

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Tuesday, June 28, 2011 – 9:00 a.m. – Room C445 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Gene Davis  
Sen. Mark B. Madsen  
Sen. Benjamin M. McAdams  
Pres. Michael G. Waddoups  
Rep. Neal B. Hendrickson  
Speaker Rebecca D. Lockhart  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Oda called the meeting to order at 9:16 a.m.

**MOTION:** Rep. Moss moved to approve the minutes of the January 18, 2011 and June 7, 2007 meetings. The motion passed unanimously. Sen. Madsen, Sen. Stephenson, and Rep. Newbold were absent for the vote.

**2. Reporting Requirements for Nursing Homes and Assisted Living Facilities**

Speaker Lockhart introduced the issue which concerns the Division of Aging and Adult Services' reporting requirements for nursing homes and assisted living facilities.

Mr. Hunsaker distributed and referred committee members to "Section 62A-3-305 Reporting Requirements - Investigation - Immunity - Violation - Penalty - Nonmedical healing," together with "Section 62A-3-304 Cooperation by Caretaker" and "Section 62A-3-301 Definitions," which were distributed in the mailing packet, as sources of the Division of Aging and Adult Services' authority to require assisted living facilities to report incidents of abuse, neglect, or exploitation of a vulnerable adult.

Mr. Nels Holmgren, Director, Utah Division of Aging and Adult Services, said that much of what is done within the Division of Aging and Adult Services is derived from the federal Older Americans Act.

Ms. Debbie Kurzban, Assistant Attorney General, distributed excerpts from "Title 62A Chapter 3 Aging and Adult Services," and administrative rules "R510-302 Adult Protective Services," "R510-200 Long-Term Care Ombudsman Program Policy," "R432-150 Nursing Care Facility," and "R432-270 Assisted Living Facilities." Ms. Kurzban referred to the handouts as she presented a brief overview of relevant statutes and administrative rules, and responded to questions from the Committee.

Mr. Steve Sabins, Utah Assisted Living Association, said that while it is appropriate to report an incident when there appears to be intent by one resident to harm another, the reporting of every non-serious incident that has been addressed and if needed, defused by care givers, could become very time consuming and redundant.

Mr. Todd Cope, Director of Personal Care, Courtyard at Jamestown Assisted Living, described the types of personal information requested on the one-page report form and the requirement that reports be faxed to Adult Protective Services (APS) on a weekly basis.

Mr. Sabins expressed the need to protect personal information and the privacy of residents.

Ms. Nan Mendenhall, Director, APS, responding to committee members' questions, clarified that the reports are faxed to the state ombudsman. She also explained who has access to the information contained in the reports.

Mr. Daniel Musto, State Long-Term Care Ombudsman, responded to committee members' questions about the use of information obtained in the reports.

The Committee discussed the need to clarify the definitions of abuse or neglect, and what types of incidents the providers are required to report to APS.

Sen. Stephenson suggested that the division consider whether state statute should require transparency of reporting on the general nature of elder care in the state. Sen. Stephenson added this transparency of information would protect the individuals and providers.

Speaker Lockhart asked for an update in the next few months.

Sen. Madsen asked staff to pull together for committee review, all of the citations in federal and state statute, as well as administrative rule, which allow the ombudsman to require a report to be filed.

Rep. Newbold asked for definitions of abuse to be examined in statute and rule.

Mr. Holmgren agreed to look at definitions and consistency of usage of terms with representatives from the Department of Health and to present recommendations for clarifications at a future meeting.

Mr. Holmgren also said he would report citations of ombudsman authority at that time.

No further action was taken on this item.

### **3. Administrative Rules Review Committee: "Overview of Statutory Duties"**

Staff distributed an update of "Administrative Rules Review Committee Assigned Study Areas."

Sen. Stephenson said that this topic will be discussed at a future meeting.

### **4. Committee Business**

Future meetings were scheduled for Monday, July 18, 2011 at 9:00 a.m. and Tuesday, August 23, 2011, at 9:00 a.m.

### **5. Adjourn**

**MOTION:** Rep. Hendrickson moved to adjourn the meeting. Pres. Waddoups was absent for the vote.

Chair Oda adjourned the meeting at 11:37 a.m.