



## **Action Minutes**

**June 16, 2023**

**Members Present:** Senators Chandley, and Ward, and Representatives McGuire, Grote\*, Layon, Lynn, and Schmidt. (\*) 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. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Senators Chandley, and Ward, and Representatives Grote\*, Layon, Lynn, and Schmidt.

Rep. McGuire designated Rep. Grote as an alternate for Rep. Hatch, who was absent.

2. Final Proposal 2023-55 was removed from the consent list at the request of Rep. McGuire.
3. The Committee discussed the following items on the Consent Agenda:

### **CONSENT AGENDA**

|                    |  |
|--------------------|--|
| <b>FP 2022-195</b> | BOARD OF TAX AND LAND APPEALS<br>Organizational Rules<br>Tax 100   |
| <b>FP 2023-5</b>   | GOVERNING BOARD OF OCCUPATIONAL THERAPISTS<br>Administrative Obligations and Ethical Standards<br>Occ 408.13, Occ 501.01, and Occ 502.02 |
| <b>FP 2023-14</b>  | NH PHARMACY BOARD<br>Retail Drug Facility Security<br>Ph 601.10  |
| <b>FP 2023-34</b>  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Medicaid Care Management<br>He-W 506                     |
| <b>FP 2023-39</b>  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Child and Dependent Disregard<br>He-W 654.14             |

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- FP 2023-62** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Social Security Enumeration  
He-W 732
- FP 2023-64** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Financial Assistance to Needy Families  
He-W 636.02, He-W 636.03, and He-W 636.09
- FP 2023-65** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Protective and Vendor Payments  
He-W 686.01
- FP 2023-45** BOARD OF NURSING  
Active in Practice  
Nur 101.01
- FP 2023-53** BOARD OF NURSING  
Ethical Standards  
Nur 501.01, Nur 501.02, and Nur 501.03
- FP 2023-63** MECHANICAL LICENSING BOARD  
Limitation on Number of Apprentice Plumbers  
Mec 605.02
- FP 2023-68** DEPARTMENT OF SAFETY  
Various Carnival-Amusement Rules  
Saf-C 1400 various
- FP 2023-70** DIVISION OF PERSONNEL  
Department of Administrative Services  
Definitions Related to Classification  
Per 102 various
- FP 2023-71** DIVISION OF PERSONNEL  
Department of Administrative Services  
Classification  
Per 300
- FP 2023-73** DEPARTMENT OF REVENUE ADMINISTRATION  
Nursing Facility Quality Assessment  
Rev 2700
- FP 2023-77** DEPARTMENT OF REVENUE ADMINISTRATION  
General Provisions Relating to Administration, Returns, and Taxpayer Records  
Rev 2900

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|--------------------|--|
| <b>FP 2023-81</b>  | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Commissioner<br>Therapeutic Cannabis Program – Alternative Treatment Center Rules<br>He-C 401.16 and He-C 404 various |
| <b>FP 2022-196</b> | BOARD OF TAX AND LAND APPEALS<br>Rules of Practice and Procedure<br>Tax 201  |
| <b>FP 2022-198</b> | BOARD OF TAX AND LAND APPEALS<br>Notice of Tax Date, Exemptions from Property Tax and Filing Fees<br>Tax 300 and Tax 500   |
| <b>FP 2023-4</b>   | HIGHER EDUCATION COMMISSION<br>Degree-Granting Higher Education Institutions with a Physical Presence in NH<br>Hedc 400  |
| <b>FP 2023-56</b>  | REAL ESTATE APPRAISER BOARD<br>Applicability and Waiver of Substantive Rules<br>Rab 200  |
| <b>INT 2023-2</b>  | BOARD OF EDUCATION<br>Regional Career and Technical Education Agreements (RCTEA)<br>Ed 1301.01 and Ed 1304.02  |

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve Final Proposals 2022-195, 2023-5, 2023-14, 2023-34, 2023-39, 2023-62, 2023-64, 2023-65, 2023-45, 2023-53, 2023-63, 2023-68, 2023-70, 2023-71, 2023-73, 2023-77, 2023-81, and conditionally approve Final Proposals 2022-196, 2022-198, 2023-4, and 2023-56, and Proposed Interim Rule 2023-2.

Rep. Lynn seconded.

Adopted.

4. The Committee discussed the minutes of the Committee meeting on May 19, 2023.

Rep. Schmidt moved that the minutes be approved.

Sen. Ward seconded.

Adopted.

5. The Committee discussed Final Proposal 2022-230 from the Department of Health and Human Services (Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services). Allyson Raadmae and Melissa Nemeth testified for the Department of Health and Human Services.

Karen Rosenburg of the Disability Rights Center testified against the proposal.

Rep. Lynn moved to conditionally approve Final Proposal 2022-230 based on the Committee's determination that He-M 5004.06(d) be deleted from the rule text.

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Rep. Schmidt seconded.

Adopted by a 6 to 1 vote with Sen. Chandley voting “no”.

6. The Committee discussed Final Proposal 2022-159 from the Department of Safety (Readoption of Driver Licensing Rules). David Hilts and John Marasco testified for the Department. The Department had submitted a Conditional Approval Request in amended rules dated 6-14-23.

Rep. Grote moved to conditionally approve Final Proposal 2022-159 based on the Department’s Conditional Approval Request. The motion included a request that the Department, at the Committee’s July 20, 2023 meeting, report back to the Committee regarding the specifics of its policy relative to forms and rulemaking, the implementation of the policy, and regarding any case law or orders issued by the NH Supreme Court regarding the validity of the Department’s forms.

Rep. Lynn seconded.

The motion and second were withdrawn.

After further discussion, Rep. Lynn made the same motion and recommendation.

Sen. Chandley seconded.

Adopted by a 6 to 1 vote with Rep. Layon voting “no”.

7. The Committee discussed Final Proposal 2022-186 from the Department of Safety (Motor Carrier Safety). David Hilts testified for the Department. The Department had submitted a Conditional Approval Request in amended rules dated 5-14-23.

Rep. Lynn moved to conditionally approve Final Proposal 2022-186 based on the request.

Rep. Schmidt seconded.

Adopted by a 6 to 1 vote with Rep. McGuire voting “no”.

8. The Committee discussed Final Proposal 2022-165 from the Office of Allied Health Professionals (Fees). Tina Kelley from the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire moved to postpone Final Proposal 2022-165, and to request a waiver from the Director of Legislative Services of the Committee’s 60-day deadline to act on the proposal.

Rep. Lynn seconded.

Adopted.

9. The Committee discussed Final Proposal 2022-197 from the Board of Tax and Land Appeals (Procedural Rules for Specific Types of Appeals). Anne Stelmach, the Board’s Clerk, testified for the Board. Rep. Schmidt moved that the Committee enter a preliminary objection to Final Proposal 2022-197 based on Committee Staff’s written comments, the need to write out the procedure on how a taxpayer is notified of a

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rehearing and requests a rehearing when they default, and addressing staff's remaining comments on the conditional approval request dated June 1, 2023.

Rep. Layon seconded.

Adopted.

10. The Committee discussed Final Proposal 2022-237 from the Board of Education (Reading and Writing Teacher Prep Program). Julie Shea and Steve Appleby testified for the Board of Education.

Rep. Schmidt moved to approve Final Proposal 2022-237.

Rep. Lynn seconded.

Adopted.

11. The Committee discussed Final Proposal 2023-18 from the Board of Medicine (Definition of Medical Review Subcommittee, Access to Public Records, and Draft Decisions). Tina Kelley and Douglas Osterhoudt testified for the Board of Medicine.

Rep. Schmidt moved to conditionally approve Final Proposal 2023-18 based on changing the section title of Med 105.03 from "Draft Decisions" to "Board Decisions".

Sen. Ward seconded.

Adopted.

12. The Committee discussed Final Proposal 2023-21 from the Assessing Standards Board (Certification of Assessors). Betsey Patten and Bob Gagne testified for the Board. The Board had submitted a conditional approval request in amended rules dated 4-8-23.

Rep. Lynn moved to conditionally approve Final Proposal 2023-21 based on the request.

Sen. Chandley seconded.

Adopted.

13. The Committee discussed Final Proposal 2023-29 from the Department of Environmental Services (Prevention, Abatement, and Control of Mobile Source Air Pollution). Mike Fitzgerald testified for the Department.

Rep. Layon moved to conditionally approve Final Proposal 2023-29 based on amending Env-A 1102.03(c)(2) by deleting the word "commercial" so that it reads: "Supplying heat or air conditioning necessary for passenger comfort in those vehicles intended for passenger transportation; or".

Rep. Schmidt seconded.

Adopted.

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14. The Committee discussed Final Proposal 2023-96 from the Office of Professional Licensure and Certification (Court Reporters). Douglas Osterhoudt and Heather Kelley testified for the Office.

Rep. McGuire moved to postpone Final Proposal 2023-96, and to request a waiver from the Director of Legislative Services of the Committee's 60-day deadline to act on the proposal.

In the same motion, Rep. McGuire moved to postpone Final Proposal 2023-52 from the Office of Professional Licensure and Certification (Application-Related Fees for Regulated Professionals) and to request a waiver from the Director of Legislative Services of the Committee's 60-day deadline to act on the proposal.

Rep. Schmidt seconded.

Adopted.

15. The Committee discussed Final Proposal 2023-51 from the Office of Professional Licensure and Certification (Fees for Site Visits and Inspections Not Related to Licensure). Douglas Osterhoudt and Heather Kelley testified for the Office.

Rep. McGuire moved to approve Final Proposal 2023-51 with the understanding that the individual board's rules that set the same type of fees will be expeditiously repealed in order to resolve the issue of conflicting rules.

Rep. Schmidt seconded.

Adopted.

16. The Committee discussed Final Proposal 2023-67 from the Office of Professional Licensure and Certification (Recreational Therapists). Douglas Osterhoudt testified for the Office.

Rep. McGuire moved to postpone Final Proposal 2023-67, and to request a waiver from the Director of Legislative Services of the Committee's 60-day deadline to act on the proposal.

Rep. Layon seconded.

Adopted.

17. The Committee discussed Final Proposal 2023-69 from the Board of Nursing (Renewal, Re-Entry, and Reinstatement). Tina Kelley testified for the Board of Nursing. The Board had submitted a conditional approval request in amended rules dated 6-8-23.

Rep. McGuire moved to conditionally approve the rule by based on the request and an oral request during the meeting that the phrase "may be fined" in Nur 401.01(g) be replaced by the phrase "shall be fined up to".

Sen. Chandley seconded.

Adopted by a vote of 6 to 1 with Rep. Lynn voting "no".

18. The Committee discussed Final Proposal 2023-89 from the Department of Health and Human Services (Foster Family Care Licensing Requirements). Allyson Raadmae, Jenna Wilson, and Beth Margeson

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testified for the Department of Health and Human Services. The Department had submitted a conditional approval request in amended rules dated 6-9-23.

Rep. McGuire moved to preliminarily object to Final Proposal 2023-89 based on the Committee's determination that the rules are unclear due to the agency not being clear as to when an application is completed in order for the agency to issue a decision within 60 days to comply with RSA 541-A:29, that the signed acknowledgement in He-C 6446.06(d)(1)a. may be against the public interest due to the lack of protection for applicant's healthcare information when it is disclosed to the Department's providers, and that He-C 6446.14(h) may no longer be enforceable due to HB 408 becoming effective once it is signed by the Governor.

Rep. Layon seconded.

Adopted.

19. The Committee discussed Final Proposal 2023-55 from the Department of Employment Security (Employer Requirements/Quarterly Reports/Authorized Agents/Filing Requirements). Marie-Helene Bailison testified for the Department.

Rep. McGuire moved to conditionally approve the rule based on an oral request by Attorney Bailison during the meeting that the Department be allowed to remove "500" in Emp 303.02(d)(2) and replace it with "10,500" and remove "501" in Emp 303.02 (d)(3) and replace it with "10,501".

Rep. Schmidt seconded.

Adopted.

20. Under "Other Business", Attorney Muniz informed the Committee that subsequent to the Committee's meeting on May 19<sup>th</sup>, public testimony was received regarding Final Proposal 2023-60 from the Fish and Game Department regarding wildlife rules. The Final Proposal was approved by the Committee on May 19<sup>th</sup>. Attorney Muniz explained that the testimony opposed Final Proposal 2023-60 based on a concern that implementation of the rules might lead to a violation of the federal Endangered Species Act.
21. The Committee discussed the continued meeting scheduled for June 30, 2023. It was the consensus of the Committee to cancel the continued meeting.
22. The Committee discussed adjournment.

By consensus, the Committee adjourned at 12:02 PM.