

## Small Business Regulatory Review Board

---

### MINUTES OF REGULAR MEETING

March 21, 2007

No. 1 Capitol District Building 250 South Hotel Street – Conference Room 410

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:32 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Lynne Woods
- Sharon L. Pang
- Charles Au
- George Handgis
- Dorvin Leis
- Peter Yukimura
- Bruce Bucky

**ABSENT MEMBERS:**

- Michael Yee
- Donald Dymond
- Richard Schnitzler

**STAFF:**        DBEDT                                Office of the Attorney General  
Dori Palcovich                                Margaret Ahn

**GUESTS:**

Jeri Kahana, Manager, Commodities Branch, Quality Assurance Division, Department of Agriculture (DOA)  
C.N. Lee, Milk Specialist, University of Hawaii at Manoa  
Edward Botelho, Owner, Cloverleaf Dairy  
Aileen Befitel, Executive Assistant, Governor's Office  
Marc Miranda, Executive Assistant, Governor's Office  
Neil Reimer, Manager, Plant Industry Division, DOA  
Laurence K. Lau, Deputy Director, Environmental Health Administration, Department of Health (DOH)  
Terri Byers, Acting Chief, Office of Health Care Assurance (DOH)  
Ivette Hanley, Program Specialist, Med-QUEST Division, Department of Human Services (DHS)  
A. Christian Whelan, Ph.D., Chief, State Laboratories Division, DOH  
Susan Naka, Clinical Laboratory Services, State Laboratories Division, DOH  
Glenn Wasserman, M.D., Chief, Communicable Disease Division, DOH  
Dianne Okumura, Consultant  
Barbra Pleadwell, Owner, Hastings & Pleadwell

**WORKING LUNCH AS THE MEETING PROGRESSED**

II. **APPROVAL OF MINUTES:** Minutes of the February 21, 2007 Board meeting were approved as presented.

III. **INTRODUCTION OF NEW BOARD MEMBER:** Chair Woods explained that Mr. Mark Oyama, whom the members nominated to this Board, is unqualified to serve because he is a full-time, tenured State employee at University of Hawaii in Kauai. Therefore, the Board is still in need of a Kauai representative.

**IV. OLD BUSINESS**

- A. Review and discussion of post public hearing statement of HAR Chapter 17-1728.1, "QUEST-Adult Coverage Expansion" (DHS) – Ms. Ivette Hanley, Program Specialist at DHS's Med-QUEST Division, explained that no one attended the public hearing, and there is no perceived business impact in these rule changes. Mr. Handgis recommended that the proposed rules proceed to the Governor for adoption; the Board unanimously agreed.
- B. Review and discussion of post public hearing statement of HAR Chapter 17-1737, "Scope and Content for the Fee for Service Medical Assistance Program" (DHS) – Ms. Ivette Hanley, Program Specialist at DHS's Med-QUEST Division, explained that no one attended the public hearing, and there is no perceived business impact in these rule changes. Mr. Handgis recommended that the proposed rules proceed to the Governor for adoption; the Board unanimously agreed.

- C. Review and discussion of post public hearing statement of HAR Chapter 17-1722, "Special Medical Assistance Coverage and Programs" (DHS) – Ms. Irvette Hanley, Program Specialist at DHS's Med-QUEST Division, explained that no one attended the public hearing, and there is no perceived business impact in these rule changes. Mr. Handgis recommended that the proposed rules proceed to the Governor for adoption; the Board unanimously agreed.
- D. Review and presentation on Hawaii's milk industry – Ms. Jeri Kahana, Manager of DOA's Commodities Branch in the Quality Assurance Division, introduced Dr. Lee, who was hired by DOA's Board of Agriculture to perform a market study on milk, who is in the process of conducting a market survey on milk. He explained that approximately thirty-five percent of Hawaii's milk is produced locally. Once milk is pasteurized, it is held in silos where it is poured in milk containers. He discussed the difference between mainland milk and local milk containers, and explained that for the same quantity of milk, the price can range from \$4.90 per gallon to \$8.59. He stated that understanding what the shelf-life of local milk is, is not yet clear; however, milk will spoil before the noted expiration date. Milk is a necessity item and price controls on milk are important because of the farmers; one of the primary issues of the milk industry is reducing shipping costs. All island fresh milk is either one percent regular milk or one percent chocolate milk. Chair Woods stated that in order to ensure Hawaii's milk producers a competitive price, there are controlled prices, but it has seemingly backfired because the prices charged are too low compared to the shipping, and too low compared to the competition from the mainland which is cheaper. However, Ms. Kahana stated that if price controls were eliminated there would be no milk production in Hawaii. This information proved confusing to the members and because a task force had been set up, this information will be taken back to task force for further discussion.

Mr. Ed Boteilho, owner of Cloverleaf Dairy in Upolu, Hawaii, discussed that prior to the 2003 price increase in milk; it had taken fourteen years to receive a price increase. The current administration is moving the price increases in milk much faster because it is understood that milk is a food source in Hawaii. He explained that price controls are necessary. Chair Woods was concerned that things are not being acted upon fast enough and recommended that the Board's Milk taskforce have a meeting with Ms. Kahana, Dr. Lee, and Mr. Boteilho in attendance.

- E. Update and discussion on legislation and strategic planning session – Chair Woods apologized for any inconvenience the cancelling of the March 7<sup>th</sup> strategic planning session may have caused any of the members, especially Mr. Au for making special arrangements at The Pacific Club. She explained that timing conflicts were the main reason for the cancellation but will have some goal setting discussions at the next few meetings, and will plan to reschedule another planning session for July.

Chair Woods updated the members on all the bills this Board has been keeping track of. Those bills include SB188, SD2 "Relating to the Small Business Regulatory Flexibility Act," SB928, and HB1056 "Making an Appropriation for a Regulatory Boards and Commissions Administrative Assistant," SB17, SD2 and HB963 "Relating to Procurement," SB 713, "Relating to Nurse Aides," HB 313, and HB 314 "Relating to Small Business, and HB349 "Relating to County Regulation of Commercial Bicycle Tours."

## V. NEW BUSINESS

- A. Review and discussion of HAR Chapter 17-1724-10, "Earned Income from Self-Employment" (DHS) – Ms. Irvette Hanley, Program Specialist at DHS's Med-QUEST Division, explained that the amendments to the rules are housekeeping measures that are not expected to have any impact on small business. The amendments will clarify the policies regarding the budgeting of self-employment income for the medical assistance program. Mr. Yukimura recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.
- B. Review and discussion of proposed amendments to the Hawaii Police Department Special Off-Duty Employment, General Order No. 413 – Deferred until the April board meeting.
- C. Review and discussion of HAR Chapter 4-69A, "Pests for Control or Eradication" (DOA) – Mr. Neil Reimer, Manager of DOA's Plant Industry Division, explained that the rule amendments are not expected to have any impact on small business. The amendments are minor and merely include three new items to DOA's "list of insects, mites, other pests, and plant diseases designated as pests for control or eradication purposes." These items include the fire ant, nettle caterpillar and the coqui frog. The addition of these pests to the list will allow DOA to control these pests on state-owned Agricultural Park lands, to aid nurseries, landscapers, and plant retailers in controlling infestations, and also aid in the control of

these pests in small eradicable incipient infestations before they spread from small pockets and become widely established on an island. Mr. Handgis recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.

- D. Review and discussion of HAR Chapter 11-110.1, "Clinical Laboratories and Laboratory Personnel" (DOH) – Ms. Terri Byers, Acting Chief, Office of Health Care Assurance at DOH, Dianne Okumura, Consultant, and Susan Naka, from Clinical Technical Services at DOH's State Laboratories Division, explained that the current rules establish minimum licensure standards for clinical laboratories and clinical laboratory personnel in order to ensure practices that will protect the health and safety of persons living in Hawaii. The proposed rule changes would allow non-profit organizations and State and local agencies to be permitted, unlike the current rules which have stringent requirements of licensure and staffing. Dr. Chris Whelan, Chief of DOH's State Laboratories Division, explained that the proposed rules will also attempt to control the path of foreign educated employees. Thus, the rule changes will also provide an opportunity for foreign educated and trained personnel to be hired in laboratory settings, and after sufficient experience, be licensed to practice at a level commensurate with their education. Mr. Handgis recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.
- E. Review and discussion of HAR Chapter 11-12, "Food Establishment Sanitation" (DOH) – Mr. Laurence Lau, Deputy Director at DOH's Environmental Health Administration, explained that under current law, anytime food is served to the public, a general permit is required by the State. The proposed rule amendment, which is not expected to impact small business, will exempt kitchens and places that serve food when they are used only to feed the homeless for free from requiring a state permit. Conversely, if food establishments that serve or provide food to the general public, such as in restaurants and other than or in addition to the homeless, will still be required to maintain full compliance with seeking a state permit for such an endeavor. The members concurred that there was no discernible business impact. Mr. Yukimura recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.
- F. Review and discussion of HAR Chapter 11-200, "Environmental Impact Statement Rules" (DOH) – Chair Woods explained that these rule changes were submitted to Board member Mr. Yee to review and his feedback was that he saw no business impact. Although the rule changes do not reduce the small business impact, the amendments reflect new legislation that was passed since the last rule revisions ten years ago, clarify intent and simplify language where appropriate, and adds new subchapter 12 to "review and concurrence procedures for agency exemption lists." Mr. Yukimura indicated that it is very appropriate that the rules proceed to public hearing as soon as possible because the rules are so complicated and it is essential to hear from the small businesses; the Board unanimously agreed.
- G. Review and discussion of HAR Chapter 11-201, "Environmental Council Rules of Practice and Procedure Related to the Environmental Impact Statement System" (DOH) – Chair Woods indicated that these rules were also submitted to Board member Mr. Yee to review. The amendments reflect new legislation passed since the last rule revisions ten years ago, clarify intent and simplify language where appropriate, delete a section relating to "conducting hearings" as well as a subchapter relating to "declaratory rulings." Mr. Handgis recommended that the amended rules proceed to public hearing; the Board unanimously agreed.
- H. Review letter from Jeanette O. Chang, President of Otsuka's Furniture "Appliances regarding "Assessment of standby demand charges on renewable energy projects" – Chair Woods mentioned that Ms. Ahn stated that a board member that has left the Board cannot bring a personal appeal or a letter before the Board for one year. Mr. Yukimura sits on Kauai's Utility Board, indicated that the issue in question was withdrawn from public hearing but will probably return back to the Public Utility Commission when a rate case comes up. Discussion of Ms. Chang's letter has been deferred and will be brought back to the Board at the appropriate time.

**VI. CHAIR REPORT** – Chair Woods explained that due to a conflict with attending jury duty she will be unable to attend the Small Business Administration's conference on "Building a Better Small Business Climate: State Regulatory Flexibility Best Practices," to be held in Kansas City, Missouri, on March 28<sup>th</sup>. However, Ms. Palcovich will be attending, and has been tasked with bringing back answers to various issues that are important in this Board such as measuring successes. She is also tasked with networking with representatives from other states that have regulatory flexibility acts and to determine best practices among the states.

## **VII. WORKSHOP**

- A.** "Branded or Be Branded – A Proactive Approach to Raising Your Profile" - conducted by Ms. Barbra Pleadwell from Hastings and Pleadwell – Ms. Barbra Pleadwell emphasized that it would be very valuable for her company to attend and important for this Board to have a strategic planning session. She explained her presentation on branding is rooted in public relations and not in graphics or paid media advertising. She stated that branding is important because when small businesses run into issues with rules and regulations, they have various choices, e.g., to hire an attorney, consult with various trade organizations or the Small Business Administration, but because this Board is not commonly known among the small business community this Board is not among their choices. Another reason for branding is that if this Board is not pro-actively branding itself, it is sitting still and allowing people to put a brand upon the Board and it might not be accurate. Thus, it is very important to accurately brand; a strong brand builds visibility and market share. The question that Ms. Pleadwell posed was could the Board handle an increase in small business inquiries and suggested that this question be addressed at the Board's strategic planning session. A solid, strong brand also leads to success and stability. The following aspects, among others, were also discussed regarding branding: 1) Why brand a government review board; 2) What's SBRRB's current "top of mind awareness; 3) SBRRB goals; 4) How to brand; 5) Is your brand relevant.

**VIII. REPORT FROM CHAIR AND BOARD MEMBERS** – Nothing was reported.

**IX. NEXT MEETING** – Wednesday, April 25, 2007, State Office Tower – Leiopapa A. Kamehameha Building, 235 S. Beretania Street, Honolulu, HI, Room 405.

**X. ADJOURNMENT** – Chair Woods adjourned the meeting at 1:50 p.m.