



## A KU Medical Center associate professor's personal tragedy leads to better child care standards in Kansas

Lexie's Law leads to better child care standards in Kansas

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In just two years since Lexie's Law was implemented on July 1, 2010, the state of Kansas' national ranking in child care oversight — previously a dismal 47<sup>th</sup> — has improved dramatically. Kansas now ranks third, behind Oklahoma and Washington, and is a model for quality child care policies, according to the 2012 report of the National Association of Child Care Resource and Referral Agencies (NACCRRA).

Behind the landmark legislation credited for much of this change, however, is a personal tragedy — one that Kimberly Engelman, Ph.D., an associate professor in the department of preventive medicine and public health at the University of Kansas Medical Center, will always wish never happened in the first place.

"I can still visualize everything about that morning in 2004, in my office at KU - at first, I thought the call was a joke," she says. A police officer was on the phone, explaining that the provider caring for Engelman's 13-month-old daughter had discovered the toddler unconscious and not breathing. 911 responders were at the scene.

Little Lexie Engelman was rushed to the pediatric intensive care unit at Children's Mercy Hospital. But five days later, her reeling parents were informed that their daughter's brain was deprived of oxygen for too long. They had to let her go.

"She was our first child," Engelman says. "We'd planned to have her. We were so delighted and excited when she was born. It was the worst day of our lives, leaving the hospital without our sweet,

spirited little girl - and returning to a quiet home."

Eight years on, the heartbreak is still evident in Engelman's eyes, and in her voice. Yet she and her husband Bryan have shouldered through their grief to advocate for improvements in Kansas' child care policies, determined that good should emerge from their terrible loss.

## **A mission**

During the months after Lexie's death, "many upsetting revelations" came to light, Engelman says. The provider left the three children in her care — all a year old or less — unsupervised in the basement while on a lengthy phone call. Out of sight, Lexie asphyxiated when she became pinned between a support beam and a play pen leaning against the stairwell wall.

Engelman also learned, from the child care licensing division of the Kansas Department of Health and Environment (KDHE), that the state's regulations governing child care had not been revised for the last 20 years.

"At the time, kids only needed to be within earshot of a provider. It was fine if they were a football field away as long as the responsible adult could hear them," she says. "We didn't think this was OK. Because of such lax supervision, our daughter died. Nor were we happy that training in CPR and first aid wasn't required of providers then."

The KDHE invited Engelman and her husband to join a statewide committee to improve child care supervision standards. But government bureaucracies soon got in the way. "We spun our wheels for several years due to all the red tape," she says. "At one point, there were 14 child care deaths in one year, likely 10 of which could have been prevented."

In 2009, the couple began testifying at the Kansas Statehouse. Once, Engelman was speaking to a joint committee for children's issues when the chair, Senator Julia Lynn, asked her to suggest one change that would make a difference. "Make the supervision guidelines more stringent," Engelman responded, "so providers actually see the kids they caring for."

Engelman and her husband also started a grassroots advocacy group and a Facebook page, [Safe Children in Child Care](#), which now has over 800 members.

Then in April 2009, 18-month-old Ava Patrick strangled to death on a fence separating babies and toddlers at a day care home in Olathe. Through a mutual friend, the Engelmans reached out to Ava's parents, Steve and Alecia Patrick. "They're an amazing couple. Despite their horrific pain, they partnered with us and really helped our grassroots advocacy take off," Engelman says.

That summer, Senator Lynn began meeting regularly with them and others from the grassroots group to formulate an action plan — "on napkins and whatever else we could find, because we were at a

child care center," Engelman says. "I remember scribbling words and questions like 'SUPERVISION!!!' and 'WHY ARE KIDS STILL DYING???' on papers with smiley faces."

Lynn connected them with Kansas Action for Children (KAC), an organization already planning to enter the 2010 legislative session with a bill that would require regular inspections of all child care facilities. The group decided to merge their bill with the KAC measure.

## **The journey**

Members of the Kansas Legislature were officially introduced to the joint bill in January 2010. Right from the start, it met with resistance.

"Ours is a very conservative state with a general dislike of regulations," Engelman says. "But we never thought some people might think it unreasonable to put extra protection and guidelines in place for children - one of our most vulnerable populations."

The Engelmans were surprised, for instance, at attempts to remove a provision that those licensed to maintain a child care facility be high school graduates or the equivalent. Many day care providers were also outraged at the notion of enforced bathroom and bedroom inspections.

One senator, looking at the deaths from an actuarial perspective, remarked that the numbers didn't seem especially high. On another occasion, Engelman recalls bursting out, "We're not talking about exercise paths; we're discussing the lives of our children. What if this was *your* grandchild who died?"

In the end, Engelman believes that because "key people took to us and to our story," the bill garnered tremendous bipartisan support, which carried the day. Senator Laura Kelly worked across party lines, while Senator Jim Barnett, now retired, was another key backer. Lieutenant-Governor Jeff Colyer - then the Engelmans' district senator in Overland Park - marshalled the Senate's most conservative voices and even amended the bill to be called Lexie's Law.

On the last day of the legislature's session, Lexie's Law was finally passed. "It was 2:30AM and we were sitting in the gallery," Engelman says. "All the stars were aligned. There's so much packed into Lexie's Law, it's amazing that it passed, let alone on the first try."

## **Present and future**

Thanks to Lexie's Law, the category of "registered" day care homes no longer exists in Kansas. Previously, such providers could care for up to six children; no training was required, and inspections occurred only following complaints. As of July 2011, all registered day care homes either became regularly inspected "licensed" facilities, or ceased operating. KDHE personnel have also made the timing of facility inspections less predictable, while engaging in more provider training along the way.

"There was some concern that we might lose day care spots," Engelman says, "but it ended up being the opposite. Most providers stepped up to the plate, because getting licensed meant they could care for up to 10 kids instead of six."

Lexie's Law stipulates training for day care providers in CPR, pediatric first aid and basic child development. Children 2.5 years of age or younger must have "line of sight" supervision at all times. Kansas is now one of 15 states that meets every health and safety requirement recommended by child care experts, and one of only seven states requiring toys and materials to promote learning across all developmental areas, including motor, language and literacy skills.

An online database, the [Child Care and Early Education Portal](#), has been established through funds from the American Recovery and Reinvestment Act (ARRA). "You review a care center's compliance record immediately, at no charge," Engelman says. "Previously, you had to know that you could get these records, and call KDHE with your request. It took staff time to copy each page and deidentify any children mentioned, so you might pay up to \$100 in fees."

Engelman is fully aware that the accomplishments of the last two years are just a starting point. "I still struggle with the fact that regulations are great," she says, "but if they're not consistently followed, what's the point?"

Being a data fan, she'd also like to see improved tracking of child care deaths in Kansas; legislation around this matter is currently in the works. If, for instance, statistics reveal the cause of death to be SIDS (sudden infant death syndrome), ramping up education on safe sleep practices presents one solution.

"But if not — and if the deaths were preventable," Engelman adds, "then let's figure out why and how to tackle the problem. We're not done yet. Kids are still dying in child care, and I'm not naïve enough to think that Lexie's Law is all that there is."

*For parents who would like to know what to expect with quality child care and where to obtain information, [Child Care Aware of Kansas](#) is an excellent informational resource.*

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