

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

February 8, 2016
Room 281-N—Statehouse

Members Present

Senator Vicki Schmidt, Chairperson
Representative Sharon Schwartz, Vice-chairperson
Senator Tom Hawk
Senator Ralph Ostmeyer
Representative Jerry Lunn
Representative Janice Pauls
Representative Ed Trimmer
Representative Jim Ward

Members Absent

Senator Oletha Faust-Goudeau
Senator Garrett Love
Representative Steve Huebert
Representative Valdenia Winn

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Whitney Howard, Kansas Legislative Research Department
Natalie Scott, Office of Revisor of Statutes
Jenna Seematter, Office of Revisor of Statutes
Shirley Jepson, Committee Assistant

Conferees

Holly Fenton, Staff Attorney, Department of Agriculture
Robert Large, Legal Counsel, Department of Agriculture
Jeff Jones, Animal Health Program Manager, Department of Agriculture
Scott Carlson, Division of Conservation, Department of Agriculture
Dr. Bill Brown, Animal Health Commissioner, Department of Agriculture
Don Brownlee, Executive Director, Kansas Racing and Gaming Commission
Kelli Stevens, General Counsel, Board of Healing Arts
Chris Tymeson, Chief Legal Counsel, Department of Wildlife, Parks and Tourism
Larry Montgomery, Administrator, Kansas Board of Barbering

Other Attendees

[See attached list.](#)

Morning Session

The meeting was called to order at 7:30 a.m. by Chairperson Vicki Schmidt.

Approval of Minutes

Representative Pauls moved to approve the minutes of the January 7, 2016, meeting as written. The motion was seconded by Senator Ostmeyer. Motion carried on a voice vote.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Agriculture.

KAR 4-5-1, revocation (was definitions); KAR 4-5-2, revocation (was classification); KAR 4-5-4, agricultural liming material testing.

Holly Fenton, Staff Attorney, Department of Agriculture, appeared before the Committee to address the proposed rules and regulations. Ms. Fenton introduced other staff from the Department of Agriculture who were present:

Robert Large, Legal Counsel;
Jeff Jones, Animal Health Program Manager; and
Dr. Bill Brown, Animal Health Commissioner.

Ms. Fenton explained that KAR 4-5-1 and KAR 4-5-2 will be revoked and replaced by KAR 4-5-4 as a result of action by the 2015 Legislature granting the Department of Agriculture authority to adopt the Kansas State University (KSU) recommended testing protocols regarding liming materials ([Attachment 1](#)). Ms. Fenton indicated the KSU testing protocols differ from the current state regulation primarily in that the KSU method gives the particles falling through the 60 mesh a full count or 100 percent credit, as opposed to the current Kansas regulation giving it only ½ or 50 percent credit, noting the KSU calculation is superior to the current regulation.

Responding to a question from the Committee regarding the ability to view the rules and regulations online, Scott Carlson, Division of Conservation, Department of Agriculture, noted they currently are not available online but will be soon.

KAR 9-18-31, euthanasia methods, prohibition; KAR 9-26-1, revocation (was euthanasia methods).

Ms. Fenton explained these rules and regulations are proposed for adoption to implement 2015 amendments to the Kansas Pet Animal Act requiring the Animal Health Commissioner to promulgate rules and regulations regarding acceptable methods of euthanasia of pet animals. She noted these rules and regulations are consistent with or more stringent than guidelines adopted by the American Veterinary Medical Association.

Responding to questions from the Committee, Dr. Bill Brown, Animal Health Commissioner, Department of Agriculture, stated the rules and regulations are specifically applicable to dogs and cats. With regard to carbon monoxide chambers, Dr. Brown noted the number of carbon monoxide chambers across the state has been significantly reduced and presently used primarily for other types of animals such as rodents.

Natalie Scott, Assistant Revisor, also stated the Pet Animal Act is applicable to the treatment of dogs and cats, as are the proposed rules and regulations.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Racing and Gaming Commission.

KAR 112-101-7, certification duration; KAR 112-102-2, gaming supplier and non-gaming supplier defined; KAR 112-102-9, certificate duration; KAR 112-103-10, license duration.

Don Brownlee, Executive Director, Kansas Racing and Gaming Commission, appeared before the Committee to address the proposed rules and regulations. Mr. Brownlee explained the proposed rules and regulations extend the duration of a background certificate issued to a gaming manager, amend the definition of a non-gaming supplier, extend the duration for a background certificate issued to gaming and non-gaming suppliers, and extend the duration of a background license issued to an employee of a casino supplier. Each license or certificate would be valid for three years rather than the current two years.

Responding to questions from the Committee, Mr. Brownlee noted the \$100,000 threshold was not sufficient to attract some suppliers to do business with the casinos. The Committee questioned whether increasing the threshold might cut out smaller businesses from doing business with the casinos. Mr. Brownlee indicated the proposed changes will be less costly and less burdensome for the casinos, noting there are approximately 1,200 license renewals each year. Mr. Brownlee said the gaming industry is one of the heaviest regulated industries. He said of 1,139 renewals last year, 3 were denied.

With regard to a question concerning location of staff, Mr. Brownlee noted the Commission has staff located in Topeka and at each casino around the state. Currently, one supervisor and licensing agent are at each location and law enforcement officers on duty 24 hours per day at the casinos, who also do background checks on employees.

Mr. Brownlee stated these changes were initiated by the Commission but are supported by the gaming industry.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Healing Arts.

KAR 100-29-9, license and certificate renewal, continuing education; KAR 100-29-16, supervision of physical therapist assistants and support personnel.

Kelli Stevens, General Counsel, Board of Healing Arts, appeared before the Committee to address the proposed rules and regulations. Ms. Stevens stated the purpose of changes to

KAR 100-29-9 is to provide clarity regarding the continuing education requirements for licensed physical therapists and certified physical therapist assistants as well as add new activities that qualify for continuing education contact hours. Ms. Stevens indicated these are minor changes and the changes were recommended by the Physical Therapy Advisory Council.

The purpose for amending KAR 100-29-16 is to define the term “minimum weekly review” as used in current statute, setting forth the subsequent review requirement for a physical therapist in instances where a physical therapist assistant has initiated patient care in a hospital setting because a physical therapist was not available.

KAR 100-54-7, continuing education, license renewal; KAR 100-54-12, supervision of occupational therapy assistants.

Ms. Stevens stated KAR 100-54-7 is being amended to provide clarity regarding allowable amounts of continuing education contact hours for each type of continuing education experience for licensed occupational therapists and occupational therapy assistants.

Ms. Stevens indicated KAR 100-54-12 is a new regulation that sets forth the requirements an occupational therapist must meet when delegating occupational therapy services to and supervising an occupational therapy assistant. Failure to follow the requirements would qualify as unprofessional conduct.

There were no questions from the Committee.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Wildlife, Parks and Tourism Commission.

KAR 115-8-1, department lands and waters, hunting, furharvesting, and discharge of firearms; KAR 115-25-8, elk, open season, bag limit, and permits; KAR 115-25-9, deer, open season, bag limit, and permits.

Chris Tymeson, Chief Legal Counsel, Department of Wildlife, Parks and Tourism, appeared before the Committee to address the proposed rules and regulations. Mr. Tymeson stated KAR 115-8-1, a permanent regulation, establishes certain requirements for and restrictions on certain activities on Department lands and waters, including hunting, furharvesting, and other discharge of firearms. Many of the posted notice restrictions used in the past have become long-term policies and the Department consolidated many of those notices into the document incorporated by reference to better inform the public and reinforce messages in the posted notices. He stated KAR 115-25-8, an exempt regulation, establishes unit boundaries, bag limits, application periods, and season dates for the 2016-2017 muzzleloader, archery, and firearm seasons for elk. Mr. Tymeson indicated KAR 115-25-9, an exempt regulation, establishes hunting bag limits, application periods, and season dates for the 2016-2017 firearm, muzzleloader, and archery deer season. Mr. Tymeson noted season dates are adjusted in the proposed rules and regulations. Responding to questions from the Committee, Mr. Tymeson stated the deer population varies; however, trends remain stable. In addition, Mr. Tymeson indicated it is not the responsibility of the Department to remove deer that are killed on highways and roadways.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Barbering.

KAR 61-3-7, minimum requirements for opening a barber school or barber college; KAR 61-7-1, revocation (was fees); KAR 61-7-2, fees.

Larry Montgomery, Administrator, Kansas Board of Barbering, appeared before the Committee to address the proposed rules and regulations ([Attachment 2](#)). Mr. Montgomery explained the proposed rules and regulations will provide a new fee schedule and provide clarification. Mr. Montgomery explained that none of the recommended fees are over the statutory caps.

Responding to questions from the Committee, Mr. Montgomery noted the Board is in the process of updating additional rules and regulations, the Department of Administration had suggested a re-write of the rules and regulations regarding fees, and the fees in the rules and regulations had not been updated to match agency practice. A Committee member suggested increased disciplinary action against a barber whose license has lapsed. Mr. Montgomery said, with a shortage of barbers in rural areas of the state, it is hoped the amended rules and regulations will encourage more barber schools and more instructors across the state. Mr. Montgomery noted the balance in the agency's fee fund is approximately \$35,000. In response to a question concerning the "barber pole," Mr. Montgomery noted a shop cannot use the barber pole signage unless a licensed barber is on site. Mr. Montgomery stated barber shops are inspected once a year and normally violations are repaired quickly.

COMMITTEE DISCUSSION AND COMMENTS

Kansas Department of Agriculture, Division of Conservation

After discussion, the Committee had no comments.

Kansas Department of Agriculture, Division of Animal Health

After discussion, the Committee had no comments.

Kansas Racing and Gaming Commission

After discussion, the Committee had the following comments:

KAR 112-101-7, 112-102-9, and 112-103-10. The Committee notes most professional licenses in Kansas are issued for periods of no longer than two years and expresses its concern that a three-year cycle will allow people who no longer meet standards for this type of licensure in Kansas to operate for too long a period before their qualifications are reviewed during the renewal process.

KAR 112-102-2. The Committee expresses its concern regarding an increase from \$100,000 to \$250,000 in the definition of a non-gaming supplier, noting background check and recordkeeping requirements that apply to non-gaming suppliers, and asks whether an increase to less than \$250,000 was considered.

Board of Healing Arts

After discussion, the Committee had no comments.

Kansas Wildlife, Parks, and Tourism Commission

After discussion, the Committee had no comments.

Board of Barbering

After discussion, the Committee had the following comment:

The Committee commends the Board for acting to align its practices and rules and regulations and its efforts to further update its rules and regulations.

Adjournment

The meeting was adjourned at 8:45 a.m. The next meeting of the Committee is “on call of the Chair.”

Prepared by Shirley Jepson
Edited by Jill Shelley and Whitney Howard

Approved by the Committee on:

March 14, 2016
(Date)