



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

FEBRUARY 21, 2020

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Hoelzel, Lang*, Schuett*, Bershtein*, and Karrick*, and Senators Reagan, Kahn, Chandley* 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 9:01 a.m. by Rep. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Williams, Hoelzel, Lang, Schuett, and Bershtein, and Sens. Reagan, Kahn, Chandley, and Gray.

Rep. Hatch designated Sen. Chandley, Sen. Gray, and Rep. Schuett, respectively, as alternates for Sen. Dietsch, Sen. Ward, and Sen. Watters, who were absent.

2. The Committee discussed the minutes of the Committee meeting on January 17, 2020.

Rep. McGuire moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

Rep. Karrick arrived at this time.

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

CONSENT AGENDA

2. Committee Approval of Final Proposals:

- | | |
|-----------------|---|
| (a) FP 2019-165 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
SO ₂ and NO _x Annual Budget Trading and Banking Program
(JLCAR Deadline March 13, 2020.) |
| (b) FP 2019-208 | DEPARTMENT OF LABOR
Responsibilities of Employers and Their Representatives
(JLCAR Deadline March 16, 2020.) |
| (c) FP 2019-211 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Indoor Smoking - Definitions
(JLCAR Deadline March 23, 2020.) |

- (e) FP 2019-191 Commissioner
Automobile Oil Fee and Motor Oil Discharge Cleanup Fund Rules
(*JLCAR Deadline March 23, 2020.*)

16. PHARMACY BOARD

- ROR 2019-74 Inspections
(*JLCAR Deadline April 21, 2020.*)
(*Response due March 2, 2020 but not yet filed.*)

17. Discussion on Petition Responses:

- (a) Petition January 17, 2020 to the Department of Environmental Services relative to repeal of emergency rule Env-Wq 1503.09(h) (Document #12949, effective December 20, 2019) on amendments to criteria for issuance of alteration of terrain permits; and
- (b) Petition January 17, 2020 to the Board of Accountancy relative to amending Ac 301.04 and Ac 301.05 on initial certification and reciprocity to address JLCAR staff comments regarding the authority under RSA 309-B of the National Association of State Boards of Accountancy (NASBA).
(*Response not yet filed.*)

Sen. Reagan seconded.

Adopted.

5. The Committee discussed Final Proposal 2019-210 from the Department of Health and Human Services (Former Division of Human Services, Medical Assistance Services Provided by Education Agencies). Melissa St. Cyr, Henry Lipman, and Jane Hybsch testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated February 20, 2020.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-210, based on the conditional approval request, and request that (1) the Governing Board of Speech Language Pathologists undertake rulemaking as required by RSA 326-B:5, V-a to adopt “the requirements for direction and supervision of persons whose work is exempted from licensure or certification requirements pursuant to RSA 326-F:2” and (2) the Department of Health and Human Services report back to the Committee within 2 months on the status of rulemaking to amend He-W 589 further as discussed in the meeting, including adding a definition of “clinician”.

Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-197 from the Department of Health and Human Services (Former Division of Human Services, Physician Services). Allyson Zinno and Jane Hybsch testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated February 20, 2020.

Sen. Reagan moved that the Committee approve Final Proposal 2019-197.

Rep. Schmidt seconded.

Adopted.

Rep. Williams left the meeting at this time.

7. The Committee discussed Final Proposal 2019-135 from the Board of Psychologists (Informal Resolution, Post-Doctoral Supervision, Application Process, Temporary License Application, and Written Applications). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Rep. Williams returned to the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2019-135 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Rep. McGuire seconded.

Adopted.

8. The Committee discussed Final Proposal 2019-178 from the Board of Barbering, Cosmetology, and Esthetics (School and Shop Requirements, Licensee Standards, Fines, and Inspection Notices). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in a cover memo and amended rules dated February 10, 2020.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2019-178 based on the request.

Rep. Williams seconded.

Adopted.

It was noted for the record that Rep. McGuire voted "no."

9. The Committee discussed Final Proposal 2019-177 from the Board of Barbering, Cosmetology, and Esthetics (Mobile Barbershops). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

It was the consensus of the Committee to postpone action on this item to the continued Committee meeting on March 6, 2020.

Rep. McGuire left the meeting at this time.

10. The Committee discussed Final Proposal 2019-140 from the Board of Medical Imaging and Radiation Therapy (Processing of Applications, Required Documents, Temporary Licenses). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Rep. McGuire returned to the meeting during the discussion of this item.

Rep. Schmidt moved that the Committee approve Final Proposal 2019-140.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2019-134 from the Board of Dental Examiners (Qualified Dental Assistants' Duties, Dental Hygienists Duties, Processing of Applications, Required Documents, Temporary Licenses). Thomas Broderick of the Office of Professional Licensure and Certification testified for the Board.

Rep. Hatch moved that the Committee conditionally approve Final proposal 2019-134 on the condition that the Board amend Final Proposal 2019-134 by amending the last sentence of Den 403.03(b) to begin with "Starting April 1, 2020" instead of "January 1, 2020".

Rep. McGuire seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-153 from the Lottery Commission (Bingo Rules). Valerie King testified for the Commission.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2019-153 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Sen. Reagan seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-154 from the Lottery Commission (Lucky 7 Rules). Valerie King testified for the Commission.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2019-154 on the grounds as outlined in the annotations by Committee staff to the Final Proposal.

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed Proposed Expedited Revision to Agency Form EXRF 2020-1 from the Department of Safety (Commissioner, Form DSSP 311 for registration of Criminal Offenders). David Hilts testified for the Department.

Rep. Williams left the meeting during the discussion of this item.

Rep. McGuire moved that the Committee make a preliminary objection to Proposed Expedited Revision to Agency Form EXRF 2020-1 based on the ground that the form DSSP 311 as revised was contrary to legislative intent pursuant to RSA 541-A:19-c, VI(b) due to conflict with RSA 651-B:4, III(e), which requires that the offender report the "[m]ake, model, color, and license plate or registration number and state of registration of any vehicle, watercraft, or aircraft owned or regularly operated by the offender, and the place or places where such vehicles, watercraft, or aircraft are regularly kept." The Committee had noted that page one of the form requires the year, make, model, color, state, and license plate number of a vehicle, but not the plate or registration number of watercraft or aircraft or where they and the vehicles are kept. The revised form also adds "VIN Number" to what the statute requires.

Sen. Reagan seconded.

Adopted.

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It was noted for the record that Sen. Chandley voted "no".

15. The Committee discussed an emergency rule Document #12982, effective January 23, 2020, from the Department of Safety (Commissioner, Exceptional Disaster Relief Rules). Keith Lohmann testified for the Department.

Rep. Williams returned to the meeting during the discussion of this item.

The Department had repealed the emergency rule effective February 20, 2020.

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

16. Rep. Schmidt moved that the Committee recess until the continued meeting on March 6, 2020.

Sen. Reagan seconded.

Adopted.

The Committee recessed at 11:18 a.m.