



Action Minutes

July 20, 2023

Members Present: Senators Chandley, Gray, Innis, Lang, and Ward, and Representatives McGuire, Fellows*, Grote*, Hakken-Phillips*, Layon, Lynn, and Schmidt. (*) 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, Innis, Lang, and Ward, and Representatives Fellows*, Grote*, Hakken-Phillips*, Layon, Lynn, and Schmidt.

Rep. McGuire designated Rep. Grote as an alternate for Rep. Hatch, who was absent.

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

2. The Committee discussed the minutes of the Committee meeting on June 16, 2023.

Sen. Lang moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

3. Final Proposal 2023-23 and Final Proposal 2023-100 were removed from the consent list at the request of Rep. Layon.

The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

FP 2023-16	BOARD OF PROFESSIONAL GEOLOGISTS Rules of Practice and Procedure Geo 200
FP 2023-19	BOARD OF EDUCATION Charter School Lease Aid Ed 323

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- FP 2023-24** BOARD OF EDUCATION
Manifest Educational Hardship
Ed 307
- FP 2023-26** INSURANCE DEPARTMENT
Life Insurance Solicitation
Ins 301
- FP 2023-107** INSURANCE DEPARTMENT
Insurance Holding Companies
Ins 1500
- FP 2023-33** BOARD OF LICENSING FOR FORESTERS
Continuing Education Units
Fors 403.04
- FP 2023-38** BOARD OF NURSING
Nurse Externship
Nur 608
- FP 2023-74** DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Incinerators and Wood Waste Burners
Env-A 1900
- FP 2023-75** DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Particulate Matter and Visible Emissions Standards
Env-A 2100
- FP 2023-76** DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Ferrous and Non-Ferrous Foundries, Smelters, and Investment Casting
Operations
Env-A 2400
- FP 2023-84** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Interview Requirements for Supplemental Nutrition Assistance Program
He-W 722.01
- FP 2023-92** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Application for Social Security Numbers
He-W 625.01 and He-W 825.01

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- FP 2023-98** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Actions on Eligible Households
He-W 746.01 and He-W 746.03
- FP 2023-99** DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Households in Community Residences
He-W 756.03
- FP 2023-86** BOARD OF VETERINARY MEDICINE
Definitions of Terms Used
Vet 102.01
- FP 2022-215** GOVERNOR'S COMMISSION ON DISABILITY
Telecommunications Equipment Assistance Program; Rules Related to
Permanent Registration of Service Animals
Gcd 300 and Gcd 400
- FP 2023-78** BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS
Rules of Practice and Procedure
Bar 200
- FP 2023-87** BOARD OF PSYCHOLOGISTS
Continuing Education
Psyc 402.01, Psyc 402.02, Psyc 403.01, and Psyc 403.02
- FP 2023-93** BOARD OF ARCHITECTS
Applicability of Waiver of Substantive Rules
Arch 200 various
- FP 2023-94** DEPARTMENT OF ENERGY
Rules for Pipeline Public Utilities
En 1400
- FP 2023-121** FISH AND GAME DEPARTMENT
Freshwater Fishing and Season Rules
Fis 400 various
- ROR 2022-164** DEPARTMENT OF ADMINISTRATIVE SERVICES
Procurement and Plant and Property Rules
Adm 600 and Adm 800
- OR 2022-197** BOARD OF TAX AND LAND APPEALS
Procedural Rules for Specific Types of Appeals
Tax 202 through Tax 216

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Sen. Lang moved that the Committee accept and approve the Consent Agenda, that is, approve Final Proposals 2023-16, 2023-19, 2023-24, 2023-26, 2023-107, 2023-33, 2023-38, 2023-74, 2023-75, 2023-76, 2023-84, 2023-92, 2023-98, 2023-99, and 2023-86, conditionally approve Final Proposals 2022-215, 2023-78, 2023-87, 2023-93, 2023-94, and 2023-121, and approve Revised Objection Response 2022-164 and Objection Response 2022-197.

Rep. Lynn seconded.

Adopted.

4. The Committee discussed Final Proposal 2022-165 from the Office of Allied Health Professionals (Fees). Committee staff informed the Committee that the agency was withdrawing the proposed rules.

No action taken.

5. The Committee discussed Final Proposal 2023-15 from the Board of Professional Geologists (Seal of the Board, Office Hours, Location, Address, and Phone Number). Tina Kelley and Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Board.

Sen. Lang moved to approve Final Proposal 2023-15.

Sen. Gray seconded.

Adopted by a 9 to 1 vote with Rep. Grote voting “no”.

6. The Committee discussed Final Proposal 2023-54 from the Board of Architects (Definitions, Organization, and Public Information). Tina Kelley and Lindsey Courtney from the Office of Professional Licensure and Certification testified for the Board. The Board had submitted a Conditional Approval Request in amended rules dated 7/7/2023.

Sen. Lang moved to conditionally approve Final Proposal 2023-54 based on the request.

Sen. Innis seconded.

Adopted by a 9 to 1 vote with Rep. Grote voting “no”.

7. The Committee discussed Final Proposal 2023-32 from the Department of Health and Human Services (Laboratories and Laboratory Services Rules). Doreen Shockley and Kelly Keefe testified for the Department. The Department had submitted a Conditional Approval Request in amended rules dated 7-13-23.

Sen. Lang moved to conditionally approve Final Proposal 2023-32 based on the request and amending He-P 808.02(e) to state, “All entities that perform waived testing for the sole purpose of risk assessment and which test results are not used for the diagnosis or treatment of disease”. Sen. Lang’s motion included a recommendation that the Department continue to pursue legislation to correct the conflict between RSA 151:16-a and RSA 151:16-b regarding where administrative fines is deposited by the State Treasurer.

Rep. Layon seconded.

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Adopted.

8. The Committee discussed Final Proposal 2023-52 from the Office of Professional Licensure and Certification (Application Related Fees for Regulated Professionals). Lindsey Courtney and Douglas Osterhoudt testified for the Office. The Office had submitted a Conditional Approval Request in amended rules dated 5-17-23 and an Amended Conditional Approval Request in amended rules dated 7-11-23.

Sen. Gray moved to conditionally approve Final Proposal 2023-52 based on the amended request, and to recommend that the OPLC work on transparency regarding the fees, including in rules already approved by the Committee.

Sen. Lang seconded.

Adopted by a 9 to 1 vote with Sen. Chandley voting “no”.

9. The Committee discussed Final Proposal 2023-67 from the Office of Professional Licensure and Certification (Recreational Therapists). Lindsey Courtney testified for the Office. The Office had submitted a Conditional Approval Request in amended rules dated 7-25-23.

Sen. Lang moved to conditionally approve Final Proposal 2023-67 based on the request.

Sen. Gray seconded.

Adopted.

10. The Committee discussed Final Proposal 2022-96 from the Office of Professional Licensure and Certification (Court Reporters). Lindsey Courtney testified for the Office. The Office had submitted a Conditional Approval Request in amended rules dated 7-12-23.

Sen. Ward left the meeting during the discussion of Final Proposal 2023-96 and did not return. Rep. McGuire designated Rep. Hakken-Phillips to sit for Sen. Ward.

Sen. Lang moved to conditionally approve Final Proposal 2023-96 based on (1) the request; (2) amending Plc 1204.02(b)(3) to read, “An application and licensing fee as required by Plc 1002.10”; and (3) amending Plc 1206.02(d) to read, “An application and licensing fee as required by Plc 1002.10, provided that applicants applying for facilitated licensure as active military or military spouse shall not pay the fee.”

Sen. Innis seconded.

Adopted by a 9 to 1 vote with Sen. Chandley voting “no”.

11. The Committee discussed Final Proposal 2022-234 from the Board of Podiatry (Renewal, Continuing Education, and Ongoing Requirements). The Board had submitted a Conditional Approval Request in amended rules dated 7-11-23. Tina Kelley testified for the Board. No testimony was offered on behalf of the Board.

Sen. Lang moved to conditionally approve Final Proposal 2022-234 based on the request.

Rep. Lynn seconded.

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Adopted by a 9 to 1 vote with Sen. Chandley voting “no”.

12. The Committee discussed Final Proposal 2023-85 from the Department of Health and Human Services (Supplemental Nutrition Assistance Program (SNAP) Definitions). Nicole Valanzola testified for the Department.

Sen. Lang moved to approve Final Proposal 2023-85.

Sen. Innis seconded.

Adopted.

13. The Committee discussed Expedited Revisions to Form EXRF 2023-6 from the Department of Health and Human Services (Expedited Revisions to the “Bureau for Family Centered Services (BFCS) – Application for Services”). Allyson Raadmae and Deirdre Dunn Tierney testified for the Department.

Rep. Lynn moved to approve Expedited Revisions to Form EXRF 2023-6.

Rep. McGuire seconded.

Adopted.

14. The Committee discussed the Objection Response to Final Proposal 2022-241 from the Department of Health and Human Services (Case Management Agencies). Doreen Shockley and Allyson Raadmae testified for the Department.

Robert Clegg, Emily Johnson, and Carolyn Virtue spoke against the Objection Response on behalf of Granite Case Management.

Sen. Chandley moved to accept and approve the Objection Response to Final Proposal 2022-241 with the understanding that the Department will commence a new rulemaking to amend the rules to specifically state that the rules implement RSA 151:2-b.

Rep. Grote seconded.

Adopted by an 8 to 2 vote with Senators Lang and Innis voting “no”.

15. The Committee postponed the Objection Response to Final Proposal 2023-89 from the Department of Health and Human Services (Foster Family Care Licensing Requirements) as the Objection Response has not yet been filed.

16. The Committee discussed Final Proposal 2023-106 from the Office of Professional Licensure and Certification (Medical Imaging and Radiation Therapy). Lindsey Courtney testified for the Office.

Sen. Lang moved to approve Final Proposal 2023-106.

Rep. Layon seconded.

Adopted by a 9 to 1 vote with Sen. Chandley voting “no”.

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17. The Committee discussed Emergency Rule Doc. #13679 from the Department of Health and Human Services (Provider and Provider Agency Operations). Melissa Nemeth testified for the Department.

The Committee took no action.

18. The Committee heard testimony from the Department of Safety regarding information requested by the Committee during its discussion of Final Proposal 2022-159 (Driver Licensing Rules) at its June 16 meeting. Steven Lavoie and John Marasco testified for the Department of Safety regarding the Department's policy relative to forms and rulemaking, the implementation of such policy, and N.H. Supreme Court cases involving the Department's forms.

No action was taken.

19. The Committee discussed Final Proposal 2023-23 from the Board of Education (ESOL Teacher). Julie Shea, from the Department of Education, testified for the Board.

Rep. Layon moved to approve Final Proposal 2023-23.

Sen. Lang seconded.

Adopted.

20. The Committee discussed Final Proposal 2023-100 from the Department of Health and Human Services (Evaluation and Treatment of Income). Nicole Valanzola testified for the Department. The Department had submitted a Conditional Approval Request in amended rules dated 6-28-23.

Rep. Layon moved to conditionally approve Final Proposal 2023-100 based on the request.

A consensus of the Committee seconded.

Adopted.

21. The Committee discussed the continued meeting scheduled for August 3, 2023. It was the consensus of the Committee to cancel the continued meeting.

22. The Committee discussed adjournment.

By consensus, the Committee adjourned at 11:19 a.m.