

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

February 12, 2003
Room 531N—Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator Karin Brownlee
Senator Stan Clark
Senator U. L. "Rip" Gooch
Senator Dwayne Umbarger
Representative Jerry Henry
Representative Janice Pauls
Representative Candy Ruff
Representative Sharon Schwartz
Representative Dan Williams

Members Absent

Senator Chris Steineger
Representative Andrew Howell

Staff Present

William G. Wolff, Kansas Legislative Research Department
Mitch Rice, Revisor of Statutes Office
Ken Wilke, Revisor of Statutes Office
Judy Glasgow, Secretary

Others Present

Greg A. Foley, Kansas Department of Agriculture
Julie Ehler, Kansas Department of Agriculture
Tom Sim, Kansas Department of Agriculture
Bill Scott, Kansas Department of Agriculture
Cheryl Magathan, Real Estate Appraisal Board
John Badger, Department Social and Rehabilitation Services
Dennis Priest, Department Social and Rehabilitation Services
Nialson Lee, Department Social and Rehabilitation Services

Wednesday, February 12, 2003

The meeting was called to order by Chairman Holmes at 12:05 p.m.

Chairman Holmes recognized Greg Foley, Acting Secretary, Department of Agriculture who introduced Julie Ehler to speak to the proposed rules and regulations noticed for hearing by the Kansas Department of Agriculture. KAR 4-8-43, noxious weeds; declaration of county as a sericea lespediza disaster area.

Ms. Ehler explained the proposed change would allow counties to receive federal funding for the control of sericea lespediza upon gathering data and petitioning the Kansas Secretary of Agriculture to declare the county a sericea lespediza disaster area. She informed the members that temporary rules and regulations are in effect at this time identical to the proposed regulations. She stated that the use of spray is not cost effective and there is a need for federal assistance.

Committee members expressed concern about how counties were collecting the data for petitions and if it was being used for any other purpose at this time. Mr. Foley answered questions concerning landowners reporting sericea lespediza on land that was currently in CRP and how CRP payments are effected. He stated that Colorado is the only state that has declared sericea lespediza a noxious weed, although Missouri, Nebraska, and Oklahoma are working on declaring it a noxious weed. There was much discussion from Committee members concerning the fact that the statute currently does give the Secretary of Agriculture the authority to declare disaster areas under the noxious weeds regulations and that this regulation, which seems to require local action first, differs from that statute and, perhaps, is not necessary.

Staff noted that portions of the history needed to be updated to reflect the current supplement citation.

Chairman Holmes thanked Acting Secretary Foley, and Ms. Ehler for their presentation before the Committee.

Cheryl Magathan, Kansas Real Estate Appraisal Board, was recognized by Chairman Holmes, to speak to the proposed rules and regulations noticed for hearing by the Kansas Real Estate Appraisal Board. KAR 117-1-1, definitions; KAR 117-2-1, licensed classification; education requirements; KAR 117-3-1, general classification; education requirements; KAR 117-4-1, residential classification; education requirements; KAR 117-6-1, continuing education; renewal requirements; KAR 117-6-2, continuing education; approval of courses; requirements; KAR 117-6-3, education; obtaining course approval; and KAR 117-8-1, uniform standards of professional appraisal practice.

Ms. Magathan responded to general questions concerning the definition of the 15-hour national uniform standards course currently required and the change from the three-year cycle for continuing education to a two-year continuing education cycle. She explained that KAR 117-8-1 is updated every year and is adopted by reference.

Staff suggested that the wording in KAR 117-8-1 could be clarified by placing the exception language "except for standards 6,7,8, 9 and 10" at the beginning of the regulation. Staff also noted that the 60-day notice required by law for the adopting of rules and regulations had not been met since the notice was published in the *Kansas Register* on January 23 and the hearing was to be held March 21, which is not 60 days. It was suggested that the agency head discuss this deficiency with the Attorney General.

A member asked about the economic impact statement. Ms. Magathan answered questions concerning the economic impact of the change from three years to two years and stated that there would only be an increased cost to the trainers and no information has been received stating what the cost of the national course will be.

Ms. Magathan was thanked for her appearance before the Committee.

Chairman Holmes called upon Nialson Lee to speak to the proposed rules and regulations noticed for hearing by the Department of Social and Rehabilitation Services. KAR 30-5-81u, general hospital groups, under the diagnosis-related group (DRG) reimbursement system; KAR 30-5-102, scope of optometric and optical services; KAR 30-5-105, scope of hearing services; KAR 30-6-103, determined eligibles; protected income levels; and KAR 30-14-28, premium payment requirement.

Mr. Lee responded to members' questions regarding KAR 30-5-81u, reimbursement rates for hospitals used that are outside the state. The members pointed out that many Kansans use hospitals in neighboring states, Denver, Colorado and Kansas City, Missouri.

Concerning KAR 30-14-28, premium payments for HealthWave insurance, Committee members questioned how the premium payments would be determined and how the applicant would know what the charges would be since there are no figures stated in the proposed regulation. It was suggested that the language of the existing regulation be retained or, at the least, there be an amount published in the *Kansas Register*.

Dennis Priest spoke to KAR 30-6-103 and stated that the monthly protected income level was changed, reduced, from \$716.00 to \$645.00. He explained that the change impacted approximately 5,000 persons and increases the amount of out-of-pocket expense that a recipient would have to contribute for the recipient's care.

There being no further questions Chairman Holmes thanked Mr. Lee and Mr. Priest for their presentations before the Committee.

COMMENTS ON PROPOSED RULES AND REGULATIONS

Department of Agriculture. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning noxious weeds. After discussion, the Committee expressed the following comment.

KAR 4-8-43. Given the Secretary's current statutory authority in the area of noxious weeds, is this regulation necessary? If the regulation is necessary, consider reorganizing the regulation to fit the general intent of the Legislature, *i.e.*, subsection (a) and subsection (c) should be reversed to indicate the Secretary's authority to act is not triggered by local action.

Kansas Real Estate Appraisal Board. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning definitions, license classifications, continuing education, and uniform standards of professional appraisal practice. After discussion, the Committee expressed the following comment.

KAR 117-8-1. Consider rewriting the regulation with the exception from what is adopted by reference

General Comment. The notice for hearing does not allow 60 days for a public comment period prior to the date of the hearing. Contact the Attorney General's office to see how the notice can be corrected.

Department of Social and Rehabilitation Services. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning the Medicaid program—provider participation and client's eligibility, and children's health insurance program. After discussion, the Committee expressed the following comments.

KAR 30-5-105. In subsection (c) delete the last sentence.

KAR 30-14-28. There should be some public notice for the monthly premium a HealthWave participant will pay. Perhaps the notice could be in the *Kansas Register* or, as in the past, set by rule and regulation of the Secretary.

There being no further business to come before the Committee, the meeting was adjourned at 1:00 p.m.

Prepared by Judy Glasgow and Bill Wolff

Approved by Committee on:

April 1, 2003