

K.A.R. 28-4-114. Applicant; licensee. (a) Application process.

(1) ~~Any person desiring~~ Each person wanting to operate a facility shall apply for a license on forms provided by the department.

(2) Each applicant and each licensee shall submit the fee specified in K.A.R. 28-4-92 for a license or for the renewal of a license. The applicable fee shall be submitted at the time of license application or renewal and shall not be refundable.

(3) The granting of a license to any applicant or applicant with a temporary permit may be refused by the secretary if the applicant or applicant with a temporary permit is not in compliance with the applicable requirements of the following:

- (A) K.S.A. 65-504 through 65-506, and amendments thereto;
- (B) K.S.A. 65-508, and amendments thereto;
- (C) K.S.A. 65-512, and amendments thereto;
- (D) K.S.A. 65-530 and 65-531, and amendments thereto; and
- (E) all regulations governing facilities.

(4) Failure to submit the application forms and fee for renewal of a license shall result in an assessment of a late fee pursuant to K.S.A. 65-505, and amendments thereto, and may result in closure of the facility.

(b) Applicant and licensee requirements. Each applicant, if an individual, and each licensee, if an individual, shall meet the following requirements:

- (1) Be at least 18 years of age;
- (2) not be involved in child care or a combination of child care and other employment

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for more than 18 hours in a 24-hour period; and

(3) not be engaged in either business or social activities that interfere with the care or supervision of children.

(c) Multiple child care facilities.

(1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503 and amendments thereto, shall maintain each child care facility as a separate entity.

(2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.

(d) Multiple licenses. No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.

(e) License capacity for day care homes. Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.

(1) The maximum number of children for which a day care home may be licensed shall be the following:

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Table I- License capacity, one provider

| Maximum number of children under 18 <u>12</u> months | Maximum number of children at least 18 <u>12</u> months but under 5 years of age | Maximum number of children at least 5 years but under 11 <u>16</u> years of age* | License capacity |
|---|---|---|------------------|
| 0 | 7 | 3 | 10 |
| 1 | 5 | 4 | 10 |
| 2 | 4 | 3 | 9 |
| 3 | 3 | 2 | 8 |
| 4 | 2 | 0 | 6 |

*Children five years of age and over may be substituted for younger children in the license capacity.

~~(2) Children at least 11 years of age but under 16 years of age who are unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.~~

(f) Maximum capacity for group day care homes. Each applicant with a temporary permit and each licensee shall ensure that all of the requirements of this subsection are met.

~~(1) The maximum number of children for which a group day care home may be licensed shall be the following:~~

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TABLE II — LICENSE CAPACITY, ONE PROVIDER

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

Table III ~~II~~ License capacity, two providers*

| Maximum number of children under 18 <u>12</u> months | Maximum number of children at least 18 <u>12</u> months but under 5 years of age | Maximum number of children at least 5 years but under 11 <u>16</u> years of age** | License capacity* |
|--|--|---|-------------------|
| <u>0</u> | <u>10</u> | <u>2</u> | <u>12</u> |
| 1 | 8 | 3 | 12 |
| 2 | 7 | 3 | 12 |
| 3 | 6 | 3 | 12 |
| 4 | 4 <u>5</u> | 2 <u>3</u> | 10 <u>12</u> |

* A second provider shall be present ~~when~~ whenever the number of children exceeds the maximum number allowed for one provider. If only one provider is present, see table I.

** Children five years of age and over may be substituted for younger children in the license capacity.

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Table III. License capacity, one provider

| <u>Age of children enrolled</u> | <u>License capacity</u> |
|---|-------------------------|
| <u>At least 2 1/2 years but under 11 years of age</u> | <u>9</u> |
| <u>At least 3 years but under 11 years of age</u> | <u>10</u> |
| <u>At least 5 years but under 11 years of age</u> | <u>12</u> |

~~TABLE IV LICENSE CAPACITY, TWO PROVIDERS*~~

| Maximum Number of Children Under 18 Months | Maximum Number of Children at Least 18 Months but Under 2 1/2 Years of Age | Maximum Number of Children at Least 2 1/2 Years but Under 11 Years of Age** | License Capacity* |
|---|---|--|------------------------------|
| 0 | 5 | 7 | 12 |

~~*A second provider shall be present when the number of children exceeds the maximum number allowed for one provider. See Table I.~~

~~**Children five years of age and over may be substituted for younger children in the license capacity.~~

~~(2) Children at least 11 years of age but under 16 years of age unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.~~

~~(g) Developmental levels. Any Each child who does not function according to age-appropriate expectations shall be counted in the age group that reflects the developmental age~~

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level of the child.

(h) License capacity not exceeded. Each applicant with a temporary permit and each licensee shall ensure that the total number of children on the premises, including children under 11 years of age related to the applicant with a temporary permit, the licensee, or any other provider, does not exceed the license capacity, except for the additional children permitted allowed in subsection (j).

(i) Emergency care. Emergency care may be provided if the additional children do not cause the license capacity to be exceeded.

(j) Additional children on the premises. In addition to the number of children ~~permitted~~ allowed under the terms of the temporary permit or the license and specified in subsections (e) and (f), other children may be ~~permitted~~ allowed on the premises, as follows:

(1) Not more than two additional children 2 1/2 years of age or older who attend part-day preschool or part-day kindergarten may be present at any time between the hours of 11:00 a.m. and 1:00 p.m. for the noon meal on days that school is in session.

(2) Not more than two additional children at least five years of age but under 11 years of age may be present between the hours of 6:00 a.m. and 6:00 p.m. The additional children may be present as follows:

(A) During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks; and

(B) during the two consecutive weeks before the opening of the academic school year in

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August or September and following the end of the academic school year in May or June.

(3) Not more than two additional children 11 years of age or older, unrelated to the applicant with a temporary permit or the licensee, may be present for not more than two hours a day during child care hours if all of the following conditions are met:

(A) The additional children are not on the premises for the purpose of receiving child care in the facility.

(B) The additional children are visiting the applicant's or the licensee's own child or children.

(C) The additional children are supervised by a provider if they have access to the children in care.

(k) Substitute. Each applicant with a temporary permit and each licensee shall arrange for a substitute to care for children in the event of a temporary absence or extended absence of the primary care provider.

(l) Posting of temporary permit or license and availability of regulations. Each applicant with a temporary permit and each licensee shall post ~~any~~ a current temporary permit or license conspicuously as required by K.S.A. 65-504, and amendments thereto. A copy of the current regulations governing facilities shall be kept on the premises and shall be available to all providers at all times.

(m) Closure. Any applicant may withdraw the application for a license. Any applicant with a temporary permit and any licensee may submit, at any time, a request to close the facility. If an application is withdrawn or a facility is closed, ~~any~~ the temporary permit or

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license granted to the applicant or licensee for that facility shall become void. (Authorized by K.S.A. 2010-Supp. 65-508; implementing K.S.A. 2010-Supp. 65-504, K.S.A. 2010-Supp. 65-505, and K.S.A. 2010-Supp. 65-508; effective, E-80-18, Oct. 17, 1979; effective May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended Feb. 26, 1990; amended Feb. 3, 2012; amended P-_____.)

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