



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

**Action Minutes**

**AUGUST 15, 2019**

**Members Present:** Representatives Hatch, McGuire, Schmidt, Fontneau\*, Schuett\*, Karrick\*, and Sytek\*, and Senators Dietsch, 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 #10. However, that item 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, Fontneau, Karrick, and Sytek, and Senators Dietsch, Ward, and Watters.

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

2. The Committee discussed the minutes of the Committee meeting on July 18, 2019.

Rep. Schmidt moved that the minutes be approved.

Rep. McGuire seconded.

Adopted.

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

**CONSENT AGENDA**

***2. Committee Approval of Final Proposals, Proposed Interim Rules, and Proposed Expedited Revision to Forms:***

FP 2019-33	PHARMACY BOARD Registered and Certified Pharmacy Technician Duties
FP 2019-77	OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION Organizational Rules, Practice and Procedure Rules
FP 2019-93	GOVERNING BOARD OF OCCUPATIONAL THERAPISTS Eligibility Requirements
FP 2019-104	DEPARTMENT OF REVENUE ADMINISTRATION Notice of Intent to Cut Wood or Timber
INT 2019-21	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Allocated Income
EXRF 2019-2	DEPARTMENT OF LABOR Employer's First Report of Injury

EXRF 2019-4      DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Mental Health and Developmental Services  
Expedited Revision to "Request for Certification of Community Residence and/or  
Community Participation Services Provider"

**3. *Committee Conditional Approvals:***

FP 2019-78      DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

INT 2019-22      DEPARTMENT OF EMPLOYMENT SECURITY  
Claimant Requirements

**4. *Committee Acceptance of Agency Responses to Objections:***

OR 2019-83      CURRENT USE BOARD  
Organizational and Practice and Procedure Rules and Rules on Criteria for Open Space  
Current Use Assessment

Rep. McGuire moved that Final Proposal 2019-33 be removed from the Consent Agenda.

Rep. Schmidt seconded.

Adopted.

It was the consensus of the Committee to also remove Objection Response 2019-83 from the Consent Agenda.

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals, Proposed Interim Rule, and Proposed Expedited Revision to Forms in Item #2, except for Final Proposal 2019-33, and conditionally approve the Final Proposal and Proposed Interim Rule in Item #3 based on the agencies' conditional approval requests.

Rep. McGuire seconded.

Adopted.

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

Rep. Schmidt moved that the Committee postpone action on the following item:

**13. *BOARD OF EDUCATION***

OR 2019-5      Learn Everywhere Program for High School Graduation Credit  
(JLCAR Deadline October 23, 2019.)

Sen. Dietsch seconded.

Adopted.

5. The Committee discussed Final Proposal 2019-61 from the Board of Registration in Optometry (Fee Schedule.) Thomas Broderick from the Office of Professional Licensure and Certification and David Grosso, Executive Director of the Office, testified for the Board.

Rep. Schuett arrived in the meeting during the discussion of this item.

Rep. Hatch designated Rep. Schuett as an alternate for Sen. Kahn, who was absent.

Rep. Schmidt moved that the Committee approve Final Proposal 2019-61 with the recommendation that the Board confer with the House Executive Departments and Administration Committee, and the Senate Executive Departments and Administration Committee regarding the Board's fees and whether they are appropriately set.

Rep. McGuire seconded.

After further discussion, Rep. Schmidt amended his motion to add the House Ways and Means Committee and the Senate Ways and Means Committee to the list of policy committees with which the Board should confer.

Rep. McGuire amended her second.

The motion as amended was adopted.

6. The Committee discussed Final Proposal 2019-71 from the Board of Nursing (Alternative Recovery Monitoring Program.) Thomas Broderick from the Office of Professional Licensure and Certification and David Grosso, Executive Director of the Office, testified for the Board.

Rep. McGuire moved that the Committee postpone action on Final Proposal 2019-71 to the regular Committee meeting in September and request a waiver from the Director of the Office of Legislative Services of the Committee's September 16, 2019 deadline to act on Final Proposal 2019-71.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed Final Proposal 2019-96 from the Board of Nursing (Endorsement.) Thomas Broderick from the Office of Professional Licensure and Certification and David Grosso, Executive Director of the Office, testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rules dated August 13, 2019.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-96 based on the request.

Rep. Schmidt seconded, and also requested information regarding the number of applicants to seek licensure by endorsement.

Adopted.

8. The Committee discussed Final Proposal 2019-97 from the Midwifery Council (Complaint Procedures, Documentation for Initial Certification, Laceration Repairs.) Thomas Broderick from the Office of

Professional Licensure and Certification and David Grosso, Executive Director of the Office, testified for the Council.

The Council had submitted a conditional approval request in a letter and amended rules dated August 13, 2019.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-97 based on the request and also on amending the application form by deleting the Administrator's name from page 1, and deleting, in the first bulleted item on page 9, the words "from a representative of a program as described in Mid 303.02(b)(3) or".

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed Final Proposal 2019-33 from the Pharmacy Board (Registered and Certified Pharmacy Technician Rules.) Thomas Broderick from the Office of Professional Licensure and Certification and David Grosso, Executive Director of the Office, testified for the Board.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2019-33 on the ground that the proposed rules are contrary to the legislative intent by effectively expanding the scope of practice for Certified Pharmacy Technicians because they eliminated the ability for Registered Pharmacy Technicians to perform the duty of computer data entry by making it the sole responsibility of Certified Pharmacy Technicians, contrary to RSA 332-G:6 which requires legislation to expand the scope of practice for regulatory boards and commissions.

Rep. Hatch seconded.

Adopted.

- \*\*10. The Committee discussed the response by the Current Use Board to the Committee's preliminary objection to Final Proposal 2019-83 (Organizational and Practice and Procedure Rules and Rules on Criteria for Open Space Current Use Assessment.) Susan Bryant Kimball testified for the Board.

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

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed Final Proposal 2019-87 from the Insurance Department (Ancillary Health Minimum Standards for Benefits for Accident-Only and Specified Accident Coverage.) Roni Karnis and Diana Lavoie testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2019-87.

Sen. Watters seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-58 from the Milk Sanitation Board (Milk Sanitation Rules.) Allyson Zinno and John Porter from the Department of Health and Human Services testified for the Board.

Rep. McGuire moved that the Committee approve Final Proposal 2019-58 with the recommendation that the Board enter rulemaking to include provisions in Mil 200 as noted in the annotations by Committee staff to the Final Proposal.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-48 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Participant Directed and Managed Services.) Kim Reeve testified for the Department.

The Department had submitted a conditional approval request in a letter dated August 13, 2019 and amended rules dated June 26, 2019.

Sen. Dietsch moved that the Committee conditionally approve Final Proposal 2019-48 based on the request.

Sen. Ward seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-79 from the Department of Health and Human Services (Former Division of Public Health Services, New Hampshire Nursing Home Rules.) 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 August 13, 2019.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2019-79 based on the request and by inserting the word "immediate" at the beginning of He-P 803.12(a)(4).

Rep. Schmidt seconded.

Adopted.

15. The Committee discussed Final Proposal 2019-66 from the Department of Health and Human Services (Former Division of Public Health Services, Sanitary Production and Distribution of Food.) Allyson Zinno and Colleen Smith testified for the Department.

Rep. Fontneau moved that the Committee approve Final Proposal 2019-66.

Rep. Schuett seconded.

Adopted.

16. The Committee discussed Proposed Expedited Revision to Form EXRF 2019-3 (Former Division of Human Services, Granite Advantage Health Care Program Form: Licensed Medical Professional Certification of Medical Facility.)

Since the Department had withdrawn the proposal on August 13, 2019, the Committee took no further action.

17. The Committee discussed the e-mail of August 1, 2019 by Dr. Stephen K. Crawford, State Veterinarian, on fees imposed by the Board of Veterinary Medicine.

The Committee took no further action.

18. The Committee discussed the notices of hearings received from the Governing Board of Physical Therapists on the use of the Jus 800 Model Rules of Practice and Procedure in adjudicative hearings on September 18, 2019, in the matter of John A. Rufo and in the matter of Rachael A. Banks.

The Committee directed the Committee staff to ask the Board how it is making sure that continuing education is being done by licensees, and how frequently does a violation occur of the rules requiring continued education, that is, how many licensees are out of compliance as compared to the total number of licensees.

19. The Committee discussed the continued meeting scheduled for September 5, 2019.

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

20. The Committee discussed the scheduling of the regular Committee meeting in September and the postponed Objection Response 2019-5.

Rep. Schmidt moved that Objection Response 2019-5 be scheduled for the regular meeting on October 17, 2019.

Rep. Fontneau seconded.

Adopted.

Rep. Schmidt moved that the Committee re-schedule the regular meeting in September from September 19 to September 20.

Rep. McGuire seconded.

Adopted.

21. The Committee adjourned by consensus at 10:16 a.m.