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## Testimony for Senate Bill (SB) 312-Senate Committee on Public Health and Welfare 2/3/2020

My name is Ed Kalas, owner of Plus or Minus 2 Degrees, LLC and former Division Manager of Environmental Health, including Childcare Licensing (CCL), at the Shawnee County Health Department.

I am glad to see that the Kansas Health and Environment (KDHE) is attempting to unify fining authority under KDHE instead of splitting it between KDHE and County Attorneys.

The following are questions I would have about this bill if I were still in charge of a CCL inspection program.

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1. How was it decided that the language (highlighted in italics below) from Supplemental Note on House Bill No. 2228 As Amended by House Committee on Children and Seniors during the 2019 session would not be used in this bill?

*Text for 2019 Session-HB 2228: The provisions of subsections (b) and (c) shall not apply to a person providing child care for: (1) Children who are provided child care in the home in which such children reside; (2) children who are all relatives of the person; or (3) up to two children unrelated to the person for not more than 20 hours a week. Such 20 hours shall be calculated by combining the hours each child is provided care during the week by such person.*

For the 12 years I worked in Childcare, KDHE could not say whether the above exceptions to licensing, which are not already included in the K.S.A 65-501, were from an internal definition, an interpretation from the Kansas Attorney General or something else. Since 65-501 requires "any person, firm, corporation or association" conducting/maintaining a maternity center or a childcare facility to have a permit or license, codifying the language about the exceptions above would provide consistency and clarification.

2. Why separate KSA 65-501 activities in sections (b) and (c) from all other violations in section (a)? Why is a violation for 65-501 twice that of every other violation from section (a)?

Changing the term "a licensee" to "any party" in section (a) would be able to cover all violations under one fine. Doubling the fine for operating without a permit or license may be a bigger deterrent but also appears punitive.

3. How will KDHE ensure being consistent and fair in the application of this statute when deciding fines? Have they already created a matrix or a process to devise amounts of fines up to the maximums allowed?
4. What happens to K.S.A. 65-515 (highlighted in italics below)? Is there any need to keep it? Will it be repealed?

*K.S.A. 65-515. Prosecutions. The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.*



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5. How is the work of contracted local health department CCL Surveyors reflected in the distribution of collected fines in this bill?

KDHE contracts with local health departments (LHD's) to inspect childcare facilities in about 2/3rds of the counties in Kansas. These LHD Surveyors are the ones who determine violations and they will be the ones on whose documentation KDHE bases and pursues fines and other enforcement. To be able to build a case for enforcement, many hours are required, especially in determining if someone needs to have a permit or license. This bill does not recognize that fact, especially financially.

I hope LHD's will provide input to you about the bill. However, many of them did not know it was resurrected from last year's HB 2228 until 1/28/20. A less-than-two-week turnaround time from the introduction of a bill into a committee and the committee's first scheduled hearing is not much time to react. This is the third year in a row that has happened with a CCL bill.

If KDHE lets LHD's know when new legislation that might affect the LHD's is coming up as soon as it knows, KDHE would improve its partnerships and help meet a requirement of its Public Health Accreditation Board (PHAB) accreditation.

Not working together prevents conversations and input among partners to craft or comment on a bill that could otherwise be fully supported by all the parties involved to benefit the public.

Thank you for your time, efforts and consideration. If you would like to contact me, please feel free.