

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Friday, October 19, 2012 – 1:00 p.m. – Room C445 State Capitol

Members Present:

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

Members Absent:

Sen. Mark B. Madsen
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.leg.utah.gov.

1. Committee Business

Chair Oda called the meeting to order at 1:17 p.m. Rep. Newbold was excused from the meeting.

MOTION: Rep. Hendrickson moved to approve the minutes of the September 4, 2012, meeting. The motion passed unanimously. Sen. McAdams was absent for the vote.

2. Rules Governing Utah Code Section 26-15-5, Requirements for Food Handlers

Dr. David W. Patton, Executive Director, Department of Health, distributed "Proposed Food Handler Rule." He discussed the background, purpose, and provisions of the proposed outline for the proposed rule, and responded to questions from the committee.

Dr. Robert Rolfs, Deputy Director, Department of Health, responded to committee members' questions about fees charged for training and permits for food handlers.

Ms. Melva Sine, President and Chief Executive Officer, Utah Restaurant Association, expressed concern with some requirements in the rule outline, and participated in the committee discussion that followed.

Ms. Sine also distributed notes regarding concerns with the rule outline, a letter dated September 7, 2012, from the association to the Environmental Sanitation Program, Utah Department of Health, "National Restaurant Association State Regulations for Food Handler Training," and a letter dated October 19, 2012, from the American National Standards Institute to the Administrative Rules Committee.

Rep. Johnny Anderson commented on what the rule outline accomplishes as well as issues that are not yet resolved.

Mr. Myron E. Bateman, Director of Health, Tooele County Health Department, spoke in favor of developing a statewide standardized test for the food handler's permit.

Ms. Kathy Froerer, Executive Director, Utah Association of Local Health Departments, noted in response to previous discussion that there is currently reciprocity in validating food handler permits across local jurisdictions.

Ms. Christie Lewis, President, StateFoodSafety.com, addressed advantages of standardized training and testing through the Utah Department of Health.

Mr. Bryan Chapman, Vice President, StateFoodSafety.com, spoke in support of a statewide testing program.

Mr. Mont Evans, Utah Restaurant Association, stated that health inspections are the responsibility of the state, but the training of food handlers is the responsibility of business owners and operators.

Ms. Jan Carter, Food Industry Training Services, commented on her experience as a professional independent trainer of food handlers.

MOTION: Speaker Lockhart moved that the committee refer this issue to the House Business and Labor Standing Committee for consideration of legislation to clarify statute. The motion passed unanimously.

3. Potential Need for Rulemaking Related to Complaints and Fines Issued by the Division of Securities and the Division of Occupational and Professional Licensing

Committee staff distributed "FINRA Rule 8313."

Sen. Stephenson briefed committee members on the "Performance Audit of the Division of Securities" dated July 2008. The audit was distributed in the mailing packet prior to the meeting. Sen. Stephenson explained that the audit found an abuse of power by the division. Sen. Stephenson highlighted portions of the audit and then turned to the handout and highlighted portions of the Financial Industry Regulatory Authority Rule 8313.

Mr. Thad Levar, Deputy Director, Utah Department of Commerce, reported that all of the recommendations of the audit were implemented before the end of 2008, with the exception of statutory changes, which were made by the Legislature in 2009. Mr. Levar noted the work done by Mr. Keith Woodwell, who is the current director of the Division of Securities, on behalf of those who were adversely affected by the division. He also agreed to review the viability of removing damaging information from public searches on the Internet, and refunding excessive administrative fines.

Mr. Tim Osterstock, Audit Manager, Legislative Auditor General's Office, commented on the issue of administrative fines.

Sen. Stephenson shared similar concerns with sanctions imposed by the Utah Pharmacy Board and enforced by the Division of Occupational and Professional Licensing and the Utah Pharmacy Board on pharmacists that are harmed by records available through public searches on the Internet.

Mr. Levar explained that up until recently, records kept by the Division of Occupational and Professional Licensing on these matters were only available to the public through the Government Records Access and Management Act. He stated that the division now maintains a database that makes current information available to the public on the Internet. The division is working to make older records available as well.

No action was taken on this issue.

4. Committee Business

Future meetings were scheduled for October 30, 2012, at 9 a.m. and December 3, 2012, at 9:00 a.m.

5. Adjourn

MOTION: Sen. Davis moved to adjourn the meeting. The motion passed unanimously. Sen. McAdams and Speaker Lockhart were absent for the vote.

Chair Oda adjourned the meeting at 3:54 p.m.