

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

June 1, 2016
Room 152-S—Statehouse

Members Present

Senator Vicki Schmidt, Chairperson
Representative Sharon Schwartz, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Tom Hawk
Senator Garrett Love
Senator Ralph Ostmeyer
Representative Steve Huebert
Representative Janice Pauls
Representative Ed Trimmer
Representative Jim Ward
Representative Valdenia Winn

Members Absent

Representative Jerry Lunn

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

Cindy Hermes, Director of Public Outreach, Kansas Insurance Department
Julie Holmes, Director of Health and Life, Kansas Insurance Department
Chris Tymeson, Chief Legal Counsel, Department of Wildlife, Parks and Tourism
Holly Fenton, Staff Attorney, Department of Agriculture
Dr. Bill Brown, Animal Health Commissioner, Department of Agriculture
Alexandra Blasi, Executive Secretary, Board of Pharmacy
Jim Kinderknecht, Pharmacy Inspector, Board of Pharmacy

Others Attending

[See Attached List.](#)

Morning Session

The meeting was called to order at 8:30 a.m. by Chairperson Schmidt.

Senator Faust-Goudeau moved for approval of the minutes of March 14, 2016, March 22, 2016, and May 12, 2016. Motion seconded by Representative Schwartz. Motion carried on a voice vote.

Responding to a question from a Committee member concerning the May 12 meeting, which was held by conference call and did not have a quorum, Chairperson Schmidt explained that because the May 2, 2016, meeting of the Committee was canceled due to the adjournment of the Legislature and because legislative leadership did not approve travel for a meeting, it was deemed necessary to have the conference call meeting to address the proposed rule and regulation presented by the Board of Emergency Medical Services before the published date of hearing set by the agency (May 24). She further explained that no action requiring a quorum was taken by the Committee during the phone-in conference call meeting. Chairperson Schmidt also explained that the Committee does not approve proposed rules and regulations presented by the agencies; it makes recommendations to the agency related to the intent of the Legislature.

Chairperson Schmidt noted that future meeting dates of the Joint Committee on Administrative Rules and Regulations will be published, so that state agencies will be aware of the meeting dates when they set the dates for their public hearings.

Review and Comment on proposed rule and regulation noticed for hearing by the Kansas Insurance Department.

KAR 40-4-41, utilization review organizations; standards.

Cindy Hermes, Director of Public Outreach, Kansas Insurance Department (KID), appeared before the Committee to address the proposed rule and regulation ([Attachment 1](#)). Accompanying Ms. Hermes was Julie Holmes, Director of Health and Life, KID. Ms. Hermes explained the proposed rule and regulation defines the retroactive approval of continuing education courses. The regulation was revised to establish a new time frame for application submission and to define the number of clock hours each college credit represents. In addition, the regulation allows for approval of courses that have not been previously or presumptively approved by the Board of Emergency Medical Services. Ms. Hermes explained the proposed rule and regulation will have no economic impact on the agency or other entities.

Responding to a question from the Committee, Ms. Holmes explained the procedure used by the agency in the preparation of proposed rules and regulations.

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

KAR 115-8-24, revocation (was commercial guiding on department lands);
KAR 115-25-9a, deer, open season, bag limit and permits, additional considerations, Fort Riley.

Chris Tymeson, Chief Legal Counsel, Department of Wildlife, Parks and Tourism, appeared before the Committee to address the proposed rules and regulations. Mr. Tymeson explained KAR 115-8-24 had established a requirement that each commercial guide obtain a no-cost permit before guiding commercially on public ground. The Department gathered information to determine whether there was a conflict with user groups on very limited public hunting property. Based on public input, the Department has proposed revoking the regulation and therefore, commercial guiding on department lands and waters would be prohibited. Mr. Tymeson stated that 29 applicants were provided commercial guiding permits statewide in 2015.

Responding to questions from the Committee, Mr. Tymeson explained that the revocation applies only to guiding on public land held by the State of Kansas, the Department has no jurisdiction over federally held land, and authority to regulate commercial guide services (in KSA 32-964) on other property was repealed in 2005. Mr. Tymeson explained that the Department has received considerable comment from Kansas residents who objected to commercial guides being allowed to bring outside groups onto public lands. Mr. Tymeson noted that 97 percent of land in Kansas is privately owned. Mr. Tymeson stated public notices by the Department are sent to all newspapers in the state but the Department has no control over who publishes the information. He also said no commercial guides had appeared at Department public meetings on this topic in January, March, and April.

Mr. Tymeson explained that KAR 115-25-9a is an exempt regulation establishing additional considerations for the 2016-2017 firearm, muzzleloader, and archery deer seasons at the base on Fort Riley, to better accommodate the changing training mission at the base.

Review and Comment on proposed rule and regulation noticed for hearing by the Department of Agriculture, Division of Animal Health.

KAR 9-27-1, designation of infectious or contagious diseases.

Holly Fenton, Staff Attorney, Department of Agriculture, appeared before the Committee to address the proposed rule and regulation. Accompanying Ms. Fenton was Dr. Bill Brown, Animal Health Commissioner, Department of Agriculture. Ms. Fenton explained that KAR 9-27-1 updates the list of reportable animal diseases in Kansas to better align with the federal list of reportable diseases. Ms. Fenton explained the federal list of reportable diseases has had several updates since the state regulation was last updated in Kansas.

Responding to a question from the Committee concerning the deletion of bovine leukosis from the list, Dr. Brown explained the disease is widespread across the state and not a major disease. Dr. Brown stated the disease does not affect food quality or have any effect on people. Dr. Brown noted that the disease is rarely reported to the Department. He noted there could be significant cost incurred by a private business or individual if there is a positive diagnosis of a reportable disease.

The Committee expressed concern that the disease is not being reported to the Department and concern there may be other diseases that are not being reported.

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

KAR 68-1-1b, continuing education for pharmacists; KAR 68-1-1f, foreign graduates; KAR 68-1-1g, revocation (was internet-based TOEFL); KAR 68-5-18, pharmacy technicians, continuing education; KAR 68-7-10, pharmacy-based drug distribution systems in long-term care facilities, emergency medication kits; KAR 68-9-2, automated drug delivery systems in pharmacies; KAR 68-9-3, automated drug delivery system to supply drugs for administration in certain facilities; KAR 68-11-3, fees for registration as a pharmacy technician or pharmacy intern.

Alexandra Blasi, Executive Secretary, Board of Pharmacy, appeared before the Committee to address the proposed rules and regulations. Accompanying Ms. Blasi was Jim Kinderknecht, Pharmacy Inspector, Board of Pharmacy. Ms. Blasi explained the mission of the Board is to ensure all persons practicing pharmacy are properly licensed and registered, in compliance with Kansas statutes regarding proper compounding and dispensing of prescription drugs, maintenance of professional practice standards, and proper manufacture, distribution, and sale of prescription and nonprescription drugs, including controlled substances and poisons. In order to attain these goals, the Board is proposing these regulatory changes to comply with professional, healthcare, and safety norms.

Responding to questions from the Committee, Natalie Scott, Assistant Revisor, explained that per statute, it is the responsibility of the Board of Pharmacy to determine that pharmacy technicians are properly trained. Ms. Scott also noted the statutory cap on fees for registration as a pharmacy technician or pharmacy intern is set at \$50; the proposed rule and regulation places the fee at \$20.

A Committee member commended the Board for its work on automated drug delivery systems.

The Chairperson thanked retiring members Representative Schwartz and Senators Ostmeyer and Love for their service.

COMMITTEE DISCUSSION AND COMMENTS

Kansas Insurance Department

After discussion, the Committee had no comments.

Department of Wildlife, Parks and Tourism

After discussion, the Committee had the following request.

KAR 115-8-24. The Committee requests the agency revisit the Economic Impact Statement to determine if there may be a way to estimate the economic impact of the revocation of this rule and regulation and, if so, provide that information to the Committee.

Department of Agriculture, Division of Animal Health

After discussion, the Committee had the following request.

KAR 9-27-1. The Committees asks the agency for additional information about bovine leukosis and the reason it is being proposed for deletion from the list of reportable infectious diseases by this rule and regulation. In addition, the Committee asks the agency to determine what other states have bovine leukosis as a reportable disease and how their reporting requirements are met. Please provide this information to the Committee.

Board of Pharmacy

After discussion, the Committee had no comments.

Adjournment

The meeting was adjourned at 9:45 a.m. The next meeting of the Committee is scheduled for September 6, 2016, 10:00 a.m.

The Committee set the following dates for future Committee meetings:

- September 6, 2016, 10:00 a.m.
- November 16, 2016, 10:00 a.m.
- January 3, 2017, 10:00 a.m.

Prepared by Shirley Jepson
Edited by Jill Shelley, Whitney Howard and
Raney Gilliland

Approved by the Committee on:

September 9, 2016
(Date)