



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

OCTOBER 4, 2012

Members Present: Representatives Patten, Pilotte, Schmidt, McGuire, Kidder*, Bowers*, and Winter*, and Senator Carson*. (*) Indicates alternate member.

(**) Part 1, Article 28-a of the N.H. Constitution was not an issue in the Committee's discussions or decisions in this meeting.

1. The meeting was convened at 9:00 a.m. by Rep. Patten as Chair.

Members present at this time, aside from Rep. Patten, were Reps. Pilotte, Schmidt, McGuire, Kidder, Bowers, and Winter, and Sen. Carson.

Rep. Patten designated Sen. Carson, Rep. Bowers, Rep. Kidder, and Rep. Winter as alternates, respectively, for Sen. Lambert, Rep. Manuse, Sen. White, and Sen. Groen.

2. The Committee discussed the minutes of the Committee meeting on September 20, 2012.

Rep. Schmidt moved that the Committee minutes be amended in Item #12 by inserting the following sentence at the end of the first paragraph: "Rep. Winter resumed as the alternate for Rep. Manuse, who was now absent."

Rep. Winter seconded.

Adopted.

Rep. Schmidt then moved that the Committee minutes be amended in Item #14 by replacing the reference to "Sen. Groen" with "Sen. Carson".

Rep. Winter seconded.

Adopted.

Rep. McGuire then moved that the minutes be approved, as amended.

Rep. Schmidt seconded.

Adopted.

3. The Committee discussed whether to postpone action on certain items to the next Committee meeting.

Rep. Schmidt moved that the Committee postpone action on the following item to the Committee meeting on October 18, 2012:

12. 9:45 a.m. DEPARTMENT OF HEALTH AND HUMAN SERVICES

- (e) OR 2012-85* Former Division of Public Health Services
Individual Home Care Service Providers
(JLCAR Deadline November 20, 2012.)
***Response not yet received. Waiver of Objection Response Deadline is pending
and JLCAR Deadline would be extended.**

Sen. Carson seconded.

Adopted.

4. The Committee discussed the response of the Department of Agriculture, Markets and Food to the Committee's preliminary objection to Proposed Interim Rule INT 2012-7 (Weights and Measures Fee Rules). Commissioner Lorraine Merrill testified for the Department.

Rep. McGuire moved that the Committee accept the response and approve the rules.

Rep. Schmidt seconded.

After further discussion, Rep. McGuire amended her motion to include that the Committee strongly urge the Department to form the Weights and Measures Advisory Board required by RSA 438:8-b as quickly as possible, and report back to the Committee on the status of the Advisory Board by the time of the Committee's meeting on November 15, 2012.

Rep. Schmidt seconded.

The motion was adopted, as amended.

Rep. Patten noted for the record that Sen Carson and Rep. Patten voted "no".

5. The Committee discussed the response of the Department of Health and Human Services to the Committee's preliminary objection to Final Proposal 2012-106 (Homestead Food Operations). Michael Holt and Kathryn Frey testified for the Department.

Rep. Schmidt and Sen. Carson left the meeting during the discussion of this item.

Rep. Patten moved that the Committee make a final objection to Final Proposal 2012-106 on the grounds as outlined in the annotations to the rules by Committee staff, with the understanding that the vote would be in lieu of a vote to sponsor a joint resolution.

Rep. Kidder seconded.

A roll call vote was called. The vote was as follows:

Action Minutes
October 4, 2012
Page 3

	Yes	No
Rep. McGuire	X	
Rep. Pilotte	X	
Rep. Bowers	X	
Rep. Kidder	X	
Rep. Winter	X	
Rep. Patten	X	
Total	6	0

The vote was six “yes” and 0 “no”. The motion was adopted.

6. The Committee discussed Final Proposal 2012-56 from the Department of Health and Human Services (Medicaid Managed Care). Michael Holt and Lisabritt Solsky testified for the Department.

Rep. Schmidt and Sen. Carson returned to the meeting as the discussion began on this item.

The Department had submitted a conditional approval request in a letter and amended rule dated September 19, 2012.

Rep. Pilotte moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-56 based on the request.

After further discussion, Rep. Pilotte withdrew his motion.

Michelle Winchester, representing the N.H. Medical Care Advisory Committee, then testified.

The Committee took no action at this time, in order to provide an opportunity for the Department to prepare a further amendment to its conditional approval request.

7. The Committee discussed a request by the Department of Health and Human Services that the Committee consider, as an editorial change, the deletion of adopted rule He-W 540.06(a)(2)c. on required documentation for private duty nursing providers. The change would be made during the certification of the adopted rule pursuant to RSA 541-A:15, I. The rule had been part of Final Proposal 2012-105 (Former Division of Human Services, Private Duty Nurses), which the JLCAR approved on September 20, 2012 and that the Department subsequently adopted and filed on September 21, 2012 (Document #10186), to be effective October 15, 2012.

Rep. McGuire moved that the Committee recommend to the Acting Director of the Office of Legislative Services that she accept the change to He-W 540.06 as an editorial change.

Sen. Carson seconded.

Adopted.

8. After a break, with Reps. Patten, Pilotte, Schmidt, McGuire, Kidder, Bowers, and Winter, and Sen. Carson present, the Committee resumed discussion of Final Proposal 2012-56 from the Department of Health and Human Services (Medicaid Managed Care). Lisabritt Solsky and Michael Holt testified for the Department, and presented an additional amendment to its conditional request dated September 19, 2012.

Action Minutes
October 4, 2012
Page 4

Rep. McGuire moved that the Committee accept the conditional approval request, with the Department's further amendment to He-W 506.06 by inserting a new paragraph (n) to read as follows: "Members appealing involuntary disenrollment may request a continuation of services pending appeal as outlined in 42 CFR 431.230," and conditionally approve Final Proposal 2012-21 based on the request as amended.

Rep. Winter seconded.

Adopted.

9. The Committee briefly discussed the agenda for the regular Committee meeting on October 18, 2012.

It was the consensus of the Committee that the response by the Acting Director of the Office of Legislative Services to the Committee's recommendation regarding He-W 540.06 (see Item #7 above), be noted on the agenda.

10. The Committee discussed the response by the Department of Labor to the Committee's preliminary objection to Final Proposal 2011-161 (Employee Leasing Companies). Martin Jenkins, Department Legal Counsel, testified for the Department.

The following persons also testified:

Debra Vanderbeek of Legislative Solutions, representing Surge Resources, and who also presented written testimony.

Jay Printzlau.

George Attar, representing Surge Resources.

The Committee took no action at this time, but postponed, by consensus, further consideration to the Committee's regular meeting on October 18, 2012, in expectation that the Department would file a request for a revised objection.

11. The Committee discussed the response by the Pharmacy Board to the Committee's preliminary objection to Final Proposal 2012-61 (Institutional Practices).

Rep. Schmidt moved that the Committee accept the response and approve the rules.

Sen. Carson seconded.

Adopted.

12. Rep. Pilotte moved that the Committee adjourn.

Sen. Carson seconded.

Adopted.

The Committee adjourned at 12:20 p.m.