



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

Action Minutes

JULY 18, 2013

Members Present: Representatives Schmidt, MacKay, Ladd, Sad, Gottling*, and Hatch*, and Senators Rausch, Cataldo, Watters, and Lasky. (*) 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 Items #11 and #12. But Item #11 was approved, and Item #12 was conditionally approved).

1. The meeting was convened at 9:00 a.m. by Rep. Schmidt as Vice-Chair.

Members present at this time, aside from Rep. Schmidt, were Reps. MacKay, Sad, and Gottling, and Sens. Rausch, Cataldo, and Lasky.

Rep. Schmidt designated Rep. Sad as an alternate for Rep. McGuire, who was absent.

Sen. Watters then arrived in the meeting.

2. The Committee discussed the minutes of the Committee meeting on June 28, 2013.

Rep. MacKay moved that the minutes be approved.

Rep. Sad seconded.

Adopted.

3. The Committee discussed the following Final Proposals (Consent Agenda – Final Proposals):

- | | |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FP 2013-7 | BOXING AND WRESTLING COMMISSION
Organizational and Practice and Procedure Rules |
| FP 2013-37 | BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS
Definitions, Apprenticeship, Applications, Equipment, Examinations, Renewals,
Inspections, and Tanning Facilities |
| FP 2013-54 | DEPARTMENT OF REVENUE ADMINISTRATION
General Provisions Relating to Administration, Returns, and Taxpayer Records |
| FP 2013-57 | DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Erroneously Paid Medical Assistance |

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- FP 2013-63 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Eligibility Determination and Individual Service Planning
- FP 2013-64 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Certification Standards for Behavioral Health Community Residences – Waivers

Rep. MacKay moved that the Committee approve the Final Proposals.

Sen. Cataldo seconded.

Adopted.

4. The Committee discussed the status of the responses to the following conditional approvals made by the Committee:

Conditionally Approved June 7, 2013:

- FP 2012-15 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Household Composition of Shared Custody of Children in the Food Stamp Program
(Response received 7-8-13 and confirmed 7-9-13.)

Conditionally Approved June 21, 2013

- FP 2013-2 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Aid to the Permanently and Totally Disabled (APTD) Cash Assistance Grant Criteria When the APTD Applicant or Recipient is Ineligible for Federal Benefits
(Response received 6-26-13 and confirmed 6-26-13.)
- FP 2013-44 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Allocation of Funds for Individual Service Requests
(Response received 6-25-13 and confirmed 6-26-13.)
- FP 2012-173 PHARMACY BOARD
Code of Ethics (Standard of Conduct)
(Response not yet received.)

No further action was taken.

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

Sen Watters moved that the Committee postpone action on the following items to the next Committee meeting on August 1, 2013:

9. 9:40 a.m. PUBLIC UTILITIES COMMISSION

- (a) FP 2013-30 Rules for Water Service
(JLCAR Deadline August 19, 2013.)
- (b) FP 2013-31 Rules for Sewer Service
(JLCAR Deadline August 19, 2013.)

13. 12:00 p.m. PHARMACY BOARD

- (a) OR 2012-174 Limitation on Access
(JLCAR Deadline September 24, 2013.)
(Response not yet received.)
- (b) OR 2012-175 Presence of Pharmacists
(JLCAR Deadline September 24, 2013.)
(Response not yet received.)
- (c) OR 2012-176 Transfer of Prescription
(JLCAR Deadline September 24, 2013.)
(Response not yet received.)
- (d) OR 2012-177 Pharmacist-in-Charge, Corporate Entity Requirements, Duties
(JLCAR Deadline September 24, 2013.)
(Response not yet received.)

14. 12:30 p.m. DEPARTMENT OF SAFETY

- (a) OR 2012-204 Explosive Rules
(JLCAR Deadline October 1, 2013.)
(Response not yet received.)
- (b) OR 2012-205 Various Procedural and Hearing Rules
(JLCAR Deadline October 1, 2013.)
(Response not yet received.)

OTHER BUSINESS

- 15. 1:00 p.m. Other**

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Sen. Cataldo seconded.

Adopted.

6. The Committee discussed Final Proposal 2013-11 from the Unemployment Compensation Appellate Board (Rules of Procedure for the Appellate Board).

Since agency representatives were not yet present, the Committee took no further action at this time.

7. The Committee discussed Final Proposal 2013-53 from the Department of Revenue Administration (Nursing Facility Quality Assessment). Kathryn Skouteris testified for the Department.

Rep. Hatch and Rep. Ladd arrived during the discussion of this item. Rep. Schmidt designated Rep. Hatch as an alternate for Sen. Reagan, who was absent.

Sen. Rausch moved that the Committee approve Final Proposal 2013-53.

Rep. Hatch seconded.

Adopted.

8. The Committee discussed Final Proposal 2013-8 from the Boxing and Wrestling Commission (Fighting Sport Rules). Bobby Stephen, Chairman of the Commission, Deputy Commissioner John Hagopian, and Michael Walls testified for the Commission.

Sen. Watters moved that the Committee make a preliminary objection to Final Proposal 2013-8.

Rep. MacKay seconded.

After further discussion, Sen. Watters withdrew his motion and Rep. MacKay withdrew his second.

Sen. Rausch moved that the Committee approve Final Proposal 2013-8 with the recommendation that the Commission enter rulemaking within the next 18 months to address concerns raised during the Committee's discussion.

Sen. Watters seconded.

Adopted.

9. The Committee discussed again Final Proposal 2013-11 from the Unemployment Compensation Appellate Board (Rules of Procedure of the Appellate Board). Lon Siel and Marie-Helene Bailinson from the Department of Employment Security testified for the Board.

On behalf of the Board, Lon Siel submitted a request for conditional approval in an amended rule dated July 18, 2013.

In order to provide time for Committee staff to discuss the conditional approval request with Department staff, the Committee took no further action at this time.

10. The Committee discussed Final Proposal 2013-25 from the Department of Environmental Services (Water Quality and Quantity Programs, Certification of Wastewater Treatment Plant Operators). Gretchen Hamel and Mary Jane Meier testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 17, 2013.

Rep. Ladd moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-25 based on the request, but with the further change of replacing "GED" with "high school equivalency" in the Final Proposal.

Rep. MacKay seconded.

Adopted.

- **11. The Committee discussed Final Proposal 2013-41 from the Department of Environmental Services (Water Quality and Quantity Programs, Standards for Pretreatment of Industrial Wastewater). Gretchen Hamel and George Carlson testified for the Department.

Sen. Lasky moved that the Committee approve Final Proposal 2013-41.

Sen. Watters seconded.

Adopted.

- **12. The Committee discussed Final Proposal 2013-9 from the Department of Environmental Services, (Oil and Remediation Programs, Underground Storage Tank Facilities). Gretchen Hamel and Michael Juranty testified for the Department.

Adam Schmidt, representing the Independent Oil Marketers Association of New England, also testified.

The Department had submitted a request for conditional approval in a letter and amended rule dated July 16, 2013.

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

Sen. Rausch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-9 based on the request.

Sen. Cataldo seconded.

Adopted.

Sen. Watters left the meeting at this time.

13. The Committee discussed Final Proposal 2013-67 from the Department of Health and Human Services, Former Division of Mental Health and Developmental Services, Revocation of Conditional Discharge). Michael Holt and Dr. Alexander de Nesnera testified for the Department.

Sen. Rausch moved that the Committee approve Final Proposal 2013-67.

Sen. Cataldo seconded.

Adopted.

14. The Committee discussed Proposed Interim Rule INT 2013-10 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Designation of Receiving Facilities). Michael Holt testified for the Department.

Sen. Lasky moved that the Committee approve Proposed Interim Rule INT 2013-10.

Rep. MacKay seconded.

Adopted.

15. The Committee resumed discussion on Final Proposal 2013-11 from the Unemployment Compensation Appellate Board (Rules of Procedure for the Appellate Board). Lon Siel and Marie-Helen Bailinson of the Department of Employment Security testified for the Board.

Sen. Watters moved that the Committee accept the Board's conditional approval request and conditionally approve Final Proposal 2013-11 based on the request.

Sen. Cataldo seconded.

Adopted.

16. Sen. Lasky moved that the Committee recess.

Sen. Cataldo seconded.

Adopted.

The Committee recessed at 12:10 p.m.