

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 4 – MATERNAL AND CHILD HEALTH
Newborn Infant Hearing Screening Act

28-4-600. Definitions. (a) “Accepted medical practices” means the following:

- (1) Physiologic hearing screening of all newborns;
- (2) follow-up hearing assessment before three months of age for those newborns and infants who did not pass the hearing screening;
- (3) follow-up medical evaluation for those newborns and infants with confirmed hearing loss; and
- (4) follow-up early intervention services to meet the needs of each newborn and infant with hearing loss and each parent before the child reaches six months of age.

(b) “Audiologic assessment” means the physiological tests required to evaluate and describe hearing status.

(c) “Audiologist” has the meaning specified in K.S.A. 65-6501, and amendments thereto.

(d) “Auditory brainstem response” and “ABR” mean an objective, electrophysiologic measurement of the brainstem’s response to acoustic stimulation of the ear.

(e) “Automated auditory brainstem response” and “AABR” mean an objective, electrophysiologic measurement of the brainstem’s response to acoustic stimulation of the ear, obtained with equipment that automatically indicates whether the child has passed the hearing screening.

(f) “Automated otoacoustic emissions” and “AOAE” mean an objective, physiologic response from the cochlea, obtained with equipment that automatically indicates whether the child has passed the hearing screening.

(g) “Department” means the Kansas department of health and environment.

(h) “Discharge” means a newborn’s or infant’s release from the premises of a medical care facility and into the care of the parent of the newborn or infant. This term shall not include transporting the newborn or infant between medical care facilities.

(i) “Early intervention services” has the meaning specified in K.S.A. 75-5648, and amendments thereto.

(j) “Follow-up” means the following:

(1) Referring newborns and infants for further hearing testing if these children either missed or did not pass the initial hearing screening;

(2) referring newborns and infants with confirmed hearing loss for ongoing audiologic services to monitor hearing;

(3) referring newborns and infants with confirmed hearing loss for speech, language, and aural habilitation services; and

(4) referring newborns and infants with confirmed hearing loss for other early intervention services, as needed by these children and their parents.

(k) “Hearing screening” means the following:

(1) The completion of an objective, physiological test or battery of tests on newborns and infants

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by using instrumentation and procedures specified by the department; and

(2) for other than pass results, referring the newborn or infant to an audiologist for audiologic assessment.

(l) "Hearing screening state program coordinator" means the audiologist in the department who is designated to coordinate the statewide "sound beginnings" activities.

(m) "Infant" means a child from 30 days through 12 months of age.

(n) "Initial hearing screening" means the procedure or procedures employed for the purpose of screening hearing before discharge.

(o) "Medical care facility" means a hospital, birthing center, or other licensed facility that provides obstetrical and newborn services.

(p) "Newborn" means a child through 29 days of age.

(q) "Otoacoustic emissions" and "OAE" mean an objective, physiologic response from the cochlea. This term may include transient evoked otoacoustic emissions and distortion product otoacoustic emissions.

(r) "Parent" means a natural parent, adoptive parent, stepparent, foster parent, legal guardian, or other legal custodian of a child.

(s) "Primary medical care provider" means the physician or health care agent who provides the newborn's or infant's routine medical care in the locale where the child resides after discharge.

(t) "Protocol" means the guidelines followed to conduct hearing screening.

(u) "Receiving agency" means the facility that agrees to provide hearing screening for sending agencies.

(v) "Risk indicator" means a factor known to place a newborn or an infant at risk for being born with or developing a hearing loss.

(w) "Sending agency" means a hospital with fewer than 75 births averaged over three years that chooses not to do hearing screening. Each sending agency shall arrange for hearing screening to be performed at another facility.

(x) "Sound beginnings" means the Kansas program consisting of hearing screening, tracking, and follow-up for newborns and infants.

(y) "Tracking" means using information about the newborn's or infant's hearing screening status to ensure that the newborn or infant receives timely and appropriate services to complete the screening and referral process. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-601. Initial hearing screening test: technology and protocol. (a) Trained personnel at each medical care facility shall provide initial hearing screening using ABR, AABR, OAE, and AOA, in combination or alone, which objectively assesses the physiologic status of the ear and which has no greater than a 30-40 dB HL (decibel hearing level) criterion for a pass result or a referral for additional screening.

(b) Trained personnel at each medical care facility shall follow an initial hearing screening protocol that has been approved by the hearing screening state program coordinator.

(c) The initial hearing screening protocol shall include the following:

(1) The type of screening equipment to be used;

(2) the time frame for the first screening and, if needed, the second screening, before discharge;

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- (3) the plan for providing the results to the parent, the newborn's or infant's primary medical care provider, and the department;
- (4) the methods and materials to be used to inform the parent of the following:
 - (A) The purpose, benefits, and limitations of hearing screening for newborns and infants;
 - (B) the procedures used for hearing screening;
 - (C) the risk indicators for delayed-onset, progressive, and acquired hearing loss;
 - (D) the factors that could result in a referral for further hearing screening, including debris in the ear canal and fluid in the middle ear;
 - (E) the effects of hearing loss on infant development, including speech and language development;
 - (F) the importance of follow-up hearing assessment;
 - (G) the benefits of early identification and intervention;
 - (H) the timelines for maximizing early intervention; and
 - (I) a list of facilities that provide audiologic assessment for newborns and for infants younger than five months of age; and
- (5) the referral plan to be used if the hearing screening results are incomplete or if the newborn or infant does not pass the hearing screening. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-602. Location of hearing screening for newborns and infants. (a) Except as specified in K.A.R. 28-4-609(a), the hearing of each newborn or infant shall be screened in both ears before discharge.

(b)(1) Except as specified in paragraph (b)(2), hearing screening shall be carried out in one of the following:

- (A) The medical care facility where the newborn is born;
- (B) if the newborn is transferred to one or more medical care facilities before being discharged, in the last medical care facility to which the child is transferred; or
- (C) if the medical care facility averages fewer than 75 births per year over a three-year period, that medical care facility or, by contract or written agreement, another facility that provides hearing screening in compliance with this article.

(2) If the newborn is born outside of a medical care facility, the newborn's primary medical care provider shall arrange for the hearing screening in compliance with this article and before the newborn is one month of age, unless a different time period is medically indicated. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-603. Responsibilities of medical care facility's administrator. (a) Each medical care facility administrator shall be responsible for the following:

- (1) Designating a hearing screening manager or coordinator to be responsible for overseeing the facility's hearing screening program and ensuring compliance with the applicable statutes and regulations;
- (2) designating a physician to be responsible for overseeing the medical aspects of the facility's hearing screening program;
- (3) designating an audiologist on staff or a consulting audiologist to be responsible for overseeing

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the audiologic aspects of the facility's hearing screening program, including screening, tracking, referral for evaluation, and personnel training; and

(4) budgeting for personnel, equipment, and supplies needed to carry out the program.

(b) If the medical care facility administrator determines that the facility is a sending agency as defined in K.A.R. 28-4-600, the administrator shall ensure that the results of the hearing screening are obtained from the receiving agency for the newborn's medical record. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-604. Responsibilities of medical care facility's hearing screening manager or coordinator. Each manager or coordinator shall be responsible for the following:

(a) Writing and implementing a medical care facility policy for the newborn hearing screening program in consultation with the facility's medical director, staff audiologist or consulting audiologist, obstetrics nurse manager, and nursery nurse manager, and with the hearing screening state program coordinator;

(b) providing for the maintenance and accurate operation of the hearing screening equipment;

(c) developing a back-up hearing screening plan to ensure continuation of hearing screening if the equipment malfunctions or when there is a change in personnel administering the hearing screening;

(d) ensuring that the hearing screening is performed by appropriately trained and supervised personnel, as specified in K.A.R. 28-4-608;

(e) overseeing data management and reporting to the department, as specified in K.A.R. 28-4-605; and

(f) ensuring that the following requirements of the hearing screening program are met:

(1) Coordinating the supervision of or supervising the personnel who provide hearing screening, including the ongoing monitoring of their competency and retraining;

(2) monitoring the results of the screening program, including the number of newborns discharged before screening and the referral rates;

(3) before the newborn's or infant's discharge, informing the parent of the results of the hearing screening and providing a copy of the results;

(4) before or upon discharge of any newborn or infant who has passed the hearing screening, providing the child's parent with written information describing the following:

(A) The purpose, benefits, and limitations of hearing screening;

(B) the procedures used for hearing screening;

(C) the risk indicators for delayed-onset, progressive, and acquired hearing loss; and

(D) normal infant developmental milestones regarding hearing, speech, and language;

(5) before or upon discharge of any newborn or infant who has not passed the hearing screening, providing the child's parent with written information describing the following:

(A) The purpose, benefits, and limitations of hearing screening;

(B) the procedures used for hearing screening;

(C) the factors that could result in a referral for further hearing screening, including debris in the ear canal and fluid in the middle ear;

(D) the effects of hearing loss on infant development, including speech and language development;

(E) the risk indicators for delayed-onset, progressive, and acquired hearing loss;

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- (F) the recommendation for follow-up hearing screening;
- (G) a list of options of personnel or sites that provide follow-up hearing screening; and
- (H) a timeline for follow-up hearing screening in accordance with accepted medical practices;
- (6) before or upon discharge, informing the newborn's or infant's primary medical care provider of the results of the hearing screening and the recommendations made to the child's parent;
- (7) retaining the hearing screening results in the newborn's or infant's medical record; and
- (8) if a newborn or infant is discharged before hearing screening or if a newborn or infant needs additional procedures to complete the hearing screening, ensuring that the following requirements are met:
 - (A) Informing the parent of the need for hearing screening;
 - (B) providing a mechanism by which hearing screening can occur at no additional cost to the family;
 - (C) making a reasonable effort to ensure that the newborn has a hearing screening before the child is 30 days old. To be considered a reasonable effort, the manager or coordinator shall document at least two attempts to contact the newborn's parent by mail or phone. If necessary, the manager or coordinator shall use information available from the facility's own records, the newborn's primary medical care provider, the local public health office, or other agencies; and
 - (D) notifying the newborn's primary medical care provider after two unsuccessful attempts to contact the newborn's parent. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-605. Reporting to the department. Each manager or coordinator of the hearing screening program at each medical care facility shall report to the department the following:

- (a) The program's protocol, policies, types of equipment, and personnel, which shall be reported annually;
- (b) any changes in protocol, policies, and types of equipment, which shall be reported within 30 days of the change;
- (c) the data for each newborn and infant, which shall be reported within seven days after the hearing screening;
- (d) all cumulative data, which shall be reported annually; and
- (e) the qualifications and training of the hearing screening administrative and support personnel, as defined in K.A.R. 28-4-608, which shall be reported annually. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-606. Responsibilities of the staff audiologist or consulting audiologist. Each staff audiologist or consulting audiologist shall meet the following requirements:

- (a) Be licensed to practice audiology in Kansas;
- (b) have experience in using hearing screening technology options to screen the hearing of newborns and infants;
- (c) have experience or training in developing and maintaining a hearing screening program;
- (d) recommend hearing screening equipment and a protocol to the manager or coordinator; and
- (e) work with the manager or coordinator to develop policy and procedures for the medical care facility, including the following:

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- (1) Conducting the hearing screening program;
- (2) documenting results;
- (3) making referrals;
- (4) providing the screening results to the parent and the primary medical care provider;
- (5) providing data on hearing screening and follow-up to the department;
- (6) outlining a process for the periodic review of each screener's competency;
- (7) monitoring the performance of the screening program, including referral rates and the competency of screening personnel; and
- (8) providing information, training, and technical assistance to the medical care facility, as needed. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-607. Responsibilities of support personnel. (a) Each person who screens the hearing of newborns and infants shall meet the following criteria:

- (1) Meet the minimum qualifications specified in K.A.R. 28-4-608;
 - (2) periodically demonstrate the competency-based skills necessary to perform the specific tasks assigned by the medical care facility;
 - (3) follow the policies and procedures of the medical care facility; and
 - (4) successfully complete the training specified in K.A.R. 28-4-608.
- (b) Support personnel shall not perform the following:
- (1) Interpret screening results and other clinical data; and
 - (2) refer a newborn's or infant's parent to any other professional or agency without a specific policy established by the medical care facility. (Authorized by and implementing K.S.A. 651,157a; effective July 2, 2004.)

28-4-608. Qualifications and training of support personnel. (a) Each person who screens the hearing of newborns and infants and who is not licensed in Kansas for hearing screening shall meet the following criteria:

- (1) Be 18 years of age or older;
 - (2) have a high school diploma or its equivalent;
 - (3) be current with the immunizations required by the medical care facility and be free of infectious diseases transmittable to newborns and infants; and
 - (4) complete the required training as specified in subsection (c).
- (b) A training program for the support personnel at each medical care facility shall be established under the direction of the staff audiologist, consulting audiologist, or physician as identified in K.A.R. 28-4-603(a)(2) and (3).
- (c) The training program shall include the following:
- (1) Instruction in the following:
 - (A) The operation of the screening equipment;
 - (B) the anatomy and physiology of the ear;
 - (C) the nature of the responses being measured;
 - (D) patient and non-patient factors that influence responses;
 - (E) the hearing screening procedures, including documentation of results;
 - (F) the confidentiality requirements;

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- (G) the communication skills necessary to provide accurate and appropriate information;
- (H) safety and infection control procedures, including universal precautions for blood-borne pathogens and tuberculosis, according to the medical care facility's guidelines;
- (I) the medical care facility's emergency procedures; and
- (J) risk management and incident-reporting procedures; and
- (2) supervised practice and individual observation and assessment to determine the ability of the support person to perform the duties associated with hearing screening, which shall include the following:
 - (A) Working independently, accurately, and consistently;
 - (B) meeting the physical demands of the hearing screening process, including applying small objects safely to each newborn's and infant's ears and head; and
 - (C) following the precise sequence of instructions for the hearing screening protocol.
- (d) All support personnel shall receive ongoing assessment of proficiency and shall receive retraining, as specified in K.A.R. 28-4-604(f)(1). (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-609. Exceptions: parental right to refuse, medical care facility, medically fragile newborns, and home births. (a) If the newborn's or infant's parent objects to the mandatory screening for the detection of hearing loss, the parent's objection shall be documented in the child's medical record.

(b) If the medical care facility meets the definition of sending agency as specified in K.A.R. 28-4-600, that sending agency shall meet the following requirements:

(1) Have a contract or written agreement with a receiving agency that defines the responsibilities of each agency, including which agency is responsible for tracking and follow-up and for submitting the required data to the department;

(2) have the written agreement on file with the department;

(3) before each newborn's or infant's discharge, meet the following requirements:

(A) Schedule the hearing screening for the child at the receiving agency;

(B) provide the parent with the following information:

(i) The importance of early detection of hearing loss;

(ii) the normal infant developmental milestones regarding hearing, speech, and language;

(iii) the purpose, benefits, and limitations of newborn hearing screening;

(iv) the procedures used for newborn hearing screening; and

(v) the risk indicators for delayed-onset, progressive, and acquired hearing loss; and

(C) obtain a signed consent form from the parent to permit the receiving agency to share the results of the hearing screening; and

(4) obtain the hearing screening results and place them in the newborn's medical record.

(c) If a medically fragile newborn is transferred immediately after birth to a neonatal intensive care unit and has not had the hearing screened before the transfer, the medical care facility that releases the child to the home shall be responsible for the following:

(1) Screening the child's hearing before discharge; and

(2) meeting the responsibilities specified in K.A.R. 28-4-603 through K.A.R. 28-4-605.

(d)(1) For home births at which a primary medical care provider is in attendance, the primary

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medical care provider shall be responsible for the following:

(A) Coordination and referral of the newborn to a licensed audiologist or medical care facility providing hearing screening; and

(B) assisting the parent to obtain hearing screening for the newborn before the child is 30 days old.

(2) For home births at which a primary medical care provider is not in attendance, the newborn's primary medical care provider shall be responsible for the coordination and referral for hearing screening following accepted medical practices. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-610. Responsibilities of the primary medical care provider. Each primary medical care provider shall be responsible for the following:

(a) Ensuring that the medical care facility implements hearing screening for the provider's patients according to accepted medical practices;

(b) ensuring that the hearing screening results are discussed with the parent;

(c) ensuring that the parent receives written information about risk indicators for hearing loss;

(d) monitoring for delayed-onset, progressive, and acquired hearing loss during the infant's routine medical care;

(e) assisting the parent of a newborn or infant who does not pass the hearing screening to obtain audiologic and other appropriate medical consultation, follow-up, and diagnosis for the child before the child is three months old;

(f) assisting the parent of a newborn or infant with confirmed hearing loss to obtain appropriate intervention services for the child before the child is six months old; and

(g) working with other health care professionals and with the newborn's or infant's parent in the coordination of care for a child with confirmed hearing loss. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-611. Responsibilities of persons providing hearing screening after discharge. (a) Hearing screening conducted after discharge shall be completed before the newborn is 30 days old, unless a different time period is medically indicated.

(b) Each person providing hearing screening after discharge shall be responsible for the following:

(1) Following the hearing screening protocol, as specified in K.A.R. 28-4-601;

(2) providing the screening results to the following:

(A) The newborn's or infant's parent;

(B) the newborn's or infant's primary medical care provider;

(C) the department, as specified in K.A.R. 28-4-605; and

(D) with parental consent, the medical care facility or facilities where the newborn was delivered and discharged;

(3) providing information to the parent about normal hearing, speech, and language development;

(4) providing information to the parent about delayed-onset, progressive, and acquired hearing loss;

(5) providing information to the parent about follow-up audiologic assessment if the newborn or

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infant does not pass the hearing screening; and

(6) providing a list of audiologic assessment provider sites for infants younger than five months of age.

(c) For missed appointments, each person providing hearing screening after discharge shall make a reasonable effort to contact the parent to reschedule the hearing screening.

To be considered a reasonable effort, the person shall document at least two attempts to contact the newborn's or infant's parent by mail or phone. If necessary, the person shall use information available from the referring agency, the newborn's or infant's primary medical care provider, the local public health office, or other agencies.

(d) Each person providing hearing screening after discharge shall notify the newborn's or infant's primary medical care provider after two unsuccessful attempts to contact the child's parent. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-612. Responsibilities of persons providing audiologic assessment after discharge. Each person who determines that a newborn or infant has a hearing loss shall be responsible for the following:

- (a) Being licensed to practice audiology in Kansas;
- (b) providing the test results to the parent, the child's primary medical care provider, and the medical care facility where the child was born;
- (c) reporting the test results to the department;
- (d) providing information to the parent regarding the following topics:
 - (1) Normal hearing, speech, and language development;
 - (2) progressive and acquired hearing loss;
 - (3) the importance of medical evaluation and diagnosis;
 - (4) the importance of early intervention;
 - (5) amplification options;
 - (6) assistive device options;
 - (7) local early intervention services and educational programs; and
 - (8) the availability and importance of parent-to-parent support;
- (e) in consultation with the newborn's or infant's primary care physician, referring the child and parent to an otolaryngologist for medical assessment;
- (f) discussing referral for additional specialty evaluations, including genetics, ophthalmology, and child development, with the parent and the child's primary care physician;
- (g) if appropriate, ensuring that medical clearance for amplification has been obtained and initiating the amplification process;
- (h) providing information and referral for funding assistance, if necessary; and
- (i) with the permission of the parent, referring the parent and the newborn or infant to early intervention services and working with the parent and providers of early intervention services in developing a service plan. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)

28-4-613. Inability to pay. No newborn or infant shall be refused hearing screening because of the parent's inability to pay for the procedure or in the absence of a third-party payor. (Authorized by and implementing K.S.A. 65-1,157a; effective July 2, 2004.)