



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

MAY 19, 2017

Members Present: Senators Reagan, Avard, French, and Kahn, and Representatives McGuire, Schmidt, Ladd, Hatch, Ebel*, Gottling*, Matthews*, and Ohm*. (*) 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 9:05 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan were Sens. Avard and French and Reps. McGuire, Schmidt, Ladd, Hatch, Ebel, Gottling, Matthews, and Ohm.

Sen. Reagan designated Rep. Ebel, Rep. Gottling, and Rep. Matthews as alternates, respectively, for Sen. Kahn, Sen. Feltes, and Rep. Graham, who were absent. Rep. Ohm was not a voting member at this time.

2. The Committee discussed the minutes of the Committee meeting on April 21, 2017.

Sen. Avard moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

3. The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

2. Committee Approval of Final Proposals:

- | | |
|-------------|---|
| FP 2016-227 | BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS
Registration or Licensing Requirements, Renewals, Continuing Education, Inspections and Forms |
| FP 2016-228 | ELECTRICIANS' BOARD
Organizational Rules; Procedural Rules |
| FP 2016-231 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rules Related to Eligibility for Adult Categories of Assistance and Medical Assistance When Living in a Residential Care Facility or a Community Residence |
| FP 2016-234 | DEPARTMENT OF REVENUE ADMINISTRATION
Business Profits Tax Basis Step-Up and Filing Deadlines |
| FP 2016-235 | DEPARTMENT OF REVENUE ADMINISTRATION
Business Enterprise Tax Short Period Return Filing Deadline |

- FP 2016-237 DEPARTMENT OF ENVIRONMENTAL SERVICES
Drinking Water Programs
Public Drinking Water Rules: Definition of "Owner or Operator"
- FP 2016-238 DEPARTMENT OF ENVIRONMENTAL SERVICES
Drinking Water Programs
Control of Lead and Copper; Public Drinking Water Primacy Amendments
- FP 2016-241 GUARDIAN AD LITEM BOARD
Media Access
- FP 2017-1 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Medicaid General Program Information and Provider Requirements - Surveillance and Utilization Review and Control
- FP 2017-2 DEPARTMENT OF REVENUE ADMINISTRATION
Failure to Include M&R Tax License Number on Advertisements of Short-Term Rentals
- FP 2017-3 DEPARTMENT OF REVENUE ADMINISTRATION
Advertisements of Short-Term Rentals
- FP 2017-24 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rules Related to Eligibility for Additional Hardship Extensions to the 60-Month Lifetime Limit on Receipt of FANF Financial Assistance
- FP 2017-29 FISH AND GAME DEPARTMENT
Moose Season Lottery
- FP 2017-38 ASSESSING STANDARDS BOARD
Assessing Standards Board Explanation of Adoption of Rule, Public Forums and Subcommittee Meetings

3. *Committee Conditional Approvals:*

- FP 2016-223 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Rivers Management and Protection Program
- FP 2017-32 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Special Supplemental Nutrition Program for Women, Infants and Children (WIC) - Price of Infant Formula and Foods

Rep. Schmidt moved that the Committee approve the Consent Agenda except for Final Proposal 2016-238 and Final Proposal 2017-3, that is, approve the other Final Proposals in Item #2 and conditionally approve

the Final Proposals in Item #3 based on the agency's amended conditional approval request for Final Proposal 2016-223 and the agency's conditional approval request for Final Proposal 2017-32.

Rep. Ladd seconded.

Adopted.

4. The Committee discussed whether to postpone action on certain items to another meeting.

No action to postpone was taken at this time.

5. The Committee discussed Final Proposal 2016-191 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Rights of Persons Receiving Peer Support Services). Catherine Bernhard and Raymond Perry testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2016-191.

Sen. Avard seconded.

Adopted.

6. The Committee discussed Final Proposal 2016-198 from the Department of Health and Human Services, (Former Division of Mental Health and Developmental Services, Administration of Medications in Behavioral Health). Catherine Bernhard and Raymond Perry testified for the Department.

Rep. Hatch moved that the Committee approve Final Proposal 2016-198.

Sen. Avard seconded.

Adopted.

7. The Committee discussed Final Proposal 2016-207 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Peer Support). Catherine Bernhard and Raymond Perry testified for the Department.

Sen. Kahn arrived during the discussion of this item. Rep. Ebel was no longer a voting member.

Rep. Schmidt moved that the Committee approve Final Proposal 2016-207.

Sen. Avard seconded.

Adopted.

8. The Committee discussed the following Final Proposals from the Department of Health and Human Services:

FP 2017-28 Former Division of Public Health Services
Educational Health Centers

FP 2017-31 Former Division of Public Health Services
Adult Day Programs

Michael Holt and Melissa St. Cyr testified for the Department.

The Department had submitted a conditional approval request for each Final Proposal in a letter and amended rules dated May 17, 2017.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2017-28 and Final Proposal 2017-31 based on the requests.

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed Proposed Interim Rule INT 2017-12 from the Department of Health and Human Services (Former Office of Alcohol and Drug Abuse Prevention, Operational Requirements for Opioid Detoxification and Methadone Maintenance, Treatment and Rehabilitation). Michael Holt testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2017-12.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed the emergency rule filed by the Department of Health and Human Services (Commissioner, Child Care Licensing Rules, Document #12174, effective May 12, 2017). Catherine Bernhard and Melissa Clement testified for the Department.

It was the consensus of the Committee to take no further action.

11. The Committee discussed Final Proposal 2016-202 from the Department of Employment Security (Initial Claims Filing). Marie-Helene Bailinson represented the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated May 18, 2017.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2016-202 as requested.

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Final Proposal 2016-220 from the Pharmacy Board (Licensing of Retail Drug Distributors). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in amended rules dated May 18, 2017.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2016-220 as requested, but with the further amendment of replacing “perjury” with “unsworn falsification under RSA 641:3” in Ph 601.06(d)(2) and (3) and Forms MM-1, MM-2B, and MM-2C.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Final Proposal 2016-221 from the Pharmacy Board (Licensing of Outsourcing Facilities Identified as 503B Facilities by the FDA). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rules dated May 18, 2017.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2016-221 as requested.

Sen. Avard seconded.

Adopted.

14. The Committee discussed the response by the Board of Auctioneers to the Committee’s revised objection to Final Proposal 2016-139 (Complaints and Hearing Procedures, Licensing Requirements, Continued Status, and Ethical Standards). Roy Tisley, Board member, testified for the Board.

Sen. Reagan left the meeting during the discussion of this item, and Rep. McGuire as Vice-Chair became the Acting Chair. Rep. McGuire designated Rep. Ohm as an alternate for Sen. Reagan.

Sen. Avard moved that the Committee accept the response and approve the rules but also petition the Board pursuant to RSA 541-A:4 to undertake another rulemaking proceeding to address the comments of Committee staff to Auc 203.20(d) and with the understanding that the Board would, with the assistance of Sen. French, seek legislative clarification of the Board’s authority over Internet sales.

Rep. Schmidt seconded.

Adopted.

15. After a break, with Reps. McGuire, Gottling, Hatch, Matthews, and Ohm, and Sen. Kahn present, the Committee discussed Final Proposal 2016-229 from the Electricians’ Board (Licensing Requirements; Continued Status). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in amended rules dated May 16, 2017 and a cover memo dated May 17, 2017.

Rep. Hatch moved that the Committee conditionally approve Final Proposal 2016-229 based on the request.

Rep. Gottling seconded.

Adopted.

16. The Committee discussed Final Proposal 2016-232 from the Naturopathic Board of Examiners (Organizational Rules; Procedural Rules). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

Rep. Hatch moved that the Committee approve Final Proposal 2016-232.

Rep. Gottling seconded.

Adopted.

17. The Committee discussed Proposed Interim Rule INT 2017-11 from the Board of Chiropractic Examiners (Fees; Obligation to Advertise Truthfully and Clearly; Prohibited Advertising; Advertising the Cost of Services). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

Rep. Hatch moved that the Committee approve Proposed Interim Rule INT 2017-11 with the recommendation that the Board address the comments of Committee staff during the regular rulemaking process.

Rep. Gottling seconded.

Adopted.

18. The Committee discussed Final Proposal 2016-238 from the Department of Environmental Services (Drinking Water Programs, Control of Lead and Copper; Public Drinking Water Primacy Amendments). Peter Demas testified for the Department.

Sen. French, Sen. Avard, and Rep. Ladd returned to the meeting during the discussion of this item.

Rep. Ohm moved that the Committee approve Final Proposal 2016-238.

Sen. Avard seconded.

Adopted.

Rep. Ebel was designated by Rep. McGuire as an alternate for Rep. Schmidt, who was absent.

19. The Committee discussed Final Proposal 2017-3 from the Department of Revenue Administration (Advertisements of Short-Term Rentals). Sean Thomas, Assistant Revenue Counsel, testified for the Department.

Sen. Kahn moved that the Committee approve Final Proposal 2017-3.

Rep. Hatch seconded.

Adopted.

20. The Committee discussed Proposed Interim Rule INT 2017-10 from the Board of Education (Career and Technical Education). Diana Fenton from the Department of Education testified for the Board.

Rep. Schmidt returned to the meeting during the discussion of this item. Rep. Ebel was no longer a voting member.

Sen. Avard moved that the Committee approve Proposed Interim Rule INT 2017-10.

Sen. Kahn seconded.

Adopted.

21. The Committee discussed the continued meeting scheduled for June 2, 2017.

It was the consensus of the Committee to cancel the continued meeting.

22. The Committee adjourned by consensus at 11:20 a.m.