

# **PERFORMANCE AUDIT REPORT**

**Reviewing the Department of Health and  
Environment's Regulation of Child Care  
Facilities and Family Day Care Homes**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
November 1997**

# ***Legislative Post Audit Committee***

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## ***Legislative Division of Post Audit***

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### **LEGISLATIVE DIVISION OF POST AUDIT**

800 SW Jackson  
Suite 1200  
Topeka, Kansas 66612-2212  
Telephone (785) 296-3792  
FAX (785) 296-4482  
E-mail: LPA@mail.ksleg.state.ks.us

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LEGISLATURE OF KANSAS  
**LEGISLATIVE DIVISION OF POST AUDIT**

MERCANTILE BANK TOWER  
800 SOUTHWEST JACKSON STREET, SUITE 1200  
TOPEKA, KANSAS 66612-2212  
TELEPHONE (913) 296-3792  
FAX (913) 296-4482  
E-MAIL: LPA@postaudit.ksleg.state.ks.us

November 10, 1997


To: Members, Legislative Post Audit Committee

Representative Eugene Shore, Chair  
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This report contains the findings, conclusions, and recommendations from our completed performance audit, *Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes*.

This report includes several recommendations for improving the regulation of child care homes and facilities in Kansas. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

  
Barbara J. Hinton  
Legislative Post Auditor



**EXECUTIVE SUMMARY**  
**LEGISLATIVE DIVISION OF POST AUDIT**

**Question 1: Has the Department of Health and Environment  
Exercised Sufficient Regulatory Oversight of  
Child Care Facilities and Family Day Care Homes to  
Ensure the Safety and Well-Being of Children in Those Facilities?**

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Many of the regulatory activities relating to child care in Kansas ..... page 4  
aren't being adequately carried out by local health departments and  
private contractors. *Inspections of child care providers often identify  
regulatory violations, some of which represent serious risks to children.  
Some common violations include unsafe conditions (i.e., stairs not being  
gated off, or guns, poisons, and matches being accessible to children),  
unsanitary conditions (i.e., diaper areas not being sanitized, or pet feces not  
being cleaned up), and poor physical conditions (i.e., yards not being fenced,  
cabinets not being latched, or swimming pools not being safe).*

*A lot of the problems we identified in this area related to how quickly  
actions were taken to determine whether children were being adequately  
cared for in safe and secure facilities. For example, in nearly half the 56  
cases we reviewed, local inspectors weren't inspecting new child care  
facilities or homes until an average of 73 days after their license applications  
were submitted or temporary permits issued, rather than the required 30  
days. Because new applicants usually receive temporary licenses to care  
for children as soon as they apply, there's no assurance until that initial  
licensing inspection is done that children are being cared for in a safe  
environment. We also noted that annual inspections of child care providers  
weren't unannounced, which negates the benefits of a surprise inspection.*

*Another example: in nearly one-fourth the 41 complaints we re-  
viewed alleging such things as possible harm to children and unsafe condi-  
tions, local inspectors didn't investigate those complaints within five working  
days as the Department requires. For five of those complaints—including  
one alleging that children were being left in the child care provider's base-  
ment alone and that one of those children had marks on his face and neck—  
an on-site inspection would have been the first logical action to take. Howev-  
er, the on-site inspection for this complaint didn't happen for more than a  
month. In addition, we found that 7% of the complaints we reviewed weren't  
investigated as thoroughly as they should have been. For example, in  
response to one complaint that a child had been bruised and scratched at the  
child care home, the local inspector interviewed only the father, who didn't  
have custody of the child, and the child care provider. On that basis, the  
inspector concluded the complaint was unsubstantiated.*

*Inadequate staffing resources and training apparently have contrib-  
uted to problems in this area.*

**At the State level, backlogged information within the Department is causing significant delays in getting criminal background checks for staff in the larger child care facilities.** *These background checks identify individuals who shouldn't have contact with children because they've committed crimes like assault, rape, abuse, or other crimes against persons. However, we found that as many as an estimated 18,000 child care center or preschool staff haven't been checked against the Kansas Bureau of Investigations' criminal records because the Department hasn't yet entered their names into the computer. Department officials told us they haven't had enough staff to keep up with this task.* ..... page 9

**The Department's enforcement efforts also haven't been sufficient to ensure that children are sufficiently protected once regulatory violations have been identified.** *The Department almost always uses the least serious enforcement action available to it—sending the child care provider a notice of noncompliance—even in response to serious and continuing violations, like leaving children alone in the home, or leaving children outdoors unsupervised. In addition, the Department didn't send out notices of noncompliance until an average of six weeks after a violation had been confirmed.* ..... page 10

*Once the Department issued notices of noncompliance, its staff didn't ensure that violations were corrected quickly, or at all. In nine of the 41 cases we reviewed, corrections weren't made in a timely manner, and neither the Department nor local health inspectors followed up on a timely basis to ensure that problems were corrected. In one case, for example, a child care provider never responded to a notice of noncompliance issued for such things as unsanitary conditions and inappropriate napping facilities, and it took the local inspector more than six months to conduct a reinspection to determine whether the problems had been corrected.*

*Finally, we found that the Department didn't follow its own policy for assessing fines. We identified nine instances of violations that should have resulted in total fines of \$1,250, but no fines were levied.*

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**Question 2: Are the Departments of Social and Rehabilitation Services and Health and Environment Coordinating Their Efforts To Ensure the State Will Be Able to Meet the Demands On Child Care That Will Result from Federal Welfare Reform?**

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**There may be enough child care "slots" to handle the 2,700 additional children the Department of Social and Rehabilitation Services estimated will need child care over the next three years, but those openings may not be in the right places or of the right type.** *Based on information child care providers gave us, there may be from 5,500 to 7,300 child care slots available in the homes and facilities across the State. These estimates suggest there may be enough overall child care openings to meet the increased need caused by welfare reform. However, these slots may not be in the areas of the State where they're needed. In addition, they may not be the right types of openings. According to people we talked with who work in the child care field in Kansas, the greatest need will be for infant and toddler care, odd-hour care such as* ..... page 17

*weekends and nights, and care for children with special medical needs. There's no information about how many of these child care openings are available.*

**To encourage expanded child care services in Kansas, officials at the Department of Social and Rehabilitation Services told us they've increased their efforts in several areas.** *Through grants to improve or expand availability, the Department has been encouraging child care providers who are interested in creating alternative types of care, such as weekend and overnight care. The Department also has increased the amount it paid child care providers on behalf of low-income clients, and is considering further increases in subsidies for infants and toddlers. In addition, the Department has granted funds to resource and referral agencies across the State to provide information to families on child care options. Finally, the Department has funded a pilot project in Wyandotte County to train former welfare recipients to become child care providers. During this audit, we didn't try to assess whether the Department's efforts in these areas have been adequate, but the Department appears to be implementing programs similar to those in other states.*

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**The Department of Health and Environment seems to be well aware of the Department of Social and Rehabilitation Services' welfare reform efforts, but it may not be positioned to handle an increase in workload with existing resources.** *Two areas are of concern here. First, officials from both Departments have discussed the possibility of creating an emergency child care provider status that would, at least temporarily, bypass the current licensing or registration requirements. If that happens it would result in a lowering of current standards, and it could place more children at risk. Second, with the expanded efforts to increase child care availability in the State, the Department of Health and Environment (as well as local health departments) will need sufficient resources to license, inspect, and investigate the new facilities that may be established. Although it's difficult to say how big that increase might be, our findings from question one point out that the current system isn't always adequate to ensure that children are safe and well cared for.*

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**APPENDIX A: Child Care Regulation in Kansas Compared to Other States**

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**APPENDIX B: Agency Response**

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This audit was conducted by Sharon Patnode, Chris Clarke, and Sonja Erickson. Randy Tongier was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Patnode at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (785) 296-3792, or contact us via the Internet at: [LPA@mail.ksleg.state.ks.us](mailto:LPA@mail.ksleg.state.ks.us).





## **Reviewing the Department of Health and Environment's Regulation of Child Care Facilities And Family Day Care Homes**

State law defines child care facilities as those facilities that have control and custody of, and provide food and lodging to, one or more children under age 16 who aren't related to the provider. These facilities include commercial child care facilities, home day care for more than six children, detention homes, orphanages, and the like. Family day care homes are defined as places (normally the provider's home) that provide up to six children with food or lodging away from the childrens' homes for less than 24 hours a day.

The Secretary of Health and Environment is primarily responsible for licensing and regulating child care facilities and family day care homes in Kansas. The Department contracts with local health agencies and, in some cases, private contractors, to conduct child care regulatory work at the local level.

With the passage of the recent federal welfare reform act, which requires most welfare recipients to become employed, there likely will be a larger demand placed on child care facilities and homes. This increased demand will make it even more important for child care regulation to be handled effectively. This performance audit answers the following questions in this area:

- 1. Has the Department of Health and Environment exercised sufficient regulatory oversight of child care facilities and family day care homes to ensure the safety and well-being of children in those facilities?**
- 2. Are the Departments of Social and Rehabilitation Services and Health and Environment coordinating their efforts to ensure the State will be able to meet the demands on child care that could result from federal welfare reform?**

To determine how the State's child care regulatory program operates, we interviewed Department and local health department officials, representatives of child-advocacy groups, and Department of Social and Rehabilitation Services staff who assist in some child care facility inspections. We compared State laws, regulations, and applicable policies with actual practices for a random sample of child care facilities and homes. We also surveyed child care providers and local health department staff. We reviewed suggested national health and safety standards for child care facilities and homes. Finally, we gathered information from a sample of other states about how their child care regulatory programs work.

To determine how the two Departments are coordinating their efforts regarding welfare reform, we interviewed officials from the two agencies, various welfare reform advocates in Kansas, and officials in other states.

In doing this work, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office. Our findings begin on page four, after a brief overview of child care regulation in Kansas.

## Overview of Child Care Regulation in Kansas

According to recent census data, Kansas is home to about 500,000 children age 13 and under. The Department of Health and Environment estimates that about half those children are served every year—some for only a few hours a day—in some type of child care facility or home. The term “child care facilities and homes” is broad, and includes facilities providing round-the-clock care, as well as those that provide care for limited periods while parents are working.

The accompanying box describes the types of regulated facilities or homes we looked at, and shows the number of each. This audit covered 9,800 of the 12,200 facilities licensed or registered by the Department.

### Child Care Facilities Reviewed in This Audit

#### **Registered Day Care Homes (3,374)**

A facility that gives regular care for less than 24 hours a day to 6 or fewer children, away from the child's home. Not more than three of these children can be under 18 months of age. The providers own children are included in the total.

#### **Licensed Day Care Homes (4,441)**

A home in which care is provided for a maximum of 10 children under age 14. Not more than six of these children can be under kindergarten age.

#### **Group Day Care Homes (612)**

A facility that is licensed to care for a maximum of 12 children under age 14.

#### **Child Care Centers (1,048)**

A facility that: 1) provides care and educational activities for 13 or more children 2 weeks to 16 years of age for more than 3 hours and less than 24 hours per day; or 2) provides before-and-after-school care for children.

#### **Pre Schools (334)**

A facility that: 1) provides learning experiences for children who are too young to attend kindergarten, but are 30 months or older; 2) conducts sessions of 3 hours or less; 3) doesn't enroll any child in more than one session per day; and 4) doesn't serve a meal.

### **By Law, Almost Every Child Care Facility and Home Must Be Licensed Or Registered by the Department of Health and Environment**

The only exceptions are child care provided for one or two children for no more than 20 hours per week, irregular child care between friends or neighbors on an exchange basis, care in the child's home, and care provided in a relative's home.

**Whether a child care provider must be licensed or registered depends on such things as the number of children being cared for, and their age.** Child care providers can choose to be registered instead of licensed if they care for six or fewer children in their own home, no more than three of whom are under 18 months. Kansas has about 6,400 licensed child care facilities, and about 3,400 registered homes.

**Licensed child care facilities and homes are inspected before they receive a permanent license, and must be inspected at least once every 12 months, but there's no statutory inspection requirement for registered facilities and homes.** To become licensed, a child care provider must complete all application materials and submit the information to the local health department. The local agency reviews the materials and forwards the information to the Department. If the application is for a new facility or home, the local health department is required to conduct an initial inspection within 30 days of receiving the application.

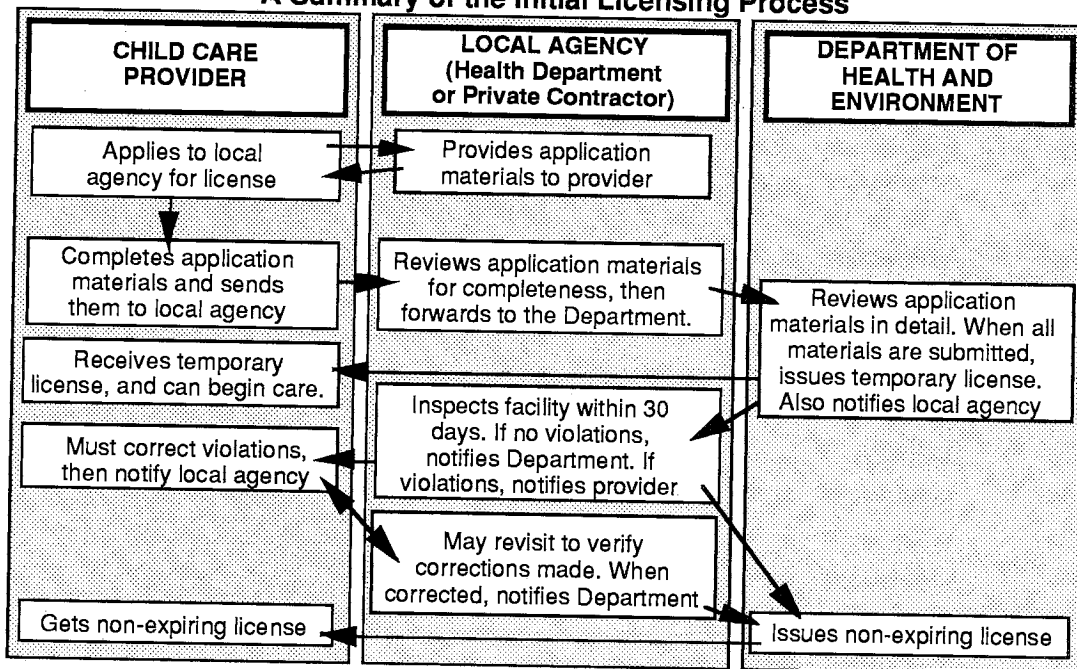
If the application is for a new facility or home, the provider is granted a temporary license to begin operating once the Department receives and reviews the application materials. After the initial inspection by the local health department, the Department will issue a formal license. These licenses are non-expiring, but providers are required to submit renewal applications every year. State law requires licensed facilities and homes to be inspected every 12 months.

To become registered, a child care provider must complete a self-assessment form describing the home and the number of children to be cared for. That form is submitted to the local health department for review. If the application is complete, the local health department forwards the information to the Department for review. After reviewing the form, the Department issues a registration certificate, which must be renewed yearly. Local health department employees inspect registered homes only when they are conducting complaint investigations.

**Although the Division of Child Care Licensing and Registration's 13.5 employees make all decisions regarding licensure and registration, they don't carry out inspections or complaint investigations.** In fiscal year 1997, the Department's Division of Child Care Licensing and Registration licensed or registered more than 12,000 Kansas child care facilities and homes. In total, these facilities and homes have spaces for about 130,000 children full-time. More than this number of children actually are cared for because some spaces accommodate more than one child on a part-time basis.

The Department contracts with 82 local health departments, and four private contractors, to conduct inspections and complaint investigations. The local health departments and contractors also provide information (and sometimes training) to people interested in being licensed or registered. The graphic below describes in more detail the responsibilities of both the Department and local agencies and contractors in licensing child care facilities and homes.

**A Summary of the Initial Licensing Process**



As the chart shows, both the local health agency and the Department have important roles in the issuance of a license to provide child care.

## **Has the Department Exercised Sufficient Regulatory Oversight of Child Care Facilities and Family Day Care Homes to Ensure The Safety and Well-Being of Children Cared for in Those Facilities?**

Many of the regulatory activities relating to child care in the State aren't being adequately carried out by the local health departments and private contractors to whom the work has been delegated by the Department. This included inspections not being done as often as required, and complaints not being investigated as quickly or as thoroughly as they should have been. Inadequate staffing and training apparently have contributed to these problems. At the State level, backlogged information within the Department is causing significant delays in getting criminal background checks for staff in the larger facilities. Finally, the Department's enforcement efforts haven't been sufficient to ensure that children are sufficiently protected once regulatory violations have been identified. These and other findings will be discussed in the sections that follow.

### **Many of the Regulatory Activities Relating to Child Care in Kansas Aren't Being Adequately Carried Out by Local Health Departments And Private Contractors**

The Department of Health and Environment is responsible for monitoring child care providers' compliance through reviews of application materials before a provider is licensed, periodic inspections after a provider is licensed, and reviews and investigations of complaints about providers. However, much of this effort is carried out by county health departments and private contractors under contract with the Department.

In our review of applications, inspections, and complaints for a sample of child care providers, we found that local inspectors' regulatory activities weren't always timely or thorough, placing children at greater risk of harm or inadequate care. (Our review showed no difference between work done by local health departments and work done by private contractors.) The problems we saw were as follows.

**In nearly half the cases we reviewed, local inspectors weren't inspecting new child care facilities or homes as soon as required.** Based on Department policies, local health departments are required to inspect new applicants' child care facilities or homes within 30 days after an application for licensure is submitted or a temporary permit is issued. Our review of a sample of 56 new licensure inspections showed that nearly half were done later than 30 days after application or temporary permit issuance—an average of 43 days later. An example:

*...one licensed day care home initially was inspected 90 days after submitting an application. The provider had begun caring for children with a temporary license issued by the Department. The local health department inspector identified several serious violations, including the following: the pool wasn't fenced off, the provider hadn't completed the required training, the home didn't have smoke alarms, cleaning supplies were accessible to the children, and the play area was hazardous.*

In most cases, new applicants receive temporary licenses once their materials are submitted, and begin caring for children immediately. Thus, until initial licensing inspections are conducted, there's no assurance that children are in a safe environment.

**Almost 20% of the time, local inspectors didn't conduct annual inspections of child care facilities or homes as often as they were required to by law.** State law requires licensed child care facilities or homes to be inspected at least once every 12 months. According to Department policy, Department officials notify local health departments in advance—generally, four months—that the annual inspection is due. Even if these notices are a few weeks late, as health department officials contend, local inspectors have adequate notice to complete inspections in a timely manner. However, 18 of the 100 annual inspections we reviewed (18%) were done late—from one month to seven months late. When annual inspections are delayed, serious problems can go undetected, some of which may place children at risk. An example:

*...one licensed day care home went 18 months between inspections. When the inspection finally was conducted, the local inspector wrote violations for uncovered electrical outlets, unsanitary food storage, and incomplete health records on the children.*

**Compared With Some Other States or National Standards, Kansas Has Lower Standards or Requirements Relating to Training for Child Care Providers, the Ratio of Children to Adults in Family Day Care Homes, and Inspections Performed at Registered Child Care Facilities**

We didn't set out during this audit to compare Kansas' regulatory requirements relating to child care homes with other states. However, during the course of our audit work we did review some information that allowed us to make a few comparisons. Based on these comparisons, we noted that Kansas' standards or requirements were lower in the following three areas:

1. **Training requirements for staff in child care centers.** Kansas requires fewer hours of annual inservice training for child care center staff than 3 of the 5 similar states we reviewed. For example, Kansas requires only 5-10 hours of training, compared with 20 in Oklahoma.
2. **Ratio of children to adults in family day care homes.** Kansas' regulations in this area generally are less stringent than national standards or two similar comparison states. For example, Kansas regulations would allow two infants (18 months or younger) and seven older children to be cared for in a family day care home with one adult child care provider. National standards would allow only three total children with two infants, and Colorado and Nebraska would allow only 6 and 8 total children per adult, respectively.
3. **Inspections performed at registered child care facilities.** Kansas was the only comparison state that doesn't require registered child care homes to be inspected. The other states all have some inspection requirement. For example, all registered homes in Nebraska are required to be inspected annually, and larger homes are inspected twice a year. In Oklahoma, all registered homes are required to be inspected every two years, and monitoring reviews are performed three times a year. The only time a registered home in Kansas is inspected is when a complaint is filed. The 3,500 registered facilities in Kansas account for about one-third of all facilities under the Department's regulation, and can provide care for up to 20,000 children.

Despite these differences, the majority of child care providers and local inspectors we surveyed said they thought Kansas' requirements were adequate to ensure the health and safety of children in care. As part of our audit work, we surveyed a Statewide sample of 100 child care providers (39 of whom responded), and 82 local health department officials and four private contractors (63 of whom responded). Among other things, we asked whether they thought Kansas' laws and regulations were adequate to ensure that children were safe and well-cared-for.

Two-thirds of the 63 local officials who responded to this question indicated they thought the requirements in this area were adequate. Nearly 21% said requirements weren't adequate; 13% neither agreed nor disagreed. A total of 36 of 39 providers who responded also indicated they thought the requirements were adequate.

**Annual inspections that assess the safety and well-being of children in care aren't being done on a surprise basis.** According to national standards, "unannounced visits provide the opportunity to see child care as it functions from day to day, without the 'best face' preparation that inevitably accompanies an announced visit."

In most annual inspections we reviewed, however, the inspection was conducted approximately the same time every year. Further, Department policies allow local inspectors to inform child care providers that they will be coming to inspect in 2-3 weeks.

These practices generally defeat the benefits of periodic unannounced inspections. For example, one local health official told us that the local department had found many more cases of "over-enrollment" (caring for more children than allowed) when inspectors showed up earlier than expected.

Even when child care providers generally know when inspections will occur, about 75% of the annual inspections we reviewed still identified one or more regulatory violations. Common examples of violations that represented serious risks to children were as follows:

- Safety violations:** electrical outlets were uncovered, hazards were accessible to children (hazards include guns, knives, scissors, matches, poisons, medications, thaw salt, detergent, and fans), stairs weren't gated off, there weren't any disaster plans in case of emergencies (fire, flood, tornado, etc.)
- Sanitation violations:** diaper areas weren't sanitized, pet feces weren't cleaned up, children were sharing the same cup, there was no soap in the bathroom
- Environmental violations:** there was no fencing or fencing was broken, cabinets weren't latched, there were loose bricks in the play area, the pool wasn't safe, swings weren't anchored
- Building:** Ceiling tiles were missing, pipes weren't insulated, there weren't enough toilets, water pressure was too high, or too low, there was no hot water, there were holes in the wall

**According to Department records, nearly one-fourth of the complaints alleging such things as possible harm to children and unsafe conditions weren't investigated as quickly as they should have been.** The Department requires local health department staff to investigate complaints "within five working days of receipt." Nine of 41 complaints weren't investigated within five days. For five of those complaints, an on-site inspection would have been the first logical action to take, and that action wasn't taken quickly. Some examples:

*...one complaint alleged that a child care provider had men living in the facility's basement apartment. Department policy requires that all people living with a provider must pass a criminal history and child abuse registry check. These checks hadn't been done for these men, and parents weren't aware the men lived there. This complaint wasn't inspected for two weeks. When it was investigated, the complaint was substantiated.*

*...an anonymous complaint alleged that children were being left in the child care provider's basement alone (with the basement windows cemented shut), and that an unnamed child had marks on his face and neck. This complaint wasn't inspected for more than a month. At that time, the complaint about children being left alone in the basement was substantiated. The complaint about marks on the child was never substantiated. The complaint intake form didn't contain enough information to tell how the child got these marks, and too much time had passed to allow the inspector to see marks on a child if they'd been there.*

### **It Took Two Years for One Applicant to Come Into Compliance and Receive a License**

The Department discovered an illegal provider who applied for a license in June 1993. She was issued a temporary permit to care for children at that time. Her initial inspection in August 1993 resulted in four pages of violations, including trash not covered, swings not anchored, pet needed shots, and children's medical records incomplete. She didn't respond, so the inspector revisited and noted that violations still hadn't been corrected. Finally the Department issued a notice of noncompliance in December 1993. She responded with partial corrections in January 1994. The local health department asked the Department to issue a fine, but Department officials said they couldn't fine an applicant.

This child care provider continued to submit partial corrections, and the local health department revisited her home in May 1994. Again, local inspectors found repeat violations, such as swings not anchored, trash not covered, and medical records incomplete. The Department threatened to deny her application. A complaint alleging she was spanking the children and wasn't watching them when they were outside was investigated in conjunction with SRS in June 1994.

At that time, the inspectors noted violations such as medicines weren't locked away, medical records were incomplete, and children were unsupervised. Another visit in November 1994 noted additional violations, including pet needed shots, swings not anchored, medical files incomplete, and children were napping on floor with no pads. The provider didn't respond to these violations, and a child in her care died of Sudden Infant Death Syndrome in February 1995. In May 1995, nearly two years after she first applied, the Department issued its intent to deny her application.

She appealed, and a consent agreement was entered into August 1995. As part of the agree-

ment, she was fined \$50. An inspection in September 1995 identified more violations. In January 1996, the child care provider paid the \$50 fine, and made the corrections to the violations noted in September. Finally, a visit in February 1996 verified that she was in full compliance. It took this provider more than two and a half years to come into compliance.

During this time, the Department continued to work with her, because as an official stated, "it took her a while; however she continued to improve." Officials repeatedly told us during this audit that the goal of the licensing program is compliance. Cases like this show the Department has sometimes bent over backwards until someone finally came into compliance.

This child care provider moved in September 1996, and had to reapply for a license. An initial inspection in October 1996 identified several violations in her new location, including swings not anchored, hazards accessible to children, and files incomplete. In December 1996, the Department issued a notice of noncompliance because the child care provider hadn't made any corrections. The provider then sent a letter stating all corrections were made. In January 1997, the local health department revisited her home and noted that none of these violations had been corrected. Another notice of noncompliance was issued for these violations in February 1997. Final corrections were received in March 1997. This woman closed her day care in July 1997.

Department officials told us they have little choice in situations like this but to continue to work with providers who aren't licensed, hoping they eventually come into compliance, become licensed, and then become subject to regular inspections. The only alternative with illegal providers, according to the Department, is refer the case to a county attorney for prosecution, which officials said generally is a low prosecution priority. That wasn't done in this case.

**Local officials didn't investigate 7% of the complaints we reviewed as thoroughly as they should have.** Department policies and procedures state that local inspectors should investigate complaints "as thoroughly as possible," including talking with parents, neighbors, or anyone else who may be able to verify the complaint.

We concluded that complaint investigations were inadequate for 3 of the 41 complaints we reviewed. Some examples:

*...one complainant alleged a child was bruised and scratched at the child care home. Local inspectors interviewed only the noncustodial father and the provider about the incident, and concluded on that basis that the complaint was unsubstantiated.*

*...an anonymous complainant alleged that children in one child care facility were being spanked and yelled at. The local inspector questioned only the child care provider, not parents or others who might have witnessed the alleged complaint, and found the complaint to be unsubstantiated. When a second complaint of the same nature was made by a person who left her name and was willing to verify the allegations, the complaint was substantiated.*

As these examples demonstrate, if complaint investigations aren't thorough, inspectors may conclude that allegations aren't valid without sufficient evidence, and may overlook problems that place children at risk.

**Inadequate staffing resources and training apparently have contributed to problems in this area.** Officials we surveyed or interviewed during this audit cited the following reasons why some of these problems have occurred:

- *Inadequate inspection staff.* Both Department officials and staff in some local health departments told us they thought there weren't enough staff available to handle all the local regulatory responsibilities. The problems appear to be more pronounced in the urban counties than in the rural counties.
- *Inadequate training.* Nearly one-third of the local health department officials responding to our survey told us the Department hadn't provided adequate training regarding inspections and complaint investigations. In addition, nearly one-fourth of the respondents told us the Department hadn't kept them informed about the interpretation of laws and regulations.
- *Inadequate oversight of inspectors.* Department officials told us they haven't had enough staff assigned to the program to adequately oversee the work done by local health inspectors. The Director of the Child Care Division has requested additional staff for the past several years; the Division received one full-time employee in 1995 to review complaint investigations submitted by local health inspectors and initiate necessary enforcement actions.

#### **A Local Health Inspector Has Criticized the Department's Handling of Providers Who Violate Child Care Regulations**

The pace of the Department's enforcement proceedings has frustrated some county health departments. One local inspector sent a memo to the Director of Child Care Licensing in August 1997 summarizing the poor compliance histories of several child care providers in the county, and asking why the Department hadn't done more to enforce its own regulations. This memo listed 15 child care providers who'd been cited for multiple regulatory or statutory violations, including:

- alcohol use by the provider
- a vicious dog attack
- a report of neglect confirmed by SRS
- overenrollment and child endangerment

The memo said that three of these child care providers had been inspected and cited more than once for the same violations, yet the Department hadn't taken enforcement action against any of them. The county health inspector indicated her staff was concerned that the Department

took too long to resolve noncompliance, that the providers in question "provide child care in unsafe settings," and that the Department's ineffective enforcement process was creating "credibility problems" for both the Department and for county health workers.

We reviewed two of the files for child care providers included in this memo, and agreed with the county's assessment of both the severity of the violations and the Department's failure to respond appropriately.

The local health inspectors in this same county health department also sent a letter to Governor Graves expressing their frustration with the Department's failure to enforce its own regulations. They observed that lax enforcement efforts were putting children "at risk for serious injury, emotional problems, and...even death." They also requested additional funding for both State and county staff to improve child care regulation.



## At the State Level, Backlogged Information within the Department Is Causing Significant Delays in Getting Criminal Background Checks for Staff in the Larger Child Care Facilities

Each year, child care providers are required by regulation to submit to the Department the names of all people who live, work, or regularly volunteer at their facilities. Their backgrounds then are cross-checked against two different databases—the Department of Social and Rehabilitation Services' child abuse registry, and the Kansas Bureau of Investigations' criminal records. Such cross-checks identify individuals who shouldn't have contact with children, including people who've committed crimes like assault, rape, abuse, or other crimes against persons.

During this audit, we saw that hundreds of submissions from child care centers and preschools—which Department officials estimate may contain as many as 18,000 names—were stacked on a counter waiting to be entered into the Department's computer. Because criminal background checks are handled electronically, the KBI can't start its background checks until this information is entered. Once a background request finally is made, Department staff said it takes only about two days to get detailed criminal history information back from the KBI.

Department officials told us they haven't had enough staff to keep up with this task, even with the use of volunteers. They said an additional data entry employee

### KDHE's Enforcement Procedures

*The following are the main enforcement tools available to the Child Care Licensing Division. They are listed in general order of severity, although the chronology of enforcement actions varies as appropriate for the type of violation found.*

#### Notice of Noncompliance

A semi-legal document - advises providers of violation(s) and gives them five days to make corrections or, if this isn't feasible, to submit a plan for correction.

#### Assessing a Civil Fine

Providers may be fined an amount not to exceed \$500 for licensing or registration violations that adversely or significantly affect children. When warranted, a fine can be assessed at any time.

#### Closing the Facility

**Suspension** - KDHE can suspend licenses, registration certificates, or temporary permits when regulations aren't met. This can happen after several other enforcement actions; or if the violations place children in imminent danger, the Department can issue an Emergency Suspension and close the facility immediately.

**Revoking the License or Certificate of Registration**- Legal notice issued by the Secretary, after review by KDHE legal staff, to start revocation process. A revocation is preceded by a "Notice of Intent to Revoke," to which the child care provider has the opportunity to respond and correct violations. Provider can request an administrative hearing within 20 days of receipt of notice.

**Denying the Application** - A legal notice that KDHE intends to deny the application, issued following review by KDHE legal staff either after an initial application, or an application to renew. Provider has the right to request an administrative hearing within 20 days of receipt of notice.

would be hired for fiscal year 1998 to help catch up on data entry, but estimated it would take a year to catch up with the backlog.

Given the current situation, a local health department official told us it currently takes from six months to two years to get the results of a background check. During that time, "prohibited" people could continue to have daily contact with children in their care. In its 1998 budget document, the Department stated that it took enforcement action against 137 prohibited persons in child care facilities in fiscal year 1996.

### **The Department's Enforcement Efforts Also Haven't Been Sufficient To Ensure That Children Are Sufficiently Protected Once Regulatory Violations Have Been Identified**

For enforcement efforts to be effective, regulatory officials must act quickly and appropriately when problems are identified during inspections or complaint investigations. The key is to get the problem corrected so that children aren't unnecessarily placed at risk. If problems or violations continue, the regulatory response should be progressively harsher.

When local health departments identify violations in a child care provider's home or facility, the Department requires them to give the provider two weeks to correct the violation. (If the child is in immediate risk of harm, the violations must be corrected immediately.) If a violation hasn't been corrected after two weeks (usually

#### **The Department Took Strong Enforcement Actions in Only Two of the 41 Cases We Reviewed**

In one case, a licensed day care provider was issued a notice of noncompliance for several violations, including offering too many hours of care for too many children, and not having all the necessary health assessments on file. She failed to respond to the notice of noncompliance; after six weeks KDHE sent a reminder that she must submit a plan of compliance. KDHE didn't receive a response, and took no further action.

During an annual review conducted six months later, several of these violations still weren't corrected, and there were additional problems, including:

- a strong cigarette smoke smell (smoking during working hours in a day care facility is prohibited)
- razors and scissors within kids' reach
- potty training chair wasn't emptied regularly

A compliance check done three weeks later found the same violations, but KDHE took no enforcement action. Four months later KDHE issued a \$150 fine and a notice to suspend this provider's license. The provider didn't pay the fine, and her license finally was suspended.

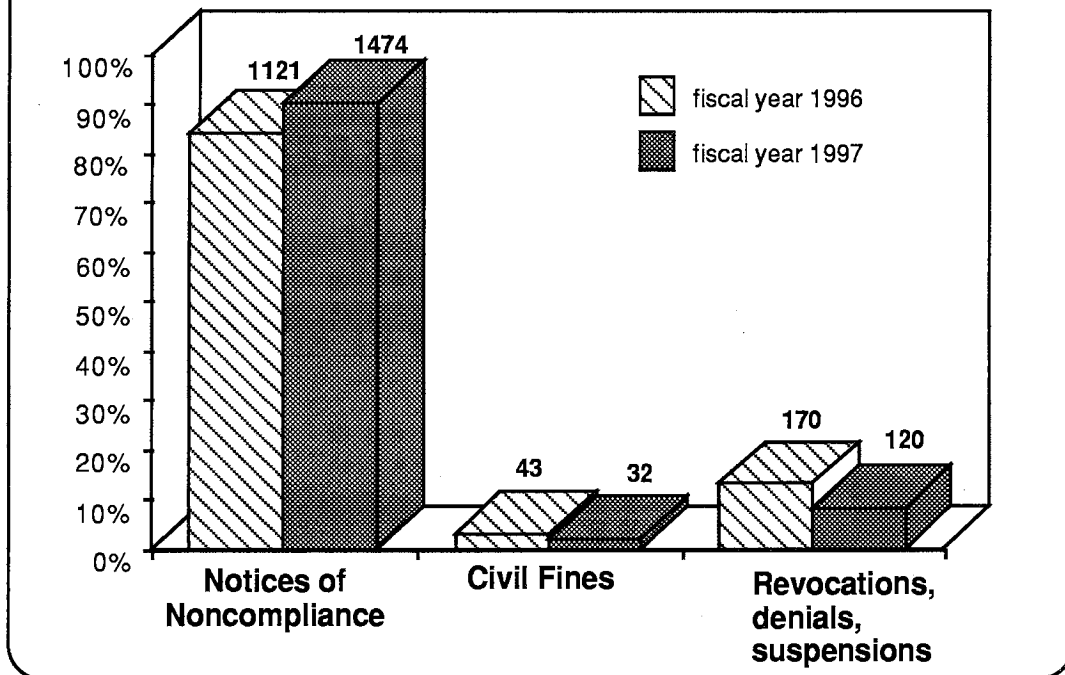
Two months later this woman applied for a new license. Her application was denied based on her history of noncompliance. Howev-

er, she continued to provide child care during this time. A month later she applied for a license again, was inspected by the county health department, and the Department re-issued her license. Four months later she was inspected again, and was again cited for smoking with children in her care. The county surveyor then asked KDHE to take legal actions against her because she'd found the same uncorrected violations on five separate inspections. The Department is currently reviewing this provider's file.

In another case, KDHE closed a registered day care provider in April, 1995 after discovering she had falsified her KBI forms to hide her husband's past arrest for molesting his daughter. This day care provider continued to care for children illegally after her certificate of registration had been revoked. She appealed this decision based on SRS' decision not to enter her husband in its child abuse registry because the family had completed a corrective action plan.

After a complaint from an anonymous parent that his child came home from this day care provider with three bite marks on his face, the local health department caught the woman in the act of offering illegal care. The Department filed an injunction relief against this provider in March 1995.

**Department of Health & Environment  
Enforcement Actions Taken Fiscal  
Years 1996 and 1997**



determined by a reinspection), the local agency refers the case to the Department for possible enforcement action. The types of actions that can be taken are summarized in the graphic on page 9. The problems we identified with the Department's enforcement actions are summarized below.

**The Department registered at least one child care home that the Shawnee County Health Department asked it not to register because of its history of regulatory violations.** Until January 1997, the City of Topeka required its local health department to inspect all registered child care homes within City limits that were exempt from State inspections. Since that requirement was dropped, a Topeka inspector told us, about 50 formerly licensed child care homes have become registered, some presumably to avoid the annual inspection requirement.

The inspector also told us that 12 of these 50 homes had a history of regulatory violations, most commonly relating to sanitation, food storage, and health and safety (such as stairway gates not in place and electrical outlets not covered). Because these homes had been licensed, such information would have been available in the Department's records.

The inspector said of these, although the County health department advocated to the Department that several child care providers not be registered, the Department registered at least one, and other registrations still are pending. A Department official told us that, unless an enforcement action was pending against a child care provider, or unless information on the provider's self-assessment application pointed to a problem, the Department would have no basis for denying a registration certificate.

**The Department almost always uses the least serious enforcement action available to it, even in response to serious and continuing violations.** The graphic at left shows the types of enforcement actions the Department took during fiscal years 1996 and 1997.

As the graph shows, about 90% of the Department's enforcement efforts have involved issuing notices of noncompliance—the least stringent enforcement action. The results from our sample of enforcement actions generally mirror these numbers.

A few notices of noncompliance in our sample were issued to child care providers for more minor or isolated violations—such as not having children's immunization records on file. In most cases, however, we found that notices of noncompliance had been issued for more serious or repeat violations. Some examples:

*...another child care provider received a notice of noncompliance for leaving the children in her care home alone while she went to pick up her daughter (who was the other provider at this facility) from a hair appointment. A year later this same woman received another notice of noncompliance for taking the children in her care to another house in the neighborhood, which wasn't approved for day care. While they were at the other house, a child fell off the stairs and his front teeth went through his tongue. The child care provider hadn't gotten the parents' permission to take their children off the premises, as required. Three months later, the local inspector found a number of other regulatory violations during a routine inspection, and again the Department issued a notice of noncompliance.*

*...a child care provider received a notice of noncompliance for several violations: leaving children outdoors unsupervised, leaving an infant over an hour with no toys or stimulation, not having criminal or abuse background checks done for the substitute provider, missing child medication records, and having hazardous chemicals on the front porch within childrens' reach.*

#### **Local Health Department Officials Had Mixed Opinions About How Effective the Department's Enforcement Actions Are**

In conducting this audit, we surveyed all the county health departments and private contractors which the Department contracts with to do inspections. One set of questions we asked them related to enforcement actions by the Department. Survey respondents had mixed opinions about whether the Department's enforcement efforts are effective at getting providers to correct violations. About 45% agreed enforcement actions were effective, and 42% disagreed. About half the respondents told us enforcement severity is about right, and about half said enforcements are too lenient. No one said enforcement actions were too harsh.

Several of the survey respondents made comments expressing frustrations:

- "Need to fine more providers at the very least."
- "Timely and effective enforcement of the minimum standard of 'out-of-home' child care...appears to be a significant weakness of the program. The lack of timely response and the lack of enforcement causes serious questioning of regulations/statutes. The general public expects a license or certificate to indicate a standard is being upheld/met - slow or ineffective enforcement may not only jeopardize the safety of children being cared for away from their home, but diminish the public's trust in government."
- "One of the greatest problems is the LACK of appropriate legal support to deal with those persons who repeatedly fail to meet minimum standards. We allow very substandard child care facilities to exist years while they are in the legal process. Parents assume that these facilities are in compliance and have no idea what kind of problems exist."
- "Notices of noncompliance are to be responded to within 5 days, yet providers are given sometimes as long as a year to correct items. Providers are allowed to continue care until final orders are determined in enforcement actions; therefore, children can remain in unhealthy, unsafe environments for a year or longer....It is not uncommon for us to make several compliance checks after an enforcement action, only to find the same violations."
- "Notices of noncompliance are not effective. Providers are not concerned because even when they don't respond there are not repercussions. In many cases the fines issued are too lenient to be effective."
- "A provider's total compliance history is never taken into consideration. Only the most current violations are legitimate and the same ones must occur repeatedly."
- "Notices of noncompliance are meaningless to providers."

Department officials told us notices of noncompliance were used instead of more punitive enforcement actions for several reasons:

- the Department's philosophy is to try to bring child care providers into voluntary compliance with laws and regulations
- the Child Care Division can issue notices of noncompliance—which contain no penalties—much more quickly than fines and other enforcement actions, which must be handled by the Department's legal staff
- according to Department legal staff, current legal resources couldn't adequately handle the processing of additional enforcement actions.

A Division official estimated that one-fourth to one-third of the notices of noncompliance issued in the past year should have been a stronger enforcement action, but were issued to more quickly notify providers that corrections were needed.

Child Care Division officials have prepared an issue paper for the Department Secretary for fiscal year 1999 advocating among other things, that the law be changed to give Division or Bureau staff—rather than just the Secretary—the authority to issue fines and take other enforcement actions.

**On average, the Department didn't send out notices of noncompliance until six weeks after violations had been confirmed.** We couldn't tell from the information in our sample of files who was responsible for this delay—the Department or the local inspector. However, because Department officials have indicated they want to “reduce” their delay in issuing a notice of noncompliance to four weeks, it appears that much of this delay is on the Department's end.

Depending on the types of violations involved, children may continue to be at risk during such delays. For example:

*...in three cases we reviewed, at least three months had elapsed between the date the complaint investigation confirmed the alleged violations, and the date the Department issued the notice of noncompliance. In these three cases, a majority of the violations were related to paperwork such as childrens' health records not being updated. However, there were some more serious violations, such as unguarded stairs and children sleeping in a basement.*

**Once the Department issued notices of noncompliance, its staff didn't ensure that violations were corrected quickly or at all.** State law requires child care providers to correct violations within five days of receiving a written notice of the violation. Because not all violations can be corrected within five days—for example, building a fence around a back yard in the dead of winter—Department staff allow child care providers to submit correction plans that describe how they've corrected the violation or, in some cases, how they plan to correct it in the future.

In nine of the 41 cases we reviewed, corrections weren't made in a timely manner, and neither the Department nor local health inspectors followed up on a timely basis to ensure that problems were corrected. In one case, for example, a child care provider never responded to a notice of noncompliance issued for such things as unsanitary conditions and inappropriate napping facilities, and it took the local inspector more than six months to conduct a reinspection to determine whether problems had been corrected.

Two other problems we noted with the Department's handling of, or follow through, on notices of noncompliance:

- because the Department doesn't send notices of noncompliance by certified, return-receipt mail, it doesn't know when child care providers actually receive the notices
- the Department sometimes didn't date-stamp child care providers' responses, so neither its staff nor we could determine whether statutory deadlines were met

**The Department didn't follow its own policy for assessing fines.** State law allows the Department to fine providers up to \$500 for violating child care regulatory requirements that "affect significantly and adversely the health, safety, or sanitation" of children. As described in the following table, the Department's legal division has issued guidelines specifying which violations warrant a fine.

**Department Guidelines for Issuance of Civil Fines**

<u>Type of Facility</u>	<u>Violations Warranting Fines</u>	<u>Amount</u>
Licensed/Registered Day Care Home	Exceeded licensed capacity by 1-6 children, no correction after notice of noncompliance	\$100
	Neglectful supervision, exceeded licensed capacity, by more than 6 children, inappropriate discipline, not using seat belts	\$150
Group Day Care Homes and Small Preschools	Exceeded licensed capacity by 1-6 children, repeat violations	\$150
	Neglectful supervision, inappropriate discipline, exceeded licensed capacity by more than 6 children, not using seat belts	\$200
Child Care Centers and Large Preschools	Repeat violations, exceed licence capacity by 1-2 children	\$250
	Neglectful supervision, inappropriate discipline, exceed licensed capacity by more than 2 children	\$500

During this audit, we reviewed a total of 41 enforcement actions taken against 29 different providers. We noted that fines totalling \$200 were issued in two cases in our sample, but only after multiple and repeated violations were found in inspection after inspection, over long periods of time.

We identified nine other instances of violations that should have resulted in a fine being levied against the child care provider under the Department's policies, but didn't. In most cases, fines should have been issued because a reinspection showed the violations hadn't been corrected after a notice of noncompliance was issued. In one case, a child care provider should have been fined under the Department's guidelines for being neglectful in her supervision of children. The total amount that should have been assessed in these nine cases was \$1,250.

Finally, we noted that the law doesn't specify whether the fine that can be levied is \$500 per day, per violation, or per incident. In the situations we reviewed, the amount of fine levied generally appeared to be per "provider."

## **Conclusion**

In regulating child care, the Department of Health and Environment must balance the need for safety and well-being of children in care, the need for parents to have child care readily available, and the needs of child care providers to operate profitably in a competitive environment. Nevertheless, because the children in care aren't in a position to look out for their own safety and well-being, the Department must place primary importance on the children's interests in carrying out its regulatory responsibilities. That calls for monitoring efforts that are both timely and thorough, and responses to problems found that are both swift and appropriately strong. We didn't always see that.

## **Recommendations**

1. To ensure that it knows about problems affecting the safety and well-being of children in child care homes and facilities, the Department of Health and Environment should do the following:
  - a. ensure that county health departments and private contractors conduct new and renewal inspections and complaint investigations in a timely manner
  - b. ensure that investigations are thorough
  - c. take steps to reduce the degree to which providers can anticipate the timing of regular inspections
  - d. take steps to reduce the backlog causing delays in getting criminal background checks for staff in the larger child care facilities
  - e. reassess its regulations and the adequacy of State law relating to such things as child-adult ratios in family day care homes and training hours for child care workers, which currently are less stringent than national standards or other states, to identify areas where more stringent requirements may be needed.
  
2. To ensure that child care providers correct violations of child care regulations, and are dealt with appropriately if they don't make the needed corrections, the Department of Health and Environment should do the following:
  - a. take enforcement actions that are consistent with the severity and history of violations found
  - b. initiate enforcement actions in a more timely manner

- c. follow up on enforcement actions taken to make sure providers correct problems found
3. To better ensure the safety and well-being of children in the State's child care facilities, the Legislative Post Audit Committee should consider introducing legislation to do the following:
  - a. require regular inspections of all registered child care homes
  - b. amend K.S.A. 65-526 (1996 Supp) regarding civil fines for child care providers who violate regulations to make it clear whether the fine amount applies on a per provider, per violation, and per day basis.
4. The Department of Health and Environment should work with the Governor, the Legislature, and other parties involved in child care (such as local health departments, child care providers, and the Department of Social and Rehabilitation Services) to identify any additional funding that may be needed to provide high-quality child care and to maintain an effective child care regulatory program. If additional funding is needed, the sources available would include increased licensing fees, or increased State or federal funding.



## **Are the Departments of Social and Rehabilitation Services and Health and Environment Coordinating Their Efforts To Ensure the State Will Be Able to Meet the Demands on Child Care That Will Result From Federal Welfare Reform?**

Even though the child care roles of the two Departments are very different, they seem to be working together to meet possible demands placed on the State's child care system by welfare reform. There may be enough authorized child care "slots" to handle the estimated 2,700 additional children who could need child care, but those slots may not always be available, in the right place, or for the types of children (such as infants and toddlers) who need care. The Department of Social and Rehabilitation Services has increased its efforts to meet projected needs. Although the Department of Health and Environment is well aware of efforts to meet the demands of welfare reform, it may not be positioned to effectively handle any additional work load, based on our findings from question one. These and other findings are discussed in the sections that follow.

### **The Child Care Roles of the Departments of Social and Rehabilitation Services and Health and Environment Regarding Welfare Reform Are Very Different**

Federal welfare reform legislation passed by Congress in 1996 significantly changed the way welfare programs work. Major changes include the following:

- limiting the total amount of time a client can receive public assistance to 60 months
- emphasizing the need for welfare clients to participate in some work-related activity, such as searching for a job or working part-time, from the assistance application date
- increasing the amount of work-related income a welfare recipient is allowed to have and still receive some public assistance

The Department of Social and Rehabilitation Services' child care role relating to welfare reform primarily will involve helping people find and pay for child care as they look for or begin jobs. With federal moneys, the agency not only subsidizes child care costs for its clients, but it also makes grants to child care providers who want to improve or expand existing facilities or start new facilities.

The Department of Health and Environment's child care role is regulatory. It's responsible for ensuring that State laws and regulations are met in child care facilities across the State. As new child care facilities come into existence, the Department's continuing role will be to license, register, and monitor those facilities as required by State law.

### **There May Be Enough Child Care "Slots" To Handle the Estimated 2,700 Additional Children Who'll Need Child Care Over the Next Three Years, But Those Openings May Not Be in the Right Places or of the Right Type**

Department of Social and Rehabilitation Services' officials told us it was difficult to estimate the number of additional welfare children who'll need care after welfare reform because welfare caseloads have dropped so dramatically in Kansas, as they have across the country. Those estimates have dropped along with welfare caseloads.

In developing its preliminary fiscal year 1999 budget request, the Department estimated an additional 2,700 children would need child care over the next three years. That's the equivalent of adding 385 family day care homes over the next three years to care for an average of seven children each.

The Department doesn't have information about the number of child care "slots" that have been authorized but not filled. To get an idea of this number, we surveyed a sample of 100 child care providers, 37 of whom responded. Among other things, we asked how many openings they had and whether they were willing to handle additional children (up to their authorized capacity).

Based on the information they provided, we estimated there may be from 5,500 to 7,300 child care slots available in the homes and facilities across the State that currently contract with the Department of Social and Rehabilitation Services. In addition, the latest study by Kansas Action for Children, Inc., shows that, as of June 1996, Kansas had 25 child care slots for every 100 children. National studies indicate that's at least the minimum needed.

These estimates suggest there may be enough overall child care openings to meet the increased need caused by welfare reform. However, these slots may not be in the areas where they are needed. In addition, the slots available may not be the right type of openings. According to people we talked with who work in the child care field in Kansas, the greatest need will be for infant and toddler care, odd-hour care such as weekends and nights, and care for children with special medical needs.

### **To Encourage Expanded Child Care Services in Kansas, Officials At the Department of Social and Rehabilitation Services Told Us They've Increased Their Efforts in Several Areas**

Besides talking with Department officials about the actions they've taken in this area, we also reviewed such documents as the State's Child Care Plan, which outlines the Department's goals regarding child care needs for welfare reform. What we learned is summarized below:

- The Department has been encouraging child care providers who are interested in creating alternative types of care—such as weekend and overnight care—to apply for grants. These grants buy items like high chairs, play equipment, and beds that allow providers to increase the number of children they care for or to improve existing facilities. In fiscal year 1997, for the first time, two grant applications were funded for those types of care.
- Beginning in January 1997, the Department increased the amount it paid child care providers on behalf of low-income clients. In addition, officials are considering the need to further increase infant/toddler rates and revise the family share of child care costs.
- The Department has made grants to a network of resource and referral agencies across the State that provide information to families on child care options. Because of increased funding in this area, these agencies will provide services Statewide for the first time in 1998.

- The Department has funded two pilot projects in Wyandotte and Shawnee Counties to train former welfare recipients to become child care providers. These programs provide training, mentoring, and technical assistance to any welfare recipient who wants to work as a child care provider.

More specific information about the amounts spent is described below.

<b>Expenditures of Federal Child Care Moneys By Department of Social and Rehabilitation Services</b>				
	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>
Department of Health & Environment (and local health departments)	\$704,000	\$717,000	\$717,000	\$709,000
Child Care Grants to Facilities & Homes & Resource & Referral Agencies	\$1,944,000	\$2,134,000	\$4,906,000	\$3,800,000
Child Care Payments on Behalf of Low-Income Clients	\$25,212,000	\$27,278,000	\$27,989,000	\$33,522,000

During this audit, we didn't try to assess whether the Department's efforts in these areas have been adequate. However, we did talk with officials in surrounding states to identify the actions they've taken to try to meet welfare clients' child care needs. We found that the Department is implementing programs similar to these other states' programs.

**The Department of Health and Environment seems to be well aware of the Department of Social and Rehabilitation Services' welfare reform efforts, but it may not be positioned to handle an increase in workload with existing resources.** A Department of Health and Environment official is a member of the State-wide Child Care Education and Advisory Committee, which plays an advisory role in the process of making and overseeing child care grants.

Through this process, both Departments are part of the team that provides information about areas of the State needing more child care providers, and that awards grants to increase the number of children existing providers can care for or to improve their facilities. Our conversations with officials from both Departments also reinforced the fact that both agencies were very knowledgeable about the child care issues facing the State because of welfare reform.

Our reviews and interviews in this area disclosed two areas of concern, which are summarized below:

- *Officials from both Departments have discussed the possibility of creating a temporary, emergency child care provider status that would, at least temporarily, bypass the current licensing or registration requirements.* As far as we could tell, details of this status haven't yet been worked out between the two agencies. If few new child care homes or facilities are needed quickly to handle the child care needs for former welfare recipients, this new status might

not be created. If such a status is created and if it bypasses licensing and registration requirements resulting in a lowering of current standards, it could place more children at risk.

Department of Health and Environment officials acknowledge that current standards already represent the minimum that must be done, not the maximum. Various advocates for children in Kansas told us they thought it could be dangerous to lower health and safety standards for this reason.

- With the expanded efforts to increase child care availability in Kansas, the Department of Health and Environment (as well as local health department inspectors) will need sufficient resources to license, inspect, and investigate the new facilities that may be established. Although it's difficult to say how big that increase might be, our findings from question one point out that the current system isn't always adequate to ensure that children are safe and well cared for.

Department staff and local officials attributed many of the problems we identified to a lack of sufficient resources. If resources aren't adequate now, they're unlikely to be adequate as the number of child care providers grows. What may be needed are additional staff or dollars, or a reallocation of existing resources. If needed, additional financial support would have to come from the child care program's three major funding sources—fees charged to child care providers, the State General Fund, or federal grant moneys funneled through the Department of Social and Rehabilitation Services for welfare reform. Currently, about 40% of local staff costs and 33% of the Department of Health and Environment's child care operations are paid for with these federal grant moneys.

### Conclusion

It's too early to really tell what effect the new federal welfare reform law will have on the State's child care facilities. It does appear the Departments of Social and Rehabilitation Services and Health and Environment are working together on various related issues, even though their roles are very different. Considering some of the deficiencies we found in the Department of Health and Environment's regulatory activities, it will be even more important for the Departments to work together to ensure that any increased child care needs can be met with facilities and homes of high quality. Additional funding may be needed to accomplish this, as addressed by the recommendation in question one.

## APPENDIX A

### Although Child Care Regulation in Kansas May Be Better Than Regulation in Many Other States, Improvements Can Still Be Made

Recently, a New-York based national foundation, the Commonwealth Fund, working with experts at Yale University conducted a review of child care center standards across the country. According to a summary of the soon-to-be-released report, the study's goals were to determine:

- whether states currently are ensuring that infants and toddlers are protected from poor and possibly neglectful situations
- whether states currently are ensuring that infant/toddler child care programs contain basic standards of acceptable practice
- whether states' regulation of infant/toddler child care at child care centers improved between 1982 and 1990

The study reviewed regulations in the following categories and considered "acceptable" standards those shown below.

- staff-to-child ratios of one staff for four infants (birth to 18 mos) and one staff for five toddlers (18 to 36 mos)
- group sizes of 8 or 9 for infants and 10 or 11 for toddlers per classroom
- caregiver qualifications of high school diploma, at least three college-level courses related to young children, and 5-14 hours of annual inservice training related to child care
- physical facilities, programming, and equipment that are developmentally appropriate and safe

Guidelines for assessing the adequacy of each category were based on research done by the National Association for the Education of Young Children and Federal Interagency Day Care Requirements.

When the researchers compiled their reviews of regulations in all three areas, states fell into the following categories:

<b>Ranking of Standards</b>	<b>Number of States in this Category</b>
Optimal Practice	0
Good Practices	0
Acceptable Practices	17
Poor Practices	29
Very Poor or Unregulated	4

The study ranks Kansas among the 17 states in the category of "acceptable" regulation. However, that doesn't mean all Kansas regulations ranked in that category. For example, in the area of caregiver qualifications, only Minnesota met the minimally acceptable standard. All others were either poor or very poor. However, Kansas' ratio of staff to infants (which is one staff for every three infants) is better than the minimally acceptable ratio of one staff for every four infants. Full details of the study should be released by November 1997.



## **APPENDIX B**

### **Agency Responses**

On October 24, we provided copies of the complete draft audit report to the Department of Health and Environment and the Kansas Association of Local Health Departments. We also provided a draft copy of Question II of this report to the Department of Social and Rehabilitation Services. After carefully reviewing the responses, we made several clarification changes as necessary.

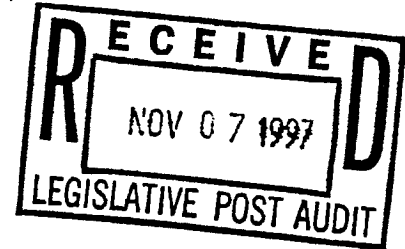


**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Gary R. Mitchell, Secretary

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November 7, 1997

Barbara J. Hinton  
Legislative Post Auditor  
Legislative Division of Post Audit  
Mercantile Bank Tower  
800 SW Jackson Street Suite 1200  
Topeka, Kansas 66612-2212



Dear Ms. Hinton:

The Department has reviewed the performance audit titled Reviewing the Department of Health and Environment's regulation of Child Care Facilities and Family Day Care Homes. The audit points out the Department's weaknesses in conducting the inspection and enforcement functions of the regulatory program. I can assure you the Department takes each recommendation seriously and is committed to making the necessary changes to strengthen parents' ability to choose safe child care. Before addressing each recommendation, I would like to make a few comments about the audit, child care in general and the role of child care regulation.

The audit primarily looked at the Department's role in safeguarding children in the narrow framework of the Department's inspection and enforcement component. The Department's efforts to reduce the risk of harm to children in child day care involves more than this component and includes education, information sharing and coordination with others in the child care system.

The safeguarding of children in child day care is a serious responsibility of parents. Parents are in the child care facility on a daily basis and see the child's day care environment. The Department's inspectors are only in licensed facilities once or twice a year or following a complaint.

The child care provider must provide a safe physical environment with activities that are developmentally appropriate and a sufficient number of qualified adults to supervise and care for the children. The child care provider must be in compliance with the minimum standards as established by regulation and ensure that corrections are made when regulatory violations are found.



The Department assists parents in making their child care choices by establishing reasonable regulations, policies and procedures that promote availability of safe child care. The Department's responsibility is to conduct thorough inspections, investigations and accurate reports; make those reports available to parents upon inquiry; close child care facilities that have failed to safeguard children and provide information to parents on choosing safe child care.

The audit points out deficits in the Department's ability to conduct timely inspections and to enforce its standards. The conditions described in the audit however, do not pertain to child care facilities as a whole, but to a small segment of child care providers, who for a variety of reasons, including insufficient training, do not comply with the minimum standards for child care.

Over 10,000 child care facilities are registered or licensed through the Department. Research indicates that regulated child care is generally safer than unregulated care. In 1990 Kansas regulated 12 child care slots per 100 children; the ratio is now 25 slots per 100 children. This represents a 24% increase in regulated day care slots and over 900 additional child care facilities.

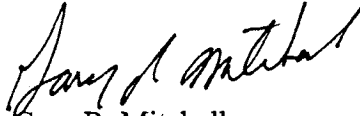
Child care facilities in Kansas generally comply with the minimum regulatory standards of care. Over 9,000 inspections are conducted annually and child care providers are notified of any violations found so corrections can be made. Approximately 85% of child care facilities make corrections and additional enforcement action is not warranted. The violation findings from these inspections are available to parents and 80% of inquiries are responded to within 24 hours. In FY 97 the local health departments and private contractors provided more than 4,900 parents information on choosing child care. Another 1,600 parents requested and received compliance history information on child care providers from the Department.

Training and education of child care providers results in higher quality child care. In FY 97, local health departments and private contractors provided approximately 3,600 orientation training sessions to 6,300 persons interested in providing child care. Approximately 900 training sessions were provided to over 9,000 child care providers on various child care topics. As part of the inspection process, consultation and technical assistance is provided to child care providers.

I would like to take this opportunity to thank the audit staff for their recommendations for improving the program and to thank my staff and the local health departments and private contractors for their participation and the open and honest manner in which they shared information.

The Department's response to the individual recommendations follow.

Sincerely,



Gary R. Mitchell  
Secretary



**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Gary R. Mitchell, Secretary

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Response to Performance Audit Recommendations

1. To ensure that it knows about problems affecting the safety and well-being of children in child care homes and facilities, the Department of Health and Environment should do the following:
  - a. ensure that the county health departments and private contractors conduct new and renewal inspections and complaint investigations in a timely manner.

The primary barrier to timely inspections is insufficient funding resulting in lack of staff to conduct the inspections at the local level. The Department currently funds approximately 38% of the cost of conducting the regulatory program at the local level. Additional funding is requested in the Aid to Local Budget for FY 99; however even this addition will not fully fund the program at the local level. Approximately \$1,346,000 would be needed to fully fund the program at the local level. Research does associate the frequency of inspection with compliance. The audit gives an example of how a new child care provider had violations that were left undetected until the initial visit. While the Department agrees inspections should be more timely, the risk to children is no greater in this situation than the risk in a registered day care home that can operate with no inspection. All child care providers attest to the safety of their homes prior to receiving approval to operate.

- b. ensure that investigations are thorough

Additional training of health department staff in investigatory process and additional oversight of the complaint investigations would be necessary to ensure investigations are thorough. Additional Department staff and funding could increase assurances that investigations are conducted thoroughly. While the Department would like to see 100% of the investigations conducted thoroughly, the audit found that 3 out of 41 complaints were not investigated as thoroughly as they should have been. In FY 97 the Department received over 2,500 complaints about child care providers. If the audit sample is an accurate reflection of the thoroughness of the investigations, 93% of these investigations were investigated thoroughly in spite of the problems identified with training needs and high case loads.

- c. take steps to reduce the degree to which providers can anticipate the timing of regular inspections

The contract with the health departments gives a 3 month window to conduct annual inspections. While these inspections are usually predictable to the child care provider, within a 4 to 6 week window, the inspections are unannounced. Some health departments telephone a few weeks ahead of time to confirm the child care provider's schedule to increase the likelihood that the child care provider will be home. These telephone calls are made so that precious staff time will not be wasted. With adequate funding and an increase in staff at the local level to conduct inspections this practice could cease. In order to conduct totally surprise inspections, a monitoring inspection, in addition to the regular inspection, would need to be conducted. At the current time, additional monitoring inspections are out of the question due to lack of staff and resources.

- d. take steps to reduce the backlog causing delays in getting criminal background checks for staff in the larger child care facilities

The Department is increasing its efforts to reduce the backlog in entering criminal history background checks into the system. The Department has cut the backlog in half this year and in FY 98 received funding and an additional FTE for this purpose. Additional temporary staff have been hired and it is anticipated that the backlog will be significantly reduced or eliminated within the next two months. In FY 97 the Department conducted 55,000 background checks, a 38% increase over FY 96. Once the names and identifying information are entered into the system, the majority of checks are completed within a few days.

- e. reassess its regulations relating to such things as child-adult ratios in family day care homes and training hours of child care workers, which currently are less stringent than national standards or other states, to identify areas where more stringent requirements may be needed.

The licensed day care home capacity, staff-child ratios and training requirements were last revised in 1990. The number of children allowed was increased at that time to address the need for additional availability of child care slots and to allow licensed child care providers to care for the same number of children under kindergarten age as registered day care home providers. The capacity in registered day care homes is determined by the statute, not by regulation. The Department has not considered a reduction in the number of children allowed in a licensed day care home; we believe it will decrease the availability of child care state wide. Regulations are minimum standards. Child care providers may reduce the number of children in their care to increase the quality of their services.

The education and training child care providers receive is linked with higher quality care and the Department will look at education and training requirements for child care providers in the future. One promising model currently being studied by the Kansas child care community is professional individual credentialing of child care providers separate from facility licensure. A similar model, used in adult care facilities, includes the credentialing of the Adult Care Home Administrator and the allied health professionals who work in adult care homes.

The child care center training requirements were last revised in 1987 and reviewed in 1996. Child care center initial training requirements for program directors and teaching staff are generally considered a strength of Kansas regulations. Ongoing training requirements, especially for program directors, are lower than other states. The Department is currently developing standards for school age child care programs. Child care center regulations will be revised following the adoption of the school age regulations; training and educational standards will be reviewed at that time.

2. To ensure that child care providers correct violations of child care regulations, and are dealt with appropriately if they don't make the needed corrections, the Department of Health should do the following:

- a. take enforcement actions that are consistent with the severity and history of violations found

The Department has recognized this area as a priority and has increased enforcement actions 79% in the last two years. Enforcement policies and procedures are currently being reviewed to determine program effectiveness. In addition to this internal review, the Department will assess the current statutes to identify ways to strengthen the Department's actions in a manner that will facilitate a more efficient and effective enforcement program. An enforcement program, however, cannot be an effective tool to gain compliance without an educational component. Many child care providers do not comply because they do not understand what is required or how to go about meeting requirements. In addition to strengthening enforcement actions, the Department intends to explore options for technical assistance so child care providers can achieve compliance within a reasonable time frame or face license revocation. If interim sanctions such as civil fines are increased this will create a burden on the Department.

- b. initiate enforcement actions in a more timely manner

Additional funding and staff will be necessary to initiate faster enforcement actions. Current procedures are being reviewed; however many efficiencies have

already been implemented as indicted by the dramatic increases in actions over the last few years. The Department's policy is to leave a copy of the violations found with the child care provider when the inspection is completed. This gives the provider immediate notice of the violations and provides an immediate opportunity to make corrections. Parents may access the inspections finding from the Department upon request.

Frustrations has been expressed about the Department's inability to take action quickly after violations are found. An example of a local inspector's frustration is found on page 8 of the audit. The inspector inquired about the status of 15 facilities. One facility had appealed an Intent to Deny order and is allowed by law to continue to operate during the appeal. The Department does not have the authority to enforce its orders or the bypass a provider's right to due process. That authority rests with the courts.

- c. follow up on enforcement actions taken to make sure providers correct problems found

Follow up inspections are routinely requested to verify compliance following enforcement actions. As a result of insufficient staff and resources the Department has difficulty reviewing providers' performance following enforcement actions. This aspect of the program will also be reviewed more closely.

- 3. To better ensure the safety and well-being of children in the State's child care facilities, the Legislative Post Audit Committee should consider introducing legislation to do the following:

- a. require regular inspections of all registered child care homes

If regular inspections are required, adequate resources will need to be allocated.

- b. amend K.S.A. 65-526 (1996 Supp.) regarding civil fines for child care providers who violate regulations to make it clear whether the fine amount applies on a per provider, per violation and per day basis.

In addition to clarifying statutory intent, the Department requests that the Legislative Post Audit Committee consider increasing the amount of the fine to a maximum of \$1,000; authorizing the assessment of fines for violations of statutes and regulations and authorizing the Department to assess civil fines against persons providing illegal child care. Language should also be added stating failure to pay civil fines within a specified period of time is grounds for suspension or revocation of the license or certificate.

4. The Department of Health and Environment should work with the Governor, the Legislature, and other parties involved in child care (such as local health departments, child care providers, and the Department of Social and Rehabilitation Services) to identify any additional funding that may be needed to provide high-quality child care and to maintain an effective child care regulatory program. If additional funding is needed, the sources available would include increased licensing fees, or increased State or federal funding.

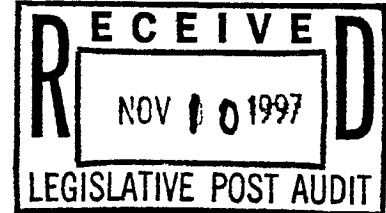
The Department's efforts will continue in this area. With support of advocates, the most recent research findings and the findings from this audit, the Department seeks additional funding. In addition to the recommendations made by the auditors, the Department also intends to increase its efforts to provide inspection and enforcement information to parents.

The remainder of the audit addresses the Department's working relationship with the Department of Social and Rehabilitation Services. The Department agrees with the conclusion and finding with the exception of one area. Officials from both Departments have discussed the possibility of creating a temporary, emergency child care status to facilitate welfare reform efforts in areas of the state with lower child care availability. However, discussions have centered around expediting the approval process rather than lowering current standards. The Department agrees that lowering current standards could place children at greater risk.

The Department will continue to work with its partners in the child care system to support parents in finding safe child care and improving the overall quality of child care in Kansas. Additional resources would allow the Department to improve the inspection and enforcement components of the Child Care Licensing program.

November 7, 1997

Barbara J. Hinton  
Legislative Post Auditor  
Mercantile bank Tower  
800 SW Jackson, Suite 1200  
Topeka, KS 66612-2212



Dear Ms. Hinton:

Thank you for allowing local health departments the opportunity to respond to your performance audit, *Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and family Day Care Homes*. Local health departments believe the Child Care Licensing program is important because the purpose of the program is to protect children in out of home care. Any support this audit will lend to helping local health departments assure parents that their children are in a safe and healthy environment while it someone else's care will be most appreciated. I have enclosed a written report with the KALHD Child Care paper as an attachment. In addition, I have included for your review information from some of the departments in the form of technical corrections that didn't seem appropriate for inclusion in the general response.

The Legislative Post Audit Committee scheduled for November 17, is at the same time as the KALHD Board of Directors meeting in Wichita which is in conjunction with the annual Kansas Association of Counties meeting. Because of the overlap of the two meetings, I have not been able to schedule anyone from local health departments to testify during the November 17 session. We would be willing to provide testimony and respond to questions at a future meeting if the Committee is interested in learning more from local health departments.

It has been a pleasure to work with Sharon Patnode and the other members of your staff on this assignment.

Sincerely,



Ed Garner  
Executive Director

Enclosure (2)

KANSAS ASSOCIATION  
OF LOCAL HEALTH  
DEPARTMENTS

P.O. Box 780406  
WICHITA, KANSAS

6 7 2 7 8 - 0 4 0 6

PHONE: 316 • 684 • 0624

FAX: 316 • 684 • 2182





Legislative Post Audit Report

***Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes***

Response to the Legislative Post Audit Committee  
By  
Kansas Association of Local Health Departments

The Kansas Association of Local Health Departments (KALHD) appreciates this opportunity to comment on the Legislative Post Audit report *Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes*. KALHD annually advocates for improvements in the Child Care program, particularly in the Aid-to-Locals Budget. Local health departments would like to thank the Legislative Post Audit Committee, the Post Audit Staff, and Secretary Gary Mitchell of KDHE for your interest in children in out of home care.

Somehow the Committee and KDHE Child Care Staff must realize that the laws requiring Child Care Licensure/Registration charge the Secretary of KDHE to assure safe Child Care. That is a state law, not a local regulation, and, as such, it is the responsibility of KDHE Child Care staff to assure they have sufficient staff to fulfill the mandate and that the local agencies/contractors, acting as agents for KDHE, have sufficient dollars to complete the inspections and reports in a timely manner.

It appears that the report makes the following three basic conclusions with which KDHE should be charged to assure the completion of this legally mandated program and to assure a minimum standard of Child Care is maintained in Kansas. We view these three points as:

1. Assure the Child Care Department focus, and the focus of every employee in KDHE including the legal department is that of protecting the health, safety and welfare of children in care. The focus should not be to "bring providers into compliance".
2. Increase staffing to assure all facets of completing the quality function of this state program focused on children are provided by dedicated, competent and efficient personnel.
3. Find funding resources to assure quality salaries for quality staff, at the state and local levels, and funding for all program costs, i.e. copying, postage, communication, training, complaint and enforcement follow-up visits.

KANSAS ASSOCIATION  
OF LOCAL HEALTH  
DEPARTMENTS

P.O. Box 780406  
WICHITA, KANSAS

6 7 2 7 8 - 0 4 0 6

PHONE: 316 • 684 • 0624

FAX: 316 • 684 • 2182

The problems identified are three-fold:

1. Lack of staff:
  - A. notification of local agencies/contractors of need to complete annual evaluations, noncompliance re-visits, initial visits, etc. This is addressed in pages 4-6 of the report, citing the fact that initial inspections are not completed within 30 days of application - when, in fact until October 16, 1997, **an initial visit was not to be made until after KDHE had issued a temporary permit**. It is difficult for locals/contractors to know the duration of licensure as it is no longer on the license. This does not allow local inspectors to know when the inspection is due, except when receipt of KDHE notices are sent to the locals, which are frequently weeks behind schedule due to the KDHE staffing problem. Locals are to have an eight (8) week period to complete the annual inspection process, prior to relicensure. Therefore, providers do indeed know which 8 weeks to expect a visit. The procedure for follow-up visits for Order of Noncompliance notice has been completed at KDHE request, to assure the legal process is not impeded.
  - B. Provider KBI information is not being entered into the system in a timely manner - see page 10. This slows the issuance of Temporary Permits and completion of the 30 day application time line.
  - C. Lack of funding for KDHE to train local staff as noted on page 8.
2. Improper function focus within KDHE:
  - A. Regulatory enforcement is for the protection of children in Child Care, note pages 10-14.
  - B. Regulatory enforcement is not to be completed through the function of "bringing the provider into compliance": - **the law makes it clear that it is the provider's responsibility to be in full compliance with the minimum standard of care each and every day children are in care**, note page 10.
  - C. Weak regulatory enforcement encourages provider complacency, as shown by the number of provider violations noted repeatedly year after year - providers have no reason to anticipate **anyone** expects them to provide any standard of child care - note page 11.
3. Lack of KDHE foresight and strategic planning:
  - A. Having sufficient funds to cover costs of this state program that continues to rise. Just by watching the increase in day care providers, and the need to complete enforcement actions, should provide clues to KDHE for the need to increase bureau funding.
  - B. When backlogs of provider licensure/regulatory actions and local inspections are notable, the Bureau Director should work with the Secretary to resolve the funding needs to assure the quality of the

program is maintained. That will assist in maintaining employee morale and job satisfaction.

- C. Foresight and planning must be maintained to assure adequate funding for the total program at the state level and at the local level, as the locals assist in assuring the quality of this state mandated program.

Laws pertaining to Child Care Licensing have not developed as the laws concerning adult care even though some of the situations are comparable. Keep in mind many of these children are unable to talk or tell what their day care situation is like; **the laws must be strengthened to protect children.** Fines must be in proportion to the seriousness of the infraction and the public and especially the parents must be notified of noncompliance.

The 25 child care slots for every 100 children is a new guideline that does not indicate the quality of care available. Parents frequently tell us there is a need for more day cares of better quality. Another point to consider is that a number of providers have slots because their care is substandard. According to the Carnegie Corporation, when families can find child care, too often the care is of poor quality. The study also found that low income and minority children are more likely than others to be in lower-quality programs.

Surveyors estimate that 95% of complaints involving registered day cares involves multiple, serious violations. Surveyors strongly urge registered homes be inspected annually.

Surveyors are opposed to the category of emergency, temporary child care. **Adding less monitored child care to an already troubled system will only place more children in Kansas at risk.** A professional, quality child care business should not be "thrown" together. Children cannot be cared for well and safely in a haphazard environment.

Surveyors recommend inspections be done on a needed basis. Providers with a history of poor compliance would receive thorough inspections 2 - 3 times a year. Providers with an excellent compliance history would receive a brief inspection 1 - 2 times a year with a thorough survey done every 18 - 24 months. The majority of the surveyor's time would be spent on the providers that have poor compliance.

Increased **financial** resources are essential if the Child Care Licensing Program is to provide the regulatory oversight needed for the program to truly protect the health and safety of children in Kansas. **The current lack of sufficient funding causing serious credibility problems for the program.** The Carnegie "*Years of Promise*" report cites a forthcoming study by the Quality 2000 Initiative of Yale University's Bush Center in Child Development and Social Policy, which concludes that the care most children are in not only can **"threaten their immediate health and safety, but also can compromise their long-term development."**

The conclusion of the report is not strong enough regarding funding. For too long the burden of funding this state mandated program at the local level has fallen on the shoulders

of local government with only a few federal and state dollars made available to locals (see attached issue paper). In some counties, local government is picking up over 80% of the cost of the Child Care Licensing program for their county. This is the inverse of how responsibility for funding the program should be. The state must take a more responsible position in funding the regulatory requirements of this state mandated program. The demand for quality child care is expanding and will continue to do so in coming years. Even so, according to the report, state funding to address governmental responsibility in the Child Care Licensing program decreased in SFY 1998. **A significant increase in state funding is needed** to enhance needed performance improvement at the state and local levels to assure a quality child care licensing and registration program in Kansas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Garner", with a long, sweeping horizontal stroke extending to the right.

Ed Garner, MS  
Executive Director

November 1997

# Kansas Association of Local Health Departments

## FY 1999 Issue Paper

### Funding Concerns Related to the Child Care Licensing and Registration Program

#### I. Issue Definition.

Statistics indicate a continued increase in the demand for child care both for the general public and for successful welfare reform. Experts say millions more children will need day care in the next few years because there are more children in the United States. During the fall of 1995 a record number of children entered school causing an increased need for *Before and After School Care*. In addition, current efforts to redirect mothers now supported by welfare into the work force will significantly increase the demand for out of home child care. Due to welfare reform in Kansas, approximately 4,000 - 5,000 additional day care slots will be needed Within the next two years. Statistics show that 70% of women with young children are in the work force, thus resulting in an increased demand for infant and toddler care.

The primary goal of the Child Care Licensing and Registration Program is to promote the health and safety of children in out-of-home child care. This is accomplished by enforcing minimum standards that reduce predictable health and safety risks to children. For the Child Care Licensing Program to benefit Kansans, increased funding is essential. Funding has not kept pace with the program's growth and funding continues to be inadequate.

#### II. Background

The first child care licensing law was passed in 1919. The program is mandated by K.S.A. 65-501 to provide regulatory services which include education, development of minimum standards of care, inspections, compliance monitoring and technical assistance, complaint intake and investigation, and enforcement. According to research, quality child care provides positive outcomes for society. Compliance with regulations is directly related to quality. Studies indicate that children enrolled in quality early childhood programs are more successful in school and tend to have increased cognitive abilities, increased social skills, and less aggression. Child care regulations addresses:

- ◆ Immunizations: the 1996 audit<sup>1</sup> found 96% of children in regulated child care have current immunizations compared to the retrospective statewide average of 59%<sup>2</sup>.
- ◆ Preventive health assessments or Kan-Be-Healthy exams for adults and children.
- ◆ TB testing.
- ◆ Communicable disease prevention.
- ◆ Injury prevention.
- ◆ KBI/registry check.
- ◆ Child abuse reporting.
- ◆ Nutrition.
- ◆ Developmentally appropriate practice.

- ◆ Adequate supervision
- ◆ Health consultations.
- ◆ Early intervention/identification/referral

As of January 1, 1997, there are 12,400 child care facilities in Kansas. During fiscal year 1996, local health departments made an estimated 14,000 visits for initial evaluation, annual inspection, follow-up visit, KDHE requested compliance checks, technical assistance and complain investigation. The day care facilities inspected have a capacity for 130,000 children, not including part-time and double sessions. Presently, an estimated 250,000 children benefit from the program. The residential facilities have a capacity for 6,909 children. The total number of child care slots available was 136,535. During fiscal year 1996, there was an increase of over 3,000 new slots. In fiscal year 1991 there were 12 slots per 100 children and in Fiscal year 1996 the statewide average was 25 slots per 100 children. Counties with strong regulatory programs and a strong local commitment to quality child care have more child care slots available.

From 1985 to 1997 there has been an 8% decrease in funding from Maternal and Child Health for the Child care program. This decrease in funding started prior to the receipt of Child Care Development Block Grant (CCDBG) dollars. Fiscal year 1991 was the baseline year for CCDBG. The State funding level has not significantly increased since 1990. Salaries and cost of operation of this program have escalated therefore stagnant funding equates to a decrease in operating capacity. The current funding level provides local health departments with only 42% of the cost associated with carrying out the mandated regulatory program. Local funding of the Child Care Licensing Program varies from county to county state wide. Two counties with increased growth received 80% of their budget from local funding. Actual State money was 7%. The remaining 13% of funding comes from the CCDBG.

The CCDBG under current rules and authorization will end after fiscal year 1998. Welfare reform removes the current CCDBG 25% set aside and replaces it with a 4% set aside for quality improvements such as Child Care Licensing/ Registration. Indicators are that SRS will continue to fund at current levels even though future funding will be under the Welfare Reform Block Grant. This will result in KDHE competing with more STS programs and other agencies. A few examples include: Resource & Referral agencies, KCCTO Training, STS Day Care Provider Improvement Plan and SRS direct child care payment.

Local health departments are bearing the burden of under-funding at the State level and are picking up the cost of a State mandated program at the local level. Privatization of local regulatory services has occurred in 12 counties due to lack of funding. Funding to local health departments continues to fall behind program growth and has affected delivery of service. If this continues, Public Health initiatives in the Child Care Licensing Program will be diminished. In fiscal year 1997, three additional county health departments threatened to not participate in the program due to the increased funding burden to local government.

## Aid to Local Budget

Note effect of CCDBG funds on aid to local budgets

<u>FY 1991</u>		<u>FY 1993</u>	
State General Fund	\$234,715	State General Fund	\$233,802
CCDBG	<u>\$000,000</u>	CCDBG	<u>\$463,000</u>
TOTAL	\$234,715	TOTAL	\$696,802
<u>FY 1997</u>		<u>FY 1998 (UNOFFICIAL)</u>	
State General Fund	\$290,983	State General Fund	\$290,983
CCDBG	<u>\$463,000</u>	CCDBG	<u>\$463,000</u>
TOTAL	\$753,983	TOTAL	\$753,983

Local health department problems due to inadequate funding includes lack:

- ◆ Adequate staffing to complete initial and yearly surveys, complaint investigations, KDHE requested compliance checks, follow-up visits and illegal care investigation per KDHE policy and contract.
- ◆ Staff at the State level to manage the program's demands, such as increased complaint investigations, legal enforcement, compliance monitoring, surveyor education/consultation and collaboration with other State and child care organizations.
- ◆ Updated equipment, i.e. computers and laptops statewide.

### III. Recommendation

Increase state Aid-to-Locals funding to maintain the efficiency and quality of the Child Care Program. Fiscal year 1998 will be the last year of the Child Care Development Block Grant (CCDBG) under existing rules and funding. Federal funding is uncertain and likely will be maintained at current levels with an increase in program demands. State funding is needed to provide a quality child care licensing and registration program for our children--our future citizens. The state Aid-to-Locals should be responsible for funding 70% of the state mandated Child Care Program including inflationary adjustments and provisions for salary increases at the local level.

### IV Fiscal Impact

KDHE Child Care Licensing Program has a cost of approximately \$1,754,683: State General Fund \$290,983, federal CCDBG \$463,000, and local \$1,000,700<sup>4</sup>. A 70% participation by the state will require approximately \$1,228,278 in Aid-to-Local for the KDHE Child Care Licensing Program.

## **V Legislative Implication**

State law requires licensing/registration of all day care facilities. Without additional funding, Child Care Regulatory services and Public Health initiatives in Child Care Licensing will be diminished. The legislature has the responsibility to identify the funding sources for State mandated programs.

## **VI Impact on Other Agencies**

Other agencies such as SRS, Resource & Referral agencies and food Programs (CCFP) rely on timely reports from the KDHE Child Care Licensing/Registration program and indirectly from the local health department Child Care Licensing/Registration programs. For example, when reports from the local health departments are delayed because of inadequate staffing the initiation of CCFP reimbursement and SRS funding for children is delayed. This results in funding problems for child care providers.

Child care providers, particularly child care center applicants, who face significant delays in receiving a license lack financial resources to support a facility without clients.

In summary, when financial resources for the Child Care Licensing Program are insufficient it impacts services for parents and their children, effecting the community.

### **Supportive documents/Resources**

<sup>1</sup> *Annual Immunization Assessment Report, 1996 Day Care Centers, Head Start Centers and Schools.* KDHE Immunization Program.

<sup>2</sup> *Retrospective Immunization Coverage Survey 1991-92 Results (School Year 1995-1996),* Office of Epidemiologic Services and the Bureau of Disease Control, KDHE.

<sup>3</sup> KDHE, Child Care Licensing/Registration.

<sup>4</sup> KDHE, Child Care Licensing/Registration estimate for SFY 97.



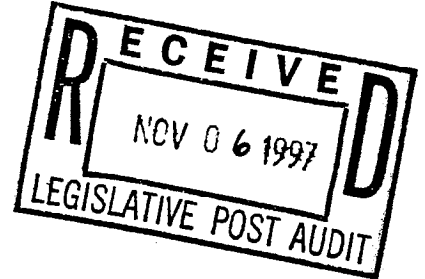


KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

November 5, 1997



Ms. Barbara J. Hinton  
Legislative Division of Post Audit  
Mercantile Bank Tower  
800 Southwest Jackson Street, Suite 1200  
Topeka, KS 66612-2212

RE: Audit Response for Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes

Dear Ms. Hinton:

We reviewed the applicable portion of the Audit Response for Reviewing the Department of Health and Environment's Regulation of Child Care Facilities and Family Day Care Homes. SRS will continue to work with KDHE to ensure that any increased child care needs will be met with facilities and homes of high quality.

The intent of the discussion to possibly create a temporary, emergency child care provider status is not to bypass the current licensing or registration requirements. The intent of this proposed change is two fold:

- 1. This change might be a temporary license to allow parents to seek someone who is thinking about becoming licensed or registered but has not yet completed the paperwork.
- 2. The temporary license would allow the provider time to decide whether they want to continue caring for children, complete the process of becoming licensed, and have a fire-safety and licensing inspection. One outcome would be to prevent extra work by licensing staff when the potential provider decides this is not a final career choice and quits caring for children.

If increased funding is required for the program, the Department will work with KDHE to determine the amount of additional funding as well identifying the funding resources to eliminate the funding shortfalls.

If you have any additional questions, please contact Rita Barnard, SRS Audit Director, at 913-296-2041.

Sincerely,

*Rochelle Chronister*

Rochelle Chronister  
Secretary

RC:tmw

cc: Mary Hoover  
Rita Barnard  
Connie Hubbell