

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairperson Brenda Landwehr at 1:30 p.m. on February 2, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

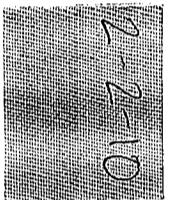
Representative Owen Donohoe - excused
Representative Shultz - excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Kathie Sparks, Kansas Legislative Research Department
Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

Phil Griffin, Director, TB Prevention and Control, KDHE (Attachment 1)
Christine Ross-Baze, Director of Child Care Licensing & Registration, KDHE (Attachment 2)
Diane Purcell, Kansas Association for the Education of Young Children (Attachment 3)
Christine Ross-Baze, Director of Child Care Licensing & Registration, KDHE
(Attachments 4, 5, 6, 7 and 8)
Nancy Jensen, Supervisor, City of Wichita, Child Care Licensing Program (Attachment 9)
Alecia and Steve Patrick (Attachment 10)
Eldonna Chesnut, President, Kansas Public Health Association (Attachment 11)
Leadell Ediger, Executive Director, Kansas Association of Child Care Resource
and Referral Agencies (Attachment 12)
Diane Purcell, Kansas Association for Education of Young Children (Attachment 13)
Suzanne Wikle, Kansas Action for Children (Attachment 14)



Others attending:

See attached list.

Chairperson Landwehr opened the hearing on **SB 62**.

SB 62 - Department of health and environment; tuberculosis evaluation requirements and prevention and control plan for postsecondary educational institutions; rules and regulations

Phil Griffin, Director, TB Prevention and Control, Kansas Department of Health and Environment appeared as a proponent. (Attachment 1) He explained the intent of the bill is to improve on language passed in **K.S.A. 65-129e** which were needed after they began working with stakeholders to assure regulations were both practical and feasible. The intent of the statute, and now the clarification sought in the bill, is to prevent students who have infectious Tuberculosis (TB) from entering the classroom and consequently infecting other students, faculty and staff. This would be prevented through a TB prevention and control plan developed by each postsecondary institution in the state, with technical assistance offered by the TB Prevention and Control Program at KDHE. The plans will include a system for evaluating students at greatest risk of having TB prior to entering the classroom. KDHE would also have the responsibility for ongoing monitoring of compliance with the plans.

He further explained they have heard the concerns related to wording in the original bill that called for shared financial responsibility between the institutions and parents, as voiced in the joint conference committee held late in the last session. They are ready to move forward with the changes in language as agreed at the meeting, specifically to note in part (f) of Section 2 that, "All cost associated with the evaluation requirements of the prevention and control plan shall be the responsibility of the student."

The Chair gave the committee members the opportunity to ask questions and when all were answered, the hearing on **SB 62** was closed.

Chairperson Landwehr opened the hearing on **HB 2220**.

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 2, 2010, in Room 784 of the Docking State Office Building.

HB 2220 - Regulation of certain licensed registered child care facilities

Christine Ross-Baze, Director of Child Care Licensing and Registration for the Kansas Department of Health and Environment appeared in support of the bill (Attachment 2). She explained it proposes to amend the Child Care Act in a number of ways to meet the needs of children, their parents and child care providers. The provisions of the bill address issues raised in a legislative post audit in 2004 as well as recommendations of the Child Care Best Team, which in the last two years has undertaken a comprehensive evaluation of our child care program and laws. The provisions correct imbalances in thresholds of sanctions, provide more flexibility and equity in sanctions, and will result in sanctions better matching violations.

She then provided an overview of the changes. Section 1 would amend **K.S.A. 65-504** by permitting, rather than requiring, the Department to issue an order revoking a license. It also elevates the threshold for revocation and brings revocation into line with the other sanctions in existing law as well as recommended in this bill. The section further amends **K.S.A. 65-504** by extending the time period for eligibility to reapply after a license is revoked from one year to three years. This provides a long enough period of time to deter a provider from operating out of compliance with laws and regulations and encourages providers to take compliance seriously.

Section 2 of the bill proposes to amend **K.S.A. 65-505** so that the license is automatically canceled if not renewed by the renewal date. Automatic cancellation provisions are in both adult care home and home health licensing law and have been successful in minimizing late renewals.

Section 3 concerns registered family day cares and proposes to amend **K.S.A. 65-521** to clarify that falsifying the safety evaluation form or violating applicable regulations are grounds for denial, revocation or refusal to renew a certificate of registration. It also proposes to extend the time period for reapplying after a certificate is revoked or after the Department refuses to renew from one year to three years.

Section 4 proposes to amend **K.S.A. 65-522** to reference additional statutes that pertain to registered family day care homes. This amendment is technical in nature and brings the statutory references current.

Section 5 and 6 proposes to amend **K.S.A. 65-523** by authorizing new intermediate sanctions so the Department can prohibit new children in care or modify or restrict a license, certificate of registration or a temporary permit in addition to existing suspension authority.

Section 7 proposes to amend **K.S.A. 65-526** by deleting "significantly and adversely" as the criteria for assessing a civil penalty for violations that affect the health safety or sanitation of children in a child care facility or family day care home. Lessening the criteria for imposing a civil penalty increases the Department's ability to use this option as an intermediate sanction - in lieu of revoking the license.

She also noted the bill proposes to make changes to law governing registered family day care homes and includes references to maternity centers.

Diane Purcell, Kansas Association for the Education of Young Children and a member of the Child Care Licensing BEST Team spoke in support of the bill. She said this bill is part of a strategic plan to increase protections to children in child care settings. (Attachment 3)

The Chair gave the committee members the opportunity to ask questions and when all were answered, the hearing on **HB 2220** was closed.

Chairperson Landwehr opened the hearing on **HB 2223**.

HB 2223 - Family day care homes registration repealed

Christine Ross-Baze, Director, Child Care Licensing and Registration Program, Kansas Department of Health and Environment spoke in support of the bill (Attachment 4). It proposes to amend the Child Care

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 2, 2010, in Room 784 of the Docking State Office Building.

Act to remove the provisions authorizing registration of family day care homes and the associated statutes that refer to registered family day care homes. Removing statutory authority for registered family day care homes results in these homes being subject to licensure and inspection like all other licensed day care homes and facilities. The primary purpose of this bill is to increase child safety and to provide working parents with assurances that all child care programs are inspected and have met requirements to operate in Kansas.

She stated when the bill was introduced last legislative session, the Department's fiscal note, primarily due to the increased number of inspections, was approximately \$907,000. The Department is proposing a compromise to eliminate this fiscal note by amending the bill. The proposed amendment will create a new category of "family child care home" under the licensing statutes. This will result in a required initial inspection for these homes. The Department receives approximately 850 new applications each year. In order to accommodate these additional inspections, without additional cost, the amendment proposes to extend the inspection schedule for all other licensed homes and facilities from 12 months to 15 months. By extending the inspection schedule three additional months, approximately 1200 inspections are delayed, thus accommodating the initial inspections of family child care homes. The 15 month schedule also provides more flexibility in conducting the inspections and less predictability. In addition, the amendment proposes to give the Secretary of KDHE the discretion to re-inspect these homes based on health and safety considerations.

The amendment proposes a statutory maximum of six children permitted in family child care homes with not more than two children less than 24 months of age. The current registration statutes permit a registered family day care home to care for six total children with a maximum of three children less than 18 months of age. Two children under 24 months of age is the maximum recommended by the BEST Team and will increase child safety and align the maximum number of young children more closely with the life safety code.

The amendment proposes a delayed effective date of July 2011 to enable the Department to educate the child care community on the new provisions and to transition existing registered family day care homes to become licensed. There are approximately 2,569 family day care homes currently registered by the Department. She also provided four other attachments (Attachments 5, 6, 7 and 8) which included a copy of the bill with the proposed changes, a policy brief concerning how KDHE licensing support the quality of family child care for young children in Kansas, a report concerning the Kansas child death and serious injury data in registered and licensed day care homes, and a KDHE report showing examples from CCLR files on Registered Family Day Care Homes.

Nancy Jensen, City of Wichita Child Care Division Supervisor, presented testimony (Attachment 9) in support of the bill. The support was conditional, provided that current program work loads are not increased, and no additional resources are necessary as described in the KDHE proposal. She stated they agree with the compromise proposed by KDHE to adjust current annual survey requirements of licensed child care homes from every 12 months to 15 months.

Steve and Alecia Patrick, Overland Park, Kansas presented testimony (Attachment 10) in support of the bill. Mr. and Mrs. Patrick experienced the death of their daughter on her first day of attendance at a registered (not licensed) daycare home.

Eldonna Chesnut (RN, BSN, MSN), Kansas Public Health Association President, Johnson County Health Department Division Director of Adult and Childcare Facilities, presented testimony (Attachment 11) in support of the bill. She stated the main reason the Registered Daycare Home (RDCH) category should be abolished is that this category of facility does not receive any inspection by childcare licensing staff. Currently, the only time childcare surveyors have right of entry to a registered home is for a complaint visit. Many serious injuries/deaths of children occur in RDCH's that possibly could have been prevented if inspection of the home by childcare licensing staff had occurred. She stated the compromise position allowed by this bill to inspect all family childcare homes initially is a significant improvement.

Leadell Ediger, Executive Director, Kansas Association of Child Care Resource and Referral Agency

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 2, 2010, in Room 784 of the Docking State Office Building.

(KACCRRRA) provided testimony (Attachment 12) in support of the bill and views it as a definite step in the direction of improving child care in Kansas. She brought two NACCRRRA (National Association of Child Care Resource and Referral Agencies) reports to the attention of the Committee ("We Can Do Better" and "Leaving Children to Chance).

In the interest of time, Diane Purcell, Kansas Association for the Education of Young Children and member of the Child Care Licensing BEST team, did not speak but referred to her testimony in support of the bill (Attachment 13).

Suzanne Wikle, Director of Health Policy, Kansas Action for Children, spoke in support of the bill stating it takes the important first step of inspecting all child care facilities and that the KDHE's proposed balloon is a budget neutral way to complete initial inspections for Registered Homes. (Attachment 14)

The Chair gave the committee members the opportunity to ask questions and when all were answered, the hearing on **HB 2223** was closed.

The next meeting is scheduled for February 3, 2010.

The meeting was adjourned at 3:21 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 2-2-10

NAME	REPRESENTING
Leadell Edjor	KACCRRA
Diane Purcell	KAEYC
Rachel Berroth	KIDHE
Mary Murphy	KDHE
Jack Koce	KDHE
Bill Reardon	USA 500 (KCK)
Steve Patrick	Parent
Alecia Patrick	Parent
Elaine Schwartz	Ks Public Health Assn (KSPHA)
Nancy Jensen	City of Wichita CC Licensing
Dale Jeter	" "
Amy Warkentin	Johnson County HD
Holly Giffen	Johnson County HD
Eldon Chestnut	KPHA / Johnson County HD
Vivian Barnes	Johnson County HD
B. Mariani	SRs
Jake Lower	Clean Air KANSAS
Steve Solomon	TFI Family Services
Phil Griffin	KDHE

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Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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**Testimony on Senate Bill 62
Related to Prevention and Control of Tuberculosis
Plans for Postsecondary Educational Institutions**

**Presented to
House Health and Human Services Committee**

**By
Phil Griffin, Director of TB Prevention and Control
Kansas Department of Health and Environment**

February 2, 2010

Chairwoman Landwehr and members of the committee, I am Phil Griffin, Director of TB Prevention and Control for the Kansas Department of Health and Environment (KDHE) and I rise before you to speak in favor of Senate Bill 62.

The intent of this bill is to improve on language passed in K.S.A. 65-129e needed after we began working with stakeholders to assure regulations were both practical and feasible.

The intent of the statute, and now the clarification sought in this bill, is to prevent students who may have infectious Tuberculosis (TB) from entering the classroom and consequently infecting other students, staff and faculty. This would be prevented through a TB prevention and control plan developed by each postsecondary institution in the state, with technical assistance offered by the TB Prevention and Control Program at KDHE. The plans will include a system for evaluating students at greatest risk of having TB prior to entering the classroom. KDHE would also have the responsibility for ongoing monitoring of compliance with the plans.

TB in the academic setting is of particular concern for multiple reasons. TB is transmitted from an infectious individual's lungs to those around them through bacilli expelled into the air. Physical contact with the infectious individual is not required for transmission; only contact with the air expelled by the infectious person is required. Because of the nature of the typical academic setting (dormitory living, communal dining, classroom settings, laboratory settings, etc.) many other people are potentially at risk when an individual is unidentified but infectious with TB.

Individuals with TB can be successfully treated. Individuals with TB who are being properly treated can and usually do carry on normal lives during treatment. They can attend classes and work without risking the health of those around them after two weeks of treatment in most cases.

This issue is of national concern, and many other states are also considering legislation similar to this. I currently serve as President of the National TB Controllers Association, and in that role I have been called upon by many states to advocate for changes in the overseas screening requirements for student visas, as there are currently no requirements for TB screening of this population, unlike those who are coming to the country under refugee status. It is unlikely that these requirements will be changed anytime soon at the national level. With this revision to the Kansas statute, we stand to have a model law that other states are likely to consider, as I have already been asked for draft language by TB programs in several other states.

We are committed to continued work with the individual postsecondary institutions to assure that these actions are of minimum burden and that each of the unique institutional structures are prepared with best practice plans to prevent and control TB. We recognize that plans of this nature cannot be purely a one size fits all format, as we must take into account the variety infrastructures we see and how these varied infrastructures manage the health and health protection needs within their systems.

We have heard your concerns related to wording in the original bill that called for shared financial responsibility between the institutions and parents, as voiced in the joint conference committee held late in the last session. We stand ready to move forward with the changes in language as we agreed at that meeting, specifically to note in part (f) of Section 2 that, "All cost associated with the evaluation requirements of the prevention and control plan shall be the responsibility of the student."

Thank you for the opportunity to appear before the committee today. I will now stand for questions.



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Testimony on HB 2220

Presented To
House Committee on Health and Human Services

By
Christine Ross-Baze, Director, Child Care Licensing and Registration
Kansas Department of Health and Environment

February 2, 2010

Chairwoman Landwehr and members of the committee, I am Christine Ross-Baze, Director of Child Care Licensing and Registration for the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today in support of House Bill 2220.

HB 2220 proposes to amend the Child Care Act in a number of ways to meet the needs of children, their parents, and child care providers. Child care is a source of both great comfort and great anxiety to many working parents. Parents want their children well cared for, as well as assurance those providing care are doing so in a safe manner. This assurance function falls to KDHE and the local agencies that share in the licensing program.

The provisions of this bill address issues raised in a legislative post audit in 2004 as well as recommendations of the Child Care Best Team, which in the last two years has undertaken a comprehensive evaluation of our child care program and laws. The provisions of this bill correct imbalances in thresholds for sanctions, provide more flexibility and equity in sanctions, and will result in sanctions better matching violations. It is not a bill about tougher enforcement, but a bill about more appropriate and effective enforcement.

Section 1 of the bill would amend K.S.A. 65-504 by permitting, rather than requiring, the Department to issue an order revoking a license. It also elevates the threshold for revocation and brings revocation into line with the other sanctions in existing law as well as recommended in this bill.

This section further amends K.S.A. 65-504 by extending the time period for eligibility to reapply after a license is revoked from one year to three years. This provides a long enough period of time to deter a provider from operating out of compliance with laws and regulations and encourages providers to take compliance seriously. The language deleted in K.S.A. 65-504 concerning "refusal to renew" or "not renewed" is no longer necessary as the Department issues licenses without expiration dates and would revoke a license instead of "refusing to renew" a license.

HEALTH AND HUMAN SERVICES

DATE: 2-2-10

ATTACHMENT: 2-1

BUREAU OF CHILD CARE AND HEALTH FACILITIES
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, 1

Voice 785-296-1270 Fax 785-296-3075

Section 2 of the bill proposes to amend K.S.A. 65-505 so that the license is automatically canceled if not renewed by the renewal date. In FY 2009 over 300 administrative orders were issued to child care providers for failure to timely renew- creating a costly and unnecessary burden on legal and program staff. Automatic cancellation provisions are in both adult care home and home health licensing law and have been successful in minimizing late renewals.

Section 3 of the bill concerns registered family day care homes and proposes to amend K.S.A. 65-521 to clarify that falsifying the safety evaluation form or violating applicable regulations are grounds for denial, revocation or refusal to renew a certificate of registration. The Department has been successful in administrative hearings when citing falsification of the safety evaluation form or citing violation of applicable regulations however amending K.S.A. 65-521 as proposed would make it clear to providers and the public that the Department can take an administrative action in these cases. The bill also proposes to extend the time period for reapplying after a certificate is revoked or after the Department refuses to renew from one year to three years.

Section 4 of the bill proposes to amend K.S.A. 65-522 to reference additional statutes that pertain to registered family day care homes. This amendment is technical in nature and brings the statutory references current.

Section 5 and 6 of the bill proposes to amend K.S.A. 65-523 by authorizing new intermediate sanctions so that the Department can prohibit new children in care or modify or restrict a license, certificate of registration or a temporary permit in addition to existing suspension authority. In some cases a licensee or registrant has demonstrated difficulty caring for a certain age of child or has difficulty caring for a group of children. In these instances, the licensee or registrant might provide adequate care for only older children or a smaller group of children. The ability to limit a license or certificate to a certain age range, reduce the total capacity or not allow a specific type of unit in a center provides the Department with an alternative to suspending the license or certificate for the entire facility or home. Not allowing new children in care allows the facility to remain open while correcting problems, and parents of children time to decide whether to leave children in that care or find alternative placement.

Section 7 proposes to amend K.S.A. 65-526 by deleting "significantly and adversely" as the criteria for assessing a civil penalty for violations that affect the health safety or sanitation of children in a child care facility or family day care home. Lessening the criteria for imposing a civil penalty increases the Department's ability to use this option as an intermediate sanction -in lieu of revoking the license.

In 2004, Legislative Post Audit conducted a performance audit of the Department's Child Care Licensing and Registration Program. The Audit concluded the program could benefit by having additional flexibility in enforcing requirements. The statutory changes contained in this bill are consistent with the recommendations identified in the Legislative Post Audit.

The Department supports the passage of HB 2220. This bill enables the Department to better protect children by providing flexibility in the use of intermediate sanctions and strengthens the Department's ability to enforce the regulations while balancing the needs of parents for access to available child care.

I would like to note that this bill proposes to make changes to law governing registered family day care homes and includes references to maternity centers. Other legislation under consideration this session may require that these references be amended or even removed from statute.

Thank you for the opportunity to speak in support of HB 2220. I will now stand for questions.

February 2, 2010

Diane Purcell
Kansas Association for the Education of Young Children
Member of the Child Care Licensing BEST Team

Regarding HB 2220:

The Kansas Association for the Education of Young Children is in full support of this bill.

As a professional organization with over 600 members across the state of Kansas, working with children in a wide variety of capacities, we know that a safe environment is of primary concern when parents place children in out of home care.

KAEYC has been very active in the BEST Team process, and this bill is part of a strategic plan to increase protections to children in child care settings.

The 3 year renewal process is a cost savings initiative that was recommended by the Legislative Post Audit a few years ago.

The recommended changes in the sanctions will allow the secretary to modify or restrict a license or apply other sanctions as necessary to protect children and will allow KDHE more flexibility to work with providers.

The Kansas Association for the Education of Young Children and the Child Care Licensing BEST Team are committed to working with KDHE to develop enforcement protocols that are reasonable and are readily available to providers, parents and to the public.

Thank you for your time and consideration.

HEALTH AND HUMAN SERVICES
DATE: 2-2-10
ATTACHMENT: 3-1



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Testimony on House Bill 2223

Presented to
House Health and Human Services Committee

By
Christine Ross-Baze
Director, Child Care Licensing and Registration Program
Kansas Department of Health and Environment

February 2, 2010

Chairwoman Landwehr and members of the committee, I am Christine Ross-Baze, Director of the Child Care Licensing and Registration Program for the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today in support of House Bill 2223.

HB 2223 proposes to amend the Child Care Act to remove the provisions authorizing registration of family day care homes and the associated statutes that refer to registered family day care homes. Removing statutory authority for registered family day care homes results in these homes being subject to licensure and inspection like all other licensed day care homes and facilities. The primary purpose of this bill is to increase child safety and to provide working parents with assurances that all child care programs are inspected and have met requirements to operate in Kansas.

KDHE requested this bill be introduced last legislative session with support and recommendation of the Child Care Licensing and Systems Improvement BEST Team (BEST Team). The BEST Team is an advisory committee established by the Department to address needed child care licensing system improvements. The BEST Team is made up of day care home providers, center providers, parents and other child care partner agencies and organizations. In the fall of 2007, the Department and the BEST Team conducted ten Listening Tours across Kansas. Over 600 individuals, including day care home providers, center based providers, parents, associations and the public attended the meetings and gave comments. In addition hundreds of emails and letters were received. At each meeting comments were made that registered family day care homes should be inspected and licensed. Concern was expressed about the safety of children due to the lack of inspection; that registered family day care homes are taking more children than are

BUREAU OF CHILD CARE AND HEALTH FACILITIES
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, TOPEKA, KS 66612-1268

Voice 785-296-1270 Fax 785-296-3075

HEALTH AND HUMAN SERVICES
DATE: 2-2-10
ATTACHMENT: 4-1

permitted; about the lack of oversight of these homes and the lack of quality care in registered family day care homes.

In 2008 and 2009 the BEST Team researched the issues involved and recommended that the statutes be amended to eliminate the category of registered family day care homes and require these homes to be licensed and inspected. As part of this review the BEST Team looked at data and research specific to Kansas and the Midwest, other state requirements and national studies. Some of the findings from the review include:

- Many parents do not know the difference between a registered family day care home and a licensed day care home. Parents assume that all day care homes are inspected, that the provider has training in her/his profession, and that their children are safe.
- KDHE data on deaths of children in child care from 2007 through 2009 find that a greater number of deaths occurred in registered family day care homes. Out of 22 child deaths that occurred in all categories of day care homes, eight occurred in registered family day care homes, seven in licensed day care homes, five in group day care homes and two in homes that operated without a license or certificate.
- The frequency of inspection is associated with compliance with requirements, quality and safety. In 2001, the Midwest Child Care Research Consortium conducted a four state study on the quality of child care. The study looked at the quality of child care in Kansas, Nebraska, Missouri and Iowa. In addition, the Kansas Association of Child Care Resource and Referral Agencies conducted a Child Care Quality Study from 2000 to 2002. In both studies, licensing was associated with higher ratings in every aspect of care. The policy brief on these studies is attached and shows that day care homes that were licensed, averaged in the minimal to good range, meaning that they met criteria for a safe, adequate environment. Approximately one-third of day care homes that were licensed achieved ratings in the good range. These homes provided positive interactions, personalized care, and materials to support children's development. Over half of the registered family day care homes did not meet minimal requirements for basic care and safety, and none were rated as good. Provider interviews found that licensed home providers were more likely to report that they read to children every day (82%) and had areas in the home to encourage play and learning (82%), compared to 71% and 68%, respectively, for registered family day care home providers.
- The 2009 NACCRRA (National Association of Child Care Resource and Referral Agencies) Study, Leaving Children to Chance NACCRRA's Ranking of State Standards and Oversight of Small Family Child Care Homes, ranked Kansas at the bottom with a "zero" ranking because of the lack of inspection oversight of registered family day care homes and the lack of training requirements for these homes.

In addition to the BEST Team's concerns about child safety and the care that children receive in registered family day care homes, a number of other organizations are concerned about KDHE data on the number of child deaths and the lack of inspections. The family day care home organization, Child Care Providers Coalition of Kansas, the Kansas Association for the Education Young Children, the Kansas Association of Child Care Resource and Referral

Agencies, Kansas Action for Children, the School Readiness Coalition, the P-20 Council, a number of health organizations and many individuals are publicly supporting inspection of these homes.

When HB 2223 was introduced last legislative session, the Department's fiscal note, primarily due to the increased number of inspections, was approximately \$907,000. The Department is proposing a compromise to eliminate this fiscal note by amending HB 2223. The proposed amendment will create a new category of "family child care home" under the licensing statutes. This will result in a required initial inspection for these homes. The Department receives approximately 850 new applications each year. In order to accommodate these additional inspections, without additional cost, the amendment proposes to extend the inspection schedule for all other licensed homes and facilities from 12 months to 15 months. By extending the inspection schedule three additional months, approximately 1200 inspections are delayed, thus accommodating the initial inspections of family child care homes. The 15 month schedule also provides more flexibility in conducting the inspections and less predictability. In addition, the amendment proposes to give the Secretary of KDHE the discretion to re-inspect these homes based on health and safety considerations.

The amendment also proposes a statutory maximum of six children permitted in family child care homes with not more than two children less than 24 months of age. The current registration statutes permit a registered family day care home to care for six total children with a maximum of three children less than 18 months of age. Two children under 24 months of age is the maximum recommended by the BEST Team and will increase child safety and align the maximum number of young children more closely with the life safety code. The Department does not believe this will reduce availability for infant care as many day care home providers self limit the number of very young children to one or two in order to meet the needs of the infants and also the needs of active toddlers and preschoolers.

The amendment proposes a delayed effective date of July 2011 to enable the Department to educate the child care community on the new provisions and to transition existing registered family day care homes to becoming licensed. There are approximately 2569 family day care homes currently registered by the Department.

Thank you for the opportunity to speak in support of HB 2223. I will now stand for questions.

Attachments:

Balloon for HB 2223

Kansas Policy Brief: How Does KDHE Licensing Support The Quality of Family Child Care for Young Children.

Kansas Child Death and Serious Injury Data in Day Care Homes

Examples of Registered Day Care Home Concerns from CCLR files

HOUSE BILL No. 2223

By Committee on Health and Human Services

2-3

9 AN ACT concerning child care; family day care homes; amending K.S.A.
10 65-504, 65-506, 65-523, 65-524, 65-529, 65-530 and 65-531 and K.S.A.
11 2008 Supp. 65-503, 65-516, 65-525 and 65-526 and repealing the ex-
12 isting sections; also repealing K.S.A. 65-517, 65-518, 65-519, 65-520,
13 65-521 and 65-522.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2008 Supp. 65-503 is hereby amended to read as
17 follows: 65-503. As used in this act:

18 (a) "Child placement agency" means a business or service conducted,
19 maintained or operated by a person engaged in finding homes for children
20 by placing or arranging for the placement of such children for adoption
21 or foster care.

22 (b) "Child care resource and referral agency" means a business or
23 service conducted, maintained or operated by a person engaged in pro-
24 viding resource and referral services, including information of specific
25 services provided by child care facilities, to assist parents to find child
26 care.

(d) 27 ~~(c) (1)~~ "Child care facility" means:

(1) 28 (A) A facility maintained by a person who has control or custody of
29 one or more children under 16 years of age, unattended by parent or
30 guardian, for the purpose of providing the children with food or lodging,
31 or both, except children in the custody of the secretary of social and
32 rehabilitation services who are placed with a prospective adoptive family
33 pursuant to the provisions of an adoptive placement agreement or who
34 are related to the person by blood, marriage or legal adoption;

(2) 35 (B) a children's home, orphanage, maternity home, day care facility
36 or other facility of a type determined by the secretary to require regula-
37 tion under the provisions of this act;

(3) 38 (C) a child placement agency or child care resource and referral
39 agency, or a facility maintained by such an agency for the purpose of
40 caring for children under 16 years of age; or

(4) 41 (D) any receiving or detention home for children under 16 years of
42 age provided or maintained by, or receiving aid from, any city or county
43 or the state.

(c) Family child care home" means a place maintained for the purpose of providing children with food or lodging, or both, away from such children's home or homes, for less than 24 hours a day. A maximum of six children under 16 years of age with not more than two children under 24 months of age may be cared for in a family child care home. Children under 12 years of age related to the person maintaining the family child care home shall be included in the total number of children permitted to be in care.

(5) a family child care home.

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

(e) 3 ~~(d) "Person" means any individual, association, partnership, corpo-~~
4 ~~ration, government, governmental subdivision or other entity.~~

(f) 5 ~~(e) "Boarding school" means a facility which provides 24-hour care~~
6 ~~to school age children, provides education as its primary function, and is~~
7 ~~accredited by an accrediting agency acceptable to the secretary of health~~
8 ~~and environment.~~

9 Sec. 2. K.S.A. 65-504 is hereby amended to read as follows: 65-504.

10 (a) The secretary of health and environment shall have the power to grant
11 a license to a person to maintain a maternity center or child care facility
12 for children under 16 years of age. The license shall state the name of
13 the licensee, describe the particular premises in or at which the business
14 shall be carried on, whether it shall receive and care for women or chil-
15 dren, and the number of women or children that may be treated, main-
16 tained, boarded or cared for at any one time. No greater number of
17 women or children than is authorized in the license shall be kept on those
18 premises and the business shall not be carried on in a building or place
19 not designated in the license. The license shall be kept posted in a con-
20 spicuous place on the premises where the business is conducted. The
21 secretary of health and environment shall grant no license in any case
22 until careful inspection of the maternity center or child care facility shall
23 have been made according to the terms of this act and until such mater-
24 nity center or child care facility has complied with all the requirements
25 of this act. Except as provided by this subsection, no license shall be
26 granted without the approval of the secretary of social and rehabilitation
27 services. The secretary of health and environment may issue, without the
28 approval of the secretary of social and rehabilitation services, a temporary
29 permit to operate for a period not to exceed 90 days upon receipt of an
30 initial application for license. The secretary of health and environment
31 may extend, without the approval of the secretary of social and rehabili-
32 tation services, the temporary permit to operate for an additional period
33 not to exceed 90 days if an applicant is not in full compliance with the
34 requirements of this act but has made efforts towards full compliance.

35 (b) (1) In all cases where the secretary of social and rehabilitation
36 services deems it necessary, an investigation of the maternity center or
37 child care facility shall be made under the supervision of the secretary of
38 social and rehabilitation services or other designated qualified agents. For
39 that purpose and for any subsequent investigations they shall have the
40 right of entry and access to the premises of the center or facility and to
41 any information deemed necessary to the completion of the investigation.
42 In all cases where an investigation is made, a report of the investigation
43 of such center or facility shall be filed with the secretary of health and

1 environment.

2 (2) In cases where neither approval or disapproval can be given within
3 a period of 30 days following formal request for such a study, the secretary
4 of health and environment may issue a temporary license without fee
5 pending final approval or disapproval of the center or facility.

6 (c) Whenever the secretary of health and environment refuses to
7 grant a license to an applicant, the secretary shall issue an order to that
8 effect stating the reasons for such denial and within five days after the
9 issuance of such order shall notify the applicant of the refusal. Upon
10 application not more than 15 days after the date of its issuance a hearing
11 on the order shall be held in accordance with the provisions of the Kansas
12 administrative procedure act.

13 (d) When the secretary of health and environment finds upon inves-
14 tigation or is advised by the secretary of social and rehabilitation services
15 that any of the provisions of this act or the provisions of K.S.A. 59-2123
16 and amendments thereto are being violated, or that the maternity center
17 or child care facility is maintained without due regard to the health, com-
18 fort or welfare of the residents, the secretary of health and environment,
19 after giving notice and conducting a hearing in accordance with the pro-
20 visions of the Kansas administrative procedure act, shall issue an order
21 revoking such license. The order shall clearly state the reason for the
22 revocation.

23 (e) If the secretary revokes or refuses to renew a license, the licensee
24 who had a license revoked or not renewed shall not be eligible to apply
25 for a license ~~or for a certificate of registration to maintain a family day~~
26 ~~care home under K.S.A. 65-518 and amendments thereto~~ for a period of
27 one year subsequent to the date such revocation or refusal to renew be-
28 comes final.

29 (f) Any applicant or licensee aggrieved by a final order of the secretary
30 of health and environment denying or revoking a license under this act
31 may appeal the order in accordance with the act for judicial review and
32 civil enforcement of agency actions.

33 Sec. 3. K.S.A. 65-506 is hereby amended to read as follows: 65-506.
34 The secretary of health and environment shall serve notice of the issu-
35 ance, suspension or revocation of a license to conduct a maternity center
36 or child care facility ~~or the issuance, suspension or revocation of a certifi-~~
37 ~~cate of registration for a family day care home~~ to the secretary of social
38 and rehabilitation services, juvenile justice authority, department of ed-
39 ucation, office of the state fire marshal, county, city-county or multi-
40 county department of health, and to any licensed child placement agency
41 or licensed child care resource and referral agency serving the area where
42 the center or facility is located. A maternity center or child care facility
43 that has had a license suspended, revoked or denied by the secretary of

1 health and environment or a family day care home that has had a certifi-
 2 cate of registration suspended, revoked or denied by the secretary of
 3 health and environment shall notify in writing the parents or guardians
 4 of the enrollees of the suspension, revocation or denial. Neither the sec-
 5 retary of social and rehabilitation services nor any other person shall place
 6 or cause to be placed any maternity patient or child under 16 years of
 7 age in any maternity center or child care facility not licensed by the sec-
 8 retary of health and environment or family day care home not holding a
 9 certificate of registration from the secretary of health and environment.

5.

10 ~~Sec. 4~~ K.S.A. 2008 Supp. 65-516 is hereby amended to read as fol-
 11 lows: 65-516. (a) No person shall knowingly maintain a child care facility
 12 or maintain a family day care home if, in the child care facility or family
 13 day care home, there resides, works or regularly volunteers any person
 14 who in this state or in other states or the federal government:

15 (1) (A) Has a felony conviction for a crime against persons, (B) has
 16 a felony conviction under the uniform controlled substances act, (C) has
 17 a conviction of any act which is described in articles 34, 35 or 36 of chapter
 18 21 of the Kansas Statutes Annotated, and amendments thereto, or a con-
 19 viction of an attempt under K.S.A. 21-3301, and amendments thereto, to
 20 commit any such act or a conviction of conspiracy under K.S.A. 21-3302,
 21 and amendments thereto, to commit such act, or similar statutes of other
 22 states or the federal government, or (D) has been convicted of any act
 23 which is described in K.S.A. 21-4301 or 21-4301a, and amendments
 24 thereto, or similar statutes of other states or the federal government;

25 (2) has been adjudicated a juvenile offender because of having com-
 26 mitted an act which if done by an adult would constitute the commission
 27 of a felony and which is a crime against persons, is any act described in
 28 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and
 29 amendments thereto, or similar statutes of other states or the federal
 30 government, or is any act described in K.S.A. 21-4301 or 21-4301a, and
 31 amendments thereto, or similar statutes of other states or the federal
 32 government;

33 (3) has committed an act of physical, mental or emotional abuse or
 34 neglect or sexual abuse and who is listed in the child abuse and neglect
 35 registry maintained by the department of social and rehabilitation services
 36 pursuant to K.S.A. 2008 Supp. 38-2226, and amendments thereto, and
 37 (A) the person has failed to successfully complete a corrective action plan
 38 which had been deemed appropriate and approved by the department of
 39 social and rehabilitation services, or (B) the record has not been expunged
 40 pursuant to rules and regulations adopted by the secretary of social and
 41 rehabilitation services;

42 (4) has had a child removed from home based on a court order pur-
 43 suant to K.S.A. 2008 Supp. 38-2251, and amendments thereto, in this

Sec. 4. K.S.A. 65-512. hereby amended to read as follows: 65-512. It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 12 15 months every maternity center or child care facility, and except that the frequency of inspections for family child care homes shall be at such intervals as the secretary determines appropriate to assess the health, safety and well-being of children being cared for in such family child care home. For that the purpose of inspection it the secretary or the secretary's authorized agent shall have the right of entry and access therto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or licensed physician.

1 state, or a court order in any other state based upon a similar statute that
2 finds the child to be deprived or a child in need of care based on a finding
3 of physical, mental or emotional abuse or neglect or sexual abuse and the
4 child has not been returned to the home or the child reaches majority
5 before being returned to the home and the person has failed to satisfac-
6 torily complete a corrective action plan approved by the department of
7 health and environment;

8 (5) has had parental rights terminated pursuant to the Kansas juvenile
9 code or K.S.A. 2008 Supp. 38-2266 through 38-2270, and amendments
10 thereto, or a similar statute of other states;

11 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
12 seq., and amendments thereto, or an immediate intervention agreement
13 pursuant to K.S.A. 2008 Supp. 38-2346, and amendments thereto, in-
14 volving a charge of child abuse or a sexual offense; or

15 (7) has an infectious or contagious disease.

16 (b) No person shall maintain a child care facility ~~or a family day care~~
17 ~~home~~ if such person has been found to be a person in need of a guardian
18 or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095,
19 and amendments thereto.

20 (c) Any person who resides in a child care facility ~~or family day care~~
21 ~~home~~ and who has been found to be in need of a guardian or a conser-
22 vator, or both, shall be counted in the total number of children allowed
23 in care.

24 (d) In accordance with the provisions of this subsection, the secretary
25 of health and environment shall have access to any court orders or ad-
26 judications of any court of record, any records of such orders or adjudi-
27 cations, criminal history record information including, but not limited to,
28 diversion agreements, in the possession of the Kansas bureau of investi-
29 gation and any report of investigations as authorized by K.S.A. 2008 Supp.
30 38-2226, and amendments thereto, in the possession of the department
31 of social and rehabilitation services or court of this state concerning per-
32 sons working, regularly volunteering or residing in a child care facility ~~or~~
33 ~~a family day care home~~. The secretary shall have access to these records
34 for the purpose of determining whether or not the home meets the
35 requirements of K.S.A. 59-2132, 65-503, 65-508; *and* 65-516 ~~and 65-519~~,
36 and amendments thereto.

37 (e) In accordance with the provisions of this subsection, the secretary
38 is authorized to conduct national criminal history record checks to deter-
39 mine criminal history on persons residing, working or regularly volun-
40 teering in a child care facility ~~or family day care home~~. In order to conduct
41 a national criminal history check the secretary shall require fingerprinting
42 for identification and determination of criminal history. The secretary
43 shall submit the fingerprints to the Kansas bureau of investigation and to

1 the federal bureau of investigation and receive a reply to enable the sec-
2 retary to verify the identity of such person and whether such person has
3 been convicted of any crime that would prohibit such person from resid-
4 ing, working or regularly volunteering in a child care facility ~~or family day~~
5 ~~care home~~. The secretary is authorized to use information obtained from
6 the national criminal history record check to determine such person's
7 fitness to reside, work or regularly volunteer in a child care facility ~~or~~
8 ~~family day care home~~.

9 (f) The secretary shall notify the child care applicant; ~~or licensee or~~
10 ~~registrant~~, within seven days by certified mail with return receipt re-
11 quested, when the result of the national criminal history record check or
12 other appropriate review reveals unfitness specified in subsection (a)(1)
13 through (7) with regard to the person who is the subject of the review.

14 (g) No child care facility ~~or family day care home~~ or the employees
15 thereof, shall be liable for civil damages to any person refused employ-
16 ment or discharged from employment by reason of such facility's ~~or~~
17 ~~home's~~ compliance with the provisions of this section if such ~~home facility~~
18 acts in good faith to comply with this section.

19 (h) For the purpose of subsection (a)(3), a person listed in the child
20 abuse and neglect central registry shall not be prohibited from residing,
21 working or volunteering in a child care facility ~~or family day care home~~
22 unless such person has: (1) Had an opportunity to be interviewed and
23 present information during the investigation of the alleged act of abuse
24 or neglect; and (2) been given notice of the agency decision and an op-
25 portunity to appeal such decision to the secretary and to the courts pur-
26 suant to the act for judicial review and civil enforcement of agency actions.

27 (i) In regard to Kansas issued criminal history records:

28 (1) The secretary of health and environment shall provide in writing
29 information available to the secretary to each child placement agency
30 requesting information under this section, including the information pro-
31 vided by the Kansas bureau of investigation pursuant to this section, for
32 the purpose of assessing the fitness of persons living, working or regularly
33 volunteering in a family foster home under the child placement agency's
34 sponsorship.

35 (2) The child placement agency is considered to be a governmental
36 entity and the designee of the secretary of health and environment for
37 the purposes of obtaining, using and disseminating information obtained
38 under this section.

39 (3) The information shall be provided to the child placement agency
40 regardless of whether the information discloses that the subject of the
41 request has been convicted of any offense.

42 (4) Whenever the information available to the secretary reveals that
43 the subject of the request has no criminal history on record, the secretary

1 shall provide notice thereof in writing to each child placement agency
2 requesting information under this section.

3 (5) Any staff person of a child placement agency who receives infor-
4 mation under this subsection shall keep such information confidential,
5 except that the staff person may disclose such information on a need-to-
6 know basis to: (A) The person who is the subject of the request for in-
7 formation, (B) the applicant or operator of the family foster home in
8 which the person lives, works or regularly volunteers, (C) the department
9 of health and environment, (D) the department of social and rehabilita-
10 tion services, (E) the juvenile justice authority, and (F) the courts.

11 (6) A violation of the provisions of subsection (i)(5) shall be an un-
12 classified misdemeanor punishable by a fine of \$100 for each violation.

6.

13 Sec. 5. K.S.A. 65-523 is hereby amended to read as follows: 65-523.
14 The secretary may suspend any license, ~~certificate of registration~~ or tem-
15 porary permit issued under the provisions of K.S.A. 65-501 through 65-
16 ~~522~~ 65-516, and amendments thereto, upon any of the following grounds
17 and in the manner provided in this act:

18 (a) Violation by the licensee, ~~registrant~~ or holder of a temporary per-
19 mit of any provision of this act or of the rules and regulations promulgated
20 under this act;

21 (b) aiding, abetting or permitting the violating of any provision of this
22 act or of the rules and regulations promulgated under this act;

23 (c) conduct in the operation or maintenance, or both the operation
24 and maintenance, of a child care facility or ~~family day care home~~ which
25 is inimical to health, welfare or safety of either an individual in or receiv-
26 ing services from the facility or ~~home~~ or the people of this state;

27 (d) the conviction of a licensee, ~~registrant~~ or holder of a temporary
28 permit, at any time during licensure or ~~registration~~ or during the time
29 the temporary permit is in effect, of crimes as defined in K.S.A. 65-516
30 and amendments thereto; and

31 (e) a third or subsequent violation by the licensee, ~~registrant~~ or holder
32 of a temporary permit of subsection (b) of K.S.A. 65-530 and amendments
33 thereto.

7.

34 Sec. 6. K.S.A. 65-524 is hereby amended to read as follows: 65-524.
35 The secretary may suspend any license, ~~certificate of registration~~ or tem-
36 porary permit issued under the provisions of K.S.A. 65-501 through 65-
37 ~~522~~ 65-516, and amendments thereto, prior to any hearing when, in the
38 opinion of the secretary, the action is necessary to protect any child in
39 the child care facility or ~~family day care home~~ from physical or mental
40 abuse, abandonment or any other substantial threat to health or safety.
41 Administrative proceedings under this section shall be conducted in ac-
42 cordance with the emergency adjudicative proceedings of the Kansas ad-
43 ministrative procedure act and in accordance with other relevant provi-

1 sions of the Kansas administrative procedure act.

8.

2 ~~Sec. 7.~~ K.S.A. 2008 Supp. 65-525 is hereby amended to read as fol-
3 lows: 65-525. (a) Records in the possession of the department of health
4 and environment or its agents regarding child care facilities; *or* maternity
5 centers ~~or family day care homes~~ shall not be released publicly in a man-
6 ner that would identify individuals, unless required by law.

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

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

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

25 (e) The secretary of health and environment may release the name,
26 address and telephone number of a maternity center; *or* child care facility
27 ~~or family day care home~~ when the secretary determines that the release
28 of the information is necessary to protect the health, safety or welfare of
29 the public or the patients or children enrolled in the maternity center; *or*
30 child care facility ~~or family day care home~~.

31 (f) Any records under subsection (a) or (b) shall be available to any
32 member of the standing committee on appropriations of the house of
33 representatives or the standing committee on ways and means of the
34 senate carrying out such member's or committee's official functions in
35 accordance with K.S.A. 75-4319, and amendments thereto, in a closed or
36 executive meeting. Except in limited conditions established by 2/3 of the
37 members of such committee, records received by the committee shall not
38 be further disclosed. Unauthorized disclosure may subject such member
39 to discipline or censure from the house of representatives or senate. Such
40 records shall not identify individuals but shall include data and contract
41 information concerning specific facilities.

42 (g) In any hearings conducted under the licensing or regulation pro-
43 visions of K.S.A. 65-501 et seq. and amendments thereto, the presiding

1 officer may close the hearing to the public to prevent public disclosure
2 of matters relating to persons restricted by other laws.

9.

3 Sec. 8. K.S.A. 2008 Supp. 65-526 is hereby amended to read as fol-
4 lows: 65-526. (a) The secretary of health and environment, in addition to
5 any other penalty prescribed under article 5 of chapter 65 of the Kansas
6 Statutes Annotated, and amendments thereto, may assess a civil fine, after
7 proper notice and an opportunity to be heard in accordance with the
8 Kansas administrative procedure act, against a licensee ~~or registrant~~ for
9 each violation of such provisions or rules and regulations adopted pur-
10 suant thereto which affect significantly and adversely the health, safety
11 ~~or sanitation of children in a child care facility or family day care home.~~
12 Each civil fine assessed under this section shall not exceed \$500. In the
13 case of a continuing violation, every day such violation continues shall be
14 deemed a separate violation.

15 (b) All fines assessed and collected under this section shall be remit-
16 ted to the state treasurer in accordance with the provisions of K.S.A. 75-
17 4215, and amendments thereto. Upon receipt of each such remittance,
18 the state treasurer shall deposit the entire amount in the state treasury
19 to the credit of the state general fund.

10.

20 Sec. 9. K.S.A. 65-529 is hereby amended to read as follows: 65-529.
21 Any license, ~~certificate of registration~~ or temporary permit which was
22 issued prior to the effective date of this act and which is in effect on the
23 effective date of this act shall continue in effect until the expiration
24 thereof, unless suspended or revoked prior to such time.

11.

25 Sec. 10. K.S.A. 65-530 is hereby amended to read as follows: 65-530.
26 (a) As used in this section:
27 (1) "Day care home" means a day care home as defined under Kansas
28 administrative regulation 28-4-113; *and* a group day care home as defined
29 under Kansas administrative regulation 28-4-113 ~~and a family day care~~
30 ~~home as defined under K.S.A. 65-517 and amendments thereto.~~

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

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

42 (c) Each day care home ~~registration certificate or license~~ shall contain
43 a statement in bold print that smoking is prohibited within a room, en-

and a family child care home as defined under K.S.A. 65-503 and amendment thereto.

1 closed area or other enclosed space of the facility or facilities of the day
 2 care home under the conditions specified in subsection (b). The state-
 3 ment shall be phrased in substantially the same language as subsection
 4 (b). The registration certificate or license shall be posted in a conspicuous
 5 place in the facility or facilities.

6 (d) The secretary of health and environment may levy a civil fine
 7 under K.S.A. 65-526 and amendments thereto against any day care home
 8 for a first or second violation of this section. A third or subsequent vio-
 9 lation shall be subject to the provisions of K.S.A. 65-523 and amendments
 10 thereto.

12.

11 Sec. ~~11~~. K.S.A. 65-531 is hereby amended to read as follows: 65-531.

12 On and after July 1, 1996: (a) Except as provided further, information
 13 and records which pertain to the immunization status of persons against
 14 childhood diseases as required by K.S.A. 65-508 and 65-519, and amend-
 15 ments thereto, may be disclosed and exchanged without a parent or
 16 guardian's written release authorizing such disclosure, to the following,
 17 who need to know such information to assure compliance with state stat-
 18 utes or to achieve age appropriate immunization status for children:

- 19 (1) Employees of public agencies or departments;
- 20 (2) health records staff of child care facilities and family day care
 21 homes, including, but not limited to, facilities licensed by the secretary
 22 of health and environment;
- 23 (3) persons other than public employees who are entrusted with the
 24 regular care of those under the care and custody of a state agency in-
 25 cluding, but not limited to, operators of day care facilities, group homes,
 26 residential care facilities and adoptive or foster homes; and
- 27 (4) health care professionals.

28 (b) Notwithstanding K.S.A. 60-427 and amendments thereto or any
 29 other Kansas statute which provides for privileged information between
 30 a patient and a health care provider, there shall be no privilege preventing
 31 the furnishing of information and records as authorized by this section
 32 by any health care provider.

33 (c) Information and records which pertain to the immunization status
 34 of persons against childhood diseases as required by K.S.A. 65-508 and
 35 65-519, and amendments thereto, whose parent or guardian has submit-
 36 ted a written statement of religious objection to immunization as provided
 37 in K.S.A. 65-508 or 65-519, and amendments thereto, may not be dis-
 38 closed or exchanged without a parent or guardian's written release au-
 39 thorizing such disclosure.

13.

40 Sec. ~~12~~. K.S.A. 65-504, 65-506, 65-517, 65-518, 65-519, 65-520, 65-
 41 521, 65-522, 65-523, 65-524, 65-529, 65-530 and 65-531 and K.S.A. 2008
 42 Supp. 65-503, 65-516, 65-525 and 65-526 are hereby repealed.
 43

14.

1 Sec. 13. This act shall take effect and be in force from and after July
2 1, 2010, and its publication in the statute book.

2011



HOW DOES KDHE LICENSING SUPPORT THE QUALITY OF FAMILY CHILD CARE FOR YOUNG CHILDREN IN KANSAS?

The Midwest Child Care Research Consortium and the KACCRRRA Child Care Quality Study have found empirical evidence that Kansas licensure is associated with professional preparation and practices that ensure children's health and safety, thus providing the foundation for high quality care that supports and enhances children's development.

policy brief

Background

Findings for this brief were drawn from two recent studies. In 2001, the *Midwest Child Care Research Consortium (MCCRC)* began research on a range of issues associated with child care quality and conditions in a 4-state region (Kansas, Missouri, Iowa and Nebraska). In Kansas, 592 providers participated in telephone interviews, and 92 of these were randomly selected for on-site interviews and observations. From 2000 to 2002, the *Kansas Association of Child Care Resource and Referral Agencies (KACCRRRA)* conducted the Child Care Quality Study, a longitudinal study of 196 programs that serve infants and toddlers across the state, focusing on characteristics of early child care and the effectiveness of a training initiative to improve the quality of care.

In Kansas, family child care homes may be either "*licensed*" (with yearly KDHE inspections to ensure that they meet basic requirements) or "*registered*" (regulated but not subject to yearly inspections). Thus, comparisons of licensed and registered child care homes provide an opportunity to examine the effects of the Kansas licensing requirements in supporting the basic needs of young children in out-of-home care.

The Midwest Study and the Child Care Quality Study are consistent in their findings that licensure is associated with higher quality in all aspects of care and is critical for supporting care that meets minimal needs. Results suggest that licensure also is associated with professional training that gives providers the information and experience they need to move beyond minimal requirements to activities and experiences that foster the development of children in their care.

Policy Recommendations

When formulating policy regarding the well-being of children, policies should function to enhance both the care and education of children. Therefore we recommend that child care policy makers should:

- Encourage or require more programs to become licensed.
- Maintain or enhance the current licensing standards, which have produced positive outcomes in Kansas
- Encourage or require more participation in continuing training.
- Create programs to enhance access to Child Development Associate Certification.

HEALTH AND HUMAN SERVICES
DATE: 2-2-10
ATTACHMENT: 6-1

How Is Quality Child Care Defined and Measured?

We used nationally recognized and validated measures of child care quality in our study: the Infant/Toddler Environment Rating Scale (ITERS), Early Childhood Environment Rating Scale (ECERS), and the Family Day Care Rating Scale (FDCRS). Previous studies have supported the validity of these scales as measuring program features that are linked to positive outcomes for children. Each of these scales has six subscales describing specific features of a program (space and furnishing, basic care routines, language development, social development, learning activities, and provisions for adult needs). Possible ratings range from 1 to 7, with ratings from 1 to 2.9 indicating poor care (does not meet basic custodial needs), 3 to 4.9 being minimal (meets basic care and safety needs), and 5 to 7 indicating good-to-excellent care (goes beyond minimal needs to provide experiences that support children's development).

Licensure is Associated with Higher Quality Care

In both studies described here, licensing was associated with higher ratings in every aspect of care. The table below displays quality ratings from the Kansas sample of the Midwest Child Care Study. In licensed homes, all subscales averaged in the minimal to good range, meaning that they met at least criteria for a safe, adequate environment. Furthermore, approximately 1/3 of licensed home achieved ratings in the good range – that is, they provided positive interactions, personalized care, and materials to support children's development. In contrast, over half of registered homes did not meet minimal requirements for basic care and safety, and none were rated as good. In provider interviews, licensed home providers were more likely to report that they read to children every day (82%) and had areas to encourage play and learning (82%), compared to 71% and 68%, respectively, for registered providers.

	Licensed Homes	Registered Homes
Space and furnishings	4.1	3.0
Basic care routines	4.1	3.0
Activities to support language and reasoning	4.9	3.9
Learning activities	4.4	3.1
Experiences to support social development	5.0	4.0
Provisions for parent and staff needs	5.8	4.4
Overall quality	4.5	3.2

Licensed Providers Are More Likely to Pursue Training and Professional Development

In the Child Care Quality Study, over 1/3 of licensed home providers had completed or were working on the Child Development Associate certificate, more than 4 times the proportion for registered providers. Compared with registered homes, licensed providers completed significantly more training hours, attended more training events, and made more requests for technical assistance from the Infant/Toddler Project. These differences are notable because CDA certification, training, and technical assistance have been the strongest predictors of child care quality. Thus, in addition to ensuring that programs meet the basic requirements for care, licensure may provide a structure for encouraging providers to obtain the training that is essential for enhancing quality.

The Principal Investigators of the Midwest Child Care Research Consortium are: Kathy Thornburg (Missouri), Helen Raikes, Carolyn Edwards, and Julia Torquati (Nebraska), Susan Hegland and Carla Peterson (Iowa), and Jean Ann Summers and Jane Atwater (Kansas). Funded by HHS Child Care Bureau and the Ewing Marion Kauffman Foundation.

Principal Investigators of the Child Care Quality Study are Lana Messner and Leadell Ediger (KACCRRRA); evaluator consultants are Jane Atwater (Kansas University) and David Norlin (Bethany College). Funded by the United Methodist Health Ministry Fund.

Kansas Child Death and Serious Injury Data in Registered and Licensed Day Care Homes January 25, 2010

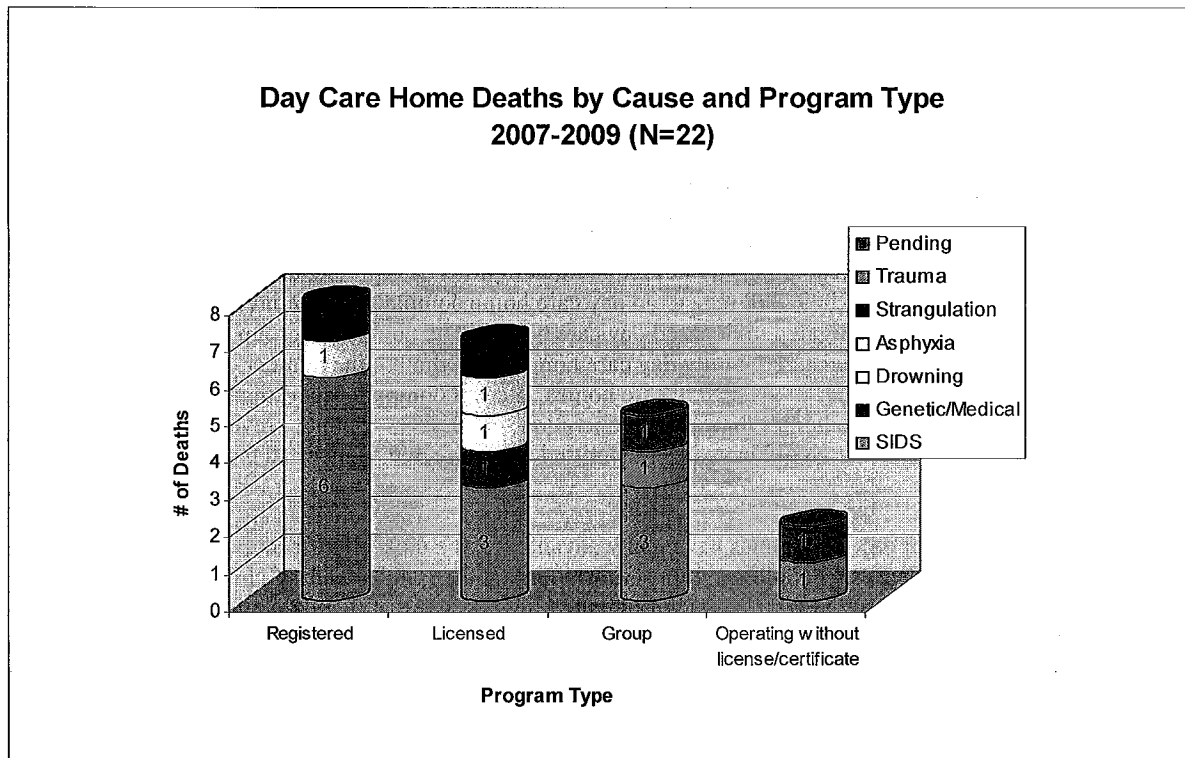
As of January 2010 there are a total of 6,710 registered or licensed day care homes in Kansas: 2569 registered family day care homes, 3035 licensed day care homes, and 1106 group day care homes.

Licensed day care homes make up 45% of all day care homes; however, 38% of homes are registered family day care homes, making it the 2nd most common type of child care in our state. Registered family day care homes are neither inspected initially nor annually. Pursuant to KSA 65-520, the Department only has the authority to verify compliance with registered family day care home requirements after receiving a complaint.

The data displayed in Chart 1 reveals the greatest number of deaths occurred in registered family day care homes. Approximately 36% (8 of 22) deaths occurred in registered family day care homes, exceeding the number of deaths in licensed day care homes, (7 of 22) and group day care homes, (5 of 22). Nearly 88% of the registered day care home deaths (7 of 8) were sleep-related, and at the time of this report, 75% (6 of 8) of the deaths have been ruled as Sudden Infant Death Syndrome (SIDS), one as asphyxia, and one case involved lack of supervision and exceeding capacity resulting in death by strangulation.

Considering the case findings and data displayed in Chart 1, inspecting registered day care homes could have made a difference. Nineteen of the 22 deaths were sleep related. The comparison of sleep-related deaths in registered family day care homes (7 of 19) versus licensed and group licensed day care homes (10 of 19) reveals more health and safety violations in registered family day care homes. For example, children were placed in a crib or playpen 70% of the time in licensed and group licensed day care homes but only 43% of the time in registered day care homes.

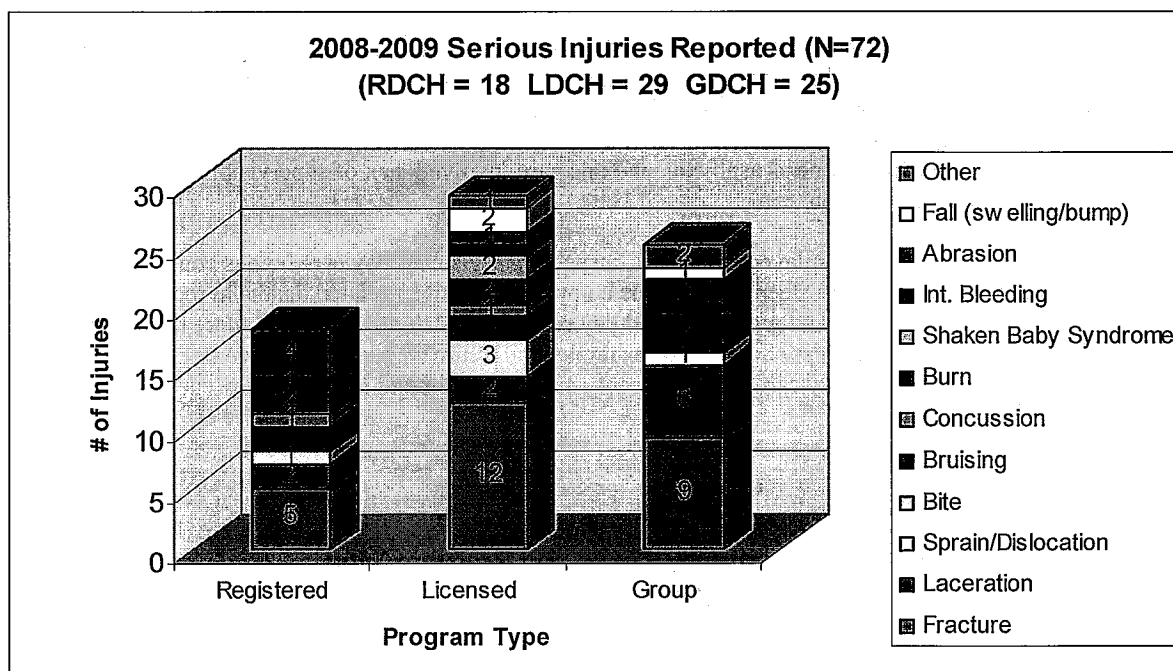
Chart 1.



Sleep-related deaths such as asphyxia, strangulation, and unintentional suffocation are preventable. The cause of SIDS is unknown and thereby is not preventable; however, we can reduce the associated risks. Information on reducing the risks of sleep-related death and verifying safe sleep environments in day care homes through inspections increases children's safety by identifying unsafe environments and practices and by providing education, training, and technical assistance. Violations cited in cases of sleep-related deaths include inappropriate napping, lack of supervision, and exceeding the maximum number of children permitted to be in care. It is important to note that regulations governing these areas of compliance are discussed and observed during on-site inspections. Therefore, verifying children are placed in a crib or playpen versus a bed can only be monitored through inspection. In addition, offering providers guidance and stating expectations for attentive and adequate supervision during an inspection is critical to children's safety.

As displayed in Chart 2, during 2008 and 2009, a total of 72 serious injuries were reported to have occurred in day care homes. Approximately 25% (18 of 72) occurred in registered family day care homes. Injuries ranged from the most serious involving internal bleeding and fractures to minor injuries such as lacerations and abrasions that required medical attention. Perhaps what is most alarming is the fact that more than half of all victims in registered family day care homes were infants under 18 months of age.

Chart 2.



Due to the data on complaints and parent reports, the Department is concerned that a number of injuries in registered family day care homes go unreported. Regulations do not require that injuries be reported, and according to Department statistics, during 2008 and 2009, 378 registered day care home complaints were investigated. Nearly two times that amount (729) were investigated in licensed day care homes. The number of group day care home complaints (426) far exceeded that of registered family day care homes even though the number of registered family day care homes is nearly triple the number of group day care homes. Recent complaint investigations involving inspections of registered family day care homes that were in operation for 17 years or longer revealed serious and ongoing health and safety violations that would have been identified and corrected sooner had these homes been licensed and inspected.

Initial and on-going inspections of day care homes have many advantages, the most significant being the potential to prevent or reduce the risk of incidents that could result in serious injury and possible death of children in care. Inspections not only involve a check of the physical environment to help ensure that there are not conditions present that may pose hazards to the children in care, but it is also an opportunity for the surveyor to speak with the provider about relevant topics and care practices which may have a significant impact on the care that children receive. Examples would be discussing safe sleep practices for infants or consumer recalls of toys and equipment. Surveyors are able to discuss issues with the provider and the provider is also afforded an opportunity to ask questions and pose possible solutions to any violations that have been cited. In the long run the benefit of conducting initial and on-going inspections makes a difference.



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

**Examples from CCLR files on Registered Family Day Care Homes
January 28, 2010**

1. Registered Family Day Care Home Since 1992

The health department received a complaint that the provider, (open since 1992 as a registered family day care home) was strapping toddler and preschool age children into high chairs, designed for infants and young toddlers, for long periods of time throughout the day, including nap and activity periods. The children were old enough to sit without support or assistance. Parents interviewed confirmed this had been the Registrant's practice for more than 12 years. At the time of arrival, their children would often be sitting or sleeping in high chairs. The surveyor also observed this during the survey. Two children age 18 months and 2 years were strapped in high chairs the entire duration of the visit which was about 1 ½ hours. The children were not provided with any activities or toys for stimulation, only the TV was on. The home was cluttered and did not contain age appropriate toys or equipment for the children. The provider admitted to keeping children in high chairs for hours and stated she did not want children running throughout her home.

Inspections make a difference. Had inspections been conducted, the provider's harmful child care practices and her lack of understanding of children would have been addressed in addition to the environmental conditions, lack of toys, equipment and activities. The harmful practices and other concerns would not have continued undetected for over 12 years affecting numerous children and families.

Outcome. The certificate was revoked and she is no longer authorized to care for children.

2. Registered Family Day Care Home Since 2007

The health department received a complaint after police were called to the home for domestic battery. Upon arrival, police discovered extreme environmental and unsafe conditions of the home and a methamphetamine manufacturing lab in the basement where the provider's son was residing with his two children who were also cared for by the provider during day care hours. The son had not been submitted for a background check. Lab tests revealed drug contamination throughout the entire home through the ventilation system. The basement was part of the child care premises and children were exposed to this area. The police report referred to the basement area as "abhorrent and that no human should have to inhabit such an environment..." The provider admitted to police she thought her son was doing something wrong in the basement like making drugs or engaging in illegal drug activity.

BUREAU OF CHILD CARE AND HEALTH FACILITIES
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200,

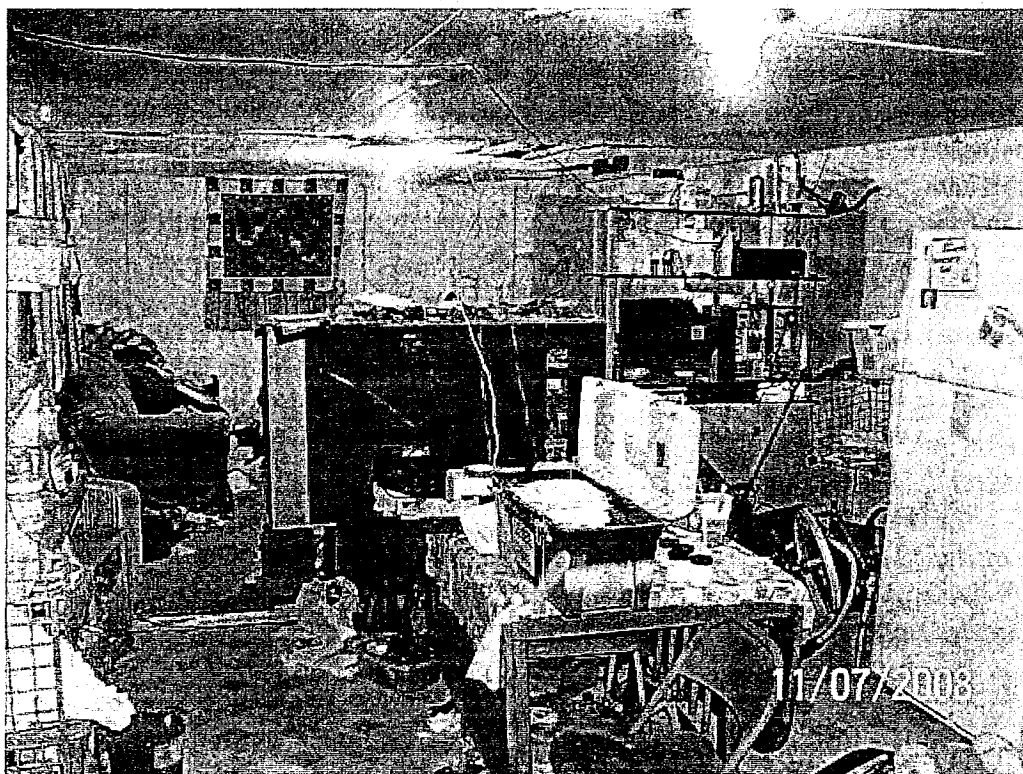
Voice 785-296-1270 Fax 785-296-3075

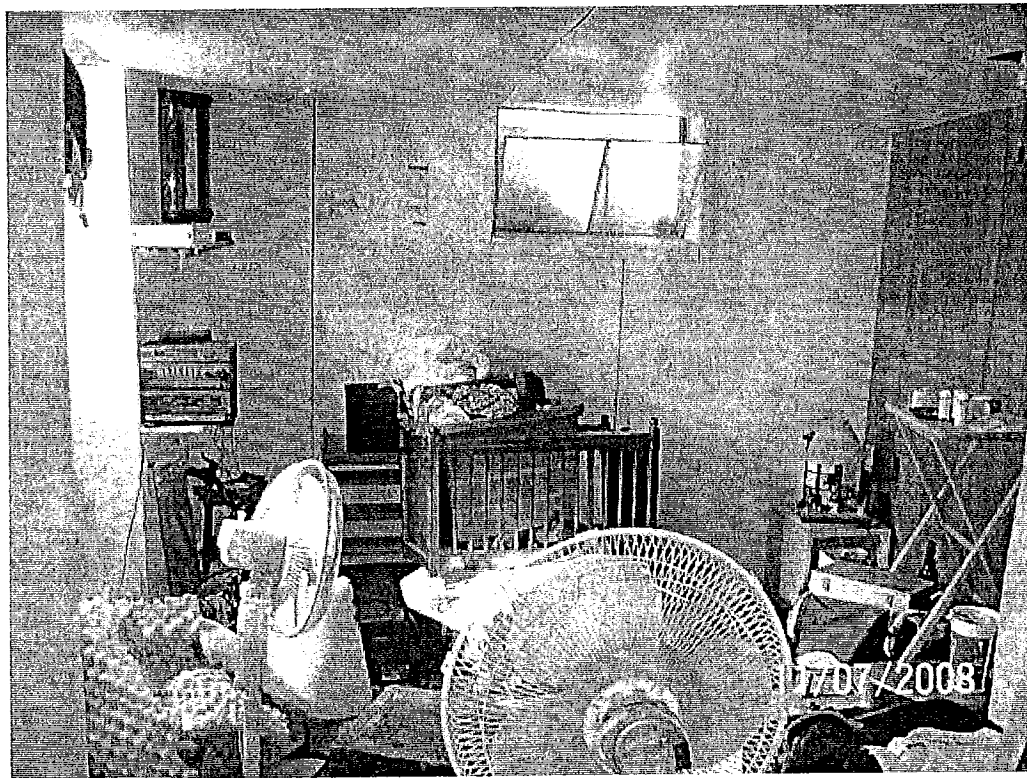
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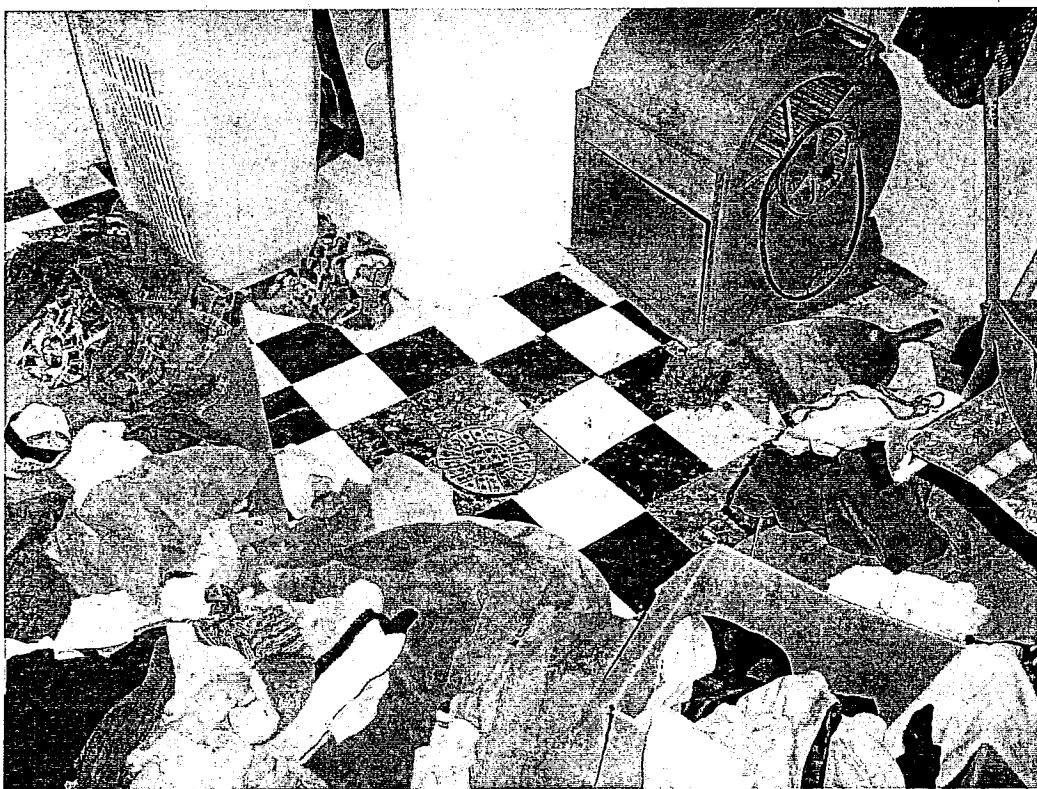
Inspections make a difference. If licensure of this home was required then inspections would have been conducted. The environmental conditions would have been discovered and the son would have been submitted for a background check. It is likely the home would never have passed inspection.

Outcome: The certificate was suspended immediately upon discovery and later revoked. The provider is no longer authorized to care for children. SRS placed the registrant on the Child Abuse and Neglect Registry for putting children in danger. The Registrant's son was convicted of 2 counts of aggravated endangerment of a child and one count of manufacturing drugs. He was sentenced to 13 years and 2 months in jail.

Five pictures from this day care home follow and demonstrate the extreme clutter, hazards and home conditions found.







3. Registered Family Day Care Home since 1991.

The provider was found to be providing child care without a license or certificate in 1991, after a complaint was received involving suspected child abuse. Abuse was not confirmed and the provider was offered the option of becoming licensed or registered. She submitted an application to become registered.

In 2008, a complaint was received regarding the use of prohibited punishment. During the complaint investigation it was discovered that the provider routinely restrained children in car seats at nap time for hours and she had been doing this for years. When asked why she restrained the children she indicated it was because they needed to be taught not to get up. At the time of the inspection three children, ages three to five years, were found in an overly warm, dark bedroom with little ventilation. They were in car seats designed for younger children and restrained by the harnesses. The car seats were placed either on the floor or bed. The car seats were damp from sweat and urine. Two of the children were awake but made no attempt to get up as if they were afraid. The provider was immediately counseled on the unsafe napping practices and she agreed to stop restraining the children and to nap them appropriately. The following day, another inspection was conducted to verify the provider no longer used this practice. The children were found restrained in the same manner. The certificate was immediately suspended.

Parents of currently enrolled children were interviewed as part of the investigation. Many of the parents were not aware of extent to which their children were restrained and removed their children from care. Other parents who no longer had their children in care were also interviewed. It became clear that many children over many years had been forced to nap in this manner. One parent reported that for no apparent reason their child started screaming when the parent tried to put the child in the car seat. Other parents felt something was wrong but could not identify the problem. One set of parents contacted KDHE after they read about the suspension in the local newspaper. They had enrolled their child in 2003 and removed him from care on the third day because they were concerned about the care.

Inspections make a difference. Had inspections been conducted in this day care home, this provider's controlling child care practices would have been identified years earlier and parents would have been made aware of what kind of care their children were receiving. It is unlikely that so many children and families would have been affected. The parents continue to carry with them guilt and remorse for placing their children in this situation.

Outcome: The certificate was immediately suspended and then revoked. The provider is not authorized to care for children.



Dale Goter
Government Relations Manager

TESTIMONY

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4351
dgoter@wichita.gov

Kansas House Health and Human Services Committee

Rm 784 Docking State Office Building

Tuesday, Feb. 2, 2010 1:30 PM

House Bill 2223: Elimination of the Registered Family Day Care Home

Testimony by Nancy Jensen, City of Wichita Child Care Division Supervisor

The City of Wichita is supportive of HB 2233 as a step toward improving regulated child care in Kansas. The City's support is conditional, provided that current program work loads are not increased, and no additional resources are necessary as described in the KDHE proposal for House Bill 2223.

The City of Wichita Office of Environmental Health conducts inspections of childcare facilities and provides education for childcare providers within the city of Wichita and Sedgwick County on behalf of the Kansas Department of Health and Environment (KDHE).

The City of Wichita currently inspects 1,378 facilities throughout Sedgwick County, 86% of which are within the city limits of Wichita. The City has conducted childcare licensing and education services for more than 30 years, providing a local point of contact for citizens and child care providers. KDHE provides an annual grant to fund these activities, and has agreed to fund the City of Wichita for state fiscal year 2010. The KDHE grant award for State Fiscal Year 2010 is \$295,300. The City of Wichita supports the child care program by providing matching funds and City General Fund expenditures are approved for \$182,249 in 2010. At the current level of grant funding, meeting current workload demands presents a challenge to Wichita's local program, and two approved positions within the KDHE grant will continue to remain vacant until funding levels are increased to cover the associated costs.

Early Childhood research has proven that routine inspections based on established standards of care has a significant impact on the quality of child care being provided, as well as the quality of child care providers. Quality child care has been identified as integral to children's social and academic growth and can impact learning throughout the lifespan. To this end, the City of Wichita Child Care Licensing program is staffed with professional Registered Nurses (4) and Early Childhood Educators (2) who can offer training and consultation along with the health and safety inspection, ensuring that standards of care are met.

As a result of existing state statutes governing child care, 604 registered day care homes within Sedgwick County are not inspected on a routine basis. Further, because these are registered homes, and not licensed, regulations allow anyone that is 18 years of age, regardless of education or experience, to be a Child Care Provider. HB 2223 seeks to provide a higher level of service for providers and a higher level of protection for children in regulated care. This would be accomplished by eliminating the category of registered family day care homes (RDCH) that historically have not been routinely inspected for health and safety standards and requiring inspections of all day care homes in Kansas. Also, as a result, regulations would provide a consistent level of training and experience for all providers operating child care homes.

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Passage of HB 2223 would mean 604 additional inspections annually for the City of Wichita. This would trigger a 44% increase in the number of annual inspections without providing any additional funding for staff and resources. Because of concerns caused by the negative fiscal impact that would be realized throughout regulated care in Kansas, KDHE has drafted a compromise and claims the provisions of HB 2223 could be implemented without requiring additional resources.

According to KDHE, this could be accomplished by adjusting current annual survey requirements of licensed child care homes from every 12 months to 15 months. First time registered providers would require an initial survey to ensure compliant facilities. The City of Wichita maintains that the health and safety of children in child care, and the quality of care, must remain the prime consideration for regulatory improvement.

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Testimony from Steve and Alecia Patrick, proponent for HB2223
February 2nd, 2010

We are Steve and Alecia Patrick of Overland Park, KS. Bill HB2223 is a bill that we support and have been working on for almost a year.

On April 13th 2009 our lives were completely destroyed with the death of our only child, Ava. Ava was attending her first day at a new daycare and we were lead to believe that this particular daycare was a decent and licensed daycare. Ava loved babies and in this particular daycare there was a hand built fence in the basement that separated the babies from the toddlers. We have pieced that morning together and determined that Ava pulled a chair over to the fence to see the babies and lost her footing, falling on top of the fence. Our beautiful and only daughter died as a result of strangulation. After her death we learned many things about this particular daycare that shocked and appalled us. We trust that if Bill HB2223 was in place before our daughter's death, she would be alive today.

All Kansas daycares need to be licensed and receive at least the required yearly inspection. We believe that if our daycare would have been ^{licensed} registered, the following would have been taken into consideration for her to remain open for business:

- If our daycare provider would have been licensed and inspected yearly, she would have been shut down for lying on her reapplication for a registered status. On her application for 2008, she stated that she did have a basement but it would not be used for the daycare. The basement is where she housed 95% of the daycare.
- Our daycare provider also had 225 pages of violations and complaints over her 15 years in business. She originally was a licensed daycare, but was allowed the registered status even with her history. If she would have been inspected yearly, her record would have been looked at each year and she would not have "fallen through the cracks."
- She additionally would have been shut down for being over-the-limit on children. Right now a registered daycare is allowed to watch no more than 6 children. On this particular day, she had 14 in her care.

Our daughter's death was completely unnecessary and highly preventable, as are many child deaths that occur in Kansas daycares. By putting HB2223 into law, we will not only strengthen the daycare guidelines for the State of Kansas, but we will start protecting our children instead of the daycare providers.

Steve and Alecia Patrick 913-710-8353 or 913-710-9168

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DATE: 2-2-10
ATTACHMENT: 10-1

Testimony Regarding HB2223

Presented to Health and Human Services Committee

By Eldonna Chesnut, RN, BSN, MSN

Kansas Public Health Association President

**Johnson County Health Department Division Director of Adult and Childcare
Facilities**

The need to inspect all childcare facilities in Kansas is long overdue. For many years there has been the need to eliminate the category called Registered Daycare Home (RDCH). The main reason this category should be abolished is that this category of facility does NOT receive ANY inspection by childcare licensing staff. Currently the only time childcare surveyors have right of entry to a registered home is for a complaint visit. Most of the time these visits are long and violations are many. Many serious injuries/deaths of children occur in RDCH's that possibly could have been prevented if inspection of the home by childcare licensing staff had occurred. For example, in the past year in Johnson County, a meth lab was discovered in a registered childcare home. If initial/annual visit had been conducted this could potentially have been identified on the walk through of the home. Additionally, perhaps the death of an 18 month old girl could have been prevented had surveyors had the opportunity to survey the registered daycare home for safety hazards and other serious regulation violations.

Currently all the registered daycare home provider has to do is complete an application, *self* complete the KBI form, *self* complete the fire life safety form, *self* complete a safety checklist, and mail the forms in along with the application fee. As long as the KBI/SRS background check clears this person can start doing care in their home with no one making sure their home environment is safe for children. In Johnson County, we have been very lucky that most all our cities fire department inspected all daycare homes annually. Due to my division's good working relationships with our fire departments – the fire inspector would usually let us know when they saw areas of concern in registered homes. However, as the budget crunch becomes worse and cities look for ways to trim their shrinking budgets, inspections of daycare homes has been one of the first services cut.

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Johnson County - like many other counties across Kansas, will have no one helping them identify problems should the registered category remain.

As in any county Johnson County has both good and bad Registered as well as good and bad licensed homes. Also like other counties, we often see licensed providers who have been in frequent enforcement action switch to the registered category to eliminate the surveyors coming into their home on at least an annual basis. Currently there is no legal way to stop this from happening. It is not in the best interest of children to be in this type of out of home care.

Under the proposed legislation, the category formally known as Registered Day Care Home would become Family Child Care home. This would then allow for at least an annual inspection of all applicants for home day care and for follow up visits for those with identified environmental or other serious regulatory violations. In my county we believe that the initial visits are a benefit to the home daycare provider. The surveyor comes to the provider homes by appointment and spends one-on-one time with them. The surveyor walks through the home with the provider and helps him/her identify the good things the provider has done to prepare his/her home for childcare as well as areas of non-compliance that exist in the home. The home provider has the chance to ask the surveyor questions regarding regulations, paperwork, and her/his home environment as it relates to childcare regulations. My staff and I believe this is an important first step for someone starting a home daycare. This visit helps to ensure that a safe/healthy environment is available for the children. This is also a benefit for parents placing their child in care. Many parents do not know that Registered Providers receive no inspection prior to starting to provide daycare services. Often times the parent doesn't find out the provider is registered or doesn't understand what this means until the child is injured in care and the parent is calling in a complaint. When I am taking a complaint on a registered provider I will ask parents if they realized that their provider doesn't receive any visits from childcare licensing staff. Many times the answer is a very shocked "NO! I thought they did."

Without a doubt all facilities should be inspected – the problem is where the money comes from. KDHE has offered a possible solution that will not increase the need for more surveyors and money but should allow for the inspections on all daycare homes - if you will please pass this legislation. Please note this is a COMPROMISE that childcare surveyors and other licensing staff are willing to

make just to get all facilities inspected. Theoretically, extending the time frame from 12 months to 15 months for all licensing inspections to be completed, will allow inspections of all new family daycare homes without financial impact. The change in K.S.A. 65-512 would allow the surveyors the flexibility to continue to do the facilities that have enforcement issues on a 12 month basis, inspect all new family childcare homes, and complete the inspection of remaining licensed facilities with a good compliance record within the 15 month timeframe. This change would also pave the way for annual inspections on all daycare homes when the economy and/or situation allows. Ideally, all childcare facilities should be inspected on an annual basis. In Johnson County alone, this would mean more than 400 additional inspections per year. The compromise position allowed by this bill to inspect all family childcare homes initially is a significant improvement. This legislation starts us down the path of strengthening the safety and quality of childcare for all Kansas children.

Testimony of Leadell Ediger
Executive Director
Kansas Association of Child Care Resource & Referral Agency (KACCRRRA)
February 2, 2010

Madam Chairwoman, and members of the Health and Human Services Committee, thank you for allowing me to testify this afternoon. I appreciate the opportunity to speak with you and I know we share the same goal: to ensure that children in Kansas have access to safe child care that promotes their healthy development.

My name is Leadell Ediger and I am the Executive Director of KACCRRRA, the Kansas Association of Child Care Resource & Referral Agency. KACCRRRA is the state network that supports seven child care resource and referral member agencies who serve all 105 counties in Kansas. We are in a unique position within communities to work with families, child care providers as well as state and local governments to strengthen the quality of child care.

- We work with families to provide information about the different types of child care available that will meet their specific needs.
- Our work with child care providers involves assistance with starting and operating a child care business, on-going professional development and training, and information and support about how to make quality improvements that positively impact the children in their care.
- We network with employers and community partners to provide information about family/friendly policies and programs that benefit employees, child care supply and demand data, and how to support the development of high-quality child care programs in their communities.

Last year we helped over 15,000 families in Kansas find child care. This translated to requests for over 15,000 children whose families were seeking child care centers, over 16,700 children whose families were seeking family child care homes, and thousands of other children in families seeking preschool options, Head Start programs, school-age care, as well as caregivers who would care for special needs children.

My agency is on the ground working with families. I know firsthand that parents want their children to be safe. They want their children in a setting that promotes their healthy development. They believe that a license or being registered by the state means that some entity is checking to ensure that providers comply with state standards and that children are safe.

But, the reality is that in Kansas one out of every three child care programs is never inspected. And, if a program is never inspected, then no one really knows if it is safe, if it protects children, if it meets even the most basic of health and safety standards. Because "registered" care is not required to be inspected, there is no chance for professionals to assist providers in making their program as safe as possible. Children are merely left to chance.

Unfortunately, several children, including infants, have died in registered child care over the last several years. Potentially, these tragedies could have been avoided. Registration may be fine to sign up for a class, but its really not fine to care for unrelated children.

As a current Board member and the incoming Board President of the National Association of Child Care Resource and Referral Agencies, I believe very strongly that we need to improve the quality of child care -- not just in Kansas, but throughout the United States.

I would like to bring to the attention of this Committee two reports that NACCRRA has released. The first report, entitled "*We Can Do Better*", is a state by state review of child care center laws and regulations. NACCRRA looked at both state standards and oversight and then scored and ranked the states based on their policies. Kansas scored 64 out of a possible maximum score of 150. That earned the state a 43 percent, which would be a failing grade in any school in the state, and resulted in a ranking of 47. Not a ranking to be proud of.

The second report, entitled, "*Leaving Children to Chance*", is a state by state review of family child care home laws and regulations. Again, NACCRRA looked at both state standards and oversight and then scored and ranked the states. Kansas scored a zero because we don't require an inspection prior to licensing. There were eight other states that also scored zero because they didn't inspect the settings before allowing children to be cared for by an unrelated provider. I don't know of another industry that would issue a license without checking to see if the program is safe or complies with state standards.

Had the state required inspections, the score still would have been low at 48, which out of 140 possible points meant a grade of 34 percent. Again, any child scoring 34 percent on a test in a Kansas school certainly would receive a failing grade. Kansas ranked 42nd, higher than the ranking for centers, but still not a ranking to brag about as promoting a safe setting to promote the healthy development of our children.

House Bill 2223 would repeal the category of "registered" providers and require all child care programs to be inspected at least once every 15 months. KACCRRRA supports this legislation and views approval of this bill as a definite step in the direction of improving child care in Kansas.

There is more I'd like to see. I believe that all child care providers caring for unrelated children on a regular basis as a business should have a comprehensive background check. This means state and federal fingerprints and a check of the sex offender registry.

I think we should strengthen our minimum training requirements so that providers are required to have 40 hours of initial training and 24 hours of ongoing training. Parents believe that providers have training in CPR, in basic health and safety standards, in recognizing child abuse, but that's not necessarily the case -- at least its not required in Kansas.

It is time that Kansas protected children in child care. Eliminating registered care is a good start. Requiring all child care to be inspected is the right policy.

I am glad to answer any questions that you might have. And, for the record, I would like to submit the Kansas state pages from the two NACCRRA studies. I am hopeful that House Bill 2223 will be approved and look forward to working with the committee toward that goal.

Children should not be left to chance. Not when we can do better. Not when we should do better. Thank you for your time today.

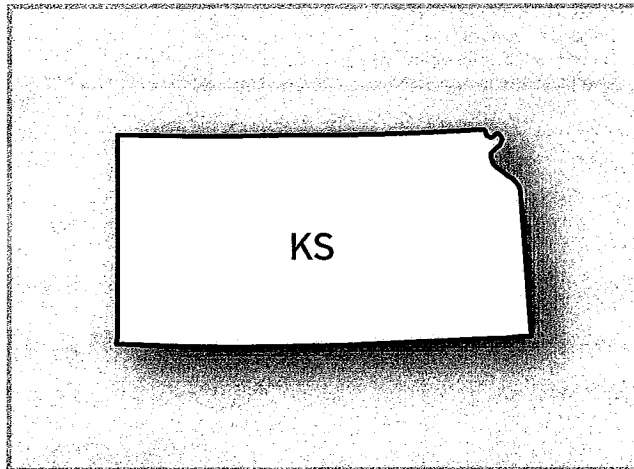
State of Small Family Child Care Homes in Kansas

0% of total points	Score: 0/140 Rank: 42
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Number of children in care when state licensing begins: **1**

Inspection or visit before being licensed: **No**

Kansas' score could have been 48 (34%), but they receive 0 because they do not inspect providers before they are licensed and caring for children.



Average Price of Child Care in FCC Homes in 2006

For an infant	\$4,313
For a 4-year old	\$4,025

Supply of FCC Homes in 2006

Number of FCC homes	7,070
Number of spaces/slots in FCC homes	59,976

Strengths

- Providers caring for even one unrelated child for pay are required to be licensed.
- Licensed FCC providers, their substitutes and assistants and family members over 12 years of age are required to have background checks. In addition, exempt providers receiving subsidies are required to have background checks.
- Providers must follow 7 of the 10 health requirements – handwashing, meals and snacks, immunizations, toxic substances, diapering/toileting, home sanitation and weekend/evening care.
- Total number of children that a single provider can care for at one time is 6; and the number of children under 24 months is restricted to 3.

Weaknesses

- Does not inspect before licensing.
- Routine inspections are not required once a year.
- Neither routine nor complaint visits are required to be unannounced.
- Does not conduct a background check using fingerprints and does not check juvenile records.
- Does not require providers to have completed a high school education or GED.
- Providers are required to undergo only 2 hours of training in first aid prior to working with children. No training in CPR is required.
- Providers are not required to complete any training on an on-going basis.
- Providers are not required to have any toys and materials designed to promote learning.
- Providers are not required to engage in any learning activities with children or provide them with literacy opportunities.

State of Small Family Child Care Homes in Kansas

Small Family Child Care Standards

Standards for Ranking	Scores
1. Requires FCC homes to be inspected/visited before being licensed, at least quarterly, and when there is a complaint.*	
2. Requires FCC home inspections/visits (quarterly and when there are complaints) to be unannounced.*	
3. Requires licensed FCC providers; their substitutes and assistants; family members over 12 years of age; and exempt providers receiving subsidies to have a background check.	
4. Background checks are based on fingerprints and include checks of state and federal criminal records, juvenile records, child abuse registries, and sex offender registries.	
5. Requires FCC providers to have a high school diploma or GED, and have the CDA**, college courses in ECE*** or an Associate's degree within 3 years of starting to provide child care.	
6. Requires FCC providers to have at least 40 hours of pre-service training (including CPR and first aid).	
7. Requires FCC providers to have pre-service training in 8 specific areas.†	
8. Requires FCC providers to have at least 24 hours of annual training (including CPR and first aid).	

Small Family Child Care Standards

Standards for Ranking	Scores
9. Requires FCC providers to communicate with parents, have contracts with parents, allow parents access to the home, inform parents on use of substitutes, and have written policies for parents.	
10. Requires FCC providers to have toys and materials available in 8 different developmental areas.††	
11. Requires FCC providers to plan a variety of learning activities, read to children; introduce mathematical concepts; offer creative activities, dramatic play and active play; encourage self-help skills; and limit use of television.	
12. Limits the total number of children that can be cared for in a small FCC home based on the ages of children in care.	
13. Addresses 10 critical health areas.****	
14. Addresses 10 critical safety issues.*****	

Key:



† Total points available is 140. Scores were adjusted based on the number of children the provider could care for for pay before being licensed – states where that # is 7 or higher receive 0. Additionally, states that do not inspect or visit before licensing receive 0. * Out of 50 states, the District of Columbia and the U.S. Department of Defense. † Using NACCRRRA's system of adding one child if the state does not include the provider's own children in establishing the licensing threshold and one for each family exempted before licensing begins. For example, if a state does not require licensing until children from a second unrelated family are in care, the state was given a threshold of 2.

* Credit is given for licensing, fire, safety and health inspections; ** Child Development Associate credential; *** Early Childhood Education; † The 8 areas of pre-service training are child development, child abuse prevention, learning activities, health and safety, child guidance, business practice, CPR and first aid. †† The 8 different types of toys and materials include those for motor development, language and literacy, art, math, science, dramatic play, books for all-ages and materials that are culturally sensitive. **** The 10 health areas are: handwashing, meals and snacks, immunizations, exclusion of ill children, universal health requirements, administration of medications, toxic substances, diapering/toileting, home sanitation, and weekend/evening care. ***** The 10 safety areas are SIDS prevention, discipline/prohibiting corporal punishment, crib safety, electrical hazards, protection from swimming pools and other water sources, fire drills/emergency plans, outdoor playground surfaces, supervision, door locks/safety gates, and transportation.

Source for regulatory information: State regulations reviewed by staff at the National Association of Child Care Resource & Referral Agencies in Fall 2007 and by state resource and referral and/or state licensing staff.

Source for capacity and price information: National Association of Child Care Resource & Referral Agencies and its members. All capacity and price information reported are 2006 data.

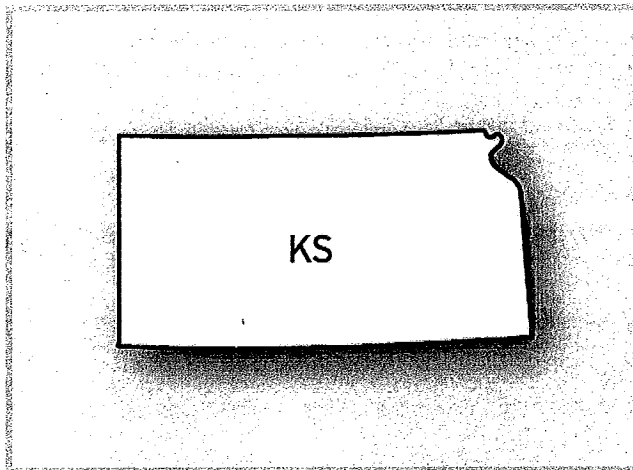
National Association of Child Care Resource & Referral Agencies • 3101 Wilson Boulevard, Suite 350, Arlington VA 22201 • (703) 341-4100

State of Regulations for Child Care Centers in Kansas

Overall Score: 64/150 (43%)

Rank: 47

	Score	Percent	Rank
Oversight	23/50	46%	35
Standard	41/100	41%	45



Child Care Center Prices in 2007

Average annual fees paid for an infant in a center \$8,917

Average annual fees paid for a 4-year-old in a center \$6,292

Child Care Center Oversight

Standards for Ranking	Meets Recommendation
1. All centers and family child care homes are licensed.	●
2. Monitoring visits of centers are conducted 4 times a year.	◐
3. Programs to licensing staff ratio does not exceed 50:1.	○
4. Licensing staff have a Bachelor's degree in a related field.	●
5. Online inspection and complaint reports are available to parents.	○

Child Care Center Regulations

Standards for Ranking	Meets Recommendation	Standards for Ranking	Meets Recommendation
1. Staff: child ratios in compliance with NAEYC* standards.	◐	6. Require all teachers to have 24 hours or more of ongoing training per year.	◐
2. Group size in compliance with NAEYC standards.	◐	7. Require checks of criminal history, child abuse registry, state fingerprint, federal fingerprint, and sex offender registry.	◐
3. Center directors required to have a Bachelor's degree or higher in ECE*** or related field.	◐	8. Require programs to address six developmental domains.****	◐
4. Teachers required to have a CDA** credential or an Associate's degree in ECE*** or related field.	◐	9. Require 10 basic standards of health and safety.*****	◐
5. Center staff required to have orientation training, and training in first aid, CPR, fire safety, and other health and safety issues.	◐	10. Require parent involvement, communication and allow parental visits.	◐

Key ● Fully Meets ◐ Substantially Meets ◑ Partially Meets ◒ Marginally Meets ○ Does not meet N/A = Not Available

*Out of 50 states, the District of Columbia and the U.S. Department of Defense. * National Association for the Education of Young Children; *** Early Childhood Education; ** Child Development Associate credential; **** Six developmental domains are social, physical, language/literacy, cognitive/intellectual, emotional and cultural; ***** Ten areas are immunizations, guidance/discipline regulations, diapering and handwashing, fire drills, medication administration, incident reporting, placing infants on backs to sleep, hazardous materials, playground surfaces under outdoor equipment and emergency preparedness.

Source: Survey of state child care administrators conducted by the National Association of Child Care Resource & Referral Agencies in Fall 2008. Note: Information was also verified against state regulations. Source for price information: National Association of Child Care Resource & Referral Agencies. "Parents and the High Price of Child Care: 2008 Update."

5
12-X

State of Regulations for Child Care Centers in Kansas

Strength

- ✓ All child care programs are required to be licensed.
- ✓ Child care licensing staff are required to have a Bachelor's degree in early childhood education or a related field, or be a registered nurse.
- ✓ Center staff are required to have training in fire safety and other health and safety, though they are not required to have orientation training.
- ✓ Requires program activities to address five of six developmental domains (social, physical, language/literacy, cognitive/intellectual and emotional). Cultural, however, is not required to be addressed.
- ✓ Health and safety standards address nine of 10 basic standards (immunizations, guidance/discipline, diapering/handwashing, fire drills, medicine administration, incident reporting, hazardous materials, playground surfaces under outdoor equipment and emergency preparedness). Placing infants on back is not addressed.

Recommendations

- ☐ Increase the frequency of licensing inspections of centers to more than once per year.
- ☐ Increase the education requirements for lead teachers to more than a high school education.
- ☐ Require orientation training for all new staff members caring for children.
- ☐ Require at least one staff member to be present who is certified in cardiopulmonary resuscitation.
- ☐ Require caregivers to put babies down to sleep on their backs (to prevent Sudden Infant Death Syndrome).
- ☐ Require the use of fingerprints for conducting criminal history background checks.
- ☐ Make inspection and complaint reports available online for parents to review.

Weakness

- X Child care centers are inspected only once per year.
- X Child care licensing inspectors have an average caseload of 151 programs.
- X Reports of routine inspections conducted at child care programs and reports of those conducted because of complaints are not available online.
- X Center directors are not required to have a college degree.
- X Centers are not required to have a CPR certified staff on the premises, though staff certified in first-aid are required to be present.
- X Center staff are required to complete only 10 hours of annual training.
- X Center staff are required to undergo background checks (which include checks of criminal history records), but these checks do not use a fingerprint. Checks of child abuse and neglect registries are required; however, checks of sex offender registries are not explicitly included.
- X Has requirements regarding parental visits to the center, but no requirements for communicating with parents or involving them.
- X Meets NAEYC's ratio requirements for only two of seven age groups (6 and 9 months). Does not meet ratio requirements for 18 and 27-month and 3, 4 and 5-year-olds.
- X Meets NAEYC's groups size requirement for only one of seven age groups (3 years). Does not meet group size requirements for 6, 9, 18 and 27-month and 4 and 5-year-olds.

February 2, 2010

Diane Purcell
Kansas Association for the Education of Young Children
Member of the Child Care Licensing BEST Team

Regarding HB 2223:

The Kansas Association for the Education of Young Children is in full support of this bill.

As a professional organization with over 600 members across the state of Kansas, working with children in a wide variety of capacities, we know that a safe environment is of primary concern when parents place children in out of home care.

KAEYC has been very active in the BEST Team process, and this bill is part of a strategic plan to increase protections to children in child care settings.

There have been too many deaths of children in out of home care in the state of Kansas over the last year, and this is a startling fact that must be addressed.

The biggest step to assuring the safety of children is inspection of all facilities caring for children prior to the opening of the facility. We fully support inspection of all facilities in Kansas that care for children outside of their home.

In a report released last year the National Association of Child Care Resource and Referral Agencies (NACCRRA) ranked Kansas 47 out of the 50 states based on selected aspects of regulations and over site of child care centers. This score was largely based on lack of even an initial inspection of many facilities caring for children in the state of Kansas. Consequently, Kansas falls far short in meeting basic requirements needed to protect the health and safety of children.

We firmly believe that the state of Kansas should be the best place to raise a child, and toward this end, we support this bill.

Thank you for your time and careful consideration of this matter.

HEALTH AND HUMAN SERVICES
DATE: 2-2-10
ATTACHMENT: 13-1

February 2, 2010

To: Health and Human Services
From: Suzanne Wikle, Director of Health Policy

Good afternoon Madam Chair and members of the committee. It is my pleasure to appear before you today in support of House Bill 2223.

Kansas among the worst states

A 2009 report by the National Association of Child Care Resource and Referral Agencies ranked Kansas 47th in the nation for child care oversight and regulation. Families in most other states rely on a child care system that has adequate checks and balances, but unfortunately that is not the case in Kansas. This lack of oversight has contributed to a growing number of preventable deaths in child care facilities.

1 in 3 child care facilities are never inspected

One step toward improving the quality and oversight of child care in Kansas is to implement inspections for *every* child care facility. Currently, "Registered Homes" are never inspected unless it is too late – multiple complaints or a child's death. According to KDHE data, Registered Homes have a disproportionately high rate of sleep-related deaths. In the past three years, 88% of deaths in Registered Homes have been sleep-related, by far the most common reason for a child's death in a Registered Home. Information on safe sleep practices is a central component of on-site inspections, along with verifying that the facility has appropriate equipment (cribs) for children to use for sleep.

Just as every restaurant, beauty salon and gas pump in this state is inspected, so should every child care facility. We already have a system in place for inspecting child care facilities in Kansas; HB 2223 uses the existing system to ensure the safety of thousands more Kansas children and give their families peace of mind that their children are being cared for in a safe environment during the work day.

Budget Neutral Proposal

HB 2223 takes the important first step of inspecting all child care facilities. KDHE's proposed balloon is a budget neutral way to complete initial inspections for Registered Homes. This proposal uses existing resources by shifting now annual inspections of licensed facilities to once every 15 months, providing enough resources to complete initial inspections of new Registered homes.

I respectfully ask for your support of HB 2223.



**KANSAS
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CHILDREN**

Shaping policy that puts children first

Kansas Action for Children Inc.
720 SW Jackson | Suite 201
Topeka, KS 66603

P 785-232-0550 | F 785-232-0699
kac@kac.org | www.kac.org

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HEALTH AND HUMAN SERVICES

DATE: 2-2-10

ATTACHMENT: 14-1