Small Business Regulatory Review Board
January 8, 2008
Room 300 SE, State Capitol
Meeting Minutes

CALL TO ORDER

The meeting was called to order by Chairman Rick Petershack at 1:00 PM

ROLL CALL

Board Members Present: Pat Cooper, Hal Bergan, Minoo Seifoddini, Guy Wood, Andrew Moyer, Bonnie Schwid, Al Shea, Larry Martin, Aaron Olver, Amy Bomkamp (for Wendy Wink); Rick Petershack, Karen Vernal (via conference call)

Board Members Absent: Rep. Terry Moulton, Dennis Faye and Randy Meffert

Staff Present: Carol Dunn, Gianna Taylor

Others Present: Bill Smith, National Federation of Independent Business; Ray Marchiori, Regional Advocate-Small Business Administration Office of Advocacy; Cyndi and Scott Garbish, CBRF –Oaks Family Day Care Center; Donald Grothe, CBRF - Heartland-Preston, Inc.; Chris Witzlib, CBRF-Good Hope Manor; Brad Zicker – owner of CBRF; Ed Ranthum, AFSCME Central Region; Silke O'Donnell, Oma Vic McMurray, Earleen Collier, Lela Manning, Family Day Care Center Providers and AFSCME representatives; Jill Chase, Anne Carmody, Rosie Greer, Kevin Coughlin, Patricia Benesch, Otis Wood, Laurie Arhens, and Andrea Grothe of the Wisconsin Department of Health and Services

APPROVAL OF MINUTES

A motion was made by Al Shea, seconded by Bonnie Schwid to approve the May 14, 2007 meeting minutes. Motion carried unanimously.

REVIEW OF RULES OF PROCEDURE

Chairman Petershack directed the board members' attention to recommendations for revisions in the Board's Rules of Procedure. In addition to agreeing to revise the Rules of Procedure as recommended by the Chairman the motions were made as part of the discussions.

A motion was made by Bonnie Schwid, second by Hal Bergan to allow a state agency to send an agency designee to attend an SBRRB meeting in the absence of the agency appointed representative. The agency should be instructed that a consistent agency designee should attend in the absence of the appointed representative. Motion carried unanimously.

The Board members discussed agency representative voting rights. Pat Cooper stated that any conflicts of interests would be limited by the fact that the agency representative is serving on the board on behalf of the interests of small business. Bonnie Schwid perceives a disadvantage for the business representatives if an agency is allowed to vote on rules proposed by their respective agency.

A motion was made by Bonnie Schwid, second by Guy Wood, to restrict the voting by an agency representative on a rule under review of the agency they represent as a Board member. Majority in favor, three opposed. Motion carries.

Larry Martin questioned the legality of such a restriction. Al Shea suggested that agency representative be encouraged from not voting on their own rule, however, not be prevented from doing so in the Rules of Procedure.

A motion was made by Al Shea, seconded by Aaron Olver, to amend the previous motion regarding voting rights and to include in the Rules of Procedure that agency representatives are encouraged to abstain from voting on rules brought before the Board by the agency that they represent. Motion carried unanimously.

A motion was made by Al Shea, seconded by Aaron Olver, to strike all references to Evaluation Instruments. Motion carried unanimously.

A motion was made by Al Shea, seconded by Bonnie Schwid, to strike the number of days in which the Small Business Ombudsman must notify the Board of rules that may impact small business from page 8, VIII, A. Motion carried unanimously.

A motion was made by Al Shea, seconded by Hal Bergan, to include all reports submitted and received by the Board on the Board's website. Motion carried unanimously.

{Updated Rules of Procedure attached and made a part of the minutes.}

RULE REVIEW OF PROPOSED RULES

HFS 83 – Relating to Community-Based Residential Facilities

Testimony was received from Kevin Coughlin of the DHFS Bureau of Assisted Living with respect to the agency's small business impact analysis prepared for HFS-83. Kevin Coughlin stated the majority of public hearing comments surrounded the administrator qualifications.

Chairman Petershack questioned the economic impact on small business created by the rule's fire sprinkler mandates. Attendee Brad Zicker, owner of a CBRF, stated the cost estimates used in the analysis were low and requested that the board consider the cost discrepancies. Cindy Garbish, facility owner, stated that training regulations were restrictive and that compliance with fire sprinkler requirements would create significant financial hardships. Donald Grothe, nursing home administrator, expressed concerns with regard to the proposed changes for administrator qualifications, training, and the rules' allowance of one-time waivers provided by the DHFS.

In conclusion, the Board noted the thorough small business economic analysis prepared by the DHFS.

A motion was made by Bonnie Schwid, seconded by Al Shea, to send a response to DHFS commending them on their analysis of the economic impact of the rule on small business and including recommendations as a result of the small business testimony. These recommendations would include that the agency thoroughly consider the public hearing comments, consider methods for reducing economic impacts as it relates to training qualifications and administrator requirements, and re-examine and evaluate alternatives for sprinkling technology options for the retrofitting of five to eight bed facilities. Motion carried unanimously.

HFS 45 – Relating to Family Day Care Centers

Testimony was received from Jill Chase, Director of DHFS's Bureau of Regulation and Licensing with respect to the agency's small business impact analysis prepared for HFS-45.

Ed Ranthum of Wisconsin Child Care Providers Together/AFSCME testified on behalf of family day care center businesses along with family day care providers Silke O'Donnel, Oma Vic

McMurray and Erlean Collier. Considerable discussion followed with respect to day care fencing estimates and effect of limiting day care provider licensees to one business location. The Board was asked to consider the burden that would be put upon many daycare providers if this rule were to be adopted as proposed.

A motion was made by Minoo Seifoddini, seconded by Bonnie Schwid, to submit a report to DHFS recommending a reevaluation of whether the rule has a significant economic impact on a substantial number of small businesses. The re-analysis should specifically address how the proposed rule impacts small business through the elimination of the family day care center business model by limiting a day care center provider to one business location per licensee. The DHFS report to the Board should include a more thorough and realistic economic impact on small business. The report from DHFS should provide a reexamination of the permanent boundary (fencing) requirements and the economic impact on small business. Motion carried unanimously.

PUBLIC COMMENTS OF EXISTING RULES
None.

OTHER BUSINESS
Annual Report
Chairman Petershack distributed copies of the State of Missouri Annual Report of the Small Business Regulatory Fairness Board. Board members discussed the proposal to create a similar report each year for submission to the Governor. The Board agreed that the Small Business Ombudsman would prepare an annual report for 2008.

FUTURE MEETINGS
Chairman Petershack stated that a meeting would be scheduled in the spring for the purpose of increasing the public's participation in bringing burdensome existing rules to their attention by scheduling Board meetings in locations around the state. Ray Marchiori, SBA Regional Advocate informed the Board about similar meetings conducted by the Office of Advocacy and the federal R3 Initiative.

ADJOURNMENT
Al Shea motioned to adjourn the meeting at 4:27 p.m.; motion seconded by Aaron Olver. Motion carried unanimously.