

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
January 11, 2000 - 9:00 a.m. - Room 305 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Co-chair  
Rep. David Ure, Co-chair  
Sen. Mike Dmitrich  
Sen. L. Alma "Al" Mansell  
Sen. Eddie "Ed" P. Mayne  
Sen. Howard C. Nielson  
Rep. Judy A. Buffmire  
Rep. James R. Gowans  
Rep. Martin R. Stephens  
Rep. John E. Swallow

**Staff Present:**

Mr. Arthur L. Hunsaker,  
Research Analyst  
Ms. Esther D. Chelsea-McCarty,  
Associate General Counsel  
Ms. Audrey Wendel,  
Legislative Secretary

**Note:** A list of others present and copies of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

**1. Call to Order and Approval of Minutes of December 17, 1999** - Sen. Stephenson called the meeting to order at 9:16 a.m.

**MOTION:** Sen. Dmitrich moved to approve the minutes of December 17, 1999. The motion passed unanimously with Sens. Mayne and Nielson absent for the vote.

**2. Medicaid Fraud Control Unit Functions related to Division of Health Care Financing Rules** - Sen. Dmitrich said doctors have expressed concern to him regarding actions of the Medicaid Fraud Control Unit. Mr. Scott Williams, Deputy Director, Utah Department of Health, told of a meeting that the Utah Department of Health had with the Medicaid Fraud Control Unit and the Utah Medical Association. He said that this meeting primarily focused on procedural clarifications. Since that meeting, no further difficulties have surfaced.

Sen. Mansell asked what would happen if the Medicaid Fraud Control Unit were eliminated. Mr. Williams said that one state was granted a waiver in 1993 and two other states don't have fraud units.

Mr. Adolf Becker explained that his wife is a physician in St. George and has been investigated for over a year for Medicaid fraud and still no conclusion has been reached. He explained that the Medicaid Fraud Control Unit has taken actions that exceed proper authority. He questioned whether the cost of the Unit can justify its existence because of Utah's small amount of fraud.

Sen. Nielson introduced Dr. Inouye, Physician, and President of Skyline Medical Association. Dr. Inouye familiarized the committee with the situations facing some of his colleagues. For example, he said a colleague he referred to as Dr. Purser had experienced harassment and threats from members of the Unit. He added that they have approached Sen.

Bennett and Rep. Cannon with their concerns. Committee discussion followed.

Mr. Denis Kroll, Assistant Attorney General and Director, Medicaid Fraud Control Unit, recounted the creation of the Unit and added that if a state wants to have a medicaid program, they must have a Medicaid Fraud Control Unit. He said that for every dollar the state uses to fund the Unit, the Federal Government provides three dollars. He said the level of fraud in Utah justifies its existence and that to his knowledge members of the Unit have carried out their duties properly. He added that he is preparing legislation for the 2000 Session that would move the Unit under the jurisdiction of the Attorney Generals Office.

Rep. Ure expressed concern that the Unit is operating outside the law, based on the statutory authority already granted to three groups: the Criminal Investigations and Technical Services Division; the Criminal Investigations Bureau, and the Bureau of Medicaid Fraud. Mr. Kroll clarified that the Unit used to be referred to as the Bureau of Medicaid Fraud. Sen. Mansell requested that Mr. Kroll provide the committee with cost vs. recovery information for the last ten years. Committee discussion followed.

Sen. Dmitrich thanked those who attended the meeting, and requested that Mr. Kroll go forward with legislation that will help resolve the problems.

**MOTION:** Sen. Dmitrich moved that the committee send a letter to the Executive Office, Criminal Justice, and Legislature Appropriations Subcommittee requesting that they examine the role the Medicaid Fraud Control Unit plays in relation to all entities in the state that investigate and prosecute medicaid fraud cases in order to determine whether state funds are being expended appropriately. The motion passed unanimously with Rep. Stephens absent for the vote.

Mr. Kent Bishop, Governor's Office of Planning and Budget, suggested that executive branch and committee staff meet to examine the issues raised.

**3. Potential Changes to Division of Child and Family Services Rules** - Rep. Buffmire introduced the issue. Mr. Ken Patterson, Director, Division of Child and Family Services, distributed a handout titled "Purpose of the Division of Child and Family Services." He said that it appears the division is becoming a teenage service agency and not just a division that protects children. He said he is concerned about the erosion of the division's mission, based on the services they are being required to provide. He said that there has been a policy change, not a rule definition change, in the way the division is dealing with this concern.

Rep. Buffmire said she was satisfied that the division is not making a rule change, expressed hope that the division's future actions will be in accordance with the law, and requested that the committee be kept informed of future rules changes.

**4. R714-600 Performance Standards for Tow-Truck Motor Carriers** - Sen. Stephenson

introduced the issue. Mr. J. Francis Valerga, Legal Counsel, Department of Public Safety, distributed a handout titled "Junk Cars a Growing Problem in Utah." He said that the rotation rule was not meant to be applicable in just one part of the state. He said that a flat fee is not established for this, but that a fee of up to ten dollars can be assessed.

Mr. Hunsaker related the concerns with the previous rule filing on the subject in 1997 by the Department of Transportation that still exist in the current Department of Public Safety rule. Mr. Kent Bishop explained the approach taken by the Utah Advisory Council on Intergovernmental Relations (UHCIR). Rep. Gowans said he serves on the committee and supports its efforts. Mr. Hunsaker asked about the performance standards rules required by statute. Mr. Valerga said they are not ready and most probably won't be until after legislation passes in the 2001 Session. Rep. Buffmire urged that action be taken before the 2001 session.

**5. Committee Business** - Sen. Stephenson reflected on the progress Utah's administrative rules process has made over the last seven years.

**6. Adjourn**

**MOTION:** In the absence of a quorum, Chair Stephenson ruled the meeting adjourned at 11:43 a.m.

