

## MINUTES

### JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

March 4, 2005  
Room 423-S—Statehouse

#### Members Present

Representative Carl Holmes, Chairman  
Senator Dennis Wilson, Vice-Chairman  
Senator Ralph Ostmeyer  
Representative Jerry Henry  
Representative Lance Kinzer  
Representative Jan Pauls  
Representative Candy Ruff  
Representative Scott Schwab  
Representative Sharon Schwartz

#### Members Absent

Senator Don Betts  
Senator Karin Brownlee  
Senator Chris Steineger

#### Staff Present

Raney Gilliland, Kansas Legislative Research Department  
Melissa Calderwood, Kansas Legislative Research Department  
Diana Lee, Revisor of Statutes Office  
Judy Glasgow, Secretary

#### Others Present

Representative Lynne Oharah  
Anna Silva-Keith, Behavioral Sciences Regulatory Board  
Jennifer Springer, Behavioral Sciences Regulatory Board  
Phyllis Gilmore, Behavioral Sciences Regulatory Board  
Pat Adair, Behavioral Sciences Regulatory Board  
Marsha Schrempp, Behavioral Sciences Regulatory Board  
R. A. Mealy, Hein Law Firm  
Patty Clark, Kansas Department of Commerce  
Merrill Befort, Kansas Department of Commerce  
Leslie Kaufman, Kansas Cooperative Council  
Nialson Lee, Kansas Department of Social and Rehabilitation Services  
Chris Wilson, Kansas Agricultural Aviation Association  
Dave Halferty, Kansas Department on Aging

Bill McDaniel, Kansas Department on Aging  
Brett Berry, Kansas Department of Agriculture  
Karl Mueldener, Kansas Department of Health and Environment  
John Harsch, Kansas Department of Health and Environment

Chairman Holmes called the meeting to order at 1:40 p.m., March 4, 2005. He requested action on the minutes of the January 10, 2005, meeting. *Representative Schwab moved that the minutes be approved as presented. Representative Pauls seconded the motion. The motion carried.*

Chairman Holmes recognized Phyllis Gilmore, Executive Director, to address the proposed rules and regulations noticed for hearing by the Behavioral Sciences Regulatory Board (Attachment 1). KAR 102-1-13, fees; KAR 102-1-18, designation of referral source for use in the diagnosis and treatment of mental disorders; KAR 102-2-3, fees; KAR 102-2-8, supervision; KAR 102-2-12, licensed specialist clinical social work licensure requirements; KAR 102-2-14, designation of referral source for use in the diagnosis and treatment of mental disorders; KAR 102-3-2, fees; KAR 102-3-15, designation of referral source for use in the diagnosis and treatment of mental disorders; KAR 102-4-2, fees; KAR 102-4-15, designation of referral source for use in the diagnosis and treatment of mental disorders; KAR 102-5-2, fees; and KAR 102-5-14, designation of referral source for use in the diagnosis and treatment of mental disorders.

Ms. Gilmore reviewed the proposed rules and regulations to increase certain fees for the Committee. She noted that the Behavioral Sciences Regulatory Board is a fee-based agency and the increase in fees is necessary to keep a sufficient ending balance. She stated that the fee schedule has been proposed to equalize increases throughout the professions. In response to a question from Committee members, Ms. Gilmore stated that the fees for application, original license, and temporary license of social workers were at the statutory limit, so there could be no increase. The changes in KAR 102-1-18, 102-2-14, 102-3-15, and 102-5-14 contain the designation of the referral source for use in the diagnosis and treatment of mental disorders. The change is an update to the title of the publication adopted by reference.

After responding to general questions from Committee members, the Chairman thanked Ms. Gilmore for her appearance before the Committee.

Chairman Holmes recognized Nialson Lee to speak to the proposed rules and regulations noticed for hearing by the Department of Social and Rehabilitation Services. KAR 30-5-64, prior authorization.

Mr. Lee stated that angiotensin II receptor antagonists: Candesartan/HCT; eprosartan/HCTZ, and the anticholinergic urinary drug; incontinence; flavoxate; oxybutynin XL; tolterodine; and oxybutynin patches; beta blocker: propranolol XL; oral antidiabetic drug: Prandin; and the monoclonal antibody for asthma: omalizumab, have been added to the list of prior authorization drugs. There were no questions from the Committee. The Chairman asked that the staff of the agency check with the staff of the Legislative Research Department after April to get a list of the proposed meeting dates during the interim, since the rules and regulations dealing with prior authorization must be heard within 30 days, instead of the normal 60-day notice. The Chairman thanked Mr. Lee for appearing before the Committee.

David Halferty was introduced by Chairman Holmes to speak to the proposed rules and regulations noticed for hearing by the Department of Social and Rehabilitation Services. KAR 30-10-1a, nursing facility program definitions; KAR 30-10-1b, nursing facility program providers; KAR 30-10-1d, inadequate care; KAR 30-10-11, personal needs fund; KAR 30-10-17, cost reports; KAR 30-10-19, rates; effective dates; KAR 30-10-20, payment of claims; KAR 30-10-23a, non-reimbursable costs; and 30-10-23b, costs allowed with limitations.

Mr. Halferty stated that most of the changes involved in the proposed rules and regulations were to correct the reference from "health and environment" to "state licensing agency." The Committee requested that the agency define the term "arm's length transaction," as used in KAR 30-10-1b, page 2, (5). Committee members felt that this term could be loosely interpreted, and suggested a different term be used. Committee members had questions about KAR 30-10-20, concerning the policy to not pay for the day of discharge. In response to Committee members' questions concerning who would pay for services provided on the last day, Mr. Halferty stated that this has been the past policy, and no changes had been made to this section. Committee members requested that the agency look into this practice and get back to the Committee. A question arose on KAR 30-10-23a, page 3, (29) and Committee members asked that the agency look at this and see if the statement might be too broad. Mr. Halferty stated that he would check on the reason for broadening this and report back to the Committee.

There being no further questions, Mr. Halferty was thanked for his appearance before the Committee.

The Chairman recognized Patty Clark to address the proposed rules and regulations noticed for hearing by the Department of Commerce (Attachment 2). KAR 110-11-1, definitions; KAR 110-11-2, application for proposed redevelopment area; and KAR 110-11-3, progress reports.

Ms. Clark stated that these regulations are a result of the 2004 Economic Growth Act, SB 520. She stated that as they prepared these rules and regulations, they discovered that the rebate provision of the Downtown Redevelopment Act was in reverse of the normal Tax Increment Finance statutes, and they are working to correct the defect in the statute during this legislative session. Ms. Clark stated that they want to continue with the public hearings for these noticed regulations, since they have had several inquiries.

Staff noted that the history section should be updated to reflect statute numbers. Ms. Clark responded to general questions from Committee members concerning the regulations. The Chairman thanked Ms. Clark for her presentation before the Committee.

Chairman Holmes introduced Brett Berry, Staff Attorney, to speak to the proposed rules and regulations noticed for hearing by the Department of Agriculture. KAR 4-15-7, live plant dealer licensing exemptions; and KAR 4-15-8, fees for the inspection of live plants, plants and plant products, bees, bee-keeping equipment, and regulated articles.

Mr. Berry explained that the proposed changes in KAR 4-15-7 were made to clarify the licensing exemptions. Officials from the agency believed that wholesale businesses doing less than \$10,000 in live plant retail sales could claim exemption unless the words "engages primarily in retail sales" were inserted into the rules and regulations.

A lengthy discussion was held by Committee members over whether there was a need for the agency to amend the statute to include retail sales to cover this rule and regulation. After reading the statute, it was determined that the exemption clause had been provided to the director in the statute so it could be included in the rules and regulations. It was suggested by staff that the history section also should include KSA 2004 Supp. 2-2113 to cover this exemption.

Mr. Berry was thanked by the Chairman for appearing before the Committee.

Chairman Holmes recognized Chris Tymeson, Department Attorney, to address the proposed rules and regulations noticed for hearing by the Kansas Department of Wildlife and Parks. KAR 115-4-2, big game and wild turkey; general provisions; KAR 115-4-4, big game; legal equipment and taking methods; KAR 115-4-4a, wild turkey; legal equipment and taking methods; KAR 115-4-13, deer permits; descriptions and restrictions; and KAR 115-25-5, turkey; fall season, bag limit, and permits.

Mr. Tymeson explained the purpose of KAR 115-4-2, KAR 115-4-4, and KAR 115-4-4a was to separate the rules and regulations for wild turkey and big game. There being no questions on the proposed changes, Chairman Holmes thanked Mr. Tymeson for appearing before the Committee.

Chairman Holmes introduced Chris Wilson, Executive Director of the Kansas Agricultural Aviation Association, who wished to speak to the Committee on behalf of pesticide business licensees, concerning the civil penalty matrix the Department of Agriculture uses in assessing fines and adheres to in making adjustments to fines during settlement negotiations (Attachment 3). She asked that the Committee to endorse the request of the Kansas Agricultural Aviation Association to the Department of Agriculture that the matrix be put into a rule and regulation, since it has the force and effect of law. Ms. Wilson answered questions from Committee members concerning how the matrix was used and the reasoning behind the request for proposing rules and regulations from the Department of Agriculture.

The Chairman recognized Karl Mueldener, Director, Bureau of Waste, and John Harsch to speak to the proposed rules and regulations noticed for hearing by the Department of Health and Environment (Attachment 4). KAR 28-16-56c, sewage permit fees; definitions; KAR 28-16-56d, sewage permit fees; schedules; KAR 28-18-1, definitions; KAR 28-18-2, registration and application requirements; KAR 28-18-4, filing of applications and payment of fees; KAR 28-18-8, permit; terms and conditions; KAR 28-18-9, certification; terms and conditions; KAR 28-18-11, confined feeding facilities; federal requirements; KAR 28-18-12, design and construction of animal waste management systems; KAR 28-18-13, operation of animal waste management systems; KAR 28-18-14, inspections; KAR 28-18-16, waste-retention lagoon or pond closure requirements; KAR 28-18-17, groundwater protection requirements for waste-retention lagoons or ponds and waste management facilities; KAR 28-18-18, subsurface monitoring and investigation at confined feeding facilities and truck washes for animal waste; KAR 28-18a-1, definitions; KAR 28-18a-2, registration and application requirements; KAR 28-18a-4, filing of applications and payment of fees; KAR 28-18a-8, permit; terms and conditions; KAR 28-18a-9, certification; terms and conditions; KAR 28-18a-11, confined feeding facilities; federal requirements; KAR 28-18a-12, design and construction of swine waste management and swine pollution control systems; KAR 28-18a-19, operation of swine waste management and swine pollution control systems; KAR 28-18a-21, inspections; KAR 28-18a-22, swine facility closure requirements; KAR 28-18a-26, requirements for swine facility operator certification; KAR 28-18a-32, revoked; KAR 28-18a-33, groundwater protection requirements for swine waste-retention lagoons or ponds, swine waste management systems, and swine pollution control systems; and KAR 28-18a-34, subsurface monitoring and investigation for swine facilities.

The Chairman noted that Representative Lynne Oharah had requested to join the Committee during the hearing of these regulations. Mr. Harsch responded to questions from Committee members as to whether the definition of "ground water" was consistent with the definitions used in other states. He stated that he would research surrounding states concerning their definition for "ground water" and provide the results to the Committee. Mr. Harsch responded to questions raised by Representative Oharah concerning KAR 28-18-1. Mr. Harsch noted that this section was not changed and is the current language. A concern was raised by Committee members about the definition used in KAR 28-18-1 on page 14, (kk)(1) line 3, "the dune sand area located south of the great bend of the Arkansas River." After discussion, it was determined that this term is used by the Corporation Commission with some additional phrases used in the definition. Staff noted that on page 17 (tt), reference was made to article 16, and noted that this should be further clarified to a certain chapter or a specific agency. Mr. Harsch stated that the agency would look into this. The Committee noted that in KAR 28-18-4, page 2, (5) line 2, the words "plugged or" should be added before "unplugged oil or gas wells . . ." It was suggested that the rules and regulations be amended with the word "plugged" where appropriate, throughout the regulations. Staff also noted that on page 2 (d) line 1, the words "contiguous ownership boundary" had been included from the prior definition.

Mr. Harsch stated that KAR 28-18-11 is adopting new EPA rules passed in April, 2003 by reference, but this rule and regulation may be withdrawn, since EPA's position is in doubt and is being challenged in court. Committee members had some questions on KAR 28-18-17, page 2 (c), concerning the distance from the bottom of a lagoon, pond, or waste management facility to groundwater. A question arose on how a determination would be made on the groundwater level, since its level does vary at different times, especially during droughts. Mr. Harsch stated that the agency does have a geologist on staff to study this, but he would take this question back to the agency and report back to the Committee. Mr. Harsch went over the rules and regulations under KAR 28-18a, explaining that these covered swine and related waste control and were of the same nature as those previously discussed. Mr. Harsch answered other questions of a general nature that the Committee members raised. Chairman Holmes thanked Mr. Mueldener and Mr. Harsch for their presentation before the Committee.

Chairman Holmes called the Committee members' attention to written testimony presented by the Kansas Pork Association in opposition to the proposed rules and regulations by Kansas Department of Health and Environment ([Attachment 5](#)).

### **Comments on Proposed Rules and Regulations**

**Department of Social and Rehabilitation Services.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning prior authorization. After discussion, the Committee had no comment.

The Joint Committee on Administrative Rules and Regulations also reviewed for public comment rules and regulations concerning nursing facility program definitions; nursing facility program providers; inadequate care; personal needs fund; cost reports; rates, effective dates; payment of claims; non-reimbursable costs; and costs allowed with limitations. After discussion, the Committee had the following comments.

KAR 30-10-1b. The Committee suggests clarification of the term "arm's length transaction" as the meaning is not defined by the regulation.

KAR 30-10-20. The Committee is concerned about the nonpayment of services provided on the day of discharge. The Committee seeks clarification as to the rationale for this practice.

KAR 30-10-23a. The Committee also is concerned about the change being proposed in subsection 29 and is concerned that the change is overly broad. The Committee seeks explanation as to the rationale for the change in this subsection.

**Kansas Behavioral Sciences Regulatory Board.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fees; designation of referral for use in the diagnosis and treatment of mental disorders; fees; supervision; licensed specialist clinical social work licensure requirements; designation of referral source for use in the diagnosis and treatment of mental disorders; fees; designation of referral source for use in the diagnosis and treatment of mental disorders; fees; designation of referral source for use in the diagnosis and treatment of mental disorders; fees; and designation of referral source for use in the diagnosis and treatment of mental disorders. After discussion, the Committee expressed the following comments.

General comments. The Committee expressed concern for the absence of an original license fee for social workers. The Committee suggests the agency review those regulations containing references to renewals and reinstatements to ensure that the language is consistent and appropriate.

**Kansas Department of Commerce.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; application for proposed redevelopment area; and progress report. After discussion, the Committee had the following comment.

General Comment. The Committee requests that the agency inform the Committee if there is a decision to withdraw these regulations if passage of the pending legislation does not occur.

**Kansas Department of Agriculture.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning live plant dealer licensing exemptions; and fees for the inspection of live plants, plants and plant products, bees, beekeeping equipment, and regulated articles. After discussion, the Committee expressed the following comments.

KAR 4-15-7. The Committee suggests that the agency include a specific definition for the term "live plant dealer."

General comment. The Committee suggests the inclusion of KSA 2-2113 as an implementing statute in the history section of in KAR 4-15-7.

Request. As a result of testimony from an interested party, the Committee requests a representative of the agency appear at the next Administrative Rules and Regulations Committee meeting to review the civil penalty matrix established by the Department for pesticide business licensees.

**Kansas Department of Wildlife and Parks.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning big game and wild turkey, general provisions; big game, legal equipment and taking methods; wild turkey, legal equipment and taking methods; deer permits, descriptions and restrictions; and turkey, fall season, bag limit, and permits. After discussion, the Committee had no comment.

**Kansas Department of Health and Environment.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning sewage permit fees, definitions; sewage permit fees, schedules; definitions; registration and application requirements; filing of applications and payment of fees; permit, terms and conditions; certification, terms and conditions; confined feeding facilities, federal requirements; design and construction of animal waste management systems; operation of animal waste management systems; inspections; waste-retention lagoon or pond closure requirements; groundwater protection requirements for waste-retention lagoons or ponds and waste management facilities; subsurface monitoring and investigation at confined feeding facilities and truck washes for animal waste; definitions; registration and application requirements; filing of applications and payment of fees; permit, terms and conditions; certification, terms and conditions; confined feeding facilities, federal requirements; design and construction of swine waste management and swine pollution control systems; operation of swine waste management and swine pollution control systems; inspections; swine facility closure requirements; requirements for swine facility operator certification; revocation; groundwater protection requirements for swine waste-retention lagoons or ponds, swine waste management systems, and

swine pollution control systems; and subsurface monitoring and investigation for swine facilities. After discussion, the Committee had the following comments.

KAR 28-18-1. The Committee is concerned that the definition of "groundwater" only appears to address quantity and does appear to address the issue of quality. The Committee also suggests that the specific areas included in "sensitive groundwater areas" (kk) be outlined so that landowners will be able identify whether their land is included or excluded. In subsection (tt), the Committee suggests the clarification of the reference to Article 16.

KAR 28-18-4 and other appropriate regulations. The Committee expresses concern that not all types of wells are covered by the regulation. It suggests a review of all references to wells in this set regulations, to ensure that all types of wells are covered.

KAR 28-18-11. The Committee request that the agency keep the Committee informed as to any changes in court rulings which would impact this regulation.

KAR 28-18-13. The Committee is concerned that with respect to soil sampling that the Secretary is going to adopt procedures which may need to be adopted as regulations. The Committee is concerned about the broadness of this regulation and the potential cost to producers.

KAR 28-18-1. The Committee is concerned about the requirement of subsection (c) and the cost to producers who may be required to provide subsurface monitoring or conduct a subsurface investigation.

General Comment. The Committee expresses concern about the economic impact statement and whether the agency has fully identified all the costs of these regulations on the industry. The Committee would like to see more detailed information in a cost-benefit analysis of the regulations.

General Comment. The Committee is pleased to be informed that public hearings will be conducted around the state on these regulations, but requests the agency to contact interested parties in determining if there are additional locations where public hearings should be conducted.

In addition, the Committee Comments concerning proposed rules and regulation reviewed were inadvertently omitted from the minutes of the Committee from its meetings on January 4 and January 10, 2005. Those comments are outlined below.

### **Committee Comments on Proposed Rules and Regulations (January 4, 2005)**

**Kansas Real Estate Appraisal Board.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning licensed classification, experience supervision requirements; general classification, experience supervision requirements; residential classification, experience supervision requirements; and provisional classification, supervised experience requirements. The Committee expressed the following comment.

General comment. Consider making reference to "good standing" uniform. For example, see (b)(1) of KAR 117-2-2a.

**Kansas Department of Wildlife and Parks.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning amount of fees; rabbits, hares, and squirrels, legal equipment, taking methods, and possession; deer, firearm management units; deer, archery management units; big game and wild turkey permit applications; furbearers and coyotes, legal equipment, taking methods, and general provisions; fishing, general provisions; hunting or furharvester license or permit purchase; controlled shooting areas, operational requirements; threatened and endangered species, general provisions; nongame species, general provisions; wildlife rehabilitation permit, application, reporting and general provision; use of crossbows and locking draws for big game and wild turkey hunting by persons with disabilities, application, permit, and general provisions; crows, legal equipment, taking methods, and possession; certain wildlife, legal equipment, taking methods, possession, and license requirement; and fishing, creel limit, size limit, possession limit, and open season (exempt). The Committee expressed the following comment.

General Comment. The Committee believes that it would be helpful to alphabetize the species listings in the appropriate regulations. For example, see KAR 115-20-2.

**Kansas Department of Education.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning policies or rules governing employees' and students' conduct; and revocations. The Committee had no comment.

**Department of Social and Rehabilitation Services.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning general hospital groups under the diagnosis-related group (DRG) reimbursements system. The Committee had no comment.

**Kansas Attorney General.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning approved field tests. The Committee had the following comment.

KAR 10-22-1. Consider striking the language referring to "meeting the requirements of this regulation."

**Kansas Dental Board.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning branches of dentistry. The Committee had the following comment.

KAR 71-2-2. Consider using parallel form when listing the branches and the following definitions. Consider also clarifying that "dentofacial orthopedics" is a subset of "orthodontics."

**Kansas Secretary of State.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning corporate filing fees. The Committee had no comment.

**Kansas Department of Revenue.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning license plates, extension of time for new issuance; and credit for property tax paid on commercial and industrial machinery and equipment, tax receipts. The Committee had the following comment.



KAR 92-12-113. In subsection (c), the Committee is concerned that there is no time limit for record keeping.

**Kansas Department of Commerce.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; registration; liability insurance, costs qualifying for tax credits; tax credits; new registration form; and contracts. The Committee had the following comments.

KAR 110-12-2. The Committee is concerned about the term "working days" and whether this term should be defined. In subsection (c), the Committee is concerned that there is no authority to limit access to the information listed. The Committee suggests that the agency consider the need to introduce legislation to close access to these records.

KAR 110-12-4. In subsection (b), the Committee questions whether it is necessary to repeat statutory language.

**Kansas Department of Administration.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning state human resource program, responsibilities, regulations, and guidelines; appointing authority; compensatory time; holiday compensatory time; demotion; incumbent; in pay status; length of service; administrative leave; unclassified service; position management; position description; position allocation, delegation to appointing authority; position reallocation; effect of position reallocation on incumbent; employees to be paid within the pay grade, approval of employee pay changes, effective date, retroactive increases; beginning pay; pay of temporary employee; pay of employee upon transfer; pay of employee upon demotion; effect of pay grade changes on pay; individual pay decreases; overtime; benefits for employees activated to military duty; recruitment; selection instruments; demotion; acting assignments; candidate drug screening test for safety-sensitive positions; probationary period required; performance reviews; employees entitled to appeal performance reviews; performance review appeal procedure; orientation; training standards; agency training records; leadership training programs; hours of work; holidays; payment for accumulated vacation leave, compensatory time, and holiday compensatory time upon separation; transfer of leave credits; relief from duty or change of duties of a permanent employee; drug screening test for certain employees; leave usage for exempt employees; job injury leave; shared leave; resignation; grievance procedure; agency appeals; content of employees' official personnel records; disclosure of employee information; computation of layoff scores; and furlough leave without pay, revocations. The Committee had the following comments.

KAR 1-2-9. In subsection (a), correct the spacing error in the word "appointing." In subsection (b), consider limiting the authority of the designee of the appointing authority to exclude non-state employees.

KAR 1-2-46. In subsection (a)(4)(b), the "and" should be "or."

KAR 1-4-3. Consider the addition of "prepared" to "maintained."

KAR 1-5-19c. In subsection (b), there appears to be missing text.

KAR 1-6-29. Review the language of the regulation for possible conflicts with the provisions of KSA 75-4315a.

KAR 1-7-10. Review the language of subsection (c) for possible conflicts with the provisions of KSA 75-2949e (b). Also explain the reason for deleting the language concerning employee feedback.

KAR 1-9-1. Consider defining the term "exempt position" or cross reference the regulation in which this term is defined.

KAR 1-9-2. Should the regulation dealing with state holidays be consistent with statute? (KSA 35-107)

KAR 1-13-1b. In subsection (e)(3), is there a need to reevaluate this regulation to make it consistent with the requirements of KSA 44-119a, subsection (b)?

**Juvenile Justice Authority.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; duties of superintendents; regulations, internal management policies and procedures, and facility orders, publication and availability to offenders; definitions; use of force or restraint on offenders; disposition of contraband; clinical services, offender treatment; offender visitation; offender clothing; personal cleanliness; tattoos, body markings, and body piercing; care of living quarters; unsafe or unsanitary practices; hair standards and appearance; use of safety devices; registration and use of personal property; electronic personal entertainment devices; theft; taking without permission; unauthorized dealing and trading; debt adjustment and debt collection prohibited; gambling and bookmaking; misuse of state property; entering into contracts, incurring financial obligations; accounts; fighting, violence; noise; lying; disobeying orders; insubordination or disrespect to employees and volunteers; threatening or intimidating any person; avoiding an officer, supervisor, or other employee; improper use of food; kitchen utensils and shop tools; misconduct in the dining room; drunkenness, intoxication, or altered consciousness; stimulants, sedatives, drugs, or narcotics, misusing or hoarding authorized or prescribed medication; sexually explicit materials; sexual intercourse, sodomy; lewd acts; falsifying documents; disruptive behavior; riot or incitement to riot; conduct regarding visitors and the public; arson; assault; battery; offender activity, limitations; interference with restraints; personal relationships, limitations; programs; answering calls, movement; responsibility for head counts; restricted areas, unauthorized presence, out-of-bounds in assigned living area; interference with cell operations, locking devices, and visibility; restriction; medical restriction; official name, alias name; mail; posting notices and distributing written materials; legal assistance by offenders; bulletin boards, publishing facility orders; dangerous contraband; less dangerous contraband; violation of statutes and regulations; violation of internal management policy and procedure of facility order; anticipatory and facilitating offenses: attempt, conspiracy, solicitation, and accessory; increased penalty for involving or victimizing an offender under 16; conviction of four offenses in six months; Class I offenses and penalties; Class II offenses and penalties; Class III offenses and penalties; use of restitution; disciplinary segregation, limits; disciplinary procedure established; waiver of rights; prosecution by outside agency; the disciplinary administrator and hearing officers; administration of oaths, designation of persons authorized; disciplinary report and written notice; summary judgment procedure; amendment of the charge; criminal prosecution and disciplinary hearing; offender responsibilities; administrative review of requests for witnesses, denial of requests, issuance of summons, voluntary nature of witness appearance; hearing within certain period, notice to offender, time and place of hearing; continuing the hearing, recesses, time limits, extensions; conducting the disciplinary hearing; presence of offender and presence of charging officer at disciplinary hearings, officer statements in lieu of testimony; calling witnesses; disposition; assistance from staff; standard of proof; preservation of all reports; hearing record; copy of record provided to offender; preparation of the record within 10 working days; docket; reports in file; disciplinary case log; serving disciplinary segregation sentence; credit for disciplinary segregation sentence; absence from facility; collection of restitution; administrative review; appeal on the record to the superintendent in class III offense cases; appeal on the record to commissioner in class I and II offense cases; commissioner's final review on appeal; administrative review board to review and make recommendations; harmless error, plain error; offender grievance procedure, informal resolution, formal levels; grievance procedure distribution, orientation, applicability, remedies, investigation; time limit for filing grievance; procedure; reprisals prohibited; records; annual review; emergency grievance procedure; special kinds of

problems; reporting loss of or damage to property, claims; and personal property an offender's own risk. The Committee had the following comments.

KAR 123-1-101. Consider the addition of KSA 76-3203 in the authoring portion of the history section.

KAR 123-2-105. In subsection (d), consider the addition of a designee to the commissioner if that is what is intended. In the alternative, consider changing the definition of "Commissioner" in KAR 123-1-101 to include the Commissioner's authorized designee.

KAR 123-5-106. Use the term "agency" instead of JJA, since the term "agency" has already been defined.

KAR 123-5-505. In (a)(2)(A), consider the use of "who" instead of "which" when referring to the minor child.

KAR 123-12-103. Clarify the instances when body piercings may be necessary.

General comment. The Committee is concerned with the issue of judicial review and is contemplating the introduction of legislation to address this issue.

### **Committee Comments on Proposed Rules and Regulations (January 10, 2005)**

**Kansas Board of Cosmetology.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning grades necessary to pass licensure examinations, development and administration of licensure examinations. The Committee expressed the following comment.

KAR 69-1-4. Consider renumbering subsection (a) to make the intent clearer.

**Kansas Corporation Commission.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning exemption from the motor carrier safety regulations; hours of service; procedures for transportation; workplace drug and alcohol testing programs; testing for controlled substances and alcohol use; safety fitness procedures; minimum levels of financial responsibility for motor carriers; general motor carrier safety regulations; qualifications of drivers; driving of commercial motor vehicles; parts and accessories necessary for safe operation; inspection, repair, and maintenance; transportation of hazardous materials, driving and parking rules; transportation of migrant workers; and employee safety and health standards. The Committee expressed the following comment.

General Comment. The Committee believes that it would be helpful to refer to the complete name of the Commission when referring to the Commission's address.

**Department of Social and Rehabilitation Services.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning rates of reimbursement. The Committee had no comment.

**Kansas Insurance Department.** The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fire and casualty insurance, electronic verification of insurance. After discussion, the Committee had the following comment.

Comment. The members of the Committee are interested in knowing what mechanisms are in place to protect the information submitted by insureds during the application for a renewal of motor vehicle registrations.

Chairman Holmes announced that the next meeting would be March 29, 2005, at 10:00 a.m. There being no further business before the Committee, the meeting adjourned at 5:15 p.m.

Prepared by Judy Glasgow  
Edited by Raney Gilliland and Melissa Calderwood

Approved by Committee on:

April 25, 2005  
(date)