KANSAS LEGISLATIVE
DIVISION *of*
POST AUDIT

A Performance Audit Report Presented to the Legislative Post Audit Committee

Evaluating State Agencies' Registries of Perpetrators of Abuse, Neglect, and Exploitation

July 2025

Report Number: R-25-011

Introduction

This audit was suggested by LPA staff. It was authorized by the Legislative Post Audit Committee at its April 24, 2024 meeting.

Objectives, Scope, & Methodology

Our audit objective was to answer the following question:

1. Did state agencies maintain complete abuse, neglect, and exploitation registries in recent years?

Our method included reviewing state law to determine any requirements related to investigating or reporting suspected abuse, neglect or exploitation. We focused on requirements related to relevant state agencies (the Department for Aging and Disability Services, the Department of Health and Environment, and the Department for Children and Families) and related licensing boards (the Board of Healing Arts, the Board of Nursing, and the Behavioral Sciences Regulatory Board). We interviewed agency officials and reviewed documentation to understand what these entities do to satisfy their obligations. We reviewed the perpetrator registries or other related databases these agencies and boards maintain.

The scope of our work also included reviewing allegations of abuse, neglect, and exploitation referred between agencies or boards or law enforcement. This was to evaluate whether agencies made successful and appropriate referrals. Finally, we interviewed stakeholders who use abuse, neglect, and exploitation registries to learn whether they were aware of problems with the registries.

Our scope of work did not include reviewing whether agencies or boards we evaluated made appropriate determinations about whether someone perpetrated abuse, neglect, or exploitation. Our scope of work also didn't include evaluating law enforcement agencies' involvement in investigating alleged abuse, neglect, or exploitation. It also didn't include reviewing other registries, such as state criminal history registries or federal registries. Those other registries were outside the scope of the audit.

More specific details about the scope of our work and the methods we used are included throughout the report as appropriate.

Important Disclosures

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

Our audit reports and podcasts are available on our website www.kslpa.gov.

The state's ANE investigation system is complex and fragmented across state agencies, making it difficult to determine if the registries are complete.

Background

State law requires KDADS, KDHE, and DCF to investigate alleged abuse, neglect, or exploitation.

- State law (K.S.A. 38-2202, 39-1401, and 39-1430) defines abuse, neglect, and exploitation. Abuse refers to acts that harm or may harm someone. Neglect refers to a caretaker not ensuring someone's safety or well-being. Exploitation refers to someone taking advantage of another person's resources (e.g., their money).

- State law requires 3 state agencies to take allegations of suspected abuse, neglect, or exploitation (ANE). Those agencies are the Department for Aging and Disability Services (KDADS), the Department of Health and Environment (KDHE), and the Department for Children and Families (DCF). Facility staff, family, or the public can submit allegations of ANE to these agencies. **Figure 1** shows the types of allegations each agency should take. As the figure shows:

    - KDADS takes allegations of ANE of people staying in or receiving treatment from adult care homes. This includes people living in nursing homes.

    - KDHE takes allegations of ANE of people staying in or receiving treatment from medical care facilities. This includes, for example, people treated or staying in hospitals, ambulatory surgical centers, and recuperation centers.

    - DCF takes allegations of ANE of people staying in or receiving treatment from the state's 4 psychiatric hospitals or institutions for individuals with intellectual disabilities. This includes, for example, Parsons State Hospital. DCF also takes allegations of ANE for vulnerable adults living in the community (e.g., their homes). And finally, DCF takes allegations for abuse or neglect of children.

Figure 1. KDHE, KDADS, and DCF take allegations of suspected abuse, neglect, or exploitation based on the location of the alleged victim.

	KDADS	KDHE	DCF	
			Adult Protective Services	Child Protective Services
Adult Care Home Residents	✓		(a)	
Medical Care Facility Residents		✓	(a)	
State Psychiatric Hospital Residents			✓	
Vulnerable Adults in the Community			✓	
Children				✓

(a) DCF officials told us they accept allegations of ANE of adult care home or medical care facility residents when the alleged perpetrator isn't an employee or other resident. For example, DCF would accept an allegation of ANE of a resident by a family member. However, DCF isn't required to accept these allegations under state law.

Source: LPA review of state law and interviews with agency officials.

- State law requires the agencies investigate allegations within 5 days. How quickly agencies should investigate depends on the severity of an allegation. For example, state law requires an agency investigate an allegation of someone in imminent danger within a day. State law also requires agencies complete their investigations within 30 workdays.

- State law requires agencies complete a written assessment after each investigation. The assessment must include several things. For example, it must say whether there was ANE. It must also include recommended actions. And it must say whether the situation requires protective services.

- Finally, state law requires the agencies keep a register (i.e., inventory) of all allegations they receive and investigations they conduct. Information in the registers is not public record.

State law requires KDADS, KDHE, and DCF to notify other entities about certain allegations or findings.

- State law (K.S.A. 39-1405) requires KDADS and KDHE to notify DCF when someone may need protective services. DCF should then determine whether someone does need those services. Protective services include things like helping someone get social, medical, or legal services. These things might help someone who was a victim of ANE.

- State law (K.S.A. 39-1411 and 39-1433) requires all 3 agencies to refer certain findings to licensing or regulatory authorities. For example, if an agency finds a medical doctor abused someone, the agency should notify the Board of Healing Arts.

- State law (K.S.A. 39-1404 and 39-1433) requires the 3 agencies to notify law enforcement of allegations that suggest criminal acts. For example, in Kansas, knowingly mistreating elders is a crime. So, an agency should notify law enforcement if it gets an allegation of elder abuse. But not all ANE allegations may suggest criminal acts. For example, KDADS officials told us some allegations they get don't meet the criteria for ANE (e.g., that a nursing home staff member was rude). Law enforcement may not need to be notified about these allegations.

- State law (K.S.A. 75-723) requires the agencies notify to the Kansas Attorney General's Office in 2 instances: Agencies should notify the Office when they refer allegations to law enforcement. Agencies should also notify them when they substantiate against an alleged perpetrator. The Attorney General's Office has an Abuse, Neglect, and Exploitation of Persons Unit (ANE Unit). The unit monitors law enforcement responses to alleged ANE of adults.

The 3 state licensing boards that oversee the relevant health care professionals aren't specifically charged with investigating ANE.

- In this audit, we also reviewed the Board of Healing Arts, the Board of Nursing, and the Behavioral Sciences Regulatory Board. These boards license and oversee health care professionals. They may also discipline their licensees for misconduct. Misconduct includes, but is not limited to, ANE.

    - The Board of Healing Arts (KSBHA) licenses 16 health care professions such as medical doctors and physical therapists.

    - The Board of Nursing (KSBN) licenses 5 nursing professions such as registered nurses and mental health technicians.

    - The Behavioral Sciences Regulatory Board (BSRB) licenses 7 behavioral sciences professions, including psychologists and social workers.

- State law requires these 3 boards maintain or contribute to databases with information about the people they have licensed. Each of the 3 boards publicize

the disciplinary actions they have taken against their licensees and makes their database publicly available.

- However, State law doesn't specifically charge the boards with investigating alleged ANE. As part of their oversight, the boards investigate allegations of incompetence and professional misconduct. State law also allows the boards to discipline their licensees for incompetence or misconduct. While incompetence or misconduct could include ANE, the boards aren't required to investigate or report on ANE allegations like KDADS, KDHE, and DCF are. State law allows the boards to consider referrals about ANE from KDADS, KDHE, and DCF when taking disciplinary action.

Findings Related to Agencies' Identification of Perpetrators of ANE

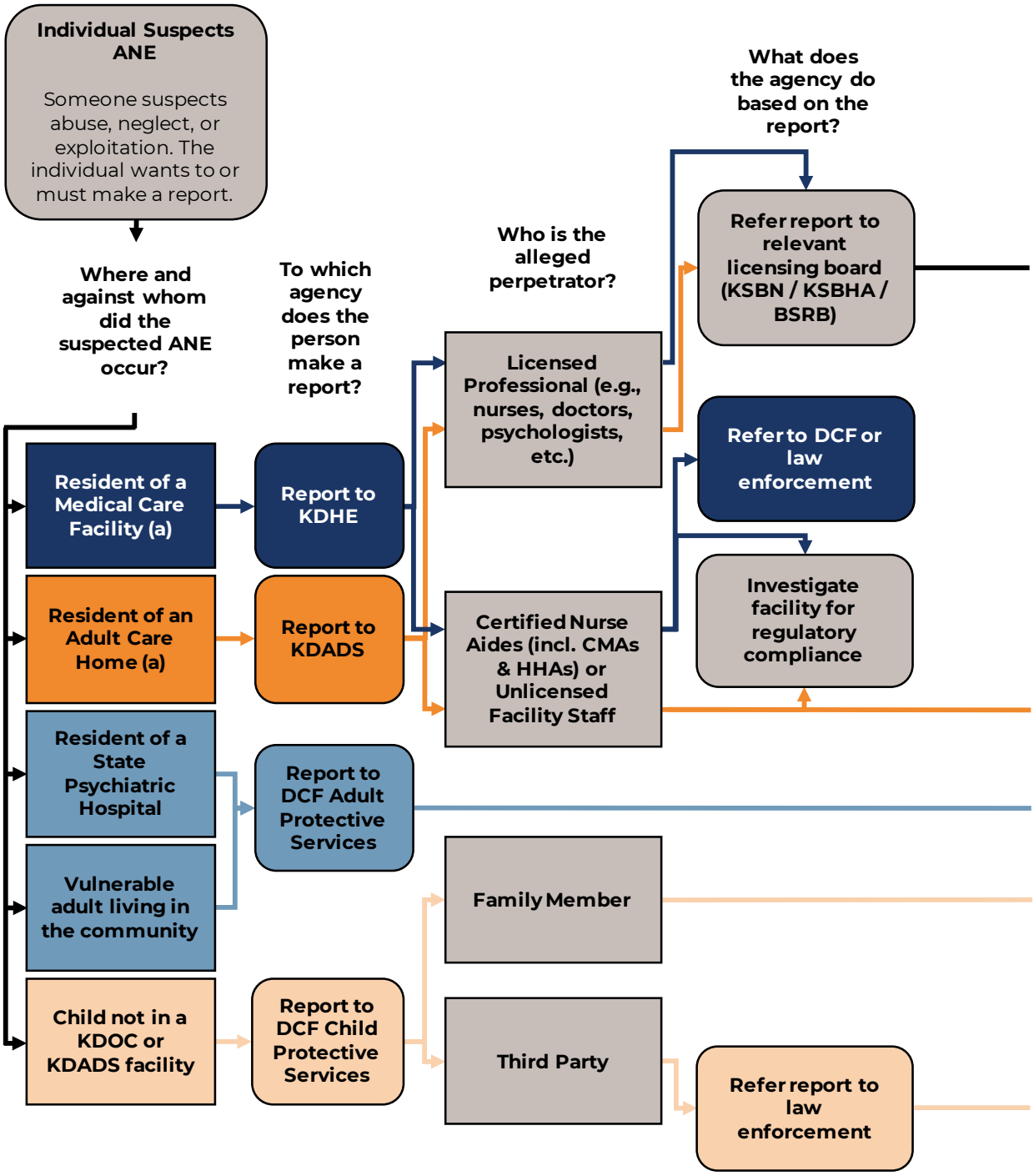
The state's process for investigating and registering cases varies across state agencies, leading to a complex and fragmented ANE system.

- Generally, allegations of ANE should be investigated and documented in a register. However, the agency responsible for this varies under state law. **Figure 2** demonstrates the complexity of the state's ANE process. As the Figure shows, KDADS, DCF, KDHE, law enforcement, and various state boards all have different roles in this process. Which path an allegation takes depends on several factors, including who the alleged victim and perpetrator were, and where the alleged ANE occurred.

- The state has a fragmented ANE investigation system. That's because agencies have specific jurisdictions under state law. Those jurisdictions don't overlap. For example, as previously discussed, KDADS' jurisdiction is over adult care homes. By contrast, KDHE's jurisdiction is over medical care facilities. Those territories are exclusive of each other. The system is further complicated by referrals to other agencies, boards, or even law enforcement.

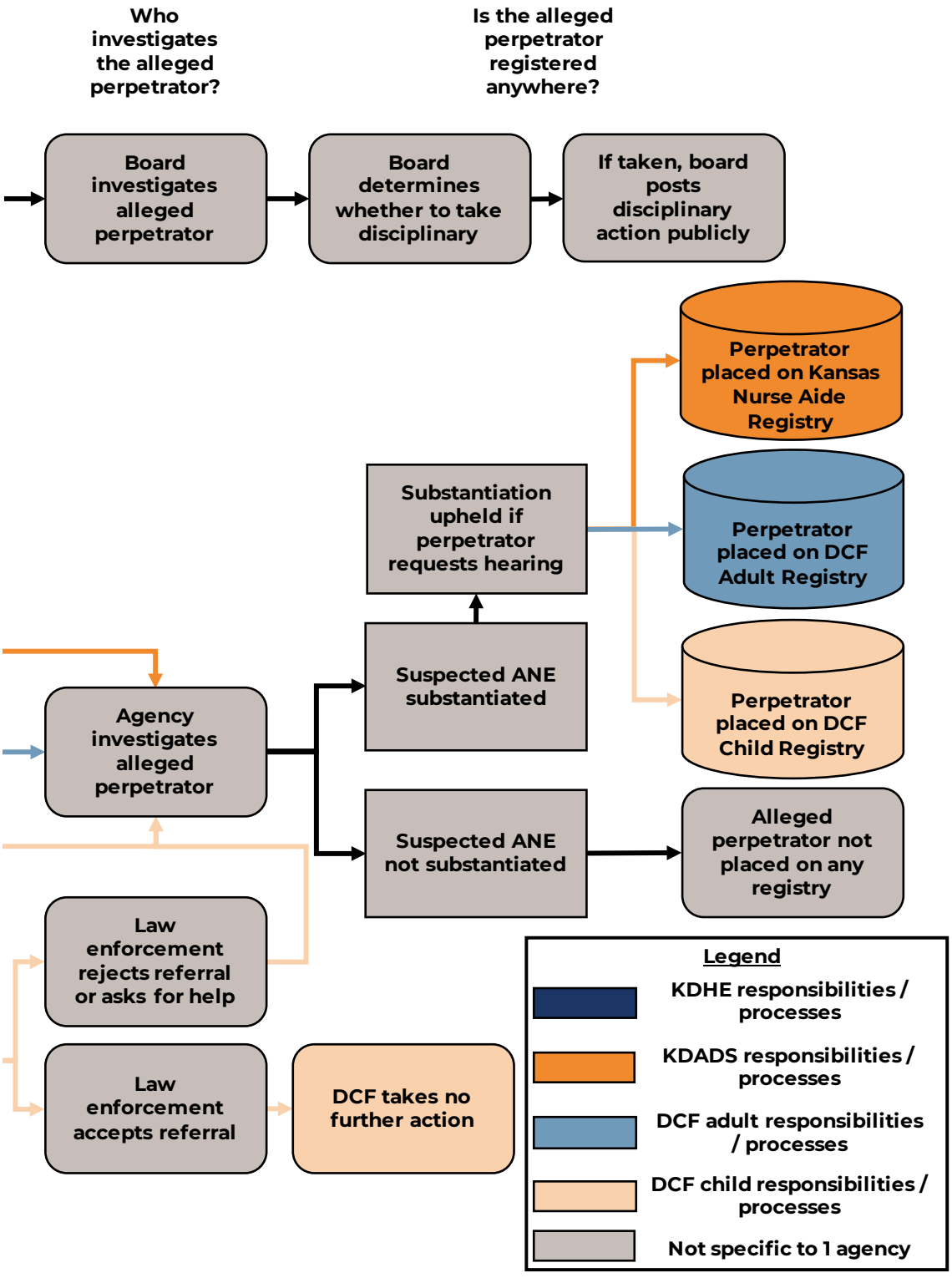
- A fragmented system isn't necessarily bad and may be intentional, but it carries risks. For example, if agencies don't have processes to refer cases to each other and follow up on outcomes, there's a risk that some perpetrators of ANE may not be investigated or identified. We did some work to determine the extent to which these risks occurred. We found a few instances where allegations may not have been investigated properly. These findings are discussed in the following sections.

Figure 2. The state's ANE investigation system is complex and involves many agencies.



(a) DCF receives and investigates allegations of ANE by non-staff and non-residents in these places. We don't show DCF's investigations of those allegations in this figure.

Source: LPA review of state law and agency policies, and interviews with agency officials.


Who investigates the alleged perpetrator?
Is the alleged perpetrator registered anywhere?
Board investigates alleged perpetrator
Board determines whether to take disciplinary
If taken, board posts disciplinary action publicly
Perpetrator placed on Kansas Nurse Aide Registry
Substantiation upheld if perpetrator requests hearing
Perpetrator placed on DCF Adult Registry
Perpetrator placed on DCF Child Registry
Agency investigates alleged perpetrator
Suspected ANE substantiated
Suspected ANE not substantiated
Alleged perpetrator not placed on any registry
Law enforcement rejects referral or asks for help
Law enforcement accepts referral
DCF takes no further action
Legend
KDHE responsibilities / processes
KDADS responsibilities / processes
DCF adult responsibilities / processes
DCF child responsibilities / processes
Not specific to 1 agency

State law is unclear regarding agencies' responsibilities to investigate individual perpetrators of ANE, leading to differing processes between agencies.

- State law (K.S.A. 39-1404) requires KDADS and KDHE to prepare an assessment for each allegation of suspected ANE they receive. DCF must also do this for allegations of ANE of vulnerable adults (K.S.A. 39-1433). An assessment should include an analysis of whether there is or was ANE. State law (K.S.A. 38-2226) also requires DCF and law enforcement to determine whether allegations of ANE about children are valid and whether children need protection.

- Agencies have interpreted their responsibilities in different ways. That's because it's not clear in state law whether the agencies must identify who perpetrated ANE. State law could be interpreted to mean agencies must say whether ANE happened but not who did it. Or it could be interpreted to mean agencies should both say whether ANE happened and identify the perpetrator. In this audit, we found that:

    - KDADS officials told us KDADS will determine whether specific individuals perpetrated ANE based on their licensure. KDADS will investigate individuals with nurse aide certifications. KDADS will also investigate unlicensed staff (e.g., janitors). But KDADS won't investigate licensed staff (e.g., doctors or nurses) who don't also have nurse aide certifications. They said they lack the authority to do so. However, KDADS would investigate licensed staff who also have nurse aide certifications.

    - KDHE doesn't investigate specific allegations of ANE or determine whether specific individuals perpetrated ANE. KDHE officials told us they lack the authority and resources to do this. Instead, they told us they investigate medical care facilities as a whole for compliance with statutory and regulatory requirements. For example, KDHE officials told us they survey (i.e., inspect) facilities to determine whether they're complying with Centers for Medicare and Medicaid Services (CMS) regulations.

    - DCF determines whether specific individuals perpetrated ANE against vulnerable adults. DCF also determines whether family members perpetrated ANE against children. By contrast, DCF refers allegations of abuse or neglect of children by third parties to law enforcement. If law enforcement accepts a referral, DCF doesn't investigate it further. It's not clear whether this should be happening. State law charges both DCF and law enforcement with investigating abuse or neglect of children. We discuss this issue in more detail later in the report.

    - DCF officials also told us they investigate certain allegations of ANE of residents of adult care homes and medical care facilities. DCF officials said they investigate allegations when the alleged perpetrator isn't an employee or resident of the facility or home. For example, DCF officials said they'd investigate and determine whether an adult care home resident's family member financially exploited the resident (e.g., if a resident's family member

was misusing the resident's financial assets instead of paying the resident's adult care home bills). DCF officials told us it has been the agency's practice to do these investigations under a 2013 memorandum of understanding DCF has with KDADS and KDHE. However, state law doesn't require DCF to do these investigations.

- Agencies have interpreted their responsibilities to investigate potential perpetrators of ANE in different ways largely because state law isn't sufficiently specific about what agencies must determine through their ANE investigations. DCF and KDADS interpreted state law as requiring them to identify and investigate individual perpetrators of ANE. However, KDHE did not interpret state law in this way. As such, KDHE does not investigate specific individuals alleged of ANE. However, because we can't determine the intent behind these laws, we can't say with certainty whether agencies' actions were appropriate or not.

State law is also unclear on whether or how agencies should document individuals who have been substantiated as ANE perpetrators.

- State law (K.S.A. 39-1411 and 39-1434) requires the three agencies each maintain a "register" of the allegations of ANE of adults they receive. An agency's register should include its findings for each case. The registers are not subject to the open records act. And no information in any register should be publicly available in a way that identifies individuals.

- It's not clear whether these registers are meant to be lists of substantiated individual perpetrators of ANE (i.e., registries). State law defines neither "register" nor "registry." Due to this and other state laws, agencies have interpreted their responsibilities in different ways. In this report, we use "register" to refer to an agency's inventory of allegations and investigations. We use "registry" to refer to an agency's list of perpetrators of ANE.

- The following sections detail the different ways agencies interpreted their responsibilities to investigate and inventory allegations of ANE, and to identify individual perpetrators of ANE.

KDADS keeps a public registry for certified nurse aides and unlicensed staff who perpetrated ANE in adult care homes, but not for other positions.

- State law makes KDADS responsible for investigating allegations of ANE in adult care homes (e.g., nursing homes). Separately, KDADS is also responsible for certifying nurse aides (this includes certified nurse aides, as well as certified medication aids and home health aides). Both state law (K.S.A. 39-936) and federal regulation (42 CFR Part 483) require KDADS keep a registry of those nurse aides. Federal regulation requires the registry say whether CNAs perpetrated ANE. Federal regulation also requires the registry be accessible to the public.

- To satisfy those federal and state requirements, KDADS maintains the Kansas Nurse Aide Registry (KNAR). The KNAR is a publicly accessible, searchable

registry. Users can search the registry to see whether a CNA has an employment prohibition. A CNA can have a prohibition because they perpetrated ANE. A CNA can also have a prohibition due to their criminal history.

- KDADS also includes unlicensed adult care home staff who perpetrated ANE in the KNAR. KDADS officials told us they began adding unlicensed staff to the registry between 2020 and 2021. KDADS did this based on consultation with the Attorney General's ANE Unit.

- However, KDADS officials told us they don't investigate and therefore don't document other licensed staff (e.g., doctors or nurses) alleged to have perpetrated ANE in adult care homes when those licensed staff don't also have nurse aide certifications. They said this was because KDADS lacks jurisdiction over these individuals. Instead, officials said they refer allegations about licensed staff to the relevant oversight boards.

- This means KDADS doesn't keep a complete list of all staff who may have perpetrated ANE in adult care homes. That is, KDADS doesn't investigate or identify licensed staff like doctors or nurses alleged to have perpetrated ANE if those staff don't also have nurse aide certifications. Instead, it relies on the regulatory boards to do this. This means substantiated perpetrators in adult care homes aren't contained in a single database. Instead, they may be listed across as many as 4 different registries: KDADS' KNAR and each of the 3 boards' disciplinary action lists.

KDHE doesn't substantiate allegations against or keep a registry of perpetrators of ANE in medical care facilities because officials say they don't have authority to do so.

- Under state law, KDHE is responsible for investigating allegations of ANE in medical care facilities (e.g., hospitals). However, state law isn't clear on how KDHE should investigate these cases. For example, state law doesn't explicitly require KDHE to investigate the alleged perpetrator. It only states that KDHE must analyze "whether there is or has been abuse, neglect, or exploitation."

- KDHE officials told us they investigate medical care facilities in response to allegations of ANE. KDHE officials told us they survey facilities to ensure their compliance with statutes and regulations, including federal regulations. However, KDHE officials told us they <u>do not</u> investigate specific incidents of alleged ANE, nor do they determine whether specific individuals perpetrated ANE. They said they're required to refer allegations of ANE to other entities for investigation.

- KDHE officials told us KDHE lacks the statutory authority and resources necessary to investigate suspected perpetrators. Officials further told us KDHE can't investigate allegations of ANE because of an agreement Kansas has with CMS. Officials told us that agreement limits KDHE's role to regulatory oversight and enforcement. Officials said investigations of ANE allegations must be handled by

other entities such as DCF's adult or child protective services, state licensing boards, or law enforcement. For example, KDHE officials told us they'd refer allegations about medical doctors to the Board of Healing Arts for investigation.

- We didn't review KDHE's role as a state survey agency because doing so would have been outside the scope of the audit. However, we did a limited review of CMS's state operations manual, which provides rules and guidelines for state survey agencies. The manual states a surveyor's role isn't to determine whether alleged events occurred, but rather to determine whether facilities are in compliance with CMS requirements. It also appears CMS must approve certain complaint-based investigations before KDHE can proceed with them. However, the manual also states that state survey agencies like KDHE may have authority under state law to do their own non-federal investigations. It's therefore unclear to us whether KDHE can serve as both a state survey agency for CMS and as primary investigator of allegations of ANE in medical care facilities.

- KDHE officials also told us KDHE doesn't keep a registry of perpetrators of ANE in medical care facilities because they do not believe KDHE has the statutory or regulatory authority to do so. KDHE officials told us it's the responsibility of other agencies to investigate and make determinations about suspected perpetrators. KDHE's interpretation of its responsibilities increases the risk perpetrators go uninvestigated or unidentified. We discuss issues related to KDHE's referral practices later in the report.

DCF keeps registries of individual perpetrators of ANE against vulnerable adults and children to meet other state laws.

- Under state law, DCF is responsible for investigating allegations of ANE of vulnerable adults living in the community. DCF also investigates allegations of ANE in state psychiatric hospitals under a 2013 memorandum of understanding it has with KDADS and KDHE. State law requires DCF to take allegations of ANE in state psychiatric hospitals, but it doesn't explicitly require DCF to investigate those allegations. Finally, DCF and law enforcement are responsible for investigating allegations of abuse or neglect of children.

- We didn't identify any state laws that explicitly require DCF keep registries of perpetrators of ANE against adults or children. However, other state laws suggest DCF should maintain these registries to help with background checks. For example, K.S.A. 65-6205 lets certain employers check with DCF to see if an applicant perpetrated ANE. And K.S.A. 65-516 says child care facilities can't employ anyone on DCF's registry of perpetrators of ANE against children.

- To help meet these requirements, DCF maintains 2 registries of perpetrators of ANE. 1 registry is for perpetrators of ANE against vulnerable adults (DCF's adult registry). The other is for perpetrators of ANE against children (DCF's child registry).

- DCF allows anyone to check whether an individual is on one of DCF's registries. To do this, the individual doing the check has to get signed permission from the person they're checking. It also costs $10 to check whether someone is on DCF's child registry. It's free to check DCF's adult registry.

The 3 boards we worked with don't maintain registries of perpetrators of ANE and aren't required to.

- As part of their oversight, the boards investigate allegations of incompetence and professional misconduct. State law allows the boards to consider referrals about ANE from KDADS, KDHE, and DCF when taking disciplinary action for misconduct or incompetence. However, the boards aren't required to investigate or report on ANE allegations like KDADS, KDHE, and DCF are.

- The boards aren't required to keep registries of perpetrators of ANE, and we confirmed none of them do so.

- However, the boards are required to keep public licensure data. All 3 boards maintain a publicly searchable database on their licensees. Each board also voluntarily publishes a public list of disciplinary actions it has taken against its licensees. So, information about perpetrators of ANE may appear in the boards' licensure and disciplinary data. That's because the boards may discipline licensees for acts including, but not limited to, ANE.

In all, we only identified 3 registries of individual perpetrators of abuse, neglect, or exploitation to exist across 2 state agencies.

- Under state law, KDADS, KDHE, and DCF have primary responsibility for receiving and investigating allegations of ANE. Each of the 3 agencies has its own specific jurisdiction, but each varies in how they interpret law. In all, we found lists at 2 agencies:

    - KDADS' KNAR, which identifies CNAs and unlicensed adult care home staff who perpetrated ANE,

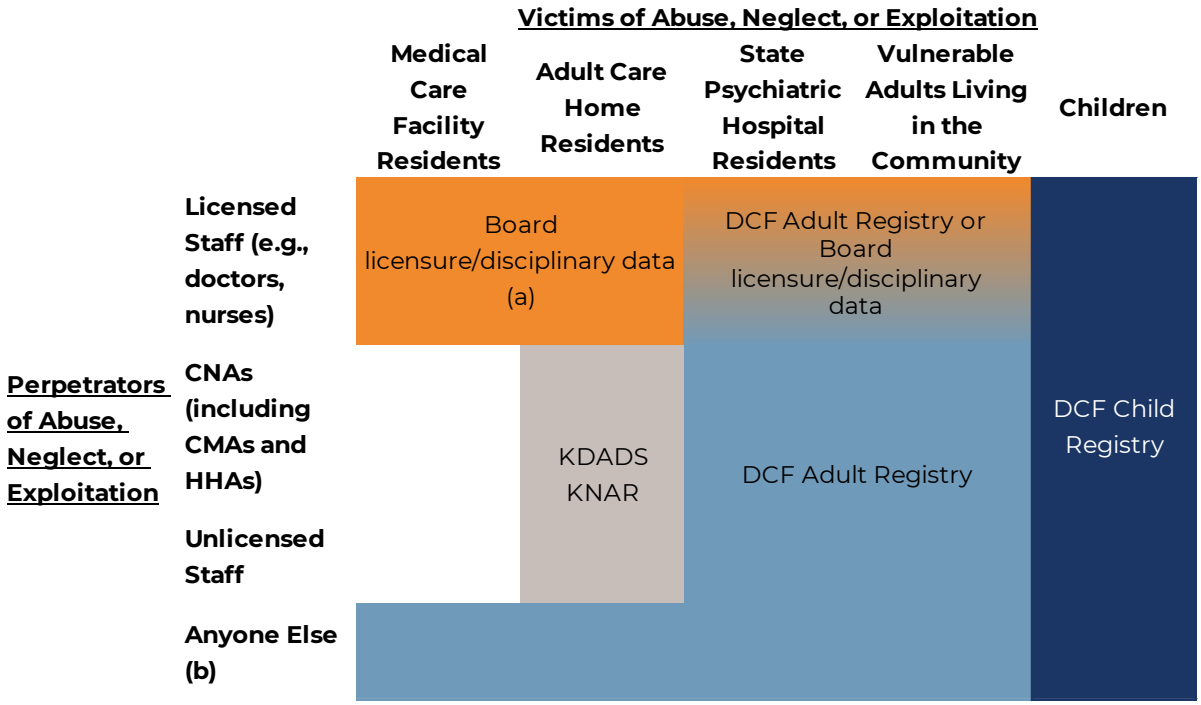
    - DCF's adult registry, which identifies individuals who perpetrated ANE against vulnerable adults, and

    - DCF's child registry, which identifies individuals who abused or neglected children.

- The registries and lists don't generally overlap. **Figure 3** shows the registries and lists on which agencies may place perpetrators. As the figure shows, a perpetrator's placement depends on where and against whom they perpetrated ANE. For example, for a perpetrator to be on KDADS' KNAR, they must have been a CNA or unlicensed staff member in an adult care home. No other registry captures CNAs or unlicensed staff in adult care homes. CNAs aren't nurses, for example, so they wouldn't be in the Board of Nursing's data. And DCF's adult

registry shouldn't include them because adult care homes aren't in DCF's jurisdiction. However, DCF's adult registry may include CNAs who don't work in adult care homes but who provide care to vulnerable adults.

Figure 3. The registries perpetrators are placed on depends on their licensure and victim.



(a) If a licensed staff member (e.g., a registered nurse) also held a nurse aide certification, and if that staff member perpetrated ANE in an adult care home, KDADS officials told us they would investigate and add that individual to the KNAR.
(b) "Anyone else" excludes employees or residents of medical care facilities and adult care homes. DCF does not investigate alleged perpetrators who are employees or residents of those facilities.

Source: LPA review of state law and interviews with agency officials.

- Even when there was potential overlap, we couldn't compare the registries and lists because of data limitations. For example, it's possible DCF's registries could overlap with the boards' lists. So, we tried to identify licensed individuals (e.g., doctors or nurses) in DCF's registry to check against the relevant licensing board lists. We couldn't because DCF officials told us their registries don't identify perpetrators' licenses. The boards' lists also don't readily show why the boards acted against their licensees. One must review the legal documentation associated with each action to determine why the board acted. So, we couldn't isolate perpetrators of ANE in the board lists, either.

Findings Related to Agencies' Referral Practices

Agencies' referral practices further complicate the state's ANE investigation system and may result in some perpetrators not being investigated or identified.

- Several agencies, boards, and law enforcement are involved in the state's ANE investigation system. These agencies also may rely on other organizations, like state boards or law enforcement, to investigate certain allegations.

- State law (K.S.A. 39-1402 and 39-1431) requires the agencies to refer allegations outside their jurisdictions to the appropriate state agency. For example, if KDHE gets an allegation about ANE of a vulnerable adult in the community, state law requires KDHE to refer that allegation to DCF.

- State law also requires the agencies to notify law enforcement of allegations that suggest criminal acts. KDHE and DCF also rely on law enforcement to investigate certain alleged perpetrators of ANE. For example, DCF officials told us they rely on law enforcement to investigate allegations of abuse or neglect of children by third parties (i.e., non-family-members).

- Finally, state law requires the agencies to notify regulatory or licensing authorities, like the state boards, of allegations against those authorities' licensees. KDADS and KDHE officials told us they refer licensees alleged to have perpetrated ANE to their licensing boards so the boards may investigate.

- The agencies' referral practices increase the risk alleged perpetrators aren't investigated and, if appropriate, identified as perpetrators. We reviewed a selection of referrals agencies made to each other, the state boards, or law enforcement. We identified some issues that suggest not all alleged perpetrators are investigated or identified. We discuss these issues in the following sections.

KDHE made referrals to DCF that were not timely and didn't ensure alleged perpetrators got investigated.

- As previously discussed, state law requires KDHE to receive and investigate allegations of ANE of residents of medical facilities, like hospitals. And state law requires DCF to investigate allegations of ANE of residents of state psychiatric hospitals or vulnerable adults living in the community. Also, state law requires KDHE to refer to DCF victims of ANE who may need protective services.

- KDHE officials told us they referred 17 allegations to DCF in 2024. Officials said the purpose of these referrals was so DCF could investigate them if it wanted to. Officials further told us the referrals were not to get alleged victims protective services.

- We reviewed 16 of the 17 allegations KDHE told us they referred to DCF in 2024. We identified 2 issues: most referrals were about allegations outside DCF's jurisdiction and KDHE took a long time to refer allegations to DCF.

- 14 of the 16 allegations were about alleged ANE in hospitals. DCF determined it wouldn't investigate 13 of the 14 allegations about ANE in hospitals. This was generally because DCF determined protective services weren't needed or because the allegations were outside DCF's jurisdiction.

- 11 of the 16 referrals we reviewed showed both the date of the alleged incident and the date KDHE referred the allegation to DCF. For those 11, the average time between an alleged incident and KDHE's referral to DCF was 249 days. KDHE took more than a year to refer 4 of the allegations. KDHE referred all 11 cases to DCF on the same days: March 21 and 22, 2024. This was because a KDHE staff member said this was when they were told to make referrals to DCF.

- The other 5 referrals didn't include the date of the alleged incident. So, we couldn't say how long it took KDHE to refer the allegations to DCF. KDHE referred those 5 cases between March 2024 and August 2024. KDHE officials told us they have since stopped making referrals to DCF.

- Our review suggests the alleged perpetrators in the cases KDHE referred to DCF weren't investigated by anyone and, if appropriate, identified on a registry. That's because KDHE doesn't investigate alleged perpetrators themselves. It's also because DCF didn't generally accept KDHE's referrals. Additionally, some of KDHE's referrals were too late for DCF to provide timely protective services had such services been relevant.

KDHE referred some alleged perpetrators solely to law enforcement, creating a risk those individuals wouldn't be listed on a state registry.

- State law requires agencies like KDHE to refer allegations outside their jurisdictions to the appropriate state agency. For example, if KDHE gets an allegation about ANE of a vulnerable adult in the community, state law requires KDHE to refer that allegation to DCF. State law also requires agencies to notify law enforcement of allegations that suggest criminal acts.

- KDHE officials told us they refer most allegations they get to law enforcement. We reviewed 13 allegations KDHE referred to law enforcement in late 2024 and early 2025. KDHE officials told us they didn't refer these allegations to other agencies like DCF. The allegations concerned 25 alleged perpetrators who appeared to be employees of home health agencies (23) or hospitals (2).

- We think KDHE should have referred the alleged perpetrators who were employees of home health agencies to both DCF and law enforcement. Home health agencies provide health and care services to individuals in their homes. This suggests these allegations were about suspected ANE in victims' homes. This means they're likely under DCF's jurisdiction. DCF officials told us they'd investigate home health agency staff who may have perpetrated ANE in the community.

- KDHE officials told us KDHE's role in the state's ANE investigation and referral system is ambiguous and in conflict with the state's agreement with CMS. KDHE officials told us there needs to be more clarity about their role and the roles of DCF and KDADS.

- The alleged perpetrators in these referrals to law enforcement may have gone uninvestigated and unidentified. That's because KDHE doesn't investigate alleged perpetrators themselves and law enforcement agencies may choose not to investigate if there's no alleged criminal act. Without referrals to other state agencies better suited for investigation, these allegations may not have received the proper attention.

DCF refers some child abuse and neglect allegations to law enforcement, which may mean some perpetrators aren't placed on DCF's child abuse and neglect registry.

- State law makes DCF and law enforcement responsible for investigating allegations of child abuse or neglect. It's unclear whether both DCF and law enforcement should investigate each allegation.

- It's DCF policy to refer allegations of abuse or neglect of a child by a third party (i.e., a non-family member) to law enforcement. If law enforcement accepts such a referral, DCF doesn't investigate the allegation. DCF only investigates if law enforcement rejects a referral or requests DCF's help.

- DCF officials told us their primary responsibility is ensuring children's safety in their families. They said investigating third parties is more of a law enforcement responsibility. They also said investigating all allegations would result in an overwhelming caseload.

- DCF's referrals to law enforcement increase the risk DCF's child registry doesn't include all confirmed perpetrators. DCF officials told us they often don't know the outcomes of cases they refer to law enforcement. Officials told us there's no requirement law enforcement notify DCF about outcomes of their investigations. Further, even if they know the outcomes, a couple DCF officials we spoke with told us they rarely add perpetrators to its registry based on law enforcement determinations.

- We couldn't check whether DCF's referrals make DCF's child registry incomplete. That's because DCF officials told us their data systems can't filter for allegations DCF referred to law enforcement. Further, evaluating law enforcement agencies' responses to referrals was outside the scope of the audit.

DCF didn't always refer CNAs who perpetrated ANE to KDADS, which could cause the KNAR to be incomplete.

- State law requires agencies to notify regulatory or licensing authorities of allegations of ANE against their licensees. KDADS certifies nurse aides (this includes certified medication aides and home health aides). However, CNAs work in more places than just adult care homes. So, KDADS isn't the only agency that may investigate allegations of ANE against CNAs. For example, we saw evidence where DCF investigated CNAs.

- DCF officials told us they discovered they haven't always notified KDADS of findings against CNAs, even though they intended to. DCF identified 3 instances when they notified KDADS about a finding of ANE against a CNA. DCF officials later told us, for 2 of the 3 findings, DCF staff mistakenly mailed the notification to DCF administration, not KDADS. In other words, DCF notified itself of findings instead of KDADS.

- KDADS officials told us they have received other ANE findings about CNAs from DCF. Officials also said they would identify those CNAs as perpetrators in the KNAR if DCF provided the correct documentation. KDADS officials said they need specific documentation to satisfy requirements in federal regulation. But KDADS officials told us they haven't received such documentation from DCF.

- As a result, KDADS hasn't been able to identify CNAs DCF found to have perpetrated ANE within the KNAR, meaning the KNAR is incomplete.

Even if agencies made consistent and appropriate referrals, the public would still need to check many places to find perpetrators of ANE.

- As we've discussed throughout this report, the state's ANE investigation and perpetrator registry system is complicated. Requirements in state law are unclear and agencies have different understandings about their investigation responsibilities. Agencies' referral practices further complicate things and increase the risk perpetrators go uninvestigated.

- However, even if these things weren't issues, it would still be complicated for the public to identify perpetrators of ANE. That's because one would need to know the name and license of the person they're searching for. They'd also need to consider where and against whom the person they're searching may have perpetrated ANE. These factors all influence what registry or database one would have to check.

- It's also complicated to identify perpetrators of ANE because there are at least 7 different places they may be identified. There are 3 registries maintained by KDADS and DCF intended to focus on perpetrators of ANE. However, there are 4 other places perpetrators may be documented due to how agencies have interpreted their responsibilities. For example, because KDHE refers alleged perpetrators to the boards, board discipline data may identify perpetrators, even

though the boards aren't required to maintain ANE-specific registries. And checking some of those places costs money or requires special permission.

- KDADS' KNAR identifies CNAs and unlicensed staff who perpetrated ANE against residents of adult care homes. The public can search the KNAR online based on first and last name, credential number, or Social Security number and date of birth. There's no cost for this.

- DCF's adult registry identifies individuals who perpetrated ANE against residents of state psychiatric facilities or vulnerable adults living in the community. To search the registry, someone must get written permission from the person they want to search for. They must then either mail or email the request to DCF. There's no cost for this.

- DCF's child registry identifies individuals who perpetrated ANE against children. To search the registry, someone must get written permission from the person they want to search for. They must then either mail or email the request to DCF. They must also pay a $10 fee.

- The Board of Healing Arts', the Board of Nursing's, and the Behavioral Sciences Regulatory Board's lists of disciplinary actions (i.e., 3 separate lists) may include health care professionals the boards found to have perpetrated ANE. However, the lists also include professionals the boards found to have done other improper things beyond ANE. This means the public must review legal documentation to determine why the boards took action in each case. The public can find each board's list on their respective websites and review it by date of action or licensee name at no cost.

- The KBI's criminal history record check system may include individuals convicted of criminal abuse, neglect, or exploitation. We didn't review criminal history records because they were outside the scope of the audit. But a criminal history records check is likely the only source for someone to find information about criminally convicted perpetrators of ANE. It costs $30 to do a name-based record check.

- Overall, this may limit the accessibility and usefulness of information about perpetrators of ANE to the public. Even if perpetrators don't slip through the cracks and are ultimately investigated and identified somewhere, there are a lot of places one might need to check.

Other Findings

Stakeholders identified a few issues with the registries they use.

- We did in-person surveys with 10 stakeholders who use the state's ANE registries. Respondents included entities like home health agencies and adult care homes.

Others were part of the disability community. Most stakeholders said they use the registries to run background checks on employees.

- None of the 10 stakeholders said the state's ANE registries were incomplete. However, they identified a few other issues with the registries.

- 5 stakeholders told us they don't get timely results from DCF's registries. For example, 2 told us it takes about a week to get results. By contrast, 2 stakeholders told us they usually get results within a couple days. DCF officials told us they generally respond to registry queries within 3 business days.

- Some stakeholders said DCF's registry query process and KDADS' KNAR were difficult to use. For example:

    - 5 stakeholders said it was inefficient or difficult to request information from DCF's registries. That's because DCF requires individuals to manually fill out and submit a form. DCF officials told us they're developing an electronic process for users to query their registries.

    - 3 stakeholders said KDADS' KNAR could be more user friendly. For example, 1 stakeholder said they have to input data in specific ways. Another said it can be hard to know whether you're getting results for the person you intended to search for.

Conclusion

Overall, the state lacks a comprehensive list of ANE perpetrators. That's largely because state law charges multiple state entities with investigating and reporting cases of ANE. DCF, KDADS, and KDHE all have responsibilities for investigating alleged ANE, but there is little overlap between the populations they oversee. As a result, the state maintains several fragmented registries of ANE perpetrators.

Further, our work suggests that some of the individual registries agencies maintain might not be complete. That's largely because the state's ANE investigation and referral process is very complex. Additionally, state law isn't always clear who should investigate ANE cases or how these cases should be reported. Different interpretations of state law resulted in different approaches in how agencies investigated, documented, or referred ANE cases. Our work showed this led to instances where perpetrators of ANE might not have been added to registries, as they should have been.

ANE registries are an important tool used to help keep vulnerable populations safe. However, the registries' usefulness is limited when they are incomplete or difficult for the public to navigate.

Recommendations

1. The Legislature should consider amending state law to clarify agencies' responsibilities. As part of this, the Legislature could consider clarifying whether agencies should determine whether specific individuals perpetrated ANE (and whether there are any exceptions to this). The Legislature could also consider clarifying what kinds of registries (or other databases) agencies should keep (e.g., whether each agency, including KDHE, should keep a registry of documented perpetrators). Finally, the Legislature could consider requiring agencies or other entities like law enforcement notify referring entities about the outcomes of referrals those entities made.

2. KDHE should consult with KDADS, DCF, CMS, and the Legislature to clarify its role in the state's ANE investigation system. As part of this, KDHE should determine how to reconcile its obligations under state law with its obligations to CMS, such that suspected perpetrators are investigated adequately and timely.
   - Agency Response: The Kansas Department of Health and Environment (KDHE) acknowledges the recommendation that it consult with the Kansas Department for Aging and Disability Services (KDADS), the Department for Children and Families (DCF), the Centers for Medicare & Medicaid Services (CMS), and the Legislature to clarify its role within the state's adult abuse, neglect, and exploitation (ANE) investigation system and will engage in conversations with KDADS, DCF, and CMS.

     KDHE fully supports interagency collaboration and transparency in the protection of vulnerable adults and welcomes opportunities for structured collaboration with KDADS, DCF, CMS, and the Kansas Legislature to examine the overall system and clarify roles. However, any such clarification must reflect the **legal realities of agency jurisdiction** and must avoid assigning investigatory or enforcement responsibilities to KDHE that the agency is neither equipped nor authorized to fulfill.

     KDHE does not have statutory authority to conduct criminal investigations, make findings of abuse or neglect for inclusion in registries, or determine the employment suitability of alleged perpetrators nor does KDHE have access to the investigative tools, legal infrastructure, or authority to compel testimony and make prosecutorial determinations necessary to fulfill those roles. Moreover, KDHE's obligations to CMS are governed by federal law, which prescribes the scope, methods, and timelines by which KDHE must act in response to facility-reported incidents. CMS requires that state survey agencies remain within the bounds of their federally defined responsibilities. Any attempt to expand KDHE's role beyond these confines would risk non-

compliance with CMS mandates and could jeopardize the state's role in the process.

While KDHE agrees that alignment across agencies is essential, **reconciling state law expectations with federal obligations is not a matter of internal KDHE policy**, but rather a matter of statutory authority and programmatic structure. Any effort to realign KDHE's responsibilities or expand its role in ANE investigations would require **legislative action** and significant funding, as well as formal negotiation with CMS regarding potential programmatic amendments.

3. KDADS should consult with KDHE, DCF, and the Legislature to clarify its role in the state's ANE investigation system. As part of this, KDADS should develop processes to ensure it gets needed documents to update the KNAR.
    - Agency Response: KDADS will continue to work with KDHE and DCF on the process and update memoranda of understanding between the agencies to improve the registry process within the context of state and federal law.

4. DCF should consult with KDADS, KDHE, and the Legislature to clarify its role in the state's ANE investigation system. As part of this, DCF should develop processes to ensure it makes complete referrals to other agencies.
    - Agency Response: DCF/Adult Protective Service has provided policy review and training to the Adult Protective System Management Team regarding Policy & Procedure Manual 10320 Required Documentation for Case Findings.

    - DCF/Adult Protective Service will update Policy & Procedure Manual 10320 Required Documentation for Case Findings to reflect that the Adult Protection System-Protection Specialist or designee will request the involved adult to sign a Release of Information to share their assessment and analyses with the regulatory agency.

    - DCF/Adult Protective Service will collaborate with KDADS and KDHE to update the 2013 MOU on the Protection of Vulnerable Adults.

    - Regarding the child abuse and neglect registry, DCF will continue to initiate and complete investigation conclusions with law enforcement on referrals received.

    - In 2022, the Child Abuse Registry processed 315,000 registry checks. By 2024, that number had increased to 389,000, a 24% rise. Similarly, the Adult Abuse Registry also experienced demand. In 2022, 62,000 registry checks were processed, increasing to 74,000 in 2024, a 19% increase. DCF strives for and typically maintains a 3-business day turnaround, however short bursts of increased demand could increase that to 5 business days occasionally. To

address the growing volume of requests and improve overall efficiency, DCF is currently developing a new system to streamline the submission of registry checks. The public will soon be able to access an online portal to enter the same information currently required on paper forms. The system will then generate a list of potential matches in the registry for DCF staff to review. Once staff confirm the appropriate matches, an encrypted email with the results will be sent to the requester, typically within 1 to 2 business days. DCF, IT estimates the new system will be operational in fall 2025.

Agency Response

On May 15, 2025 we provided the draft audit report to KDADS, KDHE, and DCF. All 3 agencies provided feedback. We made changes based on their feedback. In their responses to the audit, KDADS and DCF generally agreed with our findings, conclusions, and recommendations. KDHE agreed with some of our findings and conclusions. But KDHE also asserted it lacks statutory authority to investigate allegations of ANE and is further limited by CMS program requirements. In their response to our recommendation, KDHE also said it may be unable to reconcile its obligations under state law with its obligations to CMS without legislative action and negotiation with CMS. We reviewed the information KDHE provided in its official response but did not make further changes to the report for the following reasons:

- **KDHE contends it lacks the statutory authority to investigate allegations of ANE.** K.S.A. 39-1404 states "the Department of Health and Environment… upon receiving a report that a resident is being, or has been, abused, neglected, or exploited… shall… complete, within 30 working days of receiving a report, a thorough investigation and evaluation… and prepare, upon a completion of the evaluation of each case, a written assessment which shall include an analysis of whether there is or has been abuse, neglect, or exploitation…". We think this language gives KDHE authority to investigate allegations of ANE in medical care facilities under state law.

- **KDHE contends CMS program requirements do not provide flexibility such that KDHE can investigate allegations of ANE in medical facilities without CMS authorization.** We did not review KDHE's obligations to CMS in detail, nor did we interview CMS officials to determine whether KDHE's role as State Survey Agency for CMS prevents KDHE from investigating allegations of ANE. We acknowledge there may be a conflict between KDHE's obligations under state law and KDHE's obligations to CMS. However, if there is a conflict, we think KDHE should find a way to resolve it such that allegations of ANE are investigated in accordance with state law.

We also provided the draft report to the Board of Healing Arts, the Board of Nursing, and the Behavioral Sciences Regulatory Board. We didn't make recommendations to the boards, so their responses were optional. They chose not to submit responses.

KDADS Response

Thank you for the research and report. KDADS appreciates LPA's work to identify the different paths for reporting abuse, neglect and exploitation, and documenting on the registries. KDADS will continue to work with KDHE and DCF on the process and update memoranda of understanding between the agencies to improve the registry process within the context of state and federal law.

KDHE Response

The Kansas Department of Health and Environment (KDHE or agency) has reviewed the recently issued report "Evaluating State Agencies' Registries of Perpetrators of Abuse, Neglect, and Exploitation" (hereinafter the "Report"). While we acknowledge the Report's intent to improve systemic protections for vulnerable adults, we must respectfully and unequivocally clarify several critical points concerning statutory authority, resource capacity, and programmatic coherence.

Statutory Limitations on KDHE Authority:

First and foremost, KDHE does not possess the statutory authority to undertake several of the responsibilities described in the Report. The agency's legal mandate is specific and confined to regulating health and safety standards in licensed facilities, pursuant to existing Kansas law. Investigating allegations of adult abuse or neglect, making substantiated findings, and maintaining investigative registries are functions expressly delegated to other agencies and law enforcement. To assign KDHE a primary role in the operation or enforcement of an adult abuse and neglect registry—as suggested in the Report—would require a fundamental legislative redefinition of KDHE's statutory authority. As it stands, KDHE is neither empowered nor authorized to fulfill such a role.

Limitations Imposed by CMS Program Requirements:

In addition to state-level statutory boundaries and as briefly mentioned in the Report, KDHE as the State Survey Agency (SSA) for the Centers for Medicare & Medicaid Services (CMS) must operate within the framework established by CMS for CMS certified medical facilities. The federal directives strictly define the agency's role in facility oversight, including the scope of investigations, reporting mechanisms, and enforcement protocols. KDHE's involvement in adult abuse and neglect matters under CMS is limited to facility-related incidents where federal participation is implicated, and a complaint investigation has been authorized by CMS. The agency is not permitted to exceed those boundaries despite the Report's statement that "the manual also states that state survey agencies like KDHE may have authority under state law to do their own non-federal investigations."

Broadening KDHE's role in adult abuse investigations or registry maintenance by compelling KDHE to enter CMS certified facilities without explicit authorization by CMS would place the agency at risk of non-compliance with CMS requirements and could jeopardize federal funding streams tied to health facility oversight.

Substantial Resource and Staffing Implications:

Even if statutory authority were to be extended, it is imperative to underscore that KDHE is not presently equipped to assume such a large-scale responsibility without a corresponding increase in resources. The creation, implementation, and ongoing management of an adult abuse and neglect registry for individuals in medical care facilities would necessitate the development of new data systems, additional regulatory and investigative personnel, legal staff, administrative infrastructure, and technical support capacity. At a minimum KDHE would require an additional 10 staff members to effectively administer a registry, and at current staffing and funding levels, KDHE does not have the operational capability to absorb this expansion. Undertaking the functions outlined in the Report without significant legislative appropriations and personnel augmentation would compromise the integrity of existing public health programs and jeopardize the effectiveness of the new initiatives.

Support for a Centralized, Single-Agency Registry:

KDHE strongly concurs with the Report's implied concern regarding systemic fragmentation and inefficiency. However, we are compelled to emphasize that dividing responsibility for a registry across multiple agencies would exacerbate, not resolve, the current confusion. A distributed registry model would result in inconsistent data handling, miscommunication between agencies, and diminished accountability.

For a registry to be effective, it must be centralized under a single agency with clear authority, transparent procedures, and defined enforcement mechanisms. KDHE supports a coordinated interagency approach but firmly maintains that assigning registry functions to multiple state agencies would be counterproductive and detrimental to the overarching goal of protecting vulnerable adults. KDHE firmly believes that a single agency should assume the responsibility of receiving complaints, investigating, and substantiating individuals for the abuse, neglect, or exploitation of adults; this idea would be similar to DCF's current abuse, neglect, and exploitation registry for children.

Conclusion

KDHE remains committed to advancing the health and safety of all Kansans. However, any future proposals must be grounded in legal reality, operational feasibility, and administrative clarity. KDHE will actively consult with the other State Agencies named in the Report, however, we respectfully urge that any expansion of KDHE's responsibilities in this area be preceded by:

1. Formal legislative action to establish appropriate statutory authority;

2. Sufficient funding and staffing appropriations to support the scope of work envisioned; and

3. Strategic planning to ensure a centralized, singular point of responsibility for adult abuse and neglect registry functions.

We welcome further discussion with legislators and stakeholders on how best to protect Kansas's adult population within a framework that is legally sound, administratively practical, and fiscally responsible.

DCF Response

Thank you for the opportunity to provide a response to the Performance Audit Report: Evaluating State Agencies' Registries of Perpetrators of Abuse, Neglect, and Exploitation (July 2025), (ANE) We appreciated the professional conduct of the LPA staff during the course of the review. The Kansas Department for Children and Families (DCF) respectfully submits the following responses for the audit findings/recommendations listed below:

DCF should consult with KDADS, KDHE, and the Legislature to clarify its role in the state's ANE investigation system. As part of this, DCF should develop processes to ensure it makes complete referrals to other agencies.

- DCF/Adult Protective Service has provided policy review and training to the Adult Protective System Management Team regarding Policy & Procedure Manual 10320 Required Documentation for Case Findings.

- DCF/Adult Protective Service will update Policy & Procedure Manual 10320 Required Documentation for Case Findings to reflect that the Adult Protection System-Protection Specialist or designee will request the involved adult to sign a Release of Information to share their assessment and analyses with the regulatory agency.

- DCF/Adult Protective Service will collaborate with KDADS and KDHE to update the 2013 MOU on the Protection of Vulnerable Adults.

- Regarding the child abuse and neglect registry, DCF will continue to initiate and complete investigation conclusions with law enforcement on referrals received.

- In 2022, the Child Abuse Registry processed 315,000 registry checks. By 2024, that number had increased to 389,000, a 24% rise. Similarly, the Adult Abuse Registry also experienced demand. In 2022, 62,000 registry checks were processed, increasing to 74,000 in 2024, a 19% increase. DCF strives for and typically maintains a 3-business day turnaround, however short bursts of increased demand could increase that to 5 business days occasionally. To address the growing volume of requests and improve overall efficiency, DCF is currently developing a new system to streamline the submission of registry checks. The public will soon be able to access an online portal to enter the same information currently required on paper forms. The system will then generate a list of potential matches in the registry for DCF staff to review. Once staff confirm the

appropriate matches, an encrypted email with the results will be sent to the requester, typically within 1 to 2 business days. DCF, IT estimates the new system will be operational in fall 2025.

Conclusion

We thank the Legislative Post Audit team for the opportunity to discuss the ANE Registry.

Thank you for the opportunity to provide clarification and response.

Sincerely,

Laura Howard,
Secretary

Patrick M. Roche,
Audit Services Director