



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

SEPTEMBER 20, 2019

Members Present: Representatives Hatch, McGuire, Schmidt, Williams, Hoelzel, Bershtein*, Karrick*, Lang*, and Schuett*, and Senators Reagan, Dietsch, Kahn, Ward, and Chandley*. (*) 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 this meeting.

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

Members present at this time, aside from Rep. Hatch, were Reps. Schmidt, Williams, Hoelzel, Lang, Karrick, and Bershtein, and Sens. Reagan, Dietsch, and Ward.

Rep. Hatch designated Rep. Karrick, Rep. Lang, and Rep. Bershtein as alternates, respectively, for Sen. Watters, Sen. Kahn, and Rep. McGuire.

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

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

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 and Proposed Interim Rules:

FP 2019-70	BOARD OF SEPTIC SYSTEM EVALUATORS Approval of Pre-Licensing Education and Fieldwork
FP 2019-80	DEPARTMENT OF ENVIRONMENTAL SERVICES Air Related Programs Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT)
FP 2019-84	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Human Services Medical Services Clinic
FP 2019-91	DEPARTMENT OF HEALTH AND HUMAN SERVICES Former Division of Mental Health and Developmental Services Rights Protection Procedures

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- FP 2019-111 DEPARTMENT OF CORRECTIONS
Bureau of Classification Staff
- FP 2019-113 DEPARTMENT OF CORRECTIONS
Job Assignments
- FP 2019-120 INSURANCE DEPARTMENT
Form and Rate Filings
- FP 2019-122 DEPARTMENT OF REVENUE ADMINISTRATION
Use of Education Tax Credit Against Tax Liability
- INT 2019-25 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal
Facilities, Manifests, Records, Reports, Quality Assurance, and Audits
- INT 2019-26 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Quantities for Use with Decommissioning
- INT 2019-27 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Quantities of Radioactive Material Requiring Labeling

3. *Committee Conditional Approvals:*

- FP 2019-106 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Home Health Care Providers Licensing
(JLCAR Deadline October 11, 2019.)
- FP 2019-109 DEPARTMENT OF ENVIRONMENTAL SERVICES
Cross-Program Rules
Cross-Media Electronic Reporting Rule (CROMERR) Compliance
- FP 2019-112 DEPARTMENT OF CORRECTIONS
Resident Orientation
- FP 2019-115 DEPARTMENT OF CORRECTIONS
Definition of "Safety Booth"
- FP 2019-116 DEPARTMENT OF CORRECTIONS
Use of "Safety Booths" in the Special Housing Unit and Secure Psychiatric Unit
- FP 2019-117 DEPARTMENT OF CORRECTIONS
Resident Interaction Prohibited in Secure Psychiatric Unit
- FP 2019-118 DEPARTMENT OF CORRECTIONS
Resident Case Management

FP 2019-119 DEPARTMENT OF CORRECTIONS
Physical Plant Management

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals and Proposed Interim Rules in Item #2 and conditionally approve the Final Proposals in Item #3 based on the agencies' conditional approval requests.

Rep. Williams seconded.

Adopted.

4. The Committee discussed an emergency rule (Document #12861, effective August 28, 2019) from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Medical Assistance Services Provided by Education Agencies). Commissioner Jeffrey Meyers, State Medical Director Henry Lippman, and Kim Reeve testified for the Department.

The following persons also testified:

Ryan Lang
Bonnie Dunham
Mary Steady

Rep. McGuire, Sen Kahn, and Sen. Chandley arrived during the discussion of this item. Rep. Lang and Rep. Bershtein were therefore no longer voting members. As an alternate, Sen. Chandley was also not a voting member.

The following persons registered their opposition to the rules but did not speak:

Gretchen Roussin, representing the Rochester School District, who also presented written testimony.
Christina Boston, representing the Dover School District.
Karin Guercia, representing the Pembroke School District.
Jonathan St. Pierre, representing SAU 16.
Jane Bergeron-Beaulieu and Dan Courter, representing the NH School Administrators Association, who also presented written testimony.

It was the consensus of the Committee to take no further action on the emergency rule.

5. 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 Bonnie Crumley Aybar from that Office testified for the Board.

The Board had submitted a conditional approval request in a letter dated September 14, 2019 and amended rules dated July 25, 2019.

The following persons also testified:

Dr. Sally Garhart, representing the N.H. Professionals Health Program.
Rep. Howard Moffett.

Sandra W. Pascucci, R.N., also registered her opposition to the rules and submitted written testimony but did not speak.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2019-71 on the grounds as outlined in the annotations to the Final Proposal by Committee staff and in public testimony.

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Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Final Proposal 2019-107 from the Board of Accountancy (Application for Initial Certification, Reciprocity, and Return to Active Practice). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

Sen. Reagan moved that the Committee postpone action on Final Proposal 2019-107 and request a waiver of the October 7, 2019 Committee deadline to act on the Final Proposal so that the Board could submit a conditional approval request for review at the next Committee meeting.

Rep. Schmidt seconded.

Adopted.

7. The Committee discussed the response by the Pharmacy Board to the Committee's preliminary objection to Final Proposal 2019-33 (Registered and Certified Pharmacy Technician Rules). Thomas Broderick from the Office of Professional Licensure and Certification testified for the Board.

It was the consensus of the Committee to postpone action on this item since the response had not yet been filed.

8. The Committee discussed Final Proposal 2019-114 from the Department of Corrections (Work Release). Christopher Kench and Dennis Fitton testified for the Department.

Christopher Dornin, representing Citizens for Criminal Justice Reform, indicated his desire to testify on Final Proposal 2019-116 (use of "Safety Booths" in the Special Housing Unit and Secure Psychiatric Unit) and Final Proposal 2019-117 (Resident Interaction Prohibited in Secure Psychiatric Unit). Since those Final Proposals had already been conditionally approved, Mr. Dornin submitted written testimony.

Sen. Reagan moved that the Committee approve Final Proposal 2019-114.

Rep. McGuire seconded.

Adopted.

9. The Committee discussed Proposed Interim Rule INT 2019-28 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Healthcare Coordination and Medication Administration). Kim Reeve and Melissa Nemeth testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-28.

Sen. Kahn seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule INT 2019-23 from the Board of Education (Qualifying Methods for Obtaining a Teaching Credential). Amanda Phelps from the Department of Education testified for the Board.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2019-23.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Proposed Interim Rule INT 2019-24 from the Board of Education (General Special Education Teacher and Early Childhood Special Education Teacher). Amanda Phelps from the Department of Education testified for the Board.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2019-24.

Rep. McGuire seconded.

Adopted.

12. The Committee discussed Final Proposal 2019-85 from the Department of Justice (Land Sales Full Disclosure Rules). John Garrigan testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2019-85.

Sen. Reagan seconded.

Adopted.

13. The Committee discussed Final Proposal 2019-86 from the Department of Justice (Condominium Rules). John Garrigan testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2019-86 with the understanding that the Department would delete Jus 1406.03(a)(2)h.5. editorially at time of adoption.

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed Final Proposal 2019-98 from the Department of Revenue Administration (Education Tax Credit Program Update). Shaun Thomas testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2019-98.

Rep. McGuire seconded.

Adopted.

15. The Committee discussed the continued meeting scheduled for October 3, 2019.

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

16. Rep. Schmidt moved that the Committee adjourn.

Sen. Reagan seconded.

Adopted.

The Committee adjourned at 10:55 a.m.