

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

May 18, 2009
Room 535-N—Statehouse

Members Present

Representative Carl Holmes, Chairperson
Senator Vicki Schmidt, Vice-Chairperson
Senator Karin Brownlee
Senator Janis Lee
Senator Chris Steineger
Representative John Faber
Representative Steve Huebert
Representative Shirley Palmer
Representative Joe Patton
Representative Jan Pauls
Representative Ed Trimmer

Members Absent

Senator Ralph Ostmeyer

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Sharon Wenger, Kansas Legislative Research Department
Kenneth Wilke, Office of the Revisor of Statutes
Nobuko Folmsbee, Office of the Revisor of Statutes
Judy Glasgow, Committee Assistant

Others Present

Berend Koops, Hein Law Firm
Michelle Buhler, Capital Strategies
R. S. McKenna, Department of Social and Rehabilitation Services
Brian K. Dempsen, Department of Social and Rehabilitation Services
Susan McDonald, Department of Social and Rehabilitation Services
Chris Tymeson, Kansas Department of Wildlife and Parks

Dan McLaughlin, Kansas State Fire Marshal
Kenya Patzer, Kansas State Fire Marshal's Office
Teri Canfield, Attorney General's Office
Mary Lou Davis, Board of Cosmetology
Michael J. Smith, Attorney General's Office
Darren Root, Kansas Department of Labor
Joyce Grover, Kansas Coalition Against Sexual and Domestic Violence
Laurel Klein Searles, Kansas Coalition Against Sexual and Domestic Violence
Matt Casey, Gaches, Braden and Associates
Trudy Aron, American Institute of Architects
Scott Heidner, American Council of Engineering Companies of Kansas
Kraig Knowlton, Department of Administration
Leo Haynos, Kansas Corporation Commission
Terri Penberton, Kansas Corporation Commission
Tom Day, Kansas Corporation Commission

Morning Session

Chairperson Holmes called the meeting to order at 10:00 a.m.

The Chairperson called the Committee members' attention to the minutes of the April 6 and 7, 2009, meeting and asked for action on them. *Representative Pauls moved that the minutes be approved as presented; Representative Trimmer seconded the motion. Motion passed.*

Chairperson Holmes welcomed Chris Tymeson, Chief Counsel, to speak to the proposed rules and regulations noticed for hearing by the Kansas Department of Wildlife and Parks. KAR 115-25-9b, deer; nonresident limited-quota antlered permit application period; and KAR 115-25-19, doves; management unit, hunting season, shooting hours, and bag and possession limits.

Mr. Tymeson stated that both of these rules and regulations were exempt regulations. KAR 115-25-9b would move back the nonresident deer permit application period to better accommodate nonresident hunters when planning to hunt in Kansas. KAR 115-25-19 will add additional hunting days to the first segment of the open season and open the second segment on the first Saturday in November for nine days.

It was noted by a Committee member that this was only for one year. Mr. Tymeson stated that since these were exempt regulations concerning season dates and bag limits, they were reviewed every year.

After Mr. Tymeson had responded to all questions from the Committee, Chairperson Holmes thanked Mr. Tymeson for his appearance before the Committee.

Sue McDonald was recognized by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Kansas Department of Social and Rehabilitation Services. KAR 30-45-20, foster child educational assistance; KAR 30-46-10, definitions; and KAR 30-46-17, expungement of name of perpetrator from central registry.

Staff noted that in KAR 30-46-10 and KAR 30-46-17, the history section needs to be updated. A Committee member noted that in KAR 30-46-17, the language needs to be clarified to show expungement of the record by removing the name from the registry.

After responding to all questions, Ms. McDonald was thanked for her presentation before the Committee.

Mary Lou Davis was recognized by the Chairperson to speak to the rule and regulation noticed for hearing by the Board of Cosmetology. KAR 69-3-8, curricula and credits.

Ms. Davis stated that the Board received input from current licensees, newly licensed estheticians and school instructors. It was determined to better safeguard the consumer, the instructional and practical esthetic training be increased from 650 clock hours to 1,000 clock hours. In 2008, legislation was passed to increase the hours. The Chairperson thanked Ms. Davis for her appearance before the Committee.

The Chairperson asked the Legislative Research Department staff to review agency responsiveness to comments made by this Committee to rules and regulations that have previously come before the Committee. Raney Gilliland and Jill Shelley passed out a report (Attachment 1) showing the agencies that had appeared before the Committee and whether or not they responded to the Committee's comments. Ms. Shelley went over the report and what the responses from agencies had been since 2006.

A Committee member suggested that a letter be drafted by the Legislative Research Department expressing disappointment with agencies when no response is received and that a copy of the letter be sent to all board members of agencies with boards. Another suggestion was made that when future rules and regulations are received from agencies who have not responded to the Committee in the past, the agency then be flagged to indicate lack of response to past comments. After discussion by the Committee, it was the consensus that staff send a second letter to those boards and agencies who have not responded to the Committee, giving them 60 days to respond or be required to appear before the Committee. Mr. Gilliland and Ms. Shelley will work on this and get back to the Committee.

The Chairperson recognized Darren Root, Staff Attorney, to address the proposed rules and regulations noticed for hearing by the Department of Labor. KAR 49-5-1, definitions; KAR 49-5-2, filing of complaint, submittals, and other documents; KAR 49-5-3, service by the department; KAR 49-5-4, complaints; KAR 49-5-5, employer's response; KAR 49-5-6, investigation; KAR 49-5-7, preservation of personnel records; KAR 49-5-8, investigative report and determination; KAR 49-5-9, administrative hearing; and KAR 49-5-10, judicial review.

Mr. Root explained that the new rules and regulations are to protect a victim of domestic violence or a victim of sexual assault from discharge from employment or other retaliatory actions for taking time off work for protected activities.

A Committee member asked Mr. Root whether the Department of Labor had received any complaints of this nature in prior years and how many such complaints. Mr. Root stated that he did not know but would check and get back to the Committee. It was noted that prior to these changes this type of complaint might have been filed with the Human Rights Commission (HRC). The Committee asked that HRC be included in the inquiry. In KAR 49-5-1, staff suggested that in the definition of "(e) Secretary" that the definition be expanded to include the term "secretary's designee," since this term is used in the other rules and regulations. Staff also noted that the history section in all the rules and regulations should be reviewed and updated. There was discussion by the Committee concerning KAR 49-5-3, which states that service of documents by the Department are deemed completed on the date the document is placed in the U.S. mail. A Committee member felt that it should be certified mail so that there could be some proof of service. After discussion, the Committee indicated the Department should look at certified mail as a method of service.

A question was raised by staff concerning who would be served if the party to be notified was a state agency. Mr. Root stated that the notice would be served by the Attorney General's Office. Mr. Root stated that if the notice is against the Department of Labor, then the hearing would be conducted by the Department of Administration.

A Committee member questioned whether the statute authorized the 60-day time limit for the filing of complaints in KAR 49-5-4(b). Mr. Root stated that there was no time limit contained in the statute.

A Committee member requested that the agency respond to the Committee detailing what authority under subsection (b) the 60 day time limit would have if it is not in statute, and how the agency would envision handling a complaint that came in after 61 or 62 days. Staff noted that in KAR 49-5-4 (a) (5) the word should be "employee" rather than "employer." Mr. Root stated that they would change this. In KAR 49-5-5, a question was raised by a Committee member as to the agency's authority for subsection (b). Mr. Root stated that this was taken from KSA 44-1133, outlining the duties of the Secretary of Labor and giving him authority to adopt rules and regulations necessary to implement the provisions of the law. A suggestion was made that if the employer ignores the complaint, that the hearing go forward to investigate the facts behind the complaint and to look at the merit of the case. In KAR 49-5-6, a Committee member noted that there was no time frame given for the completion of the investigation and when to consider the action closed. Mr. Root stated that the agency wants to complete the investigation as soon as possible. The Committee member asked that the agency consider some kind of deadline in the regulation, perhaps if no action has been taken in a certain period of time that the action would be considered closed.

Another concern brought up by Committee members was the lack of civil remedies; it was noted that there are no provisions for civil penalties included in the statute. In KAR 49-5-8 (a) (2), a suggestion was made that the word "evidence" might want to be substituted for "documentation." It was pointed out that the term "documentation" is used in the statute and that may be the reason for its use in these rules and regulations.

A concern was raised about the use of the term "preponderance of the evidence" when the courts use the "burden of proof" statement. It was requested that Mr. Root check to see what the courts were using for retaliatory cases, that the same standard be used in this case, and that Mr. Root report back to the Committee. Staff noted that the economic statement did not have any expenses associated with these rules and regulations. Mr. Root stated that this was due the fact that the agency has no idea how many complaints may be handled and what costs may be associated with them at this time.

After Mr. Root responded to all questions from the Committee, the Chairperson thanked Mr. Root for his appearance before the Committee.

Chairperson Holmes recognized Laurel Klein Searles, Staff Attorney for Kansas Coalition Against Sexual and Domestic Violence (KCSDV), as a conferee to speak to the proposed rules and regulations presented by the Department of Labor (Attachment 2).

Ms. Searles stated that the KCSDV supports the rules and regulations, but identified two problems with the changes. First, the regulations leave victims without a specific remedy, and second, the regulations do not provide for confidentiality of administrative proceedings. She asked the Committee to recommend modification of the proposed regulations to include a true enforcement mechanism and to require confidentiality of administrative proceedings taking place under these new regulations.

A Committee member noted that the possible remedy sought by the KCSDV could be accomplished by having the organization propose a statutory amendment that would include the two items that KCSDV wishes to change.

Chairperson Holmes thanked Ms. Searles for her appearance before the Committee.

Dan McLaughlin was welcomed by Chairperson Holmes to speak to the proposed rules and regulations noticed for hearing by the State Fire Marshal's Office. Mr. McLaughlin introduced Kenya Patzer who addressed the Committee. KAR 22-1-1, municipal compliance with Kansas fire prevention code; KAR 22-1-2, compliance with certain building codes; KAR 22-1-3, adopted national standards; KAR 22-8-13, adoption of national codes; KAR 22-10-3, registration certificate; KAR 22-11-6, maternity centers; KAR 22-11-8, adult and boarding care homes; KAR 22-15-7, revoked; and KAR 22-18-3, construction requirements for school buildings.

A concern was raised about KAR 22-1-2, the adoption of the "building construction and safety code" via the National Fire Protection Association Standard No. 5000, 2006 edition, and that the State of California and the City of Phoenix had adopted this code and then repealed the adoption. A Committee member requested that the Committee be provided with other units of government that have adopted these codes and are using them. In KAR 22-1-2, a Committee member asked whether these rules and regulations were strictly for fire code or if other codes were covered. Ms. Patzer stated that these are building codes, covering construction materials. A Committee member asked if these codes cover energy efficiency standards and, if so, whether they meet the requirements of the federal government since there could be federal funds at stake. Ms. Patzer was asked to find out and report back to the Committee. A Committee member asked that the agency check with the Department of Housing and the Kansas Corporation Commission concerning federal energy efficiency standards required. Ms. Patzer stated that they would check and get back to the Committee. In KAR 22-1-3 (c), staff noted that the words "modified for different use" should be added for clarification, since these do not apply to one- and two-family dwellings. In KAR 22-18-2, staff noted that the specific date "2000" should be added in line 5 after "international building code." A Committee member noted that the energy efficiency factors also should apply in KAR 22-18-3.

After responding to all questions, Mr. McLaughlin and Ms. Patzer were thanked by the Chairperson for the presentation before the Committee.

Chairperson Holmes recessed the meeting until 1:45 p.m.

Afternoon Session

Chairperson Holmes reconvened the meeting at 1:45 p.m.

The Chairperson welcomed Leo Haynos to speak to the proposed rules and regulations noticed for hearing by the Kansas Corporation Commission ([Attachment 3](#)). KAR 82-14-1, definitions; KAR 82-14-2, excavator requirements; KAR 82-14-3, operator requirements; KAR 82-14-4, notification center requirements; KAR 82-14-5, tier 3 member notification requirements; and KAR 82-14-6, violation of act; enforcement procedures.

Mr. Haynos stated that these proposed rules and regulations were the result of the passage of HB 2637 during the 2008 Legislative Session. The changes become effective on July 1, 2009. The primary change was the mandatory inclusion of water and wastewater utilities for operators required to provide locates of their facilities upon request.

Staff noted that since the statute goes into effect on July 1, 2009, a subsection should be added to each of the rules and regulations stating that they will become effective July 1, 2009. A Committee member noticed that in KAR 82-14-4(e), the record retention time was changed to two years, and in KAR 82-14-5 (a), it was changed to "at least two years" and suggested that these time frames should be consistent.

After Mr. Haynos responded to all questions, Chairperson Holmes thanked Mr. Haynos for the presentation before the Committee.

Kraig Knowlton was welcomed by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Department of Administration. KAR 1-2-64, probationary employee; KAR 1-2-65, probationary status; KAR 1-7-3, probationary period required; KAR 1-7-4, duration of probationary period; KAR 1-7-6, notices relating to probationary periods and extensions; KAR 1-7-7, dismissal of probationary employee by director; KAR 1-7-10, performance reviews; KAR 1-7-11, employees entitled to appeal performance reviews; KAR 1-7-12, performance review appeal procedure; and KAR 1-14-8, computation of layoff scores.

Mr. Knowlton gave Committee members a background review of the new Performance Management Process (PMP) and the process which resulted in these new rules and regulations. These changes will be implemented on October 1, 2009.

A Committee member noted in KAR 1-2-65, the term "serving a probationary period" sounded more like correctional language and suggested that different language be used. Mr. Knowlton stated that the agency would look at that. In KAR 1-7-10, staff noted on page 3 (d), the term "unsatisfactory" should be changed back to "less than satisfactory" for consistency. Mr. Knowlton stated that he would check on this. Staff suggested that the agency look at the time frames used in KAR 1-7-12, "seven calendar days" and "within five calendar days" to see that they are not in conflict. Mr. Knowlton stated that they would look at this, also. A Committee member noted that there may need to be clarification of the term "orphan" as used in KAR 1-14-8. Mr. Knowlton stated that they would review this section.

After Mr. Knowlton responded to all questions from the Committee, Chairperson Holmes thanked Mr. Knowlton for appearing before the Committee.

Deborah Hatfield was introduced by the Chairperson to speak to the proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment (KDHE), Division of Health, Bureau of Child Care and Health Facilities. KAR 28-4-1200, definitions; KAR 28-4-1201, license requirements; KAR 28-4-1202, application procedures; KAR 28-4-1203, capacity; posting requirements; validity of temporary permit or license; new application required; advertising; closure; KAR 28-4-1204, licensure; renewal; notifications; exceptions; amendments; KAR 28-4-1205, background checks; KAR 28-4-1206, administration; KAR 28-4-1207, staff requirements; KAR 28-4-1208, records; KAR 28-4-1209, notification and reporting requirements; KAR 28-4-1210, admission requirements; KAR 28-4-1211, health care; KAR 28-4-1212, health and safety requirements for the use of seclusion rooms; KAR 28-4-1213, library; recreation; work; KAR 28-4-1214, emergency plan; drills; facility security and control of residents; storage and use of hazardous substances and unsafe items; KAR 28-4-1215, environmental standards; KAR 28-4-1216, food service; KAR 28-4-1217, laundry; and KAR 28-4-1218, transportation.

Ms. Hatfield gave the Committee some background on the proposed rules and regulations for the new entity of psychiatric residential treatment facility and what areas KDHE would have jurisdiction over. KDHE has regulatory control over environment, health and safety issues, including food, safety, and background checks. The Kansas Department of Social and Rehabilitation Services will cover training programs, staff qualification, restraint, and all matters that were involved with the treatment.

In KAR 28-4-1205, a Committee member questioned the required information for an individual ten-years-of-age and older and if there would be someone there who was ten. Ms. Hatfield stated that this is the statutory language and that is why it was included. In KAR 28-4-1209 (b), staff questioned whether the “five working days” excluded Saturday, Sunday, and holidays. Ms. Hatfield stated that it did not include these days. It was suggested that the agency add “excluding Saturday, Sunday, and holidays.”

A Committee member questioned KAR 28-4-1211, page 3(b) (3), concerning ordering of a prescription medication and whether there would be an authorized person available 24 hours a day to administer the medications as ordered. It was suggested that the language may need to be clarified. Ms. Hatfield stated that KDHE would take a look at this section and make sure that the language would allow for this.

A question was raised by a Committee member about KAR 28-4-1211, page 3(b) (4), about the reporting of “acute symptoms of illness or who has a chronic illness” within 24 hours. Ms. Hatfield stated that this was referring to the initial admission to the facility. It was suggested that the agency look at the language and clarify that this is what the agency is referring to. She stated that KDHE would do this. In KAR 28-4-1214, page 4, line 2, a Committee member was concerned about the use of the term “discarded.” It was suggested that it be changed to “disposed of” which would include several other available options. Ms. Hatfield stated that KDHE would take a look at this. The Committee suggested that in KAR 28-4-1216, food services, that a Memorandum of Understanding between the Department of Agriculture and the Kansas Department of Health and Environment, covering these items on food safety, might be necessary. Ms. Hatfield stated that 2009 SB 203 specifically exempted these facilities from the food safety requirements under the Department of Agriculture.

There was some concern by Committee members concerning the two different agencies having authority over food safety in the different facilities and whether they will be consistent. The Committee requested that a letter be addressed to the Department of Agriculture concerning their understanding of SB 203 and the transfer of food service inspection duties to the other agencies in similar situations.

After Ms. Hatfield responded to all questions, Chairperson Holmes thanked Ms. Hatfield for her presentation before the Committee.

The next meeting will be July 6, 2009. The Chairperson adjourned the meeting at 4:00 p.m.

Committee Comments on Proposed Rules and Regulations

Kansas Department of Wildlife and Parks. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning deer, nonresident limited-quota antlered permit application period; and doves, management unit, hunting season, shooting hours, and bag and possession limits. Both of these regulations are exempt regulations. After discussion, the Committee had no comment.

Kansas Department of Social and Rehabilitation Services. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning foster child educational assistance; definitions; and expungement of name of perpetrator from central registry. After discussion, the Committee had the following comments.

KAR 30-46-17. In subsection (c)(1), the Committee is concerned that only the name would be expunged and not the record. Please consider new language which would make it clear that both the name and the record would be expunged.

Comment. Please review the history sections to ensure appropriate statutory citations for authorization and implementation.

Kansas Board of Cosmetology. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning curricula and credits. After discussion, the Committee had no comment.

Kansas Department of Labor. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; filing of complaint, submittals, and other documents; service by the department; complaints; employer's response; investigation; preservation of personnel records; investigative report and determination; administrative hearing; and judicial review. After discussion, the Committee had the following comments.

KAR 49-5-1. The Committee suggests that the agency consider expanding the definition of the term "Secretary" to include the Secretary's designee.

KAR 49-5-3. The Committee suggests that the agency consider the use of certified or return receipt requested mail in order to decrease the occurrence of findings based on errors in mail delivery.

KAR 49-5-4. In subsection (a)(5), the Committee believes the word "employer" should really be "employee." Please make a change if deemed appropriate.

KAR 49-5-6. The Committee is concerned with the length of the investigation and believes the agency should consider some time frame for the length of time for the investigation.

Question. In KAR 49-5-5 the Committee questions the authority of the agency to deem an employer to have engaged in a prohibited practice if the employer failed to respond within the specified time frame. The Committee is concerned that this places the agency in a position of determining "guilt in fact." Please review and explain the agency's authority.

KAR 49-5-8. In subsection (a)(2), the Committee asks the agency to consider whether the word should be "documentation" or "evidence." Please review this entire set of regulations with the same consideration.

Question. The Committee notes that in subsection (b) of KAR 49-5-4, complaints are required to be filed within 60 days of the alleged occurrence. The Committee requests information about what the agency would do if the complaint was filed on the 62nd or 63rd day after the occurrence. It also questions the agency's authority to require that a complaint be filed within 60 days.

Question. The Committee inquires as to what has occurred in the past with these types of complaints. The Committee seeks information as to what types of complaints have been made previous to the regulations, their number, and information on what happens to these types of complaints currently.

Question. The Committee is concerned about who gets served if the employer is the State of Kansas. The Committee believes that, depending upon the entity being served, that the time frame in subsection (a) of KAR 49-5-5 may be a problem. Please explain how the agency believes how this process will work if the State of Kansas is the employer or in particular if the Secretary of Labor is the employer.

Question. The Committee believes that the burden of proof should be the same in these cases as is the case in other retaliatory discharge cases. Is the burden of proof in KAR 49-5-8 different than in other similar types of cases?

Issue. The Committee is concerned with the issue of confidentiality of the records of these types of complaints and subsequent investigations. The Committee believes the agency should consider this and wonders whether the agency believes that legislation to address this issue would be advisable.

Economic Impact Statement. The Committee believes that the Economic Impact Statement should include some estimate of the cost of hearings and investigations for these types of complaints. Please update the Economic Impact Statement.

Kansas State Fire Marshal's Office. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning municipal compliance with Kansas fire prevention code; compliance with certain building codes; adopted national standards; adoption of national codes; registration certificate; maternity centers; adult and boarding care homes; construction requirements for school buildings; and revocation. After discussion, the Committee had the following comments.

KAR 22-1-2. It came to the attention of the Committee that the State of California and the City of Phoenix no longer use the "Building Construction and Safety Code." The Committee would like to know what these two entities use as a replacement and why the State of Kansas would adopt this if there are liability issues. In addition, the Committee was informed that the agency could assist in providing information as to what entities are using each of the two proposed codes as their standard. Please provide the Committee with this information. Further, the Committee was told that the codes may include energy efficiency standards. The Committee is concerned that these standards may conflict with other standards adopted by the State of Kansas. Please provide information to the Committee regarding whether the standards conflict with any others adopted by the State or any of its legal entities. The Committee also questions whether the 2006 edition is the most stringent available and, if not, how liability has been allocated when a governmental entity does not adopt the most stringent code.

KAR 22-18-3. The Committee believes that a specific version of the code being adopted should be the one adopted by reference. Please consider specifying whether school buildings should comply with the life safety code specified in KAR 22-1-3(o) or KAR 22-1-3(p).

Kansas Corporation Commission. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; excavator requirements; operator requirements; notification center requirements; tier 3 member notification requirements; and violation of act, enforcement procedures. After discussion, the Committee had the following comments.

KAR 82-14-5. In subsection (a), the time frame for maintenance of records is “at least two years.” In other places in this set, such as KAR 82-14-4(e), it indicates “two years.” Please make the time frame consistent throughout the set of regulations.

Suggestion. The Committee is concerned with the adoption of this set of regulations prior to the effective date of the authorizing statutes. Please consider adding a subsection to each regulation making the regulation effective on July 1, 2009.

Kansas Department of Administration. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning probationary employee; probationary status; probationary period required; duration of probationary period; notices relating to probationary periods and extensions; dismissal of probationary employee by director; performance reviews; employees entitled to appeal performance reviews; performance review appeal procedure; and computation of layoff scores. After discussion, the Committee had the following comments.

KAR 1-2-65. In this regulation and others the Committee suggests the agency consider using a different phrase other than “serving a probationary period” since it gives the impression one is being punished for wrongdoing.

KAR 1-7-12. The Committee is concerned with the time frames used in this regulation and believes that clarification should be included as to whether those time frames include Saturdays, Sundays, or holidays.

KAR 1-14-8. In subsection (d)(4), the Committee believes the definition of “orphan” should be clarified to indicate that it means a child of a deceased veteran.

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions; license requirements; application procedures; capacity, posting requirements, validity of temporary permit or license, new application required, advertising, closure; licensure, renewal, notifications, exceptions, amendments; background checks; administration; staff requirements; records; notification and reporting requirements; admission requirements; health care; health and safety requirements for the use of seclusion rooms; library, recreation, work; emergency plan, drills, facility security and control of residents, storage and use of hazardous substances and unsafe items; environmental standards; food services; laundry; and transportation. After discussion, the Committee had the following comments.

KAR 28-4-1209. In subsection (b), the Committee believes that the time frame should be clarified by indicating whether it includes Saturdays, Sundays, and holidays.

KAR 28-4-1211. The Committee suggests the agency address the situation where a prescription is phoned-in by the medical practitioner. It also was unclear to the Committee whether the facility would have a qualified person present and authorized to place a prescription in writing when a medical practitioner phones in a prescription. In subsection (b)(4), it is unclear when the notification is to be accomplished. If the protocol is to be accomplished with admission, then perhaps the regulation should indicate the time frame.

KAR 28-4-1214. In subsection (d)(3), the Committee is concerned that unused medication would be only discarded. The Committee suggests that the agency consider the addition of “disposal” and also “otherwise properly used” if there is the opportunity to redistribute the medication to others.

Request. With respect to food safety, the Committee requests information about any type of agreement the agency may have with the Kansas Department of Agriculture to ensure food safety. Does the Department of Agriculture provide information concerning food safety issues to assist in regulations for these types of facilities?

Prepared by Judy Glasgow
Edited by Corey Carnahan

Approved by Committee on:

July 6, 2009

(Date)