

OHIO GENERAL ASSEMBLY
JOINT COMMITTEE ON AGENCY RULE REVIEW

Senate Members

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TAVIA GALONSKI

GREG FOUCHE
INTERIM DIRECTOR

December 12, 2022

Chair Gavarone called the meeting to order at 1:32 p.m.

Deputy Director Fouche called the roll. Representatives Callender, Stewart, and Skindell and Senators Gavarone, Brenner, Lang, Craig, and Martin were in attendance. Representative Schmidt was substituting for Representative Hillyer. Representative Boggs was excused from the meeting. Deputy Director Fouche stated a quorum was present.

Chair Gavarone and Vice Chair Callender made remarks on the occasion of Director Wolpert's retirement, and presented him with a resolution honoring his more than 11 years of service to the Committee.

Chair Gavarone asked the Committee members to review the November 14, 2022 minutes. The minutes were approved as presented.

Director Wolpert read the No Change Agenda. The Chair called for questions or comments on the No Change Agenda. There were no questions or comments from the Committee or public. Director Wolpert read the Regular Agenda. Rule 901:1-6-05 of item 11 on the Regular Agenda, rule 3796:6-3-02 of item 26 on the Regular Agenda, and the policy to rule discussion of item 51 on the Regular Agenda were moved to the review portion of the agenda. The Chair called for questions or comments on the remaining items on the Regular Agenda. There were no questions or comments from the Committee or public.

Policy to Rule Discussion

The Chair recognized Thomas Selman, the founder of Scopus Financial Group, and Anya Coverman, the President and Chief Executive Officer of the Institute for Portfolio Alternatives, to offer testimony regarding the following principles of law or policy being relied upon by the Ohio Department of Commerce, Division of Securities: (1) statements of policy developed by the North American Securities Administrators Association, (2) policies and regulatory requirements published in the quarterly Ohio Securities Bulletin, and (3) comments on registration filings and related advertising materials. Mr. Selman and Ms. Coverman testified that these principles of law or policy should be supplanted by their restatement in rules because they have a general and uniform operation and establish legal regulations or standards that would not exist in their

absence. Mr. Selman and Ms. Coverman subsequently answered questions from Senators Gavarone and Lang and Representatives Callender, Stewart, and Skindell.

The Chair recognized Andrea Seidt, the Ohio Securities Commissioner, and Thomas Geyer, an attorney with Bailey Cavalieri, who testified that the principles of law or policy listed above do not have a general and uniform operation and do not establish legal regulations or standards that would not exist in their absence. Ms. Seidt and Mr. Geyer subsequently answered questions from Senators Gavarone, Brenner, Lang, and Martin and Representatives Callender, Schmidt, and Stewart.

Chair Gavarone moved to recommend to the Division of Securities that it supplant the principles of law or policy listed above by their restatement in rules. Senator Lang seconded the motion. The motion passed 6-3, with Senators Gavarone, Brenner, and Lang and Representatives Callender, Schmidt, and Stewart voting yes and Senators Craig and Martin and Representative Skindell voting no.

Rule 901:1-6-05

The Chair recognized the following individuals to provide opponent testimony on rule 901:1-6-05, an Ohio Department of Agriculture rule that establishes health requirements for high-volume dog breeders: Vicki Deisner, the State Government Affairs Advisor for the Animal Welfare Institute; Carli Frey, an Advocacy Assistant for Ohio Animal Advocates; Mark Finneran, the Ohio State Director for the Humane Society of the United States; and Dr. Alba Gonzalez, a veterinarian with Rascal Unit. The opponents testified that the rule exceeds the scope of the Department's statutory authority and conflicts with legislative intent because it allows dew claw removal and tail docking to be performed by persons other than licensed veterinarians.

The Chair recognized Jack Advent, the Executive Director of the Ohio Veterinary Medical Association, to provide proponent testimony on rule 901:1-6-05, and recognized Department representatives Jacquie Keller-Potvin, Rules Coordinator, and Todd Thatcher, Chief Legislative Liaison, to provide testimony on the rule on behalf of the Department. Mr. Advent, Ms. Keller-Potvin, and Mr. Thatcher testified that the rule does not exceed the scope of the Department's statutory authority and does not conflict with legislative intent. Ms. Keller-Potvin and Mr. Thatcher subsequently answered questions from Senator Craig and Representatives Callender and Skindell.

Representative Skindell moved to recommend invalidation of rule 901:1-6-05 based on prong violations relating to statutory authority and legislative intent. Senator Craig seconded the motion. The motion failed 3-6, with Senators Craig and Martin and Representative Skindell voting yes and Senators Gavarone, Brenner, and Lang and Representatives Callender, Schmidt, and Stewart voting no.

There were no further actions from the Committee on rule 901:1-6-05.

Rule 3796:6-3-02

The Chair recognized Tim Johnson of Cannabis Safety First to provide opponent testimony on rule 3796:6-3-02, a Medical Marijuana Control Program rule that sets forth requirements for the premises of medical marijuana dispensaries.

The Chair recognized Kylynne Johnson, Policy and Public Affairs Liaison with the State of Ohio Board of Pharmacy, to provide testimony on rule 3796:6-3-02 on behalf of the Board.

There were no further actions from the Committee on rule 3796:6-3-02.

The Chair reminded the public of the next JCARR meeting on Monday, January 23, 2023 at 1:30 p.m. in the William McKinley Room 121.

Chair Gavarone adjourned the meeting at 4:13 p.m.

You may watch the December 12, 2022 JCARR meeting at <https://ohiochannel.org/video/ohio-joint-committee-on-agency-rule-review-12-12-2022>.



Rep. Jamie Callender, Chair



Greg Fouche, Interim Director