



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

Action Minutes
AUGUST 15, 2013

Members Present: Senators Reagan, Cataldo, Schmidt, Ladd, Sad, Kidder*, and Hatch*. (*) 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 the meeting.

1. The meeting was convened at 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. Cataldo and Reps. Schmidt, Ladd, Sad, Kidder, and Hatch.

Sen. Reagan designated Rep. Kidder and Rep. Hatch as alternates, respectively, for Rep. McGuire and Rep. MacKay, who were absent.

2. The Committee discussed the minutes of the Committee meeting on August 1, 2013.

Sen. Cataldo moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

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

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| FP 2013-55 | HEALTH SERVICES PLANNING AND REVIEW BOARD
Cardiac Services |
| FP 2013-58 | GOVERNING BOARD OF RESPIRATORY CARE PRACTITIONERS
Application Form, Required Documents, and Letters of Reference |
| FP 2013-59 | GOVERNING BOARD OF RESPIRATORY CARE PRACTITIONERS
License Renewal, Continuing Education, Audit Procedure, Reinstatement, and Supervisors |
| FP 2013-60 | GOVERNING BOARD OF PHYSICAL THERAPISTS
Initial Application Form and Required Documents |
| FP 2013-61 | GOVERNING BOARD OF PHYSICAL THERAPISTS
Renewal Procedures, Renewal Application Form, Required Documents, Continuing Competency, Continuing Competency Audit Procedures, Lapsed License Reinstatement, Supervision |

- FP 2013-73* BOARD OF CHIROPRACTIC EXAMINERS
Investigations
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-74* BOARD OF CHIROPRACTIC EXAMINERS
Explanation of Adopted Rules
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-75* BOARD OF CHIROPRACTIC EXAMINERS
Granting of Initial Application, Application Process, and Application Processing Procedures
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-77* BOARD OF CHIROPRACTIC EXAMINERS
Qualifications for Initial Licensure
**The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.*
- FP 2013-82 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Medicaid Home Visiting New Hampshire Program – Eligibility
- FP 2013-83 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Definitions Impacting All Categories of Financial and Medical Assistance

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

Rep. Kidder seconded.

Adopted.

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

Rep. Sad moved that the Committee postpone action on the following items to the next Committee meeting on September 5, 2013:

12. DEPARTMENT OF EMPLOYMENT SECURITY

- (a) FP 2013-48 Adjustment of Overpaid Benefit Accounts By Compromise
(JLCAR Deadline September 16, 2013.)
- (b) FP 2013-49 Offset of Federal Tax Refund Payments
(JLCAR Deadline September 16, 2013.)
- (c) FP 2013-50 Interest on Overpayments
(JLCAR Deadline September 16, 2013.)

13. 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.)

OTHER BUSINESS

14. Other

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2013-10 from the Board of Fire Control (Board of Fire Control Organizational Rules and Practice and Procedural Rules). David Hilts of the Department of Safety and State Fire Marshal John W. Degnan testified for the Board.

The Board had submitted a conditional approval request in an amended rule dated August 14, 2013.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-10 based on the request, with the following additional changes:

- Amend Bfc 103.02(a)(1) to state: “Adopting jointly with the state fire marshal, and with the approval of the commissioner, pursuant to RSA 153:5, I, amendments to the state fire code described in RSA 153:1, VI-a”;
- Amend Bfc 203.02(a) by replacing the words “may request the board to commence a proceeding” with “may request the board and the state fire marshal to commence a proceeding”;
- Amend Bfc 203.03(a) by replacing the words “If the board determines” with “If the board and the state fire marshal determine” and “it shall immediately notify” with “they shall immediately notify”;
- Amend Bfc 203.03(b) by replacing the words “the board shall take action” with “the board and the state fire marshal shall take action”;
- Amend Bfc 203.04(a) by replacing the words “the board shall take public comment on such petition at its next regularly scheduled meeting” with “the board and the state fire marshal shall take public comment at the board’s next regularly scheduled meeting”;

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- Amend Bfc 203.04(b) by replacing the words “the board shall grant” with “the board and the state fire marshal shall grant”; and
- Amend Bfc 203.04(c) to state: “Upon the granting of a petition, and with the approval of the commissioner, the state fire code shall be amended by the board and the state fire marshal in accordance with RSA 153:5, I.”

Rep. Hatch seconded.

Adopted.

6. The Committee discussed Final Proposal 2012-206 from the Department of Safety (School Bus Transportation Rules). Michael Hilts and state Trooper Christopher Kelby testified for the Department.

The Department had submitted a conditional approval request in an e-mail dated August 14, 2013 to amend the introduction to Saf-C 1308.14(e).

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-206 based on the request, with the further amendment to Saf-C 1304.04(b)(10) so that it reads: “Evidence that the driver is a danger to him/herself or to a child being transported by the driver.”

Rep. Kidder seconded.

Adopted.

7. The Committee discussed the response of the Department of Safety to the Committee’s preliminary objection to Final Proposal 2012-204 (Explosive Rules). Marta Modigliani testified for the Department.

Sen. Cataldo moved that the Committee accept the response and approve the rules, with the understanding that Saf-C 1605.04 may be further amended, as an editorial change at the time of adoption, to replace “DSSP 109” with “DSSP 121”, with the same reference to “effective May 2013” for the forms in this rule as used in other forms in the rules.

Rep. Kidder seconded.

Adopted.

8. The Committee discussed the response of the Department of Safety to the Committee’s preliminary objection to Final Proposal 2012-205 (Various Procedural and Hearing Rules). Marta Modigliani testified for the Department.

Rep. Schmidt moved that the Committee accept the response and approve the rules, with the understanding that (1) the text of Saf-C 208.03 and Saf-C 208.04, as they appear on pages 33 and 34 of the response, does not reflect the language approved by the Commissioner, (2) that the text of Saf-C 208.04 in the Commissioner’s cover letter is the language approved, and with no change to Saf-C 208.03 from the Final Proposal, and (3) in the adopted rule the text of Saf-C 208.03 should match the text of the Final Proposal, and the text of Saf-C 208.04 should match the text from the cover letter.

Rep. Sad seconded.

Adopted.

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9. After a break, with Sens. Reagan and Cataldo, and Reps. Schmidt, Ladd, Kidder, and Hatch present, the Committee discussed Proposed Interim Rule INT 2013-11 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Employment Services). Michael Holt testified for the Department.

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

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2013-11.

Rep. Ladd seconded.

Adopted.

10. The Committee discussed Proposed Expedited Revision to Agency Forms EXRF 2013-1 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Healthcare Coordination and Administration of Medications – Form 1201-A; 1201-B; 1201-C; and NH BDS Request for Waiver to He-M 1201). Michael Holt testified for the Department.

Rep. Hatch moved that the Committee approve Proposed Expedited Revision to Agency Form EXRF 2013-1, with the understanding that Form 1201-A may be amended further as an editorial change at time of adoption to indicate, based on the Department's testimony, that pages one and 2 of Form 1201-A are for programs with reportable errors, since page 3, titled "Form 1201-A Short", is for programs without reportable errors.

Rep. Sad seconded.

Adopted.

11. The Committee discussed Final Proposal 2013-213 from the Racing and Charitable Gaming Commission (Racetrack License Applications and Non-Refundable Investigation Fees). Michael Williams testified for the Commission.

Rep. Schmidt moved that the Commission approve Final Proposal 2012-213 with the recommendation that the Commission inform the appropriate policy committees of the changes to the licensing period and the investigation fee in the Final Proposal.

Rep. Ladd seconded.

Adopted.

12. The Committee discussed Final Proposal 2013-76 from the Board of Chiropractic Examiners (Application Process for New Applicants). Carole Richardson of the Department of Health and Human Services and Dr. Keith Zimmermann, Board Chairman, testified for the Board.

The Board had submitted a conditional approval request in amended rules dated August 14, 2013.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-76 based on the request.

Rep. Sad seconded.

Adopted.

13. The Committee discussed Final Proposal 2013-78 from the Board of Chiropractic Examiners (Examinations). Carole Richardson of the Department of Health and Human Services and Dr. Keith Zimmermann, Board Chairman, testified for the Board.

The Board had submitted a conditional approval request in an amended rule dated August 14, 2013.

Rep. Kidder moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-78 based on the request, with the recommendation that the Board go to the policy committees about legislation to clarify RSA 316-A:17 on examination requirements and the national examination of the National Board of Chiropractic Examiners for consistency with Ch 304.01(a) in the Final Proposal, as outlined in the "Note" by Committee staff to that rule in the Final Proposal.

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed Final Proposal 2013-79 from the Board of Chiropractic Examiners (Licensure by Endorsement). Carole Richardson of the Department of Health and Human Services and Dr. Keith Zimmermann, Board Chairman, testified for the Board.

The Board had submitted a conditional approval request in an amended rule dated August 14, 2013.

Rep. Kidder moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2013-79 based on the request, with the recommendation that the Board go to the policy committees about legislation to clarify RSA 316-A:17 on examination requirements and the national examination of the National Board of Chiropractic Examiners for consistency with Ch 305.01(d) in Final Proposal 2013-79, which is the same issue outlined in the recommendation by the Committee for Final Proposal 2013-78.

Rep. Hatch seconded.

Adopted.

15. Rep. Kidder moved that the Committee recess.

Rep. Hatch seconded.

Adopted.

The Committee recessed at 11:40 a.m.