



## **Action Minutes**

**October 19, 2023**

**Members Present:** Senators Chandley, Gray\*, Lang, and Ward, and Representatives McGuire, Grassie\*, Grote, Hakken-Phillips\*, Layon, and Lynn. (\*) 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. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Senators Chandley, Gray, Lang, and Ward, and Representatives Grassie\*, Grote, Hakken-Phillips\*, Layon, and Lynn.

Rep. McGuire designated Rep. Hakken-Phillips as an alternate for Rep. Schmidt, who was absent.

Rep. McGuire designated Rep. Grassie as an alternate for Sen. Whitley, who was absent.

Rep. McGuire designated Sen. Gray as an alternate for Sen. Innis, who was absent.

2. The Committee discussed the minutes of the Committee meeting on September 21, 2023.

Sen. Lang moved that the minutes be approved.

Reep. Lynn seconded.

Adopted.

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

### **CONSENT AGENDA**

**FP 2023-138** BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS  
Organizational Rules  
Bar 100 various

**FP 2023-146** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Personal Interview for Financial Assistance  
He-W 636.01 and He-W 644.01

**FP 2023-166** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Special Medical Assistance Only Coverage Group  
He-W 641.01 and He-W 641.04

- FP 2023-160** BOARD OF EDUCATION  
Regional Career and Technical Education Agreements (RCTEA)  
Ed 1301.01 and Ed 1304.02
- FP 2023-183** OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION  
Organizational Rules, Including Right-to-Know Requests  
Plc 100
- EXRF 2023-9** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Expedited Revision to the New Hampshire Physician Assistant Licensure  
Survey  
He-C 801.03(a)(2)
- EXRF 2023-10** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Mental Health and Developmental Services  
Expedited Revisions to the “NH Bureau of Developmental Services Waiver  
Request” form.  
He-M 500 various and He-M 1001.20(d)(1)
- FP 2023-113** DEPARTMENT OF ENERGY  
Rules for Gas Service  
En 500
- FP 2023-115** REAL ESTATE APPRAISER BOARD  
Organizational Rules  
Rab 100
- FP 2023-125** DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Employment-Related New Hampshire Child Care Scholarship Program  
Eligibility  
He-C 6910
- FP 2023-159** BOARD OF VETERINARY MEDICINE  
Veterinary Nurse or Veterinary Technician  
Vet 802.01
- FP 2023-170** FISH AND GAME DEPARTMENT  
Live Fishing Bait, Fishing Tournaments, and Tournament Permits  
Fis 502, Fis 503, and Fis 1104.05

Sen. Lang moved that the Committee approve the Consent Agenda, that is, approve Final Proposals 2023-138, 2023-146, 2023-166, 2023-160, and 2023-183, and EXRF 2023-9 and EXRF 2023-10, and conditionally approve Final Proposals 2023-113, 2023-115, 2023-125, 2023-159, and 2023-170, based on the agencies’ Conditional Approval Requests.

Sen. Gray seconded.

Adopted.

4. The Committee discussed Final Proposal 2022-233 from the Board of Podiatry (Initial Application, Education Requirements, Examination, and Fees). Tina Kelley from the Office of Professional Licensure and Certification testified for the Board. The Board had submitted a Conditional Approval Request in amended rules dated 10/13/2023.

Sen. Gray moved postpone Final Proposal 2022-233 to the regular Committee meeting on November 16, 2023 and to seek a waiver of the Committee's deadline to act on Final Proposal 2022-233.

Sen. Lang seconded.

Adopted.

Sen. Chandley left the meeting at this time.

5. The Committee discussed Final Proposal 2023-118 from the Board of Podiatry (Code of Ethics). Tina Kelley from the Office of Professional Licensure and Certification testified for the Board.

Sen. Lang moved to approve Final Proposal 2023-118.

Sen. Gray seconded.

Adopted.

6. The Committee discussed Final Proposal 2023-12 from the Board of Landscape Architects (Licensure Requirements). Tina Kelley from the Office of Professional Licensure and Certification testified for the Board. The Board had submitted a Conditional Approval Request in amended rules dated 9/27/2023 and an amended Conditional Approval Request in amended rules dated 10/17/23.

Sen. Lang moved to accept the late-filed amended Conditional Approval Request for Final Proposal 2023-12.

Sen. Gray seconded.

Adopted.

Senator Gray moved to conditionally approve Final Proposal 2023-12 based on the amended Conditional Approval Request.

Rep. Lynn seconded.

Adopted.

7. The Committee discussed Final Proposal 2023-72 from the Department of Safety, Commissioner (Watercraft Safety Rules).

Sen. Gray moved to postpone Final Proposal 2023-72 to the regular Committee meeting on November 16, 2023.

Rep. Hakken-Phillips seconded.

Adopted.

8. The Committee discussed Final Proposal 2023-82 from the Department of Health and Human Services, former Division of Public Health Services (Use of Radionuclides in the Healing Arts). Nicole Valanzola testified for the Department. The Department had submitted a Conditional Approval Request in a letter and amended rules dated 10/11/23 and an amended Conditional Approval Request in a letter and amended rules dated 10/17/2023.

Sen. Chandley returned to the meeting during the discussion of Final Proposal 2023-82.

Sen. Gray moved to accept the late-filed amended Conditional Approval Request for Final Proposal 2023-82.

Rep. Layon seconded.

Adopted.

Senator Gray moved to conditionally approve Final Proposal 2023-82 based on the amended Conditional Approval Request, and with the recommendation that the Department seek an exemption from RSA 541-A:7 to the extent necessary to allow the use of specific language (in the rules) required by the Nuclear Regulatory Commission.

Rep. Lynn seconded.

Adopted.

9. The Committee discussed Final Proposal 2023-102 from the Board of Nursing (Licensure Requirements).

Sen. Gray moved to postpone Final Proposal 2023-102 to the regular Committee meeting on November 16, 2023.

Rep. Lynn seconded.

Adopted.

10. The Committee discussed Final Proposal 2023-133 from the Board of Physical Therapists (Continued Status). Tina Kelley from the Office of Professional Licensure and Certification testified for the Board. The Board had submitted a Conditional Approval Request in amended rules dated 10/12/2023 and an amended Conditional Approval Request in a memo and amended rules dated 10/17/23.

Sen. Lang moved to accept the late-filed Conditional Approval Request for Final Proposal 2023-133.

Sen. Gray seconded.

Adopted.

Rep. Grote moved to postpone Final Proposal 2023-133 to the regular Committee meeting on November 16, 2023 and recommended that the Board seek legislative clarification of the issue raised by Committee staff to Phy 402.08(d)(1) in the amended Conditional Approval request.

Sen. Gray seconded.

Adopted.

11. The Committee discussed Final Proposal 2023-137 from the Department of Environmental Services, Hazardous Waste Programs (Fines relating to Hazardous Waste Management). Pamela Monroe testified for the Department. Kerry Barnsley also represented the Department. The Department had submitted a Conditional Approval Request in a letter and amended rules dated 10/11/23.

Rep. Layon left the meeting during the discussion of Final Proposal 2023-137.

Senator Gray moved to conditionally approve Final Proposal 2023-137 based on the Conditional Approval Request.

Sen. Lang seconded.

Adopted.

12. The Committee discussed Final Proposal 2023-187 from the Department of Fish and Game (Sporting Club Youth Pheasant Events). Dan Bergeron testified for the Department.

Senator Lang moved to approve Final Proposal 2023-187.

Sen. Gray seconded.

Adopted.

Rep. Layon returned to the meeting at this time.

13. The Committee discussed Proposed Interim Rule INT 2023-6 from the Board of Education (School Nurse Licensure and Renewal). No one was present to represent the Board.

Sen. Lang moved to postpone Proposed Interim Rule INT 2023-6 to the regular Committee meeting on November 16, 2023.

Sen. Gray seconded.

Adopted.

14. The Committee discussed the Objection Response to Final Proposal 2023-116 from the Board of Professional Engineers (Continued Status). Tina Kelley from the Office of Licensure and Certification testified for the Board. Ms. Kelley requested that the Committee enter a Revised Objection to Final Proposal 2023-116 to allow the Board an opportunity to address Committee staff's comments to the Objection Response.

Sen. Lang moved to enter a revised objection to Final Proposal 2023-116 based on the request.

Sen. Gray seconded.

Adopted.

15. The Committee discussed the Objection Response to Final Proposal 2023-135 from the Department of Agriculture, Markets, and Food (Land Evaluation). Patricia Benner testified for the Department.

Sen. Lang moved to approve the Objection Response to Final Proposal 2023-135.  
Sen. Gray seconded.

Adopted.

16. The Committee discussed the Revised Objection Response to Final Proposal 2023-89 from the Department of Health and Human Services, Commissioner (Foster Family Care Licensing Requirements). Allyson Raadmae testified for the Department.

Sen. Gray moved to approve the Revised Objection Response to Final Proposal 2023-89.

Rep. Layon seconded.

Adopted.

17. Under “Other Business”, Committee staff presented proposed new or amended versions of forms “Rulemaking Notice Form”, “Postponement and Rescheduling of a Rulemaking Hearing”, “Cover Sheet for Final Proposal”, “Expedited Repeal Notice Form”, “Change in Electronic Access for a Virtual or Hybrid Rulemaking Hearing”, “Continuation of Rulemaking Hearing”, and “Extension of Public Comment Deadline”, located respectively in Appendices II-C, II-D3, II-G, II-M, II-D4, II-D1, and II-D2 of the *Manual*.

Sen. Lang moved to approve the amended forms.

Sen. Gray seconded.

Adopted.

18. Under “Other Business”, the Committee heard testimony from Matt Mayberry, the Executive Vice-President of the New Hampshire Home Builder’s Association, regarding Env-Wq 1500 (Alteration of Terrain). Those rules were approved by JLCAR at its 8/17/23 meeting in Final Proposal 2023-136. The rules became effective on 9/28/23. Mr. Mayberry testified that the rules had significant costs that were not mentioned in the Rulemaking Notice Form for Initial Proposal 2023-136 or in the Fiscal Impact Statement for that proposal. Mr. Mayberry requested that the Committee re-visit the rules in question. Committee staff informed the Committee that Committee rule 302.03(a) permits the Committee to reconsider a vote to approve a final proposal only if a motion to reconsider is made during the same meeting in which the rule was approved.

Senator Gray left the meeting during Mr. Mayberry’s testimony and did not return.

Senator Lang left the meeting at the conclusion of Mr. Mayberry’s testimony and did not return.

The Committee heard from Pamela Monroe and Courtney Lockwood from the Department of Environmental Services regarding Mr. Mayberry’s testimony.

It was the consensus of the Committee to place this issue on the agenda for the November JLCAR meeting for further discussion.

19. The Committee discussed the continued meeting scheduled for November 2, 2023.

By consensus, the Committee voted to cancel the continued meeting.

20. The Committee discussed adjournment.

By consensus, the Committee adjourned at 10:09 a.m.