



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

Action Minutes

NOVEMBER 7, 2019

Members Present: Representatives Hatch, Schmidt, Williams, Hoelzel, and Karrick*, and Senators Reagan, Dietsch, Kahn, Ward, and Watters. (*) Indicates alternate member.

(**) Indicates where Part 1, Article 28-a of the N.H. Constitution was an issue in the Committee's discussions or decisions in this meeting. (See Item #16 relative to the declaratory judgment filed against the Department of Environmental Services. However, the Committee took no further action.)

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. Schmidt, Hoelzel, and Karrick, and Senators Reagan, Dietsch, Kahn, Watters, and Ward.

Rep. Hatch designated Rep. Karrick as an alternate for Rep. Williams until he arrived, and then for Rep. McGuire, who was absent.

2. The Committee discussed the minutes of the Committee meeting on October 17, 2019.

Sen. Reagan moved that the minutes be approved with an amendment to Item #17 on page 8 where the word "adjourned" should be changed to "recessed."

Rep. Schmidt seconded.

Adopted.

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

No action to postpone was taken at this time.

4. The Committee discussed Final Proposal 2019-100 from the Department of Health and Human Services (Former Division of Public Health Services, Rules for Residential Treatment and Rehabilitation Facilities). Allyson Zinno, Doreen Shockley, and Wendy Smigelski testified for the Department.

Rep. Williams and Sen. Kahn arrived during the discussion of this item. Rep. Karrick was now an alternate for Rep. McGuire.

The Department had submitted a conditional approval request in a letter and amended rules dated November 6, 2019.

Sen. Dietsch moved that the Committee make a preliminary objection to Final Proposal 2019-100 on the grounds as outlined in the annotations by Committee staff to the Final Proposal, with the understanding that the rules would be amended to incorporate the changes in the Department's conditional approval request but also address the Committee staff's comments to that request and other changes as discussed in the Committee meeting on November 7.

Sen. Reagan seconded.

Adopted.

5. The Committee discussed Final Proposal 2019-108 from the Department of Health and Human Services (Former Division of Public Health Services, Rules for Ambulatory Surgical Centers). Allyson Zinno, Doreen Shockley, and Wendy Smigelski testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated October 30, 2019 and an amended conditional approval request in a letter and amended rules dated November 5, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-108 based on the conditional approval request as amended by the amended conditional approval request, and on making the following additional changes:

- Delete He-P 812.03(br) and editorially renumber the subsequent paragraphs;
- In He-P 812.07(j), place a period after “Appendix A”, and delete the remainder of (j); and
- In He-P 812.15(a)(3), place a period after “or disease”, and delete the remainder of (3).

Rep. Williams seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-121 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Certification Standards for Behavioral Health Community Residences). Kim Reeve and Philip Bradley testified for the Department.

The Department has submitted a conditional approval request in a letter and amended rules dated October 11, 2019.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-121 based on the request.

Rep. Williams seconded.

Adopted.

7. The Committee discussed Final Proposal 2019-107 from the Board of Accountancy (Application for Initial Certification, Reciprocity, and Return to Active Practice). Joseph Shoemaker from the Office of Professional Licensure and Certification testified for the Board.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2019-107 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Sen. Reagan seconded.

Adopted.

8. The Committee discussed Final Proposal 2019-46 from the Board of Medicine (Licensure Requirements, Renewal Requirements, Ethical Standards, and Physician Assistant Rules). Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2019-46 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed Final Proposal 2019-67 from the Real Estate Commission (Amendments to Organizational Rules, Practice and Procedural Rules, Licensing Requirements, and Continued Status). Joseph Shoemaker from the Office of Professional Licensure and Certification testified for the Commission.

The Commission had submitted a conditional approval request in amended rules dated October 24, 2019.

Sen. Reagan moved that the Committee conditionally approve Final proposal 2019-67 based on the request and on making the following additional amendments:

- In the proposed Rea 301.01(a)(2), changing "...to question 1 through 9.." to "...to question 1-6 and 9..." and by making the same change on the "Real Estate Application Form"; and
- In the proposed Rea 301.01(a)(3), adding the phrase "including an attachment that explains the circumstances surrounding any arrest or conviction" after the word "website".

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed the response by the Pharmacy Board to the Committee's preliminary objection to Final Proposal 2019-33 (Registered and Certified Pharmacy Technician Duties). Lindsey Courtney and Michael Bullek from the Office of Professional Licensure and Certification testified for the Board.

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

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2019-72 from the Pharmacy Board (Investigations). Lindsey Courtney and Michael Bullek 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 October 14, 2019.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2019-72 based on the request and on deleting the phrase "at the discretion of the board of pharmacy and" from Ph 2207.02(a).

Rep. Williams seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-74 from the Pharmacy Board (Inspections). Lindsey Courtney and Michael Bullek from the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2019-74 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-94 from the Electricians' Board (Apprentice Qualifications). Joseph Shoemaker from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request dated October 24, 2019 and received on November 6, 2019.

Sen. Dietsch moved that the Committee conditionally approve Final Proposal 2019-94 based on the request.

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-99 from the Governing Board of Physical Therapists (Ethical Standards). Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Governing Board.

Sen. Reagan moved that the Committee approve Final Proposal 2019-99.

Sen. Kahn seconded.

Adopted.

15. The Committee discussed the response by the Board of Nursing to the Committee's preliminary objection to Final Proposal 2019-71. (Alternative Recovery Monitoring Program). Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Board.

The Board had withdrawn the rules, but no formal response was received by the Committee by the deadline of November 4, 2019 pursuant to RSA 541-A:13, V(c). Therefore, the rulemaking proceeding was terminated.

The Committee took no further action.

- **16. The Committee discussed as other business (1) the notices of adjudicative hearings using the Jus 800 Model Rules and received pursuant to RSA 541-A:30-a, V(c) from the Banking Department (notice dated September 25, 2019 for a hearing on October 8, 2019), the Workers' Compensation Appeals Board (notice dated October 7, 2019), and the Board of Veterinary Medicine (notice received October 8, 2019 for a hearing on October 23, 2019); and (2) the notice pursuant to RSA 541-A:23, IV and RSA 541-A:24 of a declaratory judgment filed against the Commissioner of the Department of Environmental Services relative to rules of the Department on PFAS compounds in Document #12836, #12837, and #12838, effective 9-30-19.

The Committee took no further action.

17. Rep. Schmidt moved that the Committee adjourn.

Rep. Williams seconded.

Adopted.

The Committee adjourned at 11:10 a.m.