



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

August 20, 2015

Members Present: Representatives McGuire, Schmidt, Ladd, Kidder, and Gottling*, and Senators Reagan, Cataldo, Avard, Feltes, and Daniels*. (*) Indicates alternate member.

(**) Part I, 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 9:03 a.m. by Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Kidder, Ladd, and Gottling, and Sens. Reagan, Cataldo, Feltes, and Daniels.

2. The Committee discussed the minutes of the Committee meeting on July 16, 2015.

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

Rep. McGuire designated Rep. Gottling and Sen. Daniels as alternates, respectively, for Rep. Sad and Sen. Watters, who were absent.

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

2. ***Committee Approval of Final Proposals:***

FP 2015-89	INSURANCE DEPARTMENT Actuaries
FP 2015-91	DEPARTMENT OF ENVIRONMENTAL SERVICES Solid Waste Programs Signature Requirement for Annual Facility Reports for Active Solid Waste Facilities
FP 2015-93	INSURANCE DEPARTMENT Property and Casualty Rate and Supplementary Information Filings
FP 2015-94	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Service Limits, Co-Payments, and Non-Covered Services
FP 2015-95	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Extended Services to Pregnant Women

- FP 2015-98 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rule Related to Resources Basic Principles for Financial Assistance and
New Rule for Resources Basic Principles for Medical Assistance
- FP 2015-100 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Establishment and Operation of Area Agencies
- FP 2015-104 DEPARTMENT OF LABOR
Explanation of Adopted Rules
- FP 2015-116 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Annual Fees for Reciprocity in He-P 4070.05(e), Table 4070.1-A as Required by
He-P 4030.18

3. *Committee Conditional Approvals:*

- FP 2015-61 BOARD OF EDUCATION
Physical Education and Principal

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

- ROR 2015-18 GOVERNING BOARD OF PHYSICAL THERAPISTS
Requirements for Initial Licensure
- ROR 2015-21 GOVERNING BOARD OF ATHLETIC TRAINERS
Continued Status

Rep. Schmidt moved that the Committee approve these items on the Consent Agenda, that is, approve the Final Proposals in Item #2, conditionally approve the Final Proposal in Item #3 based on the agency's conditional approval request, and accept the responses and approve the rules in Item #4,

Rep. Ladd seconded.

Adopted.

4. The Committee discussed the following Final Proposals from the agency indicated:

- FP 2015-39 BOARD OF REGISTRATION OF FUNERAL DIRECTORS AND EMBALMERS
Funeral Director's Place of Establishment
- FP 2015-40 BOARD OF REGISTRATION OF FUNERAL DIRECTORS AND EMBALMERS
Crematories

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

Rep. Schmidt seconded.

Adopted.

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

Sen. Reagan moved that the Committee postpone action on the following Final Proposal to the regular Committee meeting on October 15, 2015:

11. DEPARTMENT OF HEALTH AND HUMAN SERVICES

- (a) FP 2015-67 Former Division of Human Services
Medicaid Managed Care
(JLCAR Deadline October 15, 2015.)
(Formerly Item 13(b) on 6-19-15 and 6-26-15 agendas and Item #9(a) on 7-16-15 agenda.)

Rep. Schmidt seconded.

Adopted.

After further discussion, Sen. Reagan moved that the Committee postpone action on the following Final Proposal and request that the Director of the Office of Legislative Services, pursuant to RSA 541-A:40, IV, waive the Committee's deadline to act on the Final Proposal:

12. DEPARTMENT OF AGRICULTURE, MARKETS AND FOOD

- FP 2015-80 Importation of Bovines and Other Domestic Animals into New Hampshire
(JLCAR Deadline September 8, 2015. Former rules expired March 21, 2015.)

Rep. Schmidt seconded.

Adopted.

Sen. Avard arrived in the meeting at this time.

6. The Committee discussed Final Proposal 2015-74 from the Insurance Department (External Review). Jennifer Patterson testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-74.

Sen. Reagan seconded.

Adopted.

7. The Committee discussed Proposed Interim Rule INT 2015-8 from the Board of Medicine (Adoption of Expired Physician Rules). Sarah Blodgett, Executive Director, testified for the Board.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2015-8.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Proposed Interim Rule INT 2015-9 from the Board of Medicine (Adoption of Expired Physician Assistant Rules). Sarah Blodgett, Executive Director, testified for the Board.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2015-9.

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed Final Proposal 2015-87 from the Racing and Charitable Gaming Commission (Bingo). Valerie King testified for the Commission.

The Commission had submitted a conditional approval request in a letter and amended rule dated August 19, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-87 based on the request.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-88 from the Racing and Charitable Gaming Commission (Games of Chance). Valerie King testified for the Commission.

The Commission had submitted a conditional approval request in a letter and amended rule dated August 19, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-88 based on the request.

Sen. Cataldo seconded.

Adopted.

11. The Committee discussed Final Proposal 2015-110 from the Department of Safety (Emergency Medical Services Complaint and Investigation Process Rules). David Hilts and Nick Mercuri testified for the Department.

The Department submitted a conditional approval request in an amended rule dated August 19, 2015.

The following persons also testified:

Dr. David Strang, representing the N.H. Medical Society and the N.H. EMS Coordinating Board.

Grant Turpin, representing the N.H. Hospital Association.

Richard O'Brien, representing the N.H. Association of Fire Chiefs.

Eric Schelberg, representing the N.H. Paramedic Association and the N.H. EMS Coordinating Board.

The following persons registered their support for the rules but did not speak:

Kayla McCarthy, representing Professional Firefighters of New Hampshire.

Deborah Pendergast, representing the Department of Safety.

After a break, with Reps. McGuire, Schmidt, Ladd, Kidder and Gottling, and Sens. Reagan, Cataldo, Avard, Feltes, and Daniels present, Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-110 based on the Department's request, but with the following amendments:

- Amend Saf-C 5903.10(c) to read as follows:

(c) Complaints shall be investigated by a designee of the director in accordance with RSA 153-A:14, hereinafter called the "investigator."

- Amend the introduction to Saf-C 5903.10(g) to read as follows:

(g) If the director or his/her designee determines that a complaint has merit, such that an investigation is warranted, a letter shall be sent to the respondent, notifying him or her of the investigation. With the letter, the respondent shall also receive a copy of the actual complaint or a version of the complaint redacted as necessary to preserve the integrity of the investigation or a description of the complaint containing sufficient detail to provide the respondent with notice of the allegation or allegations being made. The letter and enclosures shall be sent by certified mail, and a copy of the letter shall be sent no earlier than 48 hours later to:

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Final Proposal 2015-111 from the Department of Safety (Law Enforcement Provider Rules). David Hilts testified for the Department.

The Department had submitted a conditional approval request in an amended rule dated August 19, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-11 based on the request, with the further amendment to include the following language as the new Saf-C 5905.04(f), and renumber the current (f) as (g): "In addition to the signature required by (e)(2), above, the primary EMS service's head of unit or his/her designee shall also print his or her name."

Sen. Fuller seconded.

Adopted.

13. The Committee discussed Final Proposal 2015-109 from the Department of Safety (Adoption of 2015 New Hampshire Patient Care Protocols). David Hilts testified for the Department.

The Department had submitted a conditional approval request in an amended rule dated August 19, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-109 with the understanding that the Department of Safety would work with the Department of Health and Human Services (DHHS) by informing DHHS when the Department of Safety adopts and files the rule in Final Proposal 2015-109 so that DHHS may then adopt and file the rule in Final Proposal 2015-44 (Former Division of Public Health Services, Home Health Care Providers-Scope).

Sen. Cataldo seconded.

Adopted.

14. The Committee discussed Final Proposal 2015-44 from the Department of Health and Human Services (Former Division of Public Health Services, Home Health Care Providers – Scope). Michael Holt testified for the Department.

Nick Mercuri, representing the Department of Safety, registered his support of the rules but did not speak.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-44 with the understanding that the Department would delay filing the adopted rule until after the Department of Safety adopts and files the corresponding rule in Final Proposal 2015-109 (Adoption of 2015 New Hampshire Patient Care Protocols).

Sen. Reagan seconded.

Adopted.

15. The Committee discussed Final Proposal 2015-78 from the Department of Health and Human Services (Former Division of Human Services, Issuance of Financial Assistance in the Adult Categories of Financial Assistance Program). Michael Holt and Molly Lynch testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2015-78.

Sen. Cataldo seconded.

Adopted.

It was noted for the record that Sen. Feltes voted “no”.

16. The Committee discussed Final Proposal 2015-99 from the Department of Health and Human Services (Former Division of Human Services, Substance Abuse Disorder (SUD) Treatment and Recovery Support Services). Michael Holt and Joseph Harding testified for the Department, and Mr. Harding provided a letter from Timothy Rourke, Chair of the Governor’s Commission on Alcohol and Drug Abuse Prevention, Treatment, and Recovery.

The Department had submitted a request for conditional approval in a letter and amended rule dated August 19, 2015.

The following persons also testified:

Holly Cekala, representing Hope for N.H. Recovery.

Melissa Crews, representing Hope for N.H. Recovery.

Diane Pepin, representing the N.H. Alcohol and Drug Abuse Association.

Kathleen Russo, representing herself as a Licensed Alcohol and Drug Abuse Counselor (LADC).

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-99 based on the Department’s request.

Sen. Cataldo seconded.

Adopted.

17. The Committee discussed Final Proposal 2015-90 from the Department of Labor (Youth Employment). Christine Farmer and Michele Small testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-90.

Sen. Reagan seconded.

Adopted.

18. The Committee discussed amendments to the rulemaking forms in the Drafting and Procedure Manual for Administrative Rules and a draft memo to send to agencies relative to amendments to RSA 541-A by HB 425 in the 2015 legislative session.

Sen. Reagan moved that the Committee approve, pursuant to RSA 541-A:8, the form in Appendix II-O of the Manual titled "Notice for Expedited Amendments to Incorporation by Reference" and approve the draft amended form Appendix II-B "Request for Fiscal Impact Statement (FIS)" from the Office of Legislative Budget Assistant, as provided by Committee staff.

Sen. Avard seconded.

Adopted.

19. The Committee discussed the emergency rule filed by the Board of Education (Minimum Standards for Public School Approval, Document #10870, effective June 29, 2015). Erin McIntyre and Virginia Barry, Commissioner of the Department of Education, testified for the Board.

The Committee took no further action.

20. The Committee discussed the continued Committee meeting scheduled for September 3, 2015.

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

21. The Committee discussed the response by the Commissioner of Agriculture, Markets and Food, on July 22, 2015 to the Committee's rulemaking petition of June 19, 2015 relative to registration of poultry and rabbit producers to implement RSA 143-A:16, II.

It was the consensus of the Committee to delay action on this item, as the Chair directed that members read the response letter.

22. The Committee adjourned by consensus at 12:40 p.m.