

PUBLIC HEALTH

65-429. Issuance and renewal of licenses; funding the cost of administration of the medical care facilities licensure and risk management program; display of license. Upon receipt of an application for license, the licensing agency shall issue with the approval of the state fire marshal a license provided the applicant and the physical facilities of the medical care facility meet the requirements established under this act. A license, unless suspended or revoked, shall be renewable annually without charge upon the filing by the licensee, and approval by the licensing agency, of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by rules and regulations. A medical care facility which has been licensed by the licensing agency and which has received certification for participation in federal reimbursement programs and which has been accredited by the joint commission on accreditation of health care organizations or the American osteopathic association may be granted a license renewal based on such certification and accreditation. The cost of administration of the medical care facilities licensure and risk management program provisions of this act pursuant to K.S.A. 65-433 and 65-4921 *et seq.*, and amendments thereto, shall be funded by an annual assessment from the health care stabilization fund, which assessment shall not exceed \$200,000 in any one fiscal year. The licensing agency shall make an annual report to the health care stabilization fund regarding the use of these funds. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. A separate license is not required for two separate establishments which are located in the same or contiguous counties, which provide the services required by K.S.A. 65-431 and amendments thereto and which are organized under a single owner or governing board with a single designated administrator and medical staff. Licenses shall be posted in a conspicuous place on the licensed premises.

History: L. 1947, ch. 329, § 5; L. 1973, ch. 248, § 4; L. 1980, ch. 183, § 1; L. 1988, ch. 235, § 1; L. 1996, ch. 91, § 2; July 1.

AGO: 85-89, 85-71

65-506. Notice of issuance, suspension or revocation of license; notice to parents or guardians of enrollees of suspension, revocation or denial; unlicensed placements prohibited. The secretary of health and environment shall serve notice of the issuance, suspension or revocation of a license to conduct a maternity center or child care facility or the issuance, suspension or revocation of a certificate of registration for a family day care home to the secretary of social and rehabilitation services, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area

where the center or facility is located. A maternity center or child care facility that has had a license suspended, revoked or denied by the secretary of health and environment or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the suspension, revocation or denial. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any maternity patient or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment or family day care home not holding a certificate of registration from the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; July 1.

65-508. Equipment, supplies, accommodations; immunizations. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to

the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

History: L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; July 1.

AGO: 1999-47

65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required. (a) Records in the possession of the department of health and environment or its agents regarding child care facilities, maternity centers or family day care homes shall not be released publicly in a manner that would identify individuals, unless required by law.

(b) Records containing the name, address and telephone number of a child care facility, maternity center or family day care home in the possession of the department of health and environment or its agents shall not be released publicly unless required by law.

(c) Records that cannot be released by subsection (a) or (b) may be released to: (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto; (2) a criminal justice agency; (3) any state or federal agency that provides child care services, funding for child care or child protective services; (4) any federal agency for the purposes of compliance with federal funding requirements; (5) any local fire department; (6) any child and adult care food program sponsoring agency; or (7) any local disaster agency.

(d) Any state or federal agency or any person receiving records under subsection (a) or (b) shall not disseminate the records without the consent of the person whose records will be disseminated unless required by law. Any state or federal agency or any person receiving records under subsection (c) may disseminate the information contained in the records without the consent of the person whose records will be disseminated.

(e) The secretary of health and environment may release the name, address and telephone number of a maternity center, child care facility or family day care home when the secretary determines that the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center, child care facility or family day care home.

(f) Any records under subsection (a) or (b) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.

(g) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65-501 *et seq.* and amendments thereto, the hearing officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

History: L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; July 1.

65-527. Child care programs in recreation centers and schools; licensing of. (a) As used in this section:

(1) "Child care program" means a day care center, group day care home or day care home.

(2) "Recreation center" means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.

(3) "School" means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.

(b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:

(1) Is a recreation center or school;

(2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;

(3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and

(4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.

(c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

History: L. 1992, ch. 125, § 1; July 1.

65-3010. Emission control requirements. (a) The secretary shall establish emission control requirements, and re-

quirements for open burning (including appropriate prohibition thereof). Such requirements may be either for such areas as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this act and in order to take necessary or desirable account of varying local conditions. Any emission which does not conform to a requirement in force pursuant to this subsection shall constitute a violation of this act.

(b) Every local air quality conservation program that is established pursuant to K.S.A. 65-3016, as amended, shall be in compliance with the rules and regulations set forth for that area by the secretary.

(c) Variations from the requirements of subsection (b) of this section may be included in a local air quality conservation program only after approval by the secretary, following demonstration to the satisfaction of the secretary that the proposed requirements are not less stringent than the standards and requirements established by the secretary and are otherwise consistent with the purposes of this act. Any requirement placed in force pursuant to this subsection shall be preceded by public hearing. The secretary, upon evidence that conditions have changed or that additional or other information is relevant to a decision with respect to the emission control or open burning requirements concerned may, after public hearing, withdraw any approval previously given to a local requirement pursuant to this subsection.

(d) The secretary shall establish reasonable ambient air quality standards for the state as a whole, or any part thereof, and shall require the emission control requirements of any local program to be consistent with such standards in addition to meeting any other requirements pursuant to this section.

History: L. 1967, ch. 347, § 10; L. 1970, ch. 261, § 10; L. 1974, ch. 352, § 142; July 1.

AGO: 92-10

65-34,105. Rules and regulations. (a) The secretary is authorized and directed to adopt rules and regulations necessary to administer and enforce the provisions of this act. Any rules and regulations so adopted shall be reasonably necessary to preserve, protect and maintain the waters and other natural resources of this state, and reasonably necessary to provide for the prompt investigation and cleanup of sites contaminated by a release from a storage tank. In addition, any rules and regulations or portions thereof which pertain to underground storage tanks or the owners and operators thereof shall be adopted for the purpose of enabling the secretary and the department to implement the federal act, and such rules and regulations so adopted shall be consistent with the federal act. Consistent with these purposes, the secretary shall adopt rules and regulations:

(1) Establishing performance standards for underground storage tanks first brought into use on or after May 18, 1989. The performance standards for new underground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(2) establishing performance standards for above-ground storage tanks brought into use after May 18, 1989. The performance standards shall not exceed those performance standards adopted by the administrator of the U.S. environmental protection agency and for new aboveground storage tanks shall include, but are not limited to, design, construction, installation, release detection and product compatibility standards;

(3) establishing performance standards for the in-ground repair of underground storage tanks. The performance standards shall include, but are not limited to, specifying under what circumstances an underground storage tank may be repaired and specifying design, construction, installation, release detection, product compatibility standards and warranty;

(4) establishing performance standards for maintaining spill and overfill equipment, leak detection systems and comparable systems or methods designed to prevent or identify releases. In addition, the secretary shall establish standards for maintaining records and reporting leak detection monitoring, inventory control and tank testing or comparable systems;

(5) establishing requirements for reporting a release and for reporting and taking corrective action in response to a release;

(6) establishing requirements for maintaining evidence of financial responsibility to be met by owners and operators of underground storage tanks;

(7) establishing requirements for the closure of storage tanks including the removal and disposal of storage tanks and regulated substance residues contained therein to prevent future releases of regulated substances into the environment;

(8) for the approval of tank tightness testing methods, including determination of the qualifications of persons performing or offering to perform such testing;

(9) establishing site selection and cleanup criteria regarding corrective actions related to a release, which criteria address the following: The physical and chemical characteristics of the released substance, including toxicity, persistence and potential for migration; the hydrogeologic characteristics of the release site and the surrounding land; the proximity, quality and current and future uses of groundwater; an exposure assessment; the proximity, quality and current and future use of surface water; and the level of the released substance allowed to remain on the facility following cleanup;

(10) prescribing fees for the following with regard to storage tanks: Registration, issuance of permits, approval of plans for new installations and conducting of inspections. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue required for the purposes provided by subsection (b) of K.S.A. 65-34,128. All fees for underground storage tanks shall be deposited in the state general fund and all fees for aboveground storage tanks shall be deposited in the storage tank fee fund;

(11) for determining the qualifications, adequacy of performance and financial responsibility of persons desiring to be licensed as underground storage tank installers or contractors. In adopting rules and regulations, the secretary may specify classes of specialized activities, such as the installation of corrosion protection devices or inground relining of underground storage tanks, and may require persons wishing to engage in such activities to demonstrate additional qualifications to perform these services;

(12) prescribing fees for the issuance of licenses to underground storage tank installers and contractors. The fees shall be established in such amounts that revenue from such fees does not exceed the amount of revenue determined by the secretary to be required for administration of the provisions of K.S.A. 65-34,110 and amendments thereto; and

(13) adopting schedules requiring the retrofitting of underground storage tanks in existence on May 18, 1989, and aboveground storage tanks in existence on July 1, 1992, and for the retirement from service of underground storage tanks placed in service prior to May 18, 1989, and aboveground storage tanks placed in service prior to July 1, 1992. Such schedules shall be based on the age and location of the storage tank and the type of substance stored. Such retrofitting shall include secondary containment, corrosion protection, linings, leak detection equipment and spill and overfill equipment.

(b) In adopting rules and regulations under this section, the secretary shall take notice of rules and regulations pertaining to fire prevention and safety adopted by the state fire marshal pursuant to subsection (a)(1) of K.S.A. 31-133, and amendments thereto.

(c) Nothing in this section shall interfere with the right of a city or county having authority to adopt a building or fire code from imposing requirements more stringent than those adopted by the secretary pursuant to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of powers by cities, counties and townships regarding the location of storage tanks and the visual compatibility of aboveground storage tanks with surrounding property.

History: L.1989, ch. 186, § 6; L. 1992, ch. 305, § 1; July 1.

65-5721. Commission on emergency planning and response; establishment; members; terms, compensation and expenses. (a) On the effective date of this order, there is hereby established the commission on emergency planning and response.

(b) The membership of the commission on emergency planning and response shall consist of the agency head or secretary or a designated person of authority from the following agencies:

- (1) the fire marshal;
- (2) the department of health and environment;
- (3) the department of transportation;
- (4) the Kansas highway patrol;
- (5) the adjutant general; and
- (6) the department of commerce and housing.

(c) In addition, the membership of the commission on emergency planning and response shall also consist of seven members appointed by the governor as follows:

(1) Two individuals shall be representative of counties;

(2) two individuals selected to represent cities; and

(3) three individuals selected to represent businesses and industries.

(d) A designee of the adjutant general shall serve as the secretary of the commission on emergency planning and response. The adjutant general shall provide staff support for the commission on emergency planning and response.

(e) Of the members first appointed to the commission on emergency planning and response by the governor, one representative of cities, one representative of counties, and one representative of business and industry shall serve a term of two years, and the remainder of the members appointed by the governor shall serve terms of three years. Thereafter, members who represent cities, counties, and business and industry shall serve terms of four years and until the successor has been appointed. Any vacancy in the office of an appointed member shall be filled for the unexpired term by appointment by the governor.

(f) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(g) For attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, those members of the commission appointed by the governor shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

History: Executive Reorganization Order No. 29, L. 1999, ch. 192, § 1; July 1.

65-6001. Definitions. As used in K.S.A. 65-6001 to 65-6007, inclusive, and K.S.A. 65-6008, 65-6009 and 65-6010, and amendments thereto, unless the context clearly requires otherwise:

(a) "AIDS" means the disease acquired immune deficiency syndrome.

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

(c) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.

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

(e) "Physician" means any person licensed to practice medicine and surgery.

(f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.

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

(h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

(i) "Corrections officer" means an employee of the department of corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and amendments thereto.

(j) "Emergency services employee" means an attendant or first responder as defined under K.S.A. 65-6112, and amendments thereto, or a firefighter.

(k) "Law enforcement employee" means:

(1) Any police officer or law enforcement officer as defined under K.S.A. 74-5602, and amendments thereto;

(2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer;

(3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody; or

(4) any person employed by a city, county or the state of Kansas who works as a scientist or technician in a forensic laboratory.

(l) "Employing agency or entity" means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee or jailer.

(m) "Infectious disease" means AIDS.

(n) "Infectious disease tests" means tests approved by the secretary for detection of infectious diseases.

(o) "Juvenile correctional facility staff" means an employee of the juvenile justice authority working in a juvenile correctional facility as defined in K.S.A. 38-1602, and amendments thereto.

History: L. 1988, ch. 232, § 1; L. 1990, ch. 234, § 1; L. 1996, ch. 215, § 1; L. 1998, ch. 187, § 12; L. 1999, ch. 109, § 1; July 1.

65-6114. Establishment of emergency communication system by municipality; purpose. The governing body of any municipality may establish, operate and maintain a centralized emergency service communication system as a municipal function, within or without the boundaries of the municipality, for the purpose of furnishing those services required to establish, operate and maintain an emergency medical service or ambulance service, and such emergency communication system may include a county or city fire dispatch communication service for the purpose of providing a common communication network for all fire-fighting facilities, equipment and personnel. Such emergency communication system may provide for coordinated communication between all law enforcement agencies, ambulances, ambulance services and dispatchers, emergency receiving centers, fire dispatcher services, fire departments, health care institutions, medical practitioners, motor vehicle repair and towing services, and such other persons and service agencies as may be required.

History: L. 1988, ch. 261, § 14; April 14.

65-6101 thru 65-6149. Pertains to Emergency Medical Services.