



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

MARCH 15, 2019

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Schuett*, Karrick*, and Fontneau*, and Senators Reagan, Feltes, Dietsch, and Ward. (*) 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 Final Proposal 2018-171 in the Consent Agenda in Item #3, but that Final Proposal was approved).

1. The meeting was convened at 9:02 a.m. by Rep. Hatch as Chair.

Members present at this time, aside from Rep. Hatch, were Reps. McGuire, Schmidt, Williams, Karrick, and Fontneau, and Sens. Reagan, Feltes, Dietsch, and Ward.

Rep. Hatch designated Rep. Karrick and Rep. Fontneau as alternates, respectively, for Sen. Kahn and Rep. Hoelzel, who were absent.

2. The Committee discussed the minutes of the Committee meeting on February 15, 2019.

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

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

CONSENT AGENDA

2. Committee Approval of Final Proposals:

- | | |
|-------------|--|
| FP 2018-171 | DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Winnepesaukee River Basin Program Rules |
| FP 2018-213 | INSURANCE DEPARTMENT
Privacy of Consumer Financial and Health Information |
| FP 2019-1 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Milk Producers, Milk Plants, Producer-Distributors, and Distributors |
| FP 2019-3 | CURRENT USE BOARD
Current Use Assessment Ranges |
| FP 2019-9 | PESTICIDE CONTROL BOARD
Definition of "Supervisory Registration Certificate-General Use" |

- FP 2019-10 PESTICIDE CONTROL BOARD
Definitions, Supervisory Level Certificates, and Use Along Public Road Rights-of-Way
- FP 2019-12 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
The Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

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

Sen. Reagan moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2.

Rep. Schmidt seconded.

Adopted.

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

No action to postpone was taken.

5. The Committee discussed Final Proposal 2018-156 from the Department of Safety (Commissioner, Emergency Medical Services Rules). Marta Modigliani and Jeffrey Phillips testified for the Department.

Sen. Reagan moved that the Committee make a preliminary objection to Final Proposal 2018-156 on the grounds as outlined in the annotations to the Final Proposal by Committee staff, specifically that the proposed rules were not in the public interest due to lack of clarity.

Rep. Williams seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-2 from the Assessing Standards Board (Certification of Assessors). Board Chair Betsy Patten, Lauren Martin, and Robert Gagnon testified for the Board.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2019-2 on the grounds as outlined in the annotations to the Final Proposal by Committee staff, especially in regards to forms.

Sen. Reagan seconded.

Adopted.

Rep. Schmidt recused himself from the vote because he was a Board member.

7. The Committee discussed Final Proposal 2018-161 from the Pharmacy Board (Continuous Quality Improvement Within Pharmacies). Thomas Broderick, from the Office of Professional Licensure and Certification, and Rep. Gary Merchant, Board Chairman, testified for the Board.

Robert Stout had previously submitted written testimony.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2018-61 to address the editorial comments by Committee staff.

Sen. Dietsch seconded.

Adopted.

Since a conditional approval was not necessary to have the Board address the editorial comments, Sen. Feltes moved to approve Final Proposal 2018-161 with the recommendation that the editorial comments by Committee staff be addressed.

Sen. Dietsch seconded.

Adopted.

8. The Committee discussed Final Proposal 2018-164 from the Public Utilities Commission (Competitive Natural Gas Supplier and Aggregator Rules). David Wiesner testified for the Commission.

The Commission submitted a conditional approval request in an amended rule in the meeting.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2018-164 based on the request.

Sen. Dietsch seconded.

Adopted.

9. The Committee discussed Final Proposal 2018-212 from the Insurance Department (Hazardous Financial Conditions, Licensed Companies). Douglas Bartlett and Marty Mobley testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2018-212.

Sen. Reagan seconded.

Adopted.

10. The Committee discussed Final Proposal 2018-214 from the Department of Health and Human Services (Commissioner, Certification Payment Standards for Transportation Service Providers). Allyson Zinno and Kali Giovanditto testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rules dated March 12, 2019.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2018-214 as requested.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2018-215 from the Department of Health and Human Services (Former Division of Public Health Services, Freestanding Megavoltage Radiation Therapy Facility). Allyson Zinno and Melissa St. Cyr testified for the Department.

The following persons also testified and submitted written testimony:

Paula Minnehan, representing the N.H. Hospital Association.
Elizabeth Gray, representing the Radiation Center of Greater Nashua.
Luc Sirois, representing the Radiation Center of Greater Nashua.

The Department had previously submitted a conditional approval request in a letter and amended rules dated March 14, 2019.

Sen. Feltes left the meeting during the discussion of this item.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2018-215 based on the request and on replacing the text of He-P 827.15(a)(1) with the following:

“Serious reportable events and specifications published in the National Quality Forum’s “Serious Reportable Events in Healthcare- 2011 Update”
<http://www.qualityforum.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=69573>, available as noted in Appendix A.”

Sen. Reagan seconded.

Adopted.

12. The Committee discussed Proposed Interim Rule INT 2019-8 from the Department of Health and Human Services (Former Division of Public Health Services, Adult Family care Residence). Allyson Zinno and Peter Bacon testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-8.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Proposed Interim Rule INT 2019-9 from the Department of Health and Human Services (Division of Elderly and Adult Services, Nursing Facility Services). Allyson Zinno and Wendi Aultman testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-9.

Rep. McGuire seconded.

Adopted.

14. The Committee discussed Proposed Interim Rule INT 2019-10 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Certification Standards for Behavioral Health Community Residences). Allyson Zinno and Melissa Nemeth testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-10.

Rep. Schmidt seconded.

Adopted.

15. The Committee discussed requesting a waiver from the Director of the Office of Legislative Services of the Committee's April 19, 2019 deadline to act on Final Proposal 2018-183 from the Fish and Game Department (Closure of Portion of Bellamy River to Waterfowl Hunting and Licensing of Guides) so that the Final Proposal could be considered at the regular Committee meeting on April 26, 2019.

Rep. McGuire moved that the Committee request a waiver.

Rep. Schmidt seconded.

Adopted.

16. The Committee discussed requesting a waiver from the Director of the Office of Legislative Services of the Committee's April 25, 2019 deadline to act on Final Proposal 2018-181 from the Department of Environmental Services (Air-Related Rules, Testing and Monitoring Procedures), so that the Final Proposal could be considered at the regular Committee meeting on April 26, 2019.

Rep. McGuire moved that the Committee request a waiver.

Rep. Schmidt seconded.

Adopted.

17. The Committee discussed the notice from the Office of Professional Licensure and Certification of its use of the Jus 800 Model Rules of Practice and Procedure from the Department of Justice in an adjudicative hearing on March 15, 2019.

No further action was taken.

18. The Committee discussed the continued meeting scheduled for April 3, 2019.

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

19. Rep. Schmidt moved that the Committee adjourn.

Rep. Williams seconded.

Adopted.

The Committee adjourned at 10:45 a.m.