Delivering the 10 Essential Public Health Services in Kansas

Overview

This report analyzes the extent to which Kansas statutes facilitate or hinder the ability of local health departments to deliver the 10 Essential Public Health Services identified by the U.S. Centers for Disease Control and Prevention (CDC). This group of services, “describe the public health activities that all communities should undertake.”

As described below, Kansas statutes often empower the State rather than local health departments to address these needs. Nonetheless, it is not unusual for local health agencies to deliver certain services or to enforce regulatory standards. Localities may use “ordinary” or “charter” ordinances and resolutions to implement these programs depending on the specific language adopted by the Kansas legislature. Examples of these different legal mechanisms are contained at the end of this report.

Statutory Authority and Delivery of the 10 Essential Public Health Services

As a general principle, Kansas statutes set out the legislature’s intent in broad terms, leaving the details to be “filled in” by regulatory agencies. In the field of public health, these statutes broadly authorize (and sometimes require) the Secretary of the Kansas Department of Health and Environment (KDHE) to perform certain public health functions. The actual delivery of services by local health departments is then addressed in KDHE regulations. A comprehensive analysis of these regulations is outside the scope of this report. Nevertheless, many public health functions are indeed delivered at the local level.

This section will focus on the Kansas statutes that authorize or require activities related to the 10 Essential Public Health Services. Public health functions highly likely to implicate, or which expressly contemplate, local health departments and officers will be highlighted (denoted by a †).

Monitor Health Status to Identify and Solve Community Health Problems

Kansas statutes provide for monitoring health status in a number of ways. The KDHE Secretary (Secretary) is directed to perform certain functions related to disease surveillance and, to this end, health care providers must report confirmed cases of specified diseases. When local health departments act as providers of health care, they too are subject to these reporting requirements. Additionally, disease monitoring is closely related to disease investigation which is usually performed by local health officers.
The Secretary may “require reports from appropriate persons relating to the health of the people of the state so a determination of the causes of sickness and death among the people of the state may be made through the use of these reports and other records.” [K.S.A. 65-101] In addition, the Secretary has the authority to perform the following specific functions with regard to monitoring and surveillance:

- “maintain surveillance and supervision over the services provided [to] children with special needs under the services for children with special health care needs” [K.S.A. 65-5a08];
- collect cancer data and maintain a cancer registry which will be used to “monitor the potential health impact of environmental exposures” and monitor “health care access and utilization and effectiveness services for the prevention and treatment of cancer” [K.S.A. 65-1,169 and 170];
- “provide for quality review and evaluation of monitoring conducted by other persons in order to further the objectives of this act and to determine the extent and necessity of monitoring programs to be conducted by [KDHE]” [K.S.A. 65-3022].

Kansas statutes also allow the University of Kansas to “request data for the purposes of conducting research, policy analysis and preparation of reports describing the performance of the health care delivery system from public, private and quasi-public entities.” [K.S.A. 65-6802]

The Secretary is also required to perform a number of functions related to disease monitoring, such as:

- permitting “the use of data contained in vital statistical records for research purposes,” “the use of birth, death and still birth certificates as identifiable data for purposes of maternal and child health surveillance and monitoring,” and interviewing† “individuals for purposes of maternal and child health surveillance and monitoring only with an approval of the health and environmental institutional review board” [K.S.A. 65-2422d];
- investigating† “cases of persons who have HIV infection or AIDS and monitor such cases during their continuance” [K.S.A. 65-6003];
- requiring “each physician, hospital and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition” [K.S.A. 65-1,241];
- “with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia” [K.S.A. 65-180];
- “adopt rules and regulations concerning… medical records and reporting… for the performance of abortions;” [K.S.A. 65-4a09];
- “make a report to the governor and the legislature as to health care data activity, including examples of policy analyses conducted and purposes for which the data was disseminated and utilized” [K.S.A. 65-6807].

Other entities are also required to perform functions related to disease monitoring. For instance, a local health officer investigating a case of tuberculosis “shall investigate from time to time for the purpose of seeing if said instructions [to a person infected with tuberculosis to avoid harm to others] are being carried out in a reasonable and acceptable manner.”† [K.S.A. 65-116c]

Kansas statutes also provide for the passive surveillance of many conditions by requiring certain entities to submit disease-related reports: K.S.A. 65-118 generally directs that any physician, health provider, social worker, teacher, and other individual who “knows or has information indicating that a person is suffering from or has died from a reportable infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer.”† [K.S.A. 65-118] Kansas statutes also require passive surveillance of several specific conditions and procedures:

- all medical facilities must “annually submit a written report [of all pregnancies which are lawfully terminated] to the [Secretary]” [K.S.A. 65-445] in addition to requiring reporting of abortions provided without the consent of a minor’s parent [K.S.A. 65-6705];
postsecondary educational institutions” must immediately report any cases of tuberculosis and “any person found to be infected with tuberculosis… [under this section] will be provided treatment and ongoing monitoring”† [K.S.A. 65-129e];

- laboratories must report cases of HIV to the Secretary [K.S.A. 65-6002];
- laboratories must report “all positive or reactive tests” of prenatal syphilis and hepatitis b to the Secretary and also to the “submitting physician or person attending the woman” [K.S.A. 65-153];
- any physician “having knowledge of a case of congenital hypothyroidism, galactosemia or phenylketonuria” must report this information to the Secretary [K.S.A. 65-183];
- “any person performing [a mandatory newborn hearing screening] shall provide to the secretary… such information regarding the screening examinations conducted under this act as the secretary may require by rule and regulation” [K.S.A. 65-1,157a].

Lastly, in order to facilitate reporting, most mandatory reporting provisions give immunity to the provider for following the statutory mandate. For instance, a provider “who reports cancer information to the registry… shall have immunity from any liability… incurred or imposed in an action resulting from such report.” [K.S.A. 65-1,174]

Diagnose and Investigate Health Problems and Health Hazards in the Community

Kansas statutes address the need to diagnose and investigate health problems and hazards in a number of situations. Local health departments play a very significant role in delivering this Essential Public Health Service.

The Secretary has broad statutory authority to perform many functions related to the diagnosis and investigation of disease. Most significantly, the Secretary: “shall exercise general supervision of the health of the people of the state and may… investigate the causes of disease, including especially, epidemics and endemics, the causes of mortality and effects of locality, employments, conditions, food, water supply, habits and other circumstances affecting the health of the people of this state and the causes of sickness and death.” [K.S.A. 65-101]

Beyond this general grant of authority, the following disease-specific laws authorize the Secretary to:

- “provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism” [K.S.A. 65-180];
- “investigate the extent of childhood lead poisoning in Kansas … develop a program to assist local health departments† in identification and follow-up of cases of elevated blood lead levels in children and other high-risk individuals,” and to waive certain licensure fees for health department personnel† [K.S.A. 65-1,202];
- “organize and conduct… diagnostic clinics for children with special health care needs,” and assure that “designated agents† of the Secretary… shall accept for diagnosis… a child believed to have a severely handicapping condition” [K.S.A. 65-5a10];
- “whenever a complaint is made to the secretary… by [a mayor, a local health officer†, or a county or joint board of health] it shall be the duty of the [Secretary] to cause an investigation of the [pollution complained of]†” [K.S.A. 65-164];
- “to examine into all nuisances, sources of filth and causes of sickness that in their opinion may be injurious to the health of the inhabitants within any county or municipality in this state” [K.S.A. 65-159];
- “in investigating actual or potential exposures to an infectious or contagious disease that is potentially life-threatening, the local health officer† or the Secretary… may issue an order requiring an individual [believed to have been exposed to an infectious disease] to seek appropriate and necessary evaluation and treatment” [K.S.A. 65-129b].

Other entities are authorized to perform functions related to the diagnosis and investigation of health programs as well. For example:
- “in all counties [with] a joint board of health… the governing bodies of the municipalities involved may… provide for the establishment of a mental health clinic for the diagnosis and treatment of mental illness;”" [K.S.A. 65-211]
- “any physician [treating a minor, with the minor’s consent] is hereby granted the right [to test and treat such minor for sexually transmitted diseases]” [K.S.A. 65-2892];
- “the director of the [KDHE] division of health may use information from death certificates for disease investigation purposes” [K.S.A. 65-118];
- the Secretary of the Kansas Bureau of Investigation is authorized to “provide investigative assistance to [KDHE] when requested by the Secretary or the Secretary’s duly authorized agent” [K.S.A. 65-7005].

Unlike the foregoing grants of authority, the Secretary is statutorily required to perform only one disease investigation function. He or she must “develop a risk assessment profile to assist health care providers screen pregnant women for prenatal substance abuse.” [K.S.A. 65-1,163] There are, however, additional statutory mandates that impose obligations on other officials, such as:
- health officers† with “reasonable grounds to believe that any person has tuberculosis in a communicable form and will not voluntarily seek a medical examination [shall] order such person, either orally or in writing, to undergo an examination” [K.S.A. 65-116b];
- “every child born in the state of Kansas, within five days of birth… shall be given a screening examination for detection of hearing loss” [K.S.A. 65-1,157a];
- KDHE shall “establish a program to increase access to screenings for colon, breast, prostate and cervical cancer” [K.S.A. 65-1,174a];
- physicians and other health care professionals “shall take or cause to be taken, during the first trimester of pregnancy, a routine opt-out screening for HIV infection” [K.S.A. 65-6018];
- the director of the KDHE division of environment must “investigate [all matters relating to] the pollution of the waters of the state that may come before the [Secretary] for investigation or action” [K.S.A. 65-170].

Inform, Educate, and Empower People about Health Issues

The Kansas legislature has taken steps to encourage the dissemination of health promotion information. It has generally authorized the Secretary to “provide public health outreach services to the people of the state including educational and other activities designed to increase the individual’s awareness and appropriate use of public and other preventive health services.” [K.S.A. 65-101] More specifically, the Secretary is required to:
- “institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases detectable with the same specimen” [K.S.A. 65-180];
- in administering provisions of the residential childhood lead poisoning act, “develop and conduct programs to educate health care providers regarding the magnitude and severity of and the necessary responses to lead poisoning in Kansas” [K.S.A. 65-1,202];
- “institute and carry on educational programs among physicians, dentists, hospitals, public health departments and the public concerning hemophilia, including dissemination of information and the conducting of educational programs concerning the methods of care and treatment of persons suffering from [hemophilia]” [K.S.A. 65-1,133];
- “develop and make available education and training in the basic procedures and other requirements for collecting and maintaining umbilical cord, umbilical cord blood, amniotic fluid and placenta donations to all health care providers, other medical personnel and clinical staff who are involved in obstetrical care in Kansas” [K.S.A. 65-1,249];
- “provide educational materials and guidance to health care professionals who provide health services to pregnant women for the purpose of assuring accurate and appropriate patient education. Such materials and guidance shall address the services which are available to pregnant women from local health departments† and the perinatal effects of the use of tobacco, the use of alcohol and the use of any controlled substance” [K.S.A. 65-1,161];
- “establish a comprehensive community-based teenage pregnancy reduction program with the goal of reducing the rate of pregnancies among minors in urban and rural communities through the development of locally controlled† community-based educational interventions to accomplish certain behavioral and educational objectives; [K.S.A. 65-1,158];
- “maintain a toll free information line for the purpose of providing information on resources for substance abuse treatment and for assisting with referral for substance abusing pregnant women” [K.S.A. 65-1,166];
• “develop a brochure containing information about infection control techniques which are appropriate for hair braiding outside the salon setting” [K.S.A. 65-1928];
• “establish or cause to be established an online information dissemination system that is accessible to the public” concerning maternity and child care facilities [K.S.A. 65-534].

Other entities are also statutorily required to perform health education functions. A healthcare provider, whenever practical, shall “advise [pregnant women in the last trimester] of options to donate an umbilical cord following the delivery of a newborn child,” and the KDHE shall “prepare and make information available on its website concerning the donation of umbilical cords [K.S.A. 65-1,250]. The KDHE must also “conduct an ongoing public awareness campaign… regarding the preconceptual and perinatal effects of the use of tobacco, the use of alcohol and the use of any controlled substance” [K.S.A. 65-1,160]. The Commission on Emergency Planning and Response shall “provide recommendations and advice to the adjutant general and the Secretary of health and environment regarding the adoption of regulations” [K.S.A. 65-5722]. The KDHE Division of Health “shall [issue] educational literature on the care of the baby and the hygiene of the child” [K.S.A. 65-153]. Tire retailers “shall prominently display or make available to customers educational materials provided by [KDHE] and department of revenue relating to proper waste tire management practices” [K.S.A. 65-3424].

Mobilize Community Partnerships and Action to Identify and Solve Health Problems

The legislature in several instances has established programs which contemplate community partnerships that are at least indirectly related to health. The legislature established the Family Services and Community Intervention Fund, the purpose of which is to “enhance the ability of families and children to resolve problems within the family and community by the collaboration of governmental and local service providers† that might otherwise result in a child becoming subject to the jurisdiction of the court” [K.S.A. 38-2281]. The legislature also established the Juvenile Justice Code, which is designed to, among other things, “promote public safety, hold juvenile offenders accountable for their behavior and improve their ability to live more productively and responsibly in the community.” Among the ways in which the Juvenile Justice Code aims to achieve this is through facilitating “efficient and effective cooperation, coordination and collaboration among agencies of the local, state and federal government,” and encouraging public and private partnerships to address community risk factors” [K.S.A. 38-2301].

Community partnerships have also been formed to facilitate the disposal of solid waste. Kanas law recognizes the need for “a cooperative state and local program† of planning and technical and financial assistance for comprehensive solid waste management,” and enlists “the capabilities of private enterprise as well as the services of public agencies to accomplish the desired objectives of an effective solid waste management program.” [K.S.A. 65-3401] The legislature established the Kansas Geographic Information Systems Policy Board, which may have public health implications through facilitating epidemiological and surveillance efforts through improved disease mapping. City and local governments are to be included in this board† [K.S.A. 74-99104].

Lastly, the legislature made an express statement of policy in support of encouraging rural health networks, “whereby health care services are integrated to protect the public’s general health, safety and welfare” [K.S.A. 65-469]. As with customary with Kanas statutes, the manner in which such integration is to be addressed in regulation and policy rather than legislative enactments.

While the prior examples may indirectly support the formation of health-related partnerships, the legislature has directly encouraged the development of community partnerships in other fields. For instance, the Kansas Division of Community Development was established in order to “collaborate in partnership with local Kansas communities to provide grants, loans and technical assistance to these communities to stimulate and support economic development activity” [K.S.A. 74-5008c].

The Kansas Department of Commerce is directed to “maintain and revitalize economically depressed rural areas and urban neighborhoods by annually targeting scarce resources by size, sector and location to communities and enterprises of particular need and opportunity and by working in close collaboration with local communities.” [K.S.A. 74-5001a]
Develop Policies and Plans that Support Individual and Community Health Efforts

The development of policies and plans in support of individual and community health efforts is easily the Essential Public Health Service that finds the most support in the statutes of Kansas. Generally Kansas statutes will authorize, or require the Secretary to adopt rules and regulations concerning public health, which tend to fall into one of several categories: infectious disease, environment, the regulation of professions, food and agriculture, emergency preparedness, social assistance programs, and healthcare delivery.

Infectious Disease

In terms of infectious disease, the Secretary is statutorily required to adopt rules and regulations:

- establishing guidelines "concerning various aspects of tuberculosis control" [K.S.A. 65-116k];
- setting guidelines "for routine HIV infection screening for pregnant women and each newborn child where the HIV status of the mother is unknown at the time of birth" [K.S.A. 65-6018];
- "prevent the spread and dissemination of diseases injurious to the public health" including rules and regulations for isolation and quarantine. [K.S.A. 65-128]

The Secretary is also authorized to "adopt and enforce rules and regulations for the prevention and control of HIV infection or AIDS as may be necessary to protect the public health," and "for maintaining confidentiality of [HIV/AIDS] information under this act which at a minimum are as strict as the centers for disease control and prevention guidelines." [K.S.A. 65-6003]

Environmental Health

The Secretary is required to adopt rules or develop plans with regard to the following environmental issues:

- solid waste management [K.S.A. 65-3406];
- water quality protection (through adoption of water quality standards, pollution control and sewage disposal requirements) [K.S.A. 65-171d];
- disposal of waste generated by drilling oil and gas wells [K.S.A. 65-3407c];
- the licensure of underground waste storage container installers [K.S.A. 65-34,110];
- minimum standards for handling dead animals [K.S.A. 65-1,188];
- waste tire processing and disposal [K.S.A. 65-3424k].

The Secretary is authorized to adopt rules and regulations with regard to the following environmental issues:

- establishing standards to "ensure that the state is in compliance with the provisions of the federal clean air act" [K.S.A. 65-3005];
- the regulation of water management by "fixing minimum standards for the control of sanitation in water supply, sewage disposal and refuse disposal upon property located within sanitation zones established under the provisions of this act" [K.S.A. 65-187 and K.S.A. 65-3310];
- administrating the residential childhood lead poisoning prevention act" [K.S.A. 65-1,202];
- establishing licensure and certification fees for individuals performing asbestos evaluations in water management programs" [K.S.A. 65-5309 and K.S.A. 65-3305].

This analysis only uncovered one provision concerning the statutory authority of an entity other than the Secretary to promulgate rules and regulations concerning environmental health. Kansas law authorizes local authorities† to "establish such additional rules, regulations and standards [to those promulgated by the Secretary] as necessary to maintain satisfactory air quality within their jurisdiction." [K.S.A. 65-3016]
Food and Agriculture

Although certain agricultural practices are presumed “to be good agricultural practice and not adversely affecting the public health and safety” [K.S.A. 2-3202], the Secretary is nonetheless required to establish rules and regulations concerning:

- milk testing standards [K.S.A. 65-777],
- food and restaurant inspections [K.S.A. 65-688],
- odor control plans, [K.S.A. 65-1,187]
- construction of swine facilities [K.S.A. 65-1,179],
- food labeling. [K.S.A. 65-665].

Emergency Preparedness

The Kansas adjutant general is “responsible for emergency planning activities,” including “adoption of such rules and regulations necessary to implement the provisions of the federal act relating to emergency planning.” [K.S.A. 65-5705] Additionally, the state commission on emergency planning is required to “provide recommendations and advice to the adjutant general and the Secretary… regarding the adoption of regulations as authorized to carry out the purposes of all state hazard preparedness and planning laws and the federal act.” [K.S.A. 65-5722]

The Regulation of Professions

State licensure boards exercise extensive rule making authority as they oversee specific health-related professions. Although a detailed discussion of this regulatory framework is outside the scope of this analysis, please see K.S.A. 65-2865 for an example of this in the context of the practice of medicine.

Social Assistance Programs

Social assistance programs, which generally benefit needy or disadvantaged individuals, will usually be accompanied by a grant of authority, or requirement to support the programs established by the legislature through rules or proposed plans. For instance, the legislature requires that KDHE review and update its rules establishing eligibility requirements for Medicaid and the Children’s Health Insurance Program. [K.S.A. 65-6233] The Secretary required to submit to the governor a proposal for “consolidating all existing health programs required by law for pregnant women and children into one comprehensive plan,” which is to be “implemented by one or several agencies through interagency contracts, contracts with private agencies or by providing direct services.” [K.S.A. 65-1,159] The KDHE is also directed to “develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities.” [K.S.A. 65-508]

Healthcare Delivery

There are various provisions requiring or authorizing various entities to establish rules or plans regarding healthcare delivery. For instance, the Secretary is to promulgate regulations governing internal risk management programs which must be maintained at medical care facilities. [K.S.A. 65-4922] Licensing agencies are required to adopt standards “promoting safe and adequate treatment of individuals” in medical facilities. [K.S.A. 65-431] With regard to data collection, the Secretary is required to adopt regulations governing the “acquisition, compilation and dissemination” of health care data.” [K.S.A. 65-6804]

Enforce Laws and Regulations that Protect Health and Ensure Safety

In a practical sense, many officials and agencies are involved in the enforcement of public health measures. By statute, however, the Secretary assumes statewide enforcement responsibility and is directed to “exercise general supervision of the health of the people of the state.” [K.S.A. 65-101] Consequently, the Secretary must oversee these regulatory functions even when specific duties are delegated to subordinates. For example, under the Kansas Air Quality Act, “the Secretary shall have the power to… issue such orders, permits and approvals as may be necessary to effectuate the purposes of this act and enforce the same by all appropriate administrative and judicial proceedings.” [K.S.A. 65-3005]
Link People to Needed Personal Health Services and Assure the Provision of Health Care When Otherwise Unavailable

In terms of assuring the delivery of needed health care services, the general theme of Kansas statutes is to authorize or require conduct facilitating health care access, or to establish a specific program concerning access.

Powers and Duties Regarding Access

The Secretary may “provide public health outreach services to the people of the state including educational and other activities designed to increase the individual's awareness and appropriate use of public and other preventive health services.” [K.S.A. 65-101] In addition, the legislature authorizes the following specific functions regarding access to care:

- the Secretary may provide “for the care, maintenance and treatment of persons having communicable or infectious tuberculosis” [K.S.A. 65-116];
- counties with a joint board of health may “provide for the establishment of a mental health clinic† for the diagnosis and treatment of mental illness” [K.S.A. 65-211];
- the state’s birth defects information system is authorized to “facilitate access to treatment for congenital anomalies and abnormal conditions of newborns.” [K.S.A. 65-1,242]

Kansas statutes also require that certain actions be taken to improve access to care. For example:

- KDHE is to establish “a system of priorities for providing services, devices, equipment and supplies to children… [giving] consideration to the medical needs of the patient and the financial ability of the patient to pay the cost thereof and will insure that available funds will be used where the need is greatest” [K.S.A. 65-5a14];
- among the guiding principles of the state’s child care policy is that “high quality child care must be available to any family seeking care,” “a centralized place in local communities† must be available to facilitate parents' access to child care,” and “high quality child care must be available on a sliding scale basis, with families contributing based on ability to pay” [K.S.A. 65-528];
- pregnant women “referred for substance abuse treatment shall be a first priority user of substance abuse treatment available through social and rehabilitation services” [K.S.A. 65-1,165];
- the Secretary must “develop a plan for the establishment of a multilevel treatment program for persons with spinal cord injuries” [K.S.A. 65-1,112];
- the Secretary is required to “establish a comprehensive and coordinated plan for the prevention and treatment of persons with alcohol or other drug addiction.” [K.S.A. 65-4011]

The legislature also encourages conduct expected to improve access to health care. For instance, it has a Good Samaritan law, intended to encourage health care providers to provide emergency care without fear of legal liability. [K.S.A. 65-2891] Kansas also has the Health Care Provider Cooperation Act is a more systematic effort which seeks to “foster further improvements in the quality of health care for Kansas citizens, moderate increases in costs, avoid duplication of resources and improve access to needed services in rural areas of Kansas.” [K.S.A. 65-4955]

Establishment of Programs

Kansas has established various programs with the intention of improving access to care for its citizens. While there is no general statutory authority providing for a state-funded safety net clinic infrastructure, the Secretary is authorized to "provide capital loan guarantees against risk of default for eligible primary care safety net clinics in Kansas.” [K.S.A. 65-7403] Retired dentists are eligible for a “volunteer dental license” for purposes of “treat[ing] indigent and underserved persons of the state,” which requires no annual dues or continuing education to maintain. [K.S.A. 65-1472] The legislature established a Health Care Access Improvement Fund, the purpose of which is to "improve health care delivery and related health activities,” [K.S.A. 65-6217] and KDHE is required to “establish a program to increase access to screenings for colon, breast, prostate and cervical cancer.” [K.S.A. 65-1,174a] Lastly, the Senator Stan Clark Pregnancy Maintenance Fund was established to “award grants to not-for-profit organizations for programs that provide services for women which enable them
to carry their pregnancies to term,” and requires that “no individuals who are unable to pay may be denied the delivery or provision of pregnancy maintenance services,” including “adoption services, education or information.” [K.S.A. 65-1,159a]

Assure Competent Public and Personal Health Care Workforce

Kansas assures a competent public and personal health care workforce generally through requiring educational, examination, or training requirements, and by providing information and training to the health care workforce. Health care professionals and public health professionals are regulated differently, however, both in form and extensiveness.

The process for credentialing health care professionals generally entails certification (a grant of recognition from a non-governmental entity or the federal government that an individual meets certain qualifications), registration (the process of listing those qualified to practice a profession by the state), or licensure (the granting of permission to practice a profession in a state based on predetermined qualifications), in addition to meeting specific educational, training, and continuing education requirements maintained by a profession’s licensing board. [K.S.A. 65-5001] Health care professionals are further regulated by the peer review process, which is generally a person or group that, among other things, “evaluate[s] qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care” within health care provider groups. [K.S.A. 65-4915]

Ensuring the competence of public health personnel is performed in a more ad-hoc fashion, usually based on subject-matter specific concerns. For instance, child care facilities must “ensur[e]… sudden infant death syndrome and safe sleep practices training,” [K.S.A. 65-508] and the residential childhood lead poisoning prevention act authorizes the Secretary to establish requirements concerning the “certification of individuals [and] accreditation of training programs… relating to lead-based paint activities as are necessary to protect the public health and safety.” [K.S.A. 65-1,202] Many other activities are regulated in a similar manner.

Evaluate Effectiveness, Accessibility, and Quality of Personal and Population-Based Health Services

As a general matter, the evaluation of personal health services implicates many of the same mechanisms previously discussed in the context of ensuring the competence of the personal health care workforce. Both the professional licensing and peer review process operate as partial safeguards for patient care.

The evaluation of public health programs, however, is handled differently by Kansas statutes, generally by a specific provision within the authorizing language of a public health program requiring that evaluation of such program be performed. For instance, the Secretary is required to establish “project evaluations” under the statute concerning asbestos control, [K.S.A. 65-5309] as well as performing “technology evaluations” for the “solid waste grants advisory committee.” [K.S.A. 65-3426] That said, Kansas statutory authority generally do not call for evaluation of public health programs. Such provisions may be found in KDHE regulations, but are outside the scope of this report.

Research for New Insights and Innovative Solutions to Health Problems

There are many instances in which Kansas statutes encourage research and innovation. This is generally done in one of three ways. First, some statutes establish pilot projects for innovative public health approaches. Second, other statutes encourage public health research, generally either by establishing and funding a specific public health research project, or by facilitating public health research. Lastly, some statutes expressly endorse the use of innovative technologies.

Pilot Programs

Several public health pilot programs are mandated under state law, including:

- a school-based influenza vaccination project [K.S.A. 65-1,251],
- a “study on the issues of electronic transmission of prior authorizations and step therapy protocols” [K.S.A. 65-1637b],
- a “birth defects information system for the collection of information concerning congenital anomalies, stillbirths and abnormal conditions of newborns.” [K.S.A. 65-1,241]

Public Health Research Projects

The following statutes authorize or require research projects on:
- “air contamination and air pollution and their causes, effects, prevention, abatement and control” [K.S.A. 65-3005];
- solid waste [K.S.A. 65-3415];
- diseases and deaths related to “maternal, perinatal and anesthetic causes” [K.S.A. 65-177];
- “whether to require veterinarians to report to a prescription monitoring program under this act” [K.S.A. 65-1694:]

Other statutes facilitate research by making data available to researchers (such as making pharmacy board data on methamphetamine precursors available to researchers [K.S.A. 65-16,104] and authorizing the University of Kansas to request health care data for research purposes from any entity [K.S.A. 65-6802]), or encouraging participation in research studies through ensuring confidentiality (such as laws keeping medical researchers from being compelled by a court to furnish the identity of any research subject [K.S.A. 65-4134]).

Endorsement of Innovative Public Health Approaches

The last type of statute relevant to research and innovation are those that expressly endorse the use of innovative public health approaches. For instance, the legislature has authorized the Secretary to conduct projects that implement innovative waste processing technologies; [K.S.A. 65-3415] investigate the feasibility of consolidating all health programs for pregnant women and children through examining “innovative programs;” [K.S.A. 65-1,159] and encouraging “air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies… to reduce or prevent pollution.” [K.S.A. 65-3005]

Home Rule Authority and Chartering Out of Statutory Provisions

Where the Kansas legislature has not thoroughly addressed the 10 Essential Public Health Services, local governments can respond in several ways. First, through appropriate executive branch channels, they may encourage the adoption of a governing statute. Second, cities and counties may be able to exercise home rule authority and adopt ordinances or resolutions. When local governments seek to act in this fashion, they must first determine whether the public health measure can be adopted as an "ordinary" ordinance or whether it must be treated as a "charter" ordinance.

Ordinary ordinances and resolutions are appropriate in three circumstances. First, ordinary ordinances are used where there is no state statute on the topic the local government wishes to address. Second, a local government may supplement a state statute that applies uniformly to all local governments of the state so long as two conditions are met - (a) the statute does not expressly preempt local governments from doing so, and (b) the ordinance or resolution is not in conflict with the state statute. Third, where a state statute is permissive in nature (i.e., authorizes but does not require a local government to take action), a local government may choose to not exercise this statutory authority and instead address the issue through ordinary ordinance or resolution.

Charter ordinances “[exempt] a city from the whole or any part of any enactment of the legislature.” They provide “substitute and additional provisions on the same subject.” [K.S.A. Const. Art. 12 § 5]

In practice, the Kansas legislature may not always address public health issues of specific concern to local governments. Therefore, after consulting with counsel, local authorities may decide whether to proceed with ordinary ordinances and resolutions provide an appropriate mechanism to address perceived gaps in the CDC’s compilation of essential services.
Conclusion

Kansas statutes contemplate the 10 Essential Public Health Services generally, though to varying degrees and usually in the form of authorizing or requiring the KDHE Secretary to address various aspects of the services. While local health departments are sometimes included in the statutory language, their specific grant of authority is often a product of State agency rule making. Nevertheless, in expressly contemplating public health services related to the 10 Essential Public Health Services, the legislature has generally facilitated, rather than hindered, the delivery of these services in Kansas.

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SUPPORTERS

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