surfaces made of loose material shall be maintained by replacing, leveling, or raking the material.

(i) Swings shall not have wooden or metal seats.

(j) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under five years of age.

~~(e) Outdoor play equipment shall be safely constructed and in good repair. Climbing equipment and swings shall be anchored in the ground with metal straps or pins, or set in cement. Swings shall be safely located and shall have canvas or soft rubber seats. Teeter totters and merry-go-rounds designed for school-age children shall not be used for children under six years.~~

~~(f) (k) Sandboxes shall be maintained in a safe and sanitary condition.~~

~~(g) A rooftop used as a play area shall be enclosed with a flat board fence or a chain link fence angled toward the play area. The fence shall not be less than six feet high. An approved fire escape shall lead from the roof to the ground.~~

~~(h) (l) The play area shall be arranged so that staff can actively supervise provide close supervision each child at all times.~~

(m) Staff shall actively engage in the supervision of children utilizing the play area.

(i) (n) Outdoor equipment shall be provided in sufficient quantity so that each child has

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~~access to at least one activity appropriate to the child's age level. Each child shall have access to outdoor equipment and materials in sufficient quantity to allow for at least one self-led activity appropriate to the child's age level.~~

(+) (o) There shall be bathroom facilities accessible to the play area. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended P-
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K.A.R. 28-4-438. Child care centers: program. Each applicant with a temporary permit and each licensee shall ensure the following:

(a) ~~The program shall provide regularity in Regular~~ routines such as eating and napping, and protection from excess fatigue and overstimulation.

(b) Unless extreme weather conditions prevail, ~~children shall have~~ a daily period of outdoor play for each child under the supervision of an adult. Children spending more than four consecutive hours at the center shall play outdoors for at least one hour daily.

(c) Unless extreme conditions prevail, each infant and toddler shall spend time outdoors daily.

(d) Routines such as toileting and eating, and intervals between activities ~~shall be planned~~ so that children do not have to wait in lines, or assemble in large groups.

(e) ~~If television is on the premises, its use shall be limited to children's programs.~~ The following requirements if the daily activities include any media viewing:

(1) Each media program shall be age-appropriate and, if rated, shall have a rating appropriate for the ages and developmental levels of the children who view the program.

(2) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.

(f) ~~Activities shall be available for children during the entire time they are in attendance, including early morning and late afternoon. (Authorized by and implementing K.S.A 65-508; effective May 1, 1983; amended P-~~_____.)

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K.A.R. 28-4-439. Child care centers: food service. (a) Each applicant with a temporary permit and each licensee shall ensure that any staff member involved with the preparation of meals or snacks meets the following: ~~Single or multi-unit centers serving a meal prepared at the center to 13 or more children shall employ a staff person who:~~

- (1) Has knowledge of nutritional needs of children;
- (2) understands quantity food preparation and service;
- (3) practices sanitary methods of food handling and storage; and
- (4) is sensitive to individual and cultural food tastes of children; ~~and~~
- (5) ~~is willing to work with the program director in planning learning experiences for~~

~~children relative to nutrition.~~

(b) Centers shall serve meals and snacks as follows:

Length of Time at Center	Food Served
2-1/2 <u>2.5</u> to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(c) Meals and snacks.

(1) Breakfasts shall include:

- (A) A fruit, vegetable, or full-strength fruit or vegetable juice;
- (B) bread, a bread product or cereal; and
- (C) milk.

(2) Noon or evening meals shall include one item from each of the following:

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- (A) Meat, poultry, fish, egg, cheese, ~~cooked, dried~~ peas or beans, or peanut butter;
 - (B) two vegetables, two fruits, or one vegetable and one fruit;
 - (C) bread, bread product or cereal; and
 - (D) milk.
- (3) Mid-morning and mid-afternoon snacks shall include at least two of the following:
- (A) Milk, milk product or food made with milk;
 - (B) fruit, vegetable, or full-strength fruit or vegetable juice;
 - (C) meat or a meat alternate; or
 - (D) bread, bread product or cereal.
- (d) All food shall be in good quality and safe for consumption.
- (e) Drinking water shall be available to each child at all times when the child is in care.
- (f) If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.

(g) Fluid dairy products shall be grade A pasteurized. Solid dairy products shall be pasteurized. Dry milk shall be used only for cooking.

(h) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.

(i) If infants or toddlers are present, the following food service requirements shall be met:

(1) Each infant shall be held when bottle-fed until the child can hold the child's own bottle.

(2) No child shall be allowed to sleep with a bottle in the child's mouth.

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(3) If prepared formula is used, the following requirements shall be met:

(A) Each bottle that contains prepared formula shall be stored in the refrigerator with the nipple covered.

(B) The bottle shall be labeled with the child's name, the contents, and the date and time prepared, and shall be used within 24 hours of the time of preparation on the label.

(C) If a child does not finish a bottle, the contents of the bottle shall be discarded within one hour from when the feeding from that bottle started.

(4) If breast milk is used, the following requirements shall be met:

(A) All breast milk shall be labeled with the child's name and the date and time expressed.

(B) Unfrozen breast milk shall be stored in a refrigerator and shall be used within 96 hours from the time it was expressed.

(C) Frozen breast milk must be stored in a freezer and shall be used within six months from the time it was expressed and within 24 hours from the time it was thawed.

(D) If a child does not finish the bottle of breast milk within two hours from when the feeding from that bottle started, the contents shall be discarded.

(E) Accommodations shall be provided that enables the child's parent to breastfeed their child.

(5) No formula or breast milk shall be heated in a microwave oven.

(6) Bottles for formula or breast milk shall be prepared and washed in a sink that is not used for handwashing or the sink shall be cleaned and sanitized after being used for

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handwashing.

(7) Solid foods shall be offered when the program director and the parent or legal guardian of a child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and refrigerated. The food shall be used within three calendar days of the date opened. Food in previously opened containers shall be reheated only once and shall not be served to another child.

(e) (j) Food allergies or special dietary needs of specific children shall be known to all staff members. If any child with a food allergy or a special dietary need is enrolled, the following shall be met: ~~cooks, staff members, child care workers, and substitutes.~~

(1) Utensils, cookware, and food preparation surfaces shall be washed and sanitized between use for foods that risk cross contamination.

(2) Foods that risk cross contamination shall be stored separately from other foods with no potential for leakage onto other foods stored in the vicinity.

(3) Hands shall be washed in between preparing an allergen containing dish and the dish for the child with an allergy. If gloves are used, a fresh pair of gloves will be used before changing from the allergen containing dish to the non-allergen dish.

(4) A list of allergies and special dietary needs will be written and clearly displayed in the food preparation area for each child enrolled at the facility that has a known allergy or a special dietary need.

(k) If any child has a food allergy or special dietary need, staff members and the parent or

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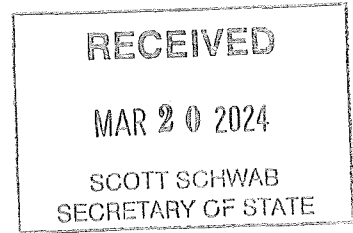
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legal guardian of the child shall make arrangements for the provision of alternative foods or beverages.

~~(f) (l)~~ Menus shall be posted shared with where parents and legal guardians can see them.
~~Copies of menus served the previous month shall be kept on file.~~

~~(g) (m)~~ Staff shall sit at the table with the children, and socialization shall be encouraged. Children shall be encouraged to serve themselves. ~~Spoons and forks shall be provided for each child's use. Appropriate service shall be used for meals and snacks.~~

~~(h) (n)~~ Children's food shall not be placed on a bare table.

~~(i)~~ Toothbrushes shall be provided for each child's use. They shall be used daily after meals and shall be stored in a sanitary manner out of children's reach.

~~(j) (o)~~ When meals are prepared on the premises, the kitchen shall be separate from the eating, play, and bathroom areas, and shall not be used as a passageway while food is being prepared. The kitchen shall be inaccessible to children.

~~(k) (p)~~ Food shall be stored as follows:

(1) Poisonous or toxic materials shall not be stored with food. Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(2) All perishables and potentially hazardous foods shall be continuously maintained at 45°F 40 degrees Fahrenheit or lower in the refrigerator, or 10°F degrees Fahrenheit or lower in the freezer, with 0°F degrees Fahrenheit recommended. ~~Each cold storage facility shall be provided with refrigerator and each freezer shall contain~~ a clearly visible, accurate thermometer.

(3) All foods stored in the refrigerator shall be covered. Food which is not in its original,

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unopened container shall be stored in metal, glass, food-grade sealable plastic bags, or food-grade plastic containers with tightfitting covers and shall be labeled with the date and contents.

(4) Foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other areas.

(5) Dry, bulk foods which are not in their original, unopened containers shall be stored in metal, glass, food-grade sealable plastic bags, or food-grade plastic containers with tightfitting covers and shall be labeled with the date and contents.

(+) (q) Table service.

(1) Tableware requirements.

(A) Utensils appropriate for the food served shall be provided for each child's use.

(B) Dishes and glassware shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.

(2) Tableware shall be maintained in sanitary condition using one of the following methods:

(+) (A) All preparation dishes, service dishes, and non-disposable dishes shall be washed and sanitized after use using one of the following:

(i) A three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and airdrying;

(ii) a ~~mechanical dishwasher~~, a two-compartment sink and a basin for sanitizing the tableware and cooking utensils; or

(iii) a mechanical dishwasher with a sanitizing cycle.

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~~(B) Disposable~~ The use of disposable plates and cups, and plastic utensils of food grade, medium weight which are disposed of after each use; or

~~(2) a three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and air-drying; or~~

~~(3) a mechanical dishwasher.~~

~~(m) Dishes shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.~~

~~(n) (r)~~ Tables shall be washed cleaned before and after meals each meal, and floors shall be swept after meals each meal.

~~(o) (s)~~ If meals are catered delivered from an off-site location:

(1) Food provided from a central kitchen or vendor and delivered to the center shall be obtained from a source licensed or inspected by the shall be obtained from sources licensed by the Kansas department of health and environment Kansas department of agriculture or equivalent food safety licensing agency in another state.

(2) Food shall be transported in covered and temperature-controlled containers, and shall not be allowed to stand. Hot foods shall be maintained at not less than 140°F degrees Fahrenheit, and cold foods shall be maintained at 45°F 40 degrees Fahrenheit or less.

(3) Food prepared in one licensed center and transferred to another licensed center owned by the same licensee shall be permitted.

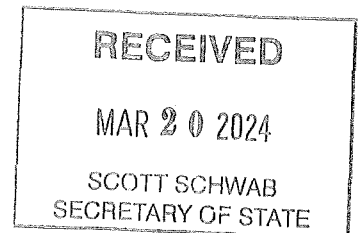
~~(p) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized. Dry milk shall be used only for cooking.~~

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(~~q~~) (t) Meat shall be from government-inspected sources.

(~~r~~) (u) Home-canned food, food from dented, rusted, bulging, or leaking cans, or food from cans without labels shall not be used.

(~~s~~) (v) Garbage shall be placed in covered containers inaccessible to children, and shall be removed from the kitchen daily. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended P-_____.)

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K.A.R. 28-4-440. ~~Infant and toddler Programs serving infants and toddlers.~~ The following requirements shall be met for all infants and toddlers:

(a) Infant and toddler programs shall be conducted on the ground floor only.

(b) Each unit of infants and each unit of toddlers shall be separate from each unit of older children unless otherwise approved by the department.

(c) Floor furnaces shall be prohibited.

(d) ~~A sleeping area separate from the play area shall be provided for infants.~~ Cribs and playpens shall be located within the self-contained unit and be separated from the play area. If a barrier is used, it shall not impede supervision.

(e) ~~A crib or playpen shall be provided for each infant in care at any one time. Cribs and playpens shall be maintained in good condition. Clean individual bedding shall be provided. Safe sleep procedures shall be followed as specified in K.A.R. 28-4-436.~~

(f) ~~Each licensee shall ensure that the following requirements are met:~~

(1) ~~The use of stacking cribs, cribs with water mattresses, or bassinets shall be prohibited.~~

(2) ~~Cribs and playpens shall have slats not more than 2 3/8 inches apart.~~

(3) ~~All sides of each crib or playpen shall be up while the crib or playpen is in use.~~

(4) ~~On and after December 28, 2012, each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.~~

(g) ~~Each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.~~

(h) ~~Each licensee shall develop and implement safe sleep policies and practices for infants and toddlers and shall ensure that the policies and practices are discussed with the parent~~

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or legal guardian of each child before the first day of care. The safe sleep policies and practices shall include the following requirements:

(1) Each staff member who cares for children and each volunteer who cares for children shall follow the safe sleep policies and practices of the child care center.

(2) Each staff member who cares for infants and each volunteer who cares for infants shall ensure that all of the following requirements are met:

(A) Each infant shall nap or sleep in a crib or a playpen.

(B) An infant shall not nap or sleep in the same crib or playpen as that occupied by another infant or child at the same time.

(C) If an infant falls asleep on a surface other than a crib or playpen, the infant shall be moved to a crib or playpen.

(D) Each infant shall be placed on the infant's back to nap or sleep.

(E) When an infant is able to turn over independently, the infant shall be placed on the infant's back but then shall be allowed to remain in a position preferred by the infant. Wedges or infant positioners shall not be used.

(F) Each infant shall sleep in a crib or a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers, and toys.

(G) If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the infant's chest. The head of the infant shall remain uncovered. Any infant may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

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(f) When children are awake, they shall not be left unattended in cribs, playpens, or other confinement for more than 30 minutes.

(g) An adult-size ~~rocking~~ chair shall be provided for each unit of infants.

(h) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

(i) Either individually labeled towels and washcloths or disposable products shall be provided.

(j) Items that children can place in their mouths shall be ~~washed and sanitized daily~~ and shall be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.

~~Each licensee shall ensure that at least one staff member who meets one of the following staff requirements is present for each unit of infants and each unit of toddlers:~~

~~(1) Option 1: An individual who meets the qualifications of K.A.R. 28-4-429(b) and has at least three months' experience caring for infants and toddlers;~~

~~(2) Option 2: a licensed L.P.N. or R.N. with three months' experience in pediatrics or in licensed child care centers enrolling infants and toddlers; or~~

~~(3) Option 3: a child development associate credential in infant and toddler care.~~

~~Each licensee shall ensure that the following program requirements are met:~~

~~(1) Daily activities shall contribute to the following:-~~

~~(A) Gross and fine motor development;~~

~~(B) visual motor coordination;~~

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~~(C) language stimulation; and~~

~~(D) social and personal growth.~~

~~(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.~~

~~(p) Each licensee shall ensure that the following food service requirements are met:~~

~~(1) The nitrate content of water for children under one year of age shall not exceed 10 milligrams per liter (10 mg/l) as nitrogen.~~

~~(2) Drinking water shall be available to each child at all times when the child is in care.~~

~~(3) Infants shall be held when bottle fed until they can hold their own bottles.~~

~~(4) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.~~

~~(5) Each bottle that contains prepared formula or breast milk shall be refrigerated with the nipple covered. The bottle shall be labeled with the child's name, the contents, and the date received and shall be used within 24 hours of the date on the label. If a child does not finish a bottle, the contents of the bottle shall be discarded. No formula or breast milk shall be heated in a microwave oven.~~

~~(6) Solid foods shall be offered when the program director and the parent or legal guardian of a child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with child's name, the contents, and the date opened. Containers shall be covered and refrigerated. The food shall be used within three calendar days of the date opened. Food in previously opened containers shall be reheated only once and shall not be served to another child.~~

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~~(g) Each licensee shall ensure that the following toileting requirements are met:~~

~~(1) Children's clothing shall be changed whenever wet or soiled.~~

~~(2) Each child shall have at least two complete changes of clothing.~~

~~(3) Handwashing facilities shall be in or adjacent to the diaper changing area.~~

~~(4) A changing table shall be provided for each unit of infants and each unit of toddlers.~~

~~(5) Each changing table shall have an impervious, undamaged surface. Each table shall be sturdy and shall be equipped with railings or safety straps.~~

~~(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of 1/4 cup of chlorine bleach to one gallon of water or with an appropriate commercial disinfectant.~~

~~(7) Wet or soiled washable diapers or training pants shall be stored in a labeled, covered container or plastic bag and shall be returned home with the parent.~~

~~(8) Wet or soiled disposable diapers shall be placed in a covered container or plastic bag, which shall be emptied daily.~~

~~(9) (k) There shall be Each applicant with a temporary permit and each licensee shall ensure there is one potty chair toilet training device or child-sized toilet for every five toddlers.~~

~~When a potty chair is used, the following requirements shall be met:~~

~~(A) Potty chairs shall be left in the toilet room.~~

~~(B) The wastes shall be disposed of immediately in a flush toilet.~~

~~(C) The container shall be sanitized after each use and shall be washed with soap and water daily.~~

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~~(D) Potty chairs shall not be counted as toilets.~~

~~(10) Each individual shall wash that individual's hands after diapering, assisting a child with toileting, or changing a child's wet or soiled clothing.~~

~~(11) Changing and toileting procedures shall be posted.~~

(~~+~~) (1) There shall be daily communication between the parent, ~~parents,~~ or legal guardian and the staff about each child's behavior and development. (Authorized by and implementing K.S.A. 2010 ~~Supp.~~ 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended Feb. 3, 2012; amended P-_____.)

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K.A.R. 28-4-441. Programs for serving school-age children. (a) ~~Physical plant. Centers shall have a minimum of 35 foot candles of light in each area used for reading, study, and other close work.~~

~~(b) Staffing.~~

~~(1) Single or multi-unit centers shall employ teaching staff who meet the requirements under one of the following options:~~

~~Option 1: As specified in K.A.R. 28-4-429; or~~

~~Option 2: An B.A. or B.S. degree in elementary education, physical education, child development or a related academic discipline, and three months' experience with school-age children.~~

~~(2) Each unit for school-age children shall be separate from units for younger children, except for the following periods: periods not to exceed two hours before and after school. Staff/child ratios and unit size shall conform to the provisions of K.A.R. 28-4-428 and shall be based on the age of the youngest child in the group.~~

~~(1) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, school breaks not to exceed two consecutive weeks, two hours before and after school; and~~

~~(2) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.~~

~~(b) Staff-child ratios and unit size shall conform to the provisions of K.A.R. 28-4-428 and shall be based on the age of the youngest child in the group.~~

~~(c) Program.~~

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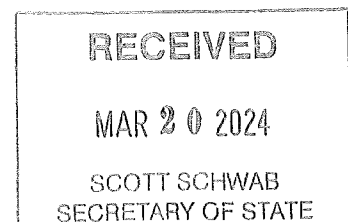
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- ~~(1) Educational and recreational activities shall meet the individual needs of the children.~~
 - ~~(2) Children shall be provided the opportunity to plan activities appropriate to their age.~~
 - ~~(3) Activities shall include arts, crafts, music, reading, table games, and sports.~~
 - ~~(4) Program plans shall be written and posted.~~
 - ~~(5) Written parental permission shall be obtained for children to participate in activities away from the center.~~

 - ~~(d) Summer programs for school age children.~~
 - ~~(1) License applications or application renewals for summer programs shall be submitted to the Kansas department of health and environment not later than April 15.~~
 - ~~(2) Summer programs shall be based in facilities which meet license requirements.~~
 - ~~(3) Sack lunches may be served. Sack lunches and beverages shall be refrigerated.~~
- (Authorized by and implementing K.S.A 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended P-_____.)

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K.A.R. 28-4-442. (Authorized by and implementing K.S.A. 1988 Supp. 65-510; effective Feb. 26, 1990; revoked P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Proposed

Kansas Department of Health and Environment
Agency

Susan Vogel
Agency Contact

785-296-1291
Contact Phone Number

28-4-113, 28-4-114, 28-4-114a, 28-4-115, 28-4-116, 28-4-116a, 28-4-117, 28-4-118, 28-4-122, 28-4-123, 28-4-124, 28-4-126, 28-4-127, 28-4-128, 28-4-129, 28-4-130, 28-4-131, 28-4-132, 28-4-133, 28-4-420, 28-4-421, 28-4-422, 28-4-423, 28-4-426, 28-4-427, 28-4-428, 28-4-428a, 28-4-429, 28-4-430, 28-4-434, 28-4-435, 28-4-436, 28-4-437, 28-4-438, 28-4-439, 28-4-440, 28-4-441, 28-4-442 Permanent

Temporary
K.A.R. Number(s)

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

The proposed amended regulations pertain to family child care homes, child care centers, preschools, residential centers and group boarding homes. K.A.R. 28-4-113 through 118 are for family child care homes, K.A.R. 28-4-122 through 133 are general regulations which govern family child care homes, child care centers, and preschools, and K.A.R. 28-4-420 through 442 are for child care centers and preschools. The proposed amendments are for three main purposes:

- To comply with current federal Child Care Development Fund (CCDF) requirements. The Department for Children and Families (DCF) is the lead agency for the administration of the CCDF federal-state partnership. KDHE is the agency responsible for regulating the provision of child care and carrying out the CCDF State Plan (2022-2024) requirements for health and safety. The Federal Office of Child Care (OCC) conducted a monitoring visit in April 2021 and issued a letter of decision in December 2021 documenting that Kansas is not in full compliance with the health and safety requirements found in the 2016 final rules (45 CFR Part 98).
- To align regulations with Kansas early childhood systems work including efforts to increase access and capacity to serve, increase licensee flexibility in enrollment practices, and reduce burden, while maintaining foundational protections for young children while in regulated child care settings.
- To modernize outdated language, increase consistency, standardize terms, and to incorporate current research, foundational standards, and practices.

K.A.R. 28-4-113, Definitions. Provides definitions of terms used throughout the regulation, including a new definition for a family child care home. Family child care home is the preferred term of the regulated community and is inclusive of both a day care home and group day care home.

K.A.R. 28-4-114, Applicant; licensee. Describes the process for applying for a license, applicant and licensee requirements, operation of more than one facility, prohibits licensure concurrently for more than one type of child care or child and adult care on the same premises, maximum group size based on both the ages of children and the number of providers, licensed capacity, how to count a child a child not functioning at developmental level, license capacity shall not be exceeded, additional children on the premises, substitute in the absence of a primary care provider, posting of a temporary permit or license and availability of regulations and application withdrawal or facility closure. The proposed amendment establishes a single license type with a capacity of 12 children. Maximum group size is determined by the ages of children in care and the number of providers. This increases licensee flexibility in response to demand, provides an incentive for a second provider and eliminates the need to apply for a group day care home license to increase capacity. Other proposed changes have the potential to increase the capacity to meet the demand for care for children under 5 years of age. For example, changing the maximum age from 11 years to 10 years allows for greater flexibility, especially regarding the provider’s own school age children.

K.A.R. 28-4-114a, Initial and ongoing professional development training. Orientation training for the applicant and anyone caring for children, health and safety training including medication administration, first aid and CPR, ongoing professional development requirements and documentation. Proposed amendments address CCDF requirements that all individuals caring for children complete foundational health and safety training including medication administration and first aid and CPR. To clarify the intent, medication is now incorporated as one of the foundational health and safety subject areas. Additional changes removed obsolete phase-in provisions intended to allow a smooth transition to the 2017 amendments.

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K.A.R. 28-4-115, Facility. Water and sewerage requirements, drinking water for children under 12 months, general environmental requirements, fire safety approval, fire inspector approval for use of basement or second floor, prohibits the use of third floor, requires refrigerator and storage of refrigerated medications in locked box, storage, handling, and disposal of hazardous items to comply with CCDF practice requirements, storage of weapons, outdoor play area.

K.A.R. 28-4-116, Daily care of children. Daily activities, self-help and personal care, tobacco products, nutrition and food services. The proposed amendment moves hand washing procedures from this regulation and adds them to K.A.R. 28-4-132, updates the prohibition of smoking, add to the requirements for formula and breast milk storage, preparation, use, and disposal, addresses catering and off premises meal preparation support shared services delivery models and provide foundational food service safety standards, and moves recordkeeping requirements to the proposed amended K.A.R. 28-4-117.

K.A.R. 28-4-116a, Napping and sleeping. Rest period for each child, safe sleep practices, napping and sleeping surfaces, consumer warnings and recalls, transition from crib or playpen to other sleep surface. The proposed amendments update safe sleep practices based on current American Academy of Pediatrics guidance and removes an obsolete December 28, 2012, delayed compliance date allowing time for licensees to comply to federal standards regarding the manufacture, sale, and use of drop-side cribs.

K.A.R. 28-4-117, Health care requirements for children under 16 years of age and recordkeeping. Child medical records, including health assessment, medical history and immunization required, child immunizations current as medically appropriate, exceptions to immunizations, child health assessment transferrable, notification to parents of benefits of regular well-child health assessments, and other child records required. The proposed amendments regarding medical records support families and reduce burden on licensees. Child health assessment conducted with the previous 12 months, rather than the last six months. Permitting a 60-day grace period for licensees to obtain child health assessment and immunization records supports both licensees and families. Required by CCDF, the grace period removes a barrier that might otherwise delay a child's enrollment. Lastly, recordkeeping requirements previously found in K.A.R. 28-4-116 are included.

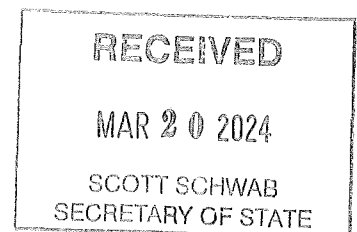
K.A.R. 28-4-118, Reporting suspected child abuse or neglect. Details the standards for reporting child abuse. Practice requirements for the administration of medication were removed from this regulation and included in the proposed amendments to K.A.R. 28-4-132.

K.A.R. 28-4-122, Requirements and definitions for general regulations. Outlines that family child care homes, child care centers, preschools residential centers, and group boarding homes follow general regulations. Propose new definitions of terms used throughout the regulations, including the definition of facility, which only includes family child care homes, child care centers, and preschools and excludes residential centers and group boarding homes.

K.A.R. 28-4-123, Parental access. Details access of the parent or legal guardian to facilities and visitation plans for residents in a residential center or group boarding home. Propose including language for video camera use on the premises and notification of video usage to staff, parents, and legal guardians.

K.A.R. 28-4-124, Parental permission for children to go off-premises. Residential centers and group boarding homes are exempt. Written permission, parental notification of field trip, and written permission for unaccompanied school-age children traveling to or from activities. Propose that medical forms are required to be readily available when children go off-premises from facilities.

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K.A.R. 28-4-126, Health of individuals at least 16 years of age. Health requirements, tuberculosis testing for employment, records, and health assessment forms only for residential centers and group boarding homes. Propose that health status forms be implemented in lieu of health assessments for staff within facilities.

K.A.R. 28-4-127, Telephone; emergency medical treatment; reporting requirements. Telephone, emergency medical treatment, reporting illnesses, injuries, and deaths. Propose to outline residential center and group boarding home reporting of injury or illness which results in death, separate facility requirements, which includes reporting injuries that do not require medical attention by a healthcare professional, illness, and communicable disease. Injuries requiring treatment by a healthcare professional and deaths have been moved to K.A.R. 28-4-133.

K.A.R. 28-4-128, Safety and emergency procedures. Emergency plans and drills, standard precautions, first aid kit contents. Propose to bolster emergency plans and drills and add standard precautions for handling blood and other bodily fluids or waste in accordance with CCDF safety requirements. Propose to add first aid kit contents.

K.A.R. 28-4-129, Swimming and wading activities. Pool, hot tub, and spa general safety and supervision, pool fencing, chemical concentration, safety devices, and temperature, hot tub or spa usage, ponds and lakes. Propose to update chemical concentrations for pH and chlorine levels, modernize language throughout, and add temperature requirements.

K.A.R. 28-4-130, Transportation. Driver requirements, license requirements, vehicle condition, safety check, prohibit unsafe transportation options, medical forms when residential center or group boarding home children are being transported, first aid kit, seat belts and child safety seats, posting of rules and regulations, direct travel. Propose not to have 15-passenger vans used unless purchased or leased before December 31, 2023. Propose to remove the requirement for medical forms to be in the vehicle for facilities due to proposed K.A.R. 28-4-124, update seat belt and safety seat language, no child be left in the vehicle unattended, and no cell phone or electronic device be used unless hands-free for navigation.

K.A.R. 28-4-131, Animals. Sanitary conditions, animals in kitchens, parental and legal guardian notification of an animal on premises, rabies vaccine, protecting children against risk of harm, prohibited animals, safety procedures, supervision, and hand washing. Propose to remove the pit bulldog prohibition and include any wild or aggressive animal, implement safety procedures, and intervention requirements.

K.A.R. 28-4-132, Child care practices. Supervision, behavior management practices, prohibited punishment, hand washing, clothing, diapering, bedding, toileting, medication administration. Propose to update behavior management and prohibited punishment, implement hand washing requirements, diapers be checked at least every two hours, update changing table and diapering requirements, add toilet training from K.A.R. 28-4-440. Add medication administration procedures.

K.A.R. 28-4-133, Reporting critical incidents. Reports to parents or legal guardians, reports to the department. Propose to add any injury to a child by any animal as a critical incident.

K.A.R. 28-4-420, Definitions. Provides definitions of terms used throughout the regulation. Including the proposal to add the definition for the title of each individual who cares for children.

K.A.R. 28-4-421, Terms of temporary permit or license. License capacity, validity of temporary permit or license, posting of the temporary permit or license. Propose to allow a copy of the current regulations to just be available to staff.

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K.A.R. 28-4-422, Applicant requirements; exclusions, application process; amended license; renewal; exceptions; advertising. Applicant requirements; exclusions, application process; amended license; renewal; exceptions; advertising. Propose to update conditions for when a license is not required, update the process of applying for a license and add annual renewal requirements.

K.A.R. 28-4-423, Physical plant. Premises, water supply, toilet and lavatory facilities, laundry facilities, and storage, handling, and disposal of hazardous items to comply with CCDF findings. Propose to modernize lighting language, lower the temperature of each occupied room from 90°F to 85°F, add paint condition requirements to reduce lead exposure, add nitrate content from K.A.R. 28-4-440, add minimum and maximum hot water temperature ranges, insert laundry facilities from K.A.R. 28-4-436 and add the storage, handling and disposal of hazardous items, including medication storage.

K.A.R. 28-4-426, Administration. Line of authority, admission policy, insurance, staff records, and children's records. Propose to update language from a health assessment and immunization record to requiring the medical record be on file for each child, which also includes a medical history form.

K.A.R. 28-4-427, Program. Self-contained units, equipment, furnishing, and materials, and learning experiences. Propose to update conditions of equipment and the condition and disinfection requirement for toys and update lesson plan requirements.

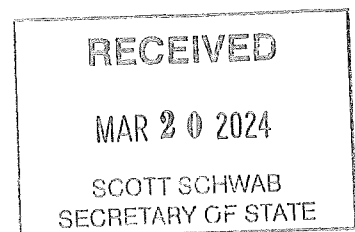
K.A.R. 28-4-428, Staff requirements. Minimum staff-child ratio, temporary absences by staff, transitions for children to the next unit, substitutes when staff are absent, volunteer requirements, program director and assistant program director responsibilities and additional qualifications depending on license capacity. Propose to allow for staff-child ratios and maximum group sizes to present the opportunity to allow for more children in care, including the option for two different infant ratios and group sizes. Propose to add temporary absences while still remaining in compliance, allow children to move up to the next age-appropriate unit 30 days before or 30 days after their intended date in conjunction with the parent or legal guardian, allow flexibility for children to remain in a room licensed for younger children in certain circumstances, remove the requirement for facilities to have two substitutes available and on file, and add program director and assistant program director responsibilities and additional qualifications depending on license capacity from K.A.R. 28-4-429.

K.A.R. 28-4-428a. Education and training requirements. Orientation training for the applicant and anyone caring for children, health and safety training including medication administration, first aid and CPR, ongoing professional development requirements and documentation. Proposed amendments address CCDF requirements that all individuals caring for children complete foundational health and safety training including medication administration and first aid and CPR. To clarify the intent, medication is now incorporated as one of the foundational health and safety subject areas. Additional changes removed obsolete phase-in provisions intended to allow a smooth transition to the 2017 amendments.

K.A.R. 28-4-429, Staff qualifications. Program director, lead teacher, and assistant teacher requirements. Propose to remove observation hours and workshop hours and instead allow for a wide range of education and experience for all staff members. Propose to remove the current license capacity limits for qualifications and propose less than 24 children in care and more than 24 children in care while conforming to the previously least restrictive option. Incorporate a legacy provision for program directors approved before December 31, 2023.

K.A.R. 28-4-430, Health practices. Medical record requirements, health practices, illness and abuse requirements, staff tobacco and alcohol use. Propose to update language from a health assessment to a medical record, which includes a health assessment, medical history, and immunization records. The proposed amendments regarding medical records support families and reduce burden on licensees. Child health assessment conducted with the

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previous 12 months, rather than the last six months. Permitting a 60-day grace period for licensees to obtain child health assessment and immunization records supports both licensees and families. Required by CCDF, the grace period removes a barrier that might otherwise delay a child’s enrollment.

K.A.R. 28-4-434, Preschools. Inside area, nutrition, outdoor play. Propose to update language to tableware.

K.A.R. 28-4-435, Programs serving children with special health care needs and disabilities. Records, physical plant, equipment, staff-child ratio. Propose increased flexibility to allow programs serving children with special health care based on the needs of the individual child.

K.A.R. 28-4-436, Child care centers: napping and sleeping. Rest period for each child, safe sleep practices, napping and sleeping surfaces, consumer warnings and recalls, transition from crib or playpen to other sleep surface. The proposed amendments update safe sleep practices based on current American Academy of Pediatrics guidance and removes an obsolete December 28, 2012, delayed compliance date allowing time for licensees to comply to federal standards regarding the manufacture, sale, and use of drop-side cribs.

K.A.R. 28-4-437, Child care centers: outdoor area. Minimum square feet requirements, play space safety requirements such as fencing, construction, trampoline access, etc., impact-absorbent surfacing material, supervision. Propose to update safety measures for outdoor play space, most of which are commonly found already.

K.A.R. 28-4-438, Child care centers: program. Routines for children, outdoor play time, media viewing. Propose to modernize guidelines for media viewing requirements.

K.A.R. 28-4-439, Child care centers: food service. Staff requirements, meal and snack schedule, food and drink options, tableware, cleaning, and food safety. Propose to add juice and dairy pasteurization requirements, add prepared formula and breast milk storage, usage, and disposal, lower the temperature for perishables and potentially hazardous foods from 45°F to 40°F.

K.A.R. 28-4-440, Programs serving infants and toddlers. The units shall be conducted on the ground floor only, prohibit floor furnaces, equipment and furniture, one toilet training device is required for every five toddlers. Propose to move all safe sleep practices and sleeping surfaces to K.A.R. 28-4-436. Move all diapering and toileting requirements to K.A.R. 28-4-132. Remove the requirement that the chair in each unit of infants must rock.

K.A.R. 28-4-441, Programs serving school-age children. School-age units and staff-child ratio. Propose to allow school-age children to remain in a unit licensed for younger children during temporary circumstances.

K.A.R. 28-4-442, Definitions. Revoke.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

These amendments are proposed for three primary reasons: to correct identified noncompliance with federal CCDF requirements and to support statewide efforts to increase access and capacity, increase licensee flexibility in enrollment practices and reduce burden while maintaining foundational protections for young children when in

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regulated child care settings. Additionally, changes are proposed to modernize outdated language, increase consistency, standardize terms, and to incorporate current research, foundational standards, and practices.

As part of a comprehensive review of child care regulations, the Department relied heavily on the following:

- The Federal OCC letter of decision (December 2021), OCC and Region VII training and technical assistance resources, the 2016 final rules (45 CFR Part 98) and ongoing input from Kansas Department for Children and Families.
- Caring for Our Children National Health and Safety Performance Standards Guidelines for Early Care and Education Programs (4th edition).
- The regulations of the four contiguous states (Colorado, Oklahoma, Missouri, and Nebraska) as well as the regulations Arkansas, Idaho, Indiana and Iowa).

Additionally, the Department relied on input from stakeholders, including the Kansas Breastfeeding Coalition, the Child Care Licensing Systems Improvement Team, licensees and statewide training partners.

It is important to note that in some instances, for example, the proposed amendments to group size and license capacity, fall short of best practice standards. However, each proposed amendment reflects a balance of the health and safety needs of young children and the economic realities faced by parents and licensees.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

Overall, the proposed amendments will enhance business activities for licensees and have the potential to contribute to economic stability and growth for Kansas communities. These modifications in the proposed amendments increase program flexibility, capacity, and reduce administrative and fiscal burdens.

For family child care homes, the most significant changes pertaining to group size and license capacity will allow licensees to move fluidly between the permitted group size maximums based on the ages of children and number of providers. Increasing the number of infants (under the age of 12 months of age) that may be cared for by two providers and eliminating the need and expense of applying for group day care home license to care for more children offers a viable economic incentive to licensees and has the potential of increasing the capacity to serve. Adjustments in the ages in the maximum group size tables, including reducing the age of an infant to under 12 months of age (currently under 18 months), and reducing the upper age of school age children to under 10 years of age (currently under 11 years), were recommended by the regulated community to support transitions and increase flexibility in enrollment.

For general regulations, which regulate family child care homes, child care centers, and preschools, most changes were done in interest of accessibility. This modernization of language throughout these regulations should enable the regulated community to better understand the requirements they are expected to meet, while reducing or eliminating several other barriers to providing child care. The removal of the pit bulldog ban produced feedback from the regulated community that they will no longer need to utilize a pet boarding facility or pay for other arrangements. Many of the additions to general regulations were a result of reorganization, updating, and moving existing regulations to general regulations to improve consistency and alignment across program types. The

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streamlining and consolidating of general safety measures and child care practices were largely driven by CCDF findings.

For family child care homes, child care centers, and preschools, permitting child health assessments conducted during the previous 12 months, rather than the last six months, will likely reduce costs to parents when health insurance only covers one well-child visit a year. The addition of a 60-day grace period for obtaining child health assessments and immunization records supports both licensees and families by eliminating a barrier that might otherwise prevent enrollment. The removal of the health assessment performed by a licensed health care provider for staff members in favor of a health status form update annually by the staff member will reduce costs to staff and reduce the administrative barrier in hiring and onboarding for staff members. The CCDF requirement that all individuals caring for children, not just the licensee and each designated individual, receive medication administration training has the potential to temporarily restrict business activities as an unknown number of providers may not need to complete the one-time training. It is important to note that there are several low cost/no cost options for obtaining the medication administration training including a free online course available by the Department on KS-Train. CPR now has to have a practical application with an instructor from a nationally recognized program, which may be restrictive to some staff who do not meet this criteria. However, it is common practice and current KDHE guidance to use a nationally recognized program, which includes a practical application.

For child care centers and preschools, the most significant changes pertain to staff qualifications, staff-child ratios and maximum group size. Staff qualifications were standardized and modernized to reflect education, experience, and an array in between, including an option for a technical certificate from a vocational school or community college. This will allow for increased flexibility in hiring new staff members, including program directors, lead teachers, and staff members within infant units. Additionally, in many age groups, the staff-child ratio and maximum group size were increased to allow more children in care while still ensuring the health and safety of each child in care. The health and safety standards that have been added, such as the procedures for handling allergens when preparing food, set clearer guidelines for licensees. These may restrict business activities to an extent, however they are crafted to be the minimal acceptable safety standard to prevent an incident occurring which jeopardizes the health and safety of children. None of the additional standards or requirements will require intensive program restructuring, equipment purchases, or significant retraining.

The department is committed to assisting the regulated community in obtaining and maintaining compliance with these foundational health and safety regulations for the protection of children and that achieve a balance between the needs of children and economic realities faced by parents and licensees.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

Ownership may range from sole proprietorships, limited liability companies, corporations and non-profit corporations to local units of government including cities, counties and local units of government. There is no associated implementation or compliance cost that would be passed on to parents of children in care. There is no impact on utility rate payers.

There is the potential of an economic impact on statewide and regional professional development training parents. Some portions of existing health and safety training course offerings may need updating to comply with CCDF requirements. It is anticipated that these costs will be absorbed into the normal operating costs of the training facilitators.

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As initial health and safety training requirements are expanded, including medication administration training there will be an unmeasurable impact for some licensees as they update training for new hires. Many individuals caring for children have already received the training. However, the maximum potential cost is estimated at \$104,881.50 if all 15,300 estimated staff members are required to attend half an hour of additional training at the median wage of \$13.71 reported by the U.S. Bureau of Labor Statistics data for child care workers in Kansas last reported May, 2022. For child care centers, the infant-specific training will require all lead teachers to have an additional four hours of professional development training. Using the median wage of \$13.71, the average cost to facilities to pay for their lead teaching staff within infant units will be an estimated \$54.84 per lead teacher in each infant unit. However, this is for new incoming lead teachers within infant units and not an additional requirement for current lead teachers within infant units. Thus, there is no immediate fiscal impact.

For staff members, the removal of the health assessment at the start of employment will eliminate the cost to those individuals. Given limited to insurance coverage to the child care workforce as a whole, and varying medical costs, this is an unmeasurable positive impact.

For child care centers and preschools, facilities will experience a cost reduction in their per child expenses as capacity has been increased for all age ranges, allowing facilities to take on an average additional 1-2 children per age range per staff member. Using the Kansas Department of Children and Families reimbursement tables, the average price for a toddler in care is \$150/week. Using this figure as the middle ground between infant and preschool aged children, this equates to an additional \$225 per week per staff member received by the facility. This is an additional \$1,623,375 in revenue per week statewide that may be utilized to increase staff salaries, expand the program, or upgrade facility conditions. It should be noted, however, that the number of additional children are limited by the license capacity, size of facility, and number of staff.

C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Family child care homes, formerly licensed as day care homes and group day care homes, child care centers, preschools, residential centers, and group boarding homes as well as child care training partners including, Kansas Child Care Training Opportunities (KCCTO) and Child Care Aware of Kansas.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Increased health and safety measures, CCDF federal compliance, increased economic viability of programs, surveyor consistency in applying global standards, reduced administrative and fiscal burden, program flexibility, and increased access to care due to the changes proposed in maximum group sizes and staff-child ratios.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

Due to the increase in health and safety standards and requirements associated with these increased standards, other aspects of child care were reduced to allow for greater flexibility and to remove barriers for individuals providing care for children as well as removal of barriers for families to have access to care. Attention was paid to program flexibility to allow programs to offset costs via increased child care capacity and economic maneuverability. Transitioning from a health assessment performed by a licensed health care professional to a health status form completed annually by the staff member reduces the fiscal impact on staff members and,

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potentially, the facility. Input and feedback received from the regulated community and stakeholders on these regulations should result in a reduced impact on businesses as their concerns or suggestions that would adversely impact their businesses were shared and considered during the research and drafting phase of these proposed regulations. Many of the changes proposed were updates done in context of practices already in place or updating to best practice or national standards.

The department maintains a commitment to assisting the regulated community in its accessibility to meeting rules and regulations.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$104,881.50

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

Total Annual Costs – \$104,881.50

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The maximum potential cost of requiring medication administration training is estimated at \$104,881.50 if all 15,300 estimated staff members are required to attend half an hour of additional training at the median wage of \$13.71 reported by the U.S. Bureau of Labor Statistics for child care providers in Kansas.

- Yes
 - No
 - Not Applicable
- If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

There are no anticipated changes to aggregate state revenues and expenditures for the implementation of the proposed rules and regulations.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

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The immediate impact of the proposed rules and regulations is estimated at a maximum of \$185,342 due to the training requirements resulting from the implementation of stronger health and safety standards identified as a CCDF finding. Long-range economic impacts reflect the slightly increased cost of the infant-specific training required for lead teachers within infant units in child care centers, which should average around \$52.24 per individual as previously calculated above. Another long-range economic impact is the increase of child care capacity in Kansas, which has the potential to produce an additional \$1,623,375 in revenue per week statewide as previously calculated above. It should be noted, again, that the number of additional children are limited by the license capacity, size of facility, and number of staff.

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

A copy of the proposed regulations will be sent to these three entities. There is no anticipated impact on local governments, unless a local unit of government is a licensee, in which case the costs mentioned above may be an impact.

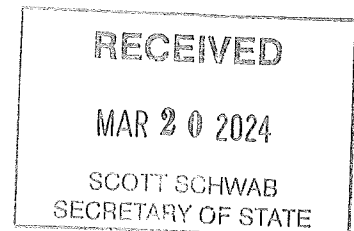
- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

There were two separate meetings held with the Child Care Systems Improvement Team (CC-SIT) to discuss the regulatory changes with stakeholders. The CC-SIT is composed of KDHE surveyors, child care and education providers, partner state agencies, and other stakeholders. Additionally, two separate meetings were virtual and held on weekends to allow for maximum provider and stakeholder input. These meetings were open to the public to discuss the regulatory proposals and a digital survey was created to capture feedback and community input. The two public provider feedback sessions and the two CC-SIT meetings were recorded and posted online. The department utilized an internal listserv of all licensed contacts to invite them to these feedback meetings while also utilizing partnering agencies like the Department for Children and Families (DCF), the Kansas Department of Education (KSDE), and the Kansas Children’s Cabinet and Trust Fund. The department also created a standalone webpage to increase accessibility. Internal department staff and local health departments were given the same opportunities to provide feedback and suggestions from their perspective. All child care licensing surveyors were also given the opportunity to meet and discuss the regulatory changes and provide input on them during two separate meetings as they interpret and enforce these regulations. Additionally, stakeholders were individually contacted for subject matter expertise as applicable.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
- No If no, skip the remainder of Section IV.



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- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

[Click here to enter agency response.](#)

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

[Click here to enter agency response.](#)

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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