

Presentation to Health Policy Oversight Committee

By

Rachel Berroth, Director
Bureau of Family Health

December 19, 2012

Chairwoman Landwehr and members of the Committee, I am Rachel Berroth, Director for the Bureau of Family Health. Thank you for the opportunity to appear before you today to provide an update on Lexie's Law and the Child Care Licensing (CCL) Program.

Effective July 1, 2012, the Child Care Licensing Program merged with the Bureau of Family Health. The merger has afforded the program with additional opportunities to promote policies and resources for the protection, health, and safety of children in out of home care settings and to support families in their efforts toward economic self-sufficiency.

Implementation of Lexie's Law (Effective July 1, 2010)

During the last year, the provisions of Lexie's Law were fully implemented. Passed by the Legislature in 2010, Lexie's Law increased health and safety protections for children. Significant provisions included:

- Eliminating the category of Registered Family Day Care Home and requiring the inspection of all child care facilities;
- Issuing licenses with an expiration date and sticker;
- Requiring the adoption of additional health, safety, and supervision regulations; and
- Developing an online information dissemination system which provides survey findings.

Eliminating Registered Family Day Care Homes (July 2010 to June 2011): Prior to Lexie's Law, there were approximately 7,800 child care facilities, 2,400 of which were Registered homes. The transition of Registered to Licensed has been deemed successful, and survey data reveals previously Registered providers' annual surveys have been in substantial compliance. As of December 2012, the total number of facilities is 6,400 with the capacity to serve 140,400 children. The majority of facilities are licensed as Day Care Homes (5,100). The capacity to serve children in Kansas remains higher than 2010 capacity (139,000).

Expiring Licenses (January 2011 to January 2012): The transition from non-expiring to expiring licenses began with the Department issuing initial and renewal licenses with an annual expiration date in January 2011; all owners licensed prior to that time received a new license with an expiration date and official sticker by January 2012. The first of these licenses expired January 31, 2012; however, there has been minimal impact on facilities. The Department provides adequate notice of the requirement to renew the license and a reminder, if necessary, to reduce the likelihood a late renewal results in a late fee or facility closure. Renewal packets are sent to licensees approximately 90 days prior to expiration. Approximately 30-40 days prior to the expiration date, a 2nd notification in the form of a yellow postcard is sent to facilities that are not yet renewed. If a renewal is not received by the due date, the license is expired. On average only 6 to 10 licenses out of approximately 450 expire each month. The majority are reinstated within 30 days, prior to a late fee authorized by Lexie's Law, upon receipt of a complete renewal application. After 60 days, if the renewal application and fees are not

received, the facility file is closed and a closure letter is sent to the licensee. The option to reapply is always available.

Health and Safety Regulations (effective February 3, 2012 for new applicants and May 1, 2012 for providers licensed prior to February 3, 2012): New and amended regulations for day care homes, group day care homes, child care centers, and preschools became effective February 3, 2012. Regulations address the competent supervision of children in day care homes; orientation for applicants and staff; additional health and safety training for caregivers; and standards for safe sleep practices, daily activities for children, and nutrition. As a result of the new requirements, the Kansas ranking in the *2012 NACCRRA Report of State Standards and Oversight of Small Family Day Care Homes* rose from 41st (score of 0/140) to 3rd (score of 111/150) in the Nation (50 states plus Department of Defense and District of Columbia). The 2012 full report is available at http://www.naccrra.org/sites/default/files/default_site_pages/2012/lcc_report_full_april2012.pdf

Implementation of the regulations was phased in over several months to allow time for program staff, licensing surveyors, and existing child care providers to interpret and implement the regulations. CCL Program staff working in partnership with local county licensing surveyors provided training, consultation and technical assistance. During state fiscal year 2012, local surveyors provided new regulation training to 2,734 individuals and applicant orientation to 2,534 individuals (2,285 home providers; 249 center staff).

- *Supervision:* The new supervision regulations are specific and address requirements related to indoor, outdoor, and napping. Differences by age (under 2 ½ and 2 ½ and older) are fairly significant, requiring sight/proximity and same level supervision for the youngest in care. The intent of the expanded regulation is to provide additional guidance and direction to caregivers concerning the competent supervision of children based on the age and development of the children in care.
- *Orientation/Health and Safety Training:* Provider education and training are crucial to preparing applicants for operating a facility and reducing the predictable risk of harm to children. The new regulations require health department orientation for applicants (must be completed prior to submitting an application) and facility/regulatory orientation for new staff. In addition, health and safety training is required for all center-based staff and home providers, including recognizing the signs of child abuse/neglect/abusive head trauma and reporting requirements, basic child development, and safe sleep practices. All caregivers are now required to maintain current certification in pediatric first aid and CPR. New caregivers have 30 days from the date of application or employment to complete the training. Licensees and providers employed prior to the effective date of the regulations have until February 3, 2013, to complete the required health and safety trainings and certifications.

Following adoption of the new regulations, training organizations and sponsors from across the state increased the number of course offerings and expanded delivery options to meet the initial and ongoing demand. Statewide partners offering KDHE-approved training in either classroom settings or online include: local health departments, Child Care Aware of Kansas and network child care resource and referral agencies, KS-Train, Kansas Child Care Training Opportunities (KCCTO), Kansas Children's Service League (KCSL), Kansas Infant Death and SIDS (KIDS) Network and local community colleges. During fiscal year 2012, local surveyors provided or co-sponsored 1,400 clock hours of child care training delivered to 9,212 participants. In addition to external training course approvals, KDHE reviewed and approved 310 course offerings in fiscal year 2012 and 110 so far in fiscal year 2013.

There was concern the newly required courses (child development, child abuse and neglect including abusive head trauma, and safe sleep) would not be widely available or accessible to providers; however, all six hours of

coursework is available online and provided at the local level in communities across the state. KDHE is working closely with providers who are unable to complete a course prior to expiration of a Temporary Permit. In many cases, a corrective action plan is accepted and a Temporary Permit is issued to allow time for the provider to complete training. Applications are not denied due to lack of available training.

Online Information Dissemination System (March 2012): The Department launched the online information dissemination system (Child Care and Early Education Portal) in March 2012. The system is part of a larger joint technology initiative between the Department for Children and Families (DCF) and KDHE known as the Customer and Provider Portal (CAPP). The information displayed online is made possible through an interface with the KDHE licensing database (CLARIS). Facility address and phone number are not displayed unless applicants and licensees authorize it (K.A.R. 28-4-93). This authorization is made at the time of initial and renewal application.

The availability of online survey findings is made possible by a separate KDHE technology initiative, CLARIS Inspection Module (CIM), launched statewide in February 2012. CIM automated the paper-based survey process. This enhancement to CLARIS makes it possible display findings online as required by K.S.A. 65-534 and increases survey efficiency. The Department has been accepting feedback related to the usability and information displayed from providers, users, and the Best Team since March, and has responded by submitting defects, enhancements, and change requests to DCF. Use of the Portal has grown steadily, averaging 4,000 “hits” a month.

Concerns and Issues with the Existing Law: The requirement that each applicant be a high school graduate or the equivalent pursuant to K.S.A. 65-516 posed a barrier to potential family foster home applicants and child care applicants who would otherwise be qualified to own/operate a child care facility (credential, college credit, etc). During the 2012 legislative session, HB 2660 passed and changes to law became effective July 1, 2012. HB 2660 amended the child care act, and the following changes are consistent with the state’s, providers’ and parents’ interest in protecting children while assuring access to child care:

- Defines a “day care facility” as a type of child care facility; the term is used when provisions of the act, including the requirement for a high school diploma or the equivalent, apply to day care facilities including day care homes, preschools, child care centers and school age programs.
- Authorizes the Secretary of KDHE to grant an exception to the high school diploma requirement when an applicant for a day care facility is otherwise qualified and the exception is in the best interest of all children in care.

Liability Insurance Requirements for Child Care Facilities

Administrative regulations for child care centers and preschools require the licensee to carry liability insurance as recourse for parents in the event of negligence [K.A.R. 28-4-426(c)]. There is no similar requirement for day care homes, group day care homes, and school age programs. According to the *National Association for Regulatory Administration (NARA) 2008 Child Care Licensing Study*, six states (DC, KY, MT, NV, RI, TN) require small family day home providers to carry general liability insurance. Only eight states (AZ, DE, IL, MT, NV, PA, TN, WV) require large/group day care homes to have coverage.

During the 2006 legislative session, HB 2785 was introduced and if passed would have amended K.S.A. 65-504 to require licensed day care home providers to carry liability insurance. At the time, it was thought that while some providers might have liability insurance the majority of providers did not. Potential supporters of the bill would have included parents of children in care and child care advocates who promote professional development and effective business practices in the field. Potential opponents would have included child care providers and parents concerned the cost of insurance would be passed on to parents already struggling to meet child care expenses.

Current CCL Initiatives

Online Child Care Application (February 2013): An online child care application is expected to be available in early 2013 via CAPP. The online application will feature the option for providers to enroll with DCF to serve families receiving child care subsidies, eliminating the need to submit separate paper applications to each agency. Completion of the project will significantly reduce the length of time necessary to submit and process an initial or renewal application, reducing the time it takes to issue a license.

Thank you for this opportunity to appear before you. I have attached additional information the Committee may find helpful. I will now stand for questions.

Attachments:

- New and amended regulations effective February 3, 2012
- Child Care and Early Education Portal screen shots