

REGULATIONS FOR DAY CARE HOMES AND GROUP DAY CARE HOMES

K.A.R. 28-4-113. Definitions.

- (a) “Applicant” means a person who has applied for a license but who has not yet been granted a license to operate a facility.
- (b) “Applicant with a temporary permit” means a person who has been granted a temporary permit to operate a facility.
- (c) “Care provider” and “provider” mean an individual who cares for and supervises children in a facility and has responsibility for the health, safety, and well-being of children, including the following:
 - (1) A primary care provider;
 - (2) an individual who is at least 16 years of age and who is working in the facility; and
 - (3) a substitute.
- (d) “Day care home” means the premises on which care is provided for a maximum of 10 children under 16 years of age, with a limited number of children under five years of age in accordance with K.A.R. 28-4-114(e).
- (e) “Department” means Kansas department of health and environment.
- (f) “Emergency care” means care for a period not to exceed two weeks for children not regularly enrolled in a facility.
- (g) “Evening care” means care after 6:00 p.m. and before 1:00 a.m. the following day for children enrolled at a facility and present during operating hours.
- (h) “Extended absence” means time away from a facility for a period of more than three hours in a day.
- (i) “Facility” means a day care home or a group day care home.
- (j) “Fire inspector” means a person approved by the state fire marshal to conduct fire safety inspections.
- (k) “Group day care home” means the premises on which care is provided for a maximum of 12 children under 16 years of age, with a limited number of children under five years of age in accordance with K.A.R. 28-4-114(f).
- (l) “Large motor activity” means any movement involving the arms, legs, feet, or entire body, including crawling, running, and jumping.

- (m) “License capacity” means the maximum number of children who are authorized to be on the premises at any one time.
- (n) “Licensed physician” means an individual who is licensed to practice either medicine and surgery or osteopathy in Kansas by the Kansas state board of healing arts or who practices either medicine and surgery or osteopathy in another state and is licensed under the licensing statutes of that state.
- (o) “Licensee” means a person who has been granted a license to operate a facility.
- (p) “Overnight care” means care after 1:00 a.m. for children enrolled at a facility and present during operating hours.
- (q) “Primary care provider” means an applicant with a temporary permit, a licensee, or the designee of an applicant with a temporary permit or a licensee. Each applicant with a temporary permit, each licensee, and each designee shall be at least 18 years of age and shall meet the requirements for a primary care provider specified in K.A.R. 28-4-114a.
- (r) “Professional development training” means training approved by the secretary that is related to working with children in care.
- (s) “Substitute” means an individual who supervises children in the temporary absence or extended absence of the primary care provider and who meets the following requirements:
 - (1) In the temporary absence of the primary care provider, the substitute shall be at least 16 years of age and shall meet all of the requirements for a provider specified in K.A.R. 28-4-114a (a)(2), (b)(4)(C), and (c).
 - (2) In the extended absence of the primary care provider, the substitute shall be at least 18 years of age and shall meet all of the requirements for a primary care provider specified in K.A.R. 28-4-114a.
- (t) “Temporary absence” means time away from a facility for a period not to exceed three hours in a day.
- (u) “Use zone” means the surface under and around a piece of equipment onto which a child falling from or exiting the equipment would be expected to land.
- (v) “Weapons” means any of the following:
 - (1) Firearms;
 - (2) ammunition;
 - (3) air-powered guns, including BB guns, pellet guns, and paint ball guns;
 - (4) hunting and fishing knives;

- (5) archery equipment; or
- (6) martial arts equipment.

(Authorized by K.S.A. 2010 Supp. 65-508; implementing K.S.A. 2010 Supp. 65-503 and K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012.)

K.A.R. 28-4-114. Applicant; licensee.

- (a) Application process.
 - (1) Any person desiring to operate a facility shall apply for a license on forms provided by the department.
 - (2) Each applicant and each licensee shall submit the fee specified in K.A.R. 28-4-92 for a license or for the renewal of a license. The applicable fee shall be submitted at the time of license application or renewal and shall not be refundable.
 - (3) The granting of a license to any applicant or applicant with a temporary permit may be refused by the secretary if the applicant or applicant with a temporary permit is not in compliance with the applicable requirements of the following:
 - (A) K.S.A. 65-504 through 65-506, and amendments thereto;
 - (B) K.S.A. 65-508, and amendments thereto;
 - (C) K.S.A. 65-512, and amendments thereto;
 - (D) K.S.A. 65-530 and 65-531, and amendments thereto; and
 - (E) all regulations governing facilities.
 - (4) Failure to submit the application forms and fee for renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.
- (b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee, if an individual, shall meet the following requirements:
 - (1) Be at least 18 years of age;
 - (2) not be involved in child care or a combination of child care and other employment for more than 18 hours in a 24-hour period; and
 - (3) not be engaged in either business or social activities that interfere with the care or supervision of children.

- (c) Multiple child care facilities.
- (1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503 and amendments thereto, shall maintain each child care facility as a separate entity.
 - (2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.
- (d) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.
- (e) License capacity for day care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.
- (1) The maximum number of children for which a day care home may be licensed shall be the following:

TABLE I – LICENSE CAPACITY, ONE PROVIDER

Maximum Number of Children Under 18 Months	Maximum Number of Children at Least 18 Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 11 Years of Age*	License Capacity
0	7	3	10
1	5	4	10
2	4	3	9
3	3	2	8
*Children five years of age and over may be substituted for younger children in the license capacity.			

- (2) Children at least 11 years of age but under 16 years of age who are unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.
- (f) Maximum capacity for group day care homes. Each applicant with a temporary permit and each licensee shall ensure that all of the requirements of this subsection are met.
- (1) The maximum number of children for which a group day care home may be licensed shall be the following:

TABLE II – LICENSE CAPACITY, ONE PROVIDER

Age of Children Enrolled	License Capacity
At Least 2 1/2 Years but Under 11 Years of Age	9
At Least 3 Years but Under 11 Years of Age	10
At Least 5 Years but Under 11 Years of Age	12

TABLE III – LICENSE CAPACITY, TWO PROVIDERS*

Maximum Number of Children Under 18 Months	Maximum Number of Children at Least 18 Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 11 Years of Age**	License Capacity*
1	8	3	12
2	7	3	12
3	6	3	12
4	4	2	10
*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.			
**Children five years of age and over may be substituted for younger children in the license capacity.			

TABLE IV – LICENSE CAPACITY, TWO PROVIDERS*

Maximum Number of Children Under 18 Months	Maximum Number of Children at Least 18 Months but Under 2 1/2 Years of Age	Maximum Number of Children at Least 2 1/2 Years but Under 11 Years of Age**	License Capacity*
0	5	7	12
*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.			
**Children five years of age and over may be substituted for younger children in the license capacity.			

- (2) Children at least 11 years of age but under 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.

- (g) Developmental levels. Any child who does not function according to age-appropriate expectations shall be counted in the age group that reflects the developmental age level of the child.
- (h) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 11 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for additional children permitted in subsection (j).
- (i) Emergency care. Emergency care may be provided if the additional children do not cause the license capacity to be exceeded.
- (j) Additional children on the premises. In addition to the number of children permitted under the terms of the temporary permit or the license and specified in subsections (e) and (f), other children may be permitted on the premises.
 - (1) Not more than two additional children 2 1/2 years of age or older who attend part-day preschool or part-day kindergarten may be present at any time between the hours of 11:00 a.m. and 1:00 p.m. for the noon meal on days that school is in session.
 - (2) Not more than two additional children at least five years of age but under 11 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. The additional children may be present as follows:
 - (A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and
 - (B) during the two consecutive weeks before the opening of the academic school year in August or September and following the end of the academic school year in May or June.
 - (3) Not more than two additional children 11 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:
 - (A) The additional children are not on the premises for the purpose of receiving child care in the facility.
 - (B) The additional children are visiting the applicant's or the licensee's own child or children.
 - (C) The additional children are supervised by a provider if they have access to the children in care.

- (k) Substitute. Each applicant with a temporary permit and each licensee shall arrange for a substitute to care for children in the event of a temporary absence or extended absence of the primary care provider.
- (l) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post any temporary permit or license conspicuously as required by K.S.A. 65-504, and amendments thereto. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.
- (m) Closure. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, any temporary permit or license granted to the applicant or licensee for that facility shall become void.

(Authorized by K.S.A. 2010 Supp. 65-508; implementing K.S.A. 2010 Supp. 65-504, K.S.A. 2010 Supp. 65-505, and K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012.)

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

- (a) Orientation.
 - (1) Each person shall, before applying for a license, complete an orientation program on the requirements for operating a facility, provided by the health department or the secretary's designee that serves the county in which the facility will be located.
 - (2) Each applicant, each applicant with a temporary permit, and each licensee shall provide orientation to each individual who will be caring for children about the policies and practices of the facility, including duties and responsibilities for the care and supervision of children. Each provider shall complete the orientation before the provider is given sole responsibility for the care and supervision of children. The orientation shall include the following:
 - (A) Licensing regulations;
 - (B) the policies and practices of the facility, including emergency procedures, behavior management, and discipline;
 - (C) the schedule of daily activities;
 - (D) care and supervision of children in care;

- (E) health and safety practices; and
 - (F) confidentiality.
- (b) Health and safety training. Each applicant, each applicant with a temporary permit, each licensee, and each provider shall complete health and safety training approved by the department.
- (1) Each applicant and each applicant with a temporary permit shall complete the training not later than 30 calendar days after submitting an application for a license.
 - (2) Each provider shall complete the training before the date of employment or not later than 30 calendar days after the date of employment.
 - (3) Each licensee whose license was issued before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation. Each provider who was employed in the facility before the effective date of this regulation shall complete the training within one calendar year after the effective date of this regulation.
 - (4) The health and safety training shall include the following:
 - (A) At least two clock-hours of training in recognizing the signs of child abuse or neglect, including prevention of abusive head trauma, and the reporting of suspected child abuse and neglect;
 - (B) at least two clock-hours of training in basic child development; and
 - (C) at least two clock-hours of training on safe sleep practices and sudden infant death syndrome if the individual will be caring for children under 12 months of age.
- (c) Pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) certifications. Each applicant, each applicant with a temporary permit, each licensee, and each provider shall obtain certification in pediatric first aid and pediatric CPR as specified in this subsection.
- (1) Each applicant and each applicant with a temporary permit shall obtain the certifications not later than 30 calendar days after submitting an application for a license.
 - (2) Each provider shall obtain the certifications before the date of employment or not later than 30 calendar days after the date of employment.
 - (3) Each licensee whose license was issued before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation. Each provider who was employed in the facility before the effective date of this regulation shall obtain the certifications within one calendar year after the effective date of this regulation.

- (4) Each individual required to obtain the certifications shall maintain current certifications.
- (d) Initial professional development requirements. In addition to the professional development requirements in subsections (a), (b), and (c), each applicant, each applicant with a temporary permit, and each primary care provider shall, not later than 30 calendar days following initial application for a license or employment, meet one of the following requirements:
 - (1) Have a child development associate credential;
 - (2) complete at least 15 hours of professional development training, which may include the training required in subsections (a), (b), and (c);
 - (3) have at least three months of previous employment in a facility or in a child care center, as defined in K.A.R. 28-4-420, that has been in continuous operation for three or more years; or
 - (4) meet the requirements for a program director of a child care center as specified in K.A.R. 28-4-429.
- (e) Annual professional development training requirements. In each licensure year, each primary care provider shall meet one of the following requirements:
 - (1) Complete five clock-hours of professional development training;
 - (2) maintain current accreditation by the national association for family child care; or
 - (3) hold a current child development associate credential.
- (f) Documentation. Documentation of all orientation, training, and certifications for each individual shall be kept in that individual's file in the facility.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012.)

K.A.R. 28-4-115. Facility.

- (a) Water supply and sewerage systems. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that public water and sewerage systems, where available, are used. If a nonpublic source for the water supply is used, the water shall be safe for drinking and shall be tested annually by a department-certified laboratory. If a well is used, the well shall be approved by the local authority for private well permitting, the department, or a licensed water well contractor. A copy of the test results and the approval shall be kept on file at the facility. Each private sewerage system shall be maintained in compliance with all applicable state and local laws.
- (b) Drinking water for children under 12 months of age. If children under 12 months of age are enrolled in a facility using water from a nonpublic source, including private well

water, commercially bottled drinking water shall be purchased and used until a laboratory test confirms that the nitrate content of the private well water is not more than 10 milligrams per liter (10 mg/l) as nitrogen.

- (c) General environmental requirements. Each facility shall have 25 square feet of available play space per child and shall be constructed, arranged, and maintained to provide for the health and safety of children in care. Each applicant, each applicant with a temporary permit, and each licensee shall ensure that the facility meets the following requirements:
- (1) Has walls that are in good condition;
 - (2) is skirted and anchored if a mobile home;
 - (3) has a 2A 10B:C fire extinguisher;
 - (4) has a working smoke detector on each level of the facility;
 - (5) is uncluttered, visibly clean, and free from any evidence of vermin infestation and any objects or materials that constitute a danger to children in care;
 - (6) has kitchen and outdoor trash and garbage in covered containers or in tied plastic bags;
 - (7) meets all of the following requirements for each heating appliance:
 - (A) Has a protective barrier for each freestanding heating appliance to protect from burns; and
 - (B) has each heating appliance using combustible fuel vented to the outside;
 - (8) has each electrical outlet covered or inaccessible to prevent easy access by a child when the outlet is not in use;
 - (9) has any power strip or extension cord positioned in a manner that prevents a tripping or shock hazard;
 - (10) has each stairway with more than two stairs railed;
 - (11) if any children under 2 1/2 years of age are in care, meets all of the following requirements:
 - (A) Has each stairway equipped with balusters not more than four inches apart or guarded to prevent a child's head or body from falling through;
 - (B) has each stairway guarded by a secured door or gated to prevent unsupervised access by the child, including a latching device that an adult can open readily in an emergency;
 - (C) does not have any accordion gate in use; and

- (D) does not have a pressure gate at the top of any stairway;
 - (12) has a readily available second means of escape from the first floor;
 - (13) has each lockable interior door designed to permit the door to be unlocked from either side in case of an emergency;
 - (14) is maintained at a temperature of not less than 65 degrees Fahrenheit and not more than 85 degrees Fahrenheit in the play area;
 - (15) does not have any window coverings with strings or cords accessible to children in care; and
 - (16) has at least one bathroom with at least one sink and one flush toilet. All fixtures shall be in working order at all times. An individual towel and washcloth or disposable products shall be provided for each child. Hand soap shall be readily accessible in each bathroom.
- (d) Fire safety. Each facility shall be approved for fire safety by a fire inspector.
- (e) Basements and other floors. A basement or a second floor used for child care in a facility shall be approved for fire safety by a fire inspector before use. A third floor shall not be used for child care.
- (f) Refrigerator. A refrigerator shall be available for the storage of perishable foods. Refrigerated medications shall be in a locked box.
- (g) Storage of hazardous items. The following hazardous items shall be safely stored:
- (1) All household cleaning supplies and all bodily care products bearing warning labels to keep out of reach of children or containing alcohol shall be in locked storage or stored out of reach of children under six years of age. Soap used for hand washing may be kept unlocked and placed on the back of the counter by a bathroom or kitchen sink.
 - (2) Dangerous chemicals, household supplies with warning labels to keep out of reach of children, and all medications shall be in locked storage or stored out of the reach of children under 10 years of age.
 - (3) Sharp instruments shall be stored in drawers or cabinets equipped with childproof devices to prevent access by children or stored out of reach of children.
 - (4) Tobacco products, ashtrays, lighters, and matches shall be stored out of reach of children.
- (h) Storage of weapons. No child in care shall have access to weapons. All weapons shall be stored in a locked room, closet, container, or cabinet. Ammunition shall be kept in locked storage separate from other weapons.

- (i) Outdoor play area. The designated area for outdoor play and large motor activities on the premises shall meet all of the following requirements:
 - (1) The outdoor play area shall be fenced if the play area adjoins that of another child care facility, as defined in K.S.A. 65-503 and amendments thereto, or if the area surrounding, or the conditions existing outside, the play area present hazards that could be dangerous to the safety of the children, which may include any of the following:
 - (A) A fish pond or a decorative pool containing water;
 - (B) railroad tracks; or
 - (C) a water hazard, including a ditch, a pond, a lake, and any standing water.
 - (2) Outdoor play equipment that is safely constructed and in good repair shall be available and placed in an area free of health, safety, and environmental hazards.
 - (3) The use of a trampoline shall be prohibited during the hours of operation of the facility. If a trampoline is on the premises, the trampoline shall be made inaccessible to children during the facility's hours of operation.
 - (4) Climbing equipment and swings shall be either anchored in the ground with metal straps or pins or set in cement, to prevent movement of the equipment and swings.
 - (5) All surfaces under and around climbing equipment and swings shall meet the following requirements:
 - (A) Impact-absorbent surfacing material shall be installed in each use zone under and around anchored equipment over four feet in height, including climbing equipment, slides, and swings.
 - (B) Impact-absorbent surfacing material shall consist of material intended for playground use, including shredded bark mulch, wood chips, fine sand, fine gravel, shredded rubber, unitary surfacing material, or synthetic impact material.
 - (C) Hard-surfacing materials, including asphalt, concrete, and hard-packed dirt, shall not be used in any use zone. This requirement shall apply regardless of the height of the climbing equipment, slides, and swings.
 - (D) Surfaces made of loose material shall be maintained by replacing, leveling, or raking the material.
 - (6) Swings shall not have wooden or metal seats.
 - (7) Teeter-totters and merry-go-rounds designed for school-age children shall not be used by children under five years of age.

- (j) Each facility licensed on and after March 1, 2012 shall have a designated area for outdoor play and large motor activities as part of the licensed premises.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Feb. 26, 1990; amended Feb. 3, 2012.)

K.A.R. 28-4-115a. Supervision.

- (a) Supervision plan.
 - (1) Each applicant, each applicant with a temporary permit, and each licensee shall develop a supervision plan for children in care that includes all age ranges of children for whom care will be provided. A copy of the plan shall be available for review by the parents or legal guardians of children in care and by the department. The plan shall include the following:
 - (A) A description of the rooms, levels, or areas of the facility including indoor and outdoor areas in which the child will participate in activities, have snacks or meals, nap, or sleep;
 - (B) the manner in which supervision will be provided; and
 - (C) any arrangements for the provision of evening or overnight care.
 - (2) Each applicant, each applicant with a temporary permit, and each licensee shall update the supervision plan when changes are made in any of the requirements of paragraph (a)(1).
 - (3) Each provider shall follow the supervision plan.
- (b) General supervision requirements. Each applicant with a temporary permit and each licensee shall ensure that supervision is provided as necessary to protect the health, safety, and well-being of each child in care.
 - (1) Each child in care shall be under the supervision of a provider who is responsible for the child's health, safety, and well-being.
 - (2) Each provider shall be aware at all times of the location of each child in that provider's care and the activities in which the child is engaged. Each provider shall perform the following:
 - (A) Interact with the child and attend to the child's needs;
 - (B) respond immediately if the child is crying or in distress in order to determine the cause and to provide comfort and assistance;

- (C) investigate immediately any change in the activity or noise level of the child; and
 - (D) respond immediately to any emergency that could impact the health, safety, and well-being of the child.
- (3) No provider shall engage in business, social, or personal activities that interfere with the care and supervision of children.
- (4) If used, electronic monitoring devices, including infant monitors, shall not replace any of the supervision requirements of this regulation.
- (c) Indoor supervision requirements. When any child is indoors, each provider shall ensure that all of the following requirements are met, in addition to the requirements of subsection (b):
- (1) For each child who is under 2 1/2 years of age and who is awake, the provider shall be within sight of and in proximity to the child, watching and overseeing the activities of the child. When the provider is attending to personal hygiene needs or engaging in other child care duties and is temporarily unable to remain within sight of the child, the provider shall meet all of the following conditions:
 - (A) The provider has first ensured the safety of each child.
 - (B) The provider is able to respond immediately to any child in distress.
 - (C) The provider remains within hearing distance of each child.
 - (2) For each child 2 1/2 years of age and older who is awake, the provider may permit the child to go unattended to another room within the facility to engage in activities if all of the following conditions are met:
 - (A) The provider determines, based on observations of the child's behavior and information from the parent or legal guardian, that the child can go unattended to another room within the facility.
 - (B) The door to each room remains open.
 - (C) The provider remains within hearing distance of the child.
 - (D) The provider visually checks on the child and responds as necessary to meet the needs of the child.
 - (3) Each applicant with a temporary permit and each licensee shall ensure that supervision is provided for each child who is napping or sleeping.
 - (A) Each child who is napping or sleeping shall be within sight or hearing distance of the provider and shall be visually checked on by the provider at least once every 15 minutes.

- (B) The provider shall meet all of the requirements of K.A.R. 28-4-116a for any child who is under 12 months of age and is napping or sleeping.
 - (C) When any child is napping or sleeping in a room separate from the provider, the door to that room shall remain open.
 - (D) When a child awakens and is ready to get up, the provider shall attend to the child's needs and assist the child in moving to another activity.
- (d) Outdoor supervision requirements. When any child is outdoors, each provider shall ensure that all of the following requirements are met, in addition to the requirements of subsection (b):
- (1) For each child under five years of age, the provider shall be outdoors at all times and remain within sight of and in proximity to each child, watching and directing the activities of the child.
 - (2) For each child five years of age and older, the provider may permit the child to go unattended to the facility's designated outdoor play area on the premises if all of the following conditions are met:
 - (A) The designated play area on the premises is enclosed with a fence.
 - (B) The provider determines that the area is free of any potential hazards to the health and safety of the child.
 - (C) The provider remains within hearing distance of the child.
 - (D) The provider visually checks on the child and responds as necessary to meet the needs of the child.
- (e) Evening care and overnight care. Each applicant with a temporary permit and each licensee who provide evening care or overnight care shall ensure that the following requirements are met:
- (1) All requirements of subsections (a) through (d) shall be met.
 - (2) When overnight care is provided in a day care home, at least one provider shall remain awake at all times.
 - (3) When overnight care is provided in a group day care home, a second provider shall remain awake at all times if the number of children who are awake exceeds the requirements of K.A.R. 28-4-114 (e), table I.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012.)

K.A.R. 28-4-116. Daily care of children.

- (a) Daily activities.
 - (1) Each applicant with a temporary permit and each licensee shall provide daily activities that promote healthy growth and development, take into consideration the cultural background and traditions that are familiar to the children, and incorporate both indoor and outdoor activities that are appropriate for the ages and developmental levels of the children in care.
 - (2) Each child shall be offered a choice of activities and the opportunity to participate. Age-appropriate toys, play equipment, books, and other learning materials shall be available in sufficient quantities to allow each child a choice of activities.
 - (3) The activities, supplies, and equipment shall be designed to promote the following:
 - (A) Large motor and small motor development, which may include running, climbing, jumping, grasping objects, drawing, buttoning, and tying;
 - (B) creative expression, which may include dramatic play, music, and art;
 - (C) math and science skills, which may include sorting, matching, counting, and measuring; and
 - (D) language development and literacy, which may include reading, singing, finger plays, writing, and stories.
 - (4) Each child shall be given the opportunity for at least one hour of physical activity daily, either outdoors as described in paragraph (a)(7) or indoors.
 - (5) Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met if the daily activities include any media viewing:
 - (A) Each program shall be age-appropriate and, if rated, shall have a rating appropriate for the ages and developmental levels of the children who view the program.
 - (B) No child shall be required to participate in media viewing. Each child not engaged in media viewing shall be offered a choice of at least one other activity for that time period.
 - (6) Toys and other items used by children shall meet the following requirements:
 - (A) Be clean, of safe construction, and in good repair;
 - (B) be washed and sanitized daily when used by children under 18 months of age; and

- (C) be washed and sanitized before being used by another child, if contaminated by saliva or other bodily fluids.
- (7) Unless prohibited by the child's medical condition or extreme weather conditions, each child in care shall be taken outdoors daily. Each child 12 months of age or older shall have the opportunity for at least one hour of outdoor play daily.
- (b) Self-help and personal care. Each provider shall ensure that each child is assisted as needed with hand washing, toileting, dressing, and other personal care.
 - (c) Hand washing. Hands shall be washed using soap and warm running water and dried with a paper towel or a single-use towel. When soap and running water are not readily available, an alcohol-based hand sanitizer may be used only by adults and, under adult supervision, by children two years of age and older.
- (1) Each provider shall wash that provider's hands as needed when hands are soiled and when each of the following occurs:
- (A) At the start of the hours of operation or when first arriving at the facility;
 - (B) returning from being outdoors;
 - (C) after toileting, diapering, assisting a child with toileting, or handling any bodily fluids;
 - (D) before preparing each snack and each meal and before and after eating each snack and each meal;
 - (E) before and after administering any medication; and
 - (F) after feeding or handling any pet.
- (2) Each child shall wash that child's hands or be assisted in washing that child's hands as needed when hands are soiled and when each of the following occurs:
- (A) First arriving at the facility;
 - (B) returning from being outdoors;
 - (C) after toileting;
 - (D) before and after eating each snack and each meal; and
 - (E) after feeding or handling any pet.

- (d) Smoking prohibited. No provider shall smoke while providing direct physical care to children. Smoking in any room, enclosed area, or other enclosed space on the premises shall be prohibited when children are in care pursuant to K.S.A. 65-530, and amendments thereto.
- (e) Nutrition and food service. Each applicant with a temporary permit and each licensee shall develop and implement menu plans for meals and snacks that contain a variety of healthful foods, including fresh fruits, fresh vegetables, whole grains, lean meats, and low-fat dairy products.
 - (1) If children under 18 months of age are in care, the following requirements shall be met:
 - (A) Each child shall be held when bottle-fed until the child can hold the child's own bottle.
 - (B) No child shall be allowed to sleep with a bottle in the mouth.
 - (C) Each bottle that contains prepared formula or breast milk shall be stored in the refrigerator with the nipple covered. The bottle shall be labeled with the child's name, the contents, and the date received and shall be used within 24 hours of the date on the label.
 - (D) If a child does not finish a bottle, the contents of the bottle shall be discarded.
 - (E) No formula or breast milk shall be heated in a microwave oven.
 - (F) Solid foods shall be offered when the provider and the parent or legal guardian of the child determine that the child is ready for solid foods. Opened containers of solid foods shall be labeled with the child's name, the contents, and the date opened. Containers shall be covered and stored in the refrigerator.
 - (2) Each applicant with a temporary permit and each licensee shall serve nutritious meals and snacks based on the amount of time a child is in care.
 - (A) Each child who is in care at least 2 1/2 hours but under four hours shall be served at least one snack.
 - (B) Each child who is in care at least four hours but under eight hours shall be served at least one snack and at least one meal.
 - (C) Each child who is in care at least eight hours but under 10 hours shall be served at least two snacks and one meal or at least one snack and two meals.
 - (D) Each child who is in care for 10 or more hours shall be served at least two meals and at least two snacks.

- (3) Each applicant with a temporary permit and each licensee shall include the following items in meals and snacks:
 - (A) Breakfast shall include the following:
 - (i) A fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
 - (ii) bread or grain product; and
 - (iii) milk.
 - (B) Noon and evening meals shall include one item from each of the following:
 - (i) Meat or a meat alternative;
 - (ii) two vegetables or two fruits, or one vegetable and one fruit;
 - (iii) bread or a grain product; and
 - (iv) milk.
 - (C) Midmorning and midafternoon snacks shall include at least two of the following:
 - (i) Milk;
 - (ii) fruit, vegetable, full-strength fruit juice, or full-strength vegetable juice;
 - (iii) meat or a meat alternative; or
 - (iv) bread or grain product.
 - (D) For snacks, juice shall not be served when milk is served as the only other item.
- (4) A sufficient quantity of food shall be prepared for each meal to allow each child to have a second portion of bread, milk, and either vegetables or fruits.
- (5) Drinking water shall be available to each child at all times when the child is in care.
- (6) Only pasteurized milk products shall be served.

- (7) Milk served to any child who is two years of age or older shall have a fat content of one percent or less, unless a medical reason is documented in writing by a licensed physician.
 - (8) If a fruit juice or a vegetable juice is served, the juice shall be pasteurized and full-strength.
 - (9) If any child has a food allergy or special dietary need, the provider and the parent or legal guardian of the child shall make arrangements for the provision of alternative foods or beverages.
 - (10) Meals and snacks shall be served to each child using individual tableware that is appropriate for the food or beverage being served. Food shall be served on tableware appropriate for that food and shall not be served directly on a bare surface, including a tabletop.
 - (11) Tableware shall be washed, rinsed, and air-dried or placed in a dishwasher after each meal.
 - (12) Sanitary methods of food handling and storage shall be followed.
 - (13) A washable or disposable individual cup, towel, and washcloth shall be provided for each child.
- (f) Recordkeeping. Each applicant with a temporary permit and each licensee shall ensure that a file is maintained for each child, including each child enrolled for emergency care. Each file shall include the following information:
- (1) The full name, home and business addresses, and telephone numbers of the child's parent or parents or legal guardian and the name, address, and telephone number of the individual to notify in case of emergency;
 - (2) the full name and telephone number of each individual authorized to pick up The child and to provide transportation to and from the facility;
 - (3) a medical record as required by K.A.R. 28-4-117 (a), except that each child enrolled for emergency care shall be exempt from K.A.R. 28-4-117 (a)(2); and
 - (4) written permission from the parent or legal guardian for emergency medical care and for the child to go off the premises as required by K.A.R. 28-4-124 and 28-4-127 (b)(1)(A).

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

K.A.R. 28-4-116a. Napping and sleeping.

- (a) Rest period. Each child shall have a daily, supervised rest period as needed. Each child who does not nap or sleep shall be given the opportunity for quiet play.
- (b) Safe sleep practices for children in care.
 - (1) Each applicant with a temporary permit and each licensee shall develop and implement safe sleep practices for children in care who are napping or sleeping.
 - (2) Each applicant with a temporary permit and each licensee shall ensure that the safe sleep practices are discussed with the parent or legal guardian of each child before the first day of care.
 - (3) Each provider shall follow the safe sleep practices of the facility.
 - (4) Each child who is 12 months of age or older shall nap or sleep on a bed, a cot, the lower bunk of a bunk bed, or a pad over a carpet or area rug on the floor.
 - (5) Each applicant with a temporary permit and each licensee shall ensure that all of the following requirements are met for each child in care who is under 12 months of age.
 - (A) The child shall nap or sleep in a crib or a playpen. Stacking cribs or bassinets shall not be used. Cribs with water-bed mattresses shall not be used.
 - (B) If the child falls asleep on a surface other than a crib or playpen, the child shall be moved to a crib or playpen.
 - (C) The child shall not nap or sleep in the same crib or playpen as that occupied by another child at the same time.
 - (D) The child shall be placed on the child's back to nap or sleep.
 - (E) When the child is able to turn over independently, the child shall be placed on the child's back but then shall be allowed to remain in a position preferred by the child. Wedges or infant positioners shall not be used.
 - (F) The child shall sleep in a crib or a playpen that is free of any soft items, which may include pillows, quilts, heavy blankets, bumpers, and toys.
 - (G) If a lightweight blanket is used, the blanket shall be tucked along the sides and foot of the mattress. The blanket shall not be placed higher than the child's chest. The head of the child shall remain uncovered. The child may nap or sleep in sleep clothing, including sleepers and sleep sacks, in place of a lightweight blanket.

- (c) Napping or sleeping surfaces. Each applicant with a temporary permit and each licensee shall ensure that the following requirements are met for all napping or sleeping surfaces:
- (1) Clean, individual bedding shall be provided for each child.
 - (2) Each surface used for napping or sleeping shall be kept clean, of safe construction, and maintained in good repair.
 - (3) Each crib and each playpen shall be used only for children who meet the manufacturer's recommendations for use, including any age, height, or weight limitations. The manufacturer's instructions for use, including any recommendations for use, shall be kept on file at the facility.
 - (4) Each crib and each playpen shall have a firm, tightfitting mattress and a fitted sheet. The mattress shall be set at its lowest point when any child using the crib or playpen becomes able either to sit up or to pull up to a standing position inside the crib or playpen, whichever occurs first, to ensure that the child cannot climb out of the crib or playpen.
 - (5) If a crib or playpen is slatted, the slats shall be spaced not more than 2 3/8 inches apart.
 - (6) On and after December 28, 2012, each applicant, each applicant with a temporary permit, and each licensee shall ensure that no crib purchased before June 28, 2011 is in use in the facility.
 - (7) Each pad used for napping or sleeping shall be at least 1/2 inch thick, washable or enclosed in a washable cover, and long enough so that the child's head and feet rest on the pad. Clean, individual bedding, including a bottom and a top cover, shall be provided for each child.
 - (8) Cribs, cots, playpens, and pads, when in use for napping or sleeping, shall be separated by at least 24 inches in all directions except when bordering on the wall.
 - (9) When not in use, cribs, cots, playpens, pads, and bedding shall be stored in a clean and sanitary manner.
- (d) Consumer warning or recall. Each applicant with a temporary permit and each licensee shall make any necessary changes to follow the recommendations of any consumer warning or recall of a crib or a playpen as soon as the warning or recall is known.
- (e) Transition from crib or playpen. The determination of when a child who is 12 months of age or older is ready to transition from a crib or a playpen to another napping or sleeping surface shall be made by the parent or guardian of the child and by either the applicant with a temporary permit or the licensee. The requirements of paragraphs (c)(3) and (4) for a child using a crib or playpen shall apply.

(Authorized by and implementing K.S.A. 2010 Supp. 65-508; effective Feb. 3, 2012.)

K.A.R. 28-4-117. Health care requirements for children under 16 years of age.

- (a)
 - (1) A completed medical record on a form supplied by the department shall be on file for each child under 11 years of age enrolled for care and for each child under 16 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 they 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.)

K.A.R. 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.)

K.A.R. 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.)