



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

**Action Minutes**

**JANUARY 18, 2019**

**Members Present:** Representatives Hatch, McGuire, Schmidt, Hoelzel, Williams, Schuett\*, Karrick\*, and Sytek\*, and Senators Reagan, Feltes, Kahn, Ward, Dietsch, and Gray\*. (\*) 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. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Hoelzel, Williams, Karrick, and Sytek, and Sens. Reagan, Feltes, Kahn, Ward, and Gray.

Rep. Hatch designated Sen. Gray as an alternate for Sen. Dietsch, who was absent. Reps. Karrick and Sytek were not voting members at this time.

2. The Committee discussed the minutes of the Committee meeting on December 20, 2018.

Sen. Feltes moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

Sen. Dietsch arrived during the discussion of this item. Sen. Gray was no longer a voting member.

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

**CONSENT AGENDA**

***2. Committee Approval of Final Proposals:***

- |             |   |
|-------------|---|
| FP 2018-143 | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Division of Elderly and Adult Services<br>Nursing Assistant Training Reimbursement   |
| FP 2018-168 | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Telephone Redeterminations, Personal Interviews, and Excluded Income  |
| FP 2018-170 | DEPARTMENT OF HEALTH AND HUMAN SERVICES<br>Former Division of Human Services<br>Expanded List of Healthcare Providers Authorized to Complete Exemption and Incapacity Forms for Financial Assistance to Needy Families (FANF) |

- FP 2018-194     DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Payments to Non-Public Disproportionate Share Hospitals and Uncompensated Care Fund Reporting
- FP 2018-195     DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Assessment and Evaluation of Persons Eligible for Involuntary Civil Commitment as Sexually Violent Predators

**3. *Committee Conditional Approvals:***

- FP 2018-145     PEASE DEVELOPMENT AUTHORITY  
Rules Regulating Pilots and Pilotage
- FP 2018-183     DEPARTMENT OF ENVIRONMENTAL SERVICES  
Water Quality and Quantity Programs  
Amendments Regarding Individual Sewage Disposal System Loading Calculations, Amended ISDS Plans, Daily Flow Calculations

Sen. Reagan moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2 and conditionally approve the Final Proposals in Item #3 based upon the agencies' conditional approval requests.

Rep. Schmidt seconded.

Adopted.

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

Sen. Reagan moved that the Committee postpone action on the following item to the next Committee meeting:

**9. *BOARD OF NURSING***

- FP 2018-159     Application Procedure  
*(JLCAR Deadline January 25, 2019.)*  
*(Formerly Item #9 on 11-15-18 Agenda.)*

Sen. Kahn seconded.

Adopted.

Sen. Reagan then moved that the Committee also postpone action on the following item, and request a waiver from the Director of the Office of Legislative Services of the Committee's deadline for action for Final Proposal 2018-159:

**7. DEPARTMENT OF SAFETY**

- (b) OR 2018-122      Commissioner  
                                 Modular Buildings and Building Components Rules  
                                 *(JLCAR Deadline March 26, 2019.)*  
                                 *(Response due by February 4, 2019 but not yet filed.)*

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2018-135 from the Department of Safety (Commissioner, Display Fireworks Rules). Marta Modigliani from the Department of Safety testified for the Department.

Rep. Schuett arrived during the discussion of this item, but she was not a voting member at this time.

The Committee recessed the action on the Final Proposal at this time so that Department staff could confirm with the Commissioner proposed text for a conditional approval request.

6. The Committee discussed Final Proposal 2018-74 from the Board of Education (Non-public School Approval). Amanda Phelps from the Department of Education testified for the Board.

The Board had submitted a conditional approval request in an amended rules dated January 18, 2019 but received on January 17, 2019.

Sen. Reagan moved that the Committee conditionally approved Final Proposal 2018-74 based on the request.

Sen. Feltes seconded.

Adopted.

7. The Committee discussed Proposed Expedited Revisions to Agency Form EXRF 2018-2 from the Police Standards and Training Council (Revision to PSTC "Form D Report and Medical History"). David Parenteau from the Council and Nancy Smith from the N.H. Department of Justice testified for the Council.

Sen. Reagan moved that the Committee approve Proposed Expedited Revisions to Agency Form EXRF 2018-2 with the recommendation that the Council undertake rulemaking to amend Pol 301.04 to address the comments by Committee staff in order to make Pol 301.04 and Form D consistent.

Sen. Kahn seconded.

Adopted.

8. The Committee discussed again Final Proposal 2018-135 from the Department of Safety (Display Fireworks Rules). Marta Modigliani testified for the Department.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2018-135 on the condition that Saf-C 5005.02(b)(3) be amended to read: "The licensee is a threat to the safety of the public or to the state or any political subdivision thereof".

Sen. Feltes seconded.

Adopted.

9. The Committee discussed Proposed Interim Rule INT 2019-1 (Division of Elderly and Adult Services, The Social Services Block Grant (XX)). Allyson Zinno and Wendy Aultman testified for the Department.

Rep. McGuire moved that the Committee conditionally approve Proposed Interim Rule INT 2019-1 on the condition that He-E 501.03(aa) be amended to read as follows:

“(aa) “Nursing facility” means a place which provides for 2 or more persons’ basic domiciliary services, including board, room and laundry, continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required.”

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule INT 2019-2 (Former Division of Public Health Services, New Hampshire Nursing Home Rules). Alysson Zinno and Doreen Shockley testified for the Department.

Sen. Reagan moved that the Committee conditionally approve Proposed Interim Rule INT 2019-2 on the condition that He-P 803.03 (aq) be amended to read:

“(aq) “Nursing homes(s)” means a place which provides for 2 or more persons’ basic domiciliary services, including board, room and laundry, continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required.”

Sen. Feltes seconded.

Adopted.

11. The Committee discussed Proposed Interim Rule INT 2019-3 from the Department of Health and Human Services (Commissioner, Submission of Health Care Facility Financial Data). Catherine Bernhard, Kim Reeve, and Meredith Telus testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated January 15, 2019.

Sen. Reagan moved that the Committee conditionally approve Proposed Interim Rule INT 2019-3 based on the request.

Rep. McGuire seconded.

Adopted.

12. After a break, with Reps. Hatch, McGuire, Schmidt, Hoelzel, Williams, Schuett, Karrick, and Sytek, and Sens. Reagan, Feltes, Kahn, Ward, Dietsch, and Gray present, the Committee discussed the response by the Department of Health and Human Services to the Committee’s objection to Proposed Interim Rule INT 2018-26 (Former Division of Human Services, NH Granite Advantage Health Care Program).

Sen. Reagan moved that the Committee postpone action on Proposed Interim Rule INT 2018-26 to the next Committee meeting.

Sen. Feltes seconded.

Adopted. Rep. Hatch noted for the record that Rep. McGuire voted “no”.

13. The Committee discussed the continued meeting scheduled for February 1, 2019.

Sen. Kahn moved that the meeting be cancelled.

Rep. Schmidt seconded.

Adopted.

14. The Committee adjourned by consensus at 10:05 a.m.

An orientation session was held for members after adjournment.