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The Day-Care Threat Pushed by grieving parents, Kansas makes sweeping reforms

BY BRAD SCHRADE

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• Results could hold lessons for Minnesota, other states.

OVERLAND PARK, KAN. - Armed with an iPad and a sense of mission, Kathy Griffin patrols the leafy streets of this Kansas City suburb, on the lookout for child- care providers who put kids at risk.

A day-care inspector with Johnson County, she is an amiable mix of teacher, coach and enforcer -- dropping in unannounced, advising providers who ask for help and correcting those who go astray.

Griffin works the front lines of child- care regulation in Kansas, a state that confronted safety lapses five years ago and now receives national accolades from child advocates. In 2007, young children were dying at the rate of one per month in Kansas child- care facilities. A determined effort by grieving parents and frustrated regulators resulted in sweeping changes. So far this year, just one child has died.



STEVE HEBERT • Special to the Star Tribune

Sweeping This day-care crib won't be allowed by law next year. Dianne Echohawk, left, is a provider. Kathy Griffin is an inspector.

As Minnesota grapples with its own troubled record -- child- care deaths have doubled in the past five years, often in cases with egregious safety violations -- Kansas offers one example of a path to reform.

Just two years ago, a national watchdog group ranked Kansas 41st in the country for regulation of in-home child care. This year, the state shot to third.

"Kansas is a good example of advocates coming together, largely led by parents, working in a bipartisan way in a very conservative state to get some basic protections for

children," said Grace Reef, policy chief for Child Care Aware of America, which produced the rankings. "The way it all came together in Kansas, I really think it was historic."

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Haunting image

You can't travel far in Kansas child advocacy circles without hearing about Lexie Engelman or seeing a picture of the adorable 1-year-old in pigtails holding a bright red ball. The photo sits in offices of lawmakers and on desks of advocates in Topeka. A sketch of the image hangs in her parents' bedroom at their home in Overland Park, where today Bryan and Kim Engelman are raising the younger brother and sister Lexie never had the chance to meet.

The photo was taken at a family gathering in Minnesota in July 2004, a month

before the toddler died from injuries she suffered on her third day at a home day care in a Kansas City suburb. Left unsupervised on the lower level of the home, the little girl became trapped between a playpen and a wall and suffered injuries from asphyxiation that proved fatal.

Bryan and Kim grieved for months, but over time discovered that Lexie's death reflected broader failures. Kansas' day- care system suffered from lax supervision, poor provider training and weak state enforcement. Some facilities were never inspected, and licensing records were often inaccessible to curious parents.

Like Minnesota today, Kansas kept many of its inspection reports buried in government files, not online for public scrutiny. And like several Minnesota families, the Engelmans learned after it was too late that the woman caring for their child had a history of violations. They grew determined to fix the problems.

"Dealing with loss, we chose to do something proactive and try to help others," said Bryan, who grew up in the Twin Cities suburb of Rosemount and met Kim when they were undergraduates at St. Cloud State University.

A pattern emerges

For years, nobody tracked how many children were dying in Kansas day- care facilities. Rachel Berroth stumbled across that fact almost by accident in 2007, when she started charting deaths in her job for the Kansas Department of Health and Environment (KDHE), the state's chief child- care regulator. Eventually, Berroth turned the project into her master's thesis at Kansas State.

Building on Berroth's Excel spreadsheet, the agency rewrote its investigative procedures and began tracking detailed information from death scenes. The initial data was alarming.

In many of the deaths, providers had placed infants in unsafe sleep positions for naps, such as on their stomachs or in adult beds. The children were often sleeping in remote parts of the providers' homes with doors closed -- left unchecked for long periods. In Kansas' death cases, the data showed, the average time between nap checks was 48 minutes.

Many of the same lapses turn up today in Minnesota.

Photos by STEVE HEBERT • Special to the Star Tribune Bryan Engelman with a framed sketch of daughter Lexie, who died in 2004 of injuries suffered at a home day care in a Kansas City suburb.





In Kansas, regulators scoured the patterns for critical clues to improving safety. "It's getting to the truth," said Berroth, now the director of KDHE's Bureau of Family Health. "That's what our forms and our standardized investigation did for us. We got to the nitty gritty and the detail."

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A feeling of betrayal

State regulators had tried for years to tighten up Kansas' system, introducing or supporting various bills in the state legislature. Each year, the results were the same -- the bills went nowhere.

Then, in the spring of 2009, an 18-month-old toddler named Ava Patrick died on her first day at an overcrowded day care in Johnson County, not far from the Engelmans' home.

Frustrated by another tragedy, the couple sent their state senator a pointed e-mail. "This time it's in your backyard," it read. "Are you going to do something?"



Alecia Patrick at her home in Olathe, Kan., near a photo of her daughter, Ava, who died in 2009 on her first day in a day care.

Ava's parents, Steve and Alecia Patrick, were angered to learn that their provider had a history of complaints and violations. Her state licensing file ran to hundreds of pages. "We had a feeling of betrayal and being lied to," said Alecia Patrick.

A month later, Ava's parents met the Engelmans, and the couples organized a grassroots group with an eye toward reforming the system. In July 2009, they created a Facebook group, "Safe Children in Child Care." Within hours, they had 78 members. That fall, a child advocacy group, Kansas Action for Children, joined them to help lobby at the Capitol.

After months of debate, testimony and political wrangling, Lexie's Law passed and was signed into law in the spring of 2010. The Engelmans and Patricks made as many as three dozen trips to Topeka in those months to testify and press lawmakers.

Parent activism may be one factor that has set Kansas apart from Minnesota.

"What really made the difference was having parents who lost a child visible at the statehouse," said Shannon Cotsoradis, president and CEO of Kansas Action for Children. "Having lawmakers have to look at those parents in the gallery, I think it just raised the stakes. ... It was much harder to vote no."

Reforms take hold

Two years later, Kansas is still implementing Lexie's Law, but changes have reverberated across the state.

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Regulators now inspect all 7,000 child- care facilities at least once a year, including a segment of small in-home facilities that used to be inspected only if officials received a complaint. The law also raised education requirements for providers and spells out expectations in certain critical areas, such as supervision and safe sleep practices. For

example, providers in Kansas now must check on sleeping infants at least every 15 minutes and can't have children napping behind closed doors.

This year, the state launched a new website containing inspection reports -- filed digitally by regulators such as Griffin -- giving parents easy access to safety and quality data.

Some providers initially balked at the changes, viewing them as an insult to good practitioners and a regulatory overreach that seemed to criminalize their profession. Yet today, many have accepted the law, even if they still have quibbles with the implementation.

"It did help make things safer for the kids," said Dianne Echohawk, an in-home daycare operator for 37 years. "I think [the changes] are all good. I think there could have been a gentler hand that put them in place."

Emily Edwards, a veteran provider in Topeka, said she went into the new training thinking there was nothing she could learn. But in each course, she said, she has picked up new knowledge, such as research showing that infants tend to be at greatest risk in the first days at a new day care.

"I learned amazing things," Edwards said. "Now the first week or two after I get a new baby, I'll be so much more observant."

Sen. Laura Kelly, a Democrat who led a bipartisan effort on Lexie's Law in the Senate, said its explicit language gives providers clear guidance and fosters consistency across a sprawling system operating in 105 counties.

Kelly said it's too early to tell the full impact of the law, but she says the early indicators are encouraging.

"Just putting the spotlight on this really helped our providers and our provider support groups," Kelly said. "They just had a better idea what they should do."