

Article 1.—DISEASES

28-1-1. Definitions. (a) “Carrier” means an infected person (or animal) that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for humans.

(b) “Chemoprophylaxis” means the administration of a chemical, including antibiotics, to prevent the development of an infection or the progression of an infection to active manifest disease.

(c) “Infectious or contagious (communicable) disease” means a disease of humans or animals resulting from an infection or an illness due to a specific agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, or indirectly.

(d) “Communicable period” means the time or times during which an infectious agent may be transferred directly or indirectly from an infected person to another person, from an infected animal to a person, or from an infected person to an animal, including arthropods.

(e) “Contact” means a person or animal that has been in association with an infected person or animal or a contaminated environment so as to have had opportunity to acquire the infection.

(f) “Contamination” means the presence of an infectious agent on a body surface, or on or in clothes, bedding, toys, surgical instruments or dressings, or other inanimate articles or substances including water, milk, and food.

(g) “Disinfection” means killing of infectious agents outside the body by chemical or physical means. Concurrent disinfection is the application of disinfective measures as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with this infectious discharge, all personal contact with these discharges or articles being minimized before that disinfection. Terminal disinfection is the application of disinfective measures after an infected person or animal has ceased to be a source of infection, has been removed from a specific site, or has died and been removed.

(h) “Disease” means a definite morbid process having a characteristic train of symptoms.

(i) “Epidemic (or outbreak)” means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(j) “Incubation period” means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(k) “Infection” means the entry and development or multiplication of an infectious agent in the body of humans or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest.

(l) “Infectious agent” means an organism, chiefly a microorganism but including helminths, that is capable of producing infection or infectious disease.

(m) “Infestation” means, for persons or animals, the lodgement, development and reproduction of arthropods on the surface of the body or in clothing.

(n) “Isolation” means the separation, for the period of communicability, of infected persons or animals from others, in places and under conditions that prevent the direct or indirect conveyance of the infectious agents from those infected to those who are susceptible or who may spread the agent to others.

(1) When “Respiratory isolation” is specified, it shall consist of a private room with door kept closed, handwashing upon entering and leaving the room, and disinfection of articles contaminated with patient secretions. Persons susceptible to the specific disease must wear masks.

(2) “Enteric precautions” shall consist of handwashing upon entering and leaving the patient room, wearing of gloves by all persons having direct contact with the patient or with articles contaminated with fecal material, and wearing of gowns by all persons having direct contact with the patient. Articles contaminated with the patient’s urine or feces shall be disinfected or discarded; masks are not necessary.

(3) “Blood precautions” shall consist of use of disposable needles and syringes, disposal of used needles and syringes by incineration, and decontamination and sterilization of all non-disposable equipment which is contaminated by blood.

(o) “Local health officer” means the person appointed as local health officer by the board of county commissioners in accordance with K.S.A. 65-201.

(p) “Nosocomial infection” means an infection originating in a medical facility. This includes infections acquired in the hospital but appearing after discharge; it also includes infections among staff.

(q) "Quarantine" means the limitation of freedom of movement of well persons or domestic animals that have been exposed to a communicable disease. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Editor's Note:

Former regulation 28-1-1 was revoked May 1, 1982 and the number reassigned.

28-1-2. Designation of infectious or contagious diseases. (a) The following diseases shall be designated as infectious or contagious in their nature, and cases or suspect cases shall be reported within seven days, unless otherwise specified, in accordance with K.S.A. 65-118 and K.S.A. 65-128, and amendments thereto.

- (1) Amebiasis;
- (2) anthrax (report by telephone within four hours to the secretary);
- (3) arboviral disease, including West Nile virus, western equine encephalitis (WEE), and St. Louis encephalitis (SLE);
- (4) botulism (report by telephone within four hours to the secretary);
- (5) brucellosis;
- (6) campylobacter infections;
- (7) chancroid;
- (8) *Chlamydia trachomatis* genital infection;
- (9) cholera (report by telephone within four hours to the secretary);
- (10) cryptosporidiosis;
- (11) cyclospora infection;
- (12) diphtheria;
- (13) ehrlichiosis;
- (14) *Escherichia coli* enteric infection from *E. coli* O157:H7 and other shiga toxin-producing *E. coli*, also known as STEC;
- (15) giardiasis;
- (16) gonorrhea;
- (17) *Haemophilus influenzae*, invasive disease;
- (18) hemolytic uremic syndrome, post-diarrheal;
- (19) hepatitis B in pregnancy (report the pregnancy of each woman with hepatitis B);
- (20) hepatitis, viral;
- (21) hantavirus pulmonary syndrome;
- (22) influenza, if the disease results in the death of any child under 18 years of age;
- (23) legionellosis;
- (24) leprosy or Hansen's disease;
- (25) listeriosis;
- (26) Lyme disease;
- (27) malaria;

(28) measles or rubeola (report by telephone within four hours to the secretary);

(29) meningitis, bacterial (indicate causative agent, if known, and report by telephone within four hours to the secretary);

(30) meningococcemia (report by telephone within four hours to the secretary);

(31) mumps (report by telephone within four hours to the secretary);

(32) pertussis or whooping cough (report by telephone within four hours to the secretary);

(33) plague or *Yersinia pestis* (report by telephone within four hours to the secretary);

(34) poliomyelitis (report by telephone within four hours to the secretary);

(35) psittacosis;

(36) rabies, animal and human (report by telephone within four hours to the secretary);

(37) Rocky Mountain spotted fever;

(38) rubella, including congenital rubella syndrome (report by telephone within four hours to the secretary);

(39) salmonellosis, including typhoid fever;

(40) severe acute respiratory syndrome (SARS) (report by telephone within four hours to the secretary);

(41) shigellosis;

(42) streptococcal invasive, drug-resistant disease from group A *Streptococcus* or *Streptococcus pneumoniae*;

(43) syphilis, including congenital syphilis;

(44) tetanus;

(45) toxic-shock syndrome, streptococcal and staphylococcal;

(46) any transmissible spongiform encephalopathy (TSE) or prion disease (indicate causative agent, if known);

(47) trichinosis;

(48) tuberculosis, active and latent (report active disease by telephone within four hours to the secretary);

(49) tularemia;

(50) varicella or chickenpox;

(51) yellow fever; and

(52) any exotic or newly recognized disease, and any disease unusual in incidence or behavior, known or suspected to be infectious or contagious and constituting a risk to the public health (report by telephone within four hours to the secretary).

(b) The occurrence of a single case of any unusual disease or manifestation of illness that the health care provider determines or suspects could be caused by or related to a bioterrorism act shall

be reported within four hours by telephone to the secretary. The term "bioterrorism act," as used in this article, shall mean a dispersion of biological or chemical agents with the intention to harm. Each bioterrorism act shall be reported within four hours by telephone to the secretary. The following shall be considered bioterrorism agents when identified in the course of a possible bioterrorism act:

- (1) Anthrax;
- (2) plague;
- (3) smallpox;
- (4) tularemia;
- (5) botulism;
- (6) viral hemorrhagic fever;
- (7) Q fever or *Coxiella burnetii*;
- (8) brucellosis; and
- (9) any other infectious or toxic agent that can be intentionally dispersed in the environment.

(Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-118 and 65-128; effective May 1, 1982; amended May 1, 1986; amended Dec. 24, 1990; amended April 19, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-11-20-03, Nov. 20, 2003; amended March 5, 2004; amended April 28, 2006.)

28-1-3. (Authorized by K.S.A. 65-102; effective Jan. 1, 1966; revoked Jan. 12, 1996.)

28-1-4. Registration of disease prevalence. (a) The administrator of each hospital licensed in the state shall report the following diseases to the secretary:

- (1) All diseases listed in K.A.R. 28-1-2;
- (2) cancer, as required by K.A.R. 28-70-2;
- (3) congenital malformations in infants under one year of age;
- (4) acquired immune deficiency syndrome; and
- (5) fetal alcohol syndrome.

(b) The administrator of each hospital licensed in the state shall report the following information to the secretary when requested by the secretary and for the duration specified by the secretary, if this information is in the hospital's possession:

- (1) The number of laboratory test orders and the results for specified infectious or contagious diseases;
- (2) the number of pharmacy prescriptions for medications used to treat specified infectious or contagious diseases;
- (3) the number of emergency room visits for

symptoms related to specified infectious or contagious diseases; and

(4) utilization rates of other services that can provide an early warning of a disease outbreak, if that information can be provided by the hospital with minimum additional burden.

(c) The administrator of each hospital licensed in the state may designate a person within the hospital to report diseases on behalf of the individuals required by K.S.A. 65-118, and amendments thereto, to report these diseases for cases that these individuals observe while practicing at the hospital. Each report from the designated hospital person shall fulfill all reporting requirements for individuals required by K.S.A. 65-118, and amendments thereto, to report these cases. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-102; effective May 1, 1982; amended May 1, 1986; amended Jan. 12, 1996; amended Oct. 16, 1998; amended, T-28-11-20-03, Nov. 20, 2003; amended March 5, 2004.)

28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious or contagious disease; examination of persons; collection of specimens. (a) When the conditions of isolation and quarantine are not otherwise specified by regulation, the isolation and quarantine of persons afflicted with or exposed to infectious or contagious diseases shall be ordered and enforced by the local health officer or the secretary of health and environment to preserve the public health, safety, or welfare. The conditions of isolation or quarantine so ordered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine is ordered and may include consideration of the following factors:

- (1) The incubation period;
- (2) the communicable period;
- (3) the mode of transmission; and
- (4) susceptibility.

(b) Isolation or quarantine, or both, shall be ordered in conjunction with investigation of infectious or contagious disease cases and outbreaks for examining persons reasonably suspected of having these diseases and for obtaining specimens from these persons for laboratory evidence suggestive of infectious or contagious disease. (Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended July 20, 2007.)

28-1-6. Requirements for isolation and

quarantine of specific infectious and contagious diseases; exception; definition. (a) Any of the requirements specified in this regulation for isolation and quarantine may be altered by the secretary of health and environment or the local health officer if the secretary or local health officer determines that an alteration is necessary for the greater protection of public health, safety, or welfare. The requirements for isolation or quarantine, or both, so altered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine, or both, are ordered and may include consideration of the following factors:

- (1) The incubation period;
- (2) the communicable period;
- (3) the mode of transmission; and
- (4) susceptibility.

(b)(1) For the purposes of this regulation, the phrase "enteric precautions" shall mean thorough hand washing after attending to any infectious case or touching the feces of an infected person, disinfection of any article that has been in contact with any infectious case or feces, and sanitary disposal of feces.

(2) For the purposes of this regulation, "susceptible person" shall mean an individual who meets both of the following conditions:

(A) Has been exposed to an infected person or a contaminated environment, if the exposure is sufficient to provide the individual with an opportunity to acquire that particular disease; and

(B) regarding the disease specified in paragraph (b)(2)(A), meets at least one of the following conditions:

- (i) Has no history of the disease that has been documented by a licensed physician;
- (ii) has no laboratory evidence of immunity; or
- (iii) has no documentation acceptable to the secretary that demonstrates current immunity against the disease.

(c) The following isolation and quarantine precautions, as defined in K.A.R. 28-1-1, shall be observed:

(1) Amebiasis. Each infected food handler shall be excluded from that person's occupation until three negative stools have been obtained. Both the second and the third specimens shall be collected at least 48 hours after the prior specimen.

(2) Chickenpox (varicella). Each infected person shall remain in isolation for six days after the first crop of vesicles appears or until the lesions are crusted, whichever comes first. Each suscep-

tible person in a school, child care facility, or family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, the child care facility, or the family day care home until 21 days after the onset of the last reported illness in the school, the child care facility, or the family day care home.

(3) Cholera. Enteric precautions shall be followed for the duration of acute symptoms.

(4) Diphtheria. Each infected person shall remain in isolation for 14 days or until two consecutive negative pairs of nose and throat cultures are obtained at least 24 hours apart and not less than 24 hours after discontinuation of antibiotic therapy. Each household contact and all other close contacts shall have nose and throat specimens tested and be monitored for symptoms for seven days from the time of last exposure to the disease. Healthy carriers with diphtheria shall be treated. Each contact who is a food handler or works with children shall be excluded from that occupation until the nose and throat cultures are negative.

(5) Hepatitis A. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until 14 days after the onset of illness.

(6) Meningitis caused by *Haemophilus influenzae*. Each infected person shall remain in respiratory isolation for 24 hours after initiation of antibiotic therapy.

(7) Meningitis, meningococcal. Each infected person shall remain in respiratory isolation for 24 hours after initiation of antibiotic therapy.

(8) Mumps. Each infected person shall remain in respiratory isolation for five days from the onset of illness. Each susceptible person in a school, child care facility, or family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, child care facility, or family day care home until 26 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(9) Pediculosis (headlice). Each student infested with lice shall be excluded from the school, child care facility, or family day care home until treatment with an antiparasitic drug is initiated.

(10) Pertussis (whooping cough). Each infected person shall remain in respiratory isolation for three weeks if untreated, or for five days following initiation of antibiotic therapy. Each susceptible person in a school, child care facility, or family day

care home shall be vaccinated within 24 hours of notification to the secretary or shall complete a five-day course of antibiotic therapy. Each susceptible person who does not receive the vaccination shall be excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(11) Plague (pneumonic). Each infected person shall remain in respiratory isolation until completion of 48 hours of antibiotic therapy. Each close contact who does not receive chemoprophylaxis shall remain in quarantine for seven days.

(12) Poliomyelitis. Each infected person shall remain in isolation for 10 days from the onset of illness. Enteric precautions shall be followed for six weeks.

(13) Rubella (German measles). Each infected person shall remain in respiratory isolation for seven days after the onset of rash. Each susceptible person in a school, child care facility, or family day care home shall be vaccinated within 24 hours of notification to the secretary or shall be excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(14) Rubeola (measles). Each infected person shall remain in respiratory isolation for four days after the onset of rash. Each susceptible person in a school, a child care facility, or a family day care home shall be either vaccinated within 24 hours of notification to the secretary or excluded from the school, child care facility, or family day care home until 21 days after the onset of the last reported illness in the school, child care facility, or family day care home.

(15) Salmonellosis (nontyphoidal). Enteric precautions shall be followed for the duration of acute symptoms. Each infected person with diarrhea shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until no longer symptomatic. Any asymptomatic and convalescent infected person without diarrhea may be excluded from, and may return to, this work by the order of the local health officer or the secretary.

(16) Scabies. Each child or student infected with scabies shall be excluded from a school, child care facility, or family day care home until treated with an antiparasitic drug.

(17) Shiga toxin-producing *Escherichia coli* (STEC). Enteric precautions shall be followed for

the duration of acute symptoms. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics. No infected child shall attend a child care facility or family day care home until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics.

(18) Shigellosis. Enteric precautions shall be followed for the duration of acute symptoms. Each infected person shall be excluded from food handling, patient care, and any occupation involving the care of young children and the elderly until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following discontinuation of antibiotics. No infected child shall attend a child care facility or family day care home until two negative stool cultures are obtained at least 24 hours apart and no sooner than 48 hours following the discontinuation of antibiotics.

(19) Staphylococcal disease. Each infected food handler shall be excluded from that person's occupation until the purulent lesions are healed or until each wound is covered with an impermeable cover, including a finger cot, and a single-use glove is worn over the impermeable cover.

(20) Streptococcal disease, hemolytic, including erysipelas, scarlet fever, and streptococcal sore throat. Each infected person shall remain in isolation for 10 days if untreated or for 24 hours following initiation of antibiotic therapy.

(21) Tinea capitis and corporis (ringworm). Each infected child or student shall be excluded from the school, the child care facility, or the family day care home until treated by a health care provider.

(22) Tuberculosis, active disease. Each infected person shall remain in respiratory isolation until all of the following conditions are met:

(A) Three sputa obtained on consecutive days are negative by microscopic examination.

(B) The person has received standard multi-drug antituberculosis therapy for at least two weeks.

(C) The person shows clinical improvement.

(23) Typhoid fever. Enteric precautions shall be followed for the duration of acute symptoms. Each infected person shall be restricted from food handling, patient care, and any occupation involv-

ing the care of young children and the elderly until three negative stool cultures, and three negative urine cultures in patients with schistosomiasis, have been obtained. Both the second and the third specimens shall be collected at least 24 hours after the prior specimen. The first specimen shall be collected no sooner than 48 hours following the discontinuation of antibiotics, and not earlier than one month after onset of illness. If any one of these tests is positive, cultures shall be repeated monthly until three consecutive negative cultures are obtained.

(24) Sexually transmitted diseases. Each infected person shall follow isolation or quarantine measures established by the local health officer for persons who are confirmed or suspected of being infected with a sexually transmitted disease if these persons are recalcitrant to proper treatment. (Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1986; amended Sept. 5, 1997; amended July 16, 1999; amended July 20, 2007.)

28-1-7. Isolation of food handlers with infectious or contagious diseases. Persons employed in the preparation of food for sale or for public consumption shall be excluded from their occupations until all requirements for release from isolation of the specific infectious or contagious disease with which they are afflicted, as specified in K.A.R. 28-1-6, have been met. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Editor's Note:

Former regulation 28-1-7 was revoked May 1, 1982 and the number reassigned.

28-1-8. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982; revoked Sept. 5, 1997.)

28-1-9. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982; revoked May 10, 1996.)

28-1-10. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982; revoked May 10, 1996.)

28-1-11. (Authorized by K.S.A. 65-101, 65-

104, 65-128; effective Jan. 1, 1966; revoked May 1, 1982.)

28-1-12. Release from isolation or quarantine. All laboratory tests or cultures for release of an individual from isolation or quarantine shall be performed by the laboratory of the state department of health and environment, or by a laboratory approved by the state department of health and environment for this purpose. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Editor's Note:

Former regulation 28-1-12 was revoked May 1, 1982 and the number reassigned.

28-1-13. Rabies control; isolation of mammals causing exposure to rabies for observation and examination; quarantine of mammals exposed to rabies. (a) In conjunction with investigation of the exposure to rabies of a human or other mammal by another nonhuman mammal, the isolation of the mammal causing exposure to rabies shall be as follows.

(1) An owned or wanted dog, cat, or ferret shall be isolated for 10 days as determined by the local health officer or the local health officer's designee at one of the following locations:

(A) The residence of the owner of the dog, cat, or ferret;

(B) in a veterinary hospital; or

(C) at a facility holding a current state pound and shelter license. During this time the local health officer or the local health officer's designee shall determine whether or not the dog, cat, or ferret is suffering from rabies, and if not, the local health officer or the local health officer's designee shall authorize the release of the dog, cat, or ferret upon payment by the owner of the boarding fee.

(2) Stray, unclaimed, or unwanted dogs, cats, or ferrets shall be sacrificed immediately and the head submitted for laboratory examination for evidence of rabies infection.

(3) The management of horses, cattle, and sheep shall be determined by the local health officer or the local health officer's designee.

(4) Mammals, other than dogs, cats, ferrets, horses, cattle, or sheep, including the offspring of wild species cross-bred with domestic dogs and cats, skunks, foxes, raccoons, coyotes, bats, and other species known to be involved in the transmission of rabies, whether owned or unowned, shall be sacrificed immediately and the head sub-

mitted for laboratory examination for evidence of rabies infection. Any mammal that has been vaccinated may be sacrificed and tested if the period of virus shedding is unknown for that species.

(5) Mammals, including rabbits, hares, gerbils, guinea pigs, hamsters, mice, rats, squirrels, chipmunks, and other species not known to be involved in the transmission of rabies, need not be sacrificed and submitted for laboratory examination for evidence of rabies infection, unless the circumstances of the potential exposure to rabies incident, in the judgment of the local health officer or the local health officer's designee, indicate otherwise.

(6) The disposition of mammals that are not known to be involved in the transmission of rabies and that are maintained in zoological parks, shall be in accordance with the judgment of the local health officer or the local health officer's designee.

(b) Quarantine of mammals exposed to rabies by a known or suspected rabid mammal shall be as follows.

(1) Stray, unclaimed, or unwanted dogs, cats, or ferrets shall be sacrificed immediately.

(2) Dogs, cats, or ferrets that have an owner, are wanted by that owner, and are not immunized against rabies shall be quarantined for six months at one of the following locations, as determined by the local health officer or the local health officer's designee:

(A) The residence of the owner of the dog, cat, or ferret;

(B) in a veterinary hospital; or

(C) at a facility holding a current state pound and shelter license. These dogs, cats, or ferrets shall be immunized against rabies one month before release from quarantine. The local health officer or the local health officer's designee shall authorize the release of the dog, cat, or ferret upon payment of the boarding fee.

(3) Dogs, cats, ferrets, horses, cattle, and sheep that have an owner and are wanted by that owner, and for which the owner produces rabies vaccination certificates that contain the following information shall be immediately revaccinated and kept under the owner's control and observed for 45 days:

(A) the expiration date of the rabies vaccination; and

(B) positive identification for each of these mammals showing that the mammals are cur-

rently vaccinated by a licensed veterinarian with an approved vaccine for that species.

(4) Horses, cattle, and sheep not vaccinated with an approved vaccine for that species shall be sacrificed immediately or quarantined for six months under conditions satisfactory to the local health officer or the local health officer's designee. The local health officer or the local health officer's designee shall authorize the release of the horse, cow, or sheep upon payment of any boarding fees.

(5) Other mammals shall be sacrificed immediately, except for those mammals currently vaccinated with an approved vaccine for that species. Mammals that have been appropriately vaccinated may be immediately re-vaccinated and quarantined for at least 90 days under conditions satisfactory to the local health officer or the local health officer's designee. (Authorized by K.S.A. 65-128, K.S.A. 65-101; implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1986; amended July 5, 1996; amended April 24, 1998.)

28-1-14. Rabies control in wildlife mammals. (a) The possession or sale of skunks, raccoons, foxes and coyotes for keeping of these mammals as pets shall be prohibited.

(b) Removal of musk glands of skunks for purposes of attempted domestication shall be prohibited.

(c) Except as permitted by the secretary, attempts to immunize skunks, coyotes, raccoons, foxes, and other wildlife mammals known to be involved in the transmission of rabies shall be prohibited.

(d) Subsections (a) and (b) of this regulation shall not apply to bonafide zoological parks or research institutions. (Authorized by and implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1983; amended July 5, 1996.)

28-1-15. Psittacosis control; records of purchase and sale. Breeders, wholesalers, distributors and retailers of psittacine birds shall maintain a record of the date of purchase, source, and the species of each psittacine bird. When birds are sold, the seller shall record the name, address and telephone number of the customer, date of purchase, species purchased, and the band number, if applicable, for each psittacine bird sold. These records shall be kept for one year. (Authorized by and implementing K.S.A. 65-101; effective May 1, 1982; amended July 5, 1996.)

28-1-16. (Authorized by K.S.A. 65-128; effective Jan. 1, 1966; revoked May 1, 1982.)

28-1-17. (Authorized by K.S.A. 65-101; effective Jan. 1, 1966; revoked May 1, 1982.)

28-1-18. Notification of Kansas department of health and environment by laboratories of positive reaction to tests for certain diseases. (a) To assist in the control of disease in Kansas, each person who is in charge of a clinical laboratory shall notify the Kansas department of health and environment within 48 hours after testing, unless otherwise specified in this regulation, any specimen derived from the human body that yields microscopical, cultural, immunological, serological, or other evidence suggestive of those diseases that are significant from a public health standpoint.

(b) (1) Each notification shall include the following:

(A) The date and result of the test performed;

(B) the name of the person from whom the specimen was obtained;

(C) when available, either the date of birth or the age, and the address and telephone number of the person from whom the specimen was obtained; and

(D) when available, the name and address of the physician for whom the examination or test was performed, and any other information required by the secretary.

(2) A legible copy of the laboratory report delivered by confidential electronic transmission or mail, or a confidential telephone communication of the laboratory report shall satisfy the notification requirement of this subsection.

(c) The conditions or diseases to which this regulation applies shall include the following:

(1) All diseases listed in K.A.R. 28-1-2;

(2) all blood lead level test results as follows:

(A) Blood lead level test results greater than or equal to 10 micrograms per deciliter for persons less than 18 years of age, and greater than or equal to 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 48 hours; and

(B) blood lead level test results less than 10 micrograms per deciliter for persons less than 18 years of age, and less than 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 30 days; and

(3) CD4+ T-lymphocyte count of less than 500

per microliter or a CD4+ T-lymphocyte percent of total lymphocytes less than 29.

(d) Isolates of positive cultures of the following microorganisms shall be sent to the Kansas department of health and environment, division of health and environmental laboratories, unless this requirement is waived under special circumstances by the secretary of health and environment:

(1) Salmonella;

(2) shigella;

(3) *Escherichia coli* O157:H7 and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;

(4) *Neisseria meningitidis*;

(5) streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*; and

(6) *Mycobacterium tuberculosis*.

(e) All laboratory notifications required in this regulation shall be confidential and shall not be open to public inspection, as provided in K.S.A. 65-118 and amendments thereto. (Authorized by and implementing K.S.A. 65-101, K.S.A. 2001 Supp. 65-118, and K.S.A. 65-128; effective, E-68-22, Aug. 9, 1968; effective Jan. 1, 1969; amended May 1, 1986; amended Aug. 23, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-8-9-02, Aug. 9, 2002; amended Dec. 2, 2002.)

28-1-19. (Authorized by K.S.A. 65-116j, 65-128; effective, E-76-49, Oct. 1, 1975; effective Feb. 15, 1977; amended Jan. 30, 1995; revoked May 10, 1996.)

28-1-20. Immunizations; schools, child care facilities, family day care homes, and preschool or child care programs operated by a school.

(a) Definition. For the purposes of this regulation, "susceptible child" shall mean either of the following if, for that individual, there is no history of the disease that has been documented by a licensed physician, no laboratory documentation of immunity, or no documentation acceptable to the secretary that demonstrates current vaccination against the disease:

(1) Any individual who attends school as defined in K.S.A. 72-5208, and amendments thereto; or

(2) any individual who is enrolled, is placed, or resides in a child care facility as defined in K.S.A. 65-503, and amendments thereto, a family day care home, or a preschool or child care program operated by a school.

(b) Required vaccinations. Except as provided in K.S.A. 72-5209(b) and amendments thereto, each susceptible child shall be required to receive the following vaccinations before enrolling in any Kansas school:

- (1) Diphtheria;
- (2) hepatitis B;
- (3) measles (rubeola);
- (4) mumps;
- (5) pertussis (whooping cough);
- (6) poliomyelitis;
- (7) rubella (German measles);
- (8) tetanus; and
- (9) varicella (chickenpox).

(c) Immunization record for school entry. The immunization record of each pupil shall document that the pupil has received the vaccinations specified in subsection (b) from a licensed physician or local health department or is not a susceptible child, on forms provided by the department.

(d) Immunizations required for a child in a child care facility, family day care home, or preschool or child care program operated by a school. Each susceptible child, including a child under 16 years of age of a child care provider who is enrolled, is placed, or resides in a child care facility, a family day care home, or a preschool or child care program operated by a school, shall be required to receive the following immunizations as medically appropriate:

- (1) Diphtheria;
- (2) *Haemophilus influenzae* type B;
- (3) hepatitis A;
- (4) hepatitis B;
- (5) measles (rubeola);
- (6) mumps;
- (7) pertussis (whooping cough);
- (8) pneumococcal disease;
- (9) poliomyelitis;
- (10) rubella;
- (11) tetanus; and
- (12) varicella (chickenpox).

(e) Immunization records for a child care facility or a family day care home. Each child's immunization record shall be maintained on the forms provided by the department. (Authorized by K.S.A. 65-508, 65-519, and 72-5211; implementing K.S.A. 65-508, 65-519, and 72-5209; effective, E-79-18, July 20, 1978; effective May 1, 1979; amended April 9, 2004; amended July 11, 2008.)

28-1-21. (Authorized by K.S.A. 1982 Supp.

73-1707; implementing K.S.A. 1982 Supp. 73-1702; effective May 1, 1983; revoked May 10, 1996.)

28-1-22. (Authorized by K.S.A. 1989 Supp. 65-101, 65-128 and K.S.A. 1989 Supp. 65-6003, as amended by L. 1990, Ch. 234, sec. 3; implementing K.S.A. 1989 Supp. 65-6001 and 65-6002, as amended by L. 1990, Ch. 234, sec. 1-2; effective Dec. 24, 1990; revoked May 10, 1996.)

28-1-23 to 28-1-24. Reserved.

28-1-25. (Authorized by K.S.A. 1972 Supp. 65-128; effective, E-72-9, Feb. 28, 1972; effective Jan. 1, 1973; revoked Feb. 12, 1999.)

28-1-26. Protection of confidentiality of information regarding individuals with HIV infection. (a) Definitions. Each of the following terms shall have the meaning specified in this subsection:

(1) "AIDS" means the acquired immune deficiency syndrome.

(2) "Authorized personnel" means individuals who have signed a confidentiality statement.

(3) "Confidentiality statement" means a written statement, dated and signed by an applicable individual, that certifies the individual's agreement to abide by the security policy of a public health agency and this regulation.

(4) "Counseling and testing site" means a site where counseling and testing for HIV infection are available.

(5) "HIV" means the human immunodeficiency virus.

(6) "HIV confidential information" means all combinations of individual data elements or information collected for surveillance purposes pursuant to K.S.A. 65-6002 and amendments thereto, in electronic or hard copy, that could identify anyone with HIV or AIDS, including the name, date of birth, address, and other identifying information.

(7) "HIV confidentiality officer" means the official in a public health agency responsible for implementing and enforcing all the measures to protect HIV confidential information as defined under this regulation.

(8) "HIV infection" means the presence of HIV in the body.

(9) "HIV prevention counseling" and "HPC" mean a client-centered counseling activity designed to assist clients in assessing their risks of

acquiring or transmitting HIV and in negotiating a realistic and incremental plan for reducing risk.

(10) "HIV report" means a report of HIV infection or AIDS transmitted to a public health agency pursuant to K.S.A. 65-6002 and amendments thereto.

(11) "Partner counseling and referral services" and "PCRS" mean a prevention and control activity conducted by trained individuals who contact and counsel each individual with HIV infection or AIDS who is reported to the secretary utilizing HPC.

(12) "Public health agency" means any organization operated by any state or local government that acquires, uses, discloses, or stores HIV confidential information for public health purposes.

(13) "Secretary" means the secretary of health and environment.

(14) "Secured area" means the physical confinement limiting the location where HIV confidential information is available.

(15) "Written security policy" means written specifications of the measures adopted to protect HIV confidential information and a description of how to implement these measures.

(b) Each public health agency shall appoint an HIV confidentiality officer, who shall have the authority to make decisions about the agency operations that could affect the protection of HIV confidential information.

(c) HIV confidential information shall be maintained in a secured area that is not easily accessible through a window and that is protected by a locked door. Access to the secured area shall be limited to authorized personnel only, and "Restricted area—No unauthorized access" signs shall be prominently posted. Access to the secured area by cleaning crews and other building maintenance personnel shall be granted only during hours when authorized personnel are available for escort or under conditions in which the data is protected by security measures specified in the written security policy.

(d) Hard copy records containing HIV confidential information shall be kept in a locked cabinet located in a secured area, except when in use by authorized personnel. Records shall not be removed from any secured area without authorization from the HIV confidentiality officer.

(e) All electronic records containing HIV confidential information shall be kept on computers protected by coded, individual passwords and located in a secured area. Each transfer of records

onto removable electronic media shall occur only if absolutely necessary for HIV surveillance program operations and shall be required to be authorized by the HIV confidentiality officer. The records shall always be encrypted before the transfer to the removable media. Exchange of HIV confidential information using electronic mail shall be done only if encryption procedures are utilized.

(f) HIV confidential information shall be permanently removed from HIV records as soon as the information is no longer necessary for the purposes of the prevention and control of HIV infection.

(g) Mail containing HIV confidential information shall not include on the envelope or address any reference to the HIV infection, to the HIV virus, or to AIDS.

(h) All telephone conversations in which HIV confidential information is exchanged shall be conducted in a manner that prevents the conversations from being overheard by unauthorized persons.

(i) Each local health officer responsible for a public health agency shall adopt and implement a written security policy related to HIV confidential information consistent with the provisions of this regulation. A copy of the security policy shall be distributed to all authorized personnel.

(j) Access to HIV confidential information shall be restricted to a minimum number of authorized personnel trained in confidentiality procedures and aware of penalties for the unauthorized disclosure of HIV confidential information. The HIV confidentiality officer shall authorize the persons who may have access to HIV confidential information and shall keep a list of these authorized personnel.

(k) Each person authorized to access HIV confidential information shall sign a confidentiality agreement. The HIV confidentiality officer shall maintain a copy of the confidentiality agreement for all authorized personnel.

(l) HIV confidential information shall not be cross-matched with records in other databases if the resulting cross-matched databases do not have equivalent security and confidentiality protections, and penalties for unauthorized disclosure as those for the HIV confidential information.

(m) The use of records containing HIV confidential information for research purposes shall be required to be approved in advance by institutional review boards, and all researchers shall sign

confidentiality statements. Information made available for epidemiologic analyses shall not include names or other HIV confidential information and shall not result in the direct or indirect identification of persons reported with HIV and AIDS.

(n) Authorized personnel designated by the secretary shall provide confidential, voluntary PCRS in accordance with this regulation. Any personnel providing PCRS who have reason to believe that a spouse, sex partner, or needle-sharing partner of a person who either is infected with HIV or has AIDS may be exposed to HIV or AIDS and is unaware of this risk of exposure may inform the spouse or partner of the risk of exposure if they do not reveal any identifying information about the original patient, including the name, physical description, time frame, method of transmission, and frequency of exposure.

(o) All communication between public health agencies, both interstate and intrastate, for the purpose of supporting surveillance and PCRS activities, shall disclose information only to the extent necessary to protect the public health pursuant to K.S.A. 65-6002 and amendments thereto.

(p) Each security breach of HIV confidential information shall be investigated by the HIV confidentiality officer, and personnel sanctions and criminal penalties shall be imposed as appropriate. The HIV confidentiality officer shall make an immediate telephone notification to the secretary that a breach of HIV confidential information occurred and shall transmit to the secretary a written report within seven days from the time the breach is discovered.

(q) This regulation shall apply to the following:

(1) All public health agencies engaged in the provision of services to prevent and control HIV or AIDS as specified in K.S.A. 65-6003 and amendments thereto;

(2) all individuals required to send HIV reports to the secretary under K.S.A. 65-6002, and amendments thereto; and

(3) all counseling and testing sites that receive funds from public health agencies. (Authorized by K.S.A. 65-101 and 65-6003; implementing K.S.A. 65-6002 and 65-6003; effective Feb. 18, 2000; amended July 7, 2006.)

Article 2.—RESERVED

Article 3.—HEARINGS

28-3-1. (Authorized by K.S.A. 74-901e; effective Jan. 1, 1966; revoked May 1, 1986.)

28-3-2. (Authorized by K.S.A. 74-901e; effective Jan. 1, 1966; revoked May 1, 1986.)

28-3-3. (Authorized by K.S.A. 74-901e; effective Jan. 1, 1966; revoked May 1, 1986.)

28-3-4. (Authorized by K.S.A. 74-901e; effective Jan. 1, 1966; revoked May 1, 1986.)

28-3-5. (Authorized by K.S.A. 74-901e; effective Jan. 1, 1966; revoked May 10, 1996.)

28-3-6. (Authorized by K.S.A. 75-5625 and L. 1984, ch. 313, section 13; implementing L. 1984, ch. 313, section 26; effective May 1, 1986; revoked May 10, 1996.)

28-3-7. Conduct of hearings not under Kansas administrative procedure act. (a) In all hearings not conducted under the provisions of the Kansas administrative procedure act, the hearing officer shall be guided by rules of evidence as employed by the courts of the state of Kansas, but may relax the rules to the extent the hearing officer deems appropriate, keeping always in mind that the judicially developed rules of evidence have been developed as procedures most likely to obtain the truth.

(b) In hearings appealing an order or action by the secretary or the secretary's designee, the requesting party shall open and close. In all other hearings, there shall be no requirements as to order of procedure. The hearing officer shall consider evidence in the order which appears most likely to reveal the facts.

(c) A record of proceedings may be kept by the hearing officer by electronic recording, notes made by the hearing officer or both. A transcript of the record need not be made unless specifically ordered by the hearing officer or in cases in which the party requesting a transcription pays its cost. Each party to a hearing may cause the proceedings to be recorded by a certified court reporter, providing the requesting party bears the expense of same.

(d) The provisions of this regulation shall apply to all hearings conducted under authority of statutes other than the Kansas administrative procedure act and shall be supplemental to any statutory requirements. At the conclusion of each hearing, the presiding or hearing officer shall prepare a written report stating findings of fact, any appropriate conclusions of law, and any further comments which the presiding or hearing officer deems appropriate. A copy of the report shall be

mailed to the parties and filed with the secretary. (Authorized by and implementing K.S.A. 75-5625; effective May 1, 1986.)

Article 4.—MATERNAL AND CHILD HEALTH

GENERAL REGULATIONS

28-4-1 to 28-4-4. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-5. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; amended Jan. 1, 1970; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-6 and 28-4-7. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-8 to 28-4-19. (Authorized by K.S.A. 65-508; effective Jan. 1, 1966; revoked Jan. 1, 1973.)

28-4-20 to 28-4-25. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-26 to 28-4-36. (Authorized by K.S.A. 65-508; effective Jan. 1, 1966; revoked, E-81-22, Aug. 27, 1980; revoked May 1, 1981.)

28-4-37. (Authorized by K.S.A. 65-504, 65-508; effective Jan. 1, 1966; revoked, E-81-22, Aug. 27, 1980; revoked May 1, 1981.)

28-4-38 to 28-4-49. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-50. Acceptable types of water supplies for licensed child care homes. (a) Public water supply systems approved by the state department of health shall be used wherever such supplies are available or can be made available at reasonable cost.

(b) Properly located, constructed and equipped private ground water supplies approved by the department may be used if a public supply is not available. Environmental health services bulletin 4-1, a manual of recommended standards for locating, constructing, and equipping water

wells for rural homes, shall be used as a guide for approving private ground water supplies.

(c) Stored water obtained from a supply approved by the department, and transported, and stored in facilities approved by the department may be used at homes where a public water supply or a satisfactory ground water supply is not available.

(d) Other methods of providing water for a home will be considered on an individual basis. All approval for such use shall be obtained from the chief engineer, state department of health.

(e) No water supply containing more than 45 mg/l of nitrates expressed as NO_3 shall be used at a home providing care for children under one year of age. (Authorized by K.S.A. 65-508; effective Jan. 1, 1966; amended Jan. 1, 1971.)

28-4-51 to 28-4-54. (Authorized by K.S.A. 65-508; effective Jan. 1, 1966; revoked Jan. 1, 1971.)

28-4-55. Acceptable sewage disposal systems for child care homes. (A) The home shall be connected to a public sewer system whenever such a system abuts the property or can be made to abut the property at a reasonable cost.

(B) Properly located, constructed and operated septic tank-soil absorption systems, approved by the department, may be used for homes located in areas where a public sewer system is not available. Environmental health services bulletin 4-2, a manual of recommended standards for locating, constructing and operating septic tank systems for rural homes, shall be used as a guide in approving these systems.

(C) The home may be connected to any properly located, constructed and maintained waste stabilization ponds approved by the department where a public sewer system is not available and where soil is not suitable for use of a septic tank-soil absorption system. Environmental health services bulletin 4-2, a manual of recommended standards for locating, constructing and operating septic tank systems for rural homes, shall be used as a guide in approving these systems.

(D) The home may use any existing system that is functioning properly and is not discharging onto the surface of the ground, into a ditch or water-course or into an underground fresh water aquifer and is not in violation of any public health or water pollution regulation adopted by the state board of health.

(E) The home may be permitted to use other

types of sewage disposal systems provided prior approval for use of such a system is obtained from the chief engineer of the state department of health. (Authorized by K.S.A. 65-508; effective Jan. 1, 1966; amended Jan. 1, 1971.)

28-4-56. (Authorized by K.S.A. 65-502, K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-57 to 28-4-71. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1966; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-72. (Authorized by K.S.A. 65-507; effective Jan. 1, 1966; revoked May 10, 1996.)

28-4-73. Treatment of eyes of newborn. (a) The prophylactic approved for instillation into the eyes of newly born infants shall be one of the following:

(1) One percent (1%) aqueous solution of silver nitrate,

(2) An ophthalmic ointment containing one percent (1%) tetracycline, or

(3) An ophthalmic ointment containing five-tenths percent (.5%) erythromycin.

(b) These prophylactic agents shall be distributed in single use containers which bear clearly the name and percentage strength and an expiration date beyond which the product shall not be used. (Authorized by K.S.A. 65-153b, 65-153d; effective Jan. 1, 1966; amended, E-81-39, Dec. 10, 1980; amended May 1, 1981.)

28-4-74. (Authorized by K.S.A. 65-202; effective Jan. 1, 1966; revoked, E-81-22, Aug. 27, 1980; revoked May 1, 1981.)

28-4-75. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1986; amended, May 1, 1979, T-86-46, Dec. 18, 1985; revoked May 1, 1986.)

28-4-76. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-508, K.S.A. 1982 Supp. 65-504, 65-505; effective, E-76-36, July 14, 1985; effective May 1, 1976; amended May 1, 1979; amended, T-83-24, Aug. 25, 1982; amended May 1, 1983; revoked May 1, 1986.)

28-4-77. (Authorized by K.S.A. 1985 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-78. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-79. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-80 and 28-4-81. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-82. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-83. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-84 and 28-4-85. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-86. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-87. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-88. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-89 and 28-4-90. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-91. Revocation of present regulations. The following present regulations as published in the Kansas administrative regulations are being replaced, so are hereby revoked:

General regulations 28-4-1 through 28-4-7.

Health standards for children's institutions 28-4-20 through 28-4-25.

Regulations for maternity homes and clinics 28-4-56 through 28-4-71.

(Authorized by K.S.A. 1975 Supp. 65-508; effective

tive, E-76-36, July 14, 1975; effective May 1, 1976.)

28-4-92. License fees. (a) When application is made for a license or for the renewal of a license, the applicant shall send to the secretary of the Kansas department of health and environment the appropriate license fee specified below:

Facilities with a license capacity of 12 or fewer children	\$15.00
Facilities with a license capacity of 13 or more children.....	\$35.00 plus \$1.00 for each child included in the license capacity, with the total fee not to exceed \$75.00
Child Placing Agency, Day Care Referral Agency or Maternity Center	\$75.00

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516 and amendments to it, and the rules and regulations promulgated pursuant to those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments to it. (Authorized by and implementing K.S.A. 65-505 as amended by 1986 S.B. 672; effective, T-83-24, Aug. 25, 1982; effective May 1, 1983; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended, T-87-22, Aug. 21, 1986; amended May 1, 1987.)

28-4-93 to 28-4-99. Reserved.

LICENSED DAY CARE HOMES AND GROUP DAY CARE HOMES FOR CHILDREN

28-4-100. (Authorized by K.S.A. 65-503, 65-508; effective Jan. 1, 1970; revoked May 1, 1981.)

28-4-101 to 28-4-110. (Authorized by K.S.A. 65-501 *et seq.*; effective Jan. 1, 1970; revoked, E-80-18, Oct. 17, 1979; revoked May 1, 1980.)

28-4-111 and 28-4-112. Reserved.

28-4-113. Definitions. (a) "Care provider" or "provider" means a person, association, corporation or other organization who has control or custody of one or more children under 16 years of age who are unattended by a parent or guardian for the purpose of providing those children with care for less than 24 hours a day, except children related to the person by blood, marriage or legal adoption.

(b) "Day care home" means the premises in which care is provided for a maximum of 10 children under 16 years of age, with a limited number of children under kindergarten age in accordance with K.A.R. 28-4-114(e)(1).

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

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

(e) "Evening care" means care for children staying with the provider after 6:00 p.m. and leaving before 1:00 a.m. the following day.

(f) "Extended absence" means more than 10 hours per week away from the day care home or group day care home during hours of operation.

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

(h) "Group day care home" means the premises in which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under kindergarten age in accordance with K.A.R. 28-4-114(f)(1).

(i) "Kindergarten age child" means a child who is five years of age on or after June 1 of the year the child is eligible to enter kindergarten pursuant to K.S.A. 72-1107 and any amendments thereto.

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

(k) "Licensed physician" means a person licensed to practice medicine or surgery in Kansas as set forth in K.S.A. 1988 Supp. 65-2869 and K.S.A. 65-2870, and any amendments thereto.

(l) "Overnight care" means care for children staying with the care provider after 1:00 a.m.

(m) "Primary care provider" means a licensee or his or her designee who is 18 years of age or older and has the ongoing responsibility for the health, safety, and well-being of children in care.

(n) "Substitute care provider" means a person who supervises children in the day care home or group day care home in the temporary or extended absence of the provider.

(o) "Temporary absence" means time away from the day care home or group day care home and from the children in care for a period not to exceed 10 hours per week. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, K.S.A. 65-503, and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1,

1984; amended May 1, 1985; amended Feb. 26, 1990.)

28-4-114. The applicant and licensee.

(a) (1) Any person desiring to conduct a day care home or group day care home shall apply for a license on forms provided by the Kansas department of health and environment.

(2) The applicable fee shall be submitted at the time of license application and reapplication, and shall not be refundable.

(b) Each licensee or primary care provider:

(1) Shall be at least 18 years of age;

(2) shall not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and

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

(c) Each licensee who operates more than one child care facility shall maintain each facility as a separate entity.

(d) Each licensee shall not be licensed concurrently for or provide more than one type of child care or child and adult care in the same premises.

(e) (1) The maximum number of children for which a day care home may be licensed shall be as follows:

TABLE I—LICENSE CAPACITY

Maximum Number of Children Under 18 Months	Maximum Number of Children 18 Months to Kindergarten Age	Kindergarten Age to Age 11 *	License Capacity
0	7	3	10
1	5	4	10
2	4	3	9
3	3	2	8

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

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

(3) Children under 11 years of age who are related to the provider shall be included in the maximum number of children in each age group.

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

TABLE II—LICENSE CAPACITY, ONE ADULT

Age of Children Enrolled	License Capacity
2½ Years to 11 Years of Age	9
3 Years to 11 Years of Age	10
Kindergarten Age to 11 Years of Age	12

TABLE III—LICENSE CAPACITY, TWO ADULTS *

Maximum Number of Children Under 18 Months	Maximum Number of Children 18 Months to Kindergarten Age	Kindergarten Age Child ** to Age 11	License Capacity *
1	8	3	12
2	7	3	12
3	6	3	12
4	4	2	10

Maximum # of Children 18 Mos to 2½ Years

0 5 12

* A second person 16 years of age or older shall be present when the number of children exceeds the maximum number allowed for one adult. (See Table I.)

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

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

(3) Children under 11 years of age who are related to the provider shall be included in the maximum number of children in each age group in a group day care home.

(g) Children who do not function according to age-appropriate expectations shall be counted in the age group which reflects their developmental level.

(h) The total number of children on the premises including children under 11 years of age related to the provider shall not exceed the license capacity.

(i) Emergency care for a period not to exceed two weeks, or drop-in care may be provided for children not regularly enrolled in the day care home or group day care home if the additional children do not cause that home to exceed its license capacity.

(j) An exception for overlap enrollment may be granted by the department upon request by the licensee, as follows:

(1) Not more than two school-age children for not more than one hour before and after school or over the noon hour. An additional adult shall not be required. Each exception for this overlap enrollment shall be in effect only during the school year.

(2) To accommodate shift change. An additional adult and fire safety approval may be required.

(k) Each primary care provider in a day care home shall, within 60 days following initial application for a license or employment, submit doc-

umentation that one of the following training requirements has been met:

(1) Five sessions of observations, not less than 2½ consecutive hours per observation, in a licensed day care home, group day care home or a child care center which has been in continuous operation for three or more years. Observations shall be planned so that all daily activities (morning, lunch, nap, late afternoon) can be observed;

(2) a child development associate credential;

(3) fifteen hours of directed readings, videotapes or attendance at workshops or membership meetings on child care topics; or

(4) employment for not less than three months in a licensed day care home, group day care home or child care center which had been in continuous operation for three or more years.

(l) Each primary care provider in a group day care home shall, within 60 days following initial application for a license or employment, submit documentation that one of the following training requirements has been met:

(1) six months' supervised employment in licensed facilities with children of the same age as enrolled in the group day care home;

(2) five sessions of observations for not less than 2½ consecutive hours per session in a licensed group day care home or child care center which has been in continuous operation for three or more years, and 10 hours of directed readings, video tapes or attendance at workshops or membership meetings on child care topics;

(3) a minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources, and supervised observation in high school or college or three months' work experience with children of the same age as enrolled in the group day care home;

(4) a child development associate credential; or

(5) the requirements for a program director of a child care center as specified in K.A.R. 28-4-429.

(m) Prior to relicensure, each primary care provider in a day care home or group day care home shall provide documentation of:

(1) five clock-hours of in-service training which may include child care association membership meetings and annual conferences, extension homemaker programs, or other programs on child care;

(2) five hours of directed reading or video tapes on child care topics; or

(3) current accreditation by the National Association for Family Day Care.

(n) (1) Each applicant or licensee shall arrange for a substitute care provider 16 years of age or older to care for children in the event of a temporary absence. In the event of an extended absence, the substitute provider shall be 18 years of age or older.

(2) Each substitute providing care for an extended absence shall meet K.A.R. 28-4-114(k).

(o) Each license shall be posted as required by K.S.A. 1988 Supp. 65-504, and a copy of the "regulations for licensing day care homes and group day care homes for children" shall be kept on the premises at all times.

(p) Each care provider shall notify the county health department or the department when day care or group day care service is to be discontinued.

(q) Each applicant or licensee receiving notice of denial or revocation of license or a notice of intent to assess a civil fine shall be notified of the right to an administrative hearing by the department and subsequently shall be notified of the right to appeal the denial or revocation to the district court. A licensee may continue to provide child care pending a final decision by the department regarding denial or revocation of a license or assessment of a civil fine unless other action is initiated by the department. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, K.S.A. 65-503, K.S.A. 1988 Supp. 65-504, 65-505, and K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990.)

28-4-115. The home. (a) If a public water supply or a public sewerage system is not available, each care provider's home shall have a safe water supply and a sewage disposal system which complies with the requirements of K.A.R. 28-4-50 and K.A.R. 28-4-55 and amendments thereto.

(b) Each day care home and group day care home shall have 25 square feet of available play space per child, and shall be so constructed, arranged, and maintained as to provide adequately for the health and safety of children in care. The home shall:

(1) have walls which are in good condition;

(2) be skirted and anchored if a mobile home;

(3) have a 2A 10B:C fire extinguisher;

(4) have a smoke alarm on each level of the home;

(5) be reasonably clean and uncluttered;

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

(7) have each open-faced gas stove or gas spaceheater vented and each heating element guarded;

(8) have each electrical outlet covered when not in use;

(9) have each stairway with more than two steps railed;

(10) have each stairway guarded and have balusters not more than four inches apart or guarded to prevent a child's head or body from falling through if children under two-and-a-half are in care;

(11) have a readily available second means of escape from the first floor;

(12) have each bathroom door able to be unlocked from both sides; and

(13) be maintained at a temperature of not less than 65°F, and not more than 90° F. in the play area.

(c) Each group day care home shall be approved annually for fire safety by a fire inspector.

(d) A basement or a second floor used for child care in a day care home or a group day care home shall be approved for fire safety by a fire inspector before use and annually thereafter. A third floor shall not be used for child care.

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

(f) If children under one year are enrolled in homes using private well water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms the nitrate content of the private well water is not more than 45 milligrams per liter as nitrate (NO₃).

(g) The following hazardous items shall be safely stored as follows:

(1) All household cleaning supplies and all bodily care products with warning labels to keep out of reach of children or which contain alcohol shall be in locked storage or stored out of reach of children under six years of age.

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

(3) Sharp instruments shall be stored in draw-

ers equipped with child proof devices to prevent access by children or stored out of reach of children.

(4) Cigarettes, ashtrays, cigarette lighters, and matches shall be stored out of reach of children.

(h) All guns and other dangerous weapons shall be in locked storage. Guns may be equipped with trigger locks in lieu of being in locked storage.

(i) (1) Outdoor play equipment which is safely constructed and in good repair shall be available, and placed in an area which is free from hazards which might be dangerous to the life and health of the children.

(2) Climbing equipment and swings shall be anchored in the ground with metal straps or pins, or set in cement.

(3) Surfaces used under anchored play equipment shall be approved by the Kansas department of health and environment license surveyor prior to installation. Asphalt, cement, or coarse gravel shall not be used.

(4) Swings shall be safely located and shall not have wooden or metal seats.

(5) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under kindergarten age.

(6) The outdoor play area shall be fenced if the area surrounding, or the conditions existing outside, the play area present hazards which might be dangerous to the safety of the children or if the play area adjoins that of another child care facility. (Authorized by and implementing K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

28-4-116. The children in care. (a) Daily activities. The provider shall offer each child the opportunity to participate daily in activities which promote healthy growth and development.

(1) Age-appropriate toys and play equipment of safe construction and in good repair shall be available.

(2) Television programs or videos watched by children shall be age appropriate. R- and x-rated videos shall be prohibited.

(3) Toys and play equipment used by children under 18 months of age shall be washed and sanitized daily.

(4) (A) Each child 18 months or older shall have at least one hour of outdoor play daily and

each child under 18 months shall be taken outdoors daily unless prohibited by the child's medical condition or extreme weather conditions.

(B) Children three years of age or older who are playing outdoors shall be under the supervision of an adult who is within hearing distance at all times.

(C) Children under three years of age who are playing outdoors shall be attended by a person fourteen years of age or over. The adult responsible for the children shall be within hearing distance at all times.

(b) Napping and sleeping.

(1) Each child shall have a daily, supervised rest period as needed. Each child who does not sleep shall be given the opportunity for quiet play.

(2) Napping facilities or sleeping facilities for evening and overnight care shall be provided as follows:

(A) A crib or playpen with slats not more than $2\frac{3}{8}$ inches apart or equipped with bumpers shall be used for each child under 18 months.

(B) A family bed, cot, sofa, lower bunk or a pad over the carpet shall be used for each child 18 months or older. Each pad shall be at least one-half inch thick, washable or enclosed in a washable cover, and shall be long enough so that the child's head and feet do not rest on the carpet. Two children may sleep on a double bed.

(C) Individual bedding shall be available for each child and shall be kept clean.

(3) Cribs, cots, or pads, when in use, shall be separated by at least 24 inches in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.

(c) No person shall smoke while providing direct physical care to children.

(d) Food service.

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

(A) Infants shall be held when bottle fed until they can hold their own bottles.

(B) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(C) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be labeled and refrigerated with the nipple covered, and shall be used within 24 hours.

(D) Solid foods shall be offered in consultation with the child's parents. Opened containers of solid foods shall be labeled with the child's name, and shall be covered and refrigerated.

(2) Each day care home or group day care home provider shall serve nutritious meals and snacks as follows:

Length of Time at Facility	Food Served
2½ to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(e) Meals and snacks.

(1) Breakfast shall include:

(A) A fruit, vegetable, full-strength fruit juice or full-strength vegetable juice;

(B) bread, a bread product or cereal; and

(C) milk.

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

(A) Meat, poultry, fish, egg, cheese, cooked dried peas or beans, or peanut butter;

(B) two vegetables or two fruits, or one vegetable and one fruit;

(C) bread, bread produce or cereal; and

(D) milk.

(3) Mid-morning and mid-afternoon snacks shall include at least two of the following:

(A) Milk, milk product or food made with milk;

(B) fruit, vegetable, full-strength fruit juice or full strength vegetable juice;

(C) meat or a meat alternate; or

(D) bread, bread product or cereal.

(f) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.

(g) Food allergies or special dietary needs of specific children shall be considered.

(h) Pasteurized milk products shall be served.

(i) Dishes shall be washed, rinsed and stacked or placed in a dishwasher after meals.

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

(k) An individual cup, towel, and washcloth or disposable products shall be provided for each child.

(l) Each child and each adult shall wash his or her hands with soap and water before and after eating and after using the bathroom.

(m) A file shall be maintained for each child, including each child enrolled for emergency care, which includes:

(1) The full name, home and business addresses, and home and business phone numbers of each child's parent or parents or guardian, and

the name, address and telephone number of the person to notify in case of emergency;

(2) the full name and telephone number of each person authorized to pick up the child, and to provide transportation to and from the day care home or group day care home;

(3) a medical record as required by K.A.R. 28-4-117(a), except that children enrolled for emergency care shall be exempt from K.A.R. 28-4-117(a)(1)(B); and

(4) written parental permission for emergency medical care and for children to go off premises as required by K.A.R. 28-4-124 and K.A.R. 28-4-127(b)(1)(A). (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1985; amended May 1, 1987; amended Feb. 26, 1990.)

28-4-117. Health care requirements for children under 16 years of age. (a) (1) A completed medical record on the form provided by the department shall be on file for each child under 11 years of age enrolled for care and for each child under 16 years of age living in the child care facility.

(2) Each medical record shall include the results of a health assessment conducted by a nurse trained to perform health assessments or a licensed physician, within six months before the child's initial enrollment in a child care facility.

(3) Each medical record shall include a medical history obtained from the parent.

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

(c) Immunizations for each child, including each child of the provider under 16 years of age, shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record.

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

(e) If an infant who has not been immunized against measles, mumps, rubella, and varicella because of the age of that child is enrolled and there are children in care who have not had measles, mumps, rubella, and varicella immunizations due

to exemption, including the children of the provider, the parents of the infant at risk shall sign a statement that the parents have been informed of the risk to their child. This statement shall be in the infant's file at the day care or group day care home.

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

(g) Each licensee shall provide information to parents of children in the licensee's program about the benefits of annual well-child health assessments for children under the age of six years and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when children exhibit health problems. This information may be given on a form provided by the department to the parent when the child is enrolled or be posted in a conspicuous place, with copies of the form available to parents on request. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended, T-83-27, Sept. 22, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008.)

28-4-118. Policies relating to illness and reporting of child abuse. (a) Non-prescription medications shall be administered to children only with permission of the parent or guardian. A record shall be kept.

(b) Prescription medications shall be administered only from a container labeled with the child's name, name of the medication, dosage, dosage intervals, name of the physician and the date the prescription was filled. The label shall be considered the order from the physician. A record of medications administered shall be kept.

(c) Each child care provider, as required by law, shall report to the Kansas state department of social and rehabilitation services or the district court any evidence of suspected child abuse or neglect observed in children enrolled for care. (Authorized by and implementing K.S.A. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1986; amended Feb. 26, 1990.)

28-4-119. (Implementing K.S.A. 1979

Supp. 65-503 and 65-508; authorized by K.S.A. 65-503 and 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; revoked May 1, 1984.)

28-4-119a. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1984; amended May 1, 1985; revoked May 1, 1986.)

28-4-119b. Compliance with regulations. (a) An exception to a regulation may be allowed by the department if:

(1) The applicant requests an exception from the department on a form supplied by the department; and

(2) The secretary determines the exception to be in the best interests of the day care child or children and their families.

(b) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1984; amended Feb. 26, 1990.)

REGISTERED FAMILY DAY CARE HOMES FOR CHILDREN

28-4-120. Family day care home certificate of registration. (a) Except as specified in subsection (b), each individual wanting to maintain a family day care home shall obtain the forms to register the family day care home from either the secretary of the Kansas department of health and environment or from the county health department in the county in which the individual resides.

(b) Each individual maintaining a family day care home may choose to be licensed pursuant to K.S.A. 65-501 through 65-516, and amendments thereto, rather than registering the family day care home. If the individual chooses to be registered, the individual shall not be licensed to provide child care services at the same location during the effective period of the certificate of registration.

(c) Each applicant shall be 18 years of age or older at the time of application.

(d) When obtaining registration application forms, each applicant shall receive a family day care home safety evaluation form, which shall be completed and forwarded, together with the application, to the Kansas department of health and environment.

(e) Each registrant shall maintain the family day care home in the registrant's residence.

(f) A copy of the regulations governing the registration of family day care homes for children shall be kept on the premises at all times.

(g) Each registrant shall notify the county health department or the Kansas department of health and environment if child care services are discontinued. Resumption of child care services shall require a new application for a certificate of registration.

(h) Each applicant receiving a notice of denial and each registrant receiving a notice of revocation of the certificate of registration shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently to the right of appeal to the district court. (Authorized by K.S.A. 65-522; implementing K.S.A. 65-519 and 65-521; effective May 1, 1981; amended May 1, 1986; amended Feb. 26, 1990; amended July 11, 2008.)

28-4-121. Required immunizations for children under 16 years of age. (a) Immunizations for each child, including each child of the registrant under 16 years of age, shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d).

(b) Each registrant shall maintain, at the family day care home, a record of each child's immunizations on the child's medical record.

(c) Exceptions to the requirement for immunizations shall be permitted as specified in K.S.A. 65-519, and amendments thereto. Documentation of each exception shall be maintained on file at the family day care home. (Authorized by K.S.A. 65-522; implementing K.S.A. 65-519; effective July 11, 2008.)

GENERAL REGULATIONS FOR CATEGORIES OF CHILD CARE

28-4-122. General regulations for family day care homes and child care facilities. K.A.R. 28-4-123 through 28-4-132 shall apply to the following:

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

(b) day care home and group day care home as defined in K.A.R. 28-4-113;

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

(d) residential center and group boarding home

as defined in K.A.R. 28-4-268. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended March 28, 2008.)

28-4-123. Parental access to child care facilities. Each parent or guardian of a child enrolled in a day care facility or preschool as defined in K.S.A. 65-517, K.A.R. 28-4-113 or K.A.R. 28-4-420 shall have access to the premises during all hours of operation. Each residential facility as defined in K.A.R. 28-4-311 and K.A.R. 28-4-268 shall develop a plan for parental visitation in cooperation with the legal custodian if different from the parent. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986.)

28-4-124. Parental permission for children to go off-premises. Each day care facility as defined in K.A.R. 28-4-113, K.A.R. 28-4-420 and K.S.A. 65-517, and any amendments to it shall obtain a signed parental permission for each location to which children go off of the premises on a form supplied by the department of health and environment. The destination, the time children leave the child care facility, the adults responsible for the children while off premises, and the estimated time of return shall be posted in a place accessible to parents. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

28-4-125. Criminal history and child abuse registry information for the purpose of obtaining criminal and child abuse histories.

(a) Each child care facility subject to licensing or registration by the secretary of health and environment shall at the time of initial application and reapplication report the name, address, and birthdate of each person over 10 years of age who resides, works or regularly volunteers in the facility, excluding children placed in care. The report shall be forwarded to the Kansas department of health and environment on departmental forms.

(b) Within one week of the time a new person over 10 years of age resides, works or regularly volunteers in the facility, excluding children placed in care, a report of the name, address and birthdate shall be filed with the Kansas department of health and environment.

(c) A copy of each report required by K.A.R. 28-4-125(a) and (b) shall be kept on file at the

facility. (Authorized by and implementing K.S.A. 1988 Supp. 65-516; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended Feb. 26, 1990.)

28-4-126. Health of persons 16 years or older in child care facilities. (a)(1) Each person caring for children shall be free from physical, mental or emotional handicaps as necessary to protect the health, safety and welfare of the children, and shall be qualified by temperament, emotional maturity, sound judgment, and an understanding of children.

(2) Persons in contact with children shall not be in a state of impaired ability due to the use of alcohol or drugs.

(b)(1) Each person regularly caring for children shall have a health assessment conducted by a licensed physician or by a nurse trained to perform health assessments. The health assessment shall be conducted no earlier than one year before the date of employment or initial application for a license or certificate of registration, or not later than 30 days after the date of employment or initial application.

(2) Each substitute in a day care facility as defined in K.A.R. 28-4-113 or K.S.A. 65-517 shall be exempt from K.A.R. 28-4-126(b)(1).

(c) Tuberculin testing.

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

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

(d) Results of the health assessment and tuberculin test shall be recorded on forms supplied by the Kansas department of health and environment and kept on file at the facility. Health assessment records may be transferred to a new place of employment if the transfer occurs within one year of previous employment.

(e) Each resident 16 years or older in a resi-

dential facility as defined in K.A.R. 28-4-268 shall meet the requirements in K.A.R. 28-4-126(b), (c) and (d). (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

28-4-127. Emergencies. (a) A working telephone shall be on the premises. Emergency telephone numbers shall be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center.

(b) Emergency medical treatment.

(1) Each facility shall have on file at the facility for each child:

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

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

(2) Residential facilities providing emergency care shall be exempt from K.A.R. 28-4-127 (b)(1)(A).

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

(c) Health assessment forms and emergency release forms shall be taken to the emergency room with the child.

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

(e) Reporting illnesses and injuries:

(1)(A) Residential facilities shall have on file at the facility written policies on reporting of illnesses and injuries of adults and children.

(B) The policies shall be approved by the licensing agency.

(2) Day care facilities shall report immediately to the parent or guardian each illness or injury of a child which requires medical attention.

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

(f) Any injury or illness which results in the death of a child in care shall be reported by the next working day to the county health department or the Kansas department of health and environ-

ment. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990.)

28-4-128. Safety procedures. (a) Each facility shall develop an emergency plan to provide for the safety of children and staff in emergencies such as fire, tornadoes, storms, floods, and serious injury.

(b) Each emergency plan shall be posted in a conspicuous place in the facility. Staff in day care facilities shall review the plan with parents of children enrolled.

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

(d) A fire drill shall be conducted monthly and scheduled to allow participation by each child. Each date and time shall be recorded.

(e) A tornado drill shall be conducted monthly, April through September, and scheduled to allow participation by each child. Each date and time shall be recorded.

(f) Each person regularly caring for children shall have first-aid training. Documentation of the training shall be on file at the facility. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

28-4-129. Swimming and wading activities. (a) Swimming and wading pools on the premises.

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

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

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

(4) Legible safety rules for the use of swimming pools shall be posted in a conspicuous location, and shall be read and reviewed weekly by each staff member responsible for the supervision of children.

(b) Swimming pools on the premises.

(1) Below-ground swimming pools shall be enclosed by a fence not less than five feet high to prevent chance access by children.

(2) Above-ground swimming pools shall be four feet high, or shall be enclosed with a fence not less than five feet high. Steps shall be removed from the pool when the pool is not in use.

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

(4) Water in the swimming pool shall be maintained between pH 7.2 and pH 8.2. Available free chlorine content shall be between 0.4 and 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily. The results of these tests shall be recorded and available.

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

(6) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from its edge.

(c) Wading pools on the premises.

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

(2) Water in wading pools shall be emptied daily.

(d) Hot tubs or spas on the premises.

(1) Each hot tub or spa shall be covered with an insulated cover secured by straps or locks.

(2) Children in day care facilities shall not be permitted to use hot tubs. Children in residential facilities shall be permitted to use hot tubs when medically indicated.

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

28-4-130. Transportation. (a) Facility-owned or leased vehicles.

(1) When a vehicle used for transportation of children is owned or leased by the facility, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used. Trailers pulled by another vehicle, camper shells or truck beds shall not be used for transportation of children.

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

(B) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield, wipers, horn, signal lights, steering, suspension, glass, brakes, tail lights, exhaust system, and outside mirror. A record of the date of the annual safety check and corrections made shall be kept on file at the facility.

(3) The vehicle shall be covered by accident and liability insurance in amount of not less than \$100,000 for personal injury or death in any one accident, \$300,000 for injury or death to two or more persons in any one accident; and \$50,000 for loss to property of others.

(4)(A) Emergency release forms and health assessment records shall be in the vehicle when children are transported. Residential facilities shall be exempt from K.A.R. 28-4-130(a)(4)(A) unless children are being transported more than 60 miles from the facility, or if children are in emergency care.

(B) A first-aid kit shall be in the transporting vehicle and shall include band-aids of all sizes; adhesive tape; a roll of gauze; scissors; one package of 4 x 4 inch gauze squares; a cleansing agent; and one elastic bandage.

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

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

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

(i) A shield-type device;

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

(iii) a safety harness.

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

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

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

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

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

(B) Discipline shall be maintained at all times.

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

(D) Children shall neither enter nor exit the vehicle into a lane of traffic.

(E) Children under 10 years of age shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain no child is left in the vehicle.

(F) Smoking in the vehicle shall be prohibited while children are being transported.

(G)(i) Day care facilities defined by K.S.A. 65-517, K.A.R. 28-4-113 and K.A.R. 28-4-420 shall maintain applicable staff/child ratios.

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

(H) The driver shall transport the child to the intended location, person, agency or institution as designated by the child's parent or legal guardian, or by the agency person in charge.

(b) Vehicles owned by staff or volunteers.

(1) When a vehicle used for transportation of children is owned by staff or volunteers the vehicle shall be covered by accident and liability insurance required by K.S.A. 40-3104 and 40-3118 and any amendments to it.

(2) Each such vehicle shall meet the requirements of K.A.R. 28-4-130(a)(1); (a)(2)(A); (a)(4)(A); (a)(5); and (a)(6)(A) through (H).

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

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

28-4-131. Animals, birds, or fish.

(a) When animals, birds, or fish are kept on the premises, the pet area shall be maintained in a sanitary manner. No animal or bird shall be in the kitchen while food is being prepared. Parents shall be informed whenever children have access to pets in the child care facility.

(b) Dogs and cats shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file in the facility.

(c) When animals that represent a hazard to children are on the premises, children shall be

protected from them. Pit bulldogs shall be prohibited. If animals are displayed as part of an animal exhibit, they shall be supervised by appropriate animal care personnel. (Authorized by and implementing K.S.A. 65-508 and 65-522; effective May 1, 1986; amended Feb. 26, 1990.)

28-4-132. Child care practices. (a) Supervision. Each child in day care shall be under the supervision of a person 16 years of age or older who is responsible for the child's health, safety and well-being.

(b) Discipline.

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

(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:

(A) corporal punishment such as spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity;

(B) verbal abuse, threats, or derogatory remarks about the child or the child's family;

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

(D) withholding or forcing foods; and

(E) placing substances which sting or burn on the child's mouth or tongue or other parts of the body.

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

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

(c) Diapering and toileting.

(1) Each child's clothing or bedding shall be changed whenever wet or soiled.

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

(3)(A) Handwashing facilities shall be in or readily accessible to the diaper-changing area.

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

(4) Children shall be diapered in their own

cribs or playpens, on a clean pad on the floor, or on a changing table. Each unit in a child care center as defined by K.A.R. 28-4-420 shall have a changing table.

(5) Changing tables and pads shall have a waterproof, undamaged surface. Tables shall be sturdy, and shall be equipped with railing or safety straps. Children shall not be left unattended on the changing table.

(6) Changing tables and pads shall be sanitized after each use by washing with a disinfectant solution of ¼ cup of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.

(7) The following procedures shall be followed when washable diapers or training pants are used:

(A) Day care facilities. Washable diapers or training pants shall not be rinsed out. They shall be stored in a labeled covered container or plastic bag and returned home with the parents.

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

(8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily, or more frequently as necessary for odor control.

(9)(A) Potty chairs when used shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily.

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

(10) Diapering procedures recommended by the U.S. Department of Health and Human Services, Public Health Service, December, 1984, shall be followed in all child care facilities caring for infants and toddlers. Diapering and toileting procedures shall be posted in child care centers, group boarding homes, residential centers and group day care homes serving children under 2½ years of age. (Authorized by and implementing K.S.A. 65-508 and K.S.A. 65-522; effective Feb. 26, 1990.)

28-4-133 and 28-4-134. Reserved.

GROUP BOARDING HOMES

28-4-135. (Authorized by K.S.A. 65-503, K.S.A. 1975 Supp. 65-504, 65-508; effective Jan.

1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-136. (Authorized by K.S.A. 65-510, K.S.A. 1975 Supp. 65-504, 65-506, 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-137. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-138. (Authorized by K.S.A. 17-1706, K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-139. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-140. (Authorized by K.S.A. 65-503; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-141. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-142. (Authorized by K.S.A. 65-510, K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-143. (Authorized by K.S.A. 1975 Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-144. (Authorized by K.S.A. 1975 Supp. 65-506, 65-507, 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-145. (Authorized by K.S.A. 65-510, K.S.A. 1975 Supp. 65-507, 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-146. (Authorized by K.S.A. 1975 Supp. 65-507, 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-147. (Authorized by K.S.A. 65-510, K.S.A. 1975 Supp. 65-501, 65-504, 65-506, 65-508, 65-512, 65-513, 65-514, 65-515; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-148. (Authorized by K.S.A. 1975

Supp. 65-508; effective Jan. 1, 1972; revoked, E-76-36, July 14, 1975; revoked May 1, 1976.)

28-4-149 to 28-4-159. Reserved.

CHILD PLACEMENT AGENCIES

28-4-160 to 28-4-169. (Authorized by K.S.A. 65-503, 65-508; effective Jan. 1, 1972; revoked May 1, 1982.)

28-4-170. Definitions. (a) "Child placing agency" or "agency" means an association, organization, or corporation receiving, caring for, or finding homes for orphans or deprived children who are under 16 years of age.

(b) "Division" means the division of health of the department of health and environment.

(c) "License" means a document issued by the secretary granting authority to an association, organization, or corporation to operate and maintain a child placing agency.

(d) "Secretary" means the secretary of the health and environment. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-171. Licensing procedures. (a) Any association, organization, or corporation desiring to conduct a child placing agency shall apply for a license on forms provided by the Kansas department of health and environment.

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant thereto and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. The license and any written exceptions granted by the secretary under K.A.R. 28-4-171(c) shall be posted as required by K.S.A. 65-504.

(c) Exceptions. (1) An exception to a regulation may be allowed by the Kansas department of health and environment if:

(A) The applicant requests an exception from the Kansas department of health and environment; and

(B) The secretary determines the exception to be in the best interests of families and children served by the agency.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(d) A copy of the "regulations for licensing child placing agencies" shall be kept on the premises at all times.

(e) The applicant or licensee shall notify the Kansas department of health and environment when service is discontinued. Resumption of agency services shall require a new application for license.

(f) An applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently to the right to appeal the denial or revocation to the district court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-172. Administration and personnel. (a) The agency shall develop a written statement of philosophy, purpose, program orientation, and policy of operation including the agency's position on disciplinary methods to be used by staff. Corporal punishment shall be prohibited. The statement shall contain long and short term goals and shall be available to the secretary or a designee of the secretary, and to the public. The agency, at the time of making initial application for a license, shall furnish the division the following:

(1) Evidence of a need for services to a particular group of children;

(2) A definition of the services to be provided in sufficient detail as to indicate the agency has an understanding of each particular service;

(3) A description of the geographical area it serves or intends to serve; and

(4) Evidence that its services will be used by referral sources.

(b) A child placing agency shall have a governing body which shall exercise authority over and have responsibility for the operation, policy, and practices of the child placing agency. The governing body shall select and employ a qualified executive director, who shall be responsible for the administration and operation of the child placing agency. The governing body shall have among its officers a secretary responsible for documenting its activities and for keeping attendance records and minutes of its meetings. These records and minutes shall be available for inspection by the division.

(c) The child placing agency shall prepare an annual report of the agency's activities. The report

shall include fiscal and statistical sections indicating the levels of income and expenditures, the size and types of staff and the number of clients serviced by each service program.

(d) The child placing agency shall demonstrate financial solvency to carry out its program for the licensing period. Agencies which have not operated shall have capital necessary for at least a 6 month period of operation. The agency shall prepare an annual budget. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements shall accompany the licensing application.

(e) The applicant or licensee shall maintain a current organizational table showing the administrative structure of the agency, including the lines of authority, responsibility, communications, and staff assignments. The table shall be provided to all staff members as a part of the orientation procedure and, on request, to the division, clients, or referral sources.

(f) Child placing agencies shall have written personnel policies and procedures and shall make them available to all staff members, persons seeking employment, and the division. Personnel policies and practices shall be developed by the agency, with input from the staff. These policies and procedures shall be reviewed annually, and revised when necessary. The child placing agency shall make the policies and procedures available to staff in a personnel policy manual.

(g) Each child placing agency shall provide the qualified staff necessary to ensure proper services to children in the agency's care, to biological and adoptive parents, and to foster parents. The child placing agency shall verify the personal qualifications of all employees through character references. Signed statements shall be made a condition of employment for prospective employees. These statements shall list any past or current police records, mental or physical actions, conditions, or addictions of the applicant that would adversely affect their capacity to work with children. The agency shall hire qualified professional staff, as follows:

(1) The executive director of a child placing agency, who shall have:

(A) A degree from an accredited college or university;

(B) Education and experience in administering a child placement or related program commensurate with the size and complexity of the agency;

(C) A thorough understanding of the philosophy, purpose, and policy of the agency; and

(D) The capacity to provide direction and leadership for the agency.

(2) Social service supervisory staff members responsible for the direct supervision of the social workers involved in child placement service, who shall have:

(A) A master's degree from an accredited college or university and be licensed as a social worker by the state of Kansas or shall have a graduate degree in a related area of human services;

(B) Two years of experience in child placement services;

(C) Ability to assume professional responsibility for reviewing the placement of children in out-of-home care when these placements are made by a person with lesser qualifications. There shall be written documentation of specific services provided by this person and the frequency of these services.

(3) Social workers performing intake services, direct services to foster children, homefinding, and assessment related to foster home and adoptive services, who shall have:

(A) A master's degree from an accredited college or university and be licensed as a social worker by the state of Kansas; or

(B) A bachelor's degree from an accredited college or university and be licensed as a social worker by the state of Kansas; or

(C) A bachelor's degree in behavioral sciences from an accredited college or university and 2 years of experience in child placement under direct supervision of a person meeting the supervisory requirements in subsection (g)(2).

(h) The child placing agency shall provide enough qualified personnel to assure that:

(1) Supervisors shall not supervise more than six social workers;

(2) In-service training related to child placement is made available to supplement supervision; and

(3) Casework staff carries caseloads which are sufficiently controlled to allow for all the necessary contacts with the family, children, foster families, adoptive families, and collateral parties.

(i) The agency shall, if it makes use of volunteers, develop a written plan for their orientation, training and use. The agency shall assign professional staff to supervise volunteers.

(j) The child placing agency shall have a personnel file for each employee which shall contain:

(1) The application for employment, resume, or both;

(2) Reference letters from former employer(s);

(3) Any required medical information;

(4) Applicable professional credentials or certifications;

(5) Periodical performance evaluations;

(6) Personnel actions, other appropriate materials, reports, and notes relating to the individual's employment with the agency; and

(7) Employee's starting and termination dates. The staff member shall have reasonable access to his or her file and shall be allowed to add any written statement he or she wishes to make to the file at any time. A child placing agency shall maintain the personnel file of an employee who leaves the agency for a period of 3 years. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-173. Facility. (a) Convenience of location. The agency shall be easily accessible to the clientele, staff, and community and shall have adequate parking available.

(b) Space requirements. The child placing agency shall provide suitable space for the following purposes:

(1) Office, reception areas, and visitation areas which insure comfort, privacy, and convenience of clients and staff and which are appropriately equipped for their intended use;

(2) Storage area for records which provides for systematic controlled access and retrieval, and which insures confidentiality.

(c) Equipment. Suitable equipment shall be maintained in good working condition. Telephones shall be conveniently located and sufficient in number. Equipment and furnishings shall be clean and designed for efficiency, safety, and varied use. When transportation is provided by the agency, it shall be in well-maintained vehicles. Car seats and car restraints shall be provided when the agency transports children. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-174. Social services related to child placing. (a) Intake requirements. A child placing agency shall have a written description of services offered and the criteria for service eligibility which shall include who is eligible for the services and what fees, if any, are charged. The statement of services and criteria shall be available in individual copies for distribution to clients and

to the public. A child placing agency shall document that social services to preserve the family unit have been provided to the family and child and alternatives to placement have been explored with them. The agency shall keep a record of all applications for services and the reasons for denial of services. The agency shall provide referral assistance to persons seeking services not provided by the agency.

(b) Intake procedures and practices. Upon referral or application, the agency shall assess the child's social and family history, the child's legal status, the strengths, resources, and needs of the child and his or her family, the role the child's parent or parents and other persons are to have during placement, and the identification of the specific needs of the child and family that warrant placement.

(c) Initial case plan. Upon completion of the intake assessment and before placement, except in cases of emergency, the agency shall develop a written service plan. The plan shall include:

(1) Selection and description of the type of placement appropriate to meet the child's needs;

(2) Projected duration of the placement;

(3) Preplacement activities with child and family;

(4) Specific treatment goals for child and family;

(5) Specific steps to accommodate each goal;

(6) Specific time frames for goals;

(7) Designation of responsibility for carrying out steps with child, parents, foster parent, adoptive parent(s), and court (when involved) including frequency of contacts;

(8) Date for first review of progress on steps and goals; and

(9) Description of the conditions under which the child shall be returned home or when proceedings for termination of parental rights should be initiated.

(d) Case plan development. The parents or other significant persons to the child as well as the child, appropriate to his or her age and understanding, shall participate in developing the placement plan and participate in service contracts or agreements. Before accepting a child for placement from a parent or custodian, the agency shall secure written authority to provide care and written authority for medical care. In emergency situations necessitating immediate placement, the agency shall initiate assessment and initial case

plan within one week of placement, which shall be completed within six weeks of placement.

(e) Supervision and review of the case plan. The agency shall specify in writing the worker or workers who have the ongoing responsibility for the child, the biological, foster and adoptive families, and the casework plan. When a child is placed with another agency or division or whenever more than one worker or division are involved with the same family, the roles shall be clearly delineated for the workers and the family members and the specific responsibilities necessary to carry out the plan shall be in writing in the case records. The case plan shall specify the frequency of social worker visits with the child, the child's family and the foster family, but these visits shall not be made less than once each month. The agency shall complete a quarterly review and assessment of the case plan and progress toward goal achievement. The agency shall have a periodic individual case review, either administrative or with outside agency personnel to ascertain whether children are being served in a prompt manner and whether return to home, continual placement, or adoption efforts are appropriate on the child's behalf.

(f) Placement services to parents. The agency's services shall be accessible and available to the parents of children in care and to an expectant parent or parents requesting services. The choice to use an agency's services shall be the parent's decision except when the choice has been taken from the parents by court order. The agency shall have as a goal helping the parents achieve positive self image and to carry out their parental roles and responsibilities while the child is in care. The agency shall have personal contacts with the parents when possible. It shall promote constructive contact by the parent or parents with the child after placement. The agency shall help the family have access to the services necessary to accomplish the case plan goals. While the child is in care, the agency shall counsel the parents relative to the problems and needs that brought about the circumstances of placement. Expectant parents considering placement shall receive assistance in the decision making process before the child is born and immediately thereafter.

(g) Selection of placement. The agency shall select the most appropriate form of placement for the child consistent with the needs of the child's family, including foster family care, residential group care or adoption. In choosing the appro-

priate placement for the child, the agency shall provide for any specialized services the child may need in the least restrictive setting and in the closest available program to the child's home, and shall take into consideration and preserve the child's racial, cultural, ethnic, and religious heritage to the extent possible without jeopardizing the child's right to care. The agency shall consider the child's treatment plan steps and goals and select a placement that has the capacity to assist in their achievement. The agency shall, in accordance with the case plan, provide the child with a continuity of relationships for the anticipated duration of care when selecting the placement.

(h) Preplacement preparation. The caseworker for the child shall become acquainted with the child before placement. The child's worker shall help the child understand the reasons for the placement plan, preparing him or her for a new environment. The worker shall plan and participate in at least one preplacement visit. The agency shall arrange a general medical examination by a physician for each child within a week of admission into care unless the child has received an examination within 30 days before admission. The results of this examination shall be recorded on forms supplied by the Kansas department of health and environment. The agency shall ensure that each child has had a dental examination by a dentist within 60 days of admission unless the child has been examined within 6 months before admission. Results of the examination shall be recorded on forms supplied by the Kansas department of health and environment.

(i) Services during care. The agency shall supervise the child in care and shall coordinate the planning and services to child and family as outlined in the case plan. The supervising worker shall see the child a minimum of biweekly in the first three months of placement and monthly thereafter. Parents and children shall be provided the opportunity to meet on a regular basis with the agency worker regarding their progress on resolving problems that may be precipitated by placement, their progress in coping with problems through the use of substitute care, the parent and child's relationship difficulties arising from separation, and case goals. The placing agency shall have a written agreement with the parents regarding visits to the child and shall facilitate and promote visitation while the child is in care. If the parents require services that the agency does not offer, referral shall be made to appropriate serv-

ices. Communication between the two agencies shall be on a regular planned basis. The agency shall provide for the child's specialized services as outlined in the case plan. The agency shall have documentation of maintaining clear working agreements with other community resources, confidential referrals and providing access to services necessary to meet goals in the case plan.

(j) Aftercare services. The agency shall provide for continuing services for children and families following an adoption or a child's return to the family from the placement. In the case of the disruption of an adoptive placement, the agency shall make plans, either through purchase of service or provision of foster care services, for continued care of the child until a permanent home has been secured. The agency shall offer supportive help to a family receiving a child into placement or giving up a child for placement for a minimum period of 6 months after the placement or relinquishment of the child. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982; amended May 1, 1983.)

28-4-175. Services in family foster home care. (a) Foster home finding. The agency shall have a recruitment process with designated staff and funding to reach out and inform the community about children needing foster homes. The agency shall provide information to prospective foster parents about foster care, the agency, the requirements for foster parents, the children needing foster care, licensing regulations, the licensing process and the reimbursement rates. The agency shall recruit foster parents who can respond to the agency's need to place specific children and be able to adjust their recruitment techniques as the kinds of children needing placement change.

(b) Application and study process. At the time of inquiry, the potential applicant(s) shall be provided the opportunity to state their own plan for child care. Before formal application, the agency's foster care program and the value and necessity of having a license shall be discussed. It shall be explained that a licensed agency or the Kansas department of social and rehabilitation services shall complete a study and make recommendations concerning the home's eligibility for licensure to the Kansas department of health and environment. If after discussion of the potential applicant(s) plan and the general requirements for licensing, the potential applicant(s) wishes to

proceed, the application forms shall be completed. The agency shall provide to prospective foster parents a copy of "regulations for licensing family foster homes" and an application form, both furnished by the Kansas department of health and environment. The application shall be completed, checked for accuracy, and countersigned by an agency representative.

(c) Social study. The agency shall, as a further part of the application process, conduct a social study of the foster family in their home. In conducting the study, the agency shall include at least one face-to-face interview with each member of the foster family. The agency shall assess the following areas and record the information in the foster parent(s) record:

- (1) Motivation for foster care;
- (2) Family's attitude toward foster children;
- (3) Family's attitude toward natural parent(s);
- (4) Adjustment of own children including school reports;
- (5) Child caring skills;
- (6) Strengths and weaknesses of each member of the household;
- (7) Type of children desired;
- (8) Type of children for whom placement with the family would not be appropriate; and
- (9) Recommendation for number, age, sex, characteristics, and special needs children best served by the family. Copies of the social study are to be made available to the applicant and to licensing representative(s) of the Kansas department of social and rehabilitation services. The placement of children shall be consistent with the assessment and recommendations of the social study, including assessment of subsequent placements.

(d) Services to foster parent(s).

(1) Orientation. The agency shall provide orientation to foster parents to acquaint them with the agency's policies and practices.

(2) Training. There shall be a training plan for all foster parents to receive not less than 6 hours of training yearly. Such training shall provide opportunities for the foster families to increase their skills and parenting ability particularly with respect to the differences they may encounter in raising children not their own. Training opportunities should be chosen from the following topics:

(A) Developmental needs of the child to be placed;

(B) Roles and relationships in foster care be-

tween the agency, foster parent, natural parent, and child;

(C) Child management and discipline techniques;

(D) Separation and the importance of the child's family;

(E) Importance of the child's continued communication and contact with his or her family;

(F) Supportive services available to the children and foster families from the community;

(G) Communication skills;

(H) Constructive problem solving;

(I) First aid and home safety; and

(J) Human sexuality.

(e) Agreement. The agency shall have a written agreement with each foster family which clearly delineates the responsibility of the foster family and the child placing agency.

(f) Annual evaluations. The agency shall schedule an annual on-site evaluation of the foster home to make an assessment of the care and progress of each foster child in the home. The results of the evaluation shall be on file in written form at the agency and a copy submitted to the foster parents.

(g) Foster care payments. The agency shall have a system by which reimbursement is made to foster parents for expenditures or fees for service that is timely and equitable. If either services or care is to be provided by a foster family as a donation to the agency, a written agreement between the agency and the family shall specify services which shall be provided free and services or costs to be assumed by the agency. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-176. Adoptive services. (a) Recruitment. The agency shall have a written recruitment plan which includes the methods of recruitment, sources to be used, time-related goals for applicant recruitment, and the designated staff and budget to carry it out. Recruitment shall be a continual process in the agency to meet the particular needs of the children available for adoption. The agency shall provide orientation to prospective adoptive parents to acquaint them with the agency's policies and practices and the approximate time the assessment will take, eligibility standards, types of children available and the availability of subsidy. The orientation shall also include a realistic assessment of the agency's need for adoptive homes.

(b) Application. The agency shall require prospective adoptive parents to submit an application before proceeding with adoption. The application form shall be designed to obtain information declaring their intent to become adoptive parents and basic data about their family, their home, their financial status, and references to initiate a home study. The agency shall, as a further part of the application, conduct a social study with the family in their home.

(c) Adoptive home study. The study process shall include a face-to-face interview with each member of the household. The agency shall have on file a written assessment of the adoptive home. The narrative shall assess the following areas of concern:

(1) Motivation for adoption;

(2) Family's attitude toward accepting an adoptive child, and plan for discussing adoption with the child;

(3) Emotional stability, physical health, and compatibility of adoptive parents;

(4) Ability to cope with problems, stress, frustrations, crises, and loss;

(5) Information on medical or health conditions which would effect the applicant's ability to parent a child;

(6) Record of convictions other than minor traffic violations;

(7) Ability to provide for child's physical and emotional needs;

(8) Adjustment of own children, if any, including school reports;

(9) Positive feelings about parenting an adoptive child;

(10) Capacity to give and receive affection;

(11) Types of children desired and kinds of handicaps accepted;

(12) Types of children who would not be appropriate for the placement with this family;

(13) References; and

(14) Recommendations for number, age, sex, characteristics, and special needs children best served by this family.

(d) Services to adoptive parents. The agency shall provide services to adoptive applicants individually or in groups to enable them to make an informed decision as to whether they can meet the specific needs of children awaiting adoption through participation in the adoptive study and evaluation of their potential for meeting the needs of the children available for adoption. The agency shall discuss potential children with the adopting

family and shall prepare the adoptive family for the placement of a particular child by anticipating the adjustments and problems that may arise during and after placement. The agency worker shall establish a time schedule for visits to the adoptive family after the placement of a child in order to be able to make clear recommendations for the finalization of the adoption. The agency services shall be available to the adoptive family after finalization of the adoption. The agency shall inform applicants when it has been decided that a child cannot be placed in their home. Services shall be offered to the applicants to assist them to adjust to this decision.

(e) Services to adoptees. Adoptive records shall be maintained by the agency after finalization. Records shall contain sufficient information to maintain the agency's capability to provide to adult adoptees information concerning the circumstances of their origins and their adoption. Copies of court documents shall be maintained indefinitely. In providing information to adult adoptees served by the agency, confidentiality of information obtained from biological families shall be respected. This information may be released only in compliance with state law and orders of a court of competent jurisdiction. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-177. Services in residential group care. (a) Selection of the appropriate group care facility. The agency shall place a child, or refer a child for placement, only in a licensed group care facility. The selection of the most appropriate facility for a child shall be based upon the following considerations:

(1) The child's particular level of development, and the child's social and emotional problems that can be benefited through group living experiences;

(2) The child's relationship to parents and the family situation in relation to location and willingness to participate; and

(3) The particular treatment plan and team approach that the licensed group care facility can make available. A statement of why a particular selection was made, which discusses these factors, shall be in the case record.

(b) Placement agreement. There shall be a clearly written agreement between the placing agency and the residential group care facility, if separate agencies, which clarifies the following:

(1) The amount and frequency of contact the agency shall have with the child and the residential facility for supervision purposes;

(2) The extent to which the agency is to participate in ongoing evaluation of the child's needs and progress;

(3) How the agency is to work with the child's parents;

(4) When the agency will have access to information on the child's care and development;

(5) Visiting plans for child's parents and family members;

(6) Parental participation in case planning;

(7) Reporting mechanisms to be used between the agency and the residential facility while the child is in care;

(8) The financial plan in regard to cost of care;

(9) The conditions under which the child will be discharged from the program; and

(10) Designation of responsibility for aftercare services. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-178. Services to young parents. (a) Admission. The agency shall describe the services it makes available to parent(s) who are under 18 years of age and who are interested in placing their child. The statement of services and criteria for service eligibility shall be made available to the public.

(b) Services to parents. The agency shall offer counseling to the parents of young parents applying to the agency for services.

(c) Medical services. The agency shall assist in procuring the medical services needed by the pregnant young woman. Medical services and care shall be coordinated by the agency; shall be based on the inter-relationship of physical, social, environmental, and spiritual factors; and shall insure confidentiality for the parent(s) if requested or required. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-179. Case records. (a) The agency shall maintain case records in a manner that is uniform, detailed, well written, and organized. Records shall be current and be made available for inspection by the division. The agency shall show in their case records the following:

(1) Continuity of service plan;

(2) Documentation of the work of the agency; and

(3) Summaries and assessments of changes affecting the client and changes in the service delivery process.

(b) Foster home records. The agency shall keep separate records for each foster home. The record shall be started at the time of application. The foster home record shall contain:

- (1) The application;
- (2) Home study;
- (3) Medical reports;
- (4) Summary narrative containing the dates as well as the content material from the worker's contacts;
- (5) References;
- (6) Yearly evaluation of strengths and weaknesses of the foster family and assessment of the best way to maximize the foster care experience for the foster family and the children placed with them. This evaluation shall be reviewed with the foster family;
- (7) Yearly relicensing recommendation study and forms connected with it; and
- (8) Placement history of the foster home, children placed, dates admitted and discharged, and pertinent narrative information about the interaction and relationships within the foster family.

(c) Adoptive home records. The agency shall keep separate records for each prospective and actual adoptive family. The adoptive home record shall contain:

- (1) The application;
- (2) The adoptive home study;
- (3) Medical reports;
- (4) References;
- (5) A copy of the information given to the parents concerning the child;
- (6) All legal documents pertaining to the adoption;
- (7) Summary narrative on the pre-placement and post-placement contacts with the family and the adopted child;
- (8) A narrative which clearly indicates the reason(s) a family was not accepted or did not have a child placed; and
- (9) After placement, a statement of plans for follow-up services to the child in placement and to the adoptive family.

(d) Child's records upon placement. The agency shall maintain individual records for each child placed in a foster or adoptive home which shall include:

- (1) The name, sex, race, birth date, and birth place of the child;

(2) Name, address, telephone number, and marital status of parent or guardian of the child;

- (3) All legal documents and court status;
- (4) Medical history, cumulative health record, and psychological and psychiatric reports;
- (5) Social history of the family and parent background clearly and fully stated to provide an informational tool for all subsequent workers;
- (6) Summary narrative which reflects the dates of contact, initial assessments and case plan, and contact material of worker's visits;

(7) The circumstances precipitating the decision to place a child, the agency's involvement with the parents, including services offered, delivered or rejected. If placement is court ordered, the case record shall contain the court papers, summaries, and required court reports during placement;

- (8) Educational records and reports;
- (9) Summary of case review conference which reflects the contacts with and status of all family members in relation to the placement plan as well as the achievements or changes in the goals;

(10) Summary of the administrative or outside case review on the progress of each child toward determined goals;

(11) Summary and narrative regarding the child's contacts with the family. The material should reflect the quality of the relationships as well as the way the child is coping with them; and

(12) Copy of interstate compact forms, if applicable.

(e) Child's records upon discharge. Upon discharge, the following shall be placed in the child's case record:

(1) Date of discharge, reason for discharge, and the name, telephone number, address, and relationship of the person or agency to whom the child was discharged;

(2) A discharge summary containing services provided during care, growth and accomplishments and assessed needs which remain to be met with the service possibilities which might meet those needs; and

(3) Aftercare plans.

(f) Reports to the division. The agency shall provide written notification to the division of change of address of legal office. The agency shall provide statistical data to the division when requested for public information, research, or planning purposes. (Authorized by K.S.A. 65-508; im-

plementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-180 to 28-4-184. Reserved.

CHILD CARE RESOURCE AND REFERRAL AGENCIES

28-4-185. Definitions. (a) “Day care referral agency” means an association, organization, individual, or corporation receiving, caring for, and finding homes for children needing day care who are under 16 years of age.

(b) “Division” means the division of health of the department of health and environment.

(c) “License” means a document issued by the secretary granting authority to an association, organization, individual, or corporation to operate and maintain a day care referral agency.

(d) “Secretary” means the secretary of the health and environment. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-186. Licensing procedures. (a) Any association, organization, individual, or corporation desiring to conduct a day care referral service shall apply for a day care referral agency license on forms provided by the Kansas department of health and environment.

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant thereto and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. The license and any written exceptions granted by the secretary under K.A.R. 28-4-171(c) shall be posted as required by K.S.A. 65-504.

(c) Exceptions. (1) An exception to a regulation may be allowed by the Kansas department of health and environment if:

(A) The applicant requests an exception from the Kansas department of health and environment; and

(B) The secretary determines the exception to be in the best interests of families and children served by the agency.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(d) A copy of the “regulations for licensing day

care referral services” shall be kept on the premises at all times.

(e) The applicant or licensee shall notify the division when service is discontinued. Resumption of referral services shall require a new application for license.

(f) An applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently to the right to appeal the denial or revocation to the district court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-187. Administration. (a) Organization. Each day care referral agency shall have a clearly designated individual or governing body which shall exercise authority over and have responsibility for the operation, policies, and practices of the day care referral agency.

(b) Insurance. Each day care referral agency shall carry liability insurance and accident insurance of not less than \$100,000 per occurrence.

(c) Services.

(1) Each day care referral agency shall have a written description of the day care referral services to be offered to children and their families. The statement of services shall be available in individual copies for distribution to clients and to the public.

(2) Any advertisements shall conform to the written statement of services.

(3) Each day care referral agency shall notify the division of any changes in the designated authority or services offered:

(4) Referrals shall be made only to child care facilities which have a temporary permit, a license, or a certificate of registration issued by the secretary of the department of health and environment.

(5) The following referral records shall be maintained for a period of one year and shall be available for review by licensing staff:

(A) Date of inquiry;

(B) name of person requesting referral; and

(C) disposition of request.

(d) Personnel.

(1) Staffing patterns.

(A) Each day care referral agency that operates child care facilities shall maintain a separate direct child care staff.

(B) Day care referral staff shall not be counted

in determining child/staff ratios in any other licensed or registered child care facility.

(2) Records. A personnel record shall be maintained for each day care referral service staff member. The record shall include: job descriptions, medical records, and a record of training and experience. Each staff member shall have reasonable access to that staff member's file and shall be allowed to add any written statement that staff member wishes to make to the file at any time.

(3) Staff qualifications. Day care referral agencies shall have at least one staff member who meets the following requirements:

- (A) Knowledge of the needs of young children;
- (B) Human relations skills to relate to the providers, parents and community; and
- (C) Training or experience in administrative skills such as budgeting, bookkeeping, and recordkeeping.

(4) Volunteers. The agency shall, if it makes use of volunteers, develop a written plan for their orientation, training, and use. The agency shall assign a staff person to supervise volunteers.

(5) Substitute care.

(A) Day care referral agencies shall not move children from one child care provider to another or knowingly assist in the relocation of children without establishing, with the provider, a means of informing each child's parent or parents.

(B) If the need for substitute care is known in advance, parents shall be given notification of names, addresses, and telephone numbers of substitute providers and shall make their own substitute care arrangements.

(C) Emergency permission forms and health assessment forms shall accompany the child to the substitute care.

(D) The agency shall report to the department the name, address and birthdate of each new staff person hired, each new person living in the facility, and each new volunteer recruited during the license year. This report shall be filed within two weeks of the time the person begins to reside, work or volunteer in the facility. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987.)

28-4-188. Health policies for staff. (a) Before employment, all staff who have contact with the children shall submit, on a form supplied by the division, a certificate of health signed by a licensed physician or nurse approved to perform

health assessments. The certificate shall include certification that the person is free from tuberculosis as established by a chest x-ray or negative tuberculin skin test administered within 2 years of the date of employment.

(b) Substitutes and volunteers, before participating in any program operated by the day care referral agency, shall present a written statement of freedom from active tuberculosis signed by a licensed physician or nurse approved to perform health assessments. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-189. Transportation. Any day care referral agency that provides transportation as a part of the day care referral service shall meet the following requirements:

(a) When children are transported, the driver shall be 18 years of age or older, and shall hold an operator's license of a type appropriate for the vehicle being used.

(b) Each transporting vehicle shall be in safe operating condition. The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, signal lights, steering, suspension, glass, brakes, and tail-lights. A record of the date of the annual safety checks and corrections made shall be kept on file at the facility or in the vehicle.

(c) Children shall not be transported in campers, vehicle-drawn recreation vehicles or in the back of a truck.

(d) Each vehicle shall be covered by accident and liability insurance as required by K.S.A. 40-3104 and 40-3118 and any amendments thereof.

(e) Emergency release forms and health assessment records, as specified in K.A.R. 28-4-118(a) and 28-4-119(c), shall be carried in the vehicle when children are transported. A first aid kit shall be available.

(f) The safety of the children riding in the vehicle shall be protected as follows:

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

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

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

- (i) a shield-type device;
- (ii) a car seat facing the front that is designed to hold a child weighing up to 40 pounds; or

(iii) a safety harness.

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

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

(E) School-type buses transporting school-age children shall not be required to be equipped with individual restraints.

(2) All doors shall be locked while the vehicle is in motion.

(3) Discipline shall be maintained at all times.

(4) All parts of the child's body shall remain inside the vehicle at all times.

(5) Children shall not enter or exit from the vehicle into a lane of traffic.

(6) Children shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the provider shall make certain no child is left in the vehicle.

(7) Smoking in the vehicle shall be prohibited while children are being transported. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982; amended May 1, 1984; amended May 1, 1985.)

28-4-190 to 28-4-199. Reserved.

CHILD CARE CENTERS FOR CHILDREN

28-4-200. (Authorized by and implementing K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; amended, T-83-24, Aug. 25, 1982; revoked May 1, 1983.)

28-4-201 and 28-4-202. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; revoked May 1, 1983.)

28-4-203. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-504, 65-505, 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; amended, T-83-24, Aug. 25, 1982; revoked May 1, 1983.)

28-4-204. (Authorized by K.S.A. 65-501, 65-504; effective Jan. 1, 1973; amended May 1, 1975; revoked May 1, 1983.)

28-4-205 to 28-4-208. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended

May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; revoked May 1, 1983.)

28-4-209. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1983.)

28-4-210. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-504, 65-505, 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; amended, T-83-24, Aug. 25, 1982; revoked May 1, 1983.)

28-4-211. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; revoked May 1, 1983.)

28-4-212. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; modified, HCR No. 5019, May 1, 1981; revoked May 1, 1983.)

28-4-213. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; amended, T-83-27, Sept. 22, 1982; revoked May 1, 1983.)

28-4-214 to 28-4-216. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; revoked May 1, 1983.)

28-4-217. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1979; revoked May 1, 1983.)

28-4-218. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; revoked May 1, 1983.)

28-4-219 and 28-4-220. (Authorized by K.S.A. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1983.)

28-4-221. (Authorized by K.S.A. 1978 Supp. 65-508; effective Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1979.)

28-4-222 to 28-4-249. Reserved.

GROUP BOARDING HOMES FOR CHILDREN AND YOUTH

28-4-250. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975;

effective May 1, 1976; T-86-46, Dec. 18, 1985; revoked May 1, 1986.)

28-4-251. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-508, K.S.A. 1982 Supp. 65-504, 65-505; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended, T-83-24, Aug. 25, 1982; amended May 1, 1983; revoked May 1, 1986.)

28-4-252. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-253. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-254 and 28-4-255. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-256 and 28-4-257. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-258 to 28-4-261. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-262. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-263. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-264. (Authorized by K.S.A. 1978 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended May 1, 1979; revoked May 1, 1986.)

28-4-265 and 28-4-266. (Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked May 1, 1986.)

28-4-267. Revocation of present regulations. The following present regulations as published in the Kansas administrative regulations are being replaced, so are hereby revoked:

General regulations 28-4-1 through 28-4-7.

Regulations for group boarding homes for children 28-4-135 through 28-4-148.

Regulations for maternity homes and clinics 28-4-56 through 28-4-71.

(Authorized by K.S.A. 1975 Supp. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976.)

GROUP BOARDING HOMES AND RESIDENTIAL CENTERS FOR CHILDREN AND YOUTH

28-4-268. Definitions. (a) "Basement" means each area with a floor level more than 30 inches below ground level on all four sides.

(b) "Child" means each individual under 16 years of age.

(c) "Corporal punishment" means each activity directed toward modifying a child's behavior by means of adverse physical contact such as spanking with the hand or an implement, slapping, swatting, pulling hair, or any similar activity.

(d) "Developmental disability" means any physical, emotional, or mental disability which constitutes a substantial handicap to the individual as defined in public law 91-517.

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

(f) "Emergency care" means residential care not to exceed 30 days.

(g) "Emergency shelter" means residential care and protection not to exceed 30 days.

(h) "Facility" means a group boarding home or residential center that provides residential care.

(i) "Group boarding home" means a non-secure facility providing residential care for not less than five nor more than ten persons unrelated to the caregivers, and includes emergency shelters and maternity homes.

(j) "Isolation" means removal of a resident from other residents to a separate locked room or quarters.

(k) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain a group boarding home or residential center.

(l) "Living unit" means a group of residents living together as an established unit within a residential center.

(m) "Maternity care" means residential care which includes services to women during pregnancy.

(n) "Maternity home" means a facility whose primary function is to provide services to women during pregnancy.

(o) "Non-secure facility" means a facility which provides the resident access to the surrounding community.

(p) "Placing agent" means the person, social agency or court possessing the legal right to place a child.

(q) "Program" means the comprehensive and coordinated sets of activities and services providing for the care, protection and development of the residents.

(r) "Resident" means any child, youth or pregnant woman accepted for care in the residential facility.

(s) "Residential care" means 24-hour care.

(t) "Residential center" means a non-secure facility which provides residential care for more than 10 residents unrelated to the caregivers, and includes emergency shelters and maternity homes.

(u) "Temporary care" means residential care not to exceed 90 days. (Authorized by and implementing K.S.A. 65-508; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986.)

28-4-269. Licensing procedures. (a) A person shall not conduct a group boarding home or residential center for children under 16 years of age unless a license is issued by the secretary.

(b) Each person desiring to conduct a group boarding home or residential center shall submit the following:

(1) An application for a license, which shall be submitted on forms supplied by the department; and

(2) the license fee as specified in K.S.A. 65-505, and amendments thereto.

(c) A license shall not be issued until all of the following information is submitted:

(1) A written proposal that details the following:

(A) The purpose of the facility;

(B) the administration plan for the program, including an organizational chart;

(C) the financing plan for the program;

(D) staffing for the program, including job descriptions;

(E) the services to be offered, including the number, age range, and sex of residents to be served; and

(F) admission criteria and a description of the

level of care to be provided to the residents through either of the following:

(i) Direct services; or

(ii) agreements with specified community resources;

(2) a copy of the written notification provided to the school district where the facility is located, including the following:

(A) The anticipated opening date;

(B) the number, age range, and anticipated special education needs of the residents to be served; and

(C) a request for educational services or a request for approval of proposed alternative formal schooling to be provided by the facility as required by K.A.R. 28-4-274(d);

(3) documentation that the notification required by paragraph (c)(2) was received by the school district at least 90 days before the planned opening date;

(4) floor plans for each building to be used as a group boarding home or residential center; and

(5) documentation of the state fire marshal's approval.

(d) The proposal required by paragraph (c)(1) shall be approved by the secretary before a license is issued.

(e) A license shall be issued by the secretary if the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and the regulations promulgated pursuant to those statutes, and has made full payment of the license fee.

(f) Each licensee shall notify the secretary and obtain written approval from the secretary before making any change in any of the following:

(1) The admission criteria;

(2) the use of the buildings; or

(3) the program, including the level of care provided through either of the following:

(A) Direct services; or

(B) agreements with specified community resources.

(g) the notification of a proposed change in the program, the admission criteria, or the level of care of the residents shall include the following:

(1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(2) documentation that the notification required in paragraph (g)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.

(h) Renewals. Each licensee who wishes to renew the license shall apply for renewal of the license annually on forms supplied by the department and shall submit the fee as specified in K.S.A. 65-505, and amendments thereto.

(i) Request to withdraw an application or terminate a license.

(1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and a new fee shall be required before opening a facility. No applicant shall admit a child before the applicant receives a license.

(2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the facility is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a new license. That person shall not reopen the facility or admit any child before receiving a new license.

(j) A new application and fee shall be submitted for each change of ownership, sponsorship, or location.

(k) Grievance procedures.

(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to request an administrative hearing by the secretary and subsequently of the right of appeal to the district court.

(2) If an applicant or licensee disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or licensee may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or licensee, the applicant or licensee may submit a written request to the secretary for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant or licensee believes that the finding should be changed. This request shall be made to the secretary within 10 days after receiving the explanation.

(l) Exceptions.

(1) An applicant or a licensee may submit a

written request for an exception to a regulation to the secretary. An exception may be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.

(2) Each licensee shall post with the license the written notice from the secretary stating the nature and duration of the exception.

(m) Amended license.

(1) Each licensee shall submit a request for an amended license and a \$35.00 fee to the secretary if the licensee desires to make any change in any of the following:

(A) The license capacity;

(B) the age of children to be served; or

(C) the living units.

(2) Each request for a change in the license capacity or the age range of children to be served shall include the following:

(A) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(B) documentation that the notification required by paragraph (m)(2)(A) was received by the school district at least 90 days before the anticipated date of any proposed change.

(3) The licensee shall make no change unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the prior license shall no longer be in effect.

(n) Waiver of 90-day notification to the local school district. The 90-day notification to the local school district may be waived by the secretary upon receipt of a written agreement by the local school district.

This regulation shall be effective on and after July 30, 2002. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, and 65-508; effective May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

28-4-270. Terms of license. (a) The maximum number and age range of residents who may be cared for in each facility shall be specified on the license.

(b) Each facility license issued shall be valid only for the firm, corporation or association and the address appearing on the license.

(c) The license does not give permission for placement of children.

(d) Activities which would interfere with the care of the residents shall not be carried out in the facility by child care personnel.

(e) Advertisements shall conform to the statement of services as given on the application. Claims for specialized services shall not be made unless the facility is staffed and equipped to offer the services, or arrangements have been made for services as outlined in K.A.R. 28-4-271(e)(4). A general claim of "state approval" shall not be made unless the facility has obtained a license issued by the Kansas department of health and environment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-271. Administration. (a) Organization. The facility shall have plans and policies of organization and administration clearly defining legal responsibility, administrative authority and responsibility for comprehensive services. Changes in policies shall be submitted to the appropriate agency for licensing approval.

(b) Finances.

(1) The facility shall have sound and sufficient finances to insure licensing compliance and effective services. A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations.

(2) The facility shall be covered by liability and casualty insurance.

(3) Residents' personal money shall be kept separate from the facility's funds and individual accounts shall be kept.

(4) Residents shall not be exploited in campaigns or publicity efforts to raise funds.

(5) Solicitation of funds by charitable organizations shall be made in Kansas only after compliance with K.S.A. 17-1740.

(c) Personnel policies.

(1) The facility shall have written personnel policies and operating practices which shall be made available to its staff members. The various services of the facility and the duties and responsibilities of each staff member shall be clearly defined and followed.

(2) A personnel record shall be maintained on each staff member and made available to the staff member on request.

(d) Child care personnel.

(1) The facility shall have an administrator

whose responsibility is administration of the program.

(2) There shall be adequate staff 18 years of age and older to supervise the residents at all times, and to provide for their physical, social, emotional and educational needs. There shall be an additional adult available in case of emergency.

(3) Each facility shall have a minimum of one child care staff member on duty and available for every seven residents during waking hours and a minimum of one for every ten during sleeping hours. When residents are on the premises at least one staff member shall be physically present. Children of the staff shall be included in the ratio if living in the facility.

(4) Child care personnel shall be provided for the relief of regular staff.

(5) Substitute staff shall be available to work in case of illness or emergency of regular or relief staff.

(e) Staff qualifications.

(1) Administrator. The administrator shall have previous administrative experience and shall have a working knowledge of child development principles.

(A) Each administrator of a residential center shall have at least a bachelor's degree.

(B) Each administrator of a group boarding home shall have at least a high school diploma, or its equivalent.

(C) Each administrator shall be familiar with statutes and regulations governing group boarding homes or residential centers.

(2) Child care staff.

(A) Child care staff with direct responsibility for the residents shall have at least a high school diploma or its equivalent.

(B) Child care staff shall practice accepted methods of child care.

(C) Child care staff shall have a working knowledge of all agency policies and procedures and of the current status of residents.

(3) Relief staff.

(A) Relief staff shall practice accepted methods of child care.

(B) Relief staff with direct responsibility for the residents shall have at least a high school diploma or its equivalent.

(4) Substitute staff shall practice accepted methods of child care.

(5) Child care personnel including substitute staff, shall have a working knowledge of policies

and procedures relative to discipline, child abuse reporting and health.

(6) Child care personnel, excluding substitute staff, shall attend a minimum of 18 hours of training annually, to improve their knowledge, understanding and practice of child development principles.

(7) Food service staff shall:

(A) Have a knowledge of nutritional needs of children and youth;

(B) understand quantity food preparation and service;

(C) practice sanitary methods of food handling and storage;

(D) be sensitive to individual, cultural and religious food preferences of the residents; and

(E) be willing to work with the administrator in planning learning experiences for the residents relative to nutrition.

(8) Consultant services. The facility shall arrange for consultation by social workers, physicians, psychologists, psychiatrists, teachers, nurses, speech therapists and other consultants as required to meet the needs of the residents served. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987.)

28-4-272. Records. (a) Resident's records.

(1) A report of residents in care shall be submitted quarterly to the Kansas department of social and rehabilitation services on forms supplied by the Kansas department of health and environment.

(2) An individual record shall be kept on each resident. Each record shall include:

(A) Date of admission and discharge;

(B) a health assessment record, an immunization record and a dental record on forms supplied by the Kansas department of health and environment;

(C) consent for emergency medical treatment signed by a parent or legal guardian or other person authorized by statute to consent as custodian; and

(D) each accident report.

(3) Each facility providing treatment or social service programs shall have a social service record for each resident. The record shall include a treatment plan and progress report made every three months.

(4) There shall not be disclosure of confidential records or information regarding the resident.

(5) Each facility providing emergency care shall be exempt from K.A.R. 28-4-272(a)(2) and (3).

(b) Staff records. A file shall be kept at the administrative office for each employee. Duplicate health certificates shall be on file at the facility. The file shall include:

(1) Terms of employment;

(2) education and experience;

(3) health certificates;

(4) work references; and

(5) a statement signed by the employee that the employee has read the following documents and agrees to abide by them:

(A) Discipline policies;

(B) child abuse reporting policies; and

(C) health policies. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-273. Admission policies. (a) Written admission policies shall be prepared by the applicant in accordance with goals and purposes of the facility. The policies shall include a nondiscrimination statement.

(b) Children under three years of age shall be given care in a residential facility only as follows:

(1) To provide emergency care for not more than 30 days; or

(2) To keep siblings together for a maximum of 90 days.

(c) Any facility not specifically designed to serve developmentally disabled persons shall admit residents with special problems only as follows:

(1) Any person with mild development disabilities shall be enrolled at the discretion of the licensee.

(2) Any person showing significant developmental disabilities, including severe mental retardation, emotional disturbance or physical handicap, shall be enrolled at the discretion of the licensee following a developmental evaluation of the person and approval from the Kansas department of health and environment and the Kansas state department of social and rehabilitation services.

(d) Any child or youth who requires long term nursing care shall not be kept in the facility.

(e) Placement agreements between placing agent and facility.

(1) The goal of residential placement shall be to return the resident to the resident's home when such a placement is in the resident's best interest.

(2) There shall be a written policy regarding the facility's responsibility to the resident's family while the resident is in placement.

(3) There shall be a written agreement at the time of placement between the placing agent and the facility setting forth the terms of placement and removal with the understanding that the person or agency having custody shall retain the right to withdraw the resident. Parental rights and responsibilities shall be clearly defined.

(4) Written visitation and communication policies shall be available to all residents, parents, legal guardians, and legal representatives.

(5) The placing agency or other person responsible under the law for the care and custody of each resident shall make arrangements at the time of placement for the financial responsibility for services of the facility and for necessary specialized services.

(6) Acceptance of out-of-state residents shall be made according to Kansas laws and interstate compact procedures.

(7) Any facility shall not accept legal guardianship of a child unless the facility is licensed as a child placing agency. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-274. Services. (a) Services shall be provided in accordance with the stated purpose and goals of the facility.

(b) Social services. Treatment and social service facilities shall have a specific plan for the provision of social services for each resident in care. These services shall be provided by a private or public social agency or through a licensed social worker on the facility staff.

(c) Discipline.

(1) Each resident shall be treated as a member of the group during the period of care, sharing privileges and duties of the household according to age and capacity, and receiving care and training according to special abilities and limitations.

(2) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the residents. Residents shall not be permitted to discipline other residents.

(3) Prohibited punishment. Punishment or a threat of punishment which is humiliating, frightening or physically harmful to the resident shall be prohibited. Prohibited methods of punishment include:

(A) Corporal punishment;

(B) verbal abuse or derogatory remarks about the child or the child's family;

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

(D) withholding or forcing foods; or

(E) isolation.

(4) Facilities with isolation policies approved by the department of social and rehabilitation services shall be exempt from K.A.R. 28-4-274(c)(3)(E).

(d) Education. Each resident shall be helped to secure the maximum amount of education of which they are capable and be provided the optimum conditions under which they can receive the greatest benefit from the school experience. Alternative formal schooling provided by the facility shall have received approval by the local school district or the Kansas state department of education.

(e) Religion. Each resident shall be allowed to participate in religious worship.

(f) Work experiences.

(1) Whenever possible, residents shall have an opportunity to earn and manage money by working either at the facility or in the community. They shall not be used as substitutes for regular staff.

(2) Vacation, after school, and other jobs shall be permitted with the administrator's approval.

(3) Hazardous work experiences shall not be allowed. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-275. Health care. (a) General health policies.

(1) Smoking shall be confined to designated smoking areas in the facility.

(2) Alcohol or non-prescribed controlled substances, as defined in K.S.A. 65-4101 and any amendments to it, shall not be consumed by any resident, by any staff person while on duty, or by any staff person in the presence of residents.

(b)(1) The licensee, in consultation with a physician or community health nurse, shall develop written policies for implementing the health program in the following areas:

(A) Health examination for residents and staff;

(B) continuing health care;

(C) dental examination and follow-up dental care;

(D) corrections of medical problems;

(E) special examinations such as vision, hearing and neurological exams;

(F) care of minor illness including use of non-prescription drugs; and

(G) consultation for the individual child when indicated.

(2) (A) Use of sharp or dangerous instruments and tools by residents shall be supervised by staff.

(B) Firearms and ammunition, and household poisons and other hazardous substances shall be in locked storage.

(C) Internal and external medications shall be in separate locked storage in a supervised location.

(3) Each prescription medicine shall have the name of the individual recipient and the physician, and shall show the dosage and time. A record shall be kept in the resident's file as to who gave the medication and when it was given. Each unused or expired medication shall be safely discarded.

(4) Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(c) Physical health of residents and children of staff.

(1) Physical health.

(A) A health assessment for each resident and for each child of a staff member shall be obtained within six months prior to or not more than 30 days after admission of the resident or employment of the parent. The assessment shall be conducted by a licensed physician or by a nurse approved by the Kansas department of health and environment to conduct the assessment.

(B) Health assessments shall be required annually for residents to age six and every three years for residents over the age of six. Results of the health assessment shall be recorded on forms supplied by the Kansas department of health and environment.

(C) Each person under 16 years of age who lives in the facility shall have current immunizations according to the schedule recommended by the center for disease control.

(2) Health care.

(A) A current health record shall be kept for each resident. The record shall include pertinent information about health status, developmental progress, and special needs, with appropriate plans to meet these needs.

(B) The staff shall update the health information as determined by the program's specific health policies and use the information as a basis for review and evaluation of the resident's health status.

(3) Residents in emergency care shall be exempt from K.A.R. 28-4-275(c)(1) and (2).

(4) Each child care staff member shall be trained in observation of symptoms of illness, in elementary principles of first aid, and accident prevention.

(5) The staff of the facility shall obtain immediate medical treatment for any resident who is seriously injured or ill, and shall notify the placing agent, the parent, as dictated by the care plan, and the local health department of the injury or illness as soon as possible.

(6) Staff members, as required by law, shall report any evidence of suspected child abuse or neglect of residents to the Kansas state department of social and rehabilitation services, or the appropriate law enforcement agency when Kansas state department of social and rehabilitation services offices are closed.

(d) Dental health of residents.

(1) A pre-admission dental examination obtained within a year prior to or within 60 days after admission shall be required for each resident except residents in emergency care.

(2) Follow-up dental correction shall be provided, and shall be noted in the resident's file.

(3) The facility staff shall develop plans for dental health education and supervise the residents in the practice of good oral hygiene. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended May 1, 1987.)

28-4-276. Mental health policies. (a) The residential program shall supplement and support the family-child relationship.

(b) The views of the parents, the resident, and the placing agency, concerning factors important to them in the emotional development of the resident, shall be considered by the staff in the services provided.

(c) The cultural heritage of the resident shall be recognized and respected.

(d) Mental health concepts, as an integral aspect of total child development, shall be included in staff training and in parent-child conferences. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-277. Environmental standards. (a) General requirements.

(1) Community resources, such as schools, churches, recreational and health services, police protection and fire protection from an organized fire department, shall be available to the facility.

(2) The building shall meet the legal requirements of the community as to building codes, zoning, and fire protection. Where local fire regulations do not exist, fire safety approval shall be obtained from the state fire marshal.

(3) Plans for constructing a proposed building or for any major addition or alteration shall be the responsibility of a licensed architect.

(A) New buildings. Preliminary plans and outline specifications including plot plans shall be submitted to the Kansas department of health and environment for review prior to commencing construction.

(B) Additions or alterations. A written statement defining the proposed use of the construction shall accompany the plans and specifications. The statement shall be submitted to the Kansas department of health and environment for review prior to beginning construction.

(4) If construction is not commenced within the year, plans and proposals shall be resubmitted to the department before proposed construction begins.

(b) Premises.

(1) There shall be sufficient outside play space available as determined by the number and ages of residents.

(2) The outdoor play area shall be free of physical hazards including bodies of water, ravines, and drainage ditches.

(3) Playground equipment, such as climbing apparatus, slides and swings, shall be provided as appropriate for the age of residents, and shall be firmly anchored. A hard-surfaced area or gravel shall not be used under anchored play equipment.

(4) Each facility shall develop a written maintenance policy which shall be followed. The facility and outside area shall be maintained in good condition and shall be clean at all times, free from accumulated dirt, trash, vermin and rodent infestation. Garbage and outdoor trash containers shall be covered. Contents of outdoor containers shall be removed at least weekly.

(5) The structure of the facility shall be large enough to house the number of residents for which the facility was planned, the staff, substitute staff and children of the staff who are to live in it.

(6) Living rooms and indoor play space shall have proper heating, cooling, lighting and ventilation. There shall be adequate space for recreation and study.

(7) All quarters occupied by the residents shall have lighting of a minimum of 20 foot candles in

all parts of the room. There shall be lighting of a minimum of 35 foot candles in areas used for reading, study or other close work.

(8) There shall be a telephone located in each facility and readily available.

(9) Windows and doors shall be screened as needed unless areas are air conditioned.

(10) Low windows and glass doors which present a hazard to children shall be effectively screened and guarded.

(11) All stairs shall be provided with sturdy handrails.

(12) The facility shall contain adequate central storage for household supplies, bedding, linen, out-of-season clothing, luggage and play equipment in addition to adequate closet and storage space in bedrooms for the residents and child care staff.

(13)(A) Asbestos shall not be used in new or remodeling construction.

(B) If friable asbestos is present, it shall be covered and sealed so as to provide a protective barrier between the asbestos and the occupants of the building.

(14) Floors shall be smooth, free from cracks, and easily cleanable. They shall not be slippery. Floor covering for living quarters shall be required over concrete slabs in contact with the ground.

(15) Walls shall be smooth, easily cleanable and in sound condition.

(16) Electrical outlets within the reach of children under six years shall be covered with safety devices.

(17) Appropriate physical facilities, equipment and furnishings shall be provided.

(18) Care for children with handicapping conditions. Care for non-ambulatory children shall be provided on the ground floor. All exits and steps shall have ramps properly equipped with cross-treads. Each ramp shall have an incline of no more than two inches to the foot.

(c) Sleeping facilities.

(1) Sleeping facilities shall be limited to first and second floors. The minimum square footage of floor space exclusive of built in furniture, storage space or closets shall be 80 square feet per person in single rooms and an average of not less than 60 square feet per person in rooms accommodating more than one person. Minimum ceiling height shall be 7' 8" over 90% of the room area.

(2) Each sleeping room shall be an outside

room with operable windows, and shall be well-ventilated, adequately lighted, and appropriately heated or cooled.

(3) A separate bed with level flat mattress in good condition and adequate bedding shall be provided for each resident.

(4) Children of staff who reside in the center shall have separate sleeping areas if sex or age is different from that of residents.

(d) Water supply.

(1) The water supply shall be from a source approved and certified by the county health officer and shall be under pressure. Water coming into the premises shall come from a public or municipal source, or from a private water supply which has been investigated and approved by the responsible health authorities. The plumbing shall have been installed according to local or state plumbing codes.

(2) Sanitary drinking facilities shall be provided for the residents. The following methods are acceptable:

(A) Disposable cups and an appropriate water dispenser which is available to the residents;

(B) a fountain of approved design with water under pressure so that the stream is not less than three inches high; or

(C) a glass washed after each use.

(e) Toilet and lavatory facilities.

(1) All plumbing fixtures and building sewers shall be connected to public sewers if the public sewer line is within 50 yards of the building.

(2) Where a public sewer is not available, a private sewage disposal system meeting requirements of the health authority and installed and connected to all plumbing fixtures and building sewers shall be used.

(3) Toilet and bathing facilities shall be convenient to sleeping quarters, living and recreation rooms.

(4) Cold water and hot water not exceeding 120° F., shall be supplied under pressure to lavatory and bathtub or shower.

(5) For each five or fewer residents of each sex there shall be at least one toilet, one lavatory and a bathtub or shower.

(6) Separate bathroom facilities shall be provided for live-in staff.

(7) Each bathroom shall be ventilated. An inside bathroom shall have a mechanical system to the outdoors with a minimum of four air changes per hour.

(8) Facilities serving non-ambulatory children

shall have toilets and washbasins designed to accommodate them.

(f) Laundry facilities.

(1) If laundry is done at the facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the residents.

(2) If needed, the type of diapers and diaper service shall be determined by the facility director with approval of the health nurse.

(3) Soiled linen shall be kept in areas separate from clean linen. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

28-4-278. Food service. (a) Food preparation and storage.

(1) The major food preparation area shall be adequately equipped for the sanitary preparation and storage of food and washing of dishes and utensils. Food shall be prepared and served in a sanitary manner. Kitchens which serve 25 or more persons shall provide separate handwashing facilities in the kitchen. Personnel shall wash their hands before handling food.

(2) Dishes shall have hard-glazed surfaces and shall be entirely free of cracks or chips.

(3) Dishes, kitchen utensils and feeding equipment shall be maintained in a sanitary condition using one of the following methods:

(A) A three-compartment sink supplied with hot and cold running water to each compartment and a drain board for washing, sanitizing, and air-drying;

(B) a domestic-type dishwasher for groups of 24 or fewer persons;

(C) a commercial-type dishwasher with a 12-second rinse with 180° F. water, for groups of 25 persons or more; or

(D) disposable plates, cups, and plastic utensils of food-grade medium weight. Disposable table service shall be used only one time and then destroyed.

(4) Tables shall be washed before and after meals, and floors shall be swept after meals.

(5) Poisonous or toxic materials shall not be stored with, under, or over food.

(6) All perishables and potentially hazardous foods shall be continuously maintained at 45° F. or lower in the refrigerator, or 10° F. or lower in the freezer, with 0° F. recommended. Each cold

storage facility shall be provided with a clearly visible, accurate thermometer.

(8) All foods stored in the refrigerator shall be covered.

(9) All foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other approved areas with no overhead drain nor sewer lines.

(10) Dry bulk food which is not in an original, unopened container shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled.

(b) Food safety.

(1) All dairy products shall be pasteurized. Dry milk shall be used only for cooking.

(2) Beef, pork and poultry shall be obtained from government-inspected sources.

(3) Commercially canned food from dented, rusted, bulging or leaking cans, or food from cans without labels, shall not be used. Home-canned foods, other than jams and jellies, shall not be used.

(c) Nutrition.

(1) Meals and snacks shall meet the nutrient needs of the residents according to recommended dietary allowances for age and sex.

(2) Special diets shall be provided for residents as ordered by attending physicians. Efforts shall be made to accommodate religious practices.

(3) Copies of menus served for one month shall be kept on file and available for inspection. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-279. Maternity care. (a) Any facility may provide care for a pregnant resident if the requirements of this regulation are met, and the plan is approved by the department. If the facility does not meet the maternity care regulations or does not plan to maintain the resident through the pregnancy, the resident's child placing agent shall be notified within seven days of the determination of pregnancy and the resident shall be moved within 30 days thereafter.

(b) Any facility which provides maternity care shall meet the following additional requirements:

(1) Each resident shall receive the services of a licensed physician on a regular and continuing basis throughout pregnancy, delivery and post-delivery checkup.

(2) The facility shall consult with a board-certified obstetrician who is available in case of emergency or complication.

(3) There shall be a written plan for all deliveries to take place in a licensed hospital or maternity center. The plan shall state the name and location of the facility and of an alternate hospital for use if services are unavailable at the primary hospital or maternity center.

(4) The facility shall be within 30 minutes of the licensed hospital or maternity center providing maternity services.

(5) Complaints of alleged inadequate or improper care by a physician or hospital shall be reported in writing immediately to the Kansas department of health and environment.

(6) Ambulance service shall be readily available for emergencies.

(7) Special arrangements shall be available for bed and nursing care for each resident who develops complications during pregnancy but who does not require hospitalization.

(8) Each resident's medical record shall include the medical consent form, the name of her physician, a schedule of appointments, the expected date of delivery and any special needs or problems.

(9) The facility shall contract for the services of a registered nurse to provide at least weekly instruction to the pregnant residents regarding childbirth preparation, nutrition, general health and hygiene, post-partum care, post-natal care, contraception and venereal disease, and the psychology and physiology of pregnancy. The residents shall be given a tour of the hospital where delivery is planned. The nurse shall also serve as a consultant to the staff regarding the development of general health policies.

(10) Special nutrition policies for pregnant residents shall be developed in consultation with a physician, nutritionist or nurse. Residents shall be referred to the WIC program when appropriate and available.

(11) Specific policies shall be developed for support to the mother during labor and delivery and for the care of any new mother who returns to the facility following delivery.

(12) Upon dismissal from the facility, each resident shall be given written information regarding her post-partum care. A referral shall be made to the appropriate community resource for follow-up services.

(13) Casework services shall be provided by an

approved social agency in the community or the facility's own professional staff.

(A) If the facility's professional staff provides casework services, the following requirements shall be met:

(i) There shall be at least one social worker for each fourteen residents.

(ii) Casework services shall be provided to each pregnant resident immediately upon admission to the facility.

(iii) Casework interviews shall be regularly scheduled with reasonable frequency based on the service plan.

(iv) Casework service shall include help in adjustment to pregnancy, to separation from the resident's natural environment and to group living. Casework services shall include psychological and psychiatric help as needed to facilitate diagnosis and treatment.

(v) The caseworker shall be responsible for providing help in formulating a long-term plan for the mother and baby.

(vi) Each resident shall have the right to make the decision as to whether to keep or relinquish her infant. This decision shall be made without undue pressure or influence.

(vii) The caseworker, at the request of the pregnant resident, shall arrange for referral to a licensed child placing agency for any baby needing adoptive placement or other foster care.

(B) If casework services are provided by a community social agency, K.A.R. 28-4-279(b)(13)(A)(iii)(iv)(v)(vi) and (vii) requirements shall be met.

(14) The maternity care staff, board, or any other person connected with the facility shall not directly or indirectly place or arrange for placement of children for adoption or foster care. Such an action shall result in immediate revocation or denial of license. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-502, 65-506, 65-507 and L. 1984, Chapter 224, Section 1; effective May 1, 1986.)

28-4-280. Residential services to mothers and infants. Each maternity home or residential facility which provides residential services to mothers and infants after delivery shall meet the following requirements:

(a) Physical plant.

(1) A maximum of five mothers and infants shall be served.

(2) The mother/infant unit shall be separate

from units serving pregnant and non-pregnant residents.

(3) A nursery shall be provided.

(A) The nursery shall have adequate space and equipment for the number and age of infants in care.

(B) Age-appropriate toys and play equipment shall be available.

(4) Rooming-in may be allowed if it is determined to be in the best interest of the newborn as documented in the resident's social service plan.

(5) A quiet area shall be provided for infant feeding.

(6) Laundry facilities shall be readily available.

(7) There shall be facilities for the safe preparation and storage of formula.

(8) The environment shall be free of substances potentially hazardous to mother and infant.

(b) Parenting education.

(1) Techniques of care of the newborn shall be taught on an individual basis.

(2) Residents shall be provided instruction in child development and child care, infant development and stimulation, first aid, and infant nutrition by the agency or through community resources.

(c) Policies.

(1) There shall be written policies which specify:

(A) The length of time the mother may remain in the unit;

(B) prohibition against the assumption of child care responsibilities by any resident other than the mother of the newborn; and

(C) substitute child care arrangements when the mother is ill or otherwise away from her newborn.

(d) Services.

(1) The facility shall contract with a pediatrician to supervise the health care of the infants in the unit.

(2) There shall be casework services as outlined in KAR 28-4-279(a)(14).

(3) Staff shall be trained in the use of monitors and infant CPR.

(e) Records. The following records shall be maintained for each mother/infant:

(1) Medical consent;

(2) health care instructions; and

(3) infant medical record. (Authorized by and

implementing K.S.A. 65-508; effective May 1, 1986.)

28-4-281 to 28-4-284. Reserved.

ATTENDANT CARE FACILITIES FOR CHILDREN AND YOUTH

28-4-285. Definitions. (a) "Attendant" means a staff person or volunteer who provides direct supervision of a juvenile.

(b) "Attendant care" means one-on-one direct supervision of a juvenile who has been taken into custody. Attendant care shall not exceed 24 hours exclusive of weekends and court holidays.

(c) "Attendant care facility," herein after referred to as the facility, means a boarding home for children at which attendant care is provided.

(d) "Corporal punishment" means activity directed toward modifying a juvenile's behavior by means of physical contact such as hitting with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, or any similar activity.

(e) "Juvenile" means a person between the ages of 10 and 18 years of age.

(f) "License" means a document issued by the Kansas department of health and environment which authorizes a licensee to operate and maintain an attendant care facility.

(g) "Non-secure facility" means a facility not characterized by the use of physically restricting construction, hardware and procedures.

(h) "Public agency" means any branch of city, county, or state government. (Authorized by K.S.A. 65-508; and implementing K.S.A. 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-286. Licensing procedures. (a) Any person, corporation, firm, association or other organization who desires to conduct an attendant care facility shall apply for a license on forms provided by the Kansas department of health and environment. The application shall include a KBI/SRS child abuse registry form supplied by the Kansas department of health and environment.

(b) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments of them and the regulations adopted as required by those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments of it.

(c) The Kansas department of health and environment shall revoke a license or deny any ap-

plication in any case in which there is a failure to comply with the provisions of the regulations for attendant care.

(d) A copy of "regulations for licensing attendant care facilities," provided by the Kansas department of health and environment shall be kept on the premises at all times. (Authorized by K.S.A. 65-508; and implementing K.S.A. 65-501, 65-503, and 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-287. Terms of license. (a) The maximum number and age range of juveniles who may be cared for in each living unit shall be specified on the license.

(b) Each facility license shall be valid only for the licensee and the address appearing on the license. A new application shall be required for each change of ownership, sponsor, or address of the facility.

(c) Each license shall not give the attendant care facility permission to place children.

(d) Claims as to specialized services shall not be made unless the facility is staffed and equipped to offer such services.

(e) Each applicant or licensee shall inform the licensing authority when the application is to be withdrawn or the license is not to be renewed. The Kansas department of health and environment shall notify the applicant or licensee and other appropriate agencies that the facility is considered closed and the license terminated.

(f) (1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a juvenile, and if statutory requirements are not violated.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-288. Administration, personnel and records. (a) Organization. If the facility is operated by a private corporation, the corporation shall be authorized to do business in the state of Kansas.

(b) Administrative policies.

(1) Each facility shall have an organizational

chart, and written policies and procedures defining operations and legal responsibilities.

(2) Each policy and procedure shall be distributed to staff members as appropriate.

(3) A KBI/SRS child abuse registry form shall be completed and submitted to the Kansas department of health and environment within two weeks of the time each new person over 10 years of age resides, works or regularly volunteers in the facility, excluding juveniles placed in care.

(c) Finances.

(1) The facility shall have sufficient finances to ensure licensing compliance and effective services.

(2) Juveniles shall not be exploited in campaigns or publicity efforts to raise funds.

(3) Insurance. The facility shall be covered by liability and casualty insurance.

(d) Personnel policies.

(1) Each facility shall have written personnel policies including job descriptions that are approved and reviewed annually by licensing staff.

(2) A personnel record shall be maintained for each attendant and made available to the attendant on written request.

(3) No attendant shall be on duty for more than eight hours.

(e) Staffing.

(1) There shall be an attendant for each juvenile.

(2) Each attendant shall be the same sex as the juvenile.

(3) Exceptions to this regulation may be requested pursuant to K.A.R. 28-4-287.

(f) Staff qualifications.

(1) Attendants shall be qualified by temperament, emotional maturity, sound judgment and an understanding of children.

(2) Each attendant shall:

(A) Be 19 years of age or over;

(B) have a high school diploma or its equivalent; and

(C) have completed a state-approved training program.

(g) The following individual personnel records shall be kept on each attendant:

(1) Job application, including:

(A) Identifying information;

(B) qualifications; and

(C) character and employment references;

(2) record of negative TB test;

(3) a statement signed by attendant that disci-

pline policies have been reviewed and will be followed; and

(4) documentation of state-approved training.

(h) Juvenile records.

(1) A register shall be kept of all juveniles with name, birthdate, reason for custody, dates of admission and release, and names and addresses of parents, legal guardian or legal custodian.

(2) An admission and release form shall be submitted to the Kansas bureau of investigation upon release of a juvenile, on forms supplied by the bureau.

(3) A record shall be kept on each juvenile which shall include:

(A) Identifying information;

(B) arrest record;

(C) record of money and personal property, signed by the juvenile and the attendant;

(D) statement signed by the juvenile that the rules and regulations of the facility have been reviewed; and

(E) health history checklist.

(4) A daily log of each juvenile's behavior shall be maintained with notations regarding special problems while in custody and response of staff to problems.

(5) Each improper disclosure of records or information regarding juveniles shall be grounds for revocation or suspension of the license. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-289. Admission policies and procedures. (a) Written admission criteria shall be clearly defined.

(b) Intake policies.

(1) Identifying information shall be obtained to initiate each juvenile's record. This information shall include a description of behavior and obvious physical problems of each juvenile.

(2) An arrest record shall accompany each juvenile to the facility. A detention hearing shall be held as designated in the juvenile code.

(3) If it is known that the juvenile's parents, guardian or other custodians have not been notified, the facility's staff shall notify such persons of custody.

(4) Prior to admission, each juvenile shall be searched and items removed that might be used to injure self or others.

(5) Upon admission, if a juvenile surrenders money and personal property, a record of each of

these properties shall be signed by both the juvenile and the attendant and placed in the juvenile's record. Each refusal to sign shall be documented.

(6) A health history checklist shall be completed for each juvenile at the time of admission. Each checklist shall be completed by the person who admits the juvenile, using the forms supplied by the Kansas department of health and environment.

(7) Each juvenile shall not be admitted if he or she shows evidence of being seriously ill or injured until examined by a physician.

(8) Upon admission, rules and regulations of the facility shall be discussed with each juvenile, and the juvenile shall sign a statement that the rules and regulations have been reviewed.

(c) Release policies.

(1) Each release shall be approved by the court of jurisdiction or other designated authority.

(2) The facility shall provide release forms to be signed by the person to whom the juvenile is released. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-290. Program. (a) A written plan and daily routine shall be maintained for all juveniles that shall include supervision, meals, rest and sleep, personal hygiene, physical exercise, work, recreation, visitation and communication.

(b) Supervision.

(1) Each juvenile shall be supervised at all times.

(2) Activities that would interfere with the care of a juvenile shall not be carried out by an attendant while on duty.

(3) Alcohol or non-prescribed controlled substances as defined in K.S.A. 65-4101 and any amendments of it shall not be consumed by any juvenile or attendant while on duty.

(4) Smoking shall be confined to designated smoking areas in the facility.

(c) Food service.

(1) Each juvenile shall receive nutritious meals and snacks at customary times.

(2) Food prepared off premises:

(A) Shall be obtained from sources licensed by the Kansas department of health and environment;

(B) shall be transported in covered containers; and

(C) shall not be allowed to stand.

(3) Food prepared on the premises shall be prepared, served and stored in a sanitary manner.

(4) Only pasteurized milk and government-inspected meat and fowl shall be used. Powdered milk shall be used for cooking only.

(5) Home-canned foods shall not be served in the facility.

(d) Personal hygiene.

(1) Each juvenile shall be allowed to bathe and perform bodily functions as necessary.

(2) Each juvenile shall be provided soap, toothbrush, toothpaste, other personal care items, and clean, individual bath and face towels.

(4) Clothing, if provided, shall be clean and in good condition.

(e) Each juvenile shall have the opportunity for physical exercise. This activity shall be in an area free of hazards, and outdoors if possible.

(f) Work.

(1) Work assignments shall not be used as a substitute for recreation.

(2) Each juvenile shall be prohibited from performing duties including, but not limited to:

(A) Personal services for staff;

(B) cleaning or maintaining areas away from the attendant care facility;

(C) substituting for staff; or

(D) any work defined as hazardous by the Kansas department of human resources governing child labor.

(g) Art and craft supplies, books, current magazines, games and other indoor recreational materials and equipment shall be provided for leisure time activities.

(h) Visitation and communication.

(1) Each facility shall provide juveniles with the opportunity for telephone and visitation contact with parents, legal guardians, and legal representatives.

(2) Written visitation policies shall be available to each juvenile, parent, legal guardian and legal representative.

(3) Each juvenile shall not be denied the right to contact the juvenile's attorney or court counselor.

(i) Discipline.

(1) There shall be a written discipline policy.

(2) Punishment that is humiliating, frightening or physically harmful to the juvenile shall not be used at any time. The juvenile shall be protected against all forms of neglect, exploitation or degrading forms of punishment.

(3) Prohibited forms of punishment shall include:

- (A) Corporal punishment;
- (B) verbal abuse, threats, or derogatory remarks about the juvenile or the juvenile's family;
- (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; or
- (D) deprivation of meals.

(4) Juveniles shall be permitted to be appropriately clothed at all times. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-291. (a) Health care policies.

(1) Each facility, in consultation with a physician or community health nurse, and using the Kansas department of health and environment health care guidelines as a resource, shall develop written health care guidelines covering the following areas:

- (A) Care of minor illness, including the use of nonprescription drugs;
- (B) care of juveniles under the influence of alcohol and drugs; and
- (C) consultation regarding individual juveniles when indicated.

(2) Each attendant caring for juveniles shall have first aid training.

(b) Health care of juveniles.

(1) A health checklist provided by the Kansas department of health and environment shall serve as guide to determine if a juvenile is in need of medical care.

(2) A physician shall be contacted for any juvenile taking a prescribed medication to prevent interruption of treatment.

(C) A physician shall be contacted for a juvenile who has acute symptoms of illness or who has a chronic illness. Reportable communicable diseases shall be reported immediately to the county health officer.

(c) Health of attendants.

(1) Each attendant shall be free of communicable disease and shall be in such a state of health and freedom from physical or emotional handicaps as is necessary to work with children.

(2) Each attendant shall present written proof of freedom from active tuberculosis before serving in the facility. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-292. Safety procedures. (a) Plans

shall be developed for the care of juveniles in disasters such as fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff or juveniles.

(b) Each disaster plan shall be posted and followed in an emergency.

(c) Each incident resulting in the death of or serious injury to any staff member of the facility or juvenile admitted to the facility shall be reported to the Kansas department of health and environment. Each incident involving any juvenile shall be reported to the parent or guardian. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-293. Physical plant. (a) Each facility shall be clean and free from safety hazards.

(b) (1) Any facility may be located in a non-secure area at a sheriff's office, state police post, detoxification center, community mental health center, local hospital or similar facility which meets all applicable codes.

(2) Community resources including but not limited to health services, police protection, and fire protection shall be available to the attendant care facility.

(c) Inside area.

(1) Each wall and floor shall be in sound condition and easily cleanable. Floor covering shall be required over concrete slab in contact with the ground. The floors shall not be slippery.

(2) Each facility shall be limited to ground level and above except basements may be used with fire safety approval. Each room with a floor level more than 30 inches below ground level shall be considered a basement.

(3) The minimum square footage of free floor space shall be 120 square feet including activity and sleeping areas. Minimum ceiling height shall be 7 ft. 8 inches over 90% of the room.

(4) Each room occupied by a juvenile shall have a source of natural light.

(5) Each area used for reading shall have a minimum of 35 foot candles of light.

(6) Each facility shall have adequate storage space for supplies and equipment.

(7) A separate bed with a level, flat mattress in good condition and adequate, clean bedding shall be provided for each juvenile.

(8) Medicines, poisons and firearms shall be inaccessible to juveniles.

(9) A telephone and emergency telephone

numbers shall be readily accessible to the attendant.

(10) The water supply, whether public or private, shall be from a source approved by the local health department or the Kansas department of health and environment.

(11) There shall be one toilet, one lavatory and one bathtub or shower available to the facility.

(12) Cold and hot water shall be supplied to each lavatory, bathtub and shower. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-294. Transportation. Each facility that provides transportation for juveniles shall meet the following requirements:

(a) Each driver of the vehicle shall hold an operator's license of a type appropriate for the vehicle being used.

(b) Each transporting vehicle shall be maintained in safe operating condition.

(c) Each transporting vehicle shall be equipped with an individual seat belt for the driver, each juvenile passenger and each additional passenger. The driver, each juvenile passenger and each additional passenger shall use the seat belts. (Authorized by and implementing K.S.A. 65-508; effective, T-28-7-29-88, July 29, 1988; effective Dec. 12, 1988.)

28-4-295 to 28-4-299. Reserved.

FAMILY FOSTER HOMES FOR CHILDREN AND YOUTH

28-4-300. (Authorized by K.S.A. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; amended, E-78-7, Feb. 17, 1977; revoked, E-81-22, Aug. 27, 1980; revoked May 1, 1981.)

28-4-301 to 28-4-310. (Authorized by K.S.A. 65-508; effective, E-76-36, July 14, 1975; effective May 1, 1976; revoked, E-81-22, Aug. 27, 1980; revoked May 1, 1981.)

28-4-311. Definition. "Family foster home" means a child care facility that is a private residence, including any adjacent grounds, in which a licensee provides care for 24 hours a day for one or more children in foster care and for which a license is required by K.A.R. 28-4-801. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503 and 65-508; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; amended March 28, 2008.)

28-4-312. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-508, K.S.A. 1982 Supp. 65-504, 65-505; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; amended, T-83-24, Aug. 25, 1982; amended May 1, 1983; revoked March 28, 2008.)

28-4-313. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-508; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; revoked March 28, 2008.)

28-4-314. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; revoked March 28, 2008.)

28-4-315. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-508; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; revoked March 28, 2008.)

28-4-316. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; amended, T-84-28, Oct. 19, 1983; amended May 1, 1984; amended May 1, 1986; revoked March 28, 2008.)

28-4-317. (Authorized by and implementing K.S.A. 65-508; effective, E-81-22, Aug. 27, 1980; effective May 1, 1981; amended May 1, 1986; revoked March 28, 2008.)

28-4-318 to 28-4-329. Reserved.

SECURE TREATMENT FACILITIES

28-4-330. Definitions. (a) "Administrator" means a person employed by a secure residential treatment facility who is responsible for the overall administration of the facility.

(b) "Basement" means each area with a floor level more than 30 inches below ground level on all four sides.

(c) "Clinical director" means a person who is employed by the secure residential treatment facility, who is responsible for the overall treatment program, and who is approved by the Kansas behavioral sciences regulatory board, Kansas board of nursing, or Kansas board of healing arts to diagnose and treat mental and behavioral disorders.

(d) "Corporal punishment" means an activity directed toward modifying a youth's behavior by means of adverse physical contact, including spanking with the hand or an implement, slapping, swatting, pulling hair, or any similar activity.

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

(f) "Discipline" means the ongoing process of helping youth develop inner control so that they can manage their own behavior in a socially approved manner.

(g) "Individual plan of care" means a written, goal-oriented treatment plan to enable a youth to function in a less restrictive environment, including the planned programs, therapies, and activities designed to move the individual to a level of functioning consistent with living in a community setting.

(h) "Involuntary seclusion" means the removal of a youth from other youths to a separate locked room or quarters.

(i) "License" means a document issued by the Kansas department of health and environment that authorizes a licensee to operate and maintain a secure residential treatment facility.

(j) "Program" means the comprehensive and coordinated activities and services providing for the care, protection, and treatment of youth.

(k) "Program director" means the staff person responsible for the oversight and implementation of the program.

(l) "Restraint" means the application of any devices, other than human force alone, to any part of the body of a youth in care for the purpose of preventing the youth from causing injury to oneself or others.

(m) "Secretary" means the secretary of the Kansas department of health and environment.

(n) "Secure facility" means a child care facility that is operated or structured to ensure that the entrances and exits from the facility are under the exclusive control of the staff.

(o) "Secure residential treatment facility" means a secure facility operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition.

(p) "Treatment" means comprehensive, individualized, goal-directed, therapeutic services provided to youth.

(q) "Treatment team" means the secure residential treatment facility's interdisciplinary personnel responsible for the development, implementation, and evaluation of each youth's individualized plan of care.

(r) "Youth" means a person or persons who are

admitted to a secure residential treatment facility for treatment.

(s) "Youth care staff" means the persons employed by the secure residential treatment facility to supervise the youth.

(t) "Youth record" means any electronic or written document concerning a youth admitted to a secure residential treatment facility that is created or obtained by an employee of the secure residential treatment facility. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-331. Licensing procedures. (a) A person shall not operate a secure residential treatment facility that provides treatment to youth under 16 years of age, unless issued a license by the department.

(b) Each person desiring to operate a secure residential treatment facility that provides treatment to youth under 16 years of age shall submit the following:

(1) An application for a license on forms provided by the department; and

(2) the license fee as specified in K.S.A. 65-505, and amendments thereto.

(c) In addition to the application for a license, each applicant shall submit the following:

(1) A written proposal that details the following:

(A) The purpose of the facility;

(B) the administration plan for the program, including an organizational chart;

(C) the financing plan for the program;

(D) staffing for the program, including job descriptions; and

(E) services and treatment to be offered, including the number, age range, and sex of youth to be served;

(2) a copy of written notification that was submitted to the school district where the facility is located, including the following:

(A) The planned opening date;

(B) the number, age range, and anticipated special education needs of the residents to be served; and

(C) a request for on-site educational services or a request for approval of proposed alternative formal schooling to be provided by the licensee as specified in K.A.R. 28-4-336; and

(3) documentation that the notification required by paragraph (c)(2) was received by the

school district at least 90 days before the planned opening date.

(d) Each applicant shall submit a report, on forms provided by the department, containing the identifying information that is necessary to complete criminal history and child abuse registry background checks for all persons 10 years of age and older residing, working, or regularly volunteering in the secure residential treatment facility.

(1) The identifying information shall be submitted on a report as follows:

(A) At the time of application for an original license;

(B) at the time of application for renewal of a license; and

(C) before each new person resides, works, or regularly volunteers in the secure residential treatment facility.

(2) A copy of each report shall be kept on file at the facility. Youth admitted into a secure residential treatment facility for care and treatment shall not be considered to be residing in the secure residential treatment facility for the purposes of criminal history or child abuse background checks.

(e) Each applicant shall submit to the department plans for each building that will be used as a secure residential treatment facility. Each plan shall state whether or not the secure residential treatment facility will rely on locked entrances and exits to secure the facility.

(f) Each applicant shall submit a code footprint for each building to be used as a secure residential treatment facility to the Kansas state fire marshal's office for approval. Each applicant shall provide to the department a copy of the approval of the Kansas state fire marshal's office before a license is issued.

(g) Each applicant shall be issued a license if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and regulations promulgated pursuant to these statutes and if the license fee required by K.S.A. 65-505, and amendments thereto, is submitted. Each license shall be prominently displayed within the facility.

(h) Each licensee who wishes to renew the license shall apply for renewal of the license annually on forms supplied by the department and shall submit the fee as specified in K.S.A. 65-505, and amendments thereto.

(i) Request to withdraw an application or terminate a license.

(1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and a new fee shall be required before opening a facility. No applicant shall admit a child before the applicant receives a license.

(2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the facility is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a new license. That person shall not reopen the facility or admit any child before receiving a new license.

(j) A new application and fee shall be submitted for each change of ownership, sponsorship, or location.

(k) Grievance procedures.

(1) Each applicant or licensee receiving notice of the denial or revocation of a license shall be notified of the right to request an administrative hearing by the secretary, and subsequently of the right of appeal to the district court.

(2) If an applicant or licensee disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or licensee may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or licensee, the applicant or licensee may submit a written request to the secretary for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant or licensee believes that the finding should be changed. The request shall be made to the secretary within 10 days after receiving the explanation.

(l) Exceptions.

(1) Any applicant or licensee may submit to the department a written request for an exception to a regulation. An exception may be granted if the secretary or the secretary's designee determines the exception to be in the best interest of a youth

or the youth's family, and if the exception does not violate statutory requirements.

(2) Written notice of each request for an exception that is approved by the secretary shall be provided to the applicant or licensee by the secretary or the secretary's designee. Each written notice shall state the nature and duration of the exception. This notice shall be posted with the license.

(m) Each licensee shall notify the secretary and obtain written approval from the secretary before making any change in any of the following:

(1) The use of the buildings; or
 (2) the program, provided through either of the following:

(A) Direct services; or
 (B) agreements with specified community resources.

(n) The notification of a proposed change in the program shall include the following:

(1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(2) documentation that the notification required by paragraph (n)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.

(o) Amended license.

(1) Each licensee shall submit a request for an amended license and a \$35.00 fee to the secretary if the licensee desires to make any change in any of the following:

(A) The license capacity;
 (B) the age of the children to be served; or
 (C) the living units.

(2) Each request for a change in license capacity or the age range of children to be served shall include the following:

(A) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(B) documentation that the notification required in paragraph (o)(2)(A) was received by the school district at least 90 days before the anticipated date of any proposed change.

(3) The licensee shall make no change unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the prior license shall no longer be in effect.

(p) Waiver of 90-day notification to the local school district. The 90-day notification to the local school district may be waived by the secretary

upon receipt of a written agreement by the local school district.

This regulation shall be effective on and after July 30, 2002. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, 65-508, and 65-516; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

28-4-332. Terms of license. (a) The maximum number of youth and the age range of youth who may be treated in each secure residential treatment facility shall be specified on the facility's license. No youth less than 10 years of age shall be admitted to a secure residential treatment facility. No youth more than 18 years of age shall be admitted to a secure residential treatment facility, but any person admitted for treatment may continue to receive treatment until that person is 21 years of age.

(b) Each license issued by the department shall be valid only for the firm, corporation, or association appearing on the license and for the address listed on the license.

(c) Advertising for each secure residential treatment facility shall conform to the statement of services as given on the application. A claim for specialized services shall not be made unless the secure residential treatment facility is staffed and equipped to offer those services. (Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-501, 65-504, 65-508, and 65-510; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-333. Administration. (a) Organization.

(1) Each secure residential treatment facility shall be governed by one of the following entities:

(A) A public agency, who shall employ an administrator for the secure residential treatment facility; or

(B) a private entity with a governing board that is legally responsible for the operation, policies, finances, and general management of the secure residential treatment facility. The private entity shall employ an administrator for the secure residential treatment facility. The administrator shall not be a voting member of the governing board.

(2) If the licensee is a private corporation, it shall be a corporation qualified in the state of Kansas and shall operate in accordance with established by-laws. The licensee shall furnish a copy of the articles of incorporation and by-laws to the

department before a license is issued. One of these documents shall include a nondiscrimination statement that complies with state and federal civil rights laws.

(b) Administrative policies.

(1) A copy of these regulations for secure residential treatment facilities for youth shall be kept on the premises at all times and shall be made available to all staff members.

(2) Each licensee shall develop and implement a quality assurance program to ensure consistent compliance with these regulations. The quality assurance program shall provide for review of the facility's policies, procedures and practices, including their consistency with licensure requirements.

(3) Each licensee shall establish written plans and policies of organization and administration clearly defining legal responsibility, administrative authority, and responsibility for comprehensive services, including an organizational chart approved by the licensee.

(4) Personnel and administrative policies shall be distributed to staff members.

(c) Finances.

(1) Funding.

(A) Each secure residential treatment facility shall have sound and sufficient finances to ensure effective services. The licensee shall be responsible for financing plans. The licensee shall provide the financial resources necessary to maintain compliance with the regulations.

(B) If the licensee is a charitable organization, all solicitation of funds conducted in Kansas shall be in compliance with K.S.A. 17-1759 et seq., and amendments thereto.

(C) Youth shall not be used in any fund-raising efforts.

(2) Financial records.

(A) Each secure residential treatment facility shall maintain financial records that are sufficient to verify resources and expenditures. Each secure residential treatment facility shall account for major expenditures on behalf of the youth for whom payment is received.

(B) Each youth's personal money shall be kept separate from the facility funds. Each secure residential treatment facility shall maintain financial records of each youth's personal money.

(C) A yearly audit by an independent accountant shall be conducted, and a copy of the audit shall be available at the secure residential treatment facility for review by the staff of the Kansas

department of social and rehabilitation services, the juvenile justice authority, and the department.

(D) Each secure residential treatment facility shall have an annual financial statement verifying assets and liabilities. The licensee shall make the annual financial statement available to the Kansas department of social and rehabilitation services, the juvenile justice authority, and the department.

(3) Insurance.

(A) Each secure residential treatment facility shall maintain the following insurance:

(i) Professional and civil liability insurance for all employees; and

(ii) liability insurance for injury or personal property damage.

(B) Each licensee shall purchase one or more motor vehicle liability insurance policies covering each vehicle owned or operated by the facility. Each policy shall contain the following limits of liability, exclusive of interest and costs:

(i) Not less than \$100,000 for personal injury or death in any one accident;

(ii) not less than \$300,000 for personal injury to, or the death of, two or more persons in any one accident; and

(iii) not less than \$50,000 for harm to, or destruction of, property of others in any one accident.

(d) Personnel policies.

(1) Each secure residential treatment facility shall have written personnel policies, which shall be approved and reviewed annually by the governing body. The personnel policies shall be provided to each staff member upon employment. The personnel policies shall include the following:

(A) Hiring practices;

(B) job descriptions, including qualifications, duties, and responsibilities for each staff position;

(C) policies regarding hours of work;

(D) sick and vacation leave policies;

(E) grievance procedures; and

(F) a description of salaries, benefits, and staff development practices.

(2) A personnel record shall be maintained for each employee and shall be made available to the employee upon written request.

(e) Staffing.

(1) The governing body of each secure residential treatment facility shall designate an administrator whose responsibility is the overall administration of the facility.

(2) A written daily staff schedule shall be de-

veloped and followed. The staff schedule shall meet all of the following requirements:

(A) The schedule shall provide for adequate staff on the living unit to directly supervise and interact with the youth at all times, to implement each youth's individual plan for care, and to provide for each youth's physical, social, emotional, and educational needs.

(B) The schedule shall provide for a minimum ratio of one youth care staff member on active duty to seven youth during waking hours and one youth care staff member on active duty to 10 youth during sleeping hours.

(C) At least one youth care staff member of the same sex as the youth shall be present, awake, and available to the youth at all times. If both male and female youth are present in the secure residential treatment facility, at least one male and one female youth care staff member shall be present, awake, and available.

(3) At no time shall there be fewer than two youth care staff members present on the living unit when one or more youth are in care.

(4) Youth shall not be left in a room unattended except that, during sleeping hours, the minimum ratio of youth care staff shall be immediately available in a connecting area to the sleeping rooms. Supervision of youth in involuntary seclusion shall comply with K.A.R. 28-4-338(c).

(5) Alternate qualified youth care staff members shall be provided for the relief of the regular staff members on a one-to-one basis and in compliance with the staffing pattern required in paragraph (e)(2) of this regulation.

(6) Electronic supervision shall not replace the youth care staffing requirements.

(7) Auxiliary staff members shall be available as needed. The auxiliary staff shall include food service, clerical, and maintenance personnel. Auxiliary staff members shall not be included in meeting the minimum ratio of youth care staff to youth.

(8) Professional consultant services shall be available, to the extent necessary, to meet the needs of the youth served. Professional consultants shall include physicians, dentists, nurses, clergy, social workers, psychologists, psychiatrists, teachers, and dietitians.

(9) A volunteer shall not be used as a substitute for a youth care staff member, but shall augment the services provided by the staff.

(10) A staff person designated to be in charge of the secure residential treatment facility shall be

on-site at all times when a youth is in care. Procedures shall be in place to ensure that all staff members know who is in charge.

(f) Community and volunteer involvement.

(1) Each secure residential treatment facility shall establish written policies and procedures that provide for securing community and volunteer involvement in facility programs. The policies and procedures shall specify a screening and selection process for volunteers and shall encourage recruitment from all cultural and socioeconomic segments of the community.

(2) Written policies and procedures for volunteers shall include the following:

(A) A description of the lines and scope of authority, responsibility, and accountability for volunteers;

(B) orientation and training requirements for each volunteer; and

(C) a requirement that each volunteer who provides professional services must meet the same requirements as would be expected of a paid professional staff member providing the same services.

(3) Each volunteer shall agree, in writing, to abide by all secure residential treatment facility policies, specifically including those relating to security, confidentiality of information, and mandatory reporting laws pertaining to suspected abuse, neglect, and exploitation of youth.

(4) Each volunteer in contact with youth shall have a health assessment, including a screen for tuberculosis. (Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-508 and 65-516; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-334. Staff development. (a) Each person having contact with youth shall demonstrate emotional maturity, sound judgment, and a sound knowledge of the developmental needs of youth.

(b) Administrator qualifications.

(1) Each administrator shall demonstrate the following:

(A) Knowledge of the principles, practices, methods, and techniques of administration and management;

(B) ability to train, supervise, plan, direct, and evaluate the work of others, as documented by experience, training, or a combination of both;

(C) ability to establish and maintain effective working relationships with others;

(D) ability to establish and maintain effective working relationships with governmental agencies, schools, other treatment facilities, and community organizations;

(E) knowledge of the methods and techniques used in dealing with youth in a residential setting; and

(F) knowledge of principles and techniques of behavioral and mental health treatment and care of youth and of the growth, development, needs, and unique problems of youth.

(2) Each administrator shall have a master's degree in social work or a related field, or a bachelor's degree in social work, human development and family life, psychology, or education. Each administrator shall have a minimum of three years of supervisory experience within a child care facility providing treatment to youth.

(c) Each secure residential treatment facility shall have a program director who is responsible for oversight and implementation of the secure residential treatment facility's program. Each program director shall have a master's degree in social work, psychology, nursing, or a related field, and shall have a minimum of one year of supervisory experience in a treatment facility serving youth. In secure residential treatment facilities with more than 20 youth, the program director shall not be the administrator.

(d) All youth care staff and alternate youth care staff shall meet the following requirements:

- (1) Be 21 years of age or older;
- (2) have a high school diploma or its equivalent; and
- (3) have completed one or more of one of the following:

(A) Three semester hours of college-level study in adolescent development, psychology, or a related subject;

(B) 45 clock hours of training in child care or child development; or

(C) one year of experience as a child care worker or house parent in a facility serving youth.

(e) Professional staff and consultants shall meet all Kansas qualification and licensing requirements for their profession.

(f) Each food service employee shall meet all of the following requirements:

(1) Comply with the Kansas health standards established in K.A.R. 28-36-22;

(2) possess knowledge of the nutritional needs of children and youth;

(3) understand quantity food preparation and service concepts; and

(4) practice sanitary food handling and storage methods.

(g) Staff professional development. Each secure residential treatment facility shall provide and monitor professional development programs, which shall consist of activities designed to achieve specific learning objectives. Professional development may occur through workshops, seminars, or staff meetings, or through closely supervised, on-the-job training.

(1) Each secure residential treatment facility shall have written policies and procedures governing orientation and in-service training. Each employee shall receive orientation training before being assigned an independent job duty.

(2) Each youth care staff member shall receive a minimum of eight hours of orientation training before assuming any responsibility for supervising youth and an additional 32 clock hours of orientation training before assuming independent responsibility for supervision of youth. Orientation training shall include all of the following topics:

- (A) Accident and injury prevention;
- (B) child abuse, neglect, and exploitation reporting requirements;
- (C) crisis management and intervention;
- (D) emergency and safety procedures to follow in the event of an emergency, bomb threat, fire, tornado, riot, or flood;
- (E) facility policies and procedures;
- (F) first aid, including rescue breathing;
- (G) health, sanitation, and safety measures;
- (H) job duties and responsibilities;
- (I) the rights of the youth;
- (J) observation of symptoms of illness and communicable diseases;
- (K) policies regarding behavior management, use of restraints, and involuntary seclusion;
- (L) problem solving methods;
- (M) report writing methods;
- (N) security procedures; and
- (O) suicide prevention.

(3) Each program director and each person having contact with youth shall complete a minimum of 40 clock hours of in-service training per year. In-service training shall include the following topics:

- (A) Accident and injury prevention;
- (B) child abuse symptoms and reporting requirements;
- (C) child care practices;

- (D) child psychosocial growth and development;
- (E) first aid, including rescue breathing;
- (F) the rights of the youth;
- (G) licensing regulations;
- (H) observations of symptoms of illness and communicable diseases;
- (I) suicide prevention;
- (J) use of restraints and seclusion; and
- (K) crisis management.

(4) Each program director shall attend a minimum of one training event per year away from the facility, in addition to the in-service training conducted at the facility.

(5) Each person's in-service training shall be documented in that person's personnel file. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-335. Admission and release policies. (a) Before admission, each youth shall be evaluated by a person approved by the Kansas behavioral sciences regulatory board, Kansas board of nursing, or Kansas board of healing arts to diagnose and treat mental and behavioral disorders, or by a qualified mental health professional as defined in K.S.A. 59-2946(j) and amendments thereto, to determine all of the following:

- (1) Whether or not the youth is a danger to self or others;
- (2) whether or not secure treatment is clinically indicated; and
- (3) whether or not there are other less restrictive facilities that could meet the youth's needs.

(b) Any youth may be admitted to the secure residential treatment facility if the preadmission evaluation of the youth indicates all of the following:

- (1) The youth is a danger to self or others.
- (2) The youth requires treatment in a secure setting.
- (3) Less restrictive care is not available to meet the youth's needs.

(c) All written admission policies and procedures of the facility shall conform with the goals and purposes of the facility.

(d) Admission procedures and practice shall include provisions for the following:

- (1) Collecting identifying information;
- (2) completing a health history checklist, which shall be completed on a form approved by the department and which shall include a description

of bruises, abrasions, symptoms of illness, and current medications;

(3) assessing the youth's suicide risk potential, assault potential, and escape risk;

(4) conducting an intake interview;

(5) providing an orientation to the secure residential treatment facility in a manner that is understandable to the youth. Completion of the orientation and receipt of all written orientation materials shall be documented by a signed statement from the youth;

(6) completing an inventory that documents the youth's clothing and personal possessions and their disposition. Each inventory shall include a written list of all money and personal property of the youth, shall be signed by the youth and the admitting staff member, and shall be kept with the youth's record. If the youth refuses to sign the inventory, the refusal shall be documented in the youth's record;

(7) distributing personal hygiene items;

(8) providing for a shower and hair care;

(9) issuing clean, laundered clothing, if necessary; and

(10) assigning the youth to a sleeping room.

(e) No youth shall be admitted who shows evidence of being seriously physically ill, injured, or under the influence of alcohol or drugs until the youth is examined and approved for admission by a physician licensed to practice in Kansas.

(f) A licensee or employee of a secure residential treatment facility shall not accept permanent legal guardianship of a youth.

(g) Release policies.

(1) All releases shall be authorized by the treatment team or the legal custodian.

(2) Temporary releases for court attendance, medical appointments, placement visits, or other necessary purposes shall be permitted when authorized by the parent or legal guardian or the court.

(3) The secure residential treatment facility shall provide release forms to be signed by the person to whom the youth is released and by the staff person releasing the youth.

(4) Procedures and practices for the discharge of youth shall include provisions for the following:

(A) Verification of identity of the youth and the person to whom the youth is released;

(B) completion of any pending action, including any grievance or claim for damages or lost possessions;

(C) transportation arrangements;

(D) instructions for forwarding mail; and
 (E) return of money and personal property to the youth. A receipt for all money and personal property shall be signed by the youth.

(h) Length of treatment.

(1) Each youth shall be released or transferred within six months of the youth's admission date.

(2) A secure residential treatment facility may request that a youth remain in the facility longer than six months, if the treatment team determines that continued treatment in a secure residential treatment facility is necessary and the department approves an extension of treatment.

(3) Each written request for an extension shall be submitted to the department before the end of the six-month period. The request shall include the following information:

(A) The name of the youth;

(B) the reason why the extension is needed; and

(C) the length of time of the requested extension.

(4) If it is determined to be in the best interest of the youth and the youth's family, the request shall be approved by the department. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-336. Program and services. (a)

Each secure residential treatment facility shall keep documentation of each youth's preadmission evaluation in the youth's file.

(b) An interdisciplinary treatment team shall develop an individualized plan of care for each youth admitted to the secure residential treatment facility. The team shall review the treatment plan every 30 days and shall update the treatment plan as necessary. Each review shall be documented and signed by the clinical director or the clinical director's designee.

(c) The treatment team shall be headed by the clinical director or the clinical director's designee.

(d) Each facility shall maintain a written plan and daily routine for all youth, which shall include the following:

(1) Meals;

(2) rest and sleep;

(3) personal hygiene;

(4) physical exercise;

(5) recreation;

(6) mental health services;

(7) education; and

(8) social services.

(e) Classroom instruction shall be provided on-site by teachers holding appropriate certification from the Kansas board of education.

(1) The staff of the secure residential treatment facility shall coordinate education services with the local school district. During the local school year, each youth shall receive a minimum of six hours of instruction per day, excluding weekends and holidays.

(2) For each youth currently enrolled in a Kansas public school, the staff of the secure residential treatment facility shall maintain contact with the youth's home school district to ensure the continuity of each youth's education.

(3) The staff of the facility shall provide a regular schedule of instruction and related educational services appropriate to the needs of each youth.

(4) Youth care staff shall be stationed in proximity to the classroom, with frequent, direct, physical observation of the classroom activity at least every 15 minutes, to provide immediate support to the teacher.

(f) Library services.

(1) Each secure residential treatment facility shall have written policies and procedures that govern the facility's library program, including acquisition of materials, hours of availability, and staffing.

(2) Library services shall be available to all youth.

(A) Reading and other library materials may be provided for use during non-library hours.

(B) Library materials shall be appropriate for various levels of competency.

(C) Reading material shall reflect a variety of interests.

(g) Recreation.

(1) Each secure residential treatment facility shall provide indoor and outdoor recreational areas and equipment where security and visual supervision can be easily maintained. Unless restricted for health reasons, all youth shall be allowed to engage in supervised indoor and outdoor recreation on a daily basis.

(2) Art and craft supplies, books, current magazines, games, and other indoor recreational materials shall be provided for leisure time activities.

(h) Work.

(1) Work assignments shall not be used as a substitute for recreation.

(2) Youth shall be prohibited from performing the following duties:

- (A) Personal services for the staff;
- (B) cleaning or maintaining areas away from the facility;
- (C) replacing employed staff; or
- (D) any work experience defined as hazardous by the Kansas department of human resources regulations governing child labor.

(3) After receiving the required youth care staff orientation and training, auxiliary staff may supervise work activities. Youth care staff shall be within visual and auditory distance to provide immediate support, if necessary.

(i) Visitation and communication.

(1) Each secure residential treatment facility shall provide telephone and contact visitation rights for parents, legal guardians, legal representatives, and other visitors approved by personnel designated by the administrator. Private telephone conversation and visitation shall be allowed, except when a need to protect the youth is clinically indicated, as documented in the youth's individual plan for care.

(2) The facility shall make written policies and procedures regarding telephone use and visitation available to all youth, parents, legal guardians, and legal representatives.

(3) A youth shall not be denied the right to contact an attorney or court counselor. No court counselor or attorney shall be refused visitation with a youth to whom the counselor or attorney is assigned.

(4) Staff of the secure residential treatment facility shall not censor mail or written communication, except to check for contraband, unless there is sufficient reason to believe that the security of the facility is at risk. Suspect mail shall be opened by staff in the presence of the addressee. If mail is to be read, the youth shall be informed in advance and shall be present when the mail is opened. The reason for each occasion of censorship shall be documented and kept in the youth's record.

(5) Writing materials and postage for the purposes of correspondence shall be available to youth. Materials and postage for at least two letters per week shall be provided for each youth.

(6) First-class letters and packages shall be forwarded after the transfer or release of each youth.

(j) Transportation. Each secure residential treatment facility shall establish and implement

written policies and procedures for transporting youth.

(1) The transportation policies and procedures shall include all of the following information:

(A) A list of the persons authorized to transport youth for the secure residential treatment facility;

(B) a description of precautions to prevent escape during transfer;

(C) documentation of a current and appropriate license for each secure residential treatment facility driver for the type of vehicle in use;

(D) provisions for maintaining documentation of current insurance in the transporting vehicle if the licensee is a private entity; and

(E) procedures to be followed in case of accident, injury, or other critical incident, including notification procedures.

(2) Each transporting vehicle owned or leased by the secure residential treatment facility shall have a yearly safety check. A record of the yearly safety check and all repairs or improvements made shall be kept on file at the secure residential treatment facility. When youth are transported in a privately owned vehicle, the vehicle shall be in good working condition.

(3) Each vehicle used by the secure residential treatment facility to transport youth shall be equipped with an individual seat belt for the driver, each youth passenger, and each additional passenger. The driver, each youth passenger, and each additional passenger shall be required to use the seat belts at all times.

(4) Smoking in the transporting vehicle shall be prohibited while youth are being transported.

(5) Youth shall be delivered to the designated destination by the most direct route.

(6) Youth shall not be shackled or confined with mechanical restraints when being transported by staff. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-337. Records. (a) Personnel records. Each secure residential treatment facility shall maintain individual personnel records for each staff member, which shall include the following information:

(1) The staff member's job application, including all of the following:

(A) Identifying information;

(B) the staff member's qualifications; and

(C) character and employment references;

(2) a description of the staff member's terms

of employment and a copy of the staff member's job description;

(3) documentation of the staff member's employment dates and a copy of each of the staff member's annual performance reviews;

(4) the staff member's health certificates, including a record of the results of a health assessment and tuberculin test, documented on forms supplied or approved by the department;

(5) documentation of orientation, in-service training, and continuing education completed by the staff members;

(6) documentation of the report submitted to the department for the purpose of a background check for criminal and child abuse histories, to determine compliance with K.S.A. 65-516, and amendments thereto;

(7) documentation that the staff member has read, understands, and agrees to all of the following:

(A) The statutes and regulations regarding mandatory reporting of suspected child abuse, neglect, and exploitation;

(B) the regulations for licensing secure residential treatment facilities for youth;

(C) the secure residential treatment facility's policies and procedures, including personnel, administrative, daily, and behavior management policies and procedures; and

(D) policies providing for a drug-free workplace; and

(8) a copy of each grievance and incident report regarding the specific staff member, including documentation regarding the means of resolution of each report.

(b) Volunteer records. Each secure residential treatment facility shall maintain individual volunteer records documenting the facility-related activities of each volunteer. The records shall include the following:

(1) The volunteer's identifying information;

(2) a copy of the volunteer's job description;

(3) documentation of the volunteer's dates of service and a copy of each of the volunteer's performance reviews;

(4) documentation of orientation provided to the volunteer regarding the secure residential treatment facility and specific assignments given to the volunteer;

(5) documentation that the volunteer has read, understands, and agrees to follow the policies and procedures of the secure residential treatment facility, including those related to security, confi-

dentiality of information, and mandatory reporting of suspected child abuse and neglect;

(6) documentation of freedom from active tuberculosis;

(7) documentation of the report submitted to the department for the purpose of a background check for criminal and child abuse histories, to determine compliance with K.S.A. 65-516, and amendments thereto; and

(8) a copy of the health assessment as required in K.A.R. 28-4-333(f)(4).

(c) Youth records.

(1) Each secure residential treatment facility shall establish and implement written policies and procedures governing management of youth records. These policies and procedures shall include provisions for the following:

(A) Establishment, utilization, content, privacy, security, and preservation of records;

(B) a schedule for the retirement and destruction of inactive case records; and

(C) a review of the youth record policies and procedures at least annually and revision as needed.

(2) Each secure residential treatment facility shall keep a register of all youth in care. The register shall include the following information for each youth:

(A) Name;

(B) date of birth;

(C) the name and address of each parent or legal guardian;

(D) the name and address of the legal custodian, if not the parent or legal guardian;

(E) the name and address of the closest living relative, if other than a parent or guardian;

(F) the reason for admission; and

(G) the dates of admission and release.

(3) Each facility shall keep individual records for each youth, which shall include the following:

(A) The youth's identifying information;

(B) a description of the youth's legal status;

(C) the name of the youth's legal custodian;

(D) medical and dental permission forms, signed by a parent or legal guardian. The permission form used shall be one that is acceptable to the vendor who will provide the service; and

(E) a written inventory of all money and personal property of the youth signed by the youth and the admitting staff member as required by K.A.R. 28-4-335(d).

(4) Each facility shall keep a daily log of each youth's behavior in the youth's individual record

file, with notations regarding any special problems and the response of the staff to any problems. Each entry shall be initialed by the staff member making the entry.

(5) A list of all youth receiving treatment shall be submitted on forms provided by the department upon request.

(6) Information from a youth's record shall not be released without written permission from the youth's parent or legal guardian. Improper disclosure of records or information regarding a youth shall be grounds for revocation or suspension of the secure residential treatment facility's license or denial of a facility's application for licensure.

(7) The written policies, procedures, and practices regarding youth records shall provide for the transfer of a youth's record upon release of a youth to a residential care facility. Each secure residential treatment facility shall ensure that each youth's record precedes or accompanies the youth. The case file information shall include the following:

- (A) Identifying information;
- (B) medical records;
- (C) immunization records;
- (D) insurance information;
- (E) the youth's medical card, when applicable;
- (F) school placement information, including present courses of study; and
- (G) the name and address of each parent or legal guardian.

(8) Additional case file information to be transferred shall accompany the youth or be transferred within 72 hours. (Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-508 and 65-516; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-338. Behavior management. (a) Policies.

(1) Each secure residential treatment facility shall establish and implement written policy providing for a behavior management system that assists youth to develop inner control and manage their own behavior in a socially acceptable manner. The policy shall provide the following:

- (A) Expectations that are age appropriate and that allow for special abilities and limitations; and
- (B) positive and negative consequences related to each expectation.

(2) Each facility shall establish written rules of youth conduct that define expected behaviors and related consequences.

(A) A rule book containing expected behaviors, ranges of consequences, and disciplinary procedures shall be given to each youth and youth care staff member.

(B) An acknowledgment of receipt of the rule book shall be signed by each youth and kept in each youth's record.

(C) If a literacy or language problem prevents a youth from understanding the rule book, a staff member or translator shall assist the youth in understanding the rules.

(3) Each staff member who has direct contact with youth shall be thoroughly familiar with the rules of youth conduct, the rationale for the rules, and the intervention options available.

(b) Discipline.

(1) Discipline that is humiliating, frightening, or physically harmful to the youth shall not be used at any time. Each youth shall be protected against all forms of neglect, exploitation, or degrading forms of discipline. No youth shall be isolated or confined in any dark space. Electronic monitoring or an audio communication system shall not replace the required presence of a youth care staff member.

(2) Corporal punishment shall not be used.

(3) Under no circumstances shall any youth be deprived of meals, clothing, sleep, medical services, exercise, correspondence, parental contact, or legal assistance for disciplinary purposes. If a youth is in involuntary seclusion during normal school hours, school work shall be provided to the youth.

(4) Under no circumstances shall any youth be allowed to supervise or to administer discipline to another youth.

(c) Involuntary seclusion.

(1) Involuntary seclusion shall be permitted within a secure residential treatment facility only when a youth is out of control, continually refuses to obey reasonable and lawful requests, or behaves in a way that presents a threat to self or others.

(2) Each secure residential treatment facility shall establish and implement written policies and procedures that govern the use of involuntary seclusion. The policies and procedures shall include provisions that meet the following conditions and requirements:

(A) Permit the use of involuntary seclusion if all other less restrictive methods to prevent immediate, substantial bodily injury to the youth or others have been attempted and have failed to

prevent immediate and substantial bodily injury to the youth or others and if all alternative measures to prevent injury are not sufficient to accomplish this purpose;

(B) require a written order by the program director of the secure residential treatment facility, physician, psychologist, or other approved staff member each time a youth is placed in or released from involuntary seclusion;

(C) ensure that no more than one youth is placed in an involuntary seclusion room at any one time;

(D) provide for a search of each youth and removal of any items that may be used to injure oneself or others before admission to the involuntary seclusion room;

(E) ensure that each youth is provided appropriate clothing at all times;

(F) ensure that each youth in involuntary seclusion is provided with a mattress on a clean, level surface above floor level;

(G) ensure that each youth receives all meals and snacks normally served and is allowed time to exercise and perform necessary bodily functions;

(H) ensure that each youth has prompt access to drinking water and washroom facilities;

(I) ensure that the designated staff member on duty makes appropriate entries in the youth's records regarding the use of involuntary seclusion;

(J) ensure that at least one youth care staff member is in the proximity of each youth in involuntary seclusion at all times, with direct, physical observation at least every 15 minutes. At the time of each observation, all of the following activities shall occur:

(i) Interactive intervention shall be attempted, unless the youth is sleeping;

(ii) the result of the intervention shall be recorded; and

(iii) the condition of the youth shall be recorded;

(K) ensure constant supervision if a youth is considered suicidal; and

(L) provide for an assessment of the need for continued involuntary seclusion at each shift change and for documentation of the reasons that involuntary seclusion is continued.

(3) Electronic or auditory devices shall not be used to replace staff supervision of youth in involuntary seclusion.

(4) A youth shall not remain in involuntary seclusion for more than 24 hours without written approval of the program director or the program

director's designee. No staff person who was involved in the incident leading to involuntary seclusion shall be permitted to approve an extension of the involuntary seclusion.

(5) The program director or designee who approved the extended involuntary seclusion shall visit with each isolated youth at least once within each eight-hour period after the first 24 hours.

(6) Written approval of the program director or program director's designee shall be required for each eight-hour period that involuntary seclusion is extended, beyond the first 24 hours.

(7) Involuntary seclusion shall not exceed 48 hours for any reason unless the youth continues to behave in a way that presents a threat to oneself or others.

(8) If a youth requires more than 48 consecutive hours of involuntary seclusion or more than 72 cumulative hours of involuntary seclusion within any seven-day period, or is placed on suicide watch, an emergency staff meeting shall be held to discuss the appropriateness of the youth's individual plan of care.

(A) Participants in the emergency staff meeting shall include the following:

(i) The youth, if behavior permits;

(ii) the program director or the program director's designee;

(iii) a physician, clinical psychologist, or clinical social worker who has assessed the youth; and

(iv) any other appropriate staff member.

(B) The youth's parents or legal guardian shall be notified of the emergency staff meeting and invited to participate. Documentation of notifications shall be kept in the youth's record.

(C) The results of the emergency staff meeting shall be recorded and maintained on file.

(9) All youth care staff and program personnel shall be informed at all times of the current status of each youth in involuntary seclusion.

(d) Restraint.

(1) Each facility shall establish and implement written policies and procedures that govern the use of restraint.

(2) These policies and procedures shall include the following:

(A) Limitations on the use of physical restraint to instances of justifiable self-defense, protection of the youth or others, or the protection of property;

(B) permission to use physical restraint only if all other less restrictive methods of controlling the

youth's dangerous behavior were attempted and failed;

(C) a statement that chemical agents are not to be used by secure residential treatment facility personnel;

(D) a statement that psychotropic medications are not to be used for disciplinary reasons; and

(E) a statement that psychotropic medications are to be administered only when medically necessary upon order of the youth's physician.

(3) The restraints selected shall be the least restrictive measure necessary to prevent injury to the youth or others.

(4) Restraint or involuntary seclusion shall never be used for punishment or for the convenience of staff. Restraint or involuntary seclusion shall not be used for more than three consecutive hours without medical reevaluation of its necessity, except between the hours of 12:00 midnight and 8:00 a.m., unless necessary for the safety and well-being of the youth.

(5) Each secure residential treatment facility that uses restraint shall develop and insure implementation of a comprehensive policy on the use of each restraint. The policy shall identify the following:

(A) The forms of restraint in use at the secure residential treatment facility, clearly demonstrating that each specified form of restraint is required to appropriately serve youth;

(B) specific criteria for the use of each form of restraint;

(C) the staff members authorized to approve the use of each form of restraint;

(D) the staff members authorized and qualified to administer or apply each form of restraint;

(E) the approved procedures for application or administration of each form of restraint;

(F) the procedures for monitoring any youth placed in each form of restraint;

(G) any limitations on the use of each form of restraint, including time limitations;

(H) the procedures for immediate, continual review of restraint placements for each form of restraint, except passive physical restraint; and

(I) procedures for comprehensive record keeping concerning all incidents involving the use of restraint, including incidents of passive physical restraint if it is used in conjunction with or leads to the use of any other form of restraint. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-339. Rights of youth. (a) The rights of youth while in the licensee's care or control shall not be diminished or denied for disciplinary reasons.

(b) Each secure residential treatment facility shall establish and implement written policies and procedures concerning the rights of the youth. These policies and procedures shall provide that youth are assured of their rights, except if it is necessary to maintain order and security in the secure residential treatment facility or if it is contrary to a youth's approved treatment plan. These policies and procedures shall ensure the following:

(1) Freedom from personal abuse, corporal or unusual punishment, excessive use of force, humiliation, harassment, mental abuse, or punitive interference with the daily functions of living, including eating or sleeping;

(2) freedom from discrimination based on race, color, ancestry, religion, national origin, sex, or disability;

(3) equal access to programs and services for both male and female youth in coed facilities;

(4) receipt and explanation of written rules and grievance procedures of the facility, in a language that the youth can understand;

(5) opportunity for physical exercise on a daily basis, including outdoor exercise if weather permits;

(6) participation in religious worship and religious counseling on a voluntary basis, subject only to the limitations necessary to maintain order and security;

(7) reasonable religious diets;

(8) the right to wear personal clothing consistent with secure residential treatment facility guidelines. If the facility provides clothing, it shall be of proper size and shall be approved by the department;

(9) access to the courts and confidential contact with attorneys, judges, parents, social workers, and other professionals, including telephone conversations, visits, and correspondence;

(10) medical treatment and emergency dental care, a medically proper diet, and the right to know what and why medications are being prescribed;

(11) the right to send and receive uncensored mail in accordance with K.A.R. 28-4-336(i)(4);

(12) the right to receive visitors and communication in accordance with the facility's visitation policies;

(13) the right to determine the length and style

of hair, except when a physician determines that a haircut is medically necessary; and

(14) the right to keep facial hair, if desired, except when a licensed physician determines that removal is medically necessary for health and safety. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-340. Emergency, safety, security, and control. (a) Each secure residential treatment facility shall develop a disaster plan to provide for the safety of youth in emergencies. The licensee shall review the plan at least annually and update as needed. The plan and any subsequent updates shall be approved by the state fire marshal or the fire marshal's designee.

(1) The disaster plan shall contain provisions for the care of youth in disasters, including fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff members and youth.

(2) All of the staff in the secure residential treatment facility shall be informed of the disaster plans, and the plans shall be posted in a prominent location.

(3) Each secure residential treatment facility shall have first aid supplies, including the following:

- (A) Assorted adhesive strip bandages;
- (B) adhesive tape;
- (C) a roll of gauze;
- (D) scissors;
- (E) a package of gauze squares;
- (F) pump soap;
- (G) an elastic bandage;
- (H) tweezers; and
- (I) rubbing alcohol.

(4) Each secure residential treatment facility that uses involuntary seclusion shall have a policy and procedure to evacuate each youth in seclusion in the event of a fire or other emergency.

(b) The secure residential treatment facility shall conduct a minimum of one fire drill and one tornado drill per shift per quarter.

(c) Security and control. Each secure residential treatment facility shall use a combination of supervision, inspection, accountability, and clearly defined policies and procedures on the use of security to promote safe and orderly operations.

(1) All written policies and procedures for security and control shall be available to all staff members. The licensee shall review the policies

and procedures at least annually and update as needed, and shall include all of the following requirements:

(A) The licensee shall ensure that a daily report on youth population movement is completed and kept on file.

(B) Written operational shift assignments shall state the duties and responsibilities for each assigned position in the secure residential treatment facility.

(C) Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.

(D) The licensee shall ensure that security devices are regularly inspected and maintained, with any corrective action completed as necessary and recorded.

(E) No weapons shall be permitted in the facility.

(F) The licensee shall ensure that guidelines for the control and use of keys, tools, and medical and culinary equipment are implemented.

(G) No youth or group of youth shall exercise control or authority over another youth, have access to the records of another youth, or have access to or use of keys that control security.

(H) The licensee shall ensure that procedures are developed and implemented for handling escapes, runaways, and unauthorized absences.

(I) The licensee shall ensure that safety and security precautions are developed and implemented pertaining to facility and staff vehicles.

(2) The licensee shall ensure that policies and procedures are developed for the prosecution of any illegal act committed while the youth is in care.

(3) The licensee shall ensure that policies and procedures are developed and implemented to prohibit the use of chemical agents, including mace, pepper mace, or tear gas, by facility staff.

(4) Poisons and all flammable materials shall be kept in locked storage.

(5) The licensee shall ensure that policies and procedures are developed that govern documentation of all special incidents, including the taking of hostages and the use of restraint. The policies and procedures shall require submission of a written report of all special incidents to the program director or the program director's designee. Each report shall be submitted no later than the conclusion of that shift. A copy of the report shall be kept in the youth's record. A copy of the report of any incident that involves the taking of hostages,

the death or injury of a youth, or criminal charges against a youth or staff member shall be submitted to the department and the placing agent.

(6) The licensee shall ensure that each incident of disaster is reported to the department within 24 hours, excluding weekends and holidays. Each incident of fire shall also be reported to the state fire marshal within 24 hours, excluding weekends and holidays.

(7) A written plan shall provide for continuing operations in the event of a work stoppage. Copies of this plan shall be available to all staff. The licensee shall ensure that each incident of work stoppage is reported to the department within 24 hours, excluding weekends and holidays. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-341. Health care policies. (a) Health services for youth.

(1) Each secure residential treatment facility, in consultation with a physician, shall develop written health care policies that cover the following:

(A) A health history checklist and review for each youth upon admission, as documented on forms approved by the department;

(B) follow-up health care, including a health examination and referrals, for concerns identified in the health history checklist and review;

(C) dental screening upon admission and follow-up emergency dental care as needed;

(D) preventive dental care for youth;

(E) chronic care, convalescent care, and preventive care, if medically indicated;

(F) care for minor illness, including the use and administration of prescription and nonprescription drugs;

(G) care for youth under the influence of alcohol or other drugs;

(H) consultation regarding individual youth, if indicated;

(I) infection control measures and universal precautions to prevent the spread of blood-borne infectious diseases;

(J) maternity care as defined in K.A.R. 28-4-279; and

(K) medically indicated seclusion.

(2) Each facility shall designate as a medical consultant a physician licensed to practice in Kansas.

(3) Each facility shall obtain written consent

from each youth's parent or legal guardian for medical and dental care.

(4) The medicine cabinet shall be located in an accessible, supervised area. The cabinet shall be kept locked. Medications taken internally shall be kept separate from other medications. All unused medication shall be safely discarded.

(5) All medications shall be administered by a designated staff member qualified to administer medications. Prescription medication shall be given from a pharmacy container labeled with the following:

(A) The youth's name;

(B) the name of the medication;

(C) the dosage and the dosage intervals;

(D) the name of the prescribing physician; and

(E) the date the prescription was filled.

Any changes of prescription or directions for administering a prescription medication shall be authorized, in writing, by a physician with documentation placed in the youth's record.

(6) All medication, including nonprescription medication, shall be given only in accordance with label directions, unless ordered differently by a physician. A record shall be kept in the youth's record documenting the following:

(A) The name of the person who gave the medication;

(B) the name of the medication;

(C) the dosage; and

(D) the date and time it was given.

(7) Each licensee shall make the following arrangements for emergency care:

(A) The secure residential treatment facility shall have a written record of the name, address, and telephone number of a physician licensed in Kansas to be called in case of emergency.

(B) Policies and procedures shall ensure the continuous care of youth who require emergency medical treatment.

(C) If a staff member accompanies a youth to the source of emergency care, the staff member shall remain with the youth for the duration of the emergency.

(D) Supervision of the other youth in the secure residential treatment facility shall not be compromised.

(E) The health history checklist and health assessment shall be taken to the emergency room with the youth.

(8) The licensee shall report each instance of suspected abuse or neglect and each incident resulting in the death of or in a serious injury to any

staff member or youth that requires treatment at a hospital. The report shall be made within 24 hours, excluding weekends and holidays, to the department and the county health department in which the secure residential treatment facility is located. The licensee shall submit each written incident report to the department within five working days. If an injured youth is taken to a hospital or seen by a physician, the licensee shall ensure that the parent or legal guardian or custodian is notified as soon as possible. If suspected abuse or neglect of a youth occurs, the licensee shall ensure that the Kansas department of social and rehabilitation services is notified.

(9) The licensee shall ensure that any injury to a youth or staff member that is a result of suspected criminal action is reported immediately to the local law enforcement officials.

(10) The licensee shall ensure that any death of staff or a youth within the secure residential treatment facility is reported to the local law enforcement officials.

(b) Physical health of youth.

(1) The licensee shall ensure that a health history checklist is completed for each youth at the time of admission. This checklist shall be completed by the person who admits the youth, using forms supplied or approved by the department.

(A) The health checklist shall serve as a guide to determine if a youth is in need of immediate medical care.

(B) The licensee shall ensure that the secure residential treatment facility's physician is contacted for any youth who is taking a prescribed medication at the time of admission so that treatment is not interrupted.

(C) The licensee shall ensure that a physician is contacted for any youth who has acute symptoms of illness or who has a chronic illness. Communicable diseases shall be reported to the local county health department within 24 hours, excluding weekends and holidays.

(2) Within 72 hours of admission, a physician or a nurse certified by the department to conduct screening and health assessments shall review the health history checklist. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or certified nurse shall determine whether or not a full screening and health assessment are necessary.

(A) If necessary, the screening and health assessment shall be conducted by a licensed physi-

cian or by a nurse certified by the department to conduct these examinations.

(i) The screening and health assessment shall be completed within 10 days of admission.

(ii) The screening shall be based upon health assessment and screening guidelines provided or approved by the department.

(B) Medical and dental records shall be kept on forms provided or approved by the department and shall be kept current.

(C) The licensee shall ensure that each youth receives a tuberculin skin test. A chest x-ray shall be taken of all positive tuberculin reactors and those with a history of positive reaction. The proper treatment or prophylaxis shall be instituted. The results of this follow-up shall be recorded in the youth's record, and the county health department shall be informed of the results.

(D) Each licensee shall maintain a current health record that includes the following for each youth:

(i) The youth's current immunization record;

(ii) a health history checklist;

(iii) documentation of the review of the health history checklist;

(iv) documentation of the decision regarding the need for screening and health assessment;

(v) the tuberculin skin test result;

(vi) a list of medical contacts; and

(vii) entries regarding the youth's health care plan.

(E) The health record shall accompany the youth when transferred. A copy of the health record shall be kept in the youth's record at the secure residential treatment facility.

(3) The licensee's written policies and procedures shall prohibit the use of tobacco in any form by youth while in care.

(c) Dental health of youth.

(1) Each licensee shall make emergency dental care available for all youth. Each youth's record shall include a report of a dental examination obtained within one year before or 60 days after admission.

(2) The secure residential treatment facility staff shall develop plans for dental health education and shall supervise the youth in the practice of good dental hygiene.

(d) Personal health of staff members and volunteers.

(1) Each person caring for youth shall meet the following requirements:

(A) Be free from communicable disease;
 (B) be free from physical, mental, or emotional handicaps to the extent necessary to fulfill the responsibilities listed in the job description, and protect the health, safety, and welfare of the youth; and

(C) be free from impaired ability due to the use of alcohol or other drugs.

(2) Each staff member who may have contact with any youth shall receive a health examination within one year before employment. This examination shall be conducted by a licensed physician or a nurse authorized to conduct these examinations.

(3) Results of the health examination shall be recorded on forms supplied or approved by the department and kept on file. Health assessment records may be transferred from a previous place of employment, if the transfer occurs within one year of the examination date.

(4) The initial health examination shall include a tuberculin skin test. If there is a positive reaction to the tuberculin skin test or a history of previous positive reaction, a chest x-ray shall be required. Proof of proper treatment or prophylaxis shall be required. Documentation of the test, x-ray, and treatment results shall be kept on file in the person's health record.

(5) A tuberculin skin test or a chest x-ray shall be required if significant exposure to an active case of tuberculosis occurs or if symptoms compatible with tuberculosis develop. If there is a positive reaction to the diagnostic procedure, proof of proper treatment or prophylaxis shall be required. The results of this follow-up shall be recorded in the person's health record. The licensee shall inform the department of each case described in this paragraph.

(6) Each licensee shall require all volunteers to present written proof of freedom from active tuberculosis before serving in the facility.

(7) Smoking shall not be permitted in the facility.

(e) Personal hygiene.

(1) The licensee shall ensure that each youth bathes upon admission and that each youth is given the opportunity to bathe daily.

(2) The licensee shall give all youth the opportunity to brush their teeth after each meal.

(3) The licensee shall furnish each youth with toothpaste and a toothbrush. Pump soap shall be available at all community sinks and showers.

(4) Each licensee shall make facilities for shaves and haircuts available.

(5) Each youth's washable clothing shall be changed and laundered at least twice a week. The licensee shall ensure that clean underwear and socks are available to each youth on a daily basis.

(6) Each female youth shall be provided personal hygiene supplies with regard to her menstrual cycle.

(7) The licensee shall ensure that clean, individual bath and face towels are issued to each youth at least twice a week. Bed linen shall be changed at least once a week.

(8) The licensee shall allow each youth to have at least eight hours of sleep each day. Fourteen hours of activity shall be provided. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-342. Mental health policies. (a) The treatment and activities provided by the secure residential treatment facility for youth shall supplement and support the family-child relationship.

(b) The views of the parents, the youth, and the placing agent concerning factors important to them in the emotional development of the youth shall be considered by the staff in the services provided.

(c) The licensee shall assess the need for mental health services for each youth. The youth's plan of care shall include the need for mental health services and shall be developed to address the need for mental health services through a goal-directed process.

(d) Mental health concepts, as an integral aspect of total child development, shall be included in staff training and in parent-youth conferences. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-343. Environmental standards. (a) General building requirements.

(1) Each secure residential treatment facility shall use public water and sewage systems, or shall have private water and sewage systems approved pursuant to K.S.A. 65-163 and K.S.A. 65-165, and amendments thereto.

(2) A licensed architect shall be responsible for the plans for any newly constructed building or for any major addition or alteration to an existing building.

(A) In the case of a new building, preliminary

plans and outline specifications, including plot plans, shall be submitted to the department for review before commencing the final working drawings and specifications. The licensee shall submit the final working drawings, construction specifications, and plot plans to the department for review and written approval before the letting of contracts.

(B) In the case of an addition or alteration to an existing building, the licensee shall submit a written statement defining the proposed use of the construction and detailing the plans and specifications to the department for review and written approval before commencing construction.

(3) If construction is not commenced within one year of submitting a proposal for a new building or an addition or alteration to an existing building, the licensee shall resubmit the plans and proposal to the department before proposed construction begins.

(b) Location and grounds requirements.

(1) Community resources, including health services, police protection, and fire protection from an organized fire department, shall be available.

(2) There shall be at least 100 square feet of outside activity space available per youth allowed to utilize each area at any one time.

(3) The outside activity area shall be free of physical hazards.

(4) Sufficient space for visitor and staff parking at each secure residential treatment facility shall be provided.

(c) The water supply to each secure residential treatment facility shall be from a source approved and certified by the department. Any privately owned water supply shall be approved by the county health officer or the department.

(d) Structural requirements.

(1) Facility construction shall provide for the removal of architectural barriers to disabled persons. All parts of each secure residential treatment facility shall be accessible to and usable by disabled persons.

(2) Each secure residential treatment facility's structural design shall facilitate personal contact and interaction between staff members and youth.

(3) Floors shall be smooth and free from cracks, easily cleanable, and not slippery. Floor covering for living quarters shall be required. All floor covering shall be kept clean and be maintained in good repair.

(4) Walls shall be smooth, easily cleanable, and

sound. Lead-free paint shall be used on all painted surfaces.

(5) No youth's room shall be in a basement. The minimum square footage of floor space shall be 80 square feet in single rooms, and an average of no fewer than 60 square feet of floor space per person in rooms accommodating more than one person. At least one dimension of the usable floor space unencumbered by furnishings or fixtures shall be no fewer than seven feet. The minimum ceiling height shall be seven feet, eight inches over 90% of the room area. An even temperature of between 68° Fahrenheit and 78° Fahrenheit shall be maintained, with an air exchange of at least four times per hour.

(6) Bedrooms occupied by youth shall have a window source of natural light. Access to a drinking water source and toilet facilities shall be available 24 hours a day.

(7) Separate beds with level, flat mattresses in good condition shall be provided for each youth. Beds shall be above the floor level.

(8) Adequate, clean bedding shall be provided for each youth.

(9) All quarters utilized by youth shall have minimum lighting of 20 foot-candles in all parts of the room. There shall be minimum lighting of 35 foot-candles in areas used for reading, study, or other close work.

(10) There shall be adequate space for study and recreation.

(11) Each living unit shall contain the following:

(A) Furnishings that provide sufficient seating for the maximum number of youth expected to use the area at any one time;

(B) writing surfaces that provide sufficient space for the maximum number of youth expected to use the area at any one time;

(C) furnishings that are consistent with the security needs of the assigned youth; and

(D) adequate central storage for household supplies, bedding, linen, and recreational equipment.

(12) If the secure residential treatment facility is on the same premises as another child care facility, the living unit of the secure residential treatment facility shall be maintained in a separate, self-contained unit. Youth of the secure residential treatment facility shall not use space shared with other child care facilities at the same time.

(13) If a secure residential treatment facility has day rooms, the day rooms shall provide space

for varied youth activities. Day rooms shall be situated immediately adjacent to the youth sleeping rooms, but separated from them by a floor-to-ceiling wall. Each day room shall provide at least 35 square feet per person, exclusive of lavatories, showers, and toilets, for the maximum number of youth expected to use the day room area at any one time.

(14) There shall be a working telephone readily accessible to staff members in all areas of the building. Emergency numbers, including fire, police, hospital, physician, poison control facility, and ambulance, shall be posted by each phone.

(15) The inside program and activity areas, excluding the sleeping rooms, day room, and classrooms, shall provide floor space equivalent to a minimum of 100 square feet per youth.

(16) Sufficient space shall be provided for contact visiting. There shall be adequately designed space to permit the screening and search of both youth and visitors. Storage space shall be provided for the secure storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.

(17) Each room used for involuntary seclusion shall meet the following requirements for an individual bedroom:

(A) The walls of each room used for involuntary seclusion shall be completely free of objects.

(B) The door of each room used for involuntary seclusion shall be equipped with a window mounted in a manner that allows inspection of the entire room. The glass in this window shall be impact-resistant and shatterproof.

(C) The locking system for a room used for involuntary seclusion shall be approved by the state fire marshal or the fire marshal's designee.

(18) A service sink and storage area for cleaning supplies shall be provided in a well-ventilated room separate from kitchen and living areas.

(e) Food services.

(1) Food storage, preparation, and service shall comply with the departmental regulations governing food and lodging services.

(2) All foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other approved areas with no overhead drain or sewer lines.

(3) Dry bulk food that is not in an original, unopened container shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled.

(4) Poisonous or toxic materials shall not be stored with or over food. If medication requiring refrigeration is stored with refrigerated food, the medication shall be stored in a locked medicine box under all food items in the refrigerator.

(5) All perishables and potentially hazardous foods shall be continuously maintained at 45° Fahrenheit or lower in the refrigerator, or 10° Fahrenheit or lower in the freezer.

(A) Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

(B) All foods stored in the refrigerator shall be covered.

(C) Food not stored in the original container shall be labeled with the contents and date.

(D) Raw meat shall be stored under all other food items in the refrigerator before cooking.

(E) Adequate facilities to maintain food temperatures required in this regulation shall be available.

(6) All dense, hot foods shall be stored in containers four or fewer inches deep.

(7) Food preparation and service.

(A) Each food preparation area shall be adequately equipped for the sanitary preparation and storage of food and washing of dishes and utensils. Food shall be prepared and served in a sanitary manner.

(B) Cooking equipment shall be kept clean and in good condition.

(C) Dishes shall have hard-glazed surfaces and shall be free of cracks and chips.

(D) Dishes, kitchen utensils, and serving equipment shall be maintained in a sanitary condition using one of the following methods:

(i) A three-compartment sink supplied with hot and cold running water to each compartment and a drain board for washing, rinsing, sanitizing, and air drying, with an appropriate chemical test kit for testing the sanitizing solution;

(ii) a domestic-type dishwasher for groups of 24 or fewer persons;

(iii) a commercial-type dishwasher providing a 12-second rinse with 180° Fahrenheit water, for groups of 25 persons or more;

(iv) other methods of sanitizing by manual or mechanical cleaning in accordance with K.A.R. 28-36-24(a) (3) and (4); or

(v) the use of disposable plates, cups, and plastic utensils of food-grade medium weight. Disposable table service shall be used only one time and then destroyed.

(E) Tables shall be in good condition and shall

be washed before and after each meal. Floors shall be swept after meals.

(F) Meat shall be thawed using one of the following methods:

- (i) Removing the meat from the freezer in advance and putting it in the refrigerator to thaw;
- (ii) placing the meat under running, tepid water 72° Fahrenheit until thawed; or
- (iii) thawing in the microwave as part of the cooking process.

(8) Sanitary conditions.

(A) Only authorized persons shall be in the kitchen.

(B) Each kitchen shall be equipped with separate hand-washing facilities. Personnel shall wash their hands before handling food and after working with raw meat.

(C) Hair shall be restrained.

(D) No staff member with any open wounds or infections shall be involved in food preparation or service.

(E) Clean and soiled linen shall be properly stored in the kitchen area.

(F) All trash cans in the restroom used by the kitchen staff shall be covered.

(9) Food safety.

(A) All dairy products shall be pasteurized. Dry milk shall be used for cooking only.

(B) Home-canned foods, other than jams and jellies, and home-frozen foods shall not be served.

(C) Commercially canned food from dented, rusted, bulging, or leaking cans, and food from cans without labels shall not be used.

(10) Nutrition.

(A) Meals and snacks shall meet the nutritional needs of the youth in accordance with recommended dietary allowances. A sufficient quantity of food shall be prepared for each meal to allow each youth second portions of vegetables, fruit, bread, and milk.

(B) Special diets shall be provided for youth, if medically indicated, or to accommodate religious practice, as indicated by a religious consultant.

(C) Menus shall be planned one week in advance. Copies of the menus for the preceding month shall be kept on file and available for inspection.

(11) If meals are catered, the following requirements shall be met:

(A) The meals shall be obtained from sources licensed by the department.

(B) Food shall be transported in covered and temperature-controlled containers. Hot foods

shall be maintained at not less than 140° Fahrenheit, and cold foods shall be maintained at 45° Fahrenheit or less.

(f) Toilets and lavatories.

(1) For each eight or fewer youth of each sex, there shall be at least one toilet, one lavatory, and either a bathtub or a shower. All toilets shall be above floor level.

(2) Each bathroom shall be ventilated. Each inside bathroom shall have a mechanical ventilating system to the outside, with a minimum of 10 air changes per hour.

(3) Toilet and bathing facilities and drinking water shall be convenient to sleeping quarters and living and recreation rooms.

(4) Cold and hot water, not exceeding 120° Fahrenheit, shall be supplied to lavatories, bathtubs, and showers.

(5) Toilet facilities and drinking water shall be convenient to the reception and admission areas.

(6) Locked sleeping rooms shall be equipped with a drinking fountain, lavatory, and toilet, unless a communication system or procedure is in effect to give the resident immediate access to a lavatory, toilet, and drinking water.

(g) Laundry.

(1) If laundry is done at the secure residential treatment facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the youth.

(2) Soiled linen shall be stored separately from clean linen.

(3) Blankets shall be laundered or sanitized before reissue.

(4) Blankets, when used with sheets, shall be laundered at least once each month.

(5) Mattresses shall be water-repellent and washed down and sprayed with disinfectant before reissue. Mattress materials and treatments shall meet state fire marshal regulations.

(6) Adequate space shall be allocated for the storage of clean and dirty linen and clothing. If an in-house laundry service is provided, adequate space shall be allocated for the laundry room and the storage of laundry supplies, including locked storage for chemical agents used in the laundry area.

(h) Building maintenance standards.

(1) Each building shall be clean at all times and free from accumulated dirt, vermin, and rodent infestation.

(2) Floors and walking surfaces shall be kept free of hazardous substances at all times.

(3) A schedule for cleaning each building shall be established and maintained.

(4) Floors shall be swept and mopped daily.

(5) Washing aids, including brushes, dish mops, and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.

(6) Mops and other cleaning tools shall be cleaned and dried after each use and stored in a well-ventilated place on adequate racks.

(7) Insecticides, rodent killers, and other poisons shall be used under careful supervision. These and other poisons shall be stored in a locked area.

(8) Toilets, lavatories, sinks, and other such facilities in the living quarters shall be cleaned thoroughly each day. (Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999.)

28-4-344 to 28-4-349 Reserved.

DETENTION CENTERS AND SECURE CARE CENTERS FOR CHILDREN AND YOUTH

28-4-350. Definitions. The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(a) "Center" means a detention center or a secure care center. It may be owned and operated by public or private entities and includes the staff and services as well as the buildings and grounds.

(b) "Corporal punishment" means any method of physical discipline which inflicts pain.

(c) "Detention" means the temporary care of alleged or adjudicated children in need of care or alleged or adjudicated juvenile offenders who require secure custody pursuant to the Kansas code for the care of children, K.S.A. 38-1501 et seq. and amendments thereto, or the Kansas juvenile offender code, K.S.A. 38-1601 et seq. and amendments thereto.

(d) "Detention center" means a juvenile detention facility as defined in K.S.A. 38-1502(i) and K.S.A. 38-1602(f) and which requires a license pursuant to K.S.A. 65-501 et seq. Detention centers shall meet the requirements for licensure included in K.A.R. 28-4-351 through 360, unless specifically exempted.

(e) "Director" means the person responsible for the overall planning, organization, operation

and fiscal management of the center. This person is directly responsible to the governing body.

(f) "Direct supervision" means physical presence of youth care staff in close proximity to allow for interaction and direct eye contact with juveniles.

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

(h) "Facility manager" means the person responsible for overseeing the daily operation of the center, including staff scheduling, food service, purchasing, housekeeping and maintenance.

(i) "Governing body" means the governing board of a private corporation or the designated policy-making committee of a public agency.

(j) "Intervention" means the use of certain skills or techniques for problem or conflict resolution or diffusion of anger.

(k) "Isolation" means removal of a juvenile from other juveniles to a separate locked room or quarters.

(l) "Juvenile" means a child or youth who is accepted for care in a detention or secure care center.

(m) "License" means a document issued by the Kansas department of health and environment which authorizes a public agency, person, corporation, firm, association or other organization to operate and maintain a detention center or a secure care center.

(n) "Non-secure facility" means a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides the juveniles access to the surrounding community with minimal supervision.

(o) "Placing agent" means the person, social agency or court possessing the legal right to place a child.

(p) "Program" means the comprehensive and coordinated set of activities and social services providing for care, protection and development of juveniles while in the care of the center.

(q) "Program manager" means the person who is responsible for the overall development and implementation of the program and staff development.

(r) "Program personnel" means all persons directly involved with the development and implementation of the program.

(s) "Residential care" means 24 hour care.

(t) "Secure care center" means a secure youth

residential facility, other than a juvenile detention center, used to provide care and treatment for alleged or adjudicated children in need of care pursuant to the Kansas code for the care of children. Secure care centers shall meet the requirements for licensure included in K.A.R. 28-4-351 through 360, unless specifically exempted.

(u) "Secure facility" means a facility which is operated or structured to ensure that all entrances and exits from such facility are under the exclusive control of the staff, whether or not the juveniles have freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control the behavior of the residents. No secure facility, other than a juvenile detention center, shall be attached to or on the grounds of an adult jail or lockup.

(v) "Staffing" means a special client-centered meeting regarding specific issues.

(w) "Temporary care" means residential care not to exceed 90 days.

(x) "Volunteer" means a person or community group that has an interest in providing supportive services to juveniles and offers to provide specific services without remuneration.

(y) "Youth care staff" means the program personnel whose primary responsibility is to implement the program on a daily basis, including direct supervision, interaction and protection of the juveniles. (Authorized by K.S.A. 65-508, and implementing K.S.A. 65-503; effective May 1, 1979; amended Feb. 26 1990; amended Aug. 23, 1993.)

28-4-351. Licensing procedures. (a) A person shall not conduct a center for children under 16 years of age, unless the person has been issued a license to do so by the department.

(b) Any person desiring to conduct a center shall apply for a license on forms provided by the department and submit the license fee as specified in K.S.A. 65-505, and amendments thereto.

(c) Centers operated by or receiving support from county or municipal governments shall meet the same requirements for licensure as those for facilities operated by nongovernmental entities.

(d) Each application for a license shall be accompanied by the following:

(1) A written proposal that details the following:

(A) The purpose of the center;

(B) the administration plan for the program, including an organizational chart;

(C) the financing plan for the program;

(D) staffing for the program, including job descriptions; and

(E) the program to be offered, including the number, age range, and sex of the juveniles to be served;

(2) a copy of the written notification that was submitted to the school district where the facility is located, including the following:

(A) The planned opening date;

(B) the number, age range, and anticipated special education needs of the residents to be served; and

(C) a request for on-site educational services or a request for approval of proposed alternative formal schooling to be provided by the licensee, as required by K.A.R. 28-4-355;

(3) documentation that the notification required by paragraph (d)(2) was received by the school district at least 90 days before the planned opening date;

(4) the floor plans for each building to be used as a center; and

(5) documentation of the state fire marshal's approval.

(e) Plans for all buildings to be used as a center shall be submitted to the department before submitting an application for a license.

(f) A license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and the regulations promulgated pursuant to those statutes and if the applicant has made payment of the license fee required by K.S.A. 65-505, and amendments thereto.

(g) Each applicant shall submit a report, on forms provided by the department, containing the identifying information that is necessary to complete the criminal history and child abuse registry background check for each person who resides, works, or regularly volunteers in the center, excluding children placed in care.

(1) Each center shall submit a current report as follows:

(A) Annually with a notice of intent to continue licensure; and

(B) within one week of the date any new person resides, works, or regularly volunteers in the center, excluding children placed in care.

(2) A copy of each report shall be kept on file at the facility.

(h) Each center shall notify the department of

its intent to continue licensure on forms supplied by the department. Each licensee who wishes to continue licensure shall submit, within 30 days of the department's request, the notice of intent to continue licensure and the fee as specified in K.S.A. 65-505, and amendments thereto. Documentation of the fire safety inspection and approval provided by the state fire marshal or the state fire marshal's designee shall be required annually.

(i) Each licensee shall notify the secretary and obtain written approval from the secretary before making any change in any of the following:

- (1) The use of the buildings; or
- (2) the program, provided through either of the following:
 - (A) Direct services; or
 - (B) agreements with specified community resources.

(j) The notification of any proposed change in the program shall include the following:

(1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(2) documentation that the notification required by paragraph (j)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.

(k) Waiver of 90-day notification to the local school district. The 90-day notification to the local district may be waived by the secretary upon receipt of a written agreement by the local school district.

(l) Request to withdraw an application or terminate a license.

(1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and fee shall be required before opening a center. No applicant shall admit a child before the applicant receives a license.

(2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the center is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a

new license. That person shall not reopen the center or admit any child before receiving a new license.

This regulation shall be effective on and after July 30, 2002. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, 65-508, and 65-516; effective May 1, 1979; amended, T-83-24, Aug. 25, 1982; amended May 1, 1983; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended Aug. 23, 1993; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

28-4-352. Terms of license. (a) The maximum number and age range of juveniles who may be cared for in each living unit shall be specified on each license.

(b) Any license issued shall not be transferable and shall be valid only for the original licensee at the address appearing on the license. A new application shall be submitted for each change of ownership, sponsor, or address of the center.

(c) The license shall not be construed to permit placement of children.

(d) No activities which would interfere with the care of the juveniles shall be carried out in the center.

(e) Advertisements shall conform to the statement of services provided on the application. Under no circumstances shall claims regarding specialized services be made unless the center is staffed and equipped to offer the services or has made arrangements for the services as outlined in K.A.R. 28-4-355. No general claim regarding "state approval" shall be made unless the center has obtained a full license issued by the Kansas department of health and environment.

A license for an additional facility operated by a licensee shall not be issued until all existing facilities operated by the licensee are in compliance with licensing regulations. (Authorized by K.S.A. 65-508 and implementing K.S.A. 65-504 and K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-353. Administration. (a) Organization.

(1) The center shall be administered by:

- (A) A public agency; or
- (B) A private entity with a governing board which is legally responsible for the operation, policies, finances and general management of the center. The director shall not be a voting member of the governing board.

(2) If the sponsor is a private corporation, it

shall be a corporation qualified in the state of Kansas, and shall operate in accordance with an established constitution and by-laws. A copy of the articles of incorporation and by-laws shall be furnished to the Kansas department of health and environment. It shall include a nondiscrimination statement which complies with state and federal civil rights laws.

(b) Administrative policies.

(1) Each center shall have written plans and policies of organization and administration clearly defining legal responsibility, administrative authority and responsibility for comprehensive services, including an organizational chart as approved by the governing body. Changes in policies shall be submitted to the Kansas department of health and environment for licensing approval.

(2) Center personnel and administrative policies shall be distributed to staff members.

(c) Finances.

(1) Funding.

(A) Each center shall have sound and sufficient finances to ensure effective services. Financing plans shall be a responsibility of the governing body. It shall be the responsibility of the licensee to provide the financial resources necessary to maintain compliance with licensing regulations.

(B) Solicitation of funds by charitable organizations shall be made in Kansas in compliance with K.S.A. 17-1759 et seq.

(C) Juveniles shall not be exploited in any fund-raising efforts.

(2) Financial records.

(A) Each center shall maintain financial records sufficient to verify resources and expenditures. Each center shall account for major expenditures on behalf of the juveniles for whom payment is received.

(B) Each juvenile's personal money shall be kept separate from the center funds in an individual account, in accordance with accepted accounting procedures.

(C) A yearly audit by an independent accountant shall be conducted, and a copy of the audit shall be available at the center for review by the staff of the Kansas department of social and rehabilitation services and the Kansas department of health and environment.

(D) The licensee shall make available to the Kansas department of social and rehabilitation services and the Kansas department of health and environment an annual financial statement verifying assets and liabilities.

(3) Insurance.

(A) Each center shall maintain at a minimum the following insurance:

(i) Professional and civil liability for employees; and

(ii) Liability for injury or personal property damage.

(B) Public agencies and private entities shall purchase motor vehicle liability insurance policies containing limits of liability with respect to each vehicle, exclusive of interest and costs:

(i) not less than \$100,000 for personal injury or death in any one accident;

(ii) not less than \$300,000 for personal injury to, or death of, two or more persons in any one accident; and

(iii) not less than \$50,000 for harm to or destruction of property of others in any one accident.

(d) Personnel policies.

(1) Each center shall have written personnel policies, approved and reviewed annually by the governing body. Written personnel policies shall be provided to each staff member upon employment. The policies shall include:

(A) hiring practices;

(B) job descriptions, including qualifications, duties and responsibilities for each staff position;

(C) hours;

(D) sick and vacation leave;

(E) grievance procedures;

(F) salaries, benefits and staff development.

(2) A personnel record shall be maintained for each employee and made available to the employee upon written request.

(e) Staffing.

(1) The governing body of the center shall designate a director whose responsibility is the overall administration of the center.

(2) A written daily staff schedule shall be developed and followed. There shall be:

(A) Adequate male and female staff to directly supervise and interact with the juveniles at all times and provide for their physical, social, emotional and educational needs;

(B) one youth care staff member on active duty for each seven juveniles during waking hours and one youth care staff member on active duty for each 11 juveniles during sleeping hours;

(C) at least one male and one female youth care staff member present, awake and available to the juveniles at all times.

(3) At no time shall there be less than two

youth care staff members on active duty when a juvenile is in care.

(4) At no time shall any one youth care staff member directly supervise more than 11 juveniles. Juveniles shall not be left in a room unattended except that, during sleeping hours, there shall be a minimum of one youth care staff member immediately available to every 11 juveniles in a connecting area to the sleeping rooms. Supervision of juveniles in locked isolation shall comply with K.A.R. 28-4-355b (c)(4)(J) and (K).

(5) Alternate youth care staff members shall be provided for the relief of the regular staff members on a one-to-one basis in compliance with the staffing pattern required in K.A.R. 28-4-353(e)(4).

(6) Electronic supervision shall not replace the youth care staffing requirements.

(7) Auxiliary staff members shall be available as needed. The auxiliary staff shall include food service, clerical and maintenance personnel. Auxiliary staff members shall not be included in meeting youth care staff requirements.

(8) Professional consultant services shall be available as required to meet the needs of the juveniles served. Professional consultants shall include physicians, dentists, nurses, clergy, social workers, psychologists, psychiatrists and teachers.

(9) A volunteer shall not be used as a substitute for an essential program or operating staff member but shall augment the services provided by the staff.

(10) There shall be a designated staff person on site and in charge of the facility at all times when a juvenile is in care. Procedures shall be in place to ensure that all staff members know who is in charge.

(f) Community and volunteer involvement.

(1) Written policies and procedures shall provide for securing community and volunteer involvement in programs. The policies and procedures shall specify a screening and selection process and shall encourage recruitment from all cultural and socio-economic segments of the community.

(2) Written policies and procedures shall govern the volunteer program, specifying the lines and scope of authority, responsibility and accountability. The policies and procedures shall include:

(A) Screening, selection and termination;

(B) orientation and training requirements for each respective volunteer assignment;

(C) a requirement that each volunteer who provides professional services shall meet the same

requirements as would be expected of a paid professional staff member providing those services;

(D) supervision;

(E) identification of the volunteer while in the facility; and

(F) provision for a background check as required by K.A.R. 28-4-351(g).

(3) Each volunteer shall agree in writing to abide by all center policies, particularly those relating to security, confidentiality of information and mandatory reporting laws pertaining to suspected abuse, neglect and exploitation of juveniles.

(4) Each volunteer who will have contact with juveniles shall have a health assessment, including a screen for tuberculosis.

(5) Written policies and procedures shall provide that the director may curtail, postpone or discontinue the services of a volunteer or volunteer organization when there are substantial reasons for so doing. (Authorized by K.S.A. 65-508 and implementing K.S.A. 65-508 and 65-516; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-353a. Staff development. (a) Each person having contact with juveniles shall demonstrate emotional maturity, sound judgment, and a sound knowledge of the developmental needs of children.

(b) Center director qualifications.

(1) Each center director shall demonstrate the following skills and abilities:

(A) Thorough knowledge of the Kansas code for the care of children and the Kansas juvenile offender code;

(B) considerable knowledge of principles and techniques applicable to the care and rehabilitation of juveniles and to the growth, development, needs and unique problems of children;

(C) considerable knowledge of the principles, practices, methods and techniques of administration and management;

(D) ability to train, supervise, plan, direct and evaluate the work of others, as documented by experience, training or a combination of both;

(E) ability to establish and maintain effective working relationships with others; and

(F) ability to establish and maintain effective working relationships with the courts, law enforcement agencies, schools and community organizations.

(2) Each detention center director shall have at least a bachelor's degree in social work, human

development and family life, psychology, education or criminal justice, with a minimum of 15 semester hours in courses related to child or adolescent development or juvenile delinquency, and shall have a minimum of three years of administrative or supervisory experience within a child care or juvenile justice agency.

(3) Each detention center director shall demonstrate thorough knowledge of the methods and techniques used in dealing with juvenile offenders in an institutional or detention setting.

(4) Each secure care center director shall have at least a master's degree in social work or a related field, or shall have a bachelor's degree in social work, human development and family life, psychology or education and a minimum of three years of supervisory experience within a child care agency.

(5) Each secure care center director shall demonstrate thorough knowledge of the methods and techniques used in dealing with juveniles in a residential setting;

(c) Each facility manager shall have at least a bachelor's degree and have three years of supervisory experience in a child care or juvenile justice agency serving youth of the same age and shall demonstrate thorough knowledge of the methods and techniques used in dealing with juvenile offenders in an institutional or detention setting. The facility manager may be the same person as the program manager if the qualifications for program manager required by K.A.R. 28-4-353a(d) are met.

(d) Each program manager shall have at least a bachelor's degree in social work or human development and family life, and shall have one year of supervisory experience in a child care or juvenile justice agency serving youth of the same age. The program manager may be the same person as the facility manager.

(e) Youth care staff and alternate youth care staff shall, before employment:

- (1) Be twenty-one years of age or older;
- (2) have a high school diploma or its equivalent; and
- (3) have a minimum of:
 - (A) Three semester hours of college-level study in adolescent development, psychology or a related subject;
 - (B) forty-five clock hours in documented training in child care or child development; or
 - (C) one year of experience as a child care

worker or house parent in a facility serving youth of the same age.

(f) Professional staff and consultants shall meet all Kansas qualification and licensing requirements for their profession.

(g) Food service staff shall:

(1) Comply with Kansas health standards as enumerated in K.A.R. 28-36-22;

(2) have knowledge of the nutritional needs of children and youth;

(3) understand quantity food preparation and service; and

(4) practice sanitary food handling and storage methods.

(h) Staff professional development. Professional development shall consist of organized, evaluated activity designed to achieve specific learning objectives. Professional development may occur through workshops, seminars, staff meetings or through closely supervised on-the-job training.

(1) Each center shall have written policies and procedures governing orientation and ongoing in-service training. Each employee shall receive orientation training before being independently assigned a particular job.

(2) Each youth care staff member shall receive at least eight hours of orientation training before assuming supervisory responsibility of juveniles and an additional 32 hours of orientation training before assuming independent responsibility for supervision of juveniles. There shall be written documentation of orientation training. Orientation training shall include, but not be limited to:

- (A) Accident and injury prevention;
- (B) child abuse, neglect and exploitation reporting;
- (C) crisis management and intervention;
- (D) emergency and safety procedures to follow in the event of an emergency, bomb threat, fire, tornado, riot or flood;
- (E) facility policies and procedures;
- (F) first aid including rescue breathing;
- (G) health, sanitation and safety measures;
- (H) job duties and responsibilities;
- (I) juvenile rights;
- (J) observation of symptoms of illness and communicable diseases;
- (K) policies regarding behavior management, use of restraints and crises intervention.
- (L) problem solving;
- (M) report writing;
- (N) security procedures; and

- (O) suicide prevention.
- (3) Each director, facility manager, program manager and each person having contact with juveniles shall complete a minimum of 40 clock hours of inservice training per year. Inservice training shall include, but not be limited to:
- (A) Accident and injury prevention;
 - (B) child abuse symptoms and reporting;
 - (C) child care practices;
 - (D) child psychosocial growth and development;
 - (E) first aid including rescue breathing;
 - (F) juvenile court process;
 - (G) licensing regulations;
 - (H) observations of symptoms of illness and communicable diseases;
 - (I) suicide prevention; and
 - (J) use of restraints.
- (4) Each program manger shall attend at least one training event per year away from the center in addition to the inservice training conducted at the center. (Authorized by and implementing K.S.A. 65-508; effective Aug. 23, 1993.)

28-4-353b. Records. (a) Personnel records. Individual records shall be kept for each staff member which shall include the staff member's:

- (1) Job application, including all:
 - (A) identifying information;
 - (B) qualifications including documentation and verification; and
 - (C) character and employment references.
- (2) terms of employment and job description;
- (3) employment dates and annual performance reviews;
- (4) health certificates, including a record of the results of a health assessment and tuberculin test, documented on forms supplied or approved by the Kansas department of health and environment;
- (5) documentation of orientation and inservice training and continuing education;
- (6) documentation of the report submitted to the Kansas department of health and environment for purpose of a background check for criminal and child abuse histories in accordance with K.A.R. 28-4-351(g).
- (7) documentation that the employee has read, understands and agrees to follow:
 - (A) the statutes and regulations regarding mandatory reporting of suspected child abuse, neglect and exploitation;
 - (B) the regulations for licensing detention

centers and secure care centers for children and youth;

(C) the facility's policies and procedures, including personnel, administrative, daily and behavior management policies and procedures; and

(D) policies providing for a drug free workplace; and

(8) grievance and incident reports regarding the specific employee, including the means of resolution of each report.

(b) Volunteer records. Individual records shall be kept on the center-related activities of each volunteer. These records shall include the volunteer's:

- (1) Identifying information;
- (2) job description;
- (3) dates of service and performance reviews;
- (4) documentation of orientation to the facility and specific assignment;
- (5) documentation that the volunteer has read, understands and agrees to follow center policies and procedures, particularly those related to security, confidentiality of information and mandatory reporting of suspected child abuse and neglect;
- (6) documentation of freedom from active tuberculosis;
- (7) documentation of the report submitted to the Kansas department of health and environment for purpose of a background check for criminal and child abuse histories in accordance with K.A.R. 28-4-351(g).
- (8) a copy of the health assessment required in K.A.R. 28-4-353(f)(4).

(c) Juvenile records.

(1) Written policies and procedures shall govern record management and shall include, but not be limited to:

(A) The establishment, utilization, content, privacy, security and preservation of records.

(B) the schedule for the retirement and destruction of inactive case records; and

(C) a provision for review of policies and procedures at least annually and revision as needed.

(2) A register of all juveniles in care shall be kept by each center. The register shall include the following information for each juvenile:

- (A) Name;
- (B) date of birth;
- (C) the name and address of each parent or legal guardian, person with whom juvenile resides at time of admission;

(D) the name and address of the legal custodian, if not the parent or legal guardian;

(E) the name and address of closest living relative if other than parent or guardian;

(F) the reason for admission; and

(G) the dates of admission and release.

(3) Upon the release of each juvenile from a detention center, a completed admission and release form, supplied by the Kansas bureau of investigation, shall be submitted to the bureau.

(4) Individual records shall be kept for each juvenile which shall include the juvenile's:

(A) identifying information;

(B) legal status;

(C) legal custodian;

(D) arrest record;

(E) court order or journal entry for any juvenile in care longer than 48 hours;

(F) medical and dental permission forms, signed by a parent or legal guardian. The permission form used shall be one which is acceptable to the vendor who will provide the service; and

(G) a written inventory of all money and personal property of the juvenile signed by the juvenile and the admitting staff member.

(5) A daily log of each juvenile's behavior, with notations regarding any special problems during detention and the response of the staff to any problems shall be kept in each juvenile's individual record file. Each entry shall be initialed by the staff member making the entry.

(6) A list of all juveniles receiving care shall be submitted upon request to the Kansas department of health and environment on forms provided or approved by the department.

(7) Information from a juvenile's records shall not be released without written permission from the juvenile's parent or legal guardian. When the parent or legal guardian is not available to provide written permission, an order of the court having valid jurisdiction shall be acceptable. Improper disclosure of records or information regarding a juvenile shall be grounds for revocation or suspension of the center's license or permit in force, or the denial of a center's application for licensure.

(8) Written policy, procedure and practice shall provide for the transfer of specific juvenile case file information upon release of a juvenile to another center or other residential care. Specific case file information shall precede or accompany the juvenile and shall include:

(A) Identifying information;

(B) medical records;

(C) immunization records;

(D) insurance information;

(E) medical card, when applicable;

(F) school placement information, including present courses of study; and

(G) the name and address of each parent or legal guardian.

(9) Additional case file information to be transferred shall accompany the juvenile or be transferred within 72 hours. (Authorized by and implementing K.S.A. 65-508; effective Aug. 23, 1993.)

28-4-354. Admission and release policies. (a) Written admission policies and procedures of the center shall be approved by the governing body in accordance with goals and purposes of the center and Kansas statutes.

(b) Admission procedures and practice shall include but not be limited to:

(1) Collecting identifying information;

(2) verifying the legal authority to detain;

(3) completing a health history checklist. This checklist shall be completed by the admitting staff person, using a form approved by the Kansas department of health and environment. A description of bruises, abrasions, symptoms of illness and current medications shall be documented on this form;

(4) assessing the juvenile's suicide risk potential;

(5) documenting the notification of the juvenile's parents or legal guardian and legal custodian, if not the parent or legal guardian, in accordance with Kansas juvenile code.

(6) assisting the juvenile in contacting the juvenile's family at the time of admission.

(7) conducting an intake interview. Designated staff members shall conduct each intake interview;

(8) providing an orientation to the center in a manner which is understandable to the juvenile. Completion of the orientation and receipt of all written orientation materials shall be documented by a signed statement from the juvenile;

(9) notifying the appropriate intake officer;

(10) searching the juvenile and the juvenile's possessions;

(11) documenting the juvenile's clothing and personal possessions and disposition. A written inventory of all money and personal property of

the juvenile shall be signed by the juvenile and the admitting staff member and kept with the juvenile's record. If the juvenile refuses to sign the inventory, the refusal shall be documented in the juvenile's record;

- (12) distributing personal hygiene items;
- (13) providing for a shower and hair care;
- (14) issuing clean, laundered clothing, if necessary; and

(15) assigning the juvenile to a sleeping room.

(c) No juvenile shall be admitted to:

(1) A detention center, except as authorized by K.S.A. 38-1528 subsections (a) or (b) or by K.S.A. 38-1640 and any amendments thereto; or

(2) a secure care center, except as authorized by K.S.A. 38-1502(a)(10) or by K.S.A. 38-1568 and any amendments thereto.

(d) No juvenile shall be admitted who shows evidence of being seriously ill, injured, intoxicated or physically or mentally impaired until the juvenile is examined and approved for admission by a physician licensed to practice in Kansas.

(e) A center shall not accept permanent legal guardianship of a juvenile.

(f) Release policies.

(1) All releases shall be approved by the court of jurisdiction or the designated authority.

(2) The center shall provide release forms to be signed by the person to whom the juvenile is released and by the staff person releasing the juvenile.

(3) Temporary releases for court attendance, medical appointments or placement visits, or other necessary purposes shall be permitted when authorized by the court or its designated official.

(4) Procedures and practice for release of juveniles shall include:

(A) Verification of identity.

(B) completion of any pending action, including any grievance or claim for damages or lost possessions;

(C) transportation arrangements;

(D) instructions for forwarding mail; and

(E) return of money and personal property to the juvenile. A receipt for all money and personal property shall be signed by the juvenile.

(5) Juvenile records shall be transferred in accordance with Kansas statutes and regulations and with center policies.

(g) The length of stay for each juvenile admitted for care in a detention center shall not

exceed 90 days unless an exception is granted by the Kansas department of health and environment. Each request for an exception shall be received by the department prior to the ninetieth day of the juvenile's stay. Each exception request shall be in writing and provide:

(1) Identification of the juvenile for whom an exception is requested;

(2) the specific reason why an exception is requested;

(3) the projected release date; and

(4) the total number of service days requested. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-355. Program and services. (a) A written plan and daily routine shall be maintained for all juveniles which shall include: meals, rest and sleep, personal hygiene, physical exercise, recreation, counseling, education and social services.

(b) Classroom instruction shall be provided on-site by teachers holding appropriate certification from the Kansas board of education.

(1) Education services shall be coordinated with the local school district. During the local school year, each juvenile shall receive a minimum of six hours of instruction per day, excluding weekends and holidays.

(2) For each juvenile currently enrolled in a Kansas public school, contact shall be maintained with the juvenile's home school district to ensure the continuity of each juvenile's education.

(3) A regular schedule of instruction and related educational services appropriate to the needs of each juvenile shall be provided.

(4) Youth care staff shall be stationed in proximity to the classroom, with frequent, direct, physical observation of the classroom activity at least every 15 minutes, to provide immediate support to the teacher.

(c) Library services.

(1) Each center shall have written policies and procedures which govern the center's library program, including acquisition of materials, hours of availability and staffing.

(2) Library services shall be available to all juveniles.

(A) Reading and other library materials may be provided for use during non-library hours.

(B) Library materials shall be appropriate for various levels of competency.

(C) Reading material shall reflect racial and ethnic interests.

(d) Recreation.

(1) All centers shall provide indoor and outdoor recreational areas and equipment where security and visual supervision can be easily maintained, and unless restricted for health reasons, all juveniles shall be allowed to engage in supervised indoor and outdoor recreation on a daily basis.

(2) Art and craft supplies, books, current magazines, games and other indoor recreational materials shall be provided for leisure time activities.

(e) Work.

(1) Work assignments shall not be used as a substitute for recreation.

(2) Juveniles shall be prohibited from performing such duties as:

(A) Personal services for the staff;

(B) cleaning or maintaining areas away from the center;

(C) replacing employed staff;

(D) any work experience defined as hazardous by the Kansas department of human resources regulations governing child labor.

(3) After receiving the required youth care staff orientation and training, auxiliary staff may supervise work activities. Youth care staff shall be within visual and auditory distance to provide immediate support, if necessary.

(f) Visitation and communication.

(1) All facilities shall provide telephone and contact visitation rights for parents, legal guardians, legal representatives and other visitors approved by personnel designated by the director or the governing body. Private telephone conversation and visitation shall be allowed, except when a documented need to protect the juvenile or the security of the facility dictates otherwise.

(2) Written telephone and contact visitation policies and procedures shall be made available to all juveniles, parents, legal guardians and legal representatives.

(3) A juvenile shall not be denied the right to contact his or her attorney or court counselor. No court counselor or attorney shall be refused visitation of a juvenile to whom the counselor or attorney has been assigned.

(4) There shall be no censorship of mail or written communication, except to check for con-

triband, unless there is sufficient reason to believe that the security of the center is at risk. Suspect mail shall be opened by center staff in the presence of the addressee. If mail is to be read, the juvenile is to be informed in advance and present when the mail is opened. The reason for each occasion of censorship shall be documented and kept in the juvenile's record.

(5) Writing materials and postage for the purposes of correspondence shall be available to juveniles. Materials and postage for at least two letters per week shall be provided for each juvenile.

(6) Juveniles shall be provided access to the telephone to make and receive personal calls.

(7) First class letters and packages shall be forwarded after transfer or release of each juvenile.

(g) Transportation. Written policies and procedures shall govern the transportation of juveniles outside the center and from one jurisdiction to another.

(1) Transportation procedures and practice shall include, but not be limited to:

(A) Precautions to prevent escape during transfer; and

(B) documentation of current, appropriate licensure for each center driver.

(2) When the center is transporting juveniles, each transporting vehicle shall be center owned or leased and shall have a yearly safety check. A record of the yearly safety check and all repairs or improvements made shall be kept on file at the center.

(3) Each transporting vehicle operated by the center shall be equipped with an individual seat belt for the driver, each juvenile passenger and each additional passenger. The driver, each juvenile passenger and each additional passenger shall use the seat belts at all times.

(4) Smoking in the transporting vehicle shall be prohibited while juveniles are being transported.

(5) Juveniles shall be delivered to the designated destination by the most direct route. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-355a. Rights of juveniles. (a) The rights of juveniles while in detention or secure care shall not be diminished or denied for disciplinary reasons.

(b) Written policies and procedures shall pro-

vide that juveniles are assured their rights subject only to the limitations necessary to maintain order and security in the center. Procedures and practice shall ensure the following:

(1) Freedom from personal abuse, corporal or unusual punishment, excessive use of force, humiliation, harassment, mental abuse or punitive interference with the daily functions of living, such as eating or sleeping;

(2) freedom from discrimination based on race, culture, religion, national origin, sex or disability;

(3) equal access to programs and services for both male and female juveniles in co-ed facilities;

(4) receipt and explanation of written rules and grievance procedures of the center, in a language which the juvenile can understand;

(5) opportunity for a variety of physical exercise, including outdoor exercise when weather permits;

(6) participation in religious worship and religious counseling on a voluntary basis, subject only to the limitations necessary to maintain facility order and security;

(7) reasonable religious diets;

(8) the right to wear personal clothing consistent with center guidelines. If the center provides clothing, it shall be of proper size and contemporary style;

(9) access to the courts and confidential contact with attorneys, judges, parents, social workers and other professionals, including telephone conversations, visits and correspondence;

(10) medical treatment and emergency dental care, a medically proper diet and the right to know what and why medications have been prescribed;

(11) the right to send and receive uncensored mail in accordance with K.A.R. 28-4-355 (f)(4);

(12) the right to receive visitors and communication in accordance with the center's visitation policies;

(13) the right to determine the length and style of hair, except when a physician determines that a haircut is medically necessary; and

(14) the right to keep facial hair, if desired, except when a licensed physician determines that removal is medically necessary for health and safety. (Authorized by and implementing K.S.A. 65-508; effective Aug. 23, 1993.)

28-4-355b. Behavior management. (a) Rules.

(1) Written policies shall provide for a behavior

management system that assists juveniles to develop inner control so that they can manage their own behavior in a socially acceptable manner. Procedures and practice shall provide:

(A) Expectations which are age appropriate and which allow for special abilities and limitations; and

(B) positive and negative consequences related to each expectation.

(2) Written rules of juvenile conduct shall define expected behaviors and related consequences.

(A) A rulebook containing expected behaviors, ranges of consequences and disciplinary procedures shall be given to each juvenile and youth care staff member.

(B) An acknowledgement of receipt of the rulebook shall be signed by each juvenile and kept in each juvenile's file.

(C) When a literacy or language problem prevents a juvenile from understanding the rulebook, a staff member or translator shall assist the juvenile in understanding the rules.

(D) The rulebook shall be translated into any language spoken by a significant number of persons in the jurisdiction.

(3) All staff members who have direct contact with juveniles shall be thoroughly familiar with the rules of juvenile conduct, the rationale for the rules and the intervention options available.

(b) Discipline.

(1) Discipline which is humiliating, frightening or physically harmful to the juvenile shall not be used at any time. The resident shall be protected against all forms of neglect, exploitation or degrading forms of discipline. No juvenile shall be isolated without a youth care staff member within visual and auditory distance or confined in any dark space. Electronic monitoring or an audio communication system shall not replace the required presence of a youth care staff member.

(2) Corporal punishment shall not be used.

(3) Under no circumstances shall any juvenile be deprived of meals, clothing, sleep, medical services, exercise, correspondence, parental contact or legal assistance for disciplinary purposes. If a juvenile is in locked isolation during normal school hours, school work shall be provided to the juvenile.

(4) Under no circumstances shall any juvenile be allowed to supervise or to administer discipline to other juveniles.

(c) Isolation.

(1) Routine nighttime lock-up during sleeping hours is permitted in detention centers for the purpose of security during sleeping hours. A detention center which uses nighttime lockup shall not be required to comply with the special requirements concerning locked isolation for routine lockup of juveniles during sleeping hours. Written policies and procedures shall govern the use of routine nighttime lockup. Procedure and practice shall provide for:

(A) Direct, irregularly scheduled, physical observation of juveniles at least every 15 minutes by a youth care staff member; and

(B) written reports of periodic observation of the juveniles. The reports shall be kept on file at the center.

(2) Electronic monitoring shall not replace periodic observation of juveniles by a youth care staff member during nighttime lock-up.

(3) Locked isolation shall be permitted within a detention center only when a juvenile is out of control, continually refuses to obey reasonable and lawful requests or behaves in a way that presents a threat to self or others. Within a secure care center, locked isolation shall be permitted only when a juvenile's behavior presents a threat to self or others.

(4) Each center shall have written policies and procedures which govern the use of locked isolation. Procedures and practice shall:

(A) Permit the use of locked isolation only when all other less restrictive methods of controlling the juvenile's dangerous behavior have been attempted and have failed;

(B) require a written order by a designated staff member each time a juvenile is placed in or released from isolation;

(C) ensure that no more than one juvenile is placed in an isolation room at any one time;

(D) provide for a search of each juvenile and removal of any items that may be used to injure self or others before admission to the isolation room;

(E) ensure that each juvenile is provided appropriate clothing at all times;

(F) ensure that each juvenile in isolation is provided a mattress with linens on a clean, level surface above floor level;

(G) ensure that each juvenile receives all meals and snacks normally served and is allowed time to exercise and perform necessary bodily functions;

(H) ensure that each juvenile has prompt access to drinking water and washroom facilities;

(I) ensure that the designated staff member on duty makes appropriate entries in the case records regarding the juvenile's use of the isolation room;

(J) ensure that at least one youth care staff member is in the proximity of each juvenile in isolation at all times, with direct, physical observation at least every 15 minutes. At the time of each observation, the following shall occur:

(i) Interactive intervention shall be attempted, unless the juvenile is sleeping;

(ii) the result of the intervention shall be recorded; and

(iii) the condition of the juvenile shall be recorded;

(K) ensure constant supervision when a juvenile is considered suicidal; and

(L) provide for an assessment of the need for continued isolation at each shift change and for documentation of the reasons isolation is continued.

(4) If a juvenile is in locked disciplinary isolation before routine nighttime lock-up occurs, the hours of nighttime lock-up shall be counted as time in locked disciplinary isolation for that juvenile.

(5) A juvenile shall not remain in isolation for more than 24 hours without written approval of the director or the director's designee who is not involved in the incident.

(A) The director or designated staff member who is not involved in the incident shall visit with each isolated juvenile at least once within each eight-hour period after the first 24 hours.

(B) Written approval of the director or director's designee shall be required for each eight hour period isolation is extended, beyond the first 24 hours.

(6) Isolation shall not exceed 48 hours for any offense unless the juvenile continues to behave in a way that presents a threat to self or others.

(7) If a juvenile requires more than 48 hours of consecutive isolation or more than 72 cumulative hours of isolation within any seven day period, or is placed on suicide watch, an emergency staffing shall be held to discuss the appropriateness of the juvenile's continued placement at the center and to develop an emergency plan for the juvenile.

(A) Participants in the emergency staffing shall include:

(i) the juvenile if behavior permits;

(ii) the director or the director's designee;

(iii) a physician, clinical psychologist, or clinical social worker who has assessed the juvenile; and

(iv) appropriate staff member.

(B) The placing agent or representative and the juvenile's parents or legal guardian shall be notified of the emergency staffing and invited to participate. Documentation of notifications shall be kept on file at the center.

(C) The results of the emergency staffing shall be recorded and maintained on file at the center.

(8) All youth care staff and program personnel shall be informed at all times of the current status of each resident in isolation.

(d) Restraint. Each center shall have written policies and procedures which govern the use of restraint.

(1) Procedure and practice shall:

(A) Limit the use of physical restraint to instances of justifiable self-defense, protection of the juvenile or others, protection of property or prevention of escape;

(B) permit the use of physical restraint only when all other less restrictive methods of controlling the juvenile's dangerous behavior were either attempted and failed or diagnostically eliminated;

(C) prohibit the use of physical restraint as punishment.

(D) ensure that mechanical restraints are used within the secure parameters of the center only when required to move a juvenile to locked isolation. The use of mechanical restraints shall not exceed 30 minutes in duration;

(E) ensure that chemical agents are not used by center personnel; and

(F) provide that psychotropic medications are not used for disciplinary reasons. Psychotropic medications shall be administered only when medically necessary, upon order of the juvenile's physician.

(2) A center which uses any form of restraint shall develop and ensure the practice of a comprehensive written policy on the use of each restraint. The policy shall identify:

(A) The forms of restraint in use at the center, clearly demonstrating that each specified form of restraint is required to appropriately serve juveniles;

(B) specific criteria for the use of each form of restraint;

(C) the staff members authorized to approve the use of each form of restraint;

(D) the staff members authorized and qualified to administer or apply each form of restraint;

(E) the approved procedures for application or administration of each form of restraint;

(F) the procedures for monitoring any juvenile placed in each form of restraint;

(G) any limitations on the use of each form of restraint, including time limitations;

(H) the procedures for immediate, continual review of restraint placements for each form of restraint, except passive physical restraint; and

(I) procedures for comprehensive recordkeeping on all incidents of the use of restraint, including incidents of passive physical restraint where it is used in conjunction with or leads to the use of any other form of restraint.

(3) If a juvenile requires the use of mechanical restraints more than four times in any 30 day period, an emergency staffing shall be held to discuss the appropriateness of the juvenile's continued placement at the center and to develop an emergency plan for the juvenile.

(A) Participants in this emergency staffing shall include:

(i) the juvenile if behavior permits;

(ii) the director or the director's designee;

(iii) a physician, clinical psychologist or clinical social worker who has assessed the juvenile; and

(iv) appropriate staff members.

(B) The placing agent or representative and the juvenile's parents or legal guardian shall be notified of the emergency staffing and invited to participate. Documentation of notifications shall be kept on file at the center.

(C) The results of the emergency staffing shall be recorded and maintained on file at the center.

(4) Any juvenile or staff member injured in an incident involving the use of physical restraint shall receive immediate medical examination and treatment. (Authorized by and implementing K.S.A. 65-508; effective Aug. 23, 1993.)

28-4-356. Health care policies. (a) Health services for juveniles.

(1) Each center, in consultation with a physician or community health nurse, shall develop written health care policies which cover:

(A) Health history checklist and review for each juvenile upon admission, as documented on forms approved by Kansas department of health and environment;

(B) follow-up health care, including health ex-

amination and referrals, for concerns identified in the health history checklist and review.

(C) dental screening upon admission and follow-up emergency dental care as needed;

(D) preventive dental care for juveniles in secure care;

(E) chronic care, convalescent care and preventive care when medically indicated;

(F) care for minor illness, including the use and administration of prescription and nonprescription drugs;

(G) care for juveniles under the influence of alcohol or other drugs;

(H) consultation regarding individual juveniles when indicated;

(I) infection control measures and universal precautions to prevent the spread of bloodborne infectious diseases recommended in "Update: Universal Precautions for Prevention of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings" as published in the *Morbidity and Mortality Weekly Report*, June 24, 1988, Vol. 37 No. 24 which are hereby adopted by reference;

(J) maternity care as defined in K.A.R. 28-4-279; and

(K) medically indicated isolation.

(2) Each center shall have a physician licensed to practice in Kansas designated as the medical consultant to the health program.

(3) Each center shall obtain a written consent from each juvenile's parent or legal guardian for medical and dental care.

(4) The medicine cabinet shall be located in an accessible, supervised area. The cabinet shall be kept locked. Internal and external medicines shall be kept in separate sections of the cabinet. All unused medication shall be safely discarded.

(A) Prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the juvenile's name, the name of the medication, the dosage, the dosage intervals, the name of the physician and the date the prescription was filled. Any changes of prescription or directions for administering a prescription medication shall be authorized in writing by a physician, with documentation in the juvenile's file.

(B) All medication, including non-prescription medication, shall be given only in accordance with label directions, unless ordered differently by a licensed physician. A record shall be kept in the juvenile's file documenting the name of the per-

son who gave the medication, the name of the medication, the dosage and the date and time it was given.

(5) Arrangements for emergency care shall be made as follows.

(A) The center shall have a written statement of the name, address and telephone number of a physician licensed in Kansas to be called in case of emergency.

(B) Policy and procedures shall ensure continuous care of juveniles who require emergency medical treatment.

(C) When a staff member accompanies a juvenile to the source of emergency care, the staff member shall remain with the juvenile for the duration of the emergency. Supervision of the other juveniles in the center shall not be compromised. The health history checklist and health assessment shall be taken to the emergency room with the juvenile.

(6) Any incident resulting in death or serious injury to any staff member or juvenile, or any instance of suspected abuse or neglect, shall be reported immediately to the Kansas department of health and environment bureau of adult and child care, and the county health department. A written incident report shall be submitted to the bureau within five working days. Each parent or legal guardian shall be immediately notified when serious injury to, death or hospitalization of a juvenile occurs. When suspected abuse or neglect of a juvenile occurs, the Kansas department of social and rehabilitation services shall be notified in accordance with statutory requirements.

(7) Any injury to a juvenile or staff member that is a result of suspected criminal action, shall be reported immediately to the local law enforcement officials and district attorney's office for their disposition.

(8) Any death of staff within the center or of a juvenile shall be reported to the local law enforcement officials and district attorney's office for appropriate action.

(b) Physical health of juveniles.

(1) A health history checklist shall be completed for each juvenile at the time of admission. This checklist shall be completed by the person who admits the juvenile, using forms supplied or approved by the Kansas department of health and environment.

(A) The health checklist shall serve as a guide to determine if a juvenile is in need of immediate medical care.

(B) The center's physician shall be contacted for any juvenile who is taking a prescribed medication at the time of admission so that treatment is not interrupted.

(C) The center's physician shall be contacted for any juvenile who has acute symptoms of illness or who has a chronic illness. Communicable diseases shall be reported within 24 hours or by next working day to the local county health department.

(2) Within 72 hours of admission, juveniles shall have a review of the health history checklist by a physician or nurse. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or nurse shall determine whether a full screening and health assessment are necessary.

(A) When necessary, the screening and health assessment shall be conducted by a licensed physician or by a nurse certified by the Kansas department of health and environment to conduct such examinations.

(i) The screening and health assessment shall be completed within 10 days of admission.

(ii) The screening shall be based upon health assessment and screening guidelines provided or approved by the Kansas department of health and environment.

(B) Medical and dental records shall be kept on forms provided or approved by the Kansas department of health and environment and shall be kept current.

(C) Each juvenile shall receive a tuberculin skin test. A chest x-ray shall be taken of all positive tuberculin reactors and those with a history of previous positive reaction. The proper treatment or prophylaxis shall be instituted. The results of this follow-up shall be recorded in the juvenile's record and the county health department shall be kept informed of the results.

(D) A current health record shall be kept for each juvenile which includes the juvenile's current immunization record, health history checklist, documentation of the review of the health history checklist and the decision regarding the need for screening and health assessment, tuberculin skin test report, medical contacts and entries regarding the juvenile's health care plan.

(E) The health record shall accompany the juvenile when transferred to another facility. A copy of the health record shall be kept in the juvenile's file at the center.

(3) Written policy and procedures shall prohibit the use of tobacco in any form by juveniles while in care.

(c) Dental health of juveniles.

(1) Emergency dental care shall be available for all juveniles. Each secure care center juvenile record shall include a report of a dental examination obtained within one year before or 60 days after admission.

(2) The center staff shall develop plans for dental health education and shall supervise the juveniles in the practice of good dental hygiene.

(d) Personal health of staff members and volunteers.

(1) Each person caring for juveniles shall be:

(A) Free from communicable disease;

(B) Free from physical, mental or emotional handicaps as is necessary to fulfill the responsibilities listed in the job description and protect the health, safety and welfare of the juveniles; and

(C) Free from impaired ability due to the use of alcohol or other drugs.

(2) Each staff member who will have contact with the juveniles shall receive a health examination within one year before employment. This examination shall be conducted by a licensed physician or a nurse authorized to conduct such examinations.

(3) Results of the health examination shall be recorded on forms supplied or approved by the Kansas department of health and environment and kept on file at the center. Health assessment records may be transferred from a previous place of employment if the transfer occurs within one year of the examination date.

(4) The initial health examination shall include a tuberculin skin test. If there is a positive reaction to the tuberculin skin test or a history of previous positive reaction, a chest x-ray shall be required. Proof of proper treatment or prophylaxis, according to current Kansas department of health and environment guidelines, shall be required. Documentation of test, x-ray and treatment results shall be kept on file in the person's health record.

(5) A tuberculin skin test or a chest x-ray shall be required if significant exposure to an active case of tuberculosis occurs or if symptoms compatible with tuberculosis develop. If there is a positive reaction to the diagnostic procedure, proof of proper treatment or prophylaxis, according to Kansas department of health and environment guidelines, shall be required. The results of this follow-up shall be recorded in the person's health

record. The Kansas department of health and environment shall be informed of each case described within this paragraph.

(6) Volunteers shall present written proof of freedom from active tuberculosis before serving in the center.

(7) Smoking shall not be permitted in the facility.

(e) Personal hygiene.

(1) Each juvenile shall bathe upon admission and be given the opportunity to bathe daily.

(2) Each juvenile shall be given the opportunity to brush their teeth after each meal.

(3) Each juvenile shall be furnished with toothpaste and a toothbrush. Pump soap shall be available at all community sinks and showers.

(4) Facilities for shaves and haircuts shall be made available. No juveniles shall be required to have a hair cut unless a physician determines that a hair cut is medically necessary.

(5) Each juvenile's washable clothing shall be changed and laundered at least twice a week. Underwear and socks shall be changed and laundered daily. Clean and serviceable footwear of appropriate size shall be issued to each juvenile.

(6) Each female juvenile shall be provided personal hygiene supplies with regard to her menstrual cycle.

(7) Clean, individual bath and face towels shall be issued to each juvenile at least twice a week. Bed linen shall be changed at least once a week.

(8) Each juvenile shall be allowed to have at least eight hours of sleep each day. Fourteen hours of activity shall be provided. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended May 1, 1985; amended Aug. 23, 1993.)

28-4-357. Emergency, safety, security and control. (a) Each center shall develop a disaster plan to provide for the safety of juveniles in emergencies. The plan shall be reviewed at least annually and updated as needed. The plan and subsequent updates, if any, shall be approved by the state fire marshal or the marshal's designee.

(1) The plan shall include provisions for the care of juveniles in disasters such as fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff members and juveniles.

(2) The personnel in the center shall be informed of the disaster plans and the plans shall be posted in a prominent location and practiced.

(3) Each center shall have first aid supplies: assorted adhesive strip bandages, adhesive tape, roll of gauze, scissors, package of gauze squares, pump soap, elastic bandage, tweezers and rubbing alcohol.

(4) Each center which uses locked isolation shall have an effective policy and procedure to evacuate an isolated juvenile in the event of a fire or other emergency.

(b) The center shall have one fire drill and one tornado drill per each shift per quarter.

(c) Security and control. Each center shall use a combination of supervision, inspection, accountability and clearly defined policies and procedures on the use of security to promote safe and orderly operations.

(1) Written policies and procedures for center security and control shall be available to all staff members. The policies and procedures shall be reviewed at least annually and updated as needed. The following rules and requirements shall be included:

(A) A daily report on juvenile population movement shall be completed and kept on file at the center.

(B) Written operational shift assignments shall state the duties and responsibilities for each assigned position in the center.

(C) Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.

(D) Regular inspection and maintenance of security devices. Any corrective action shall be completed as necessary and recorded.

(E) No weapons shall be permitted in the center. Secure weapons lockers shall be provided for storage of any weapons carried by visiting law enforcement officers.

(F) Guidelines for the control and use of keys, tools and medical and culinary equipment shall be implemented.

(G) No juvenile or group of juveniles shall exercise control or authority over other juveniles, have access to the records of other juveniles or have access to or use of keys that control center security.

(H) Procedures for handling escapes, runaways and unauthorized absences shall be developed and adhered to.

(I) Safety and security precautions pertaining to facility and staff vehicles shall be developed and adhered to.

(2) Policies and procedures for the prosecution

of any illegal act committed while the juvenile is in care shall be developed.

(3) Policies and procedures to ensure that chemical agents such as mace, pepper mace or tear gas are never used by center staff shall be developed and adhered to.

(4) Poisons and all flammable materials shall be kept in locked storage.

(5) Written policies and procedures governing control of contraband shall be developed and adhered to. The procedures shall:

(A) Provide for searches of facilities and juveniles;

(B) provide that strip searches are conducted only at admission or when there is reasonable belief that the juvenile is carrying contraband or other prohibited material. The inspection shall be conducted in private by a trained staff member of the same sex as the juvenile. A second staff person shall observe the staff member conducting the search to verify that the search was conducted in accordance with agency policies. If necessary, a body cavity inspection shall be conducted only by a physician or nurse who is trained to conduct body cavity inspections; and

(C) require documentation of the incident, including the reason for the search, the identities of staff persons involved and the result. The documentation shall be kept on file at the center.

(6) Policies and procedures shall govern documentation of all special incidents, including but not limited to the taking of hostages and the use of restraint other than for routine transport. Procedure and practice shall require submission of a written report of all special incidents to the director or the director's designee. The report is to be submitted no later than the conclusion of the shift. A copy of the report shall be kept in the file of the juvenile concerned. A copy of the report of any incident which involves the taking of hostages, the death or injury of a juvenile, or criminal charges against a juvenile or staff member shall be submitted to the Kansas department of health and environment, the placing agent and other persons as appropriate.

(7) Any incident of disaster as enumerated in K.A.R. 28-4-357 (a)(1) shall be reported to the Kansas department of health and environment within 24 hours excluding weekends and holidays. Any incident of fire shall also be reported to the state fire marshal within the same time frame.

(8) A written plan shall provide for continuing operations in the event of a work stoppage. Copies

of this plan shall be available to all supervisory personnel who shall familiarize themselves with it. The Kansas department of health and environment shall be notified immediately of incidents of work stoppage. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-358. Policies relating to animals at the center. (a) If animals or pets are kept at the center, written policies shall be developed for their care. These policies shall be approved by the Kansas department of health and environment.

(b) Animals shall have current immunizations as recommended by a veterinarian. A record of immunizations shall be kept on file at the center.

(c) Animals that represent a hazard to juveniles shall be excluded from the center. Hazardous animals shall include, but not be limited to snapping turtles, pit bulldogs, and poisonous snakes and insects.

(d) The pet area of each center shall be maintained in a clean and sanitary manner. No animal or bird shall be in the kitchen while food is being prepared. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-359. Environmental standards. (a) General building requirements.

(1) Each building shall meet the legal requirements of the community as to building code, zoning, fire protection, water supply and sewage disposal. Each center shall use public water and sewage systems, or shall have private water and sewage systems having approval and permits as required by K.S.A. 65-163 and K.S.A. 65-165 and amendments thereto. Where local fire regulations do not exist, construction shall be in compliance with the Kansas fire prevention code. When local and state regulations differ, the more stringent requirement shall prevail.

(2) A licensed architect shall be responsible for the plans for any newly constructed building or for any major addition or alteration to an existing building.

(A) In the case of a new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the Kansas department of health and environment for review prior to commencing the final working drawings and specifications. The final working drawings, construction specifications and plot plans shall be

submitted to the department for review and written approval prior to the letting of contracts.

(B) In the case of an addition or alteration to an existing building, a written statement defining the proposed use of the construction and the plans and specifications shall be submitted to the Kansas department of health and environment for review and written approval prior to commencing construction.

(3) If construction is not commenced within one year of the submittal of proposal for a new building or the addition or alteration to an existing building, the plans and proposal shall be resubmitted to the Kansas department of health and environment before proposed construction begins.

(b) Location and grounds requirements.

(1) Community resources such as health services, police protection, and fire protection from an organized fire department shall be available to the center.

(2) There shall be at least 100 square feet of outside activity space available per juvenile expected to utilize each area at any one time.

(3) The outside activity area shall be free of physical hazards.

(4) If the center is on the same grounds as any other type facility, the center shall be a separate, self-contained unit. No secure facility, other than a juvenile detention center, shall be attached to or on the grounds of an adult jail or lockup. When a juvenile detention facility is in the same building or on the same grounds as an adult jail or lockup, there shall be:

(A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;

(B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and

(C) separate juvenile and adult staffs, including management, security staff and direct care staff such as recreational, educational and counseling staff members.

(5) There shall be sufficient space for visitor and staff parking at each center.

(c) The water supply to each center shall be from a source approved and certified by the health authority.

(1) Plumbing shall be installed and maintained

in compliance with local and state plumbing codes.

(2) Any privately owned water supply shall be approved by the county health officer or the Kansas department of health and environment.

(d) Structural requirements.

(1) Center construction shall provide for the removal of architectural barriers to disabled persons in accordance with state and federal statutes. All parts of each center shall be accessible to and usable by disabled persons.

(2) Each center's structural design shall facilitate personal contact and interaction between staff members and juveniles.

(3) Asbestos shall not be used in new or remodeling construction. Before any remodeling construction is started, any friable asbestos shall be covered and sealed in a manner that provides a protective barrier between the asbestos and the occupants of the building. The method of handling shall be in compliance with K.A.R. 28-50-1 through 28-50-14, the Kansas department of health and environment regulations governing asbestos control.

(4) Floors shall be smooth and free from cracks, easily cleanable and shall not be slippery. Floor covering for living quarters shall be required. All floor covering shall meet fire safety regulations, be kept clean and be maintained in good repair.

(5) Walls shall be smooth, easily cleanable and in sound condition. Paneling shall meet any applicable fire safety regulations. Lead-free paint shall be used on all painted surfaces.

(6) Juveniles' rooms shall be limited to the ground level and above. Any room with floor level more than 30 inches below ground level shall be considered a basement. The minimum square footage of floor space shall be 80 square feet in single rooms, and an average of not less than 60 square feet of floor space per person in rooms accommodating more than one person. At least one dimension of the usable floor space unencumbered by furnishings or fixtures shall be no less than seven feet. The minimum ceiling height shall be seven feet eight inches over 90% of the room area. An even temperature of between 68° fahrenheit and 78° fahrenheit shall be maintained with an air exchange of at least four times per hour.

(7) Bedrooms occupied by juveniles shall have a window source of natural light. Access to a drinking water source and toilet facilities shall be

available 24 hours a day. Locking systems shall be approved by the state fire marshal or the marshal's designee.

(8) Separate beds with level, flat mattresses in good condition, shall be provided for each juvenile. Beds shall be above the floor level.

(9) Adequate, clean bedding shall be provided for each juvenile.

(10) All quarters utilized by juveniles shall have minimum lighting of 20 foot candles in all parts of the room. There shall be minimum lighting of 35 foot candles in areas used for reading, study or other close work.

(11) There shall be adequate space for study and recreation.

(12) Each living unit shall contain:

(A) Furnishings that provide sufficient seating for the maximum number of juveniles expected to use the area at any one time;

(B) writing surfaces that provide sufficient space for the maximum number of juveniles expected to use the area at any one time;

(C) furnishings that are consistent with the security needs of the assigned juveniles; and

(D) adequate central storage for household supplies, bedding, linen and recreational equipment.

(13) If a center has dayrooms, they shall provide space for varied juvenile activities. Dayrooms shall be situated immediately adjacent to the juvenile sleeping rooms but separated from them by a floor-to-ceiling wall. Each dayroom shall provide at least 35 square feet per person, exclusive of lavatories, showers and toilets, for the maximum number of juveniles expected to use the dayroom area at any one time.

(14) There shall be a working telephone readily accessible to staff members in all areas of the building. Emergency numbers such as fire, police, hospital, physician, poison control center and ambulance shall be posted by each phone.

(15) The inside program and activity areas, excluding the sleeping rooms, day room and class rooms, shall provide floor space equivalent to a minimum of 100 square feet per juvenile.

(16) Sufficient space shall be provided for contact visiting. There shall be adequately designed space to permit screening and search of both juveniles and visitors. Storage space shall be provided for the secure storage of visitors' coats, handbags and other personal items not allowed into the visiting area.

(17) Each room used for locked isolation shall meet the requirements for an individual bedroom.

(A) The walls of each room used for locked isolation shall be completely free of objects.

(B) The door of each room used for locked isolation shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in this window shall be impact-resistant and shatterproof.

(C) The locking system shall be approved by the state fire marshal or the marshal's designee.

(18) A service sink and storage area for cleaning supplies shall be provided in a well ventilated room separate from kitchen and living areas.

(e) Food services.

(1) Food storage, preparation and service shall comply with K.A.R. 28-36-20 through 28-36-29, the Kansas department of health and environment regulations governing food and lodging services.

(2) All foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other approved areas with no overhead drain or sewer lines.

(3) Dry bulk food which is not in an original, unopened container shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled.

(4) Poisonous or toxic materials shall not be stored with or over food. If medication requiring refrigeration is stored with refrigerated food, the medication shall be stored in a locked medicine box under all food items in the refrigerator.

(5) All perishables and potentially hazardous foods shall be continuously maintained at 45° fahrenheit or lower in the refrigerator, or 10° fahrenheit or lower in the freezer, with 0° fahrenheit recommended.

(A) Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

(B) All foods stored in the refrigerator shall be covered.

(C) Food not stored in the original container shall be labeled with the contents and date.

(D) Raw meat shall be stored under all other food items in the refrigerator before cooking.

(E) Adequate facilities to maintain product temperatures shall be available.

(6) All dense hot foods shall be stored in containers four inches or less deep.

(7) Food preparation and service.

(A) Each food preparation area shall be adequately equipped for the sanitary preparation and

storage of food and washing of dishes and utensils. Food shall be prepared and served in a sanitary manner.

(B) Cooking equipment shall be kept clean and in good condition.

(C) Dishes shall have hard-glazed surfaces and shall be free of cracks and chips.

(D) Dishes, kitchen utensils and serving equipment shall be maintained in a sanitary condition using one of the following methods:

(i) A three-compartment sink supplied with hot and cold running water to each compartment and a drain board for washing, rinsing, sanitizing and air drying, with appropriate chemical test kit for testing the sanitizing solution;

(ii) a domestic-type dishwasher for groups of 24 or fewer persons;

(iii) a commercial-type dishwasher providing a 12 second rinse with 180° fahrenheit water, for groups of 25 persons or more;

(iv) other methods of sanitizing by manual or mechanical cleaning in accordance with K.A.R. 28-36-24 (3) and (4); or

(v) the use of disposable plates, cups, and plastic utensils of food-grade medium weight. Disposable table service shall be used only one time and then destroyed.

(E) Tables shall be in good condition and shall be washed before and after each meal. Floors shall be swept after meals.

(F) Meat shall be thawed using one of the following methods:

(i) Removing the meat from the freezer in advance and putting it in the refrigerator to thaw;

(ii) placing the meat under running, tepid water 72° fahrenheit; or

(iii) in the microwave as part of the cooking process.

(8) Sanitary conditions.

(A) Only authorized persons shall be in the kitchen.

(B) Each kitchen shall be equipped with separate hand washing facilities. Personnel shall wash their hands before handling food and after working with raw meat.

(C) Hair shall be restrained.

(D) No staff member with any open wounds or infections shall cook.

(E) Clean and soiled linen shall be properly stored in the kitchen area.

(F) A covered trash can shall be used in the restroom used by the kitchen staff.

(9) Food safety.

(A) All dairy products shall be pasteurized. Dry milk shall be used for cooking only.

(B) Meat products shall be obtained from government-approved sources.

(C) Home canned foods, other than jams and jellies, and home frozen foods shall not be served in the center.

(D) Commercially canned food from dented, rusted, bulging or leaking cans, and food from cans without labels shall not be used.

(10) Nutrition.

(A) Meals and snacks shall meet the nutrient needs of the juveniles in accordance with recommended dietary allowances. A sufficient quantity of food shall be prepared for each meal to allow each juvenile second portions of vegetables, fruit, bread and milk.

(B) Special diets shall be provided for juveniles, if medically indicated, or to accommodate religious practice, as indicated by a religious consultant.

(C) Menus shall be planned one week in advance. Copies of the menus for the preceding month shall be kept on file and available for inspection.

(11) If meals are catered:

(A) The meals shall be obtained from sources licensed by the Kansas department of health and environment.

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

(f) Toilets and lavatories.

(1) For each eight or fewer juveniles of each sex, there shall be at least one toilet, one lavatory and a bathtub or shower. All toilets shall be above floor level.

(2) Each bathroom shall be ventilated. Each inside bathroom shall have a mechanical ventilating system to the outside with a minimum of ten air changes per hour.

(3) Toilet and bathing facilities and drinking water shall be convenient to sleeping quarters, living and recreation rooms.

(4) Cold and hot water, not exceeding 120° fahrenheit, shall be supplied to lavatories, bathtubs and showers.

(5) Toilet facilities and drinking water shall be convenient to reception and admission areas.

(6) Locked sleeping rooms shall be equipped with a drinking fountain, lavatory and toilet, unless

a communication system or procedure is in effect to give the resident immediate access to a lavatory, toilet and drinking water.

(g) Laundry.

(1) If laundry is done at the center, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in such manner as to safeguard the health and safety of the juveniles.

(2) Soiled linen shall be stored separately from clean linen. In centers constructed after January 1, 1974, separate hand washing facilities shall be provided in each laundry room which serves 25 or more persons.

(3) Blankets shall be laundered or sanitized before reissue.

(4) Blankets, when used with sheets, shall be laundered at least once each month.

(5) Mattresses shall be water repellent and washed down and sprayed with disinfectant before reissue. Mattress materials and treatments shall meet state fire marshal regulations.

(6) Adequate space shall be allocated for storage of clean and dirty linen and clothing. If in-house laundry service is provided, adequate space shall be allocated for the laundry room and storage of laundry supplies, including locked storage for chemical agents used in the laundry area.

(h) Building maintenance standards.

(1) Each building shall be clean at all times and free from accumulated dirt, vermin and rodent infestation.

(2) Floors and walking surfaces shall be kept free of hazardous substances at all times.

(3) A schedule for cleaning each building shall be established and maintained.

(4) Floors shall be swept and mopped daily.

(5) Washing aids, such as brushes, dishmops and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.

(6) Mops and other cleaning tools shall be cleaned and dried after each use and stored in a well-ventilated place on adequate racks.

(7) Insecticides, rodent killers and other poisons shall be used under careful supervision. These poisons shall be stored in a locked area.

(8) Toilets, lavatories, sinks and other such facilities in the living quarters shall be cleaned thoroughly each day. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1979; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987; amended Aug. 23, 1993.)

28-4-360. Compliance with regulations.

(a) Center licenses shall be prominently displayed.

(b) A copy of these regulations shall be kept on the premises at all times. A copy of the regulations for licensing of detention centers and secure care centers for children and youth shall be available to all staff members.

(c) Centers licensed January 1, 1993 or later shall be required to meet structural requirements as stated in K.A.R. 28-4-359(d). Centers licensed before January 1, 1993 which are in compliance with the regulations for licensing detention centers and secure care centers for children and youth that became effective May 1, 1979 and were amended November 19, 1986, May 1, 1987 and February 26, 1990 shall continue to comply with those rules and regulations applicable to physical plant requirements regardless of the minimums established under current regulations. Each existing center which makes any structural addition or alteration, shall come into compliance with current structural requirements.

(d) Each applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception may be granted if the secretary determines that the exception would not diminish the current level of juvenile care and if statutory requirements are not violated. The nature of the exception, the conditions and the duration of the exception shall be in writing. Written notification shall be given to the licensee.

(e) Each center shall develop and implement a quality assurance program to ensure consistent compliance with these regulations. The quality assurance program shall provide for:

(1) Review of policies, procedures and practice; and

(2) reconciliation with licensure requirements.

(f) The county health department representative or the contracted surveyor who evaluates the center for licensing purposes shall be used as a consultant with regard to compliance with licensing regulations.

(g) The Kansas department of health and environment shall revoke a license or deny any application in any case in which there is a failure of compliance with the provisions of these regulations. (Authorized by K.S.A. 65-508 and implementing K.S.A. 65-504 and K.S.A. 65-508; effective May 1, 1979; amended Aug. 23, 1993.)

28-4-361 to 28-4-369. Reserved.

MATERNITY CENTERS

28-4-370. Definitions. (a) "Applicant" means the person, firm, corporation, organization or association who has applied for a license.

(b) "Level II care" means hospital care which meets the standards set forth in "Guidelines for Development of level II Perinatal Care Centers in Kansas." Dated November 30, 1980.

(c) "Level III care" means hospital care which meets the standards set forth in "Toward Improving the Outcome of Pregnancy, Recommendations for the Regional Development of Maternal and Perinatal Health Services," developed by the Committee on Perinatal Health. Dated 1976.

(d) "License" means a document issued for a period of one (1) year when the secretary determines the applicant has complied with the regulations and the license fee has been received.

(e) "Maternity center" means a facility, licensed as a maternity hospital, which provides delivery services for normal, uncomplicated pregnancies. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-502, 65-504, 65-508; effective May 1, 1981.)

28-4-371. Licensing procedures. (a) Any person, corporation, firm, association or other organization desiring to conduct a maternity center shall apply for a license on forms provided by the Kansas department of health and environment.

(b) The application shall be accompanied by a written proposal detailing the following:

- (1) Description of services offered;
- (2) Staff number and qualifications for the various staff positions;
- (3) Equipment and supplies maintained at the center;
- (4) Admission and discharge criteria;
- (5) Criteria for transfer to the hospital with which the center has an agreement;
- (6) Outline of prenatal education curriculum completed by professional staff and prenatal education plan;
- (7) Plan for care of newborn;
- (8) Hospital service agreement;
- (9) Ambulance service agreement;
- (10) Agreements with a pediatrician and an obstetrician or a group of such practitioners for emergency service; and
- (11) The establishment of a community advisory board.

(c) Plans for any building to be used as a maternity center shall be submitted to the Kansas

department of health and environment, as prescribed in K.A.R. 1981 Supp. 28-4-377.

(d) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant to those statutes, and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-503, 65-508, K.S.A. 1982 Supp. 65-504, 65-505; effective May 1, 1981; amended, T-83-24, Aug. 25, 1982; amended May 1, 1983.)

28-4-372. Terms of license. (a) Only pregnant women who are at least eighteen (18) years of age and under thirty-six (36) years of age shall be accepted for care.

(b) Patients shall remain at the maternity center not less than six (6) or more than twenty-four (24) hours following delivery.

(c) The license shall be valid only for the name and address appearing on the license.

(d) Advertisements shall conform to the statement of services as given on the application. Under no circumstances shall claims as to specialized services be made unless the maternity center is staffed and equipped to offer such services. No general claim as to state approval shall be made unless the maternity center has been issued a license by the Kansas department of health and environment.

(e) The applicant shall notify the Kansas department of health and environment of the date it will cease operation if a license is no longer desired. After such notice is given to the Kansas department of health and environment, the maternity center shall no longer provide services. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-502, 65-504, 65-509, 65-510, 65-511; effective May 1, 1981.)

28-4-373. Administration. (a) Organization. (1) The designated director shall be responsible for the administrative operation of the maternity center and for its compliance with the laws and regulations pertaining to maternity centers prescribed by the state of Kansas.

(2) There shall be a community advisory board composed of not less than five (5) members, one (1) of whom shall be a physician licensed to practice in Kansas and one (1) of whom shall be a registered nurse licensed to practice in Kansas.

(3) The board shall meet a minimum of four (4) times a year and the minutes of each meeting shall be kept on file in the maternity center.

(4) There shall be separate written agreements on file in the maternity center with an obstetrician and a pediatrician or group of such practitioners who meet the requirements of K.A.R. 28-4-373(d), (5), and (6) who will be responsible in the event of emergency transfer of a patient to a hospital.

(5) The agreements shall include the following:

(A) Assurance of twenty-four (24) hour coverage.

(B) Names of the physicians and their substitutes.

(C) Details of the conditions for referral including how contact will be made and when responsibility for the patient's care is transferred.

(6) There shall be on file in the maternity center a written agreement with a hospital providing level II or level III care for admission of patients. The agreement shall detail how referrals will be made and to which units of the hospital patients will be admitted.

(7) There shall be on file in the maternity center a written agreement with an ambulance service for emergency transfer of patients to the hospital named above. The agreement shall detail how contacts will be made, the type of service to be provided and length of time required to complete the transfer.

(b) Finances.

(1) The maternity center shall have liability and casualty insurance in the amount of twenty-five thousand dollars (\$25,000) or more.

(2) There shall be compliance with K.S.A. 1980 Supp. 17-1740 *et seq.* for any solicitation of funds other than payment for services.

(c) Personnel policies.

(1) There shall be on file in the maternity center written personnel policies and operating practices which define the services of the facility and the duties and responsibilities of each staff member.

(2) All staff shall be informed of and have access to the written policies.

(d) Staff.

(1) There shall be a physician currently licensed to practice in Kansas who has staff privileges in a hospital and who will be responsible for the delivery of infants.

(2) There shall be a registered nurse currently licensed to practice in Kansas who has at least one

(1) year of experience in obstetrics at an accredited hospital and a second registered nurse or licensed practical nurse shall be present if more than one patient is in labor.

(3) Each staff member providing child birth preparation education shall have a current teacher's certificate in a course of instruction approved by the secretary of health and environment.

(4) If a nurse midwife is employed, this person shall meet the qualifications of the American college of nurse midwives and be currently licensed to practice nursing in Kansas.

(5) Obstetric consultation shall be provided by an obstetrician or group of obstetricians who are eligible for certification by the American Board of Obstetrics and Gynecology and who have full staff privileges in a hospital providing level II or level III care.

(6) Pediatric consultation shall be provided by a pediatrician or group of pediatricians who are eligible for certification by the American Board of Pediatrics and who have full staff privileges in a hospital providing level II or level III care.

(e) The following records and reports shall be on file in the maternity center:

(1) Health assessment record for every person living or working in the maternity center.

(2) Current license or certificate for each professional staff member.

(3) A record for each patient which shall include:

(A) Informed consent signed by the patient.

(B) Risk assessment.

(C) Prenatal and obstetrical record.

(D) Prenatal weight gain grid.

(E) Labor and delivery record.

(F) Newborn record.

(G) Documentation that written self-care instructions were provided at the time of discharge.

(H) Documentation of provision of prenatal education.

(I) Record of home visits following discharge.

(J) Documentation of compliance with Kansas statutes regarding eye prophylaxis of newborn, screening for phenylketonuria (PKU) and hypothyroidism and completion and filing of birth and death certificates.

(4) Medical records shall be maintained in retrievable form for the greater of ten (10) years after the date of the last discharge of the patient or one year beyond the date that patients who are minors reach the age of eighteen (18).

(5) Record of written notice to Kansas department of health and environment of any accident to or the death of a mother or infant admitted to the maternity center.

(6) Supplies and equipment inventory.

(7) Record of submission of monthly reports on forms provided by the Kansas department of health and environment.

(8) Record of resterilization of sterile packs.

(9) Record of evacuation drills.

(10) Record of emergency light battery recharges. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-502, 65-504, 65-507, 65-508; effective May 1, 1981.)

28-4-374. Admission and discharge policies. (a) Admission policies shall be on file in the maternity center and shall include the following:

(1) The maternity center shall not admit any person who has any of the medical or obstetric problems listed on pages 53 and 54 of the 1983 edition of "Guidelines for Perinatal Care," issued by the American Academy of Pediatrics and the American College of Obstetrics and Gynecologists.

(2) Medical supervision, including laboratory examination, shall begin no later than the thirteenth week of pregnancy.

(3) A patient shall not be admitted for delivery before 38 weeks of pregnancy or if the estimated weight of the fetus is under 2,501 grams.

(4) A patient shall not be admitted for delivery prior to the onset of labor except in case of spontaneous rupture of membranes.

(5) A patient who has not participated in a child birth preparation course shall not be admitted for delivery.

(6) Each patient shall be informed of the services and risks associated with a maternity center and a signed, informed consent agreement shall be obtained.

(b) Written criteria for determining the need to transfer a patient to the hospital shall be on file in the maternity center and available to staff and shall include the following:

(1) Blood pressure greater than 140/90 mmHg between contractions;

(2) Inadequate progress of labor as defined by:

(A) Second stage of labor greater than two hours;

(B) First stage (primigravida) greater than 20 hours or first stage (multigravida) greater than 18 hours;

(3) Maternal temperature greater than 38°C or evidence of infection;

(4) Any sign of placenta abruption or placenta previa;

(5) Rupture of membranes without the onset of active labor within 24 hours following the rupture;

(6) Labor requiring oxytocin augmentation;

(7) Fetal heart rate abnormalities as determined with the fetoscope including:

(A) Tachycardia greater than 170 beats per minute;

(B) Sustained bradycardia less than 90 beats per minute for longer than 60 seconds;

(C) Failure of fetal heart tones to return to the baseline 30 seconds after the end of the contraction;

(8) Indications requiring electronic fetal monitoring;

(9) A presentation other than vertex;

(10) A delivery which is other than outlet forceps or spontaneous vaginal delivery;

(11) Postural changes in blood pressure of 20 mmHg or greater persisting four hours postpartum;

(12) Postpartum surveillance required longer than 24 hours;

(13) Excessive apprehension, fear or inappropriate reactions on the part of the patient or visitors which interfere with care of the patient; and

(14) Any other conditions considered abnormal by the physician.

(c) Written criteria for determining need to transfer an infant to the hospital shall be on file and shall include the following:

(1) Respiratory distress;

(2) A neonatal condition requiring ventilatory support;

(3) Shock or asphyxia;

(4) Apgar score of six or less;

(5) Neonatal sepsis or infection;

(6) Neonatal blood loss;

(7) Neonatal seizures;

(8) Hypoglycemia;

(9) Hemolytic disease of newborn;

(10) Significant congenital malformation; and

(11) Infant requiring more than routine observation.

(d) Written criteria for discharge of postpartum patients shall be on file in the maternity center and available to the staff and shall include the following:

(1) Normal physical examination by a physician before discharge;

(2) Stable vital signs with:

(A) Temperature less than 38°C;

(B) Pulse less than 100 beats per minute;

(C) Blood pressure greater than 90/60 mmHg and less than 140/90 mmHg;

(D) No postural blood pressure changes of 20 mmHg or greater;

(3) Fundus firm with no excessive bleeding;

(4) Ambulating well and able to care for infant;

(5) The patient has voided;

(6) RH antibody has been determined. Treatment, if indicated, shall be accomplished within 72 hours after birth of the infant;

(7) A minimum of six hours has elapsed;

(8) The patient has identified a person to be in the home who will be responsible for postpartum surveillance and written instructions have been given to the patient and the support person; and

(9) A home visit will be made by a licensed health professional on the staff of the maternity center within 24 hours of discharge of the patient to provide a health assessment of the mother and infant. A second visit by a licensed health professional shall be made between three and four days following birth of the infant.

(e) Written criteria for discharge of the infant shall be on file in the maternity center and available to staff and shall include the following:

(1) Normal physical examination by a physician before discharge;

(2) Vital signs stable for at least four hours with:

(A) Temperature between 36.5°C and 37.5°C;

(B) Heart rate 100 to 160 beats per minute; and

(C) Respirations 30 to 60 per minute;

(3) No excessive jaundice or central cyanosis;

(4) No evidence of blood type incompatibility;

(5) Completion of procedures for eye prophylaxis;

(6) Assurance that phenylketonuria (PKU), galactosemia and hypothyroidism screening will be performed between 72 hours and seven days after birth. A copy of the laboratory report shall be filed in the infant's medical record;

(7) Good toleration of at least one water feeding by the infant. If breastfed, the infant shall be sucking well;

(8) Demonstration by the mother of the ability to handle and care for the infant to the satisfaction of the nurse practitioner or physician;

(9) Discharge instructions for infant and mother's care given to and reviewed with mother; and

(10) Completion of the birth or death certificate as required by state law. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective May 1, 1981; amended May 1, 1985.)

28-4-375. Labor and delivery room services and equipment. (a) There shall be at least 180 square feet of area with a minimum of 20 square feet for each person who is present in addition to staff, parents and infant.

(b) Each patient shall have access to a toilet, lavatory and shower which is not used by visitors or staff.

(c) A written protocol listing conditions under which obstetric and pediatric consultation will be obtained shall be on file in the maternity center and shall be available to staff members.

(d) A written routine for stabilization, examination and surveillance of the newborn shall be developed. The routine shall substantially comply with the standards prescribed in the 1983 edition of the "Guidelines for Perinatal Care," Chapter 4, issued by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

(e) Each maternity center shall be equipped with the following:

(1) A scrub sink with elbow, knee or foot control;

(2) Equipment for instating intravenous fluids;

(3) A supply of glucose and saline fluids;

(4) Emergency drug supplies;

(5) Sphygmomanometer, stethoscope, doppler type fetoscope and thermometer;

(6) Infant scales;

(7) Bedpan; and

(8) One sterile pack for use in each delivery room with at least one additional set available. There shall be a written schedule for reesterilization.

(f) Each delivery room shall be equipped with the following:

(1) Adequate lighting, including a spotlight suitable for use during delivery;

(2) An infant warmer with a radiant heat source;

(3) Resuscitation equipment for mother and infant;

(4) Oxygen with a selection of mask sizes;

(5) Suction equipment;

- (6) Intubation equipment;
- (7) A bed or table for delivery;
- (8) One or more comfortable chairs; and
- (9) A wall clock with a second hand. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508; effective May 1, 1981; amended May 1, 1985.)

28-4-376. Health policies. (a) Each person working or living in the center shall have a health assessment that is conducted by a physician or nurse authorized to perform health assessments. Health assessments shall be renewed every three years.

(b) A record of a tuberculin test or chest x-ray obtained within two years prior to employment shall be submitted with the health certificate. Further tuberculin testing shall not be routinely required.

(c) Any visitors to a patient shall be screened for exposure to or symptoms of communicable disease.

(d) Smoking shall be prohibited in the center. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507, 65-508, 65-510; effective May 1, 1981; amended May 1, 1985.)

28-4-377. Environmental standards. (a) General building requirements.

(1) Maternity centers caring for three or fewer patients shall comply with the legal requirements of the community relating to residential building codes, zoning, fire protection, water supply, and sewerage disposal. The building shall meet the requirements of the fire safety code for maternity centers promulgated by the state fire marshal.

(2) Maternity centers serving four or more patients shall comply with construction standards 7.29 set forth in the department of health, education and welfare handbook, entitled "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities," publication No. H.R.A. 79-14500 as such standards existed on January 1, 1979, and shall comply with fire safety requirements of chapter 6, section 3 of the national fire protection association code 101.1976.

(3) Plans for a proposed building to be newly constructed or any major addition or alteration to an existing building shall be submitted as follows:

(A) In the case of new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the Kansas department of health and environment for review prior to commencing the final working drawings and

specifications. The final working drawings, including construction specifications and plot plans, shall be submitted to said department for review prior to the letting of contracts.

(B) In the case of any anticipated addition or alteration to an approved plan, a written statement defining the proposed use of the construction shall accompany the plans and specifications which must be submitted for review prior to commencing construction.

(4) If construction is not commenced within the year, the plans and proposal shall be resubmitted to the Kansas department of health and environment before proposed construction begins.

(b) Location and grounds.

(1) The maternity center shall be located so that total travel time to the level II or level III hospital with which there is a contract does not exceed 30 minutes including time for the ambulance to arrive at the maternity center.

(2) Local fire and police protection shall be available.

(3) The maternity center shall use public water and sewerage systems where available or there shall be private water and sewerage systems in compliance with the following:

(A) K.A.R. 28-4-50 and K.A.R. 28-4-55 for 20 or fewer persons; or

(B) K.S.A. 65-163 and K.S.A. 65-165 through K.S.A. 65-171 for more than 20 persons.

(4) The yard shall be free from hazards.

(c) Building interior.

(1) Delivery rooms shall be on ground level.

(2) The building shall be in good repair, clean and well maintained.

(3) Lead free paint shall be used.

(4) Porches, steps and stairways shall be safe and railed as needed.

(5) If ramps are provided, there shall be no more than one inch incline to a foot.

(6) There shall be central heat and proper ventilation.

(7) There shall be a telephone on the premises.

(8) A mobile unit shall be skirted and anchored and have exits at opposite ends.

(9) There shall be a route of egress to the outside with no doorway less than 30 inches in width.

(10) Privacy shall be provided for each family group in waiting areas.

(11) Toilet and lavatory facilities which are not used by patients shall be provided for family members and visitors.

(12) Trash and garbage shall be placed in covered containers and removed regularly.

(d) Food service.

(1) Maternity centers caring for three or fewer patients shall provide meals to patients only. One of the following methods of food service shall be used:

(A) Food catered from a licensed food service using vendor's utensils.

(B) Prepackaged complete meals.

(C) Meals prepared on the premises.

(i) Kitchen shall be equipped for sanitary preparation of foods and snacks;

(ii) There shall be a sink to wash, sanitize and air dry dishes; or

(iii) There shall be a mechanical dishwasher.

(D) Mechanical refrigeration shall be provided.

(2) Maternity centers caring for four or more patients shall comply with the requirements of K.A.R. 28-36-20 through 28-36-29 relating to food and lodging services.

(3) Prepackaged disposable formula units shall be used for other than breast feeding.

(e) Safety and accident prevention.

(1) Unused electrical outlets, other than in the delivery room, shall be covered.

(2) Safe storage shall be provided for medication and drugs, poisons, disinfectants and cleaning agents.

(3) Guns or other weapons shall not be kept on the premises.

(4) Plans shall be posted for evacuation in case of fire, tornado or other disasters and all staff shall be informed of the plans.

(5) Evacuation drills shall be held at least four times a year, and the dates recorded.

(6) Heating appliances shall be guarded and those using combustible fuel shall be vented to the outside.

(7) There shall be no pets on the premises.

(8) Telephone numbers of community emergency services shall be posted by the telephone.

(9) All closet and bathroom doors shall be openable from either side whether locked or unlocked.

(10) No business other than medical practice shall be conducted in the maternity center. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1981; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

28-4-378. Transportation. (a) If transportation

is provided, the driver shall have a current Kansas driver's license.

(b) There shall be a record of an annual vehicle mechanical check.

(c) Liability insurance shall be obtained for not less than the following amounts: fifty thousand dollars (\$50,000) bodily injury for one (1) person, one hundred thousand dollars (\$100,000) bodily injury for any one (1) accident, twenty-five thousand dollars (\$25,000) property damage, two thousand dollars (\$2,000) medical payments. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1981.)

28-4-379. Compliance with regulations.

(a) The license or temporary license shall be posted.

(b) A copy of the regulations for licensing maternity centers shall be kept on the premises.

(c) Exceptions to the regulations may be allowed under the following conditions: (1) Applicant or licensee shall request an exception, in writing, from the Kansas department of health and environment.

(2) The exception shall meet the best interests of the patient or patients.

(3) The exception shall not violate a statutory requirement.

(4) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be on file in the center. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1981.)

28-4-380 to 28-4-399. Reserved.

CHILDREN WITH SPECIAL HEALTH CARE NEEDS PROGRAM

28-4-400. Definitions. (a) "Cash assets" means money, savings accounts, saving certificates, checking accounts, and stocks and bonds.

(b) "Diagnostic service" means an evaluation to identify a handicapping disease or disease process.

(c) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(d) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents or legal guardian or who is considered to be a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the eligible person, person's parents, stepparents or legal guardian and all other persons who reside in

the same home as that of the person. Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of the person's parents, stepparents or legal guardian for income tax purposes, means the eligible person, the person's spouse and children, and all other relatives and persons who reside in the same home as that person. Family shall not include persons who lease or rent a portion of the residence.

(e) "Family income" means the total income received by all adult members of the family, based upon one or more of the following, with the addition of non-taxable benefits from whatever source:

(1) the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return;

(2) three months of pay stubs; or

(3) a letter of anticipated earnings from the employer when the most recent federal income tax return does not reflect current income.

(f) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-403(b).

(g) "Health care plan" means documents prepared by the secretary that state a plan of treatment, describe the authorized services, and identify the approved providers of service, the time frame for provision of services, and the party responsible for payment for services.

(h) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(i) "Managed care" means coordination, direction, and provision of health services to an identified group of individuals by providers, agencies or organizations.

(j) "Medicaid" means the title xix of the social security act.

(k) "Medical treatment" means any medical or surgical service and any medical equipment, device or supply provided to a person who is eligible for assistance under the services for children with special health care needs program.

(l) "Resident" means a person who is living in the state with the intention of making a permanent home in the state.

(m) "Secretary" means the secretary of the de-

partment of health and environment or the secretary's designee. (Authorized by and implementing K.S.A. 65-5a08; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-401. Responsibilities of individuals who apply for or who receive services. (a)

Each applicant shall fulfill the following requirements:

(1) Supply financial, insurance, and family information essential to the establishment of eligibility within 30 days of the request for service, on forms prescribed by the secretary;

(2) submit written permission, on forms prescribed by the secretary, for release of information needed to determine medical and financial eligibility; and

(3) report to the secretary changes in any of the following circumstances:

(A) the eligible person's address;

(B) the number of persons living in the home;

(C) marital status of eligible person, parents, or legal guardians;

(D) custody of the eligible person;

(E) medical insurance coverage for the eligible person;

(F) medicaid eligibility or supplemental security income eligibility for the eligible person;

(G) family income or cash assets of more than \$500.00 per year; or

(H) other circumstances that affect the special health care needs of the eligible person.

(b) Each eligible person who is enrolled in the department of social and rehabilitation services managed care arrangements shall report, within 10 working days of enrolling, the following information:

(1) The eligible person's medicaid number;

(2) the name of the managed care provider; and

(3) the name of the eligible person's primary care network physician at the time of application to the managed care provider or at the time of subsequent enrollment or change in enrollment in the managed care provider arrangement.

(c) Each eligible person enrolled in medicaid shall participate in the kan-be-healthy program.

(d) Each eligible person enrolled in a managed care arrangement under the medicaid program or

an insurance policy shall obtain referrals for care as required by the managed care provider.

(e) Each eligible person shall perform the following actions:

(1) Obtain prior authorization for services;
 (2) apply for insurance, medicaid coverage, supplemental security income, or benefits from other sources, when requested;

(3) assign the insurance benefits to hospitals and other providers of service for any medical treatment;

(4) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician;

(5) reimburse the secretary for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the services for children with special health care needs program; and

(6) submit any bills received for prior-authorized services to the secretary within six months of the date of service. (Authorized by and implementing K.S.A. 65-5a08; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended, T-87-47, Dec. 19, 1986; amended May 1, 1987; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-402. (Authorized by and implementing K.S.A. 1984 Supp. 65-5a08; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; revoked May 1, 1987.)

28-4-403. Financial eligibility. (a) (1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (a)(2). If the annual margin is zero or below, the person shall be eligible for financial assistance for medical treatment. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (d) and (e). The factors to be used in calculating the annual margin shall be the following items:

- (A) family income;
- (B) cash assets;
- (C) family living allowance;
- (D) anticipated specialized health care expend-

itures for the eligible person and other family members; and

(E) the health benefits available under insurance coverage for the eligible person.

(2) The annual margin shall be calculated by the following method:

(A) Add the amount of the family income to the amount of cash assets above the maximum allowed under subsection (c); and

(B) subtract from the total of paragraph (a)(2)(A) the following:

(i) the family living allowance as determined in subsection (b); and

(ii) the amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(b) The family living allowance shall be 185 percent of the poverty guidelines updated annually in the federal register by the U.S. department of health and human services under the authority of section 673(2) of the omnibus budget reconciliation act of 1981 effective July 1, following the publication.

(c) The maximum cash assets allowed a family shall be 15 percent of the family living allowance.

(d) If within 12 months after application the family spends down the annual margin to zero or below per subsection (e) through the family's actual or obligated expenditures for medical care for any family member, the person shall be, at that time, financially eligible for assistance for the remainder of the 12-month period. These expenditures shall be in addition to any expenditure or reimbursement made by a health insurance carrier or other third party payor.

(e) In order to spend the annual margin down to zero, the family shall agree to pay the following expenses:

(1) medical expenses and travel expenses related to medical treatment or health support services, supplies or equipment; or

(2) a portion of actual or anticipated medical expenses, and travel expense related to medical treatment or a portion of health support services, supplies or equipment as documented in the health care plan. (Authorized by K.S.A. 65-5a08; implementing K.S.A. 65-5a12; effective, E-82-10, April 27, 1981; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-404. Services. (a) Diagnostic services shall be made available to each eligible person who is a resident of this state and who is believed to have a severe handicap, disability, or chronic disease.

(b) Diagnostic services shall be authorized before the services are rendered and shall be provided in facilities and by providers approved by the secretary.

(c) Medical treatment services shall be provided to individuals meeting the medical and financial eligibility criteria found in K.A.R. 28-4-403 and K.A.R. 28-4-406, respectively.

(d) Medical treatment services related to the eligible medical diagnosis shall be provided as recommended by an approved provider. The medical treatment services shall be within the parameters of standard medical practice, shall not include experimental or investigational treatments, organ transplants or acupuncture, and shall be approved by the secretary.

(e) Medical treatment services shall be authorized before the services are rendered and shall be provided in facilities and by providers approved by the secretary. (Authorized by K.S.A. 65-5a08; implementing K.S.A. 65-5a10; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended Sept. 12, 1997.)

28-4-405. Providers of service. (a) Application. Each person or corporation desiring to supply services or sell prosthetic devices, equipment, appliances or supplies shall file an application with the secretary. Each application shall be approved or disapproved by the secretary, interested parties shall be notified of the action taken, and a list of approved providers of service shall be maintained.

(b) Designation of hospitals. Each hospital approved to provide medical and surgical services for the care and treatment of eligible persons, except for those out-of-state hospitals authorized by K.A.R. 28-4-408, shall meet the following requirements:

(1) For inpatient services, the hospital shall meet these standards:

- (A) be licensed as a hospital in Kansas;
- (B) be certified by the joint commission on accreditation of health care organizations;
- (C) have staff physicians certified by specialty boards in the specialty appropriate for the needs of the eligible person;

(D) have available consultation in other specialty areas for the cases being treated;

(E) have appropriate operating facilities for the specialty for which the hospital is approved;

(F) have other facilities appropriate for the application of plaster or other cast material for eligible persons;

(G) have regularly scheduled inservice programs relating to children and pediatric conditions; and

(H) provide the following services for children:

(i) qualified professional nurses assigned to care of children;

(ii) at least one pediatrician on the hospital staff, with a designated chief of pediatrics; and

(iii) nonrestrictive visiting hours for parents and suitable recreational facilities for children.

(2) For outpatient services the hospital shall comply with the following standards:

(A) Be licensed as a hospital in Kansas;

(B) have an x-ray department with facilities and qualified personnel to treat children;

(C) have a physical therapy department with qualified personnel to treat children;

(D) have an occupational therapy department with qualified personnel to treat children;

(E) have a respiratory therapy department with qualified personnel to treat children;

(F) have regularly scheduled inservice programs for all health-care staff relating to children and pediatric conditions;

(G) have a laboratory department with facilities and qualified personnel for hematology, chemistry, microbiology, and serology testing; and

(H) have persons qualified to give anesthesia.

(c) Designation of laboratory facilities. Each laboratory facility approved to provide services for the care and treatment of eligible persons, except for those laboratory facilities authorized by K.A.R. 28-4-408, shall maintain a valid clinical laboratory improvement certificate appropriate for the type and complexity of the services performed.

(d) Designation of radiology and nuclear medicine facilities. Each x-ray facility approved to provide services for the care and treatment of eligible persons, except for those x-ray facilities authorized by K.A.R. 28-4-408, shall meet the following standards:

(1) Maintain compliance with K.A.R. 28-35-133 through 28-35-338, as authorized by K.S.A. 48-1607;

(2) have on staff a radiologist supervising the facility and all patient services;

(3) have on staff technical personnel who are qualified for the type of services being provided;

(4) have written medical policies and procedures that are developed and maintained under the direction of the radiologist responsible for patient services, including policies and procedures related to interpretation of all radiologic exams, preparation and provision of written reports, and emergency situations; and

(5) have regularly scheduled inservice programs for all staff relating to children and pediatric conditions.

(e) Designation of ambulatory surgical facilities. Each ambulatory surgical facility approved to provide services for the care and treatment of eligible persons, except for those ambulatory surgical facilities authorized by K.A.R. 28-4-408, shall fulfill these requirements:

(1) Be licensed as an ambulatory surgical facility by the secretary;

(2) have qualified pediatric nurses regularly assigned to care for the pediatric clients;

(3) have physicians performing the surgeries who are certified by specialty boards in the specialty appropriate for the needs of the child and for which the facility is approved;

(4) have dentists who are qualified to perform the procedures for which the facility is approved;

(5) have qualified personnel to give anesthesia to pediatric clients;

(6) have a separate area for children with provisions made for parents who wish to remain with their child during preparation for surgery and the post-operative period, including the recovery from anesthesia;

(7) have facilities to isolate clients with conditions requiring isolation or separation;

(8) have operating facilities appropriate for the type of procedures conducted at the facility;

(9) have a laboratory department with facilities and qualified personnel for hematology, chemistry, microbiology, and serology testing as appropriate for the type of procedures conducted at the facility;

(10) have a radiology department with facilities and qualified personnel to treat children for conditions related to the type of procedures conducted at the facility;

(11) have other facilities appropriate for the type of procedures conducted at the facility;

(12) have regularly scheduled inservice programs for all health-care staff relating to children and pediatric conditions;

(13) have written protocols which state the conditions under which a client would be transferred to a hospital to receive services not available within the ambulatory surgical facility;

(14) have written protocols which state the method of transfer of a client to the hospital, when necessary; and

(15) have a written agreement with a hospital to accept a patient transferring from the ambulatory surgical facility in an emergency situation.

(f) Designation of prosthetics and orthotics appliance facilities. Each prosthetics and orthotics appliance facility approved to provide services for the care and treatment of eligible persons shall have employees certified by the American board for certification in orthotics and prosthetics, in accordance with the "practitioner certification book of rules," effective October 1996, and "technician registration book of rules," revised June 1994.

(g) Designation of pharmacies. Each pharmacy approved to provide services for the care and treatment of eligible persons shall be registered as a pharmacy by the Kansas state board of pharmacy.

(h) Designation of home health agencies. Each home health agency approved to provide services for the care and treatment of eligible persons shall be licensed as a home health agency by the secretary.

(i) Designation of other providers. Other providers approved to provide medical, surgical, and other services for the care and treatment of eligible persons, except for out-of-state providers authorized by K.A.R. 28-4-408, shall meet the following standards.

(1) Each audiologist shall be licensed as an audiologist by the secretary.

(2) Each dentist shall be licensed by the Kansas dental board, and each dental specialist shall be licensed to practice that specialty by the Kansas dental board.

(3) Each hearing aid dealer shall be licensed by the Kansas board of hearing aid examiners to fit and dispense hearing aids.

(4) Each nurse shall be licensed as a registered professional nurse by the state board of nursing.

(5) Each nutritionist shall be licensed as a dietitian by the secretary.

(6) Each ocularist shall be certified by the national examining board of ocularists, in accordance with the "certification, registration and recertification," effective 1995.

(7) Each occupational therapist shall be li-

censed as an occupational therapist by the Kansas state board of healing arts.

(8) Each optometrist shall be licensed by the Kansas board of examiners in optometry.

(9) Each oral surgeon shall be licensed as an oral surgeon by the Kansas dental board.

(10) Each orthodontist shall hold an orthodontist's license issued by the Kansas dental board.

(11) Each physical therapist shall be licensed as a physical therapist by the Kansas state board of healing arts.

(12) Each physician shall be licensed by the Kansas state board of healing arts. Physicians providing medical specialty services shall be certified by the appropriate specialty board within three years of being accepted as a provider for the services for children with special health care needs program.

(13) Each respiratory therapist shall be licensed by the state board of healing arts.

(14) Each social worker shall have a master's degree in social work and shall be licensed by the Kansas behavioral sciences regulatory board.

(15) Each speech therapist shall be licensed as a speech therapist by the secretary.

(j) Responsibilities. Each provider of service shall agree that race, color, religion, national origin or ancestry shall not be a basis for refusing to provide service. In addition, each provider shall agree to comply with the following requirements:

(1) Submit reports requested by the services for children with special health care needs program;

(2) accept responsibility for the care and treatment provided to persons under the services for children with special health care needs program;

(3) be a medicaid provider;

(4) accept and bill insurance and medicaid, when available;

(5) accept as payment in full, payment from medicaid for medicaid-eligible services, without receiving a supplement from the services for children with special health care needs program;

(6) accept as payment in full, payments from an insurance carrier for services covered under a policy, supplemented to equal the services for children with special health care needs allowable rate, when applicable;

(7) accept as payment in full the fees established by the secretary and shall not bill families for any service covered by the services for children

with special health care needs program without permission of the secretary; and

(8) notify the secretary of withdrawal from the services for children with special health care needs program. (Authorized by and implementing K.S.A. 65-5a08; effective May 1, 1982; amended May 1, 1983; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 26, 1989; amended April 15, 1991; amended Sept. 12, 1997.)

28-4-405a. Payment. (a) Each provider shall submit a claim to the secretary for payment for a prior-authorized medical treatment within six months of the date of service.

(b) Each claim submitted for payment shall provide the following information:

(1) the eligible person's name and address;

(2) the date the medical treatment was provided;

(3) the appropriate procedure code; and

(4) the insurance or medicaid status of the eligible person or both insurance and medicaid status, when applicable.

(c) Each provider shall submit to the secretary the explanation of benefits from the insurance carrier or the remittance advice from medicaid, as applicable, for final adjudication of each claim.

(d) Claims by individuals or hospitals who do not meet the requirements of subsections (a) to (j), inclusive, of K.A.R. 28-4-405, as amended, may be allowed by the secretary if the individual or hospital provides emergency medical treatment for an eligible person, or with the prior authorization of the secretary, provides specialized medical treatment for an eligible person. (Authorized by and implementing K.S.A. 65-5a08; effective, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-405b. Termination. (a) Any provider may be terminated by the secretary from participation in the services for children with special health care needs program for one or more of the following reasons:

(1) Voluntary withdrawal of the provider from participation in the program;

(2) suspension or termination of a required professional license or certificate; or

(3) (A) non-compliance with applicable state laws or regulations; or

(B) unethical or unprofessional conduct.

(b) Any provider may request a hearing before

termination of a provider's participation in the services for children with special health care needs program for either of the reasons listed in paragraph (a) (3). (Authorized by K.S.A. 65-5a08; implementing K.S.A. 65-6a09; effective, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-406. Conditions eligible for treatment. For a person to be eligible for financial assistance under the services for children with special health care needs program, the person shall be diagnosed with one or more of the following conditions:

- (a) Myelomeningocele;
- (b) Cleft palate, cleft lip, and related problems;
- (c) Cardiovascular conditions, except for high blood pressure;
- (d) Neurosurgical conditions, limited to permanent spinal cord injury that results in paralysis, or hydrocephalus;
- (e) Orthopedic conditions, including the following:
 - (1) Congenital anomalies leading to physical limitations or functional disabilities which interfere with performance of age-appropriate activities;
 - (2) Acquired conditions leading to physical handicaps, excluding non-vitamin D resistant rickets;
 - (3) Fractures in which there is a complication in healing;
 - (4) Developmental problems requiring surgical correction; or
 - (5) Muscle problems that are of a disabling nature, limited to muscular dystrophies, myositis ossificans progressiva or poliomyelitis;
- (f) Juvenile rheumatoid arthritis;
- (g) Specified genetic and metabolic conditions, limited to phenylketonuria, cystic fibrosis, congenital hypothyroid, galactosemia, and sickle cell disease;
- (h) Hearing problems that lead to or that present a high risk for permanent hearing loss;
- (i) Congenital gastrointestinal problems requiring surgical correction;
- (j) Genitourinary problems, limited to exstrophy of bladder or urethral valves which require surgery;
- (k) Burns requiring surgical or compression garment treatment;

(l) Seizures, limited to outpatient services;

(m) Craniofacial anomalies; or

(n) Vision problems, limited to glaucoma, congenital cataracts or cataracts resulting from metabolic disease, retinal detachment with retinal defect, retinoblastoma, or retinal disorders excluding retinopathy of prematurity. (Authorized by and implementing K.S.A. 65-5a14; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-407. System of priorities. Persons with the diagnosis specified in subsection (a) of K.A.R. 28-4-406 shall have priority assistance, with subsequent priorities for assistance established in descending order for the diagnoses listed in subsections (b) through (n), inclusive. Persons with the diagnoses specified in subsection (n) of K.A.R. 28-4-406 shall be assigned the lowest priority for assistance. (Authorized by and implementing K.S.A. 65-5a14; effective May 1, 1982; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; amended, T-86-46, Dec. 18, 1985; amended May 1, 1986; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-408. Out-of-state service provision. (a) Treatment services may be provided out of state on an individual basis under any of the following conditions.

(1) The medical specialty is not practiced in Kansas.

(2) The medical treatment is not available in Kansas, and two approved medical specialists recommend out-of-state treatment.

(3) Kansas facilities have no hospital beds available for the client.

(4) The eligible person, traveling outside of Kansas but within the United States and its territories, requires emergency treatment for the eligible condition, if Kansas residency is not severed through action or intent.

(b) Treatment services may be provided out of state for eligible children with specific conditions if there is a written agreement between the secretary and the service provider establishing a treatment site for ongoing care.

(c) When treatment services are provided out of state, the eligible family shall be responsible for the costs of the following:

- (1) treatment that is greater than approved

charges under the services for children with special health care needs program;

(2) travel for the eligible child and family; and

(3) maintenance of the family during the treatment.

(d) Initial diagnostic services out of state shall not be authorized. (Authorized by and implementing K.S.A. 65-5a08; effective, T-86-46, Dec. 18, 1985; effective May 1, 1986; amended May 1, 1987; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-409. Reserved.

HEMOPHILIA PROGRAM

28-4-410. Definitions. (a) "Blood bank" means a licensed facility that supplies blood or clotting factor.

(b) "Clotting factor" means a substance derived from human blood or prepared by recombinant deoxyribonucleic acid technology.

(c) "Cash assets" means money, savings accounts, savings certificates, checking accounts, and stocks and bonds.

(d) "Comprehensive centers" means those facilities that provide services to individuals with hemophilia, and meet the standards established by the national hemophilia foundation medical and scientific advisory council in "standards and criteria: for the care of persons with congenital bleeding disorders," approved on July 10, 1994.

(e) "Emergency" means an unanticipated, urgent event requiring immediate medical treatment.

(f) Family.

(1) "Family," for an eligible person who resides with the person's parents, stepparents or legal guardian or who is considered to be a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the eligible person who has hemophilia, that person's parents, stepparents or legal guardian and all other persons who reside in the same home as that of the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(2) "Family," for an eligible person who has established a separate residence and is no longer considered a dependent of that person's parents, stepparents or legal guardian for income tax purposes, means the eligible person who has hemophilia, that person's spouse and children, and all other relatives and persons who reside in the same

home as that of the person who has hemophilia. Family shall not include persons who lease or rent a portion of the residence.

(g) "Family income" means the total income received by all adult members of the family based upon one or more of the following, with the addition of non-taxable benefits from whatever source:

(1) the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each adult member of the family; or

(2) three months of pay stubs or a letter of anticipated earning from the employer of each adult member of the family when the most recent federal income tax does not reflect current income.

(h) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-413.

(i) "Hemophilia" means a bleeding tendency that results from a genetically determined deficiency factor in the blood.

(j) "Hemophilia program" means services that are provided for the care and treatment of persons with hemophilia and that are administered by the secretary.

(k) "Home therapy" or "self therapy" means the administration of transfusions of blood concentrates or blood derivatives in a home setting.

(l) "Health care plan" means documents prepared by the secretary that state a plan of treatment, describe the authorized services, and identify the approved providers of service, the time frame for provision of services and the party responsible for payment for services.

(m) "Infusion" means therapeutic introduction of a fluid into a vein.

(n) "Infusion supplies" means syringes, needles and hemophilia infusion sets.

(o) "Prior authorization" means the approval of a request to obtain blood products and other efficacious agents or educational services pertaining to hemophilia before the provision of the service, or in an emergency, within two working days after the emergency occurs.

(p) "Secretary" means the secretary of the department of health and environment or the secretary's designee. (Authorized by K.S.A. 65-1,134; implementing K.S.A. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-411. Responsibilities of individuals who apply for or who receive assistance. (a) Each applicant shall fulfill these requirements:

(1) supply financial, insurance and family information essential to the establishment of eligibility within 30 days of the request for service, on forms approved by the secretary;

(2) submit written permission on forms prescribed by the secretary for release of information needed to determine medical and financial eligibility; and

(3) report to the secretary changes in any of the following circumstances;

(A) eligible person's address;

(B) the number of persons living in the home;

(C) marital status of the eligible person, parents, or legal guardians;

(D) custody of the eligible person;

(E) medical insurance coverage for the eligible person;

(F) medicaid eligibility or supplemental security income eligibility for the eligible person;

(G) family income or cash assets of more than \$500.00 per year; or

(H) other circumstances that affect the special health care needs of the eligible person.

(b) Each eligible person who is enrolled in the department of social and rehabilitation services managed care arrangements shall, within 10 working days of enrolling, report the following information:

(1) the eligible person's medical number;

(2) the name of the managed care provider; and

(3) the name of the eligible person's primary care network physician at the time of application or subsequent enrollment in the managed care arrangement.

(c) Each eligible person under 21 years of age enrolled in medicaid shall participate in the kan-be-healthy program.

(d) Each eligible person enrolled in a managed care arrangement under the medicaid program or an insurance policy shall obtain referrals for care as required by the managed care provider.

(e) Each eligible person shall fulfill these requirements:

(1) obtain prior authorization for services;

(2) apply for insurance, medicaid coverage, supplemental security income or benefits from other sources, when requested;

(3) assign the insurance benefits to hospitals

and other providers of service for any medical treatment;

(4) apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(5) reimburse the secretary for any insurance proceeds sent directly to the recipient if the insurance payment is made for medical treatment provided by the hemophilia program.

(f) Each eligible person shall obtain from one of the comprehensive centers initial and annual evaluations of medical eligibility for the hemophilia program.

(g) Each eligible person shall submit any bills received for prior authorized services to the secretary within six months of the date of service.

(h) Each eligible person shall obtain from one of the comprehensive centers a written prescription for blood products or other efficacious agents and shall provide a copy of the current prescription to the secretary. (Authorized by and implementing K.S.A. 65-1,132; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-412. (Authorized by and implementing K.S.A. 1984 Supp. 65-1,132; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; revoked Dec. 26, 1989.)

28-4-413. Financial eligibility. (a)(1) The uniform standard for determining eligibility shall be the annual margin as calculated in paragraph (2). If the annual margin is zero or below, the person shall be eligible for financial assistance under the hemophilia program. If the annual margin is above zero, the person shall not be eligible for financial assistance, except as provided in subsections (d) and (e). The factors to be utilized in calculating the annual margin shall be the following items:

(A) the family income;

(B) cash assets;

(C) family living allowance;

(D) anticipated specialized health care expenditures for the eligible person and other family members; and

(E) the benefits available under health insurance coverage for the eligible person.

(2) The annual margin shall be calculated by the following method:

(A) add the amount of the family income to the

amount of cash assets above the maximum allowed under subsection (c); and

(B) subtract from the total of paragraph (a)(2)(A) the following:

(i) The family living allowance as determined in subsection (b); and

(ii) The amount of the anticipated health care expenditures for the person that will not be paid by the person's health insurance coverage.

(b) The family living allowance shall be 185 percent of the poverty guidelines updated annually in the federal register by the U.S. department of health and human services under the authority of section 673(2) of the omnibus reconciliation act of 1981, effective July 1 following the publication.

(c) The maximum cash assets allowed for a family shall be 15 percent of the family living allowance.

(d) If within 12 months after application the family spends down the annual margin to zero or below per subsection (e) through the family's actual or obligated expenditures for medical care for any family member, the person shall be, at that time, financially eligible for assistance for the remainder of the 12-month period. These expenditures shall be in addition to any expenditure or reimbursement made by health insurance carrier or other third-party payor.

(e) In order to spend the annual margin down to zero, the family shall agree to pay the following expenses:

(1) medical expenses and travel expenses related to medical treatment, or health support services, supplies or equipment; or

(2) a portion of actual or anticipated medical expenses, and travel expenses related to medical treatment or a portion of health support services, supplies or equipment as documented in the health care plan. (Authorized by and implementing K.S.A. 65-1,132; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Dec. 26, 1989; amended Sept. 12, 1997.)

28-4-414. Payment. (a) Each provider shall submit a claim to the secretary for payment for a prior-authorized clotting factor or service within six months of the date of service.

(b) Each claim submitted for payment shall provide the following information:

- (1) the eligible person's name and address;
- (2) the date the service was provided;
- (3) the appropriate procedure code;

(4) the insurance or medicaid status, or both, of the eligible person, when applicable.

(c) Each provider shall submit to the secretary the explanation of benefits from insurance carriers or the remittance advice from medicaid, as applicable, for final adjudication of each claim. (Authorized by K.S.A. 65-1,134; implementing K.S.A. 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Sept. 12, 1997.)

28-4-415. Conditions eligible for treatment. Each person who is eligible for financial assistance under the hemophilia program shall meet one or more of the following conditions. (a) The person requires continuing home therapy, under the direction of a comprehensive center, with clotting factor to avoid extensive hospitalization and other disabling effects associated with this chronic bleeding condition.

(b) The person requires education concerning the administration and management of home therapy for hemophilia. (Authorized by K.S.A. 65-1,134; implementing K.S.A. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Sept. 12, 1997.)

28-4-416. System of priorities. Provision of clotting factor and infusion supplies for home therapy shall be the highest priority for assistance, education for persons who have hemophilia and for families of persons who have hemophilia shall be the second-highest priority for assistance, and education for physicians, dentists, nurses and other professionals who assist persons with hemophilia shall be the lowest priority for assistance. (Authorized by K.S.A. 65-1,134; implementing K.S.A. 65-1,132, 65-1,133; effective, T-85-41, Dec. 19, 1984; effective May 1, 1985; amended Sept. 12, 1997.)

28-4-417 to 28-4-419. Reserved.

CHILD CARE CENTERS AND PRESCHOOLS

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

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

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

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

- (1) which provides care and educational activ-

ities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care; or

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

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

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

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

(h) "Enrollment" means the total number of children for whom services are available.

(i) "Evening care" means care provided between 6 o'clock p.m. and midnight of the same day.

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

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

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

(m) "Integrated unit" means a center or preschool program serving both handicapped and non-handicapped children, in which not less than $\frac{1}{3}$ and not more than $\frac{2}{3}$ of the children are handicapped.

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

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

(p) "Licensed physician" means a person licensed to practice medicine and surgery in Kansas

as set forth in K.S.A. 65-2869 and 65-2870, and any amendments thereto.

(q) "Licensee" means a person, corporation, firm, association, educational group or other organization which operates or maintains a child care center or preschool.

(r) "Mother's day out" means a program operating more than five consecutive hours or more than one day per week and in which any one child is enrolled for not more than one session per week.

(s) "Nighttime care" means care provided after six o'clock p.m. and continuing until after midnight.

(t) "Preschool" means a facility:

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

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

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

(4) which does not serve a meal. The term "preschool" shall include educational preschools, Montessori schools, nursery schools, church-sponsored preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a preschool if the program and facility meet preschool regulations.

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

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

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

(x) "School-age" means a child who will attain the age of six years on or before the first day of September of any school year, but who is not 16 years of age or older.

(y) "Self-contained unit" means an area separated by walls or partitions not less than five feet high which contains indoor learning materials for

the maximum number of children permitted in one group as specified in K.A.R. 28-4-428(a).

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

(aa) "Special purpose unit" means a program in which more than two-thirds of the children enrolled have severe or mild handicaps.

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

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

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

(ee) "Unit" means the number of children that may be present in one group, as specified in K.A.R. 28-4-428(a). (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987.)

28-4-421. Terms of license. (a) License capacity shall be specified on the license.

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

(2) Permission for a change of license capacity, age of children to be enrolled or number of units shall be requested on forms prescribed by the Kansas department of health and environment. No change shall be made unless permission is granted in writing by Kansas department of health and environment. If granted, permission shall be posted.

(3) Permission for an overlap period of attendance to accommodate lunch time and shift changes shall be requested from the Kansas department of health and environment, and if granted, shall be posted.

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

(5) Each license shall be valid only for the licensee and the address appearing on the license.

(b) A copy of "regulations for licensing child care centers and preschools," provided by the Kansas department of health and environment shall be kept on the premises at all times. (Au-

thorized by K.S.A. 65-508; implementing K.S.A. 1983 Supp. 65-504 and K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

28-4-422. Procedures. (a) General.

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

(2) In lieu of being licensed, preschools operated on the premises of private schools providing kindergarten through grade six shall be governed by Kansas statutes applicable to private schools.

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

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

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

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

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

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

(b) Statement of services offered. When making application to the Kansas department of health and environment for a license to conduct a child care center or preschool, the applicant shall state what services will be provided. Advertisements shall conform to the written statement of services. No claims as to specialized services shall be made unless the facility is staffed and equipped to offer those services. No general claim as to "state approval" shall be made unless the facility has obtained a license issued by the Kansas department of health and environment. The licensing agency shall be notified of any change in the position of

program director or any change in program which effects licensure.

(c) Initial application.

(1) Site approval.

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

(B) When a building is to be constructed or an existing building is to be remodeled, construction or remodeling plans shall be submitted to the Kansas department of health and environment.

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

(2) A working telephone shall be on the premises and available at all times for use by staff.

(d) Renewals.

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

(2) Any application may be withdrawn at any time upon request by the applicant. The applicant shall submit a new application to the Kansas department of health and environment prior to re-opening a facility.

(3) A new application and fee shall be submitted for each change of ownership, sponsorship or location.

(e) Grievance procedures.

(1) Each applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently of the right of appeal to the district court.

(2) Each applicant or licensee aggrieved by a licensing evaluation or by licensing procedures may appeal in writing to the Kansas department of health and environment.

(f) Exceptions.

(1) Any applicant or licensee may submit a written request for an exception to a regulation to the Kansas department of health and environment. An exception shall be granted if the secretary determines the exception to be in the best interest of a child or children and their families, and if statutory requirements are not violated.

(2) Written notice from the Kansas department of health and environment stating the nature of

the exception and its duration shall be posted with the license. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505 and 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

28-4-423. Physical plant. (a) Premises.

(1) The building shall meet the legal requirements of the community as to fire protection, water supply, and sewage disposal.

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

(3) The building shall have two exits approved by a fire inspector. One exit shall lead directly to the outside.

(4) Second floors approved by a fire inspector may be used for children 2½ years or over. Second-floor windows shall be guarded.

(5) Finished basements approved by a fire inspector may be used for children 2½ years or older. Basements shall be dry and well-ventilated, heated and cooled as specified in paragraph (a)(20) of this regulation, and lighted as specified in paragraph (a)(18) of this regulation.

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

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

(8) Landings or gates shall be provided beyond each exterior door, and any door opening onto a full-length stairway.

(9) Ceiling height shall be not less than seven feet, six inches.

(10) Windows and doors.

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

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

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

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

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

- (14) All surfaces shall be free of toxic materials.
- (15) Electrical outlets within the reach of children under five years of age shall be provided with receptacle covers when not in use.
- (16) Extension cords shall not be used.
- (17) Each room occupied by children shall have a minimum of 20 foot candles of light in all parts of the room. Each sleeping room shall be lighted to allow freedom of movement.
- (18) The premises shall be maintained in good condition and shall be clean at all times, free from accumulated dirt and trash, and any evidence of vermin or rodent infestation. Each outdoor trash and garbage container shall be covered, and the contents shall be removed at least weekly.
- (19) Each room occupied by the children shall be heated, ventilated and cooled. The temperature in each room shall not be less than 65° F. nor more than 90° F. Each area occupied by children shall be free of drafts.
- (20) Each electric fan if used, shall be mounted high on the wall or shall be guarded.
- (21) When a gas heater is used, it shall be approved by a fire inspector before use. Open-faced heaters shall be prohibited.
- (22) All heating elements, including hot water pipes, shall be insulated or installed in such a way that children cannot come in contact with them. Asbestos insulation shall not be used. Fireplaces shall not be used when children are present.
- (23) Medicines, household poisons, and other dangerous substances and instruments shall be in locked storage.
- (24) Storage of firearms in any area used for children's activities shall be prohibited. Firearms stored in any other area of the premises shall be in locked storage, or shall be equipped with trigger locks.
- (b) Water supply.
- (1) The water supply shall be from a source approved by a health department, or by the Kansas department of health and environment.
- (2) Sanitary drinking facilities shall be available to children while indoors or outdoors. One of the following methods shall be used:
- (A) Individual disposable cups and a water dispenser;
- (B) individually-marked glasses or cups which shall be washed daily; or
- (C) a fountain designed so that a child can get a drink of water without assistance.
- (3) Drinking fountains shall not be plumbed to sinks.
- (4) Water from drinking fountains shall be under pressure so that the stream is not less than three inches high.
- (5) Cold water and hot water not exceeding 110° F. shall be supplied to lavatory fixtures accessible to children.
- (c) Toilet and lavatory facilities.
- (1) All plumbing fixtures and building sewers shall be connected to public sewers where available.
- (2) When a public sewer is not available, a private sewage disposal system meeting requirements of the county health department or the Kansas department of health and environment shall be installed and connected to all plumbing fixtures.
- (3) Plumbing shall be installed and maintained according to local and state plumbing codes.
- (4) Bathroom facilities shall be readily accessible to the children, and shall be placed low or be provided with safety steps.
- (5) There shall be one toilet and one washbasin for each fifteen children.
- (6) Bathroom facilities shall be planned to assure privacy for staff.
- (7) Soap, individual cloth towels or paper towels, and toilet paper shall be provided. The use of common towels and wash cloths shall be prohibited. When cloth towels and wash cloths are used, they shall be labeled with the child's name, and laundered at least weekly. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985.)
- 28-4-424.** (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; revoked May 1, 1986.)
- 28-4-425.** (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended, T-85-41, Dec. 19, 1984; amended May 1, 1985; revoked May 1, 1986.)
- 28-4-426. Administration.** (a) Line of authority. There shall be a written delegation of administrative authority designating the person in charge in the facility for all hours of operation.
- (b) Admission policy.
- (1) Arrangements for the admission of children shall be made prior to the admission date to the center or preschool.
- (2) Each admission policy shall be non-discriminatory in regard to race, color, religion, na-

tional origin, ancestry, physical handicap, or sex, in accordance with K.S.A. 44-1009. A copy of the admission policy shall be available for review.

(3) Each parent shall be informed of services offered.

(4) Each parent shall be informed when religious training is included in the program.

(c) Insurance.

(1) Accident insurance shall be carried on children.

(2) Liability insurance shall be carried by the center or preschool to provide recourse to parents of children enrolled in the event of negligence.

(3) Documentation of insurance coverage shall be on file, including the name of the insurance company or companies, policy number or numbers and dates of coverage.

(d) Staff records. The following records shall be maintained for each staff person:

(1) A record of education and experience;

(2) date of employment;

(3) a record of scheduled hours;

(4) a record of in-service training;

(5) a health certificate; and

(6) work references.

(e) Children's records.

(1) A daily attendance record shall be maintained and kept on file at the facility.

(2) The following emergency information shall be readily accessible and near the telephone:

(A) Name, date of birth, and sex of child;

(B) name, home and business address, and phone numbers of parents or legal guardian;

(C) name, address, and telephone number of physician, hospital, and person to notify in case of emergency; and

(D) persons authorized to call for the child.

(3) A file shall be maintained for each child which includes:

(A) The application for enrollment, including beginning date and date of termination;

(B) a record of scheduled hours and days of attendance;

(C) a health assessment and immunization record;

(D) each accident report; and

(E) signed parental permission for field trips, transfer of records, and when applicable, walking to and from activities away from the facility.

(4) Children's records shall be confidential. Staff shall not disclose nor discuss personal information regarding children and their relatives with any unauthorized person.

(5) Each child's records and reports shall be made available to the child's parents on request. Children's health records shall be returned to the parents when the children are no longer enrolled. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986.)

28-4-427. Program. (a) Programs shall be conducted in self-contained units with staff and children designated for each unit. Centers or preschools which cannot develop self-contained units shall present a plan for space use to the Kansas department of health and environment for approval.

(b) Equipment.

(1) Low, open shelves shall be provided for play equipment and materials so that they are readily accessible to the children.

(2) Equipment shall be scaled to the size of the children.

(3) Equipment shall be of sound construction with no sharp, rough, loose, nor pointed edges, and in good operating condition.

(4) Equipment shall be placed to avoid danger of accident or collision, and to permit freedom of movement.

(5) Equipment shall be provided in a sufficient quantity so that each child has a choice of at least three activities when all children are using equipment at the same time.

(6) Storage space located conveniently for the staff shall be provided for supplies and equipment not in use.

(7) Each child shall have individual space for the child's garments, clothing, and possessions during the session attended.

(c) Learning experiences.

(1) There shall be a written program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop:

(A) Self-esteem and positive self-image;

(B) social interaction skills;

(C) self-expression and communication skills;

(D) creative expression;

(E) large and small muscle skills; and

(F) intellectual growth.

(2) The program schedule shall be planned to provide a balance of active, quiet, individual and group activities.

(3) A written program plan shall be posted in each unit.

(d) Discipline.

(1) There shall be a written discipline policy outlining methods of guidance appropriate to the ages of the children enrolled. This policy shall be made available to staff and parents.

(2) Prohibited punishment. Punishment which is humiliating, frightening or physically harmful to the child shall be prohibited. Prohibited methods of punishment include:

- (A) Corporal punishment;
- (B) verbal abuse, threats, or derogatory remarks about the child or the child's family;
- (C) binding or tying to restrict movement, or enclosing in a confined space such as a closet, locked room, box, or similar cubicle; and
- (D) withholding or forcing foods. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-428. Staff requirements. (a) Minimum staff/child ratio. The ratio between staff and children shall be determined by the age of children and type of service provided. The required staff/child ratio shall not fall below the minimum level at any time and no child shall be left unsupervised. Only staff who are in attendance with the children shall be counted in the minimum staff/child ratio as follows:

Age of Children	Minimum Staff/Child ratio	Maximum Number of children per unit
Infants (2 weeks to 12 months)	1 to 3	9
Infants to 6 years	1 to 4 (max. 2 infants)	8 (max. 4 infants)
Toddlers (12 months to 2½ years, if walking alone)	1 to 5	10
2 years to 3 years	1 to 7	14
2½ years to school age	1 to 10	20
3 years to school age	1 to 12	24
Kindergarten enrollees	1 to 14	28
School age	1 to 16	32

(b) Substitute staff. Each facility shall have two additional adults who are available to work in case of illness or emergency. Their names and phone numbers shall be posted, and their health certificates shall be on file.

(c) Volunteers. Volunteers shall be at least 14 years of age. Volunteers may be counted in the staff/child ratio if they are 16 years of age or older, participate in in-service training programs, and are supervised at all times by employed staff.

(d)(1) Each child care center shall have a program director who is employed full time.

(2) Each facility licensed for more than 60 children shall employ a program director who has no other assigned responsibilities.

(3) Each facility licensed for more than 60 children shall have an administrator, who may also be the program director.

(e) Staff training.

(1) The program director shall receive at least five clock-hours of approved in-service training annually. In-service training shall be conducted away from the facility.

(2) Teaching staff shall receive at least 10 clock-hours of approved in-service training annually.

(f) References. Each staff member shall provide work references at the time of application for employment.

(g) The program director shall submit an annual program report to the Kansas department of health and environment on forms supplied by the department. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

28-4-429. Staff qualifications. (a) Program directors shall be 18 years of age or older and shall meet the training requirements for the license capacity of the facility.

(b) Facilities with fewer than 13 children shall have a program director who meets the training requirements by one of the following options:

(1) Option 1: Six months' teaching experience in licensed facilities with children of the same age as enrolled in present facility.

(2) Option 2: (A) Five sessions of observation for not less than 2½ consecutive hours per observation in licensed facilities with children of the same age as enrolled in present facility; and

(B) 10 clock hours of workshops approved by the state licensing staff;

(3) Option 3: (A) A minimum of three semester hours of academic credit or equivalent training in child development, early childhood education, and curriculum resources; and

(B) supervised observation in high school or college or three months' work experience with children of the same age as enrolled in present facility; or

(4) Option 4: A child development associate credential.

(c) Facilities licensed for not less than 13 and not more than 24 children shall have a program

director who meets the training requirements by one of the following options:

(1) Option 1: (A) Five sessions of observation for not less than 2½ consecutive hours per observation in licensed preschools or child care centers. Child care center staff shall plan their observations so that daily activities during morning, lunch, nap time and late afternoon can be observed; and

(B) one year of teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or

(2) Option 2: (A) Seven to nine semester hours of academic credit or equivalent training in child development or early childhood education; and

(B) three months' teaching experience in licensed centers or preschools, or one year of supervised practicum in licensed centers or preschools; or

(3) Option 3: A child development associate credential.

(d) Facilities licensed for more than 24 children shall have a program director who meets the training requirements by one of the following options:

(1) Option 1: (A) Twelve semester hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, and administration of early childhood programs; and

(B) six months' teaching experience in licensed centers or preschools;

(2) Option 2: A child development associate credential and one year of teaching experience in licensed centers or preschools, or supervised practicum in licensed centers or preschools;

(3) Option 3: (A) An associate of arts degree or a two-year certificate in child development; and

(B) one year of teaching experience in licensed centers or preschools, or a supervised practicum in licensed centers or preschools;

(4) Option 4: (A) An A.B. or B.S. degree in child development or early childhood education, including a supervised practicum; and

(B) three months' teaching experience in licensed centers or preschools; or

(5) Option 5: (A) An A.B. or B.S. degree in a related academic discipline, and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent edu-

cation, supervised practicum, and administration of early childhood programs; and

(B) six months teaching experience in licensed centers or preschools.

(e) Facilities licensed for more than one hundred children shall have a program director who meets the following requirements:

(1)(A) A degree in child development or early childhood education; or

(B) an A.B. or B.S. degree in a related academic discipline and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervisor practicum, and administration of early childhood programs; and

(2) one year of experience as a program director in a center licensed for more than 24 children, or one year of experience as an assistant program director in a center licensed for more than 100 children.

(f) Facilities licensed for more than 100 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d).

(g) Facilities licensed for more than 160 children shall have an assistant program director who meets the requirements for program director specified in 28-4-429(d), and who has no other assigned responsibilities.

(h) Each unit shall have one staff person who is at least 18 years of age and who has a high school diploma or its equivalent. Units enrolling fewer than 13 children shall have a staff person who meets the training requirements specified in subsection (b) of this rule and regulation. Units enrolling 13 to 24 children shall have a staff person who meets the training requirements specified in subsection (c) of this rule and regulation. Units enrolling more than 24 school-age children shall have a staff person who meets the requirements specified in subsection (d) of this rule and regulation.

(i) Assistant teachers shall be at least 16 years of age and shall participate in staff orientation at time of employment. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987.)

28-4-430. Health practices; illness and abuse; general health requirements for staff.

(a) Children's health assessments.

(1) A preentrance health assessment conducted

within six months before enrollment shall be required for each child. The assessment shall be conducted by a licensed physician or by a nurse approved to perform health assessments.

(2) The results of the health assessment shall be kept on file at the child care facility.

(3) Children transferring from one child care facility to another shall not be required to obtain a new health assessment if the previous assessment record is available.

(4) Tuberculin testing shall be required only if the child comes in contact with a new active or reactivated case of tuberculosis. The results of the examination shall become a part of the child's health record.

(5) Immunizations for each child in care shall be current as medically appropriate and shall be maintained current for protection from the diseases specified in K.A.R. 28-1-20(d). A record of each child's immunizations shall be maintained on the child's medical record form.

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

(7) Each licensee shall provide information to the parents of children in care about the benefits of annual, well-child health assessments for children under six years of age, and biennial health assessments for children six years of age and older. Each licensee shall also provide information about the importance of seeking medical advice when a child exhibits health problems. This information may be either given on a form provided by the Kansas department of health and environment to the parent at the time the child is enrolled or posted in a conspicuous place, with copies of the form available to parents on request.

(b) Health practices.

(1) Each child's hands shall be washed with soap and water before and after eating and after toileting.

(2) Children shall be allowed to go to the bathroom individually as needed.

(c) Illness and abuse.

(1) If a child is absent due to a communicable disease, staff shall inform all parents of the nature of the illness.

(2) Each communicable disease shall be reported to the county health department.

(3) Each staff member shall be trained to observe symptoms of illness, neglect, and child

abuse and shall observe each child's physical condition daily.

(4) Symptoms of illness shall be reported upon discovery to parents.

(5) All evidence of neglect or unusual injuries, including bruises, contusions, lacerations, and burns, shall be noted on the child's record and shall be reported upon discovery to the program director or, in the absence of the program director, the person designated in charge of the child care facility.

(6) The program director or, in the absence of the program director, the person designated in charge of the child care facility shall report within 24 hours to the Kansas department of social and rehabilitation services any evidence of suspected child abuse or neglect. When the local offices of the department of social and rehabilitation services are not open, reports shall be made to local law enforcement agencies.

(7) If care of sick children is to be provided, written plans regarding the needs of a sick child and the care of a sick child shall be prepared in consultation with the public health nurse and shall be presented to the parents at the time of enrollment. The requirements for the infectious and contagious diseases specified in K.A.R. 28-1-2 and for the isolation and quarantine of individuals with the infectious and contagious diseases specified in K.A.R. 28-1-6 shall be met.

(8) A quiet area shall be provided for any sick child. Each sick child shall be supervised by an adult.

(9) Non-prescription medications shall not be administered to any child except on written order of the parent or guardian. Each order shall be renewed yearly. Each non-prescription medication shall be administered by a designated staff member.

(10) Each prescription medication shall be administered by a designated staff member, from a pharmacy container labeled with the child's name, the name of the medication, the dosage and dosage intervals, the name of the physician, and the date the prescription was filled. The label shall be considered the order from the physician.

(11) A record of the name of the designated staff member who administered the medication and the date and time the medication was given to the child shall be kept in the child's file.

(d) Staff.

(1) Smoking shall be prohibited in the child care center or preschool.

(2) Alcohol, as defined in K.S.A. 41-102 and amendments thereto, and non-prescribed controlled substances, as defined in K.S.A. 65-4101 and amendments thereto, shall not be consumed on the premises during the hours of operation and shall not be consumed while children are present.

(3) Each child residing in the same location as that of a child care center or preschool shall meet the requirements specified in subsection (a). (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended July 11, 2008.)

28-4-431. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1986; revoked May 10, 1996.)

28-4-432. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; revoked May 1, 1986.)

28-4-433. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1985; revoked May 1, 1986.)

28-4-434. Preschools. (a) Inside area. Any building used as a residence shall be licensed as a preschool only if there is a room or rooms designated exclusively for preschool use.

(b) Nutrition.

(1) A nutritious snack shall be provided daily and shall include at least one of the following foods:

- (A) Milk, milk product, or food made with milk;
- (B) fruit, vegetable, or full-strength fruit or vegetable juice;
- (C) meat;
- (D) peanut butter; or
- (E) bread or cereal product.

(2) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized.

(3) Refrigeration shall be provided for perishable foods.

(4) If reusable table service is used for snacks, appropriate dishwashing methods shall be followed as specified in K.A.R. 28-4-439(k).

(5) Appropriate table service shall be used for serving snacks. Children's food shall not be placed on the bare table.

(c) Outdoor play. Outdoor play space shall not be required. If outdoor play is included in the preschool program, the requirements of K.A.R. 28-

4-437 shall be met. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

28-4-435. Programs serving children with handicapping conditions. (a) Records. Written parental permission shall be on file for evaluation and placement of children.

(b) Physical plant.

(1) Programs which include non-ambulatory children shall be conducted on the ground floor. All exits and steps shall have ramps approved by a fire inspector.

(2) Facilities enrolling children who use walkers or wheelchairs shall have 50 square feet of space for each physically handicapped child.

(3) When physically handicapped children are enrolled, toilets and washbasins shall be designed to accommodate them.

(c) Transportation. A second adult shall ride in the rear seat of the vehicle when three or more handicapped children are being transported.

(d) Staff requirements. Facilities shall have staff who meet the qualifications listed in K.A.R. 28-4-429. The following additional requirements shall be met:

(1) The parent of a child enrolled in the unit shall not be a teacher in that unit.

(2) Each unit shall have a staff person who has a minimum of six hours of academic credits or equivalent clock hours in understanding the needs of handicapped children, and in developing individual program plans.

(3) Consultants shall meet the educational requirements of their profession.

(e) Minimum staff/child ratios. If fewer than one-third of the children enrolled have handicapping conditions, the minimum staff/child ratios shall be those as specified in K.A.R. 28-4-428. If one-third or more of the children enrolled have handicapping conditions, the following minimum staff/child ratios shall be maintained:

Age of children	Integrated unit or center		Special purpose unit or center	
	Adult/child	Max. unit	Adult/child	Max. unit
Under 2½ years	1 to 3	9	1 to 2	6
2 years to 3 years	1 to 4	12	1 to 3	9
2½ years and above	1 to 6	18	1 to 4	12

(f) In-service training. All staff shall have 10

clock-hours of annual in-service training specific to handicapping conditions.

(g) Program. A written individual program plan shall be on file for each handicapped child enrolled, and in consultation with the parents, shall be reviewed and revised annually. The plan shall assign responsibility for the delivery of services, and shall indicate the anticipated change in the child's behavior, and how these changes will be measured. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-436. Child care centers: physical plant. (a) Inside area. A building used as a residence shall be licensed as a child care center only if there is a room or rooms designated exclusively for child care use.

(b) Napping and sleeping.

(1) Children remaining at the center more than four hours shall be encouraged to nap or rest according to their individual needs. Children who do not sleep shall be permitted to have a quiet time through the use of equipment or activities which will not disturb other children.

(2) Centers shall have a crib, cot or pad for each child. Pads shall be enclosed in washable covers and shall be used only over carpet. When pads are used, they shall be long enough so that the child's head does not rest on the carpet. Bunk beds shall be prohibited.

(3) Each crib or cot shall be equipped with individually-labeled bottom sheet. Every child shall have a cover. Children shall not share bedding.

(4) There shall be a complete change of bedding after each five uses, immediately when wet or soiled, and always upon a change in occupancy. Blankets shall be laundered monthly.

(5) Cribs, cots, or pads, when in use, shall be separated from each other by at least two feet in all directions except when bordering on the wall. When not in use, they shall be stored in a clean and sanitary manner.

(6) Nighttime care.

(A) Movable screens shall be available to insure privacy as needed.

(B) Separate sleeping areas shall be provided for boys and girls over six years of age.

(C) A center in which children sleep for more than three consecutive hours shall be provided with a smoke detector installed in consultation with a fire inspector.

(c) Laundry facilities.

(1) If laundry is done at the center, laundry fix-

tures shall be located in an area separate from food preparation areas and shall be installed and used in such a manner as to safeguard the health and safety of the children.

(2) Separate areas shall be provided for soiled and clean items. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983.)

28-4-437. Child care centers: outside area. (a) There shall be at least 75 square feet of outdoor play space on the premises for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater.

(b) The boundaries of outdoor play space shall be enclosed with a fence not less than four feet high.

(c) The outdoor play space shall be located to provide both sunshine and shade. A hard-surfaced area or gravel shall not be used under anchored play equipment.

(d) The outdoor play space shall be well drained and free of hazards.

(e) Outdoor play equipment shall be safely constructed and in good repair. Climbing equipment and swings shall be anchored in the ground with metal straps or pins, or set in cement. Swings shall be safely located and shall have canvas or soft rubber seats. Teeter-totters and merry-go-rounds designed for school-age children shall not be used for children under six years.

(f) Sandboxes shall be maintained in a safe and sanitary condition.

(g) A rooftop used as a play area shall be enclosed with a flat board fence or a chainlink fence angled toward the play area. The fence shall not be less than six feet high. An approved fire escape shall lead from the roof to the ground.

(h) The play area shall be arranged so that staff can provide close supervision at all times.

(i) Outdoor equipment shall be provided in sufficient quantity so that each child has access to at least one activity appropriate to the child's age level.

(j) There shall be bathroom facilities accessible to the play area. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984.)

28-4-438. Child care centers: program. (a) The program shall provide regularity in routines such as eating and napping, and protection from excess fatigue and overstimulation.

(b) Unless extreme weather conditions prevail, children shall have a daily period of outdoor play under the supervision of an adult. Children spending more than four consecutive hours at the center shall play outdoors for at least one hour daily.

(c) Routines such as toileting and eating, and intervals between activities shall be planned so that children do not have to wait in lines, or assemble in large groups.

(d) If television is on the premises, its use shall be limited to children's programs.

(e) Activities shall be available for children during the entire time they are in attendance, including early morning and late afternoon. (Authorized by and implementing K.S.A 65-508; effective May 1, 1983.)

28-4-439. Child care centers: food service. (a) Single or multi-unit centers serving a meal prepared at the center to 13 or more children shall employ a staff person who:

(1) Has knowledge of nutritional needs of children;

(2) understands quantity food preparation and service;

(3) practices sanitary methods of food handling and storage;

(4) is sensitive to individual and cultural food tastes of children; and

(5) is willing to work with the program director in planning learning experiences for children relative to nutrition.

(b) Centers shall serve meals and snacks as follows:

Length of Time at Center	Food Served
2½ to 4 hours	1 snack
4 to 8 hours	1 snack & 1 meal
8 to 10 hours	2 snacks & 1 meal or 1 snack & 2 meals
10 hours or more	2 meals & 2 or 3 snacks

(c) Meals and snacks.

(1) Breakfasts shall include:

(A) A fruit, vegetable, or full-strength fruit or vegetable juice;

(B) bread, a bread product or cereal; and

(C) milk.

(2) Noon or evening meals shall include one item from each of the following:

(A) Meat, poultry, fish, egg, cheese, cooked, dried peas or beans, or peanut butter;

(B) two vegetables, 2 fruits, or one vegetable and one fruit;

(C) bread, bread product or cereal; and

(D) milk.

(3) Mid-morning and mid-afternoon snacks shall include at least two of the following:

(A) Milk, milk product or food made with milk;

(B) fruit, vegetable, or full-strength fruit or vegetable juice;

(C) meat or a meat alternate; or

(D) bread, bread product or cereal.

(d) A sufficient quantity of food shall be prepared for each meal to allow the children second portions of vegetables or fruit, bread, and milk.

(e) Food allergies or special dietary needs of specific children shall be known to cooks, staff members, child care workers, and substitutes.

(f) Menus shall be posted where parents can see them. Copies of menus served the previous month shall be kept on file.

(g) Staff shall sit at the table with the children, and socialization shall be encouraged. Children shall be encouraged to serve themselves. Spoons and forks shall be provided for each child's use. Appropriate service shall be used for meals and snacks.

(h) Children's food shall not be placed on a bare table.

(i) Toothbrushes shall be provided for each child's use. They shall be used daily after meals, and shall be stored in a sanitary manner out of children's reach.

(j) When meals are prepared on the premises, the kitchen shall be separate from the eating, play, and bathroom areas, and shall not be used as a passageway while food is being prepared.

(k) Food shall be stored as follows:

(1) Poisonous or toxic materials shall not be stored with food. Medications requiring refrigeration shall be labeled and kept in locked storage in the refrigerator.

(2) All perishables and potentially hazardous foods shall be continuously maintained at 45°F or lower in the refrigerator, or 10°F or lower in the freezer, with 0°F recommended. Each cold storage facility shall be provided with a clearly visible, accurate thermometer.

(3) All foods stored in the refrigerator shall be covered.

(4) Foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other areas.

(5) Dry, bulk foods which are not in their original, unopened containers shall be stored in metal,

glass or food-grade plastic containers with tight-fitting covers, and shall be labeled.

(l) Table service shall be maintained in sanitary condition using one of the following methods:

(1) Disposable plates and cups, and plastic utensils of food grade, medium weight; or

(2) a three-compartment sink supplied with hot and cold running water and a drainboard for washing, rinsing, sanitizing, and airdrying; or

(3) a mechanical dishwasher.

(m) Dishes shall have smooth, hard-glazed surfaces, and shall be entirely free from cracks or chips.

(n) Tables shall be washed before and after meals, and floors shall be swept after meals.

(o) If meals are catered:

(1) Food shall be obtained from sources licensed by the Kansas department of health and environment.

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

(p) Fluid dairy products shall be Grade A pasteurized. Solid dairy products shall be pasteurized. Dry milk shall be used only for cooking.

(q) Meat shall be from government-inspected sources.

(r) Home-canned food, food from dented, rusted, bulging, or leaking cans, or food from cans without labels shall not be used.

(s) Garbage shall be placed in covered containers inaccessible to children, and shall be removed from the kitchen daily. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

INFANT AND TODDLER PROGRAM

28-4-440. Infant and toddler programs.

(a) Infant and toddler programs shall be conducted on the ground floor only.

(b) Infant and toddler units shall be separate from units for older children.

(c) Floor furnaces shall be prohibited.

(d) A sleeping area separate from the play area shall be provided for infants.

(e) A crib or playpen shall be provided for each infant in care at any one time. Cribs and playpens shall be maintained in good condition. Clean individual bedding shall be provided. The use of stacking cribs shall be prohibited.

(f) Cribs and playpens shall have slats not more

than 2³/₈ inches apart, or shall be equipped with bumpers. The side of the crib or playpen shall be up while the crib or playpen is in use.

(g) When children are awake, they shall not be left unattended in cribs or other confinement for more than 30 minutes.

(h) An adult-size rocking chair shall be provided in each infant or toddler unit.

(i) Children not held for feeding shall have low chairs and tables, infant seats with trays, or high chairs with a wide base and a safety strap.

(j) Individually-labeled towels and washcloths or disposable products shall be provided.

(k) Items that children may place in their mouths shall be washed daily with soap and water.

(l) Staff requirements. Single or multi-unit centers serving infants and toddlers shall employ one staff person per unit who meets the training requirements under one of the following options:

(A) Option 1: A person with six months' teaching experience or a supervised practicum in licensed child care centers enrolling infants and toddlers; or

(B) Option 2: A licensed L.P.N. or R.N. with three months' experience in pediatrics, or in licensed child care centers enrolling infants and toddlers; or

(C) Option 3: A child development associate credential in infant/toddler care.

(m) Program.

(1) Daily activities shall contribute to:

(A) Gross and fine motor development;

(B) visual-motor coordination;

(C) language stimulation; and

(D) social and personal growth.

(2) Infants and toddlers shall spend time outdoors daily unless extreme weather conditions prevail.

(n) Food service.

(1) The nitrate content of water for children under one year of age shall not exceed 45 milligrams per liter as nitrate (NO₃).

(2) Infants shall be held when bottle fed until they can hold their own bottles.

(3) Infants and toddlers shall not be allowed to sleep with bottles in their mouths.

(4) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be labeled and refrigerated with the nipple covered, and shall be used within 24 hours.

(5) Solid foods shall be offered in consultation with the child's parents. Opened containers of solid foods shall be labeled with child's name, and

shall be covered, and refrigerated. Food in previously opened containers shall be reheated only once, and shall not be served to other children.

(o) Toileting.

(1) Children's clothing shall be changed whenever wet or soiled.

(2) Each child shall have at least two complete changes of clothing.

(3) Handwashing facilities shall be in or adjacent to the diaper-changing area.

(4) Children shall be diapered in their own cribs or playpens, or on a changing table. Each unit shall have a changing table.

(5) Changing tables shall have an impervious, undamaged surface. Tables shall be sturdy, and shall be equipped with railings or safety straps.

(6) Changing tables shall be sanitized after each use by washing with a disinfectant solution of ¼ up of chlorine bleach to one gallon of water, or an appropriate commercial disinfectant.

(7) Washable diapers or training pants shall be stored in a labeled, covered container or plastic bag, and returned home with the parent.

(8) Disposable diapers shall be placed in a covered container or plastic bag which shall be emptied daily.

(9) There shall be one potty chair for every five toddlers. Potty chairs shall be left in the toilet room. The wastes shall be disposed of immediately in a flush toilet. The container shall be sanitized after each use and shall be washed with soap and water daily. Potty chairs shall not be counted as toilets.

(10) Staff shall wash their hands after changing soiled clothing.

(11) Changing and toileting procedures shall be posted.

(p) Transportation. Car seats, as required in K.A.R. 28-4-425(a)(6), shall be provided when infants and toddlers are transported.

(q) There shall be daily communication between parents and the staff about the child's behavior and development. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-34, Nov. 19, 1986; amended May 1, 1987.)

28-4-441. Programs for school-age children. (a) Physical plant. Centers shall have a minimum of 35 foot candles of light in each area used for reading, study, and other close work.

(b) Staffing. (1) Single or multi-unit centers

shall employ teaching staff who meet the requirements under one of the following options:

Option 1: As specified in K.A.R. 28-4-429; or

Option 2: An A.B. or B.S. degree in elementary education, physical education, child development or a related academic discipline, and three months' experience with school-age children.

(2) Each unit for school-age children shall be separate from units for younger children, except for periods not to exceed two hours before and after school. Staff/child ratios and unit size shall conform to the provisions of K.A.R. 28-4-428 and shall be based on the age of the youngest child in the group.

(c) Program.

(1) Educational and recreational activities shall meet the individual needs of the children.

(2) Children shall be provided the opportunity to plan activities appropriate to their age.

(3) Activities shall include arts, crafts, music, reading, table games, and sports.

(4) Program plans shall be written and posted.

(5) Written parental permission shall be obtained for children to participate in activities away from the center.

(d) Summer programs for school-age children.

(1) License applications or application renewals for summer programs shall be submitted to the Kansas department of health and environment not later than April 15.

(2) Summer programs shall be based in facilities which meet license requirements.

(3) Sack lunches may be served. Sack lunches and beverages shall be refrigerated. (Authorized by and implementing K.S.A. 65-508; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

28-4-442. (a) Definitions. (1) "Adult" means a person 18 years of age or older.

(2) "Child" means a person as defined in K.A.R. 28-4-420(u), (x) and (dd).

(3) "Infant" means a person as defined in K.A.R. 28-4-420(k).

(b) When adults are cared for in the same premises as children, adults shall have space, staff and equipment separate from the children. Intergenerational activities shall be permitted when the facility is in compliance with K.A.R. 28-4-442.

(c) Each adult shall sign a consent form indicating willingness to participate in intergenerational activities.

(d) Written parental permission shall be on file

for each child participating in intergenerational activities.

(e) No infant shall participate in intergenerational activities.

(f) There shall be an intergenerational activities program coordinator.

(g) There shall be a written activity plan which includes program objectives, space to be used and staffing patterns. Special needs of both adults and children shall be addressed.

(h) A weekly schedule of activities and participants shall be posted in both adult and child care facilities.

(i) A staff person from the adult care unit shall be in attendance while adults are with children.

(j) Adults from the intergenerational program who volunteer in the child care center shall not be counted in the child/staff ratio. (Authorized by and implementing K.S.A. 1988 Supp. 65-510; effective Feb. 26, 1990.)

28-4-443 to 28-4-500. Reserved.

SCREENING OF NEWBORN INFANTS

28-4-501. Definitions. (a) “Applicable income” means the total monies received by all adult members of the family based on any of the following, with the addition of nontaxable benefits from any private, state, and federal funding sources:

(1) The total amount of adjusted gross income reported on one of the federal income tax forms 1040, 1040A, or 1040EZ, including a copy of all W-2 forms filed by each adult member of the family;

(2) the six most recent pay stubs; or

(3) a letter of anticipated earnings from the employer of each adult member of the family if the most recent federal income tax form does not reflect current income.

(b) “Birth attendant” means the person assisting with an out-of-institution delivery of the infant, in the absence of a physician.

(c) “Borderline hypothyroid” means an abnormally low level of thyroxine and a higher than normal level of thyroid-stimulating hormone in the blood, the combination of which is not usually indicative of hypothyroidism.

(d) “Cash assets” means accessible money, including savings accounts, certificates of deposit, checking accounts, stocks, and bonds. This term shall not include individual retirement accounts and retirement plans.

(e) “Department” means the Kansas department of health and environment.

(f) “Eligible person” means an individual who qualifies for any necessary treatment products or medically necessary food treatment products, or both.

(g) “Family,” for the purposes of these regulations, means an eligible person who meets one of the following conditions and all other persons who reside in the home with the eligible person;

(1) Resides with and is considered to be a dependent of the person’s parents, stepparents, or legal guardian for income tax purposes; or

(2) establishes a separate residence and is no longer considered a dependent of the person’s parents, stepparents, or legal guardian for income tax purposes.

The term “family” shall not include any person who leases or rents a portion of the residence or who lives with the other persons who are not responsible for the financial support of the eligible person.

(h) “Galactosemia” means the disease of genetic origin due to galactose uridyl transferase enzyme deficiency in which the individual is completely or partially incapable of normal metabolism of galactose, which results in an abnormal increase in the concentration of galactose in the blood.

(i) “Hemoglobin disease” means the presence of abnormal hemoglobin and the absence of adult hemoglobin, the combination of which is indicative of disease and requires ongoing medical treatment.

(j) “Hemoglobin trait” means the presence of abnormal hemoglobin, which is not indicative of disease and does not usually require ongoing medical treatment.

(k) “Hypothyroidism” means a congenital disease in which the individual is unable to produce thyroxine normally, which may be detected by an abnormally low serum level of thyroxine and an abnormally high serum level of thyroid-stimulating hormone in the blood. For purposes of these newborn screening regulations, this term shall exclude diseases referred to as secondary hypothyroidism.

(l) “Institution” means a hospital or other organized agency providing obstetrical services.

(m) “Kit” means the multiple-page laboratory requisition with the attached filter paper to be used for blood collection and with a place for identifying the infant, physician, and sending

agency data. The kits shall be provided by the department.

(n) "Laboratory" means the division of health and environmental laboratories, Kansas department of health and environment.

(o) "Maple syrup urine disease" and "MSUD" mean an inherited disease of amino acid metabolism that causes acidosis, central nervous system symptoms, and urine that can smell sweet like maple syrup.

(p) "Medical specialist" means a medical doctor who has training in the treatment of a specific disease entity and who has a contract with the department to serve as a consultant and to provide or direct diagnosis and treatment services.

(q) "Medically necessary food treatment product" means a specifically formulated product that has less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of any inherited metabolic disease. This term shall not include any foods that are naturally low in protein.

(r) "Necessary treatment product" means a medical protein source used under the direction of a physician to treat specific metabolic diseases in order to prevent, delay, or reduce medical complications.

(s) "Newborn screening coordinator" means the designee in the department providing the follow-up program activities.

(t) "Other genetic disease" means any condition inherited in a recognized pattern that can be detected in a filter paper blood specimen and that the secretary has designated as part of the newborn screening battery of tests.

(u) "Phenylketonuria" and "PKU" mean any disease, usually due to a single enzyme deficiency of genetic origin, in which the individual is completely or partially incapable of normal metabolism of phenylalanine, which results in an abnormal increase in the concentration of phenylalanine in the blood.

(v) "Presumptive positive" means a screening test result that indicates the possible presence of a disease, requiring further testing to confirm or not confirm the diagnosis.

(w) "Secretary" means the secretary of the Kansas department of health and environment.

(x) "Sending agency" means the agency or person identified on the kit to be the recipient of the report.

(y) "Specimen" means the saturated blood spots on the filter paper and the laboratory req-

uisition with complete identifying data on the infant, physician, and sending agency. (Authorized by K.S.A. 65-101 and 65-180, as amended by 2006 SB 579, Sec. 1; implementing K.S.A. 65-180, as amended by 2006 SB 579, Sec. 1, and 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; amended April 14, 2000; amended, T-28-7-5-06, July 5, 2006; amended Oct. 20, 2006.)

28-4-502. Responsibility to obtain specimen. (a) The administrative officer or other person in charge of each institution or the attending physician are responsible for obtaining an adequate initial specimen for newborn screening on infants born in that institution.

(b) The attending physician or other birth attendant is responsible for obtaining an adequate specimen for newborn screening on infants born outside of an institution.

(c) The attending physician or other birth attendant is responsible for obtaining repeat specimens when needed to complete the screening process. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987.)

28-4-503. Timing of specimen collection. (a) Initial specimens from healthy full-term infants born in an institution shall be obtained before discharge or from three through five days of age if the infant is still hospitalized.

(b) Initial specimens from sick or premature infants born in an institution shall be obtained from seven through 10 days of age if the infant is still hospitalized or before discharge, if earlier than seven days.

(c) If the infant is transferred from the institution of birth to another institution before 24 hours of age, the receiving institution shall obtain the specimen.

(d) Specimens shall be obtained before blood transfusions, regardless of the age of the infant.

(e) Initial specimens from infants born outside of an institution shall be obtained from three through five days of age.

(f) Repeat screening of or diagnostic test specimens from infants shall be obtained before 21 days of age.

(g) If an infant is less than 24 hours old when the initial specimen is taken, a repeat specimen shall be obtained and submitted for testing to the laboratory. (Authorized by K.S.A. 65-101; implementing K.S.A. 1999 Supp. 65-181; effective, T-

87-48, Dec. 19, 1986; effective May 1, 1987; amended April 14, 2000.)

28-4-504. Methods of specimen collection. (a) The specimen shall be collected using kits provided by the department.

(b) The form provided with the kit shall be completed before collection of the blood specimen.

(c) The outlined circles on the filter paper portion of the kit shall be saturated with blood in the manner specified on the filter paper.

(d) The specimen shall be delivered by carrier or mailed first-class to the laboratory after the blood has dried and not later than 24 hours from time of collection. (Authorized by K.S.A. 65-101; implementing K.S.A. 1998 Supp. 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; amended April 14, 2000.)

28-4-505. Unsatisfactory specimens. (a) Unsatisfactory specimens shall be retained by the department. The sending agency or facility shall be notified that the specimen is unsatisfactory. The physician shall be notified that the specimen is unsatisfactory with a request to submit another specimen.

(b) Specimens shall be labeled unsatisfactory when one of the following criteria is met:

(1) Identifying information is missing.

(2) More than 10 days have elapsed since the date of collection.

(3) The specimen is of unacceptable quality for analysis. (Authorized by K.S.A. 65-101; implementing K.S.A. 1998 Supp. 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; amended April 14, 2000.)

28-4-506. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-180; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; revoked May 10, 1996.)

28-4-507. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; revoked May 10, 1996.)

28-4-508. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-181; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; revoked May 10, 1996.)

28-4-509. Registry. (a) The registry shall be a computerized data system that includes the diagnosed individuals' name, birth-date, unique

identification number, diagnosis, address including telephone number, parental names and addresses, guardian, nuclear family size and health status.

(b) Persons or guardians of minor children with a confirmed diagnosis of phenylketonuria, hypothyroidism or galactosemia shall forward to the newborn screening coordinator any address and health status changes within three months of the change. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-180; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987.)

28-4-510. Diagnosis and monitoring. (a) Each person with a confirmed diagnosis of any of the diseases specified in K.S.A. 65-180, and amendments thereto shall be eligible to receive medical specialist monitoring upon the department's annual receipt of the person's current address, insurance data, and documentation of continued medical need from a medical specialist.

(b) Each medical specialist shall meet the following requirements:

(1) Provide consultation and diagnosis; and

(2) provide and coordinate ongoing monitoring. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-180, as amended by 2006 SB 579, Sec. 1; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; amended, T-28-7-5-06, July 5, 2006; amended Oct. 20, 2006.)

28-4-511. Test refusal. Refusal to take part in the testing procedure shall be documented in the child's record at the institution or physician's office or both. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-182; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987.)

28-4-512. Parental education. (a) Providers of prenatal health care shall discuss and distribute written material describing the newborn screening program as a component of the prenatal care to pregnant women.

(b) Prior to obtaining the specimen for newborn screening, the person responsible for obtaining the specimen shall inform the parent or parents about the newborn screening program, including how the test can be refused. (Authorized by K.S.A. 65-101; implementing K.S.A. 65-182; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987.)

28-4-513. Professional education. (a) Consultation with medical specialists shall be available without charge to primary care providers

and others involved in the care of persons at risk for or diagnosed with phenylketonuria, congenital hypothyroidism, galactosemia, or hemoglobin diseases and traits.

(b) Notification letters and telephone calls reporting abnormal test results to the physicians shall contain information including interpretation of data and recommendations for follow-up.

(c) Upon request, workshops and other educational presentations concerning newborn screening shall be provided by the department when a specific need is identified.

(d) The newborn screening coordinator and personnel in the newborn screening section of the laboratory shall respond to telephone and written inquiries concerning specimens within five working days of receipt. (Authorized by K.S.A. 65-101; implementing K.S.A. 1998 Supp. 65-180; effective, T-87-48, Dec. 19, 1986; effective May 1, 1987; amended April 14, 2000.)

28-4-514. MSUD and PKU; financial assistance availability for certain related expenses. (a)(1) The following factors shall be used to determine each family's eligibility for financial assistance for necessary treatment products or medically necessary food treatment products, or both:

(A) Applicable income; and

(B) cash assets in excess of 25 percent of the applicable income.

(2) If a family seeking financial assistance under this regulation has more than one family member with MSUD or PKU, the family shall be considered eligible for financial assistance at a level that is 100 percent less than the eligibility level for a family with one family member.

(b) Each individual who applies for or who receives financial assistance under this regulation shall also meet the requirements in K.A.R. 28-4-401.

(c) The following eligibility requirements shall apply to each family:

(1) Each family with applicable income and cash assets totaling less than 300 percent of the federal poverty level shall be eligible to receive 100 percent of the cost of necessary treatment products. This family shall be eligible each year for up to \$1,500 of medically necessary food treatment products for family members who are 18 years of age and younger.

(2) Each family with applicable income and cash assets totaling between 301 percent and 500

percent of the federal poverty level shall be eligible to receive 50 percent of the cost of necessary treatment products.

(3) Each family with applicable income and cash assets totaling between 501 percent and 700 percent of the federal poverty level shall be eligible to receive 25 percent of the cost of necessary treatment products.

(4) No family with applicable income and cash assets totaling over 701 percent of federal poverty level shall be eligible to receive any of the cost of necessary treatment products.

(d) If a family's health insurance covers a portion of the cost of necessary treatment product, the family's financial responsibility for this cost shall be determined pursuant to subsection (c).

(e) If the department orders any necessary treatment products for a family that is responsible for part of the cost, that family shall receive a statement indicating the amount to be reimbursed to the department. If reimbursement is not received from the family within 60 days of the statement date, the placement of any future orders for necessary treatment products for that family shall no longer be processed by the department. (Authorized by K.S.A. 65-101 and 65-180, as amended by 2006 SB 579, Sec. 1; implementing K.S.A. 65-180, as amended by 2006 SB 579, Sec. 1; effective, T-28-7-5-06, July 5, 2006; effective Oct. 20, 2006.)

28-4-515 to 28-4-524. Reserved.

28-4-525. (Authorized by and implementing L. 1987, Ch. 229, Sec. 7; effective, T-88-56, Dec. 16, 1987; effective May 1, 1988; revoked Aug. 7, 1998.)

28-4-526. (Authorized by L. 1987, Ch. 229, Sec. 7; implementing L. 1987, Ch. 229, Sec. 2; effective, T-88-56, Dec. 16, 1987; effective May 1, 1988; revoked Aug. 7, 1998.)

28-4-527 to 28-4-528. (Authorized by L. 1987, Ch. 229, Sec. 7; implementing L. 1987; Ch. 229, Sec. 4; effective, T-88-56, Dec. 16, 1987; effective May 1, 1988; revoked Aug. 7, 1998.)

28-4-529. (Authorized by and implementing L. 1987, Ch. 229, Sec. 7; effective, T-88-56, Dec. 16, 1987; effective May 1, 1988; revoked Aug. 7, 1998.)

28-4-530. (Authorized by and implementing K.S.A. 1990 Supp. 65-1,150; effective Oct. 7, 1991; revoked April 14, 2000.)

28-4-531. (Authorized by and implementing K.S.A. 1990 Supp. 65-1,150, 65-1,151, 65-1,152; effective Oct. 7, 1991; revoked April 14, 2000.)

INFANT TODDLER SERVICES—I.D.E.A.

28-4-550. Definitions. (a) “Center-based” means sites designed primarily for young children with disabilities to receive early intervention services.

(b) “Child find” means public and professional activities, including awareness activities, for the purpose of identifying the potential need for early intervention services.

(c) “Collaboration” means the establishment and maintenance of open communication and cooperative working relationships among service providers and other caregivers and the family when identifying goals and delivering care to children.

(d) “Community” means an interacting population of various kinds of individuals in a common location.

(1) Families may define their communities in different ways depending on the type, intensity, and frequency of their needs and their culturally specific values.

(2) A community may exist at local, regional, or national levels.

(3) Local community means the geographic service area as defined by the local council.

(4) The service area may be defined using various boundaries, including city, county, parts of counties, or multi-county regions.

(e) “Community-based” means places where small groups of infants and toddlers without disabilities are typically found, including child care centers or family day care.

(f) “Continuing education experience” means the following:

(1) college and university course work after obtaining the professional credential; or

(2) an inservice, workshop, or conference that offers approved professional continuing education credit.

(g) “Developmental delay” means any of the following conclusions obtained using the appropriate standardized instruments and procedures in one or more areas of development, including cognitive, physical, communication, social or emotional, or adaptive development.

(1) There is a discrepancy of 25 percent or more between chronological age, after correction

for prematurity and developmental age in any one area.

(2) The child is functioning at 1.5 standard deviations below the mean in any one area.

(3) There are delays of at least 20 percent or at least one standard deviation below the mean in two or more areas.

(4) The clinical judgment of the multidisciplinary team concludes that a developmental delay exists when specific tests are not available or when testing does not reflect the child’s actual performance. The professional in the area or areas of delay shall be a member of the team.

(h) “Eligible” means that children, from birth through two years, have one of the following:

(1) a developmental delay or a known condition leading to a developmental delay; or

(2) an established risk for developmental delay, which is a diagnosed mental or physical condition that has a high probability of resulting in developmental delay. The delay may or may not be exhibited at the time of diagnosis, but the common history of the disorder indicates the need for early intervention services.

(i) “Family” means those persons identified by the parent or parents of an infant or a toddler with special needs to be “family” in developing the individualized family service plan (IFSP) and early intervention services.

(j) “Home-based” means a site identified by the family as the home where individual services for a child and family are delivered.

(k) “Individualized family service plan (IFSP)” means a written plan for providing early intervention services to an eligible child and the child’s family.

(l) “Local fiscal agency” means a legal entity that assures compliance with the infant-toddler part of IDEA grant award and maintains an accounting system that meets the requirement for generally accepted accounting principles for recording receipts, obligations, and disbursements of grant funds.

(m) “Local lead agency” means a local agency designated by the local council and acknowledged by the secretary of the lead agency to coordinate agencies, institutions, and organizations used by the local community to carry out its responsibilities for providing services to children from birth through age two who need early intervention services.

(n) “Mediation” means the community-based process by which participants, together with the

assistance of a neutral person, move toward resolution or resolve a dispute within the community through discussion of options, alternatives, and negotiation.

(o) "Infant-Toddler Part" means the portion of IDEA that describes the grant program for states to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(p) "Records" means reports, letters, or other documents that are collected, maintained, or used by the agency in the screening, evaluation, and development of the individualized family service plan or in the delivery of services, or both.

(q) "Referral" means a transfer of information to determine eligibility, or to initiate or continue early intervention services.

(r) "Screening" means a brief procedure administered by qualified personnel to identify a child who needs an evaluation. The five developmental domains to screen are the following:

- (1) Cognitive development;
- (2) physical development, including health and nutrition, motor, vision, and hearing;
- (3) communication development;
- (4) social or emotional development; and
- (5) adaptive development.

(s) "Screening process" means the clinical observation of or the use of a developmentally appropriate screening tool to study a presumed normal population of infants and toddlers, which may initiate a referral for evaluation. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-551. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-552. Screening activities. (a) Families may choose to have their child evaluated, rather than screened.

(b) Certain conditions, such as Down syndrome, indicate the need for evaluation rather than screening.

(c) Screening shall be available at least monthly.

(d) Screening may be conducted in places where a child may be found in the course of regular activities, such as a home, child care center, or physician's office, or at community locations, such as a health department, school, or developmental center.

(e) Written parental consent shall be required before screening.

(f) Screening shall be conducted by a qualified person or by a qualified multidisciplinary team.

(g) Screening shall include the five developmental domains.

(h) Screening shall result in one of three possible outcomes:

(1) "pass," which means that no concerns were identified and the child is developing within normal limits;

(2) "questionable," which means that the results of the screening process were such that a rescreening is needed within a specified time; or

(3) "refer," which means that concerns were identified and a referral for evaluation shall be made within two working days.

(i) Referral from the screening shall begin the 45-day timeline to complete the evaluation and assessment activities and hold an IFSP meeting.

(j) Screening shall be provided at no cost to families. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-553 to 28-4-555. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-556. Family service coordination.

(a) Each child eligible for early intervention services and the child's family shall have a family service coordinator or co-coordinators.

(b) The number of children and families seen by a family service coordinator shall depend on factors such as the individualized needs of each child and family, including length of sessions, service delivery model, and transportation variables. Family service coordinators shall be monitored to determine if they are meeting the individualized needs of children and families.

(c) The family shall have the right to choose the family service coordinator, who may be from the profession most immediately relevant to the needs of the child and family, or another qualified individual. The family may request a change in coordinators.

(d) Parents shall be given the option of being co-coordinators.

(1) A parent may become qualified to perform all service functions carried out by a family service coordinator and provide the family service coordination service for another family, if the parent demonstrates appropriate competencies as iden-

tified by the Kansas department of health and environment.

(2) Parents may choose to reject family service coordination for their own child, when completely informed of the rights and responsibilities involved. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-557. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-558 to 28-4-563. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-564. Personnel standards. (a) Early intervention services shall be provided by qualified personnel.

(b) Qualified personnel shall meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.

(1) Audiologists shall be licensed by the Kansas department of health and environment.

(2) Marriage and family therapists shall be registered by the state of Kansas as meeting requirements including a master's degree in marriage and family therapy or in a related field including social work, psychology, counseling, nursing, medicine, or theology.

(3) Nurses shall be licensed as registered professional nurses by the Kansas board of nursing.

(4) Nutritionists shall be licensed dietitians by the Kansas department of health and environment.

(5) Occupational therapists shall be registered by the Kansas board of healing arts.

(6) Orientation and mobility specialists shall be credentialed by meeting standards established by the association for education and rehabilitation of blind and visually impaired.

(7) Pediatricians and other physicians shall be licensed by the Kansas board of healing arts and board certified in the specialty area.

(8) Physical therapists shall be registered by the Kansas board of healing arts.

(9) Psychologists shall be either registered or licensed by the Kansas behavioral sciences regulatory board, or credentialed as school psycholo-

gists with early childhood endorsement by the Kansas state board of education.

(10) Social workers shall be either licensed by the Kansas behavioral sciences regulatory board, or credentialed as school social workers with early childhood endorsement by the Kansas state board of education.

(11) Special educators shall be certified in early childhood special education by the Kansas state board of education.

(12) Speech-language pathologists shall be licensed by the Kansas department of health and environment.

(13) Teachers of the hearing impaired shall be certified as a teacher of the hearing impaired with early childhood endorsement by the Kansas state board of education.

(14) Teachers of the blind and visually impaired shall be certified as a teacher of the blind and visually impaired with early childhood endorsement by the Kansas state board of education.

(c) Continuing education experience shall be required to maintain current license, registration, or certification for personnel providing early intervention services.

(1) Continuing education experience shall include discipline or cross-discipline offerings when the offerings are clearly related to the enhancement of the practice, value, skills, and knowledge of working with the children with special needs, from birth through age five, and their families.

(2) Where continuing education is a requirement for license, certification, or registration renewal, a minimum of one-third of the required number of credits, units, points, or hours shall focus on the content noted in paragraph (c)(1), except for early childhood special educators, one-third of the required continuing education hours shall be relevant to the children with the special needs, from birth through age two, and their families.

(3) Where there is no continuing education requirement for professional credential renewal, twenty-four continuing education hours in a three-year period shall be required which focus on the content described in paragraph (c)(1).

(d) Aides, assistants, and paraprofessionals in early intervention programs shall work under the supervision of a professional in that discipline according to the standards of that profession. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995.)

28-4-565. Community responsibilities.

(a) Each community shall have a local interagency coordinating council (ICC) that has as one of its purposes the coordination of early intervention services for infants and toddlers with disabilities and their families.

(1) The local interagency coordinating council shall consist of members who reflect the community, including at a minimum the following:

- (A) two parents of children with disabilities;
- (B) a representative of a health or medical agency;
- (C) a representative of an educational agency; and
- (D) a representative of a social service agency.

(2) The names of local interagency coordinating council members shall be submitted to and acknowledged by the state lead agency.

(3) The chair of the council shall be elected by the local interagency coordinating council. The name of the chair shall be communicated to the state lead agency.

(4) The responsibilities of the local interagency coordinating council include the following:

- (A) identifying local service providers who can provide early intervention services to infants and toddlers with disabilities and their families;
- (B) advising and assisting local service providers; and
- (C) communicating, combining, cooperating, and collaborating with other local councils on issues of concern.

(b) Each community, in collaboration with its local ICC, shall develop a plan describing the system for coordinating early intervention services. The plan shall include the following:

- (1) identification of a local lead agency, which shall be acknowledged by the secretary of the state lead agency;
- (2) identification of a local fiscal agency, which shall be acknowledged by the secretary of the state lead agency. The local lead agency and local fiscal agency may be the same agency, if the local lead agency is a legal entity;
- (3) a description of the child find plan, including assurance that child find activities are available at least monthly;
- (4) a description of identified community needs and resources;
- (5) a description of written interagency agreements or memoranda of understanding, and how those agreements are used in the development of IFSPs for eligible children and families;

(6) a public awareness program that informs community members about child find activities, the central point of contact for the community, and the availability of early intervention services;

(7) a provision that the services that shall be at no cost to eligible infants and toddlers and their families include the following:

- (A) child find activities;
- (B) evaluation and assessments;
- (C) family service coordination; and
- (D) administrative and coordinative activities related to the development, review, and evaluation of the individualized family service plan (IFSP), and implementation of procedural safeguards and other components of the statewide system of early intervention services; and

(8) an assurance that the information regarding the community plan is available in the community.

(c) Each community desiring federal infant-toddler part of IDEA and state funds shall submit an annual grant application to the state lead agency. This grant application shall meet the following requirements:

- (1) include the plan for coordination of early intervention services, as described in K.A.R. 28-4-565(b); and
 - (2) be in compliance with the grant application materials provided by the state lead agency.
- (d) Each community shall be required to utilize multiple funding sources for early intervention services for children with disabilities from birth through age two and their families. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-566. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

28-4-567. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-568. Surrogate parents. (a) Participating agencies with the assistance of the Kansas department of health and environment, if needed, shall ascertain the legal relationship between the adult caregiver and the child prior to evaluation and assessment. In Kansas, surrogate parents shall be known as child advocates.

(b) The Kansas department of health and environment, in conjunction with participating agencies, shall assign child advocates to the child if:

(1) no parents can be identified;
 (2) the public agency, after reasonable efforts, cannot discover the whereabouts of the parents;
 or

(3) the child is a ward of the state under the laws of Kansas and parental rights have been severed.

(c) The method used for assigning a child advocate shall be as follows.

(1) Local agencies shall inform the Kansas department of health and environment upon determining that a child needs a child advocate.

(2) The Kansas department of health and environment shall assist the local agency in locating an appropriate child advocate or the child advocate shall be assigned under the authority of the Kansas department of health and environment.

(d) The child advocate shall be selected from a list maintained by the Kansas department of health and environment of individuals who have completed training in advocacy for individuals or have demonstrated knowledge of the power, duties, and Kansas functions necessary to provide adequate representation of the child.

(e) The participating agency shall ensure that a person selected as a surrogate parent:

(1) has no interest that conflicts with the interests of the child whom he or she represents; and

(2) has knowledge and skills that ensure representation of the child.

(f) A person assigned as a child advocate shall not:

(1) be an employee of any agency involved in the provision of early intervention or other services to the child; or

(2) be an employee solely because he or she is paid by a public agency to serve as a child advocate.

(g) A child advocate shall represent the child in all matters related to:

(1) the evaluation and assessment of the child;

(2) development and implementation of the child's IFSP, including annual evaluations and periodic reviews;

(3) the ongoing provision of early intervention services to the child; and

(4) any other rights established under this part. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995.)

28-4-569. Resolution of complaints. (a) For complaints not resolved informally at the local level, resolution shall be accomplished by the use

of mediation, a due process hearing, or both. A parent or an agency providing service shall register with the Kansas department of health and environment a complaint leading to mediation, a due process hearing, or both.

(b) The local lead agency shall, through agreements with local service providers, assure that procedural safeguards are followed and enforced.

(c) The mediation process shall meet the following requirements:

(1) be offered to parents as an option but shall not delay or extend the 30-day due process procedure;

(2) be requested by the parents or the agency and have the agreement of both parties before entering into the process; and

(3) be completed or at impasse within seven calendar days of the local interagency coordinating council's receipt of the complaint.

(d) If at impasse or the time has elapsed, the complaint shall be forwarded to the Kansas department of health and environment within eight days from the time the complaint was registered with the Kansas department of health and environment.

(e) Mediators appointed by the Kansas department of health and environment shall meet the following requirements:

(1) have knowledge about the provisions of infant-toddler part of IDEA and the needs of, and services available for, eligible children and their families;

(2) have training in the mediation process;

(3) shall not be an employee of any agency or program involved in the direct provision of early intervention services or care of the child, and shall not have a personal or professional interest that would conflict with his or her objectivity in implementing the process;

(4) be selected by mutual agreement of the parents and the local agency; and

(5) perform the following duties:

(A) listen to presentations of both parties to find out facts and isolate issues;

(B) assist in the development of creative alternatives to resolve the complaint;

(C) facilitate negotiation and decision making;

(D) provide, if resolution occurs, a written record of the proceedings, including the decision or solution to the participant and the Kansas department of health and environment; and

(E) forward, if no resolution within the time limit or impasse occurs, the complaint to the Kan-

sas department of health and environment within one day by telephone, followed within two working days by written documentation of the complaint and mediation activities.

(f) Parents' rights in mediation shall consist of the following:

(1) presenting their complaint and other relevant information and facts;

(2) hearing the relevant and factual information of the other participants;

(3) presenting their desired outcome of the complaint and alternative ways to achieve the solution;

(4) exploring with other parties other possible solutions; and

(5) having the mediation proceedings conducted in their native language at a convenient time and place. (Authorized by and implementing K.S.A. 1996 Supp. 75-5649; effective Jan. 30, 1995; amended Aug. 15, 1997.)

28-4-570. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996; revoked Aug. 15, 1997.)

28-4-571 to 28-4-572. (Authorized by and implementing K.S.A. 1993 Supp. 75-5649; effective Jan. 30, 1995; revoked Aug. 15, 1997.)

SCHOOL-AGE PROGRAMS

28-4-576. Definitions. (a) "Academic credit hour" means credit earned for coursework through an accredited postsecondary educational institution.

(b) "Administrative order" means an order that is issued by the secretary as specified in K.S.A. 65-501 et seq., and amendments thereto, and that is subject to the Kansas administrative procedures act.

(c) "Administrator" means the staff member who is responsible for the general and fiscal management of the program.

(d) "Adult responsible for a child or youth" means any of the following adults who is other than the child's or youth's legal parent and who is responsible for the care and upbringing of the child or youth:

(1) A stepparent;

(2) a grandparent;

(3) another relative; or

(4) a foster parent.

(e) "Animal" means any living creature, other than a human being, that has the ability to move

voluntarily and shall include mammals, rodents, fish, reptiles, insects, spiders, and birds.

(f) "Annual renewal date" means the date assigned to each licensee for the submission of the documents required to renew the license and payment of the annual license fee.

(g) "Applicant" means any person who has submitted an initial application for a license to operate a school-age program but has not received a temporary permit or license.

(h) "Available space for activities" means the indoor and outdoor space on the premises that is used by children and youth during the hours of operation in carrying out the program of activities. The following shall not be counted as available space for activities:

(1) Kitchens;

(2) rest rooms;

(3) hallways and passageways;

(4) storage areas;

(5) offices;

(6) teacher or employee lounges and workrooms; and

(7) any other space not used by the children or youth for activities.

(i) "Basement" means an area with a floor level more than 30 inches below ground level on all four sides.

(j) "Building" means a structure used for shelter that has a roof and is enclosed by walls on all sides.

(k) "Child or youth with special needs" means a child or youth who requires specialized programs, services, interventions, or technologies while attending the program, due to any of the following conditions:

(1) A developmental disability;

(2) mental retardation;

(3) mental illness;

(4) an emotional or behavioral difficulty;

(5) sensory or motor impairment; or

(6) a chronic illness.

(l) "Day reporting program" means a program that provides specialized services designed to enable juvenile offenders 10 years of age and older to remain offense-free while living in the community.

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

(n) "Drop-in program" means a child care facility as defined in K.A.R. 28-4-700(e).

(o) "Group" means a limited number of chil-

dren or youth assigned to a staff member or team of staff members.

(p) “High-risk sport or recreational activity” means a sport or recreational activity that poses a significant risk of injury to the participant. Safe participation in the activity shall require specialized instruction and may require protective safety gear.

(q) “Individualized program plan” and “IPP” mean a written, goal-oriented plan of specialized services for each child or youth with special needs or for each juvenile offender attending a day reporting program. Each operator shall ensure that the IPP assigns responsibility for the delivery of the specialized services.

(r) “Job-related experience” means experience approved by the secretary that includes teaching, working, and volunteering with school-age children and youth.

(s) “Kindergarten-age child” means a child who is attending kindergarten or who has completed kindergarten and has not entered first grade.

(t) “License” means the document issued by the secretary that authorizes a person to operate a school-age program.

(u) “License capacity” means the maximum number of children or youth, or both, authorized by the temporary permit or license to attend the program at any one time.

(v) “Meal” means breakfast, lunch, or dinner.

(w) “Mobile summer program” means a program that operates only during the summer months. Children and youth meet at a designated pick-up and drop-off site, and are transported daily to locations off the premises for program activities.

(x) “Notice of survey findings” means a written record documenting the results of an inspection or investigation conducted by the secretary’s designee to determine compliance with applicable statutes and regulations.

(y) “Operator” means a person who holds a temporary permit or license to conduct a school-age program.

(z) “Outdoor summer camp” means a program that operates only during the summer months and is conducted at an outdoor location for the duration of the program, but does not include any summer instructional camps as defined in K.S.A. 65-501, and amendments thereto.

(aa) “Premises” means the location, including the building or buildings and adjoining grounds,

for which the operator has a temporary permit or license to conduct a school-age program.

(bb) “Professional development training” means training approved by the secretary that is related to working with school-age children and youth.

(cc) “Program director” means the staff member who is approved by the secretary as meeting the qualifications specified in K.A.R. 28-4-587 and who is responsible for implementing and supervising the program of activities.

(dd) “Program director designee” means the staff member whom the operator designates to conduct the program in the temporary absence of the program director for a period not to exceed two consecutive weeks, or at the beginning and end of any day that exceeds eight hours.

(ee) “Program of activities” means a comprehensive and coordinated plan of activities that meets the following criteria:

(1) Promotes cognitive, emotional, social, and physical development;

(2) supports the well-being of each child or youth; and

(3) protects the safety of each child and youth in attendance.

(ff) “Public recreation center” means any building used by a political or taxing subdivision of this state, or by an agency of a state subdivision, for recreation programs that serve children and youth.

(gg) “Regularly volunteering” means working in a program on a recurring basis and without compensation. This term shall not apply to guest speakers and to persons who make one or more presentations on a specific subject.

(hh) “School-age child” and “child” mean an individual who is of kindergarten age through the academic year in which the child is in the sixth grade and who is attending the program. Each school-age child shall be included in the license capacity.

(ii) “School-age program” and “program” mean a child care facility that serves exclusively school-age children and youth, but shall not include a drop-in program as defined in this regulation.

(jj) “School-age youth” and “youth” mean an individual who meets the following conditions:

(1) Has completed sixth grade or is 12 years of age or older;

(2) is less than 18 years of age;

(3) is attending the program; and

(4) is not a volunteer or employee.

Each school-age youth shall be included in the license capacity.

(kk) "Secretary" means the secretary of the Kansas department of health and environment.

(ll) "Secretary's designee" means the person designated by the secretary to assess compliance with program regulations.

(mm) "Snack" means supplemental food served between meals.

(nn) "Specialized services" means additional services provided by the program to meet the special needs identified in the IPP for a specific child or youth.

(oo) "Staff member" means both of the following:

(1) All personnel, including employees, substitutes, and volunteers, who provide administrative or direct services to children and youth; and

(2) auxiliary personnel, including cooks, drivers, office workers, and housekeeping staff, who provide indirect services.

(pp) "Supervisory ratio" means the ratio consisting of the number of staff members required to provide direct services and supervision to a specified number of children or youth.

(qq) "Temporary permit" means the document issued pursuant to K.S.A. 65-504, and amendments thereto, that authorizes a person to operate a school-age program before receiving a license as required by K.S.A. 65-501, and amendments thereto.

(rr) "Time-out area" means a designated, supervised space in the activity area that is used to separate a child or youth from the group for a limited period of time, to allow the child or youth to regain self-control.

(ss) "Use zone" means the surface under and around a piece of equipment onto which a child or youth falling from or exiting the equipment would be expected to land. (Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-577. Terms of temporary permit or license. (a) License capacity.

(1) Building-based programs. The license capacity of each building-based program shall be determined by the combined indoor and outdoor available space for activities. For each child or youth counted in the license capacity, each operator shall provide 35 square feet of indoor avail-

able space for activities. If outdoor space is used, the license capacity may be increased by one child or youth for each 75 square feet of outdoor available space for activities, with the total license capacity not to exceed 175% of the license capacity based on the indoor space.

(2) Outdoor summer camps. The license capacity of each outdoor summer camp shall be determined by the available space for activities. For each child or youth counted in the license capacity, the operator shall provide 75 square feet of available space for activities.

(3) Mobile summer programs. The license capacity of each mobile summer program shall be determined by the available space for activities at the drop-off and pick-up site. Each operator shall provide 20 square feet of available space for activities at the site for each child and youth.

(b) Posting temporary permit or license. Each operator shall post each temporary permit or license in a conspicuous place on the premises that is visible to parents.

(c) License capacity not to be exceeded. Each operator shall limit the number of children and youth attending the program at any one time within the license capacity specified on the license.

(d) Provisions for issuing license. No license shall be issued by the secretary until all the applicable provisions of the following have been met:

(1) K.S.A. 65-501 through K.S.A. 65-516, and amendments thereto;

(2) K.S.A. 65-523 through K.S.A. 65-529, and amendments thereto;

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

(4) all applicable regulations.

(e) Validity of temporary permit or license.

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

(2) When an initial or amended license becomes effective, all temporary permits, licenses, or certificates of registration previously issued to the operator at the same address shall become invalid.

(f) Withdrawal of application. Any applicant or operator may, at any time, submit a request to withdraw the application for a license or a license renewal. If an application for license or license renewal is withdrawn, each temporary permit or license issued to the operator based on that application shall become invalid. (Authorized by

K.S.A. 65-508; implementing K.S.A. 65-504; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-578. Licensure; amended license; exceptions; notification; renewal. Each person shall have a temporary permit or license to operate a school-age program before children or youth are in attendance.

(a) Temporary permit or license required. Each person desiring to operate a school-age program that meets one or more of the following criteria shall obtain a temporary permit or license from the secretary to operate a child care facility as specified in K.S.A. 65-503, and amendments thereto:

(1) The program is designed to allow two or more school-age children on a drop-in or enrolled basis to attend 12 hours a week or more for more than two consecutive weeks, and is not an instructional class or activity as specified in paragraph (b)(3) of this regulation.

(2) The public agency providing funding to the program requires the program to be licensed as a child care facility.

(3) The program is a day reporting program for children 10 years of age or older and youth.

(4) The program is a specialized treatment, therapeutic, correctional, or rehabilitative program for school-age children or youth that children or youth attend 12 hours a week or more for more than two consecutive weeks.

(b) Exclusions. The following shall not be considered child care facilities:

(1) An "extraordinary school program," as defined in K.S.A. 72-8238, and amendments thereto, or a similar extended school day program that is conducted on the premises of an accredited non-public school, is attended only by pupils enrolled in the school in which the program is being conducted, and is staffed by certified elementary school teachers;

(2) a "summer program," as defined in K.S.A. 72-8237, and amendments thereto;

(3) an instructional class or activity in which a child or youth is enrolled for the purpose of participating in only one specific subject or skill-building area, including religious instruction in a specific doctrine or tenet, academic or remedial instruction, a basketball clinic, a baseball league, dance or drama class, or a class in martial arts;

(4) a program of activities that serves exclusively

school-age youth and that is not required to be licensed as specified in subsection (a) of this regulation;

(5) a program of activities that serves exclusively youth who are 16 years of age and older; and

(6) a program that is operated by a local unit of government or school district and that operates for no more than four consecutive hours per day or for no more than two consecutive weeks.

(c) New temporary permit or license required. Each operator shall submit a new application, the required forms, and the license fee, and shall obtain a new temporary permit or license from the secretary, as follows:

(1) Before a program that has been closed is reopened;

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

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

(d) Amended temporary permit or license.

(1) Each operator who intends to change the terms of the temporary permit or license, including the license capacity or the age of children and youth served, shall submit an application for an amended temporary permit or license on a form supplied by the department, and a nonrefundable \$35 amendment fee. An amendment fee shall not be required if the request to change the terms of license is made at the time of the annual review of the program.

(2) The operator shall not consider the amendment granted until the amended temporary permit or license is issued by the secretary.

(e) Exceptions.

(1) Any operator may submit a written request for an exception to a school-age program regulation on a form supplied by the department.

(2) An exception may be granted if the secretary determines that the exception is in the best interest of a child's or youth's health, safety, or well-being, serves the needs of the child's or youth's family, and does not violate statutory requirements.

(3) If an exception is granted, each operator shall receive written notice of the approval of the exception and its duration. The approval shall be posted with the temporary permit or license. The exception shall not be considered granted until written approval is given by the secretary.

(f) Notification requirements. Each applicant or operator shall notify the secretary in writing be-

fore withdrawing the application, closing the program, or changing any of the following:

- (1) High-risk sports or recreational activities offered by the program;
- (2) the program director;
- (3) the physical structure of the program site due to new construction or substantial remodeling that affects the license capacity; or
- (4) the use of any part of the premises that affects the license capacity.

(g) Annual renewal.

(1) Before the annual renewal date, each licensee wishing to renew the license shall submit the annual nonrefundable license fee and shall complete and submit the following to the secretary on forms supplied by the department:

- (A) An application to renew the license;
- (B) the program director's annual report; and
- (C) a request to conduct a criminal history and child abuse registry background check.

(2) Failure to submit the annual renewal documents and fee as required by paragraph (g)(1) of this regulation shall result in an assessment of a \$10.00 late renewal fee payable to the secretary and may result in suspension of the license. Each late renewal fee assessed shall be paid upon request. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505, and 65-516; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-579. Applicant requirements. (a) Each individual submitting an application for a license shall be 21 years of age or older at the time of application.

(b) Each corporation applying for a license shall be in good standing with the Kansas secretary of state. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-504 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-580. Application procedures; advertising. (a) Application procedures.

(1) Each person wishing to conduct a school-age program shall submit a complete application on forms supplied by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the program and shall include the following:

(A) A description of the program of activities and services to be offered, including the following:

(i) A statement of the program's purpose and goals;

(ii) the number and ages of children and youth for whom the program is designed; and

(iii) the anticipated opening date and the projected hours and months of operation;

(B) a request for a criminal history and child abuse registry background check as specified in K.A.R. 28-4-584; and

(C) a nonrefundable license fee of \$20.00.

(2) If an existing building is to be used, the applicant shall submit a detailed floor plan describing all of the following:

(A) The intended use of the space;

(B) the location of each activity area within the building;

(C) the measurements for each room used by children and youth for activities;

(D) the location of each rest room designated for use, including the number of toilets, urinals, and hand sinks; and

(E) the location of entrances and exits.

(3) If new construction or remodeling is planned, the applicant shall submit a building and site plan to the secretary at least 45 calendar days before the construction or remodeling is scheduled to begin. Each building and site plan shall include all of the information listed in paragraph (a)(2) of this regulation. Each applicant shall obtain approval of the plan from the secretary before beginning construction or remodeling. If changes are made to the building or site plan following the secretary's approval, the applicant shall submit a description of the proposed changes to the secretary for approval before construction or remodeling begins.

(4) If outdoor activities are conducted on the premises, the applicant shall include a diagram of the outside activity area for approval by the secretary. The diagram shall include the following:

(A) Measurements of the space to be used;

(B) the location relative to the building;

(C) the means of access to the area from the building;

(D) the placement of anchored equipment; and

(E) the location of any hazards adjacent to the outside activity area, including heavily traveled streets, railroad tracks, and bodies of water.

(5) Each applicant for a license to conduct an outdoor summer camp shall submit documentation of site approval as specified in K.A.R. 28-4-586.

(b) Advertising. If an applicant advertises the availability of the program, the advertisement shall not contradict the written description of the program of activities and services submitted with the application. The applicant shall not make a claim of "state approval" until the secretary issues a temporary permit or license. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-505 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-581. Inspections; surveys; investigations; posting administrative order. (a) Entry and access. Each applicant and each operator shall give the secretary or the secretary's designee immediate entry and access to the premises and to any records required to be kept, to determine compliance with applicable statutes and school-age program regulations. To ensure access, the applicant or operator shall authorize the program director or program director's designee to grant to the secretary, or the secretary's designee, immediate entry and access to the premises and required records.

(b) Notification of noncompliance.

(1) Applicant. If an applicant is notified in writing that the applicant is not in compliance with statutes or regulations governing school-age programs, the applicant shall make any changes or alterations identified in the notice before a temporary permit or license is issued by the secretary.

(2) Operator. If, following an inspection or complaint investigation, the operator is notified in writing that the program is not being conducted in compliance with statutes or regulations governing school-age programs, the operator shall make any changes or alterations identified in the notice necessary to achieve and maintain compliance.

(3) Explanation of findings. If an applicant or operator disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or operator may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or operator, the applicant or operator may submit a written request to the department for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant or operator believes that the finding should be changed. This request shall be made to the department within 10 calendar days after receiving the explanation.

(c) Posting of an administrative order. Each applicant or operator receiving an administrative order from the secretary shall post the order in a conspicuous place on the premises that is accessible to parents or potential users of the program. Each order shall be posted for 90 calendar days following the date the order becomes final. (Authorized by K.S.A. 2001 Supp. 65-508 and 65-513; implementing K.S.A. 2001 Supp. 65-504, 65-508, and 65-512; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-582. Administration; training; recordkeeping. (a) Building compliance. Before receiving a temporary permit or license, each applicant shall obtain documentation that the building complies with applicable building codes, fire safety requirements, and zoning codes. This documentation shall be on file on the premises or at a designated central office location that is accessible for review by the secretary's designee.

(b) Financial resources. Each operator shall have the financial resources necessary to maintain the program in compliance with licensing regulations.

(c) Lines of authority. Each operator shall define in writing the lines of authority governing the operation of the program.

(d) Delegation of authority. Each operator shall delegate administrative authority so that each program has a program director or a program director designee in charge during all hours of operation.

(e) Children and youth records.

(1) Each operator shall obtain the following information for each child or youth before or on the first day of attending the program:

(A) The first and last name, date of birth, and gender;

(B) a health history, as specified in K.A.R. 28-4-590(d);

(C) the anticipated schedule of hours and days of attendance or a notation that attendance is on a drop-in basis; and

(D) the name, address, and telephone number of each parent or other adult responsible for the child or youth, the names of any other persons authorized to pick up the child or youth, and emergency contact information.

(2) Each operator shall obtain written authorization for emergency medical care, signed by the parent or legal guardian of each child or youth,

before attending the program or within the first week of attendance.

(3) Except as specified in paragraph (4) of this subsection, each operator shall obtain written permission signed by the parent or other adult responsible for the child or youth before participating in the activity that will allow each child or youth to participate in the following activities, as applicable:

- (A) Swimming and water activities;
- (B) high-risk sports and recreational activities, as specified in K.A.R. 28-4-588;
- (C) transportation provided by the program; and
- (D) off-premises activities.

(4) If an operator is unable to obtain written information and records required for the child's or youth's participation in the program, the operator shall document that a reasonable effort has been made to obtain the necessary information and records. The operator shall develop and implement a plan, approved by the secretary, that provides the following information:

- (A) Reasonable assurance that medical treatment can be obtained for each child or youth in case of emergency;
- (B) reasonable assurance that each child or youth has permission to participate in the program of activities as specified in paragraph (e)(3) of this regulation; and
- (C) reasonable assurance that each child or youth has current immunizations and has no allergies or other health conditions that would interfere with participation in program activities.

(5) Each health history and parental or other adult permission, as specified in this subsection, shall be recorded on forms provided by the department or approved by the secretary.

(6) Each child's or youth's record shall be confidential. Each operator shall have a written confidentiality policy, which shall be shared with each staff member and each parent or other adult responsible for the child or youth and which shall be followed. Nothing in this regulation shall limit access to confidential records by the secretary, the secretary's designee, the secretary of social and rehabilitation services, or law enforcement personnel.

(f) Staff records. Each operator shall have the following information on file on the premises or at a designated central office location that is accessible for review by the secretary's designee:

- (1) If applicable, documentation of the re-

quired health information as specified in K.A.R. 28-4-590, and the date of participation in program orientation for each staff member as specified in K.A.R. 28-4-587;

(2) a copy of the identifying information submitted to the secretary for the completion of the criminal history and child abuse registry background check as specified in K.A.R. 28-4-584;

(3) a copy of current certification for first aid and certification for CPR as specified in K.A.R. 28-4-592; and

(4) if applicable, a copy of the program director's approval letter and documentation of professional development training for each director as specified in K.A.R. 28-4-587.

(g) Attendance of children and youth.

(1) Each operator shall maintain a daily attendance record that shall include each child's or youth's name, daily arrival time, and daily departure time. This record may be completed by a staff member or by each child or youth when arriving at or departing the premises. Each attendance record shall be kept on file for one year on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.

(2) No operator shall allow any child or youth to attend the program for more than 16 hours in a 24-hour period, unless the program of activities includes overnight activities. The operator shall ensure that children and youth do not attend more than two consecutive weeks of overnight activities.

(h) Each operator shall make the records and reports of the child or youth available to the parent or other adult responsible for the child or youth, on request. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-507 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-583. Access to the premises; safety of off-premises activities. (a) Access to the premises. Each operator shall give each custodial parent or other adult responsible for a child or youth attending the program immediate access to the premises during all hours of operation.

(b) Arrivals and departures. Each operator of a program in which children and youth attend on a regular basis shall meet the following requirements:

(1) Each operator shall develop and implement a policy regarding the hours of operation, the times for arrival and departure of each child and

youth, and supervision during arrival and departure. The operator shall define in the policy the supervisory and notification responsibilities of each staff member if a child or youth does not arrive at the established time or if a parent or other authorized individual is late picking up the child or youth.

(2) Each operator shall inform each parent or other adult responsible for a child or youth of the policy specified in paragraph (b)(1) and shall ensure that each staff member complies with the policy.

(c) Program-sponsored off-premises activities.

(1) Each operator shall obtain prior written permission, as specified in K.A.R. 28-4-582, for each child or youth to go off the premises for program-sponsored activities.

(2) Each off-premises location and activity shall be related directly to the program of activities and the goals and purpose of the program. Each location shall be used with strict regard for the health and safety of each child or youth, shall be age-appropriate, and shall have sufficient space and equipment for the activities being conducted at that location.

(3) Each operator shall maintain on the premises a record of the following information:

(A) Each destination;

(B) the time at which the children or youth leave the premises;

(C) the name of each adult supervising the children or youth while the children or youth are off the premises;

(D) a telephone number for reaching an adult supervising the children or youth, in case of emergency; and

(E) the estimated time of return.

(4) Each operator shall ensure that a method is in place for notifying each parent or other adult responsible for the child or youth before each off-premises activity occurs. These methods for notification may consist of any of the following:

(A) Posting the notification in a place accessible to the parent or other adult responsible for each child or youth;

(B) providing a calendar of scheduled off-premises activities to the parent or other adult responsible for each child or youth; or

(C) providing a written notification to the parent or other adult responsible for each child or youth before each off-premises activity.

(5) Each operator and each staff member shall have a method of accounting for each child or

youth while off the premises to ensure that no child or youth is forgotten or left behind. (Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-584. Criminal history and child abuse registry background check. (a)(1) Each applicant and each operator shall submit the identifying information that is necessary to complete a criminal history and child abuse registry background check for each individual 14 years of age or older who works, substitutes, or regularly volunteers in the program, as follows:

(A) When applying for a license;

(B) when submitting an application to renew the license; and

(C) before allowing each new individual to work, substitute, or regularly volunteer in the program.

(2) The identifying information shall be submitted on a form supplied by the department.

(b) Each operator, upon receipt of notification that an individual is prohibited from working, substituting, or regularly volunteering in the program, shall take the steps necessary to comply with K.S.A. 65-516, and amendments thereto. The operator shall, within five days of receipt of the notice, notify the secretary of the steps taken.

(c) Each operator shall maintain, for one year from the date of submission, a copy of each form submitted to the secretary requesting a criminal history or child abuse registry check. All copies shall be on file on the premises or at a designated central office location and shall be accessible for review by the secretary's designee. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-516, as amended by L. 2002, ch. 114, sec. 74; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-585. Building and outdoor premises. (a) Safety and maintenance of each building.

(1) Each operator shall ensure that the program is located in a building that meets the requirements specified in K.S.A. 65-508 and amendments thereto, the applicable building code, and any applicable local ordinances. Each operator shall ensure that no child or youth is knowingly exposed to environmental hazards, including asbestos, lead paint, and pesticides.

(2) Hot and cold running water shall be supplied to hand sinks except as specified in this par-

agraph. The hot water temperature shall not exceed 120° F. Outdoor summer camps and mobile summer programs shall be exempt from the requirement to provide hot running water to hand sinks.

(3) (A) Each operator shall ensure that each building shall have a minimum of one working flush toilet and one working hand sink for each 30 children or youth in the license capacity. One urinal may be substituted for each additional toilet in the boys' rest room.

(B) Each operator shall designate the rest rooms to be used by the program. A separate rest room shall be provided for each gender unless the rest room is designated for single occupancy.

(C) Each rest room shall be located to allow for the following:

- (i) Supervision of children and youth;
- (ii) immediate access to the rest room facilities by children, youth, and adults; and
- (iii) privacy while using the toilet.

(D) If the rest rooms are also used by non-program participants during the hours of operation of the program, the operator shall develop and implement policies for rest room use for the protection of children and youth attending the program.

(E) Toilet paper, soap, and either paper towels or hand dryers shall be available in each rest room.

(4) Each operator shall provide adequately for the health, safety, and comfort of each child, youth, and adult by maintaining the space used by the program according to the following requirements:

(A) The space shall be uncluttered and free from accumulated dirt, trash, vermin, and rodent infestation.

(B) Each indoor trash container shall be emptied daily or more often if the contents are overflowing or the removal is needed to control odor.

(C) Floors shall not be slippery or cracked.

(D) Each rug or carpet used as a floor covering shall be slip-resistant and free from tripping hazards. A floor covering, paint, or sealant shall be required over concrete floors for all buildings.

(E) Each exit shall be marked. No exit shall be blocked at any time.

(5) Heating appliances shall be vented, used as intended, safely located, and maintained in operating condition. Power strips, if used, shall have a UL rating.

(6) Each operator shall safely store toxic substances and materials, including cleaning supplies,

pesticides, and poisons, in a locked janitor's closet, locked room, or other locked area. No child or youth shall have unsupervised access to toxic substances and materials.

(b) Public and accredited non-public school buildings.

(1) Inside premises. If a program is located in a public or accredited non-public school building, the operator shall ensure that the building complies with subsection (a) of this regulation and with fire safety and building code requirements applicable to schools as required by K.S.A. 65-527, and amendments thereto.

(2) Outside premises.

(A) Each existing outside playground or activity area and equipment acceptable for use by students of the same age during the academic day may be used by children and youth in the program if the equipment is in sound condition.

(B) Additional impact-absorbent surfacing material shall not be required under anchored climbing equipment, slides, and swings if the equipment is acceptable for use by students of the same age during the academic day.

(c) Public recreation center buildings. If the program is located in a public recreation center, the operator shall ensure that the building complies with subsection (a) of this regulation and with fire safety and building code requirements applicable to public recreation centers as specified in K.S.A. 65-527, and amendments thereto.

(d) Buildings that are not public or accredited non-public school buildings or public recreation centers.

(1) If the program is located in a building that is not a public or accredited non-public school or a public recreation center, the operator shall ensure that the following requirements are met for the building used:

(A) The building shall meet the requirements in subsection (a) of this regulation.

(B) The building shall not be a residence or a single-family dwelling.

(C) Each stairway with more than two steps shall be railed.

(D) If windows and doors are left open, they shall be screened, with each screen in good condition to prevent insects from entering the premises.

(2) If a program uses a non-public source for the water supply, the water shall be safe for drinking and shall be tested annually by a department-certified laboratory. The well shall be approved by

the local environmental protection program (LEPP).

(e) Outside premises of public recreation centers and of other programs, including outdoor summer camps, that are not conducted in public schools or accredited non-public schools.

(1) General requirements.

(A) Each operator shall ensure that the outdoor activity area meets the following requirements:

(i) The area shall be located and arranged to reduce the risk of injury and to enable staff to provide close visual supervision at all times.

(ii) Each area shall be well drained and free of known health and environmental hazards.

(iii) There shall be no tall weeds or grass, untrimmed shrubbery, or trash in the activity area.

(iv) Each outdoor trash and garbage container shall be covered, and the contents shall be removed weekly.

(B) If the outdoor activity area is accessible to the public, each operator shall define boundaries for the children and youth attending the program and, to the extent possible, use space reserved exclusively for the program.

(2) Safety of outdoor equipment and the activity area. Each operator shall comply with the following safety requirements in the outside activity area:

(A) Equipment shall be safely located, age-appropriate, and in good repair. Equipment that is broken, hazardous, or unsafe or that does not have adequate impact-absorbent surfacing material in the use zone as specified in this regulation shall not be used.

(B) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored play or recreational equipment over four feet in height, including climbing equipment, slides, and swings. Impact-absorbent surfacing material shall consist of any loose fill material specified in paragraph (e)(2)(G) of this regulation, unitary surfacing material, or synthetic impact material. Before any equipment over 11 feet in height is used, the operator shall meet the requirements specified in K.A.R. 28-4-588(e).

(C) Each use zone shall be at least six feet from all sides of the structure. However, the side of some equipment, including a swing, shall not be required to have impact-absorbent surfacing material on each side if the potential for a fall to the side is minimal.

(D) Hard-surfacing materials, including asphalt, concrete, and hard-packed dirt, shall not be used in any use zone under and around climbing

equipment, slides, and swings. This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.

(E) If unitary surfacing material or synthetic impact material, including rubber mats, rubber tiles, and poured-in-place material, is installed in the use zone, the material shall be used and maintained according to the manufacturer's recommendations. The manufacturer's recommendations shall be on file on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.

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

(G) If loose fill material is installed in the use zone, the material shall be specifically developed for playground use, and the type and depth of material used shall conform to the following chart:

Required depth of impact-absorbent surfacing material for the height of equipment

Maximum height of equipment	Type of material	Minimum depth of material
6 feet 10 feet 11 feet	shredded bark mulch	6 inches 9 inches 12 inches
7 feet 10 feet 11 feet	wood chips	6 inches 9 inches 12 inches
6 feet 9 feet	fine sand	6 inches 12 inches
7 feet 10 feet	fine gravel	9 inches 12 inches
10 feet or less	shredded rubber	6 inches

(3) Protection from environmental hazards. Each operator shall ensure that each child or youth is protected from environmental hazards as follows:

(A) If a small fish pond or decorative pool with water 24 inches deep or less is on the premises, no child shall have unsupervised access to it.

(B) Each outdoor activity area shall have a fence, partial fence, or other barrier to reduce the safety risk to children and youth, and to prevent chance access to any adjacent hazard, including the following:

(i) A busy street;

(ii) railroad tracks; or

(iii) a water hazard, including a ditch, irrigation ditch, pond, lake, and any standing water over 24 inches deep. Each public recreation center shall be exempt from paragraph (e)(3) of this regula-

tion. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-508 and K.S.A. 65-527; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-586. Outdoor summer camps and mobile summer programs. (a)(1) Each operator conducting an outdoor summer camp or mobile summer program shall meet the requirements specified in this regulation and the requirements in K.A.R. 28-4-577 through K.A.R. 28-4-584, K.A.R. 28-4-587 through K.A.R. 28-4-590, and K.A.R. 28-4-592.

(2) Each operator shall meet the following requirements if the secretary determines that they are applicable to the program and services:

- (A) K.A.R. 28-4-576;
 - (B) K.A.R. 28-4-585;
 - (C) K.A.R. 28-4-591; and
 - (D) K.A.R. 28-4-593 through K.A.R. 28-4-596.
- (b) Outdoor summer camps.
- (1) Premises.

(A) Each outdoor summer camp shall be held in a city or county park or park-like setting that has at least 75 square feet of available space for each child or youth for the program of activities. Each operator shall use the premises according to its intended purpose, with strict regard for the health, safety, and well-being of each child or youth who attends the outdoor summer camp. No child or youth shall be exposed to environmental hazards, including asbestos, lead paint, and pesticides.

(B) If a lake, pond, river, or other large body of water is located within 100 yards of the premises, each operator shall ensure that the water hazard is physically separated from the activity area to prevent access by each child or youth, or shall submit to the secretary a plan for protecting each child and youth from unsupervised access. The plan, which shall be approved by the secretary before the premises are used for an outdoor summer camp, shall include the following:

- (i) A description of any natural barriers separating the activity area from the water;
- (ii) the approximate distance from the activity area to the water; and
- (iii) a plan for increased supervision.

(C) Each outdoor summer camp shall have access to the following:

- (i) A shelter or permanent building for protection from inclement weather and for dining pur-

poses, as needed, that is large enough to accommodate the number of children and youth in attendance and for each child and youth to be comfortably sheltered without being crowded; and

(ii) rest room and hand-washing facilities as specified in K.A.R. 28-4-585.

(D) Rest room facilities shall be located in visual proximity to each program activity area.

(E) Each shelter structure shall be in sound condition and good repair and shall be free from accumulated dirt and trash.

(F) If a building is used, the operator shall ensure that the building meets the requirements specified in K.A.R. 28-4-585. A shelter house that has a roof and is enclosed by walls on all sides shall be considered a building and shall be included in determining the license capacity based on 35 square feet of available space for each child or youth.

(G) Each outdoor summer camp shall have facilities for sanitary dish washing available as specified in K.A.R. 28-4-591. If hot water is not available to the sink or if the dish-washing facilities do not meet the requirements specified in K.A.R. 28-4-591, each operator shall obtain approval from the secretary's designee for the use of alternate methods for sanitary dish washing.

(H) Each operator of an outdoor summer camp shall conduct a daily safety assessment of the premises to ensure that the premises are maintained to protect the health, safety, and well-being of each child and youth.

(2) Policies. Each operator of an outdoor summer camp shall develop and implement policies for the following:

(A) The protection and shelter of children and youth in case of inclement weather; and

(B) the use and maintenance of the shelter and rest room facilities, including policies for use and maintenance if the shelter and rest room facilities are owned and operated by another entity.

(3) Transportation. If the operator transports children and youth to and from the outdoor summer camp premises to a designated pick-up and drop-off location, the operator shall meet the requirements specified in K.A.R. 28-4-583, K.A.R. 28-4-593, and paragraph (c)(4) and (5) of this regulation.

(c) Mobile summer programs.

(1) Each license for a mobile summer program shall be issued for the address of the designated drop-off and pick-up site. Each operator shall sub-

mit a new application for each change of location in the drop-off and pick-up site, and for any change in the license capacity.

(2) Each drop-off and pick-up site shall contain a shelter or a permanent building that provides adequate protection from inclement weather for each child or youth.

(3) Each operator shall ensure that no child or youth waits at the drop-off or pick-up site for more than one hour at the beginning of the program day or for more than one and one-half hours at the end of the program day.

(4) Each operator shall ensure that children or youth do not board the transporting vehicle until immediately before it is time to leave.

(5) Each operator of a mobile summer program shall ensure that the program has exclusive use of the licensed area during the entire time that children or youth involved in the program are present.

(6) Each operator of a mobile summer program shall meet the transportation requirements specified in K.A.R. 28-4-593 and the requirements for off-premises activities specified in K.A.R. 28-4-583.

(d) Staff records. Any operator of an outdoor summer camp or a mobile summer program may keep the staff records specified in K.A.R. 28-4-582 at a designated central office location. Each operator shall make these records available to the secretary or the secretary's designee upon request. Each operator shall keep health records and contact information for emergency notification immediately available in case of emergency.

(e) Children and youth records. Any operator may keep children and youth records as specified in K.A.R. 28-4-582 on file at a designated central office location. Each operator shall make these records available to the secretary or the secretary's designee upon request. Each operator shall ensure that the following records for each child or youth are immediately available in case of emergency:

(1) Health history;
 (2) authorization for emergency medical care; and

(3) emergency contact information. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-587. Staff qualifications; professional development; staffing requirements.

(a) Staff qualifications. Each operator and each staff member in contact with children or youth shall demonstrate emotional maturity, sound judgment, and an understanding of children and youth.

(b) Program director qualifications.

(1) Each program shall have a program director who meets the following qualifications:

(A) Is 18 years of age or older, and is at least three years older than the oldest youth in the program;

(B) demonstrates the following:

(i) Knowledge of child and youth development;
 (ii) knowledge of licensing regulations applicable to the program;

(iii) administrative and supervisory skills;

(iv) the ability to communicate clearly; and

(v) the competence to manage the program in compliance with the program policies, the program plan, and these regulations; and

(C) has either a high school diploma or a general equivalency diploma (GED).

(2) In addition to meeting the requirements specified in paragraph (1) of this subsection, each program director shall meet one of the following qualifications, as appropriate to the license capacity of the program:

(A) For a license capacity of 30 or fewer children or youth, has been approved as a program director as specified in K.A.R. 28-4-429(b) or (c), or has at least three months of job-related experience;

(B) for a license capacity of 31 through 60 children or youth, meets one of the following requirements:

(i) Has been approved as a program director as specified in K.A.R. 28-4-429(d) or (e);

(ii) has 15 academic credit hours; or

(iii) has six months of job-related experience;

(C) for a license capacity of 61 through 120 children or youth, meets one of the following requirements:

(i) Has been approved as a program director as specified in K.A.R. 28-4-429(e);

(ii) has 60 academic credit hours;

(iii) has 12 months of job-related experience; or

(iv) has a combination of 30 academic credit hours and six months of job-related experience; or

(D) for a license capacity of 121 or more children and youth, has a minimum of a four-year bachelor's degree from an accredited college or university and job-related experience.

(3) Within 10 calendar days after hiring each

program director, each operator shall comply with one of the following:

(i) Obtain a copy of the approval letter issued by the secretary to document that the program director is qualified for the license capacity of the program; or

(ii) submit a request to the secretary for program director's approval of the program director who has been hired.

(4) Each approval letter shall be kept on file in the program director's personnel file and shall be accessible for review by the secretary's designee.

(5) Each program director designee shall meet the requirements specified in paragraphs (b)(1) and (2)(A).

(c) Administrator qualifications. Each operator of a program that has a license capacity of 91 or more children or youth shall employ an administrator who meets the following qualifications:

(1) Is not the program director or a group leader;

(2) is 18 years of age or older, and has either a high school diploma or GED; and

(3) demonstrates administrative ability, knowledge of regulations governing school-age programs, and the skill to supervise the business operation of the program.

(d) Group leader qualifications.

(1) Each person designated as group leader shall meet the following qualifications:

(A) Is 18 years of age or older and is at least three years older than the oldest youth in the group; and

(B) has either a high school diploma or GED and has job-related experience working with school-age children or youth.

(2) Each group leader shall demonstrate the following:

(A) Knowledge of child and youth development;

(B) knowledge of licensing regulations for school-age programs;

(C) an understanding of age-appropriate activities and services;

(D) the ability to communicate clearly;

(E) skills and abilities to implement the program of activities; and

(F) the ability to foster positive, healthy relationships with children or youth.

(3) Each group leader shall provide supervision and direction to the children and youth assigned to the group, shall supervise group activities during all hours children and youth are present, and

shall provide supervision and direction to an assistant group leader.

(e) Assistant group leader qualifications.

(1) Each person designated as assistant group leader shall meet the following qualifications:

(A) Is 16 years of age or older and is at least three years older than the oldest youth in attendance in the group; and

(B) demonstrates the ability to provide supervision and guidance to a group of children or youth under the direction of a group leader, the skill and ability to carry out the program of activities, and the capability to foster positive, healthy relationships with children and youth.

(2) Each assistant group leader shall be under the supervision and direction of a group leader.

(f) Qualifications for substitute staff. Each program shall have substitutes who are available to work in case of illness or emergency. Each substitute shall meet the requirements for the staff person whom the substitute is temporarily replacing. The name and telephone number of each substitute shall be immediately available to the program director or the program director's designee.

(g) Qualifications for volunteers. Each volunteer shall be 14 years of age or older and, if working directly with the children and youth, shall be at least three years older than the oldest youth in the group. No volunteer shall be counted in the supervisory ratio unless the volunteer meets all the requirements of a group leader or assistant group leader and is designated as a group leader or assistant group leader by the program director.

(h) Professional development.

(1) Orientation training. Each operator shall provide orientation training to each program director and each staff member who is counted in the supervisory ratio. The operator shall offer the training before or within the first week of working with children or youth. The training shall be related to work duties and responsibilities and shall include the following:

(A) The mission and goals of the program;

(B) licensing regulations;

(C) the program policies and practices, including security and behavior management;

(D) the program of activities;

(E) supervision;

(F) health and safety practices;

(G) confidentiality;

(H) handling emergencies; and

(I) recognizing and reporting symptoms of ill-

ness, child abuse, child neglect, and critical incidents as specified in K.A.R. 28-4-592.

(2) Ongoing professional development training.

(A) Each program director shall annually obtain 15 clock-hours of professional development training as defined in K.A.R. 28-4-576. Documentation of the training attended and the number of clock-hours received for the training shall be kept in the program director's personnel file on the premises or at a designated central office location. This documentation shall be accessible for review by the secretary's designee.

(B) Each operator or program director shall assess the training needs of the staff members and shall provide staff training as needed to maintain the program in compliance with licensing regulations. Documentation of training shall be kept in the staff member's personnel file on the premises or at a designated central office location. This documentation shall be accessible for review by the secretary's designee.

(i) Staffing requirements.

(1) Staff coverage. Each operator shall have a sufficient number of staff members on duty to supervise the children and youth during all hours of operation and to provide for their health, safety, and well-being. Each operator shall provide staff coverage in case of emergencies and staff absences.

(2) Supervision.

(A) Each operator shall ensure that the program has a qualified group leader for each 30 children or youth attending the program, except as specified in K.A.R. 28-4-596.

(B) Each operator shall maintain additional qualified staff to ensure that the supervisory ratio of one staff member for each 15 children and youth is not exceeded.

(C) Each staff member counted in the supervisory ratio shall comply with the following:

(i) Meet the applicable qualifications for a group leader or assistant group leader;

(ii) be assigned responsibility for the supervision of children and youth; and

(iii) be physically present with the children or youth.

(3) Grouping. Except as specified in K.A.R. 28-4-596, the number of children and youth in a group shall be limited by the following:

(A) The available space for activities; and

(B) the type of program activity.

(4) Each staff member working with children and youth shall provide attentive supervision to

protect the health, safety, and welfare of the children and youth, and to reduce the risk of injury, illness, or abuse.

(5) Each staff member shall encourage the development of positive adult-to-child and adult-to-youth relationships and shall be actively engaged with the children or youth under their supervision.

(6) Each group leader or assistant group leader shall know the location of each child or youth under the supervision of that group leader or assistant group leader, at all times.

(7) Any group leader or assistant group leader may, based on the policy of the program and the age and responsibility level of the child or youth, give a child or youth permission to walk unescorted from one supervised activity area to another supervised activity area or to the rest room. (Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-588. Program plan, program of activities, and use of space. (a) Program plan. Each operator shall develop and implement a written program plan that includes a program of activities, services, and schedules in keeping with the overall mission, goals, and purpose of the program and the developmental needs and interests of the children and youth.

(b) Program of activities.

(1) Each operator shall ensure that each activity is adapted to the number of children and youth participating in the activity and the space available. Whenever possible, each operator shall encourage each child and youth to participate in planning the program of activities.

(2) Each operator shall ensure that each activity meets the following conditions:

(A) Is developmentally appropriate and age-appropriate;

(B) helps each child or youth develop useful skills, a positive self-concept, a sense of independence, and positive relationships;

(C) provides a variety of structured, unstructured, and self-directed activities in keeping with the goals and purpose of the program and the hours of operation; and

(D) is scheduled to allow adequate time to transition from one activity to another.

(3) Each operator shall ensure that television programs, videos, and movies are limited to those

with age-appropriate content and are shown only for special occasions or educational instruction.

(c) Use of available space for activities.

(1) If activities that are not part of the school-age program are conducted on the same premises as those for the school-age program, each operator shall designate space for exclusive use by the program during the hours of operation.

(2) Each operator shall provide sufficient space in each area for children and youth to engage comfortably in the activity without being crowded.

(d) Materials, equipment, and furnishings.

(1) Each operator shall provide a sufficient quantity of program materials, equipment, furnishings, and supplies to keep each child and youth engaged and to carry out the program of activities.

(2) Each operator shall ensure compliance with the following safety requirements:

(A) Equipment, furnishings, and supplies shall be used as intended and shall be safely stored to prevent injury or misuse.

(B) Equipment shall be maintained in good repair.

(C) If bedding is used, it shall be stored in a sanitary manner.

(3) Each operator shall ensure that there are no firearms, ammunition, hunting knives, and other weapons on the premises. Archery equipment and air-powered guns, including BB guns and pellet guns, shall be prohibited unless both of the following conditions are met:

(A) The equipment and guns are used as part of an instructional activity that meets the requirements for high-risk sports and recreational activities specified in subsection (e) of this regulation.

(B) The equipment and guns are kept in locked storage, and no child or youth has unsupervised access to the equipment and guns.

(e) High-risk sports and recreational activities.

(1) Before any high-risk sport or recreational activity is included in the program, each operator shall submit a description of the sport or activity to the secretary for written approval. Each description shall include the following information:

(A) The required qualifications for the instructor of the sport or activity;

(B) the goals of the instruction;

(C) the protective measures that will be followed to conduct the sport or activity safely;

(D) the plans for increased staff supervision;

(E) the type of protective gear, if required for the activity;

(F) the operator's written assurance that each sport or activity will be age-appropriate; and

(G) any special procedures to be followed in conducting the sport or activity.

(2) Each operator shall keep the written approval from the secretary on file on the premises or at a designated central office location. This approval shall be accessible for review by the secretary's designee.

(3) Only an instructor who meets the qualifications for conducting a high risk sport or recreational activity shall instruct and supervise the children and youth engaged in that sport or activity.

(4) Before participating in a high-risk sport or recreational activity, each child or youth shall have written permission, as specified in K.A.R. 28-4-582, on file on the premises or at a designated central office location. Each written permission shall be accessible for review by the secretary's designee.

(f) Children or youth with special needs.

(1) If the operator and the parent or other adult responsible for a child or youth agree that the child or youth will be provided with specialized services while attending the program, an IPP shall be developed and implemented by the following individuals:

(A) The program director and each staff member of the program who is responsible for implementing the IPP;

(B) the parent or other adult responsible for the child or youth;

(C) a professional who is licensed or credentialed and who is qualified to work with the child or youth regarding the child's or youth's special need; and

(D) the child or youth, as appropriate.

(2) Each IPP shall contain the following information:

(A) The date each IPP is developed and updated;

(B) each special need identified as requiring specialized services;

(C) each specialized service to be provided while the child or youth is attending the program and the name of the person who will provide each service;

(D) the anticipated goal of each specialized service; and

(E) the name and position of each person participating in the development of the IPP.

(3) Each operator shall ensure that each IPP is

reviewed and updated annually to meet the special needs of the child or youth.

(4) Each operator shall provide a copy of each IPP and each updated IPP to the participants who developed the IPP. The operator shall keep a copy in the child's or youth's file.

(5) Each program operating concurrently under a school-age program license issued by the secretary and a license issued by the secretary of social and rehabilitation services as specified in K.S.A. 75-3307b, and amendments thereto, shall be exempt from the following regulations if the program is in compliance with the licensing requirements of the secretary of social and rehabilitation services:

(A) K.A.R. 28-4-587;

(B) subsection (b), subsection (e), and paragraphs (f)(1) through (4) of this regulation; and

(C) any IPP requirements specified in K.A.R. 28-4-589(d). (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-589. Behavior management. (a) Behavior management practices.

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

(2) Each staff member shall practice methods of behavior management that are designed to help each child or youth develop inner controls and manage the child's or youth's own behavior in a socially acceptable manner.

(b) Time-out. If time-out is used to manage behavior, the child or youth shall remain in time-out only long enough to regain self-control. Each child or youth in time-out shall be kept under visual staff supervision. If a separate room is used, the door shall remain open, or the staff member responsible for providing supervision shall remain in the room with the child or youth.

(c) Prohibited punishment.

(1) No operator or any staff member shall use any of the following methods of punishment:

(A) Punishment that is humiliating, frightening, or physically harmful to the child or youth;

(B) corporal punishment, including spanking with the hand or any implement, slapping, swatting, pulling hair, yanking the arm, excessive exercise, exposure to extreme temperatures, and any other measure that produces physical pain or threatens the child's or youth's health or safety;

(C) verbal abuse, threats, or derogatory remarks about the child or youth or the child's or youth's family;

(D) enclosing the child or youth in a confined space, including any closet, box, and locked room;

(E) withholding or forcing foods or liquids; and

(F) placing soap, or other substances that sting, burn, or have a bitter taste, in the child's or youth's mouth or on the tongue, or placing substances that sting or burn on other parts of the child's or youth's body.

(2) Each operator and each staff member shall be prohibited from giving medications, herbal or folk remedies, and drugs to control or manage behavior except as prescribed by the child's or youth's licensed physician or licensed nurse practitioner.

(3) Each operator and each staff member shall be prohibited from using physical restraint to manage behavior unless all of the requirements of subsection (d) of this regulation are met.

(d) Physical restraint.

(1) Before physical restraint is used, de-escalation methods shall be attempted. If de-escalation methods fail and the behavior of a child or youth makes physical restraint necessary for the child's or youth's own protection or the protection of others, the child or youth shall be held as gently as possible to manage the behavior. If physical restraint is used, two staff members shall be present and shall remain with the child or youth until physical restraint is no longer necessary.

(2) The child or youth shall be restrained no longer than necessary for the child or youth to gain self-control. No bonds, ties, or straps shall be used to restrict movement.

(3) Each staff member using physical restraint shall have a current certificate on file documenting training in de-escalation methods and specific restraint procedures or techniques. The physical restraint training curriculum shall be approved by the secretary before the curriculum is used to train the staff members.

(4) Each child or youth whose behavior cannot be managed by other less intrusive methods and whose behavior requires the use of ongoing physical restraint for the child's or youth's protection or the protection of others shall have on file an IPP authorizing the use of physical restraint.

(e) Notification requirements. Each operator shall inform the parent or other adult responsible for a child or youth each time that physical restraint is used. The operator shall document each

use of physical restraint on a critical incident report form supplied by the department. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-590. Health-related requirements.

(a) Tobacco use prohibited. Each operator shall ensure that tobacco products are not used during the hours of operation of the program and while children or youth are in attendance.

(b) Health of individuals working or volunteering in the program.

(1) Each operator and each staff member shall be free from physical, mental, and emotional handicaps as necessary to protect the health, safety, and welfare of the children or youth.

(2) No individual working or volunteering in a program shall be under the influence of alcohol or illegal substances, or impaired due to the use of prescription or nonprescription drugs.

(3) Each individual working or volunteering in the program shall be free from any infectious or contagious disease, as specified in K.A.R. 28-1-6.

(4) Each operator and each staff member who has regular, ongoing contact with children or youth shall attest to that individual's health status on a form supplied by the department or approved by the secretary. The health status form shall indicate if the individual has been exposed to an active case of tuberculosis or has been diagnosed with suspect or confirmed active tuberculosis. Each individual shall update the health status form annually or more often if there is a change in the health status or if the individual has been exposed to an active case of tuberculosis.

(5) If an operator or staff member in contact with children or youth experiences significant changes in physical, mental, or emotional health or if the individual has been exposed to an active case of tuberculosis, an assessment of the individual's current health status may be required by the secretary. A licensed health care provider qualified to diagnose and treat the condition shall conduct the health assessment. Each assessment shall be kept in the individual's file and shall be submitted to the secretary on request.

(c) Tuberculin testing.

(1) If an operator, program director, staff member, child, or youth is exposed to an active case of tuberculosis or if the location of the program is in an area identified by the local health department or the secretary as a high-risk area for tuberculosis

exposure, that individual shall obtain a Mantoux test or a chest x-ray.

(2) Each individual diagnosed with suspected or confirmed active tuberculosis shall be excluded from the program until the operator receives authorization from the secretary for the individual to return.

(3) Each operator shall notify the secretary if any individual identified in paragraph (c)(1) of this regulation indicates exposure to an active case of tuberculosis, has a diagnosis of suspected or confirmed active tuberculosis, or has a positive Mantoux test or positive chest x-ray indicating active disease.

(d) Health of children and youth.

(1) Each operator shall obtain a health history for each child or youth, on a form supplied by the department or approved by the secretary. Each health history shall be maintained in the child's or youth's file on the premises.

(2) Each operator shall require that each child or youth attending the program has current immunizations as specified in K.A.R. 28-1-20 or has an exemption for religious or medical reasons.

(3) An exemption from immunization requirements shall be granted if one of the following is obtained:

(A) A written statement, submitted on a form supplied by the department and signed by a parent of the child or youth, that the parent is an adherent of a religious denomination whose teachings are opposed to health assessments or immunizations; or

(B) A certification from a licensed physician that the physical condition of the child or youth is such that immunizations would endanger the child's or youth's life or health.

(4) Children or youth who are currently attending or who had attended in the preceding school year a public or accredited non-public school in Kansas, Missouri, or Oklahoma shall not be required to provide documentation of current immunizations or exemptions from immunizations.

(e) Administration of medication.

(1) Nonprescription medication. If nonprescription medication is to be administered during the time children or youth are attending the program, each operator shall ensure compliance with the following procedures:

(A) Obtain written permission from the child's or youth's parent or other adult responsible for the child or youth before administering nonprescription medication to that child or youth;

(B) administer each medication from the original container and according to instructions on the label; and

(C) require that each nonprescription medication supplied by a parent or other adult responsible for the child or youth be in the original container that is labeled with the first and last name of the child or youth for whom the medication is intended.

(2) Prescription medication. If prescription medication is administered during the time children or youth are attending the program, each operator shall ensure compliance with the following procedures:

(A) Obtain written permission from the child's or youth's parent or other adult responsible for the child or youth before administering prescription medication to that child or youth;

(B) administer medication ordered by a licensed physician or licensed nurse practitioner only to the designated child or youth and in the dosage recommended;

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

(i) The first and last name of the child or youth;

(ii) the date the prescription was filled;

(iii) the name of the licensed physician or licensed nurse practitioner who wrote the prescription;

(iv) the expiration date of the medication; and

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

(D) consider the instructions on each label to be the order from the licensed physician or licensed nurse practitioner; and

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

(3) Requirements for administering medication.

(A) If nonprescription or prescription medication is administered, each operator shall designate staff members to administer the medication. Before administering medication, each designated staff member shall receive training in medication administration approved by the secretary.

(B) Each operator shall record in the file of each child or youth who is scheduled to receive medication the following identifying information, on forms supplied by the department:

(i) The name of each staff member who administered each medication;

(ii) the date and time the medication was given;

(iii) any change in the child's or youth's behavior, response to the medication, or adverse reaction; and

(iv) any change in the administration of the medication from the instructions on the label or a notation about each missed dose.

(C) Each record shall be signed by the individual who was responsible for administering the medication, and a copy of the record shall be made available to the parent or other adult responsible for the child or youth.

(4) Storage of medication. Each operator shall keep each medication at the recommended temperature and, except as specified in paragraph (e)(5)(D) of this regulation, in locked storage. Each medication container shall have a child-protective cap.

(5) Self-administration of medication.

(A) Any operator may permit each child or youth with a chronic illness, a condition requiring prescription medication on a regular basis, or a condition requiring the use of an inhaler to administer the medication under staff supervision. The operator shall obtain written permission for the child or youth to self-administer medication from the child's or youth's parent or other adult responsible for the child or youth, and from the licensed physician or nurse practitioner treating the condition of the child or youth.

(B) Written permission for self-administration of medication shall be kept in the child's or youth's file.

(C) Self-administration of each medication shall follow the procedures specified in paragraphs (e)(2)(B), (C), (D), and (E) of this regulation.

(D) Each child or youth who is authorized to self-administer medication shall have immediate access to that child's or youth's medication for administration purposes. Each operator shall safely store each medication to prevent unauthorized access by others.

(E) Each operator shall record the date and time each medication was self-administered.

(f) Health care practices.

(1) Hand washing.

(A) Each operator shall encourage each child and youth to wash the hands with soap and water before and after eating and after toileting.

(B) Each staff member shall wash the hands with soap and water before and after eating and after toileting.

(C) Waterless sanitizing cleanser or sanitizing wipes shall not be used as a substitute for soap

and running water. Individuals shall not share towels or washcloths.

(2) Each staff member shall be sensitive to the health status of each child or youth and shall take precautions to prevent the following:

- (A) Dehydration;
- (B) heat exhaustion;
- (C) sunburn;
- (D) frostbite;
- (E) allergic reactions; and
- (F) other preventable conditions hazardous to a child's or youth's health. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-591. Food preparation, service, safety, and nutrition. (a) If meals or snacks are served in the program, the operator shall ensure that the following requirements are met:

(1) Sanitary practices.

(A) Each individual engaged in food preparation and food service shall know and use sanitary methods of food handling, food service, and storage.

(B) No individual shall be in the food preparation area who is vomiting, has diarrhea, or has other signs, symptoms, or positive laboratory tests indicative of an infectious illness that can be transmitted through food handling.

(C) No individual shall handle or serve food until the individual is no longer infectious as required by K.A.R. 28-1-6.

(D) Each individual involved in food handling shall comply with all of the following requirements:

(i) Hands shall be washed with soap and running water in a designated hand-washing sink immediately before the individual engages in food preparation and before the individual serves food.

(ii) If the food preparation sink is used for hand washing, the sink shall be sanitized before using it for food preparation.

(iii) Individual towels, disposable paper towels, or air dryers shall be used to dry hands.

(iv) Each individual serving food shall use utensils or single-use gloves.

(v) Each individual with infectious skin sores or with open or infected injuries on the hands or forearms shall cover the sores or injuries with a bandage when handling or serving food.

(2) Food service and preparation area. If food

is prepared on the premises, each operator shall provide a food preparation area that is separate from the eating area, activity area, laundry area, and rest rooms and that is not used as a passageway during the hours of food preparation and cleanup.

(A) Surfaces used for food preparation and dining shall be made of smooth, nonporous material and shall be cleaned and sanitized before and after use.

(B) The floors shall be swept daily and mopped when spills occur.

(C) Garbage shall be disposed of in a garbage disposal or in a covered container. If a container is used, the container shall be removed at the end of the day or more often as needed to prevent overflowing or to control odor.

(3) Food storage and refrigeration.

(A) Food shall be stored at least six inches above the floor in a clean, dry, well-ventilated area that is free from vermin and rodent infestation. Dry bulk foods that are not in their original, unopened containers shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled.

(B) Food shall not be stored with poisonous or toxic materials. If cleaning agents cannot be stored in a room separate from food storage areas, the cleaning agents shall be clearly labeled and kept in locked cabinets not used for the storage of food.

(C) Each refrigerator and freezer used by the operator for food storage and refrigeration shall be kept clean inside and out and shall have an interior thermometer. The temperature shall be maintained at 40°F or lower in the refrigerator, and food stored in the freezer shall be maintained frozen.

(D) Hot foods that are to be refrigerated and stored shall be transferred to shallow containers in food layers less than three inches deep and shall not be covered until cool.

(E) All food stored in the refrigerator shall be covered, wrapped, or otherwise protected from contamination. Unserved, leftover perishable foods shall be dated, refrigerated immediately after service, and eaten within three days.

(F) Ready-to-eat commercially processed foods, including luncheon meats, cream cheese, and cottage cheese, shall be eaten within five days after opening the package.

(G) Hot foods shall be maintained at temperatures of at least 140°F.

(H) Cold foods shall be maintained at temperatures of 40°F or less.

(b) Table service.

(1) Each operator shall provide clean forks, spoons, and knives as appropriate for the food being served and shall provide one of the following:

(A) Clean cups and dishes that have smooth, hard-glazed surfaces and are free from cracks or chips; or

(B) disposable, single-use table service that is of food grade, medium weight, and disposed of after each use.

(2) If nondisposable table service and cooking utensils are used, each operator shall use one of the following methods to clean them:

(A) A commercial dishwasher for programs serving more than 30 children, or a domestic dishwasher for programs with 30 or fewer children;

(B) a three-compartment sink; or

(C) a two-compartment sink and a basin for sanitizing the table service and cooking utensils.

(c) Meals or snacks prepared on the premises.

(1) Food safety requirements. Each operator shall comply with the following requirements:

(A) Dairy products shall be pasteurized.

(B) Meat shall be from government-inspected sources.

(C) Raw fruits and vegetables shall be washed thoroughly before being eaten or used for cooking.

(D) Frozen foods shall be defrosted in the refrigerator, under cold running water, in a microwave oven using the defrost setting, or during the cooking process. Frozen foods shall not be defrosted by leaving them at room temperature or in standing water.

(2) Each operator shall ensure that the following foods are prohibited:

(A) Home-canned food;

(B) food from dented, rusted, bulging, or leaking cans; and

(C) food from cans without labels.

(d) Meals or snacks not prepared on the premises.

(1) If the operator serves a meal or snack that is not prepared on the premises, the meal shall be obtained from a food service establishment, summer feeding program, or catering service licensed by the secretary. If perishable food is transported to the premises, each operator shall serve only food that has been transported promptly in temperature-controlled, clean, covered containers.

(2)(A) Any operator may permit parents or

other adults responsible for a child or youth to provide snacks and sack lunches.

(B) If sack lunches are provided either by the operator or by the parent or other adult responsible for each child or youth, each operator shall ensure that all of the following requirements are met:

(i) Each sack lunch shall be labeled with the name of the child or youth, and sack lunches shall not be shared.

(ii) Perishable foods and drinks shall be kept at the temperatures specified in paragraph (a)(3)(H) through the use of insulated sacks and either a coolant or refrigeration.

(iii) Each sack lunch shall be positioned so that neither ice nor water causes the food in the sack to become wet or contaminated.

(iv) Ice that will be ingested shall be kept wrapped and shall not come in contact with sack lunches, food, cans, or other substances.

(e) Nutrition.

(1) Each operator shall ensure that safe drinking water is readily available at all times to each individual participating in the program.

(2) Each operator shall ensure that meals and snacks are available to each child or youth according to the following schedule:

Length of time at the program	Food served
at least 2½ hours but fewer than 4 hours	1 snack
at least 4 hours but fewer than 8 hours	1 snack and 1 meal
at least 8 hours but fewer than 10 hours	2 snacks and 1 meal or 1 snack and 2 meals
10 hours or more	2 meals and 2 snacks

(3) Each operator of a school-age program that meets after school during the school year shall ensure that at least one snack is served daily to each child or youth who attends the program after school. (Authorized by and implementing K.S.A. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003; amended, T-28-3-19-04, March 19, 2004; amended Sept. 10, 2004.)

28-4-592. Safety and emergency procedures. (a) Telephone.

(1) Each operator shall ensure that there is a working telephone readily available to the operator and staff members to receive all incoming calls and make outgoing calls during all hours of operation.

(2) A working cellular phone that is turned on

during the hours of operation may be substituted for a wired telephone.

(3) Each operator shall post emergency telephone numbers for the police, fire department, ambulance, hospital or hospitals, and poison control center next to the telephone, or shall have the numbers immediately accessible to each wired or cellular phone.

(b) Emergency plans and evacuation procedures.

(1) Emergency plans.

(A) Each operator shall develop and implement an emergency plan to provide for the safety of children, youth, and staff in emergencies including fire, tornadoes, storms, floods, serious injury, and other types of emergency specific to the geographic area in which the program is conducted.

(B) Each emergency plan shall be posted in a conspicuous place in each indoor activity area.

(C) Each staff member shall be informed of and shall follow the emergency plans.

(2) Evacuation procedures. Each operator shall practice both of the following evacuation procedures with the children and youth:

(A) Fire drills shall be conducted monthly. A record of the date and time of each fire drill and a record of each evacuation time shall be kept on file for one year.

(B) Tornado drills shall be conducted monthly during April through September. A record of the date and time of each tornado drill and a record of each evacuation time shall be kept on file for one year.

(c) First aid and cardiopulmonary resuscitation (CPR).

(1) Each operator shall ensure that there is at least one staff member on the premises who is readily available to each child or youth at all times and who has a current certification in first aid and a current certification in CPR appropriate to the age of children and youth attending the program.

(2) Each record of certification shall be kept in the staff member's file. Equivalent training or certification may be substituted for the required training or certification if approved by the secretary.

(3) First-aid supplies. Each operator shall maintain first-aid supplies in a first-aid kit, carrying case, box, or other container. The first-aid supplies shall include the following:

(A) First-aid manual;

(B) single-use gloves;

(C) adhesive bandages of assorted sizes;

(D) adhesive tape;

(E) a roll of sterile gauze;

(F) sharp scissors;

(G) packages of four-inch sterile gauze squares;

(H) a cleansing agent or pump soap;

(I) an elastic bandage;

(J) tweezers; and

(K) a bottle of water for washing and cleansing.

(d) Standard precautions for handling blood and other bodily fluids or waste. Each operator shall ensure that each staff member complies with the following standard precautions:

(1) Each individual shall wear single-use gloves in the following situations:

(A) When cleaning contaminated surfaces or areas;

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

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

(2) Each contaminated surface or area on which a spill occurs shall be cleaned with a disinfectant solution of one-quarter cup of unscented chlorine bleach to one gallon of cool water, or an appropriate commercial disinfectant used according to the manufacturer's instructions.

(3) Care shall be taken to avoid splashing any contaminated material onto any mucous membrane, including eyes, nose, and mouth.

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

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

(e) Emergency medical care.

(1) If a child or youth needs emergency medical care and is taken to an emergency care source, each operator shall ensure that the parent or other adult responsible for the child or youth is notified immediately and shall make the following documents and information immediately available to emergency care personnel:

(A) The child's or youth's health history;

(B) the name, address, and telephone number of the following individuals:

(i) The parent or other adult responsible for the child or youth;

(ii) a designated emergency contact; and
 (iii) the physician designated by the parent or other adult to be called in case of emergency; and

(C) authorization for emergency medical care.

(2) If the operator has been unable to obtain the necessary documents as specified in K.A.R. 28-4-582, the operator shall follow the plan approved by the secretary.

(3) A staff member shall accompany a child or youth to the source of emergency care and shall remain with the child or youth until a parent or other responsible adult assumes responsibility for the child or youth. When a staff member goes to the source of emergency care with a child or youth, the operator shall ensure that there is an adequate number of staff members available to supervise the remaining children and youth in the program.

(f) Reporting illnesses.

(1) If a child or youth becomes ill while attending the program, the operator shall immediately notify the parent or other adult responsible for the child or youth.

(2) If an operator, staff member, child, or youth in a program contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2 and K.A.R. 28-1-18, the operator shall report the disease to the local county health department by the next working day. The operator shall follow the protocol recommended by the county health department and shall cooperate fully with any investigation, disease control, or surveillance procedures initiated by the county health department or the department of health and environment.

(g) Reporting critical incidents.

(1) Each operator shall report the following critical incidents immediately to each parent or other adult responsible for a child or youth affected by the critical incident, on a form supplied by the department:

(A) Fire damage or other damage to the building, or damage to the property that affects the structure of the building or safety of the children and youth;

(B) a vehicle accident involving children or youth;

(C) a missing child or youth;

(D) physical restraint of a child or youth by staff members;

(E) the injury of a child or youth that requires medical attention;

(F) the death of a child, youth, or staff member; and

(G) any other incident that jeopardizes the safety of any child or youth.

(2) Each operator shall report each critical incident specified in paragraph (g)(1) of this regulation to the secretary's designee by the next working day, on a form supplied by the department. However, the use of physical restraint shall be reported to the secretary if an injury or bruising occurs. A copy of each critical incident report shall be kept on file for not less than one year on the premises or at a designated central office location and shall be accessible for review by the secretary's designee.

(3) Each operator shall ensure that a report is made to the secretary's designee of all known facts concerning the time, place, manner, and circumstances of the death of a child or a youth attending the program when submitting a critical incident report as specified in paragraph (g)(1) of this regulation.

(4) Each operator and each staff member shall report suspected child abuse or child neglect, as follows:

(A) Immediately, by telephone or in writing, to the secretary of the department of social and rehabilitation services; and

(B) by the next working day to the secretary's designee, on a form supplied by the department. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-593. Program-sponsored transportation.

(a) If the operator provides or arranges for transportation for children and youth to and from the premises or for program-sponsored activities, the operator shall ensure that prior written permission is obtained for each child or youth to be transported as specified in K.A.R. 28-4-582. The operator shall ensure that the authorization for emergency medical care for each child or youth is in the vehicle in which the children or youth are being transported or is immediately available to emergency personnel. If the operator is unable to obtain written permission or authorization for emergency medical care, the operator shall follow the plan approved by the secretary as specified in K.A.R. 28-4-582.

(b) Transportation safety.

(1) Each operator shall ensure that the following transportation safety requirements are met while transporting children or youth:

(A) No child or youth under 13 years of age

shall be seated in the front seat of a vehicle that is equipped with a passenger air bag.

(B) No child or youth shall be transported in a trailer pulled by another vehicle, a camper shell, or a truck bed.

(C) Each vehicle that is owned or leased by the operator and is used to transport children or youth shall be maintained in safe operating condition and shall contain a first-aid kit.

(2) Each driver shall comply with the following safety requirements:

(A) Be 18 years of age or older, hold an operator's license of the type appropriate for the vehicle being used, and observe all traffic laws;

(B) not allow the capacity of the transporting vehicle to be exceeded;

(C) remove accumulated trash from the transporting vehicle daily;

(D) lock or have under control each vehicle door while the vehicle is in motion;

(E) maintain order in the vehicle and ensure that all parts of each passenger's body remain inside the vehicle at all times;

(F) not permit any child or youth to enter the vehicle from or exit the vehicle into a traffic lane;

(G) leave no child or youth unattended in the vehicle at any time and, when the vehicle is vacated, ensure that no child or youth is left in the vehicle;

(H) prohibit smoking in the vehicle while children or youth are in the vehicle;

(I) not use a cellular phone while the vehicle is in motion; and

(J) transport each child or youth directly to the location designated by the operator and make no unauthorized stops along the way except in an emergency.

(d) Vehicle seat belt restraints.

(1) Except as specified in paragraph (d)(2), each operator shall ensure that each driver and each child or youth uses an individual seat belt restraint and that no more than one child or youth is restrained in each seat belt.

(2) If buses of the type used by schools are used to transport children and youth and are not equipped with individual restraints, no operator shall be required to install individual restraints. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-594. Swimming, wading, and water activities. (a) General.

(1) Each operator shall have written permission on file as specified in K.A.R. 28-4-582 for each child or youth participating in water activities.

(2) Each operator shall ensure that an individual who can swim and who has a current certificate in first aid and a current certificate in CPR appropriate to the age of the children and youth attending the program is in attendance if children or youth are participating in water activities.

(3) Each activity shall be conducted with strict regard for the life and safety of each child and youth.

(4) Each staff member responsible for the supervision of children or youth who are participating in swimming, wading or water activities shall review the safety rules with each child or youth before the child or youth participates in the activity.

(5) Each operator shall ensure that no child or youth is permitted to dive from a diving board unless the requirements governing high-risk sports and recreational activities as specified in K.A.R. 28-4-588 are met.

(b) Swimming pools on the premises.

(1) Safety and maintenance. Each operator shall ensure that the following requirements for safety and maintenance are met:

(A) The water in each swimming pool shall be maintained between pH 7.2 and pH 7.6. The available free chlorine content shall be between 1.0 and 3.0 parts per million.

(B) Each swimming pool shall be cleaned daily, and the chlorine level and pH level shall be tested daily during the swimming season. The results of these tests shall be recorded and kept on file at the premises.

(C) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. This equipment shall be long enough to reach the center of the pool from the edge of the pool.

(D) A sensor or a remote monitor shall not be used in lieu of a fence around each swimming pool.

(E) During the months a swimming pool is not in use, the pool shall be covered with a safety cover.

(F) If a swimming pool on the premises is to be used by children or youth enrolled in the program, the operator shall ensure that legible safety rules for the use of the pool are posted in a conspicuous location.

(2) In-ground swimming pools. Each operator shall ensure that the following requirements are met:

(A) Each in-ground swimming pool located outdoors shall be enclosed by a five-foot fence on all four sides to prevent chance access by children and youth. The fence shall have a gate that has a self-closing latch with a locking device.

(B) If an in-ground swimming pool is within a building, the building shall be designed to prevent unsupervised access to the pool by each child and youth.

(C) Each in-ground swimming pool shall be surrounded by a nonskid surface that is at least four feet wide, is in good repair, and is free of tears, breaks, and splinters.

(3) Aboveground swimming pools. Each operator shall ensure that the following requirements are met:

(A) Each aboveground swimming pool shall have sides at least five feet high or shall be enclosed by a five-foot fence. Side extenders may be installed to increase the height of the sides of the swimming pool.

(B) Ladders shall be removed when the aboveground pool is not in use.

(4) Swimming pools operated by governmental entity. Each swimming pool operated by a governmental entity for public use shall be governed by the entity's policies and regulations on pool safety and maintenance and shall meet the regulations applicable to swimming pools included in this regulation, with the exception of paragraphs (b)(1)(A) and (B).

(c) Wading pools. The water in each wading pool shall be emptied immediately after use.

(d) Spas and hot tubs. Each spa or hot tub shall be covered with an insulated cover, which shall be secured by locks when the spa or hot tub is not in use.

(e) Ponds, rivers, and lakes on or off the premises. If a pond, river, or lake is used for swimming, the operator shall ensure that the body of water is approved for swimming by one of the following:

(1) The local health department of the county in which the swimming site is located, if the swimming site is in Kansas;

(2) the secretary; or

(3) the designated authority in the state in which the swimming site is located, if the swimming site is not in Kansas. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective,

T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-595. Animals on the premises.

(a)(1) If animals are kept on the premises, each operator shall ensure that each area in which an animal is permitted is maintained in a clean and sanitary manner, with no evidence of flea, tick, or worm infestation in the area.

(2) Each operator shall prohibit poisonous animals, pit bulls, and other animals that present a health or safety hazard to children and youth on the premises, unless the animals are displayed as part of an animal exhibit and are supervised at all times by trained animal care personnel.

(b) Each operator shall ensure that animals are not present in the following areas:

(1) The kitchen while food is being prepared;

(2) the dining area while children or youth are eating; and

(3) each food storage area.

(c) Each staff member and each child or youth shall wash that individual's hands with soap and water after handling animals, animal food, and animal wastes.

(d) Each operator shall ensure that each domesticated cat, dog, or ferret on the premises has a current rabies vaccination. A record of each vaccination shall be kept on file on the premises or at a designated central office location and shall be available for review by the secretary's designee.

(e) Each operator shall ensure that each child or youth is taught safe procedures to follow when handling animals. The operator or staff member supervising the activity shall separate a child or youth from an animal immediately if either of the following occurs:

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

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

(f) If a child or youth is injured by an animal, the operator shall immediately notify the parent or other adult responsible for the child or youth about the injury. The operator shall submit a critical incident report about the injury to the secretary's designee by the next working day. The operator shall keep a copy of the incident report in the child's or youth's file. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

28-4-596. Day reporting program. (a)(1)

Each operator conducting a day reporting program shall comply with the requirements specified in this regulation and the requirements in K.A.R. 28-4-577 through K.A.R. 28-4-584, K.A.R. 28-4-587, and K.A.R. 28-4-589 through K.A.R. 28-4-592.

(2) Each operator shall meet the following requirements if the secretary determines that they are applicable to the program and services:

- (A) K.A.R. 28-4-576;
 - (B) K.A.R. 28-4-585 through K.A.R. 28-4-586; and
 - (C) K.A.R. 28-4-593 through K.A.R. 28-4-595.
- (3) If the requirements of this regulation appear to conflict with any other regulation governing school-age programs, the more stringent regulation shall apply.

(b)(1) Each operator shall ensure that the program is administered by an individual with job-related experience working with juvenile offenders, and with a knowledge of laws and standards governing programs for juvenile offenders.

(2) Each operator shall ensure that each child or youth who attends the program is 10 years of age or older and meets one of the following criteria:

- (A) The child or youth is in the custody of the juvenile justice authority.
- (B) The child or youth is court-ordered to attend.
- (C) The child or youth is required to attend as a condition of diversion, probation, or release from a juvenile correctional facility, or diverted by the court from direct commitment to a juvenile correctional program.

(c) Each operator conducting a day reporting program shall develop and implement an IPP for each child or youth, which shall include any combination of the following:

- (1) Assistance to each child or youth in organizing a daily schedule of activities;
- (2) monitoring the child's or youth's court orders;
- (3) situational counseling and referrals, if needed;
- (4) conflict resolution and crisis intervention;
- (5) contact with each child's or youth's parent or other adult responsible for the child or youth;
- (6) drug testing and substance abuse education;
- (7) pregnancy prevention and human sexuality education;

(8) assistance with educational and vocational needs;

- (9) employment training, as appropriate; and
- (10) community service work.

(d) Each operator shall keep the following in the child's or youth's file:

- (1) The information required by K.A.R. 28-4-582;
- (2) the child's or youth's legal status as specified in paragraph (b)(2);
- (3) the date the child or youth was admitted to the program;
- (4) intake information for each child or youth gathered at the time of admission;
- (5) a summary of the child's or youth's daily activities;
- (6) the IPP, progress reports, and any changes made in the plan;
- (7) the discharge summary; and
- (8) any critical incident reports.

(e)(1) Each operator shall establish written rules of child and youth conduct that define expected behaviors and related consequences. Each operator shall give each child or youth attending the program a rule book specifying the expected behaviors, ranges of consequences, and disciplinary procedures.

(2) Each operator shall obtain a signed acknowledgment from each child or youth that the child or youth has received a copy of the rule book and understands it. The signed acknowledgment shall be kept in the child's or youth's file.

(f) Each operator shall ensure that child and youth services are coordinated with the referring agency or the court, the local mental health center, the local school district, and the local health department, as necessary to implement the day reporting program.

(g) The supervisory ratio shall be one staff member for every 10 children and youth attending the day reporting program. The maximum group size shall not exceed 20 children or youth.

(1) Each operator shall ensure that each group has a program director who meets the following qualifications:

- (A) Is 21 years of age or older;
- (B) meets the staff qualifications for a program director for the licensed capacity of the program, as specified in K.A.R. 28-4-587; and
- (C) has knowledge and experience working with juvenile offenders, high-risk children and youth, community youth programs, or social service programs serving children and youth.

(2) Each operator shall ensure that each group has a group leader who meets the following qualifications:

- (A) Is 21 years of age or older;
- (B) meets the staff qualifications for group leader as specified in K.A.R. 28-4-587; and
- (C) has knowledge and experience working with juvenile offenders, high-risk children and youth, community youth programs, or social service programs serving children and youth.

(3) Each operator shall ensure that each group has an assistant group leader who meets the following qualifications:

- (A) Is 18 years of age or older and at least three years older than the oldest child and youth in the group to which the assistant group leader is assigned;
- (B) meets the qualifications for an assistant group leader as specified in K.A.R. 28-4-587; and
- (C) has experience working with children and youth. (Authorized by and implementing K.S.A. 2001 Supp. 65-508; effective, T-28-4-1-02, April 1, 2002; effective Jan. 10, 2003.)

NEWBORN INFANT HEARING SCREENING ACT

28-4-600. Definitions. (a) “Accepted medical practices” means the following:

- (1) Physiologic hearing screening of all newborns;
- (2) follow-up hearing assessment before three months of age for those newborns and infants who did not pass the hearing screening;
- (3) follow-up medical evaluation for those newborns and infants with confirmed hearing loss; and
- (4) follow-up early intervention services to meet the needs of each newborn and infant with hearing loss and each parent before the child reaches six months of age.

(b) “Audiologic assessment” means the physiological tests required to evaluate and describe hearing status.

(c) “Audiologist” has the meaning specified in K.S.A. 65-6501, and amendments thereto.

(d) “Auditory brainstem response” and “ABR” mean an objective, electrophysiologic measurement of the brainstem’s response to acoustic stimulation of the ear.

(e) “Automated auditory brainstem response” and “AABR” mean an objective, electrophysiologic measurement of the brainstem’s response to acoustic stimulation of the ear, obtained with equipment that automatically indicates whether the child has passed the hearing screening.

(f) “Automated otoacoustic emissions” and “AOAE” mean an objective, physiologic response from the cochlea, obtained with equipment that automatically indicates whether the child has passed the hearing screening.

(g) “Department” means the Kansas department of health and environment.

(h) “Discharge” means a newborn’s or infant’s release from the premises of a medical care facility and into the care of the parent of the newborn or infant. This term shall not include transporting the newborn or infant between medical care facilities.

(i) “Early intervention services” has the meaning specified in K.S.A. 75-5648, and amendments thereto.

(j) “Follow-up” means the following:

(1) Referring newborns and infants for further hearing testing if these children either missed or did not pass the initial hearing screening;

(2) referring newborns and infants with confirmed hearing loss for ongoing audiologic services to monitor hearing;

(3) referring newborns and infants with confirmed hearing loss for speech, language, and aural habilitation services; and

(4) referring newborns and infants with confirmed hearing loss for other early intervention services, as needed by these children and their parents.

(k) “Hearing screening” means the following:

(1) The completion of an objective, physiological test or battery of tests on newborns and infants by using instrumentation and procedures specified by the department; and

(2) for other than pass results, referring the newborn or infant to an audiologist for audiologic assessment.

(l) “Hearing screening state program coordinator” means the audiologist in the department who is designated to coordinate the statewide “sound beginnings” activities.

(m) “Infant” means a child from 30 days through 12 months of age.

(n) “Initial hearing screening” means the procedure or procedures employed for the purpose of screening hearing before discharge.

(o) “Medical care facility” means a hospital, birthing center, or other licensed facility that provides obstetrical and newborn services.

(p) “Newborn” means a child through 29 days of age.

(q) “Otoacoustic emissions” and “OAE” mean

an objective, physiologic response from the cochlea. This term may include transient evoked otoacoustic emissions and distortion product otoacoustic emissions.

(r) "Parent" means a natural parent, adoptive parent, stepparent, foster parent, legal guardian, or other legal custodian of a child.

(s) "Primary medical care provider" means the physician or health care agent who provides the newborn's or infant's routine medical care in the locale where the child resides after discharge.

(t) "Protocol" means the guidelines followed to conduct hearing screening.

(u) "Receiving agency" means the facility that agrees to provide hearing screening for sending agencies.

(v) "Risk indicator" means a factor known to place a newborn or an infant at risk for being born with or developing a hearing loss.

(w) "Sending agency" means a hospital with fewer than 75 births averaged over three years that chooses not to do hearing screening. Each sending agency shall arrange for hearing screening to be performed at another facility.

(x) "Sound beginnings" means the Kansas program consisting of hearing screening, tracking, and follow-up for newborns and infants.

(y) "Tracking" means using information about the newborn's or infant's hearing screening status to ensure that the newborn or infant receives timely and appropriate services to complete the screening and referral process. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-601. Initial hearing screening test: technology and protocol. (a) Trained personnel at each medical care facility shall provide initial hearing screening using ABR, AABR, OAE, and AOAE, in combination or alone, which objectively assesses the physiologic status of the ear and which has no greater than a 30-40 dB HL (decibel hearing level) criterion for a pass result or a referral for additional screening.

(b) Trained personnel at each medical care facility shall follow an initial hearing screening protocol that has been approved by the hearing screening state program coordinator.

(c) The initial hearing screening protocol shall include the following:

(1) The type of screening equipment to be used;

(2) the time frame for the first screening and, if needed, the second screening, before discharge;

(3) the plan for providing the results to the parent, the newborn's or infant's primary medical care provider, and the department;

(4) the methods and materials to be used to inform the parent of the following:

(A) The purpose, benefits, and limitations of hearing screening for newborns and infants;

(B) the procedures used for hearing screening;

(C) the risk indicators for delayed-onset, progressive, and acquired hearing loss;

(D) the factors that could result in a referral for further hearing screening, including debris in the ear canal and fluid in the middle ear;

(E) the effects of hearing loss on infant development, including speech and language development;

(F) the importance of follow-up hearing assessment;

(G) the benefits of early identification and intervention;

(H) the timelines for maximizing early intervention; and

(I) a list of facilities that provide audiologic assessment for newborns and for infants younger than five months of age; and

(5) the referral plan to be used if the hearing screening results are incomplete or if the newborn or infant does not pass the hearing screening. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-602. Location of hearing screening for newborns and infants. (a) Except as specified in K.A.R. 28-4-609(a), the hearing of each newborn or infant shall be screened in both ears before discharge.

(b)(1) Except as specified in paragraph (b)(2), hearing screening shall be carried out in one of the following:

(A) The medical care facility where the newborn is born;

(B) if the newborn is transferred to one or more medical care facilities before being discharged, in the last medical care facility to which the child is transferred; or

(C) if the medical care facility averages fewer than 75 births per year over a three-year period, that medical care facility or, by contract or written agreement, another facility that provides hearing screening in compliance with this article.

(2) If the newborn is born outside of a medical

care facility, the newborn's primary medical care provider shall arrange for the hearing screening in compliance with this article and before the newborn is one month of age, unless a different time period is medically indicated. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-603. Responsibilities of medical care facility's administrator. (a) Each medical care facility administrator shall be responsible for the following:

(1) Designating a hearing screening manager or coordinator to be responsible for overseeing the facility's hearing screening program and ensuring compliance with the applicable statutes and regulations;

(2) designating a physician to be responsible for overseeing the medical aspects of the facility's hearing screening program;

(3) designating an audiologist on staff or a consulting audiologist to be responsible for overseeing the audiologic aspects of the facility's hearing screening program, including screening, tracking, referral for evaluation, and personnel training; and

(4) budgeting for personnel, equipment, and supplies needed to carry out the program.

(b) If the medical care facility administrator determines that the facility is a sending agency as defined in K.A.R. 28-4-600, the administrator shall ensure that the results of the hearing screening are obtained from the receiving agency for the newborn's medical record. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-604. Responsibilities of medical care facility's hearing screening manager or coordinator. Each manager or coordinator shall be responsible for the following:

(a) Writing and implementing a medical care facility policy for the newborn hearing screening program in consultation with the facility's medical director, staff audiologist or consulting audiologist, obstetrics nurse manager, and nursery nurse manager, and with the hearing screening state program coordinator;

(b) providing for the maintenance and accurate operation of the hearing screening equipment;

(c) developing a back-up hearing screening plan to ensure continuation of hearing screening if the equipment malfunctions or when there is a

change in personnel administering the hearing screening;

(d) ensuring that the hearing screening is performed by appropriately trained and supervised personnel, as specified in K.A.R. 28-4-608;

(e) overseeing data management and reporting to the department, as specified in K.A.R. 28-4-605; and

(f) ensuring that the following requirements of the hearing screening program are met:

(1) Coordinating the supervision of or supervising the personnel who provide hearing screening, including the ongoing monitoring of their competency and retraining;

(2) monitoring the results of the screening program, including the number of newborns discharged before screening and the referral rates;

(3) before the newborn's or infant's discharge, informing the parent of the results of the hearing screening and providing a copy of the results;

(4) before or upon discharge of any newborn or infant who has passed the hearing screening, providing the child's parent with written information describing the following:

(A) The purpose, benefits, and limitations of hearing screening;

(B) the procedures used for hearing screening;

(C) the risk indicators for delayed-onset, progressive, and acquired hearing loss; and

(D) normal infant developmental milestones regarding hearing, speech, and language;

(5) before or upon discharge of any newborn or infant who has not passed the hearing screening, providing the child's parent with written information describing the following:

(A) The purpose, benefits, and limitations of hearing screening;

(B) the procedures used for hearing screening;

(C) the factors that could result in a referral for further hearing screening, including debris in the ear canal and fluid in the middle ear;

(D) the effects of hearing loss on infant development, including speech and language development;

(E) the risk indicators for delayed-onset, progressive, and acquired hearing loss;

(F) the recommendation for follow-up hearing screening;

(G) a list of options of personnel or sites that provide follow-up hearing screening; and

(H) a timeline for follow-up hearing screening in accordance with accepted medical practices;

(6) before or upon discharge, informing the

newborn's or infant's primary medical care provider of the results of the hearing screening and the recommendations made to the child's parent;

(7) retaining the hearing screening results in the newborn's or infant's medical record; and

(8) if a newborn or infant is discharged before hearing screening or if a newborn or infant needs additional procedures to complete the hearing screening, ensuring that the following requirements are met:

(A) Informing the parent of the need for hearing screening;

(B) providing a mechanism by which hearing screening can occur at no additional cost to the family;

(C) making a reasonable effort to ensure that the newborn has a hearing screening before the child is 30 days old. To be considered a reasonable effort, the manager or coordinator shall document at least two attempts to contact the newborn's parent by mail or phone. If necessary, the manager or coordinator shall use information available from the facility's own records, the newborn's primary medical care provider, the local public health office, or other agencies; and

(D) notifying the newborn's primary medical care provider after two unsuccessful attempts to contact the newborn's parent. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-605. Reporting to the department.

Each manager or coordinator of the hearing screening program at each medical care facility shall report to the department the following:

(a) The program's protocol, policies, types of equipment, and personnel, which shall be reported annually;

(b) any changes in protocol, policies, and types of equipment, which shall be reported within 30 days of the change;

(c) the data for each newborn and infant, which shall be reported within seven days after the hearing screening;

(d) all cumulative data, which shall be reported annually; and

(e) the qualifications and training of the hearing screening administrative and support personnel, as defined in K.A.R. 28-4-608, which shall be reported annually. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-606. Responsibilities of the staff audiologist or consulting audiologist. Each

staff audiologist or consulting audiologist shall meet the following requirements:

(a) Be licensed to practice audiology in Kansas;

(b) have experience in using hearing screening technology options to screen the hearing of newborns and infants;

(c) have experience or training in developing and maintaining a hearing screening program;

(d) recommend hearing screening equipment and a protocol to the manager or coordinator; and

(e) work with the manager or coordinator to develop policy and procedures for the medical care facility, including the following:

(1) Conducting the hearing screening program;

(2) documenting results;

(3) making referrals;

(4) providing the screening results to the parent and the primary medical care provider;

(5) providing data on hearing screening and follow-up to the department;

(6) outlining a process for the periodic review of each screener's competency;

(7) monitoring the performance of the screening program, including referral rates and the competency of screening personnel; and

(8) providing information, training, and technical assistance to the medical care facility, as needed. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-607. Responsibilities of support personnel. (a) Each person who screens the hearing of newborns and infants shall meet the following criteria:

(1) Meet the minimum qualifications specified in K.A.R. 28-4-608;

(2) periodically demonstrate the competency-based skills necessary to perform the specific tasks assigned by the medical care facility;

(3) follow the policies and procedures of the medical care facility; and

(4) successfully complete the training specified in K.A.R. 28-4-608.

(b) Support personnel shall not perform the following:

(1) Interpret screening results and other clinical data; and

(2) refer a newborn's or infant's parent to any other professional or agency without a specific policy established by the medical care facility. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-608. Qualifications and training of

support personnel. (a) Each person who screens the hearing of newborns and infants and who is not licensed in Kansas for hearing screening shall meet the following criteria:

- (1) Be 18 years of age or older;
- (2) have a high school diploma or its equivalent;
- (3) be current with the immunizations required by the medical care facility and be free of infectious diseases transmittable to newborns and infants; and

(4) complete the required training as specified in subsection (c).

(b) A training program for the support personnel at each medical care facility shall be established under the direction of the staff audiologist, consulting audiologist, or physician as identified in K.A.R. 28-4-603(a)(2) and (3).

(c) The training program shall include the following:

- (1) Instruction in the following:
 - (A) The operation of the screening equipment;
 - (B) the anatomy and physiology of the ear;
 - (C) the nature of the responses being measured;
 - (D) patient and non-patient factors that influence responses;
 - (E) the hearing screening procedures, including documentation of results;
 - (F) the confidentiality requirements;
 - (G) the communication skills necessary to provide accurate and appropriate information;
 - (H) safety and infection control procedures, including universal precautions for blood-borne pathogens and tuberculosis, according to the medical care facility's guidelines;
 - (I) the medical care facility's emergency procedures; and
 - (J) risk management and incident-reporting procedures; and

(2) supervised practice and individual observation and assessment to determine the ability of the support person to perform the duties associated with hearing screening, which shall include the following:

- (A) Working independently, accurately, and consistently;
- (B) meeting the physical demands of the hearing screening process, including applying small objects safely to each newborn's and infant's ears and head; and
- (C) following the precise sequence of instructions for the hearing screening protocol.

(d) All support personnel shall receive ongoing

assessment of proficiency and shall receive re-training, as specified in K.A.R. 28-4-604(f)(1). (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-609. Exceptions: parental right to refuse, medical care facility, medically fragile newborns, and home births.

(a) If the newborn's or infant's parent objects to the mandatory screening for the detection of hearing loss, the parent's objection shall be documented in the child's medical record.

(b) If the medical care facility meets the definition of sending agency as specified in K.A.R. 28-4-600, that sending agency shall meet the following requirements:

(1) Have a contract or written agreement with a receiving agency that defines the responsibilities of each agency, including which agency is responsible for tracking and follow-up and for submitting the required data to the department;

(2) have the written agreement on file with the department;

(3) before each newborn's or infant's discharge, meet the following requirements:

(A) Schedule the hearing screening for the child at the receiving agency;

(B) provide the parent with the following information:

(i) The importance of early detection of hearing loss;

(ii) the normal infant developmental milestones regarding hearing, speech, and language;

(iii) the purpose, benefits, and limitations of newborn hearing screening;

(iv) the procedures used for newborn hearing screening; and

(v) the risk indicators for delayed-onset, progressive, and acquired hearing loss; and

(C) obtain a signed consent form from the parent to permit the receiving agency to share the results of the hearing screening; and

(4) obtain the hearing screening results and place them in the newborn's medical record.

(c) If a medically fragile newborn is transferred immediately after birth to a neonatal intensive care unit and has not had the hearing screened before the transfer, the medical care facility that releases the child to the home shall be responsible for the following:

(1) Screening the child's hearing before discharge; and

(2) meeting the responsibilities specified in K.A.R. 28-4-603 through K.A.R. 28-4-605.

(d)(1) For home births at which a primary medical care provider is in attendance, the primary medical care provider shall be responsible for the following:

(A) Coordination and referral of the newborn to a licensed audiologist or medical care facility providing hearing screening; and

(B) assisting the parent to obtain hearing screening for the newborn before the child is 30 days old.

(2) For home births at which a primary medical care provider is not in attendance, the newborn's primary medical care provider shall be responsible for the coordination and referral for hearing screening following accepted medical practices. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-610. Responsibilities of the primary medical care provider. Each primary medical care provider shall be responsible for the following:

(a) Ensuring that the medical care facility implements hearing screening for the provider's patients according to accepted medical practices;

(b) ensuring that the hearing screening results are discussed with the parent;

(c) ensuring that the parent receives written information about risk indicators for hearing loss;

(d) monitoring for delayed-onset, progressive, and acquired hearing loss during the infant's routine medical care;

(e) assisting the parent of a newborn or infant who does not pass the hearing screening to obtain audiologic and other appropriate medical consultation, follow-up, and diagnosis for the child before the child is three months old;

(f) assisting the parent of a newborn or infant with confirmed hearing loss to obtain appropriate intervention services for the child before the child is six months old; and

(g) working with other health care professionals and with the newborn's or infant's parent in the coordination of care for a child with confirmed hearing loss. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-611. Responsibilities of persons providing hearing screening after discharge.

(a) Hearing screening conducted after discharge shall be completed before the newborn is 30 days

old, unless a different time period is medically indicated.

(b) Each person providing hearing screening after discharge shall be responsible for the following:

(1) Following the hearing screening protocol, as specified in K.A.R. 28-4-601;

(2) providing the screening results to the following:

(A) The newborn's or infant's parent;

(B) the newborn's or infant's primary medical care provider;

(C) the department, as specified in K.A.R. 28-4-605; and

(D) with parental consent, the medical care facility or facilities where the newborn was delivered and discharged;

(3) providing information to the parent about normal hearing, speech, and language development;

(4) providing information to the parent about delayed-onset, progressive, and acquired hearing loss;

(5) providing information to the parent about follow-up audiologic assessment if the newborn or infant does not pass the hearing screening; and

(6) providing a list of audiologic assessment provider sites for infants younger than five months of age.

(c) For missed appointments, each person providing hearing screening after discharge shall make a reasonable effort to contact the parent to reschedule the hearing screening.

To be considered a reasonable effort, the person shall document at least two attempts to contact the newborn's or infant's parent by mail or phone. If necessary, the person shall use information available from the referring agency, the newborn's or infant's primary medical care provider, the local public health office, or other agencies.

(d) Each person providing hearing screening after discharge shall notify the newborn's or infant's primary medical care provider after two unsuccessful attempts to contact the child's parent. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-612. Responsibilities of persons providing audiologic assessment after discharge.

Each person who determines that a newborn or infant has a hearing loss shall be responsible for the following:

(a) Being licensed to practice audiology in Kansas;

(b) providing the test results to the parent, the child's primary medical care provider, and the medical care facility where the child was born;

(c) reporting the test results to the department;

(d) providing information to the parent regarding the following topics:

(1) Normal hearing, speech, and language development;

(2) progressive and acquired hearing loss;

(3) the importance of medical evaluation and diagnosis;

(4) the importance of early intervention;

(5) amplification options;

(6) assistive device options;

(7) local early intervention services and educational programs; and

(8) the availability and importance of parent-to-parent support;

(e) in consultation with the newborn's or infant's primary care physician, referring the child and parent to an otolaryngologist for medical assessment;

(f) discussing referral for additional specialty evaluations, including genetics, ophthalmology, and child development, with the parent and the child's primary care physician;

(g) if appropriate, ensuring that medical clearance for amplification has been obtained and initiating the amplification process;

(h) providing information and referral for funding assistance, if necessary; and

(i) with the permission of the parent, referring the parent and the newborn or infant to early intervention services and working with the parent and providers of early intervention services in developing a service plan. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-613. Inability to pay. No newborn or infant shall be refused hearing screening because of the parent's inability to pay for the procedure or in the absence of a third-party payor. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

DROP-IN PROGRAMS

28-4-700. Definitions. (a) "Adult responsible for a child or youth" means any of the following adults who is other than the child's or

youth's legal parent and who is responsible for the care and upbringing of the child or youth:

(1) A stepparent;

(2) a grandparent;

(3) another relative; or

(4) a foster parent.

(b) "Annual renewal date" means the date assigned to each licensee for the submission of the documents required to renew the license and payment of the annual license fee.

(c) "Applicant" means any person who has submitted an initial application for a license to operate a drop-in program but has not received a temporary permit or a license.

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

(e) "Drop-in program" means a child care facility that is not located in an individual's residence, that serves exclusively school-age children and youth, and in which the operator permits children and youth to arrive at and depart from the program at their own volition and at unscheduled times. This term shall not include a program, instructional class, or activity as specified in K.A.R. 28-4-578(b).

(f) "Kindergarten-age child" means a child who is attending kindergarten or who has completed kindergarten and has not entered first grade.

(g) "License" means the document issued by the secretary that authorizes a person to operate a drop-in program.

(h) "Operator" means a person who holds a temporary permit or a license to conduct a drop-in program.

(i) "Premises" means the location, including each building and the adjoining grounds, for which the operator has a temporary permit or a license to conduct a drop-in program.

(j) "School-age child" and "child" mean an individual who is of kindergarten age through the academic year in which the child is in the sixth grade and who is attending the drop-in program.

(k) "School-age youth" and "youth" mean an individual who meets the following conditions:

(1) Has completed sixth grade or is 12 years of age or older;

(2) is less than 18 years of age;

(3) is attending the program; and

(4) is not a volunteer or employee.

(l) "Secretary" means the secretary of the Kansas department of health and environment.

(m) "Secretary's designee" means the person

designated by the secretary to assess compliance with drop-in program regulations.

(n) "Staff member" means both of the following:

(1) All personnel, including employees' substitutes and volunteers, who provide administrative or direct services to children and youth; and

(2) auxiliary personnel, including cooks, drivers, office workers, and housekeeping staff, who provide indirect services.

(o) "Temporary permit" means the document issued pursuant to K.S.A. 65-504, and amendments thereto, that authorizes a person to operate a drop-in program before receiving a license as required by K.S.A. 65-501, and amendments thereto. (Authorized by and implementing K.S.A. 65-508; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

28-4-701. Licensure; application; renewal. (a) Each person shall have a temporary permit or a license to operate a drop-in program before children or youth are in attendance.

(b) Each operator shall submit a new application, the required forms, and the license fee, and shall obtain a new temporary permit or a new license from the secretary, as follows:

(1) Before a drop-in program that has been closed is reopened;

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

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

(c) Each person wishing to conduct a drop-in program shall submit a complete application on forms supplied by the department. The application shall be submitted at least 90 calendar days before the planned opening date of the drop-in program and shall include the following:

(1) A description of activities and services to be offered;

(2) a request for a criminal history and child abuse registry background check as specified in K.A.R. 28-4-705; and

(3) a nonrefundable license fee of \$20.00.

(d) Each individual applying for a license shall be 21 years of age or older at the time of application, and shall comply with K.A.R. 28-4-587(b) (2) (A), (B), (C), or (D).

(e) Each corporation applying for a license shall be in good standing with the Kansas secretary of state.

(f) (1) Before the annual renewal date, each li-

censee wishing to renew the license shall submit the annual nonrefundable license fee and shall complete and submit the following to the secretary, on forms supplied by the department:

(A) An application to renew the license; and

(B) a request to conduct a criminal history and child abuse registry background check.

(2) Each failure to submit the annual renewal documents and fee as required by paragraph (f) (1) of this regulation shall result in an assessment of a \$10.00 late fee payable to the secretary and may result in suspension of the license. Each late renewal fee assessed shall be paid upon request. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-501, 65-504, 65-505, and 65-516; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

28-4-702. Inspections; investigations.

Each applicant and each operator shall give the secretary or the secretary's designee immediate entry and access to the premises and to any records kept, to determine compliance with applicable statutes and with the drop-in program regulations. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-512; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

28-4-703. Recordkeeping. (a) Each operator shall obtain the following information for each child or youth before or on the first day of attending the drop-in program:

(1) The first and last name and date of birth; and

(2) the name, address, and telephone number of each parent or other adult responsible for the child or youth, the names of any other persons authorized to pick up the child or youth, and emergency contact information.

(b) Each operator shall obtain written authorization for emergency medical care, signed by the parent or legal guardian of each child or youth, before the child or youth attends the program or within the second week of attendance. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

28-4-704. Attendance policy; supervision. (a) Each operator of a drop-in program shall meet the following requirements:

(1) Each operator shall develop and implement an attendance policy that allows children and youth to arrive at and depart the premises unsu-

pervised, at unscheduled times and at their own volition.

(2) The operator shall inform the parent or other adult responsible for each child or youth of the policy specified in paragraph (a)(1). The parent or guardian of each child or youth utilizing the drop-in program shall receive a written disclosure describing the activities in which the child or youth can participate and the level of supervision provided.

(3) Each operator shall immediately notify the parent or guardian when a child or youth either is injured and requires medical attention or dies.

(b) Each staff member working with children and youth shall provide attentive supervision to protect the health, safety, and welfare of the children and youth, and to reduce the risk of injury, illness, and abuse. (Authorized by and implementing K.S.A. 65-508; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

28-4-705. Criminal history and child abuse registry background check. (a) Each applicant and each operator shall submit the identifying information that is necessary to complete a criminal history and child abuse registry background check for each individual who works, substitutes, or regularly volunteers in the program, as follows:

- (1) When applying for a license;
- (2) when submitting an application to renew the license; and
- (3) before allowing each new individual to work, substitute, or regularly volunteer in the program.

(b) The identifying information specified in subsection (a) shall be submitted on a form supplied by the department. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-516; effective, T-28-3-19-04, March 19, 2004; effective Sept. 10, 2004.)

LICENSING FAMILY FOSTER HOMES FOR CHILDREN

28-4-800. Definitions. For the purposes of K.A.R. 28-4-800 through K.A.R. 28-4-825, the following definitions shall apply:

(a) "Age-mates" means children whose difference in age does not exceed three years.

(b) "Applicant" means an individual who has applied for a license but who has not yet been granted a license to operate a family foster home. This term shall include an applicant who has been granted a temporary permit to operate a family foster home.

(c) "Basement" means the lowest level or story of a family foster home that has its floor below ground level on all sides.

(d) "Caregiver" means any individual who provides care to a child in foster care in or away from the family foster home, including the following:

(1) An applicant who has been granted a temporary permit to operate a family foster home or a licensee;

(2) a substitute caregiver;

(3) an adult member of a family providing informal visitation;

(4) an individual who comes into the family foster home to provide care when the licensee is present; and

(5) any respite care provider.

(e) "Case plan" means the comprehensive written plan of care developed for each child in foster care by the child's child-placing agent.

(f) "Child in foster care" means either of the following:

(1) Any individual under 16 years of age who is placed for care in a family foster home; or

(2) any individual who is at least 16 years of age but not yet 23 years of age and who is in the custody of the state of Kansas and is placed for care in a family foster home.

(g) "Child-placing agent" means a person that possesses the legal right to place a child into a family foster home. This term shall include the child's parent, legal guardian, a public or private child-placing agency, and the court.

(h) "De-escalation methods" means types of intervention used to help reduce a child's level of anxiety or anger. This term shall include physical restraint.

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

(j) "Discipline" means positive methods of child behavior management, including instruction, redirection, and de-escalation methods.

(k) "Exception" means a waiver of compliance with a specific family foster home regulation or any portion of a specific family foster home regulation that is granted by the secretary to an applicant or a licensee.

(l) "Exotic animal" means either of the following:

(1) Any non-human mammal that is not one of the following:

(A) A domesticated dog, a domesticated cat, a feral cat, or a domesticated ferret;

(B) a hooved animal, including a cow, sheep,

goat, pig, and llama, that is kept for farming or ranching purposes;

(C) a horse;

(D) a pet rabbit;

(E) a pet rodent, including a mouse, rat, hamster, gerbil, guinea pig, and chinchilla; or

(F) a potbellied pig; or

(2) any animal that typically lives in the wild and is determined by the secretary to be a substantial threat to the health and safety of a child in foster care.

(m) "Family foster home" means a type of child care facility as defined in K.A.R. 28-4-311.

(n) "Foster family" means all of the individuals living in a family foster home other than the child in foster care.

(o) "High-risk sport or recreational activity" means any sport or recreational activity, including watercraft activities and motorized activities, that poses a significant risk of injury to the participant. Safe participation in the activity shall require specialized instruction and may require protective safety gear.

(p) "Informal visitation" means visitation by a child in foster care in the home of an extended family member of the licensee that is for 48 hours or less each month and that is for the purpose of normal socialization for the child in foster care.

(q) "Licensee" means an individual who has been granted a license to operate a family foster home.

(r) "Living space" means the rooms in a family foster home that are used for family activities, including the living room, dining room, family room, game or television room, and sleeping rooms. This term shall not include bathrooms, laundry rooms, and garages.

(s) "Long-term respite care" means respite care that is provided to a child in foster care for 24 hours or more each week.

(t) "Physical restraint" means the bodily holding of a child in foster care by a caregiver as a means to help the child regain self-control when the child is behaving in a manner that presents a danger to self or others.

(u) "Respite care" means the temporary care of a child in foster care in a family foster home other than the family foster home in which the child is placed. This term shall not include any activity that is solely for the purpose of socialization of a child in foster care.

(v) "Secretary" means the secretary of the Kansas department of health and environment.

(w) "Short-term respite care" means respite care that is provided to a child in foster care for less than 24 hours each week.

(x) "Sleepover" means an overnight social event with age-mates, away from the family foster home, that does not exceed a 24-hour period.

(y) "Smoking" means being in possession of a lighted cigarette, cigar, pipe, or burning tobacco in any device.

(z) "Sponsoring child-placing agency" means the public or private child-placing agency responsible for sponsoring the family foster home, including providing assessment, training, support, inspection, and monitoring for the licensee's compliance with the regulations governing family foster homes.

(aa) "Substitute caregiver" means an individual who provides care and supervision in the family foster home for a child in foster care in the absence of the licensee.

(bb) "Water hazard" means a body of water at least 24 inches deep that is not a swimming pool, wading pool, or hot tub. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-504, and 65-508; effective March 28, 2008.)

28-4-801. License required. (a) An individual shall obtain a license to operate a family foster home when providing 24-hour care to one or more children under 16 years of age who are unrelated to the individual, in the absence of the child's parent or guardian.

(b) No individual shall be required to obtain a license to operate a family foster home under any of the following circumstances:

(1) The individual provides 24-hour care for one or more children less than 16 years of age who are unrelated to the individual for a one-time occurrence of less than 30 days during a calendar year.

(2) The individual provides care solely for the purpose of enabling the child to participate in a social activity that is normal for the child's age and development.

(3) The individual provides informal visitation as defined in K.A.R. 28-4-800. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective March 28, 2008.)

28-4-802. License requirements. Each individual shall meet all of the following requirements to obtain a license and to maintain a license:

(a) Submit a complete application for a license on forms provided by the department, including

requests for the background checks specified in K.A.R. 28-4-805;

(b) be at least 21 years of age;

(c) have sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with all regulations governing family foster homes;

(d) participate in an initial family assessment, a family assessment for each renewal, and any additional family assessments conducted by the sponsoring child-placing agency. Each family assessment shall include at least one individual interview with each household member at least seven years of age and at least one visit in the family foster home;

(e) meet the training requirements in K.A.R. 28-4-806; and

(f) obtain and maintain ongoing sponsorship by a public or private child-placing agency, including a recommendation by the sponsoring child-placing agency that the home be used for placement of children in foster care. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective March 28, 2008.)

28-4-803. Licensing procedure. The granting of a license to any applicant may be refused by the secretary if the applicant is not in compliance with the requirements of the following:

(a) K.S.A. 65-501 through 65-516, and amendments thereto;

(b) K.S.A. 65-523 through 65-529, and amendments thereto;

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

(d) all regulations governing family foster homes. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-504 and 65-508; effective March 28, 2008.)

28-4-804. Terms of license; validity of temporary permit or license; renewal of license; amendments; exceptions; withdrawal of application or request to close. (a) Terms of license.

(1) A temporary permit or a license may be granted to an applicant for a maximum of four children in foster care, with a maximum total of six children in the home, including the applicant's or licensee's own children under 16 years of age. There shall be no more than two children in the home under 18 months of age.

(2) Each child in foster care shall be at least five

years younger than the youngest applicant or licensee.

(3) The maximum number of children and the age range authorized by the temporary permit or license shall not be exceeded and shall be limited by the following:

(A) The number of sleeping rooms that meet the requirements of these regulations;

(B) the assessment and recommendation of the sponsoring child-placing agency; and

(C) the ability of the applicant or licensee to maintain compliance with the statutes and regulations governing family foster homes.

(4) A license to maintain a family foster home shall not be granted or held in conjunction with any license or certificate authorizing another form of child care in a family foster home.

(5) An applicant or a licensee shall not provide care in the family foster home to any adult unrelated to the applicant or licensee.

(b) Validity of temporary permit or license.

(1) Each temporary permit or license shall be valid only for the individual or individuals and the address specified on the temporary permit or license.

(2) Each temporary permit or license shall be posted conspicuously in the family foster home.

(3) When an initial or amended license becomes effective, all temporary permits or licenses previously granted to the applicant or licensee at the same address shall become void.

(c) Renewal of license. Before each renewal date, the licensee shall complete and submit an application for renewal on forms provided by the department, including requests for the background checks specified in K.A.R. 28-4-805.

(d) Amendments. Each licensee who intends to change the terms of the license, including the maximum number or the age of children served, shall submit a request for an amendment on a form supplied by the department.

(e) Exceptions.

(1) Any applicant or licensee may request an exception from the secretary. Any request for an exception may be granted if the secretary determines that the exception is in the best interest of a child in foster care and the exception does not violate statutory requirements.

(2) Written notice from the secretary stating the nature of the exception and its duration shall be kept on file in the family foster home and shall be readily accessible to the department, the child-placing agent, the sponsoring child-placing

agency, the Kansas department of social and rehabilitation services, and the Kansas juvenile justice authority.

(f) Withdrawal of application or request to close. Any applicant may withdraw the application for a license. Any licensee may submit, at any time, a request to close the family foster home operated by the licensee. If an application is withdrawn or a family foster home is closed, the current temporary permit or license granted to the applicant or licensee for that family foster home shall become void. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-504, 65-505, and 65-508; effective March 28, 2008.)

28-4-805. Background checks. (a) With each initial application or renewal application, the applicant or licensee shall submit a request to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department of social and rehabilitation services in order to comply with the provisions of K.S.A. 65-516, and amendments thereto. Each request shall be submitted to the department on a form provided by the department. The request shall list the required information for the following:

(1) Each individual 10 years of age and older who resides, works, or regularly volunteers in the family foster home, excluding children placed in foster care;

(2) each caregiver 14 years of age and older; and

(3) each resident of a home in which informal visitation occurs who is at least 10 years of age.

(b) Each licensee shall submit a request to the department to conduct a background check by the Kansas bureau of investigation and a background check by the Kansas department of social and rehabilitation services before any of the following occurs:

(1) A new individual at least 10 years of age begins residing, working, or regularly volunteering in the family foster home, excluding children placed in foster care.

(2) A new caregiver at least 14 years of age begins caring for the child in foster care in the family foster home.

(3) A new individual at least 10 years of age begins residing in a home in which informal visitation occurs.

(c) Each individual submitting an initial application for a family foster home license shall obtain the following:

(1) For each individual 18 years of age and older residing in the home, a child abuse and neglect background check from each previous state of residence throughout the five-year period before the date of application; and

(2) for each applicant or licensee, a fingerprint-based background check from the national crime identification databases (NCID).

(d) Each individual who received a family foster home license on or after July 1, 2007 shall obtain the following:

(1) For each individual 18 years of age and older residing in the home, a child abuse and neglect background check from each previous state of residence throughout the five-year period before the date of application; and

(2) for each licensee, a fingerprint-based background check from the national crime identification databases (NCID).

(e) Each licensee shall obtain background checks on any additional individual at least 10 years of age who resides, works, or regularly volunteers in the family foster home if requested by the department or the sponsoring child-placing agency.

(f) Background checks shall be obtained following the procedures of the department.

(g) All fees associated with obtaining child abuse and neglect background checks from other states and NCID checks shall be the responsibility of the applicant or the licensee. (Authorized by K.S.A. 65-508; implementing K.S.A. 2007 Supp. 65-516; effective March 28, 2008.)

28-4-806. Training. (a) Prelicensure training. Before a license is issued, each applicant shall participate in and successfully complete the following:

(1) A face-to-face, instructor-led family foster home preparatory program approved by the department;

(2) a face-to-face, instructor-led first aid training course that lasts at least three clock-hours;

(3) training in universal precautions; and

(4) medication administration training.

(b) In-service training. Each licensee shall obtain at least eight clock-hours of training in each licensing year, including at least two clock-hours obtained through participation in group training, including workshops, conferences, and academic coursework. The training topics shall provide the opportunity to develop competency in two or more of the following areas:

- (1) Attachment issues and disorders;
- (2) behavior and guidance, including managing aggressive behavior and de-escalation methods, including the use of time-out;
- (3) child development;
- (4) communicating with the families of children in foster care;
- (5) constructive problem solving;
- (6) health;
- (7) home safety;
- (8) human sexuality;
- (9) interactions with children;
- (10) regulations governing family foster homes;
- (11) medication administration;
- (12) post-traumatic stress disorder;
- (13) separation issues; and
- (14) specific topics related to children with special needs.

(c) Additional training requirements.

(1) Each licensee shall participate in any additional or alternative training required by the sponsoring child-placing agency.

(2) Each caregiver using physical restraint shall have a current certificate documenting completion of physical restraint and de-escalation training approved by the secretary.

(d) Failure to meet training requirements.

(1) Each licensee who fails to meet training requirements for any licensing year shall complete a corrective action plan developed with the sponsoring child-placing agency to comply with prior licensing year requirements. The training hours obtained under the corrective action plan shall apply only to the prior licensing year. Failure to successfully complete the corrective action plan within 30 days after the initiation of the corrective action plan may result in an enforcement action.

(2) Each corrective action plan shall include the licensee's plan for maintaining compliance with this regulation.

(3) A licensee shall not accept any new child for placement until the sponsoring child-placing agency documents that the corrective action plan has been successfully completed by the licensee and the training obtained by the licensee that meets the requirements of subsection (b). (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-807. Reporting requirements for infectious or contagious disease; positive tuberculin test; critical incidents; abuse and neglect. (a) Reporting infectious or contagious dis-

ease. Each licensee shall be responsible for reporting if any resident of the family foster home, including a child in foster care, contracts a reportable infectious or contagious disease specified in K.A.R. 28-1-2 as follows:

(1) Each licensee shall report the disease to the local county health department by the next working day. Each licensee shall follow the protocol recommended by the county health department and shall cooperate with any investigation, disease control, or surveillance procedures initiated by the county health department or the department.

(2) Each licensee shall notify the sponsoring child-placing agency of the incident for each child in foster care.

(b) Hospitalization or emergency room care. If a child in foster care requires hospitalization or emergency room care, the licensee shall notify the sponsoring child-placing agency in accordance with the sponsoring child-placing agency's policies and procedures.

(c) Positive tuberculin test. If any individual residing, working, or volunteering in the family foster home who is required to have tuberculin testing has a positive tuberculin test, each licensee shall report the results to the department's TB control program by the next working day.

(d) Reporting critical incidents.

(1) Each licensee shall report any of the following critical incidents immediately to the child's child-placing agent and the sponsoring child-placing agency:

(A) Fire damage or other damage to the dwelling or damage to the property that affects the structure of the dwelling or the safety of the child in foster care;

(B) a vehicle accident involving any child in foster care;

(C) a missing or runaway child in foster care;

(D) the physical restraint of a child in foster care;

(E) the injury of a child in foster care that requires medical attention;

(F) the death of a child or any other resident of the family foster home;

(G) the arrest of a child in foster care;

(H) any incident involving the presence of law enforcement;

(I) all complaint investigations by the department or the Kansas department of social and rehabilitation services; and

(J) any other incident that jeopardizes the safety of a child in foster care.

(2) Each licensee shall submit a written report for each critical incident specified in paragraph (d)(1) to the sponsoring child-placing agency by the next working day. This report shall contain the following information:

- (A) The child's name and birth date;
- (B) the date and time of the incident;
- (C) a factual summary of the incident, including the name of each individual involved;
- (D) a factual summary of the immediate action taken, including the name of each individual involved;
- (E) the signature of the licensee; and
- (F) the date of the report.

(3) Each licensee shall ensure that a report is submitted to the department by the next working day. The report shall contain all known facts concerning the time, place, manner, and circumstances of the death of a child in foster care or any individual living in the family foster home.

(4) A copy of each critical incident report shall be kept on file at the family foster home.

(e) Reporting abuse and neglect.

(1) For the purposes of this subsection, "neglect," "physical, mental, or emotional abuse," and "sexual abuse" shall have the meanings specified in K.S.A. 38-2202, and amendments thereto.

(2) Each caregiver shall report any suspected neglect, physical, mental, or emotional abuse, and sexual abuse of a child in foster care within 24 hours of discovery, by telephone or in writing, to the secretary of the Kansas department of social and rehabilitation services or to the local law enforcement agency.

(3) Each licensee shall notify the sponsoring child-placing agency of suspected neglect, physical, mental, or emotional abuse, and sexual abuse of a child in foster care within 24 hours of discovery, by telephone or in writing. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-808. Recordkeeping requirements; confidentiality. Each licensee shall ensure that all records pertaining to the licensure and operation of the family foster home, including the records specified within this regulation, are kept at the family foster home and are accessible to the secretary and the sponsoring child-placing agency.

(a) Family foster home records. Each licensee shall keep the following documents in the family foster home:

(1) The sponsoring child-placing agency's approval for any of the following, if applicable:

(A) Approval for the licensee to provide respite care;

(B) approval for use of informal visitation; and

(C) an approved outdoor safety plan;

(2) a copy of the safety rules for the use of the swimming, wading pools, or hot tubs posted as specified in K.A.R. 28-4-824;

(3) any exceptions that have been granted;

(4) a copy of the regulations governing family foster homes;

(5) documentation of the information submitted for background checks as specified in K.A.R. 28-4-805;

(6) a copy of the licensee's documentation of each critical incident for each child in foster care as specified in K.A.R. 28-4-807;

(7) a copy of the record of each rabies vaccination for each domesticated dog and each domesticated cat owned by any occupant of the family foster home; and

(8) documentation of accident and liability insurance for each vehicle used to transport children in foster care.

(b) Caregiver records. A file that contains the following information shall be kept for each caregiver:

(1) Documentation of the training specified in K.A.R. 28-4-806;

(2) a health assessment that meets the requirements in K.A.R. 28-4-819 and documentation of a negative tuberculosis test or chest X-ray;

(3) a copy of a valid driver's license, if applicable. A copy of the license shall also be provided to the sponsoring child-placing agency; and

(4) all information for the extended family members identified for informal visitation, as specified in K.A.R. 28-4-814.

(c) Foster family members 16 years of age and older. The record for each child 16 years of age and older, excluding children placed in foster care, shall include the following information:

(1) A health assessment that meets the requirements specified in K.A.R. 28-4-819 and documentation of any negative tuberculosis test or chest X-ray;

(2) a current immunization record; and

(3) a copy of a valid driver's license, if transporting any child in foster care. A copy of the license shall also be provided to the sponsoring child-placing agency.

(d) Foster family members less than 16 years of

age. The records for each child less than 16 years of age who was born to, or adopted by, the licensee shall include a health assessment that meets the requirements in K.A.R. 28-4-819 and documentation of immunizations as specified in K.A.R. 28-4-819.

(e) Child in foster care. Each licensee shall keep a file for each child in foster care that contains the following information:

(1) All required placement information specified in K.A.R. 28-4-809;

(2) authorization, if any, regarding disclosure of confidential information for the child in foster care;

(3) documentation, if applicable, of a case plan authorizing the use of physical restraint;

(4) documentation, if applicable, of each use of physical restraint on a physical restraint report form as specified in K.A.R. 28-4-815;

(5) medical and surgical consent forms;

(6) the name, address, and telephone number of a physician to be called in case of emergency; and

(7) the medical information record specified in K.A.R. 28-4-819.

(f) Confidentiality of records of each child in foster care. Each licensee shall keep each child's recorded information confidential. The records shall be kept on file at the family foster home in a manner that ensures confidentiality. Nothing in this regulation shall prevent access to the child's records by the child's child-placing agent, the sponsoring child-placing agency, the department, law enforcement, or the court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective March 28, 2008.)

28-4-809. Basic placement information; other required placement information; departure requirements. (a) Basic placement information. Any licensee may accept a child in foster care for placement if the following information is received before or at the time of placement:

(1) The approval of the sponsoring child-placing agency;

(2) signed medical and surgical consent forms or, in the case of an after-hours emergency placement, a provision for obtaining medical and surgical consent forms;

(3) a completed placement agreement or a completed emergency placement form;

(4) a description of the circumstances leading

to the current placement and, if known, the reason the child in foster care came into custody;

(5) a description of the child's recent circumstances, including any medical problems, mental health concerns, and safety concerns, including any assaultive behavior and victimization concerns, if known;

(6) information about the child's medication and dietary needs, and the name of each of the child's current health care providers, if known;

(7) any allergies from which the child suffers, if known; and

(8) the name, address, and telephone number of the contact individual for the last educational program the child attended.

(b) Other required placement information.

(1) No later than 14 calendar days after placement, each licensee shall review the following information:

(A) A copy of the court order or other document authorizing the child-placing agent to place the child in foster care;

(B) a designation of the race or cultural heritage of the child, including tribal affiliation, if any;

(C) a completed and signed placement agreement, including emergency contact information, if not received at the time of placement;

(D) signed medical and surgical consent forms, if not received at the time of placement;

(E) the name, address, and telephone number of the child's parents or legal guardian;

(F) the spiritual or religious affiliation of the child and the child's family;

(G) the child's placement history summary, including the name, address, and telephone number of any advocates;

(H) a description of positive attributes and characteristics of the child and, if available, any related information from the child, the child's family including siblings, and concerned individuals in the child's life;

(I) the name, address, telephone number, and, if applicable, the e-mail address of the child-placing agent who is responsible for supervising the child's placement; and

(J) a copy of the current case plan, if completed. If this plan has not been completed, the licensee shall obtain a copy within 14 calendar days of the completion of the plan.

(2) If the licensee does not have the information specified in paragraph (b)(1), the licensee shall request the information from the sponsoring child-placing agency and shall document the request.

(c) Departure requirements. When any child in foster care moves from the family foster home, the licensee shall send the following with the child:

(1) All possessions brought with the child in foster care to the family foster home that are usable or that have special significance to the child;

(2) all savings from gifts, allowances, and earnings;

(3) all usable clothing, school supplies, recreational equipment, gifts, and any other items purchased specifically for and given to the child during placement in the family foster home, including items provided by the foster parents; and

(4) the child's life book, which may include birth family history, placement history, pictures, school information, and a record of personal achievements. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan.

(b) The licensee's participation shall include the following:

(1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of developmentally appropriate life skills that the child needs to become functional in the community;

(2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan;

(3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and

(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.

(c) A licensee shall not disclose medical or social information relating to any child in foster care without authorization from the child's child-placing agent, unless the disclosure is directly related to obtaining necessary services for the child or to

ensuring safe involvement in age-appropriate activities.

(d) In order to meet the needs of each child placed in the home, each licensee shall implement the provisions assigned to the licensee in the case plan and shall follow the policies of the sponsoring child-placing agency for the care of the child.

(e) Each licensee shall seek consultation and direction from the child's child-placing agent or the sponsoring child-placing agency if issues arise that cannot be resolved between the licensee and the child in foster care. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-811. Caregiver qualifications; supervision. (a) Caregiver qualifications. Each caregiver shall be qualified by the temperament, emotional maturity, judgment, and the understanding of children necessary to maintain the health, comfort, safety, and welfare of children in foster care pursuant to K.S.A. 65-504 and 65-508, and amendments thereto.

(b) General supervision. Each licensee shall ensure that each child in foster care is supervised in accordance with the child's age, maturity, risk factors, and developmental level. Additional supervision shall be provided for any child in foster care of any age in any of the following situations:

(1) The child has mental health issues that place the child at higher concern for risk-taking behaviors that could result in unintentional injury or drowning.

(2) The child would be a danger to self or others.

(3) The child functions below the child's chronological age level.

(4) The child is unable to engage in self-care.

(c) Substitute care and supervision. Each licensee shall ensure that substitute care and supervision are provided in each of the following situations:

(1) During the absence of the licensee between the hours of six a.m. and midnight, the following requirements shall apply:

(A) For an absence of less than four hours, the substitute caregiver shall be at least 14 years of age and at least three years older than the oldest child in foster care; and

(B) for an absence of four to 10 hours, the substitute caregiver shall be at least 16 years of age and at least three years older than the oldest child in foster care.

(2) In the absence of the licensee for more than 10 hours or for any period between the hours of midnight and six a.m., the substitute caregiver shall be at least 18 years of age and at least three years older than the oldest child in foster care.

(d) Self-care. Any child in foster care at least 12 years of age may be permitted to stay at home without adult supervision for certain periods of time between the hours of six a.m. and midnight if all of the following requirements and conditions are met:

(1) The potential for self-care is identified and written approval is included in the child's case plan.

(2) Each child in foster care's specific risk factors, including age, maturity level, behavior disorders, suicidal tendencies, developmental delays, thrill-seeking behavior, and difficulty with anger control, shall be considered in developing the self-care plan.

(3) Each licensee has established a written self-care plan for the care and supervision for each child in foster care in the home in the absence of the licensee. The written self-care plan shall take into consideration the number of children in the home, the behavior, emotional stability, and maturity level of the children in the home, and any neighborhood safety issues. The self-care plan shall be approved by the sponsoring child-placing agency and the child's child-placing agent.

(4) Only children residing in the home may be present during self-care.

(5) The following minimum age and maximum time limits for self-care for each child in foster care shall apply:

(A) Any child who is at least 12 years of age may be in self-care for a maximum of two consecutive hours, for no more than four hours each day.

(B) Any child who is at least 14 years of age may be in self-care for no more than four hours each day.

(C) Any child who is at least 16 years of age may be in self-care for no more than 10 hours each day. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-812. Respite care. (a) Requirements. Respite care may be provided for a child placed in another foster home if both of the following requirements are met:

(1) The respite care provider shall be in compliance with all regulations governing family foster homes.

(2) The sponsoring child-placing agency shall have approved the family foster home to provide respite care and the written approval is on file in the family foster home.

(b) Short-term respite care. The number and age range authorized by the temporary permit or the license may be exceeded by a maximum of two additional children in foster care or a sibling group of any size. If short-term respite care is provided during sleeping hours, an individual bed shall be available for each child.

(c) Long-term respite care. Long-term respite care may be provided if the addition of the child in foster care to be receiving long-term respite care does not cause the license capacity for the family foster home in which respite care will be provided to be exceeded. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-813. Child growth and development. (a) Social development. Each licensee shall provide for the growth and development of each child in foster care by providing the following:

(1) Contact with the family of the child in foster care in accordance with the case plan prepared by the child's child-placing agent;

(2) access to individual, school, and community recreational activities according to the child's age and interest; and

(3) privacy.

(b) Culture and religion. Each licensee shall meet the cultural and religious needs of each child in foster care placed in the family foster home.

(c) Recreational development. Each licensee shall provide an adequate supply of play equipment, materials, and books that meet the following requirements:

(1) Are suitable to the developmental needs and interests of each child in foster care; and

(2) are safe, clean, and in good repair.

(d) Education and basic skills. Each licensee shall provide the following to each child in foster care:

(1) Facilitation of the child's timely enrollment and school attendance in a local school district or, when appropriate, the child's district of residence and facilitation of the child's regular attendance at school or any other place of instruction in accordance with the child's individual education plan; and

(2) assistance to each child in learning basic life skills that allow the opportunity to improve self-

concept and strengthen identity in preparation for life after foster care. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-814. Family life. (a) Family activities. Taking into consideration the age, needs, and case plan of each child in foster care, each licensee shall provide the following opportunities for each child in foster care:

(1) Inclusion of the child in foster care in the daily life of the family, including eating meals with the family and participating in recreational activities;

(2) ensuring that each child in foster care is provided with the same opportunities that are provided to the other children residing in the home; and

(3) ensuring that each child in foster care is provided access to schools, church, recreational and health facilities, and other community resources.

(b) Daily routine. Each licensee shall provide a daily routine in accordance with the age and needs of each child in foster care that includes the following:

(1) Active and quiet play, both indoors and outdoors, weather permitting;

(2) rest and sleep; and

(3) nutritious meals and snacks.

(c) Essential and special items.

(1) Each licensee shall ensure that each child in foster care is provided with essential items to meet each child's needs, including the following:

(A) Food and shelter;

(B) nonprescription medical needs;

(C) clothing and shoes;

(D) toiletries and personal hygiene products; and

(E) birthday and holiday gifts.

(2) Each licensee shall notify the sponsoring child-placing agency and the child's child-placing agent when a licensee identifies a need for additional resources to provide a special item for a child in foster care. Special items may include the following:

(A) Clothing and fees for instructional or extra-curricular activities;

(B) school pictures;

(C) athletic and band instrument fees; and

(D) cap and gown rental and prom clothing.

(d) Allowance. Each licensee shall provide an allowance to each child in foster care equal to that of any other children of similar age in the family foster home who receive an allowance.

(e) Work opportunity. Each child in foster care shall have the opportunity to earn spending money at tasks or jobs according to the child's age, ability, and case plan. The money shall be the child's, and the child shall not be forced to provide for needs that otherwise would be provided by the licensee.

(f) Routine tasks. Each licensee shall permit each child in foster care to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability.

(g) Informal visitation. Any licensee may identify extended family members 18 years of age and older as resources for informal visitation.

(1) For each extended family member identified as a resource, each licensee shall meet the following requirements:

(A) Describe the relationship of the individual to the licensee;

(B) submit a request for background checks as specified in K.A.R. 28-4-805;

(C) obtain a copy of the current driver's license for each individual who could provide transportation during visitation;

(D) provide to the sponsoring child-placing agency documentation that each individual has read and agrees to follow the confidentiality policy and the discipline policy of the sponsoring child-placing agency;

(E) ensure that each individual has emergency contact numbers and a crisis plan in case of emergency; and

(F) ensure that each original medical consent form and a copy of each health assessment are provided for each child in foster care participating in informal visitation.

(2) Each licensee shall obtain the sponsoring child-placing agency's approval of the informal visitation plan before using informal visitation.

(3) Each licensee shall provide the sponsoring child-placing agency with the information specified in paragraphs (g)(1)(A) through (F) and shall keep a copy on file in the family foster home.

(4) Each licensee shall report the following to the sponsoring child-placing agency:

(A) The date on which each informal visitation occurs; and

(B) the identified extended family member's name and address.

(5) Each licensee shall ensure that both of the following conditions are met:

(A) Each identified extended family member 18 years of age and older is informed of the content of the regulations governing family foster homes.

(B) Supervision that ensures the health, safety, and welfare of each child in foster care is provided by an individual 18 years of age and older.

(h) Sleepovers. Any licensee may permit a child in foster care to participate in sleepovers in unlicensed homes if all of the following conditions are met:

(1) The purpose of the stay is to allow the child to participate in a social event that is normal for the child's age and development.

(2) Participation in sleepovers is not precluded in the child's case plan.

(3) The licensee confirms the invitation with the parent of the child to be visited and determines that supervision will be provided by an individual 18 years of age and older to ensure the health, safety, and welfare of the child.

(i) High-risk sport or recreational activity. Any licensee may permit a child in foster care to engage in any high-risk sport or recreational activity if all of the following conditions are met:

(1) Written permission for the specific activity is obtained from the parent, legal guardian, or legal custodian of the child in foster care and from the child's child-placing agent.

(2) The licensee assesses the individual child-specific risk factors before giving permission. These factors shall include the age and maturity level of the child, behavior disorders, suicidal tendencies, developmental delays, thrill-seeking behavior, and difficulty with anger control.

(3) Protective safety gear is used, if required for the sport or activity.

(4) A safety plan is developed and followed. This plan shall include instruction on the activity and compliance with any manufacturer's specifications and general safety guidelines.

(5) Direct supervision by an individual 18 years of age and older is provided to ensure safe participation.

(j) The use of trampolines in home settings shall be prohibited for children in foster care. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-815. Behavior management practices; prohibited punishment; physical restraint; notification requirements. (a) Behavior management practices.

(1) Each licensee shall ensure that positive

methods are used for behavior management that are appropriate to the age and developmental level of the child in foster care and encourage cooperation, self-direction, and independence.

(2) Each caregiver shall use methods of behavior management that are designed to help each child in foster care develop inner controls and manage the child's own behavior in a socially acceptable manner.

(3) If time-out is used to manage behavior, the child in foster care shall remain in time-out in accordance with the child's age and developmental level and only long enough to regain self-control.

(4) For each child in foster care who is not able to develop self-control or self-management, behavior management techniques shall be approved, in writing, by the case planning team.

(b) Prohibited punishment.

(1) No individual shall use any of the following means or methods of punishment of a child:

(A) Punishment that is humiliating, frightening, or physically harmful to the child;

(B) corporal punishment, including hitting with the hand or any object, yanking arms or pulling hair, excessive exercise, exposure to extreme temperatures, or any other measure that produces physical pain or threatens the child's health or safety;

(C) restricting movement by tying or binding;

(D) confining a child in a closet, box, or locked area;

(E) forcing or withholding food, rest, or toilet use;

(F) refusing a child access to the family foster home;

(G) mental and emotional cruelty, including verbal abuse, derogatory remarks about a child in foster care or the child's family, statements intended to shame, threaten, humiliate, or frighten the child, or threats to expel a child from the home; and

(H) placing soap, or any other substance that stings, burns, or has a bitter taste, in the child's mouth or on the tongue or any other part of the child's body.

(2) Each caregiver shall be prohibited from giving medications, herbal or folk remedies, and drugs to control or manage behavior, except as prescribed by the licensed physician or licensed nurse practitioner of the child in foster care.

(3) No child in foster care shall be forced to participate in publicity or promotional activities.

(4) Each caregiver shall be prohibited from

publicly identifying any child in foster care to the embarrassment of the child.

(5) No child in foster care shall be forced to acknowledge dependency on the family foster home or to express gratitude to the licensee.

(6) Each caregiver shall be prohibited from using physical restraint to manage behavior unless all of the requirements of subsection (c) are met.

(c) Physical restraint.

(1) Each caregiver shall ensure that before using physical restraint, other de-escalation methods are used. If other de-escalation methods fail and the behavior of the child in foster care makes physical restraint necessary for the child's own protection or the protection of others, the child shall be held as gently as possible to manage the child's behavior.

(2) No bonds, ties, or straps shall be used to restrict movement. The child in foster care shall be held only until one of the following is achieved:

(A) The child regains behavioral control.

(B) The child is no longer a threat to self or others.

(C) The restraint has lasted 20 minutes with no improvement in the child's behavior.

(3) Each caregiver using physical restraint in any situation other than an emergency shall have a current certificate on file documenting the training in de-escalation methods and physical restraint procedures and techniques specified in K.A.R. 28-4-806.

(4) The licensee shall have on file a case plan authorizing the use of physical restraint for each child in foster care whose behavior cannot be managed by other less intrusive methods and whose behavior requires the use of ongoing physical restraint on a recurring basis for the child's protection or the protection of others.

(d) Notification requirements. Each caregiver shall inform the child's child-placing agent and the sponsoring child-placing agency each time physical restraint is used.

(1) The licensee shall document each use of physical restraint on a form that contains the following:

(A) The child's name and birth date;

(B) the date and the start and end times of the physical restraint;

(C) a description of the other de-escalation methods attempted before the use of physical restraint;

(D) a description of the child's behaviors and

condition and the incidents that led to the use of physical restraint;

(E) a description of the child's behavior during and following the physical restraint;

(F) a description of any follow-up actions taken;

(G) the name of the individual who used physical restraint on the child; and

(H) the name of the licensee completing the report and the date completed.

(2) Each licensee shall file the report with the sponsoring child-placing agency no later than the next working day following the use of physical restraint. The use of physical restraint as an emergency intervention shall be reported to the sponsoring child-placing agency at the conclusion of the intervention when the child is no longer a danger to self or others. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-816. Transportation. Each licensee shall ensure that all of the following requirements are met: (a) If a vehicle used for transportation of a child in foster care is owned or leased by a foster family member or is driven by a child in foster care, the following requirements shall be met:

(1) The driver shall be 18 years of age or older, except as allowed in subsection (e), and shall hold a valid driver's license of a type appropriate for the vehicle being used, a copy of which shall be provided to the sponsoring child-placing agency.

(2) Trailers pulled by another vehicle, camper shells, and truck beds shall not be used for the transportation of children in foster care.

(3) The transporting vehicle shall be maintained in a safe operating condition.

(4) The vehicle shall be covered by accident and liability insurance as required by the state of Kansas.

(5) A first-aid kit shall be in the transporting vehicle and shall include disposable nonporous gloves, a cleansing agent, scissors, bandages of assorted sizes, adhesive tape, a roll of gauze, one package of gauze squares at least four inches by four inches in size, and one elastic bandage.

(b) The use of seat belts and child safety seats shall include the following:

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

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

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

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

- (A) Have current federal approval;
- (B) be installed according to the manufacturer's instructions and vehicle owner's manual;
- (C) be appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions and state statutes and regulations;
- (D) be properly maintained;
- (E) have a label with the date of manufacture and model number, for use in case of a product recall; and
- (F) have no missing parts or cracks in the frame or have been in a crash.

(c) The health and safety of the children riding in the vehicle shall be protected as follows:

(1) All passenger doors shall be locked while the vehicle is in motion.

(2) Order shall be maintained at all times. The driver shall be responsible for ensuring that the vehicle is not in motion if the behavior of the occupants prevents safe operation of the vehicle.

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

(4) Children shall neither enter nor exit from the vehicle from or into a lane of traffic.

(5) Children less than 10 years of age shall not be left in a vehicle unattended by an adult. When the vehicle is vacated, the driver shall make certain that no child is left in the vehicle.

(6) Smoking in the vehicle shall be prohibited when a child in foster care is in placement in a family foster home, whether or not the child in foster care is physically present in the vehicle.

(7) Medical and surgical consent forms and health assessment records shall be in the vehicle when a child in foster care is transported 60 miles or more from the family foster home.

(d) Before a child in foster care is allowed to drive, all of the following requirements shall be met:

(1) The child shall obtain permission from the parent or legal guardian.

(2) The privilege of driving shall be included in the child's case plan.

(3) The child shall possess a valid driver's license that meets the requirements of the Kansas motor vehicle drivers' license act, K.S.A. 8-234a et seq. and amendments thereto.

(e) Any child in foster care who attends middle school or junior high school may be transported

to and from school without an accompanying adult by a driver who is at least 16 years of age but not yet 18 years of age if all of the following conditions are met:

(1) The driver resides in the family foster home.

(2) The driver has a valid driver's license and meets the requirements of K.S.A. 8-235 or K.S.A. 8-237, and amendments thereto.

(3) The parent or legal guardian of the child in foster care and the child's child-placing agent give their written approval.

(f) Any child in foster care who attends high school may be transported to school, work, or social activities without an accompanying adult by a driver who is at least 16 years of age but not yet 18 years of age if all of the following conditions are met:

(1) The driver has a valid driver's license and meets the requirements of K.S.A. 8-235 or K.S.A. 8-237, and amendments thereto.

(2) The parent or legal guardian of the child in foster care and the child's child-placing agent give their written approval.

(3) If transportation is to work or social activities, not more than one passenger is in the vehicle.

(g) Any child in foster care who is a parent and who meets the requirements of subsections (a) through (d) may transport any child of that parent. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-817. Nutrition; food handling and storage. (a) Each licensee shall ensure that, for each child in foster care, all of the following requirements are met:

(1) Each child less than 12 months of age shall be held when bottle-fed until the child can hold the child's own bottle.

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

(3) Prepared formula and juice shall be refrigerated until used. Leftover formula and juice shall be refrigerated with the nipple covered and shall be used within 24 hours.

(4) For each child less than 12 months of age, solid foods shall be introduced in consultation with the child's health care provider.

(b) Nutritious meals and snacks shall be planned and shall be served in accordance with the food and drug administration's recommended daily allowances.

(c) A sufficient quantity of food shall be available to allow each child in foster care to have sec-

ond servings of bread, milk, and either vegetables or fruit.

(d) Only pasteurized milk products shall be served.

(e) Food allergies and special dietary needs of each child in foster care shall be accommodated.

(f) Dishes shall be either washed, rinsed, and stacked or placed in a dishwasher after each meal, but no later than the next day.

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

(1) Each individual engaged in food preparation and food service shall use sanitary methods of food handling, food service, and storage.

(2) Each individual involved in food handling shall wash the individual's hands with soap and running water immediately before engaging in food preparation and service. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-818. Storage and administration of medication. (a) Storage of medication. Each licensee shall ensure that all prescription and non-prescription medication is kept in the original container at the recommended temperature in accordance with the instructions on the label and, except as specified in paragraph (e)(4), in locked storage and inaccessible to children.

(b) Nonprescription medication.

(1) When nonprescription medication is administered to any child in foster care, each caregiver shall administer the medication from the original container and according to instructions on the label.

(2) Substances including herbal supplements, folk remedies, natural medicines, and vitamin supplements other than a daily multivitamin shall be administered only with documented approval by a licensed medical practitioner.

(c) Prescription medication. When prescription medication is administered to a child in foster care, each licensee shall ensure compliance with the following requirements:

(1) Prescription medication shall be administered only to the designated child and in accordance with instructions on the label.

(2) Each prescription medication shall be kept in the original container labeled by a pharmacist with the following information:

(A) The first and last name of the child;

(B) the date the prescription was filled;

(C) the name of the licensed physician who wrote or approved the prescription;

(D) the expiration date of the medication; and

(E) specific, legible instructions for administration and storage of the medication.

(3) The instructions on each label shall be considered the order from the licensed physician.

(4) If a daily or weekly medication container is used for a child in foster care, all of the following requirements shall be met:

(A) The medication container shall be labeled with the child's name.

(B) The medication container shall be used only for medications that are not affected by exposure to air or light and that can touch other medications without affecting the efficacy of any of the medications.

(C) The medications shall be placed in the medication container by the licensee.

(D) Each dose shall be placed in the medication container according to the correct time of day.

(E) The medication container shall be kept in locked storage.

(F) The remainder of each of the child's medications shall be stored in the respective original container until the prescription is completed or discontinued.

(G) If any child in foster care is required to receive medication during a visit or during any absence from the foster home, all medication sent for the child shall be in containers that meet the requirements of paragraph (c)(2) and shall be given to the individual taking responsibility for the child.

(H) When a child in foster care moves from the family foster home, all current medications shall be in the individual original containers and shall be given to the individual taking responsibility for the child.

(I) At no time shall any medication be in the possession of a child in foster care, except as specified in paragraph (e)(4).

(d) Requirements for administering prescription and nonprescription medication.

(1) Before administering medication, each licensee shall receive training in medication administration as specified in K.A.R. 28-4-806. Each licensee shall ensure that each individual administering medication knows the purpose, side effects, and possible contraindications of each medication.

(2) (A) For prescription medications, each care-

giver shall record on each child's medication record the following information:

(i) The name of the individual who administered each medication;

(ii) the date and time the medication was given;

(iii) any change in the child's behavior, any response to the medication, or any adverse reaction;

(iv) any change in the administration of the medication from the instructions on the label or a notation about each missed dose; and

(v) any direction from the physician to change the order as written on the label.

(B) Each medication record shall be signed by the caregiver and shall be made a part of the child's medical record.

(e) Self-administration of medication.

(1) Any licensee may permit each child in foster care with a condition requiring prescription medication on a regular basis to self-administer the medication under adult supervision. Each licensee shall obtain written permission for the child to self-administer medication from the licensed physician, licensed physician's assistant, or advanced registered nurse practitioner treating the child's condition.

(2) Written permission for self-administration of medication shall be kept in the child's file at the family foster home.

(3) Self-administration of each medication shall follow the procedures specified in paragraph (b)(2).

(4) Each child in foster care who is authorized to self-administer medication shall have access to the child's medication for self-administration purposes. The child shall have immediate access to medication prescribed for a condition for which timely treatment is a life-preserving requirement. Each child with asthma, allergies, or any other life-threatening condition shall have immediate access to that child's own medication for emergency purposes. Each licensee shall ensure the safe storage of self-administered medication to prevent unauthorized access by others.

(5) The date and time that each medication was self-administered shall be recorded on the child's medication record. Any noted adverse reactions shall be documented. Each licensee shall review the record for accuracy and shall check the medication remaining in the container against the expected remaining doses. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-819. Health care. (a) Infectious or contagious disease. Each individual residing in the family foster home shall be free from any infectious or contagious disease specified in K.A.R. 28-1-6.

(b) Health of caregivers.

(1) Each caregiver shall be in a state of physical, mental, and emotional health, as necessary to protect the health, safety, and welfare of the children in foster care.

(2) No caregiver shall be in a state of impaired ability due to the use of alcohol or other chemicals, including prescription and nonprescription drugs.

(3) Each individual regularly caring for a child in foster care in the family foster home shall have a health assessment conducted by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to perform health assessments. Each health assessment shall be conducted no earlier than one year before the date of the initial application for a license, employment, or volunteering and no later than 30 days after the date of the initial application, employment, or volunteering. The results of each assessment shall be recorded on a form provided by the department.

(4) If a caregiver experiences a significant change in the caregiver's physical, mental, or emotional health, including indications of substance abuse, an assessment of the caregiver's current health status may be requested by the secretary or by the sponsoring child-placing agency.

(A) The assessment or evaluation shall be performed at the expense of the licensee or other caregiver and by a practitioner who is licensed or certified in Kansas to diagnose and treat the specific condition that is the basis for the assessment or evaluation.

(B) Each licensee shall ensure that at least one potential practitioner has been approved by the requesting department or the sponsoring child-placing agency in order to have the assessment or evaluation accepted by the requesting department or child-placing agency.

(C) Each licensee shall provide the requesting department or sponsoring child-placing agency with an executed release of medical information to enable the department or the child-placing agency to obtain information directly from the practitioner.

(c) Health of the foster family members.

(1) Each individual living in the family foster

home, other than the child in foster care, shall have a health assessment conducted by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to perform health assessments. Each assessment shall be conducted within one year before the date of application or the individual residing in the home and no later than 30 days after the date of the licensee's initial application or the individual becoming a resident of the home. The results of the health assessment shall be recorded on forms provided by the department.

(2) Each child born to or adopted by the licensee who is less than 16 years of age and is living in the home shall have current immunizations. An exemption from this requirement shall be permitted only with one of the following:

(A) A written certification from a physician with a current license to practice in Kansas stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or

(B) a written statement from the child's parent or legal guardian that the child is an adherent of a religious denomination whose teachings are opposed to immunizations.

(d) Medical and dental health of each child in foster care.

(1) Each licensee shall ensure that emergency and ongoing medical and dental care is obtained for each child in foster care by providing timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services provided by qualified practitioners.

(2) Each licensee shall ensure that, at the time of the initial placement, each child in foster care has had a health assessment conducted within the past year by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to conduct assessments.

(3) A health assessment shall be obtained annually for each child in foster care who is less than six years of age and every two years for each child in foster care who is six years of age and older.

(4) Each health assessment required in paragraphs (d)(2) and (3) shall be on file at the family foster home within 30 days after the child's placement in the home.

(5) The immunizations for each child in foster care less than 16 years of age shall be current or in process at the time the license is issued. An

exemption from this requirement shall be permitted only with one of the following:

(A) A written certification from a physician with a license to practice in Kansas stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or

(B) a written statement from the child's parent or legal guardian that the child is an adherent of a religious denomination whose teachings are opposed to immunizations.

(6) An annual dental examination shall be obtained for each child in foster care who is three years of age or older. Follow-up care shall be provided. The child's dental record shall be recorded on forms provided by the department and shall be kept current.

(7) The medical information record for each child in foster care shall be kept current and shall document each illness, the action taken by the licensee, and the date of the child's medical, psychological, or dental care. When the child leaves the family foster home, the licensee shall ensure that the record, including the health assessments, dental records, medication administration record, immunization record, medical and surgical consent forms, and emergency medical treatment authorization, is given to the child's child-placing agent.

(e) Tuberculin testing.

(1) Each individual 16 years of age and older living, working, or regularly volunteering in the family foster home and each child in foster care 16 years of age and older shall be required to have a record of a negative tuberculin test or X-ray obtained not more than two years before the employment or initial application for a license or shall obtain the required record no later than 30 days after the date of employment, initial application, or becoming a resident of or volunteer in the home.

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

(3) The results of each tuberculin test shall be recorded on, or attached to, the health assessment form and kept on file at the family foster home.

Each licensee shall report any positive tuberculin skin test to the department's TB control program by the next working day.

(4) A child in foster care less than 16 years of age shall not be required to have tuberculin tests unless the child has been recently exposed to tuberculosis or exhibits symptoms compatible with tuberculosis.

(f) Tobacco use limitations.

(1) To prevent exposure of a child in foster care to secondhand smoke, each licensee shall ensure that both of the following conditions are met:

(A) Smoking is prohibited inside the family foster home when a child in foster care is in placement, whether the child is physically present on the premises or not.

(B) Smoking by any member of the foster family is prohibited outside the family foster home within 10 feet of a child in foster care.

(2) Each licensee shall prohibit smoking and the use of any other tobacco product by a child in foster care less than 18 years of age.

(g) Handwashing.

(1) Each caregiver shall wash the caregiver's hands with soap and water before preparing food, before eating, after toileting, after petting animals, and after diapering or changing soiled clothing.

(2) Each caregiver shall encourage each child in the family foster home to wash the child's hands with soap and water before and after eating, after petting an animal, and after toileting. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-507 and 65-508; effective March 28, 2008.)

28-4-820. General environmental requirements. Each licensee shall ensure that all of the requirements in this regulation are met. (a) Local requirements. Each family foster home shall meet the legal requirements of the community as to zoning, fire protection, water supply, and sewage disposal.

(b) Sewage disposal. If a private sewage disposal system is used, the system shall meet the requirements specified in K.A.R. 28-4-55.

(c) Use of private water supply. If a private water system is used, the system shall meet the requirements specified in K.A.R. 28-4-50. The water supply shall be safe for human consumption. Testing of the water supply shall be completed at the time of initial licensing and annually thereafter to document the nitrate and bacteria levels. Additional testing may be required if there is a change in environmental conditions that could

affect the integrity of the water supply. If children less than 12 months of age receive care in a family foster home that uses private well water, then commercially bottled drinking water shall be used for these children until a laboratory test confirms the nitrate content is not more than 10 milligrams per liter (10 mg/l) as nitrogen.

(d) Family foster home structural and furnishing requirements. The family foster home shall be constructed, arranged, and maintained to provide for the health, safety, and welfare of all occupants and shall meet the following requirements:

(1) The home shall contain sufficient furnishings and equipment to accommodate both the foster family and each child in foster care.

(2) The floors shall be covered, painted, or sealed in all living areas of the home, kept clean, and maintained in good repair.

(3) The interior finish of all ceilings, stairs, and hallways shall meet generally accepted standards of building, including safety requirements.

(4) Each closet door shall be designed to be opened from the inside and shall be readily opened by a child.

(5) Each stairway with two or more stairs and a landing shall have a handrail and be guarded on each side.

(6) If the stairs are guarded by balusters, the space between balusters shall not exceed 3½ inches, except as specified in this paragraph. If the space between the balusters exceeds 3½ inches, the licensee shall make provisions necessary to prevent a child's head from becoming entrapped in the balusters or a child's body from falling through the balusters or becoming entrapped in them.

(7) When a child in foster care less than three years of age is present, each stairway with two or more stairs and a landing shall be gated to prevent unsupervised access by the child. Each gate shall have a latching device that an adult can open readily in an emergency. Accordion gates shall be prohibited throughout the premises, and pressure gates shall be prohibited for use at the top of any stairway.

(8) If the family foster home is or is intended to be licensed for children in foster care under six years of age, each electrical outlet shall be covered.

(9) At least one bathroom in the family foster home shall have at least one sink, one flush toilet, and one tub or shower. All fixtures shall be working at all times.

(10) Each bathroom shall have a hinged, solid door that affords privacy to the occupant and that can be opened from each side without the use of a key in case of an emergency.

(11) Each floor used as living space shall have at least two means of escape.

(A) At least one means of escape shall be an unobstructed pathway leading to an exit door to the outside.

(B) Each exit door shall require no more than two motions to open the door from the inside.

(C) The second means of escape shall give direct access to the outside and may be an unobstructed door or an unobstructed, operable window with an opening measuring at least 821 square inches, with a minimum width of 20 inches and a minimum height of 24 inches.

(D) If the second exit is a window, the window shall be within 44 inches of the floor. If the window is screened, the screen shall be readily removed from the inside.

(12) A working telephone shall be on the premises and available for use at all times. Emergency telephone numbers shall be readily accessible or be posted next to the telephone for the police, fire department, ambulance, hospital or hospitals, and poison control center. The name, address, and telephone number of the primary care physician used for each child in foster care shall be posted next to the telephone or readily accessible in case of an emergency.

(13) A smoke detector shall be centrally installed on each level of the home and in each room used for sleeping by a child in foster care and by the licensee.

(14) One operable carbon monoxide detector shall be installed according to the manufacturer's instructions in an area adjacent to each room used for sleeping by a child in foster care and by the licensee.

(e) Cleanliness. The interior of the family foster home shall be free from accumulation of visible dirt, any evidence of vermin infestation, and any objects or materials that constitute a danger to children in foster care.

(f) Lighting and ventilation.

(1) All rooms used for living space shall be lighted, vented, heated, and plumbed pursuant to K.S.A. 65-508, and amendments thereto.

(2) Each window and door used for ventilation shall be screened to minimize the entry of insects.

(3) The family foster home shall have lighting of at least 10 foot-candles in all parts of each room,

within each living area of the home. There shall be lighting of at least 30 foot-candles in each area used for reading, study, or other close work.

(g) Firearms and other weapons.

(1) No child in the home shall have unsupervised access to any of the following:

(A) Firearms, ammunition, and other weapons;

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

(C) hunting and fishing knives; and

(D) any archery and martial arts equipment.

(2) All firearms, including air-powered guns, BB guns, pellet guns, and paint ball guns, shall be stored unloaded in a locked container, closet, or cabinet. If the locked container, closet, or cabinet is constructed in whole or in part of glass or plexiglass, each firearm shall be additionally secured with a hammer lock, barrel lock, or trigger guard.

(3) Ammunition shall be kept in a separate locked storage container or locked compartment designed for that purpose.

(4) All archery equipment, hunting and fishing knives, and other weapons shall be kept in a locked storage compartment.

(5) Each key to a locked storage container, closet, or compartment of guns, ammunition, and other weapons, and to gun locks shall be in the control of a licensee at all times.

(h) Storage of household chemicals, personal care products, tools, and sharp instruments. The following requirements shall apply when a child in foster care is in placement in the family foster home:

(1) All household cleaning supplies and all personal care products that have warning labels advising the consumer to keep those supplies and products out of reach of children or that contain alcohol shall be kept in locked storage or stored out of reach of children less than six years of age.

(2) All chemicals and household supplies with warning labels advising the consumer to keep those chemicals and supplies out of reach of children shall be kept in locked storage or stored out of reach of children less than 10 years of age.

(3) Sharp instruments shall be stored in drawers equipped with childproof devices to prevent access by children or stored out of reach of children less than six years of age.

(4) Tobacco, tobacco products, cigarette lighters, and matches shall be inaccessible to individuals less than 18 years of age.

(5) Tools shall be inaccessible to each child in foster care when the tools are not in use and shall

be used by a child in foster care only with supervision by an individual 18 years of age and older.

(i) Heating appliances.

(1) Each heating appliance using combustible fuel, including a wood-burning stove or a fireplace, shall be vented to the outside.

(2) Each fireplace and each freestanding heating appliance using combustible fuel, including a wood-burning stove, shall stand on a noncombustible material according to the manufacturer's specifications, state statutes, and local ordinances.

(3) Each heating appliance designed by the manufacturer to be unvented shall be used according to the manufacturer's specifications, state statutes, and local ordinances.

(4) If a child in foster care less than three years of age is in placement in the family foster home, a protective barrier shall be provided for each fireplace and each freestanding heating appliance as necessary to protect from burns.

(5) If a propane heater is used, the heater shall be installed in accordance with the manufacturer's recommendations and any state statutes or local ordinances.

(6) Each flue or chimney of any heating appliance that uses combustible fuel shall be checked annually and cleaned as recommended by a qualified chimney sweep.

(j) Clothes dryers. Each clothes dryer shall be vented to the outside or to a venting device installed and used according to the manufacturer's specifications, state statutes, and local ordinances.

(k) Play space. Each family foster home shall have a space for indoor play and access to an outdoor play space.

(l) Mobile home requirements. In addition to requirements specified in this regulation, if the family foster home is a mobile home, both of the following requirements shall be met:

(1) The mobile home shall have two exits that are located at least 20 feet apart, with one exit within 35 feet of each bedroom door.

(2) Each mobile home shall be skirted with latticed or solid skirting and securely anchored by cable to the ground.

(m) Special inspections. A special inspection of the family foster home by a fire, health, sanitation, or safety official may be required by the secretary or the sponsoring child-placing agency to assist in making a decision about the safety of the home for a child in foster care. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-821. Sleeping arrangements. (a) Each licensee shall ensure that sufficient space for sleeping is provided to accommodate the number of foster family members and each child in foster care. Sleeping space shall not include any of the following places:

(1) An unfinished attic;

(2) an unfinished basement;

(3) a hall;

(4) a closet;

(5) a laundry room;

(6) a garage;

(7) any living space that is normally used for other than sleeping arrangements; or

(8) any room that provides routine passage to a common use room, to another bedroom, or to the outdoors.

(b) Each licensee shall ensure that each bedroom used for sleeping by a child in foster care meets the following requirements:

(1) Each bedroom shall have at least 70 square feet.

(2) Each bedroom shall have at least 45 square feet for each individual sharing the room.

(3) The exit path from each bed to each outside exit shall have a minimum ceiling height of six feet eight inches.

(4) Each bedroom shall have a solid, hinged door to ensure privacy.

(5) Each bedroom shall have windows or doors that are readily opened and provide ready exit to the outside and access into the room by emergency personnel. If the exit is a sliding glass door, the door shall not be barred.

(6) (A) Except as specified in paragraph (b)(6)(B), each separately partitioned basement bedroom shall have a direct outside exit that meets the following requirements:

(i) Is within 44 inches of the floor;

(ii) has an opening of at least 821 square inches, a minimum width of 20 inches, and a minimum height of 24 inches; and

(iii) is free of any obstruction that would prevent egress.

(B) If a family foster home whose licensee was licensed before the effective date of this regulation has a basement bedroom used for a child in foster care, the basement bedroom shall have two exits. One exit shall lead directly to the outside, be able to be opened without use of tools, and be at least 20 inches in width and 24 inches in height. If the licensee adds any bedrooms or alters any existing bedrooms in the basement, then the li-

licensee shall be required to meet the requirements specified in paragraph (b)(6)(A).

(7) All false ceilings, curtains, drapes, or fabric used in decoration for ceilings or walls in each room used for sleeping shall be made of fire-rated materials.

(c) The bedrooms shall ensure privacy for the occupants.

(d) Each child shall have a separate bed or crib that meets the following requirements:

(1) Is intact, fully functional, and in good repair to prevent injury or entrapment of the child;

(2) is of sufficient size to accommodate the size and weight of the child;

(3) has a mattress that is clean and has a waterproof covering, if needed; and

(4) has bedding adequate to the season and appropriate to the age of the child.

(e) Each bed that requires bed springs shall have springs in good condition.

(f) If bunk beds are used, the upper bunk shall be protected on all sides with rails. Head and foot boards may substitute for rails on the ends of the bed. Only children six years of age or older shall use the upper bunk.

(g) No rollaway bed, hideaway bed, or other temporary bed shall be used, except when children in foster care are visiting in the family foster home for a social event or for short-term respite care.

(h) Each child in foster care less than 12 months of age shall sleep in a crib. For the purposes of a nap, the child may sleep in a playpen. Each crib and each playpen shall meet the following requirements:

(1) If a crib or playpen is slatted, the slats shall be spaced no more than $2\frac{3}{8}$ inches apart.

(2) Each crib shall have a firm mattress fitted so that no more than two fingers can fit between the mattress and the crib side when the mattress is set in the lowest position.

(3) The crib corner post extensions shall not exceed $1\frac{1}{16}$ inch.

(4) When the crib is in use, the drop side of the crib shall be secured in the up position.

(5) No pillow, quilt, comforter, or other soft product that could cause suffocation shall be used in the crib or the playpen when a child who is less than 12 months of age is sleeping in the crib or playpen.

(i) Each child in foster care who is less than 12 months of age shall be put to sleep on the child's

back unless ordered otherwise by the child's physician.

(j) Each child in foster care 12 months and older may sleep in a crib until the child is 18 months of age or until the child is of such height that the upper rail of the crib is at the child's breast level when the child is standing and the crib mattress is at the lowest level.

(k) Each child in foster care 18 months but not yet 30 months of age may sleep in a crib when prescribed by the child's physician.

(l) At night each caregiver shall sleep within hearing distance of the child in foster care.

(m) When any child five years of age or older in foster care shares a room, the following requirements shall be met:

(1) The child shall share the room only with children of the same sex.

(2) The children sharing the room shall be age-mates, unless the following requirements have been met:

(A) The licensee shall notify the family foster home's sponsoring child-placing agency of the proposed sleeping arrangement.

(B) The licensee shall request that the sponsoring child-placing agency and the child's placing agent determine if the proposed sleeping arrangement is appropriate.

(C) Each licensee shall maintain documentation of the approval of the sponsoring child-placing agency for the sleeping arrangement.

(3) A child who is known to be a sexual perpetrator or a sexual abuse victim shall not share a room until the following conditions are met:

(A) The potential roommate arrangements are assessed by the child's placing agent, the home's sponsoring child-placing agency, and the licensee; and

(B) based on the assessment, a determination is made by the child's placing agency that it is unlikely that further sexual abuse will result from the child sharing a room.

(n) A child in foster care who is a parent may share a room with the parent's own child or children. The room shall meet the requirements in paragraph (b)(2).

(o) A child in foster care 12 months of age or older shall not sleep in the bedroom of the licensee except during the child's illness or due to special developmental or medical needs requiring close supervision as documented by the child's physician. The bedroom shall have a minimum of 130 square feet.

(p) Each licensee shall ensure that separate and accessible drawer space for personal belongings and closet space for clothing are available for each child in foster care. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-822. Safety procedures; emergency plan; drills. (a) Each licensee shall make the following preparations for emergencies:

(1) Each licensee shall ensure that a telephone and emergency information are available as specified in K.A.R. 28-4-820.

(2) Each licensee shall develop an emergency plan for the family foster home to provide for the safety of all residents of the home in emergencies including fires, tornadoes, storms, floods, and serious injuries.

(3) Each emergency plan shall be posted in a conspicuous place in the family foster home.

(4) Each licensee and each individual providing care in the family foster home shall be informed of and shall follow the emergency plan.

(b) Each licensee shall ensure that prior arrangements are made at a hospital or clinic for emergency treatment for each child in foster care and shall ensure that all medical and surgical consent forms are acceptable to the hospital or clinic.

(c) If the child in foster care is taken to the hospital or clinic for emergency treatment, each licensee shall ensure that the child's health assessment forms and the medical and surgical consent forms are taken to the hospital or clinic.

(d) If a caregiver accompanies a child in foster care to the source of emergency care, that caregiver shall remain with the child. Each licensee shall ensure that an arrangement is made and followed to ensure supervision of the other children in the family foster home if a child requires emergency care.

(e) Each licensee shall ensure that a fire drill is conducted monthly and that the drills are scheduled to allow participation by each family member and child in foster care. The date and time of each drill shall be recorded and kept on file in the family foster home.

(f) Each licensee shall ensure that a tornado drill is conducted monthly during April through September and that the drill is scheduled to allow participation by each resident of the family foster home. The date and time of each drill shall be recorded and kept on file in the family foster home. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-823. Outside premises. Each licensee shall ensure that all of the following requirements are met:

(a) General safety.

(1) The outside premises of the home shall be free from any objects, materials, and conditions that constitute a danger to the health or safety of each child in foster care.

(2) No child less than six years of age shall have unsupervised access to either of the following:

(A) A fish pond or a decorative pool containing water 24 inches deep or less; or

(B) any safety hazard specified in subsection (d).

(b) Outdoor play area.

(1) The play area shall be located, arranged, and maintained to allow for supervision by the caregiver and to reduce the risk of injury.

(2) The play area shall be well drained and free of known health, safety, and environmental hazards.

(3) Play equipment shall be located in an area free from hazards, be age-appropriate, and be in good repair. The play equipment shall be placed far enough away from potential hazards, including trees, structures, fences, and power lines, to minimize the risk of injury while the play equipment is in use. Equipment that is broken, hazardous, or unsafe shall not be used. Swings and climbing equipment shall be anchored and shall not be used over hard-surfaced materials, including asphalt, concrete, and bare, hard-packed dirt.

(c) Trampolines. Trampolines shall be prohibited on the premises of the family foster home.

(d) Protection from safety hazards.

(1) Each licensee shall ensure that each child in foster care is protected from all safety hazards adjacent to or within 50 yards of the house, as follows:

(A) A busy street;

(B) railroad tracks; or

(C) a water hazard, including a ditch, a pond, a lake, and any standing water over 24 inches deep.

(2) The licensee shall develop and follow a written outdoor safety plan before a child in foster care is allowed to be outdoors in an unfenced area of the family foster home. The plan shall be approved by the sponsoring child-placing agency and shall include all of the following:

(A) A description of any safety hazard and of any natural or man-made barrier separating the area from the safety hazard;

(B) the approximate distance from the unfenced area to each safety hazard;

(C) a description of the provisions made for increased supervision; and

(D) a requirement for a caregiver to be outdoors with each child in foster care less than six years of age. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-824. Swimming pools, wading pools, and hot tubs; off-premises swimming and wading activities. (a) General safety on the premises of the family foster home.

(1) If any swimming pool or wading pool with water over 12 inches deep or any hot tub is on the premises, the pool or tub shall be constructed, maintained, and used in such a manner that safeguards the lives and health of the children in foster care.

(2) If children in foster care have access to a swimming pool, wading pool, or hot tub, at least one adult shall be physically present and shall directly supervise the children. A minimum ratio of one adult to six children, including children in foster care, shall be maintained.

(3) Each licensee shall post legible safety rules for the use of a swimming pool or hot tub in a conspicuous location. If the pool or hot tub is available for use, the licensee shall read and review the safety rules weekly with each child in foster care.

(b) Swimming pools on the premises.

(1) Each in-ground swimming pool shall be enclosed by a fence at least five feet high. Each gate in the fence shall be kept locked and shall be self-locking. The wall of a house or other building containing a window designed to open or a door shall not be used in lieu of a fence.

(2) Each aboveground swimming pool shall be at least four feet high or shall be enclosed by a fence at least five feet high with a gate that is kept closed and is self-locking. Steps shall be removed and stored away from the pool when the pool is not in use. Each aboveground pool with a deck or berm that provides a ground-level entry on any side shall be treated as an in-ground pool.

(3) Sensors or pool covers shall not be used in lieu of a fence.

(4) The pH of the water in the swimming pool shall be maintained between 7.2 and 8.2. The available chlorine content shall be between 0.4 and 3.0 parts per million. The pool shall be cleaned daily, and the chlorine level and pH level

shall be tested before each use. The results of these tests shall be recorded and available if requested.

(5) An individual with a life-saving certificate or an individual with training in CPR who can swim shall be in attendance while any child in foster care is using a swimming pool.

(6) Each swimming pool more than six feet in width, length, or diameter shall be provided with a ring buoy and rope or with a shepherd's hook. The equipment shall be of sufficient length to reach the center of the pool from each edge of the pool.

(c) Wading pools on the premises.

(1) No child in foster care shall be permitted to play without adult supervision in any area where there is a wading pool containing water.

(2) The water in each wading pool shall be emptied daily.

(d) Hot tubs on the premises.

(1) Each hot tub shall be covered when not in use with an insulated, rigid cover secured by locks or surrounded by a fence that meets the requirements of paragraph (b)(1).

(2) The chlorine and pH levels shall be tested and maintained as required by the manufacturer's specifications for use.

(3) Each licensee shall ensure that no child in foster care less than four years of age uses a hot tub. Each licensee shall ensure that each child in foster care four years of age and older is permitted to use the hot tub only in accordance with the manufacturer's specifications and recommendations for use.

(e) General safety off the premises of the family foster home. Any child in foster care who knows how to swim and who is at least six years of age may be permitted to swim in ponds, lakes, rivers, and other natural bodies of water that are approved for swimming by the county health department, the Kansas department of health and environment, or the designated authority in the state in which the swimming site is located.

(1) Each licensee shall ensure that each child in foster care while wading, swimming, or involved in other activities near, in, or on a pond, lake, river, or other natural body of water is directly supervised by a designated adult.

(2) Each child in foster care who is a nonswimmer or who is less than six years of age shall wear a safety vest certified by the manufacturer as appropriate for the child's age and weight specifications, when wading or playing near a pond, lake,

river, or other natural body of water or when boating.

(3) Each caregiver shall review boating and swimming safety rules with each child in foster care before the activity and shall be responsible for enforcing the safety rules.

(4) If a certified lifeguard is not on duty, an individual with a life-saving certificate or training in CPR who can swim shall be in attendance. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

28-4-825. Animals. (a) Each licensee shall ensure that when any animal is kept on the premises, the pet area is kept clean, with no evidence of flea, tick, or worm infestation in the area.

(b) Each licensee shall ensure that each animal that is in contact with any child in foster care meets the following requirements:

(1) Is in good health, with no evidence of disease; and

(2) is friendly and poses no threat to the health, safety, and well-being of children.

(c) Each domesticated dog and each domesticated cat shall have a current rabies vaccination that is given by a veterinarian or given under the direct supervision of a veterinarian.

(d) A record of each current rabies vaccination shall be kept on file in the family foster home, and a copy shall be supplied to the sponsoring child-placing agency.

(e) If any animal that represents a hazard to children is on the premises, each child in foster care shall be protected from that animal.

(f) Pit bulls, exotic animals, and venomous or constricting reptiles shall not be kept or brought on to the family foster home premises. (Authorized by and implementing K.S.A. 65-508; effective March 28, 2008.)

**SENATOR STAN CLARK PREGNANCY
MAINTENANCE INITIATIVE GRANT PROGRAM**

28-4-1400. Grant program application and procedures. The following portions of the document titled "Senator Stan Clark pregnancy maintenance initiative grant program application and program procedures," published by the Kansas department of health and environment and dated May 26, 2005, are hereby adopted by reference:

(a) Section one, paragraph (D), "funding, match and grant period";

(b) subparagraphs (1), (2), and (3) of section one, paragraph (E), "eligible applicants";

(c) section two, "program requirements"; and

(d) section five, "competitive application and review process." (Authorized by and implementing 2005 HB 2301, Sec. 1; effective, T-28-7-1-05, July 1, 2005; effective Oct. 14, 2005.)

**Article 5.—SEWAGE AND EXCRETA
DISPOSAL**

28-5-1. (Authorized by K.S.A. 65-171d; effective Jan. 1, 1966; revoked, E-72-11, March 17, 1972; revoked Jan. 1, 1973.)

28-5-2. Location of wastewater disposal systems. No person, company, corporation, association, or institution shall construct, maintain, use, or permit to be constructed or maintained any wastewater disposal system into which domestic wastewater is drained, within 50 feet of any water well or spring; nor shall any such wastewater disposal system be drained or permitted to drain into any stream, ditch, or the ground surface. (Authorized by and implementing K.S.A. 1996 Supp. 65-171d; effective Jan. 1, 1966; amended, E-72-11, March 17, 1972; amended Jan. 1, 1973; amended Sept. 5, 1997.)

28-5-3. Drains. All drains carrying domestic sewage, human or animal excreta located within 50 feet of a source of water supply shall be watertight. (Authorized by K.S.A. 65-171d; effective Jan. 1, 1966.)

28-5-4. Public health nuisances. The following conditions and practices are declared to be public nuisances hazardous to public health and local boards of health are directed to order their abatement whenever they are called to their attention by the state department of health and environment or any citizen of the state. (1) Any privy, privy vault, or other place used for the deposit of human excreta which permits animals or insects access to the excreta, which produces foul or objectionable odors, or is located so as to make pollution of a domestic water supply probable.

(2) The collection or accumulation of any organic materials such as swill, meat scraps, dead fish, shells, bones, decaying vegetables, dead carcasses, human or animal excrement, or any kind of offal that may decompose and create an attraction or breeding place for flies, mosquitoes or rodents.

(3) Any domestic animal pen that pollutes a do-

mestic water supply, underground waterbearing formation; or stream in a manner that is hazardous to human health; or is maintained in a manner that creates a fly attraction or breeding place for flies or mosquitoes; or is a rodent harborage or breeding place. (Authorized by K.S.A. 1975 Supp. 65-101, 65-171d, 65-202; effective Jan. 1, 1966; amended, E-72-11, March 17, 1972; amended Jan. 1, 1973; amended May 1, 1976.)

28-5-5. Discharge of domestic sewage into wells, pits, or sub-surface excavations prohibited. No person, company, corporation or institution shall excavate, drill, construct or use or permit to be constructed or used any well, pit, mine shaft, or subsurface excavation for the disposal of untreated or inadequately treated domestic sewage. (Authorized by K.S.A. 65-171d; effective, E-72-11, March 17, 1972; effective Jan. 1, 1973.)

28-5-6. Discharge of domestic wastes. All domestic wastes from sanitary fixtures located in any dwelling, shop, school, or other building used as a home or meeting place for humans shall be discharged into a public sewer system approved by the Kansas department of health and environment, or into a private sewer system approved by the Kansas department of health and environment or the appropriate local authority. (Authorized by and implementing K.S.A. 1996 Supp. 65-171d; effective, E-72-11, March 17, 1972; effective Jan. 1, 1973; amended Sept. 5, 1997.)

28-5-7. Private sewer systems. All private sewer systems shall be located, designed, and operated in accordance with standards set forth in county sanitary codes approved by the Kansas department of health and environment before July 1, 1997, or in the absence of such codes, with standards set forth in the Kansas department of health and environment bulletin 4-2, "Minimum Design Standards for Onsite Wastewater Systems," revised March, 1997. (Authorized by and implementing K.S.A. 1996 Supp. 65-171d; effective, E-72-11, March 17, 1972; effective Jan. 1, 1973; amended Sept. 5, 1997.)

28-5-8. (Authorized by K.S.A. 65-171d; effective, E-72-11, March 17, 1972; effective Jan. 1, 1973; revoked May 10, 1996.)

28-5-9. Variance. (a) (1) In counties with no locally adopted sanitary code, a variance from

requirements of K.A.R. 28-5-2 through K.A.R. 28-5-7 may be granted by the Kansas department of health and environment, if the following conditions are met.

(A) The features of the site for which the variance is requested are not compatible with requirements of the regulations.

(B) Alternate methods are available that will attain the objectives of the regulations.

(C) The variation from the regulations will not adversely affect public health or the environment.

(2) Any person requesting a variance from these regulations shall provide the Kansas department of health and environment with a written request for a variance. This request shall include a description of the proposed wastewater treatment system, information on the treatment effectiveness of the proposed system, and any other information that the Kansas department of health and environment deems necessary to determine the effectiveness and reliability of the proposed system. No such proposed system shall be constructed without the written approval of the Kansas department of health and environment.

(b) In counties with adopted sanitary codes containing a variance clause, the local administrative agency has the authority to grant variances from requirements of the local code.

(c) Before construction of any facility for receipt of sewage, an application for variance shall be filed with and approved by either the Kansas department of health and environment or the appropriate local authority in accordance with provisions of this regulation. (Authorized by and implementing K.S.A. 1996 Supp. 65-171d; effective Jan. 1, 1973; amended Sept. 5, 1997.)

**Article 6.—COMMON DRINKING CUP;
COMMON TOWEL**

28-6-1 to 28-6-2. (Authorized by K.S.A. 65-101, 65-104, K.S.A. 1965 Supp. 65-128; effective Jan. 1, 1966; revoked May 10, 1996.)

**Article 7.—STERILIZATION OF PUBLIC
FOOD AND DRINKING UTENSILS**

28-7-1 to 28-7-9. (Authorized by K.S.A. 65-101, 65-104, K.S.A. 1965 Supp. 65-128; effective Jan. 1, 1966; revoked May 10, 1996.)

**Article 8.—HOME HEALTH FEE
SCHEDULE**

28-8-1. (Authorized by K.S.A. 1969 Supp. 65-222; effective, E-69-4, Dec. 11, 1968; effective Jan. 1, 1970; revoked May 10, 1996.)