

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on February 1, 2010, in Room 546-S of the Capitol. Senator Barnett introduced new staff member, Amanda Nguyen, who is an intern in the Kansas Legislative Research Department.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Rena Jefferies, Office of the Revisor of Statutes
Iraida Orr, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Amanda Nguyen, Intern, Kansas Legislative Research Department
Jan Lunn, Committee Assistant

Conferees appearing before the Committee:

Senator Julia Lynn
Christine Ross-Baze, Director, Child Care Licensing and Registration Program, Kansas Department of Health and Environment (KDHE)
Suzanne Wickle, Director of Health Policy, Kansas Action for Children
Steve and Alecia Patrick, private citizens
Bryan and Kim Engelman, private citizens
Reva Wywadis, ERC Resource and Referral

Others attending:

See attached list.

Sheri Smiley, Attorney, Secretary of State Office, was present to request bill introduction of legislation that would amend current law by creating requirements for suppliers who sell healthcare discount cards and suppliers who market, promote, advertise, or otherwise distribute the cards.

Senator Kelsey moved introduction of the bill as presented by Ms. Smiley; Senator Huntington seconded the motion. The motion passed.

Michael Byington, Director, Kansas Association for the Blind and Visually Impaired, introduced legislation establishing the Kansas Commission for the Blind and Visually Impaired which provides for the exact parity that the Kansas Commission for the Deaf and Hard of Hearing has in representing that population.

Upon a motion by Senator Schmidt and a second by Senator Colyer to move introduction, the motion passed.

Nobuko Folmsbee briefed committee members of **SB 447 - Child care; supervision of children and licensing and inspection of child care facilities** explaining the bill requires all children in child care facilities be competently supervised at all times. The definition of competent supervision is contained in the legislation. The bill changes the term of family day care homes to family child care homes and requires them to be inspected by the Secretary, Kansas Department of Health and Environment. The family child care home is defined and includes licensure procedures.

SB 447 - Child care; supervision of children and licensing and inspection of child care facilities

Senator Barnett opened the hearing on this bill by introducing Senator Julia Lynn, who spoke in favor of **SB 447**. She explained that she sought introduction of this legislation resulting from child deaths in Kansas when the child was in a day care or child care facility (Attachment 1).

Christine Ross-Baze, KDHE, testified that while her agency basic premises contained in the bill, she indicated legislation related to supervision would be better served in regulations rather than in statute. Ms. Ross-Baze's detailed testimony is attached to these minutes and describes the impact should this legislation be passed (Attachment 2).

CONTINUATION SHEET

Minutes of the Senate Public Health and Welfare Committee at 1:30 p.m. on February 1, 2010, in Room 546-S of the Capitol.

Suzanne Wikle spoke in support of **SB 447**. She provided statistics reporting that Kansas ranked 47th in the nation for child care oversight and regulations. She indicated that currently, "registered" facilities are never inspected and, according to KDHE, registered facilities have a higher rate of sleep-related deaths (Attachment 3).

Steve and Alecia Patrick spoke about the death of their daughter, Ava, in 2009 in a daycare facility they believed to be licensed. Mr. And Mrs. Patrick indicated that their daughter's death was preventable; by passing **SB 447**, Kansas will start to protect children cared for in daycare or child care facilities (Attachment 4).

Bryan and Kim Engelman, testified that **SB 447** represents a bill they have worked towards for over 5 years when their daughter, Lexie, died due to injuries sustained in a daycare home. They described the events surrounding Lexie's death and requested favorable passage of this legislation (Attachment 5).

Reva Wywadis spoke about the importance of assuring children are cared for in a healthy, safe, and nurturing environment. While Ms. Wywadis supports the licensing of all child care facilities, she encouraged members to request KDHE develop appropriate supervision regulations to meet expectations and to provide appropriate guidance to child care providers rather than outlining this in statute (Attachment 6).

Senator Haley asked how parents know if the provider is registered or licensed. Ms. Ross-Baze indicated that child care providers are instructed to conspicuously post their licenses. Registered providers are provided a form which a parent must sign indicating they have received information related to the provider's registration. Provider complaints can be made to KDHE through e-mail, U.S. mail, telephone calls, and through local health departments. Senator Schmidt referenced testimony relating to repeated violations and asked how KDHE imposes fines and what process is implemented to ensure repeated violators are stopped. Ms. Ross-Baze indicated that KDHE has authority to assess fines up to \$500; there is currently proposed legislation to strengthen that authority. Senator Kelly requested that additional time be allocated to further discuss the implications of **SB 447**.

Chairman Barnett indicated that further discussion on **SB 447** would be scheduled at a later date; he called attention to written testimony provided by Eldonna Chesnut, RN, BSN, MSN, and Amy Warkentin, BA, Johnson County Health Department (Attachment 7). Senator Barnett closed the hearing on **SB 447**.

The meeting was adjourned at 2:34 p.m.

PUBLIC HEALTH AND WELFARE
GUEST LIST

Monday, February 1, 2010

Julia Mowers	KS BHA
Cornelia Campbell	Washburn Univ. (MSN)
Bob Williams	KS Assoc Osteopathic Medicine
Travis Love	Little Govt Relations
Michael Byington	KABVI
Ann Byington	KABVI
Kim Engelman	Parents
Byron Engelman	Parents.
Alicia Patrick	parent
Steve Patrick	parent
Shannon Cotsovalis	Kansas Action for Children
Suzanne Winkle	" "
Susan Kay	KDHE
Reva Wywadis	ERC Resource & Referral
Chris Ross-Baze	KDHE
Mary Murphy	KDHE
Joseph F. Koell	KDHE
Tom Kuh	KASB
Amy J. Biel	Kansas Health Institute
Nelsey Nupik	KMASW
Michelle Peterson	Capital Strategies
Andy Hurler	Lexip
Hannah Sanders	KHPA

STATE OF KANSAS



SENATOR JULIA LYNN

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COMMITTEE ASSIGNMENTS

SESSION:

COMMERCE - VICE CHAIR
ASSESSMENT & TAXATION - CO-VICE CHAIR
JUDICIARY

INTERIM:

JOINT COMMITTEE: ARTS AND CULTURAL RESOURCES
CHILDRENS ISSUES
ECONOMIC DEVELOPMENT

Good afternoon Chairman Barnett and committee members. Thank you for the opportunity to speak in support of SB 447.

I became interested in improving the standards for child care in Kansas through my service as Chair of the Joint Committee on Children's Issues. Like most people in Kansas, I was surprised to learn that our state ranks so poorly when it comes to child care oversight.

During the interim session I was contacted by a group of local child care advocates who have lost their children in registered day care homes. I was shocked and horrified to hear their stories. You will be hearing from them today.

I asked the committee for introduction of this bill because the lack of child care oversight has caused too many child deaths in Kansas and the state needs to take an important step toward improving the safety of child care homes – providing inspections for every child care facility. A constituent of mine, Alecia Patrick, will speak in more detail about how the absence of inspections cause tragedy, but I want the committee to know that this is a problem we can solve, even in this tough budget year.

Our constituents assume that because a child care provider has officially registered with the state, that the environment their child will be in is a protected environment and that the state has taken measures to ensure they will be safe. Unfortunately, upon learning more about this through the tragic losses of innocent children, this simply isn't the case. Families are unaware of the lack of oversight of child care facilities registered in Kansas.

The good news is that we can use the existing system to inspect every child care facility in Kansas. With the passage of SB 447, families can rest assured that their children are being cared for in a safe environment. As our state continues to weather a tough economy, it is critical that we keep Kansans in the workforce, and that requires safe and affordable child care options for working families.

I will be happy to stand for questions.

Public Health and Welfare

Date:

2/01/10

Attachment:

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DEPARTMENT OF HEALTH
AND ENVIRONMENT

Mark Parkinson, Governor
Roderick L. Bremby, Secretary

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Testimony on Senate Bill 447

Presented To
Senate Public Health and Welfare Committee

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

February 1, 2010

Chairman Barnett and members of the committee, I am Christine Ross-Baze, Director of the Child Care Licensing and Registration Program for the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today in support of Senate Bill 447.

SB 447 has two main provisions that I will address separately in my testimony.

New Section 1 regarding supervision

Adequate supervision and attentive child care practices are critical for children's safety. The Department supports more specificity in the expectations for supervision and appropriate child care practices but recommends the definition and specificity be detailed in regulation.

In order for adequate supervision to be provided, not only does the child care provider need to be watching and visually checking on children, but the provider also needs to have knowledge and an understanding of children, an awareness of their own skills and limitations, the ability to anticipate and respond to situations to meet children's needs and to keep them safe. Adequate supervision includes interacting with the child, immediately responding to a child who is crying or in distress and making sure children are safe before leaving the room to go to the restroom or to interact with parents and others. Regulations can address a number of these additional components and the regulatory process includes broad based input from the regulated community and the public. If regulatory requirements need to be amended, the Department could do so with public input and without statutory amendments.

BUREAU OF CHILD CARE AND HEALTH FACILITIES
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 200, TOPEKA, KS 66612-1368

Voice 785-296-1270 Fax 7 Public Health and Welfare

Date:

2/01/10

Attachment:

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In addition, the Department sees some technical difficulties in administering the provisions of New Section 1.

- As written New Section 1 applies to some categories of child care but not others. The different categories of child care are primarily defined in regulation, not in statute. This creates difficulty in applying New Section 1 to the appropriate category of care. For example the bill excludes “day care facility” as referenced in KSA 65-503(d)(2) from this provision but licensed day care homes, group day care homes and child care centers are types of day care facilities. New Section 1 does apply to 65-503(d)(1), but this statute does not reference a type of child care facility but rather is the overarching authority to license various child care programs. New Section 1 appears to apply to family foster homes and clearly applies to family child care homes.
- If New Section 1 pertains to child care centers then the current supervision requirements would be lessened, as teachers can not currently leave children unattended. The bill would permit the teacher to leave the children unattended to go to the restroom, leave children in another room for napping or to visit with parents and other officials.
- If New Section 1 pertains to licensed day care homes and group day care homes, a school age child would not be permitted to go outside or into an adjacent room for activities while the provider is caring for the infants and toddlers in another room. Meal preparation is not one of the exceptions listed, but providers in day care homes do need to prepare and check on meals and snacks. Due to the nature of family child care and the age span of children attending family child care, it would be very difficult to keep all the children within line of sight even with the exceptions provided by the bill.
- If New Section 1 pertains to family foster homes, which it appears to do, it would be difficult for foster parents to meet all of these requirements.
- The exceptions, especially the five minute time frame, are problematic in that it may be more difficult for the Department to revoke a license if the provider is within the five minutes but does not respond to a child in distress and a serious injury or death occurs. The BEST Team looked at this issue and came to the conclusion five minutes is too long a time period to leave infant, toddler and preschool age children unattended.

If there is legislative interest in strengthening supervision in statute, then the Department requests that the Committee consider amending KSA 65-508(c) to direct the Department to adopt rules and regulations appropriate to the child care setting, that require a written supervision plan, sets forth specific expectations and guidance for supervision and child care practices necessary to keep children safe, takes into consideration the ages of the children, line of sight and hearing distance requirements, frequency of checking on children and for interacting and responding to children’s needs. This would strengthen the Department’s authority for adopting requirements for all categories of child care facilities but would provide the flexibility to take in account the differences in child care settings. If there is interest in exploring this option, Department staff is available to assist the Committee and the Revisor’s Office.

Regarding registered family day care homes

The Department supports the elimination of the registered family day care home category and supports the creation of a new category for family child care homes under the licensing statutes.

The definition for family child care home proposes a statutory maximum of 6 children, infancy to 16 years of age with not more than two children less than 24 months of age. The current registration statutes permit a registered family day care home to care for six total children, infancy to 16 years of age with a maximum of three children under 18 months of age.

Two children under 24 months of age is the maximum recommended by the BEST Team to increase child safety and align the maximum number of young children more closely with the life safety code. The Department does not believe this will reduce availability for infant care as many day care home providers self limit the number of very young children to one or two in order to adequately supervise the children and meet the needs of the infants and the needs of active toddlers and preschoolers.

Licensing family child care homes will enable the Department to conduct initial inspections and if the Secretary determines it is necessary, to conduct additional inspections to assess children's health, safety and well-being. Inspections provide added consumer protection for children and families by providing an opportunity for guidance and technical assistance in addition to assessing compliance.

The provision to extend the inspection schedule from 12 months to 15 months for all other child care facilities will "free up" approximately 1200 inspections, permitting the estimated 850 additional new inspections to be conducted without an increased cost. The 15 month schedule also provides more flexibility in conducting the inspections and less predictability.

The Department introduced HB 2223 last year to address concerns about the lack of oversight and concerns about the care and safety of children in registered family day care homes. This session the Department is proposing to amend HB 2223 with the same provisions regarding registered family day care homes as found in SB 447.

The Department would like the Committee to consider amending SB 447 to permit a delayed effective date of July 2011 to enable the Department to educate the child care community on the new provisions and to transition existing registered family day care homes to becoming licensed. There are approximately 2569 family day care homes currently registered by the Department.

In addition, the Department noted two technical changes that need to be addressed to delete references to registration on page 12 lines 24 and 29 and page 13 lines 2 and 3.

Senate Bill 447 has the potential of having a positive and substantial impact on the safety of children and the quality of care they receive. The Department's recommendations for changes regarding supervision, technical changes and a delayed effective date are meant to support and strengthen the bill, ensure clear statutory direction to the Department for implementing the new provisions and to enable a smooth implementation.

Thank you for the opportunity to speak in support of SB 447. I have attached some additional documents that may be helpful in your discussions regarding registered family day care homes. I will now stand for any questions you may have.

Attachments:

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

Kansas Child Death and Serious Injury Data in Day Care Homes

Examples of Registered Day Care Home Concerns from CCLR files



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

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

policy brief

Background

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

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

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

Policy Recommendations

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

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

How Is Quality Child Care Defined and Measured?

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

Licensure is Associated with Higher Quality Care

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

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

Licensed Providers Are More Likely to Pursue Training and Professional Development

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

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

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

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

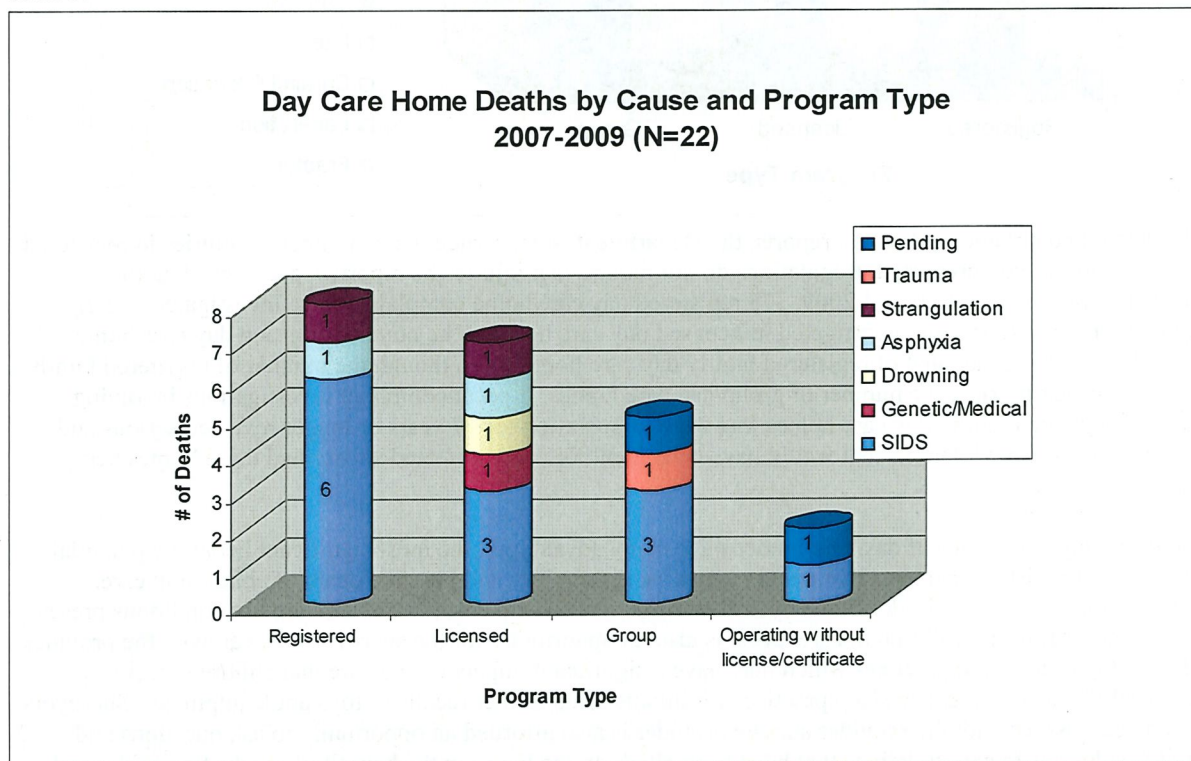
As of January 2010 there are a total of 6,710 registered or licensed day care homes in Kansas: 2569 registered family day care homes, 3035 licensed day care homes, and 1106 group day care homes.

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

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

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

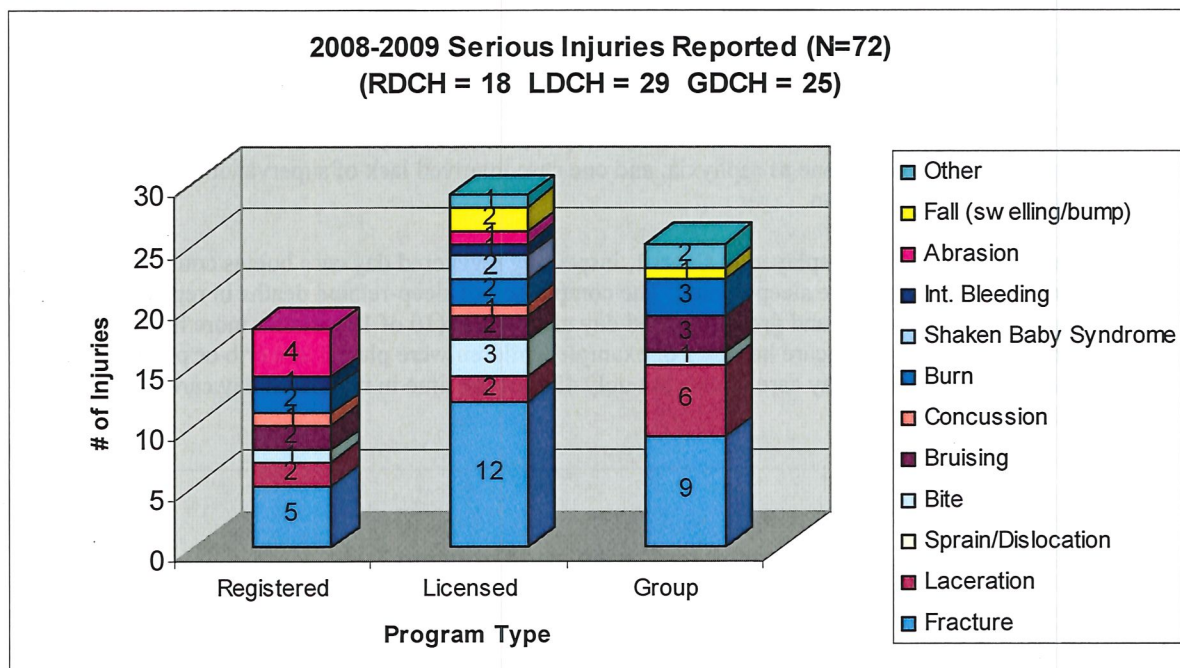
Chart 1.



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

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

Chart 2.



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

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



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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

1. Registered Family Day Care Home Since 1992

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

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

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

2. Registered Family Day Care Home Since 2007

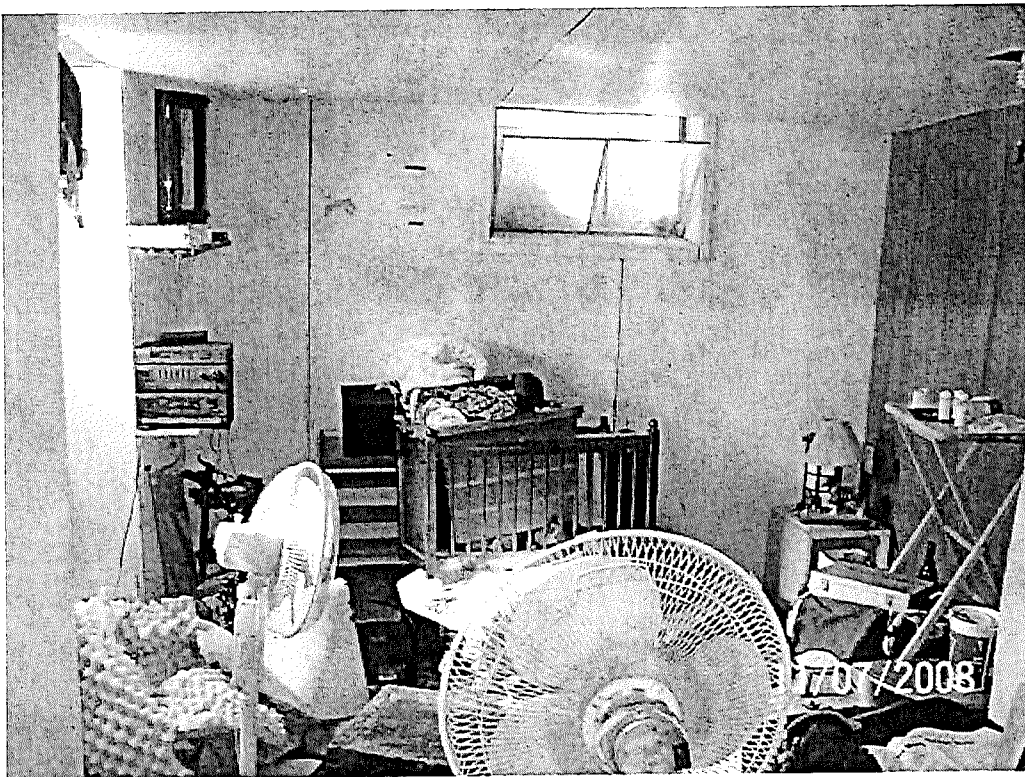
The health department received a complaint after police were called to the home for domestic battery. Upon arrival, police discovered extreme environmental and unsafe conditions of the home and a methamphetamine manufacturing lab in the basement where the provider's son was residing with his two children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

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

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

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







3. Registered Family Day Care Home since 1991.

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

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

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

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

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

February 1, 2010

To: Public Health and Welfare Committee
From: Suzanne Wikle, Director of Health Policy

Good afternoon Chairman Barnett and members of the committee. It is my pleasure to appear before you today in support of Senate Bill 447.

Kansas among the worst states

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

1 in 3 child care facilities are never inspected

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

Just as every restaurant, beauty salon and gas pump in this state is inspected, so should every child care facility. We already have a system in place for inspecting child care facilities in Kansas; SB 447 uses the existing system to ensure the safety of thousands more Kansas children and give their families peace of mind that their children are being cared for in a safe environment during the work day.

Budget Neutral Proposal

SB 447 takes the important first step of inspecting all child care facilities. KDHE has proposed a budget neutral way to complete initial inspections for Registered Homes. This proposal uses existing resources by shifting now annual inspections of licensed facilities to once every 15 months, providing enough resources to complete initial inspections of new Registered homes.

I respectfully ask for your support of SB 447.



Shaping policy that puts children first

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Testimony from Steve and Alecia Patrick, proponent for SB447
February 1st, 2010

We are Steve and Alecia Patrick of Overland Park, KS. Senate Bill SB447 is a bill that we support and have been working on for almost a year.

On April 13th 2009 our lives were completely destroyed with the death of our only child, Ava. Ava was attending her first day at a new daycare and we were lead to believe that this particular daycare was a decent and licensed daycare. Ava loved babies and in this particular daycare there was a hand built fence in the basement that separated the babies from the toddlers. We have pieced that morning together and determined that Ava pulled a chair over to the fence to see the babies and lost her footing, falling on top of the fence. Our beautiful and only daughter died as a result of strangulation. After her death we learned many things about this particular daycare that shocked and appalled us. We trust that if Senate Bill SB447 was in place before our daughter's death, she would be alive today.

We believe the following:

- Children need to be within sight AND hearing distance of their childcare provider. If our daycare provider would have been near Ava, she would be alive today. It takes a child 6-8 minutes to die due to strangulation and the way Ava was positioned on the fence allowed her the freedom of her voice.
- All Kansas daycares need to be licensed and receive at least the required yearly inspection. If our daycare provider would have been licensed and inspected yearly, she would have been shut down for lying on her reapplication for a registered status. On her application for 2008, she stated that she did have a basement but it would not be used for the daycare. The basement is where she housed 95% of the daycare. She additionally would have been shut down for being over-the-limit on children. Right now a registered daycare is allowed to watch no more than 6 children. On this particular day, she had 14 in her care.
- Current "discipline" procedures for daycares that violate the rules and regulations dictated by KDHE need to be strengthened. Our provider had 225 pages of complaints and violations over her 15 years in business and was still allowed to keep her registered status and run her daycare. She proceeded to operate her daycare unlawfully after our daughter's death and only received small fines for this direct violation.

Our daughter's death was completely unnecessary and highly preventable, as are many child deaths that occur in Kansas daycares. By putting SB447 into law, we will not only strengthen the daycare guidelines for the State of Kansas, but we will start protecting our children instead of the daycare providers.

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

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Testimony from Bryan & Kim Engelman Regarding SB 447

February 1st, 2010

We are Bryan and Kim Engelman from Overland Park, Kansas. Senate bill 447 represents a bill that we have envisioned and worked toward for over 5 years.

In 2004, our lives were completely ripped apart when our first-born daughter, Lexie, died at the tender age of 13 months due to injuries she sustained in a Johnson County day care home. We are two educated individuals (Bryan has a Master's degree and is an organizational development consultant at Sprint; Kim has a Ph.D. and is an Assistant Professor in Preventive Medicine & Public Health at KU Medical Center) and for several months we researched quality day care options for our daughter. August 4th, 2004 was Lexie's first day in day care. On Lexie's 3rd morning there, the child care provider went up to the next floor of the home but claimed that she was within earshot of the three children in her care, all of whom were 13 months old or less. Lexie could walk and she attempted to reach the provider but was barred by a baby gate placed at the bottom of the stairs. Distraught and perplexed, Lexie continued her efforts to reach the child care provider. Upon her return to the child care area, the daycare provider reportedly found Lexie pinned between a support beam for the home and a child play pen situated against the stairwell wall— Lexie was unconscious and not breathing at the time she was first discovered. She was rushed to a pediatric intensive care unit. Lexie died the evening of August 10th and walking out of the hospital without our daughter with us still remains one of the most traumatic days of our lives.

Since this terrible tragedy we have been devoted to making some positive changes in the child care arena. Unfortunately, we have found that our journey is shared by numerous parents in Kansas. In 2009, 10 children died in Kansas day care facilities. Five children died in 2008 and 12 died in 2007. This means that just in the past several years, over 20 Kansas families have suffered the unnatural loss of their young child. Just how many children need to die needlessly before changes are made?

We believe that:

- Children need to be within sight AND hearing distance of their childcare provider. The requirements for the **supervision** of children in child care need to be more stringent than the 'hearing distance' that is currently required. If line of sight supervision was required, our daughter Lexie, and many other Kansas children still would be alive and well today.
- All Kansas child care facilities need AT LEAST an initial **inspection**. Currently in Kansas, registered day care homes do not get inspected unless a complaint is filed. Suffice it to say that anyone can register with the state, put up a home day care sign and care for children without anyone stepping foot into the premises to ensure the safety of the environment for children. This simply is preposterous!
- Current **sanctions** for child care providers whose inept 'care' leading to the serious injury or death of a child are also simply unacceptable. It should not be status quo for a provider to receive wrist slaps in the form of menial fines for severe lapses in judgment and non-adherence to state child care regulations – however this is the case in Kansas today.

Kansas ranks 47th in child care quality and much change is needed to advance our state's ranking. Many of the tragic child care deaths that have occurred in Kansas over the past several years could have been prevented. If enacted into law, SB 447 will have an immensely positive impact on the health and safety of our children in child care facilities and close the gap between Kansas and the highest performing counterpart states.

Kim & Bryan Engelman – 913.269.7889 or 913.269.7895

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RESOURCE & REFERRAL

February 1, 2010

To members of the Senate Public Health and Welfare Committee,

My name is Reva Wywadis and I am here today to testify in support of Senate Bill 447. This bill would take a very positive step by eliminating the current category of family day care homes and creating a new category of licensed care called family child care homes, which would all be licensed and inspected. I fully support this move and believe it to be a significant step towards increasing protections to children.

I am currently the executive director of ERC Resource & Referral, a licensed child care resource and referral agency serving child care programs in nine counties in northeast Kansas (Shawnee, Douglas, Jackson, Jefferson, Nemaha, Brown Doniphan, Franklin and Osage). Additionally, ERC serves as one of three call centers in Kansas, serving 46 counties in the 785 area code region, fielding calls from families that need child care and helping parents locate and chose child care by providing information and referrals. We make referrals to all regulated programs, and don't recommend one program over another--- we simply provide lots of consumer education to the family in an attempt to help them make a wise child care choice that will meet the unique needs of their family. Unfortunately, there is a huge "disconnect" between what parents think about child care and the reality. A recent study done by the National Association of Child Care Resource and Referral Agencies (NACCRRRA) entitled "Parents Perceptions of Child Care in the United States" showed that 81% of parents believe that all child care programs were licensed, and 76% believe all programs received regular inspections. Parents also overwhelming believe that having their child in a regulated program means that their child is safe and in a caring and nurturing environment. When parents call for a referral list, we stress the importance of asking lots of questions, checking references, visiting the child care program unannounced, learning about the caregiver's education and experience, and checking the compliance history of the provider. However, we know that for many parents choosing child care can be a challenge.

As a member of the Kansas Child Care BEST team, I know that this diverse group of individuals with early childhood expertise from across our state has spent significant time reviewing best practice standards, regulations from other states, and Kansas' child death data. In response, the team has developed a comprehensive strategy to reduce the risk of serious injury and death in children in child care settings. The BEST team recommendations include requiring the inspection of all child care facilities, drafting regulations that provide more specific guidelines and expectations for supervision and appropriate child care practices in child care programs, and the requirement of core health and safety training which includes safe sleep practices for



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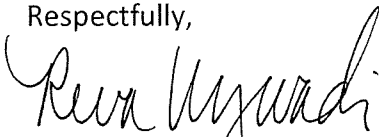
infants. Following these recommendations, late last year the “A B C’s of Safe Sleep and Play” was developed, a training session intended to better inform child care providers and parents about safe sleep practices and the need to provide supervision for children at all times. In January, a cadre of staff from the resource and referral network across the state attended a “Train the Trainer” session and are now prepared to begin outreach efforts by sharing this information with child care providers and parents through free training sessions or during coaching visits, raising their awareness of safe sleep practices and the need for appropriate and diligent supervision of children.

The bill also outlines some very specific guidelines for supervision of children. Appropriate supervision is a critical element to high quality child care. That said, I have concerns about the language in the bill. Prior to joining the staff at ERC, I operated a nationally accredited, licensed family child care facility here in Topeka for 12 years, and continue to serve as an accreditation Observer and Observer Trainer for the National Association of Family Child Care. My experience in the field of family child care gives me unique insight into the challenge of crafting a “one size fits all” model for defining supervision. The physical layout of every home is different, and the number and ages of children enrolled in the program can affect what “appropriate” supervision looks like. The wording of this bill could bring some unintended consequences, and could make it nearly impossible in some cases for providers to maintain compliance.

Nothing is more important than assuring that children are cared for in a healthy, safe, and nurturing environment. I encourage you to request that KDHE develop appropriate regulation that meets the needed expectations and gives appropriate guidance to the child care provider rather than attempt to outline this in statute. Doing so would allow the supervision expectations for each type of child care setting to be addressed and outlined appropriately for the setting and ages of children in care.

I applaud you for your efforts to provide better protections for young children in child care settings. Thank you for your time and consideration.

Respectfully,



Reva Wywadi, Executive Director
ERC Resource & Referral

Testimony Regarding SB447

Presented to Committee on Public Health and Welfare

Prepared by

Eldonna Chesnut, RN, BSN, MSN

Kansas Public Health Association President

Johnson County Health Department Division Director of Adult and Childcare Facilities

And

Amy Warkentin, BA, MPA (candidate)

KPHA Member

Johnson County Health Department Child Care Facility Surveyor

The need to inspect all childcare facilities in Kansas is long overdue. For many years there has been the need to eliminate the category called Registered Daycare Home. The main reason this category should go away is that this category of facility does NOT receive ANY inspection by childcare licensing staff. Currently the only time childcare surveyors have right of entry to a registered home is for a compliant visit. Most of the time these visits are long and violations are many. Many serious injuries/deaths of children occur in RDCH's that possibly could have been prevented if inspection of the home by childcare licensing staff had occurred.

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

As in any county Johnson County has both good and bad Registered as well as good and bad licensed homes. Also like other counties, we often see licensed providers who

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have been in frequent enforcement action switch to the registered category to eliminate the surveyors coming into their home on at least an annual basis. Currently there is no legal way to stop this from happening. It is not in the best interest of children to be in this type of out of home care.

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

Without a doubt all facilities should be inspected – the problem is where the money comes from. KDHE has offered a possible solution that will not increase the need for more surveyors and money but should allow for the inspections on all daycare homes - if you will please pass this legislation. Please note this is a COMPROMISE that childcare surveyors and other licensing staff are willing to make just to get all facilities inspected. Theoretically, extending the time frame from 12 months to 15 months for all licensing inspections to be completed, will allow inspections of all new registered daycare homes without financial impact. The change in K.S.A. 65-512 would allow the surveyors the flexibility to continue to do the facilities that have enforcement issues on a 12 month basis, inspect all new family childcare homes, and complete the inspection of remaining licensed facilities with a good compliance record within the 15 month timeframe. This change would also pave the way for annual inspections on all daycare homes when the economy and/or situation allows. Ideally, all childcare facilities should be inspected on an annual basis. In Johnson County this would mean an additional 400+ inspections/year. Therefore, the compromise would be to inspect all Family childcare homes once – which is a great improvement from where we are at presently.

Supervision is an essential part of providing care for children in out-of-home care. We would like to see increased statutory authority given to KDHE regarding supervision in daycare homes. However, we believe KDHE should also be allowed to define exactly what that means. Criminal statutes are kept broad in order to allow law enforcement/district attorney's to charge offenders accordingly but still staying within the statutory guidelines. In comparison, KDHE Childcare licensing should not be held to a strict timeframe regarding supervision in order to substantiate or unsubstantiate a finding of this nature.