



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

OCTOBER 18, 2012

Members Present: Representatives Patten, Pilotte, Schmidt, McGuire, Manuse, Kidder*, Bowers*, and Winter*, and Senators Merrill and Carson*. (*) 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. Patten as Chair.

Members present at this time, aside from Rep. Patten, were Reps. Pilotte, Schmidt, McGuire, Bowers, and Winter, and Sens. Merrill and Carson.

Rep. Patten designated Sen. Carson, Rep. Bowers, and Rep. Winter as alternates, respectively, for Sen. Lambert, Sen. Groen, and Sen. White, who were absent.

2. The Committee discussed the minutes of the Committee meeting on October 4, 2012.

Rep. Pilotte moved that the minutes be approved

Sen. Merrill seconded.

Adopted.

3. The Committee discussed the following Final Proposals from the agencies indicated (Consent Agenda – Final Proposals).

FP 2012-64 HEALTH SERVICES PLANNING AND REVIEW BOARD
Intervention

FP 2012-83 GOVERNING BOARD OF RECREATIONAL THERAPISTS
Pre-Hearing Disclosure of Witnesses and Exhibits

FP 2012-84 GOVERNING BOARD OF RECREATIONAL THERAPISTS
Renewal Application and Reinstatement Documents

FP 2012-87 INSURANCE DEPARTMENT
Claims Payments

FP 2012-99 DEPARTMENT OF SAFETY
Various "Operation of the Central Repository: Criminal Records" Rules

FP 2012-100 FISH AND GAME DEPARTMENT
Hunter and Bowhunter Education Programs and Hunter and Bowhunter Education Instructors

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- FP 2012-102 GOVERNING BOARD OF ATHLETIC TRAINERS
Pre-Hearing Disclosure of Witnesses and Exhibits
- FP 2012-103 GOVERNING BOARD OF ATHLETIC TRAINERS
Notarized Signature and Temporary Visits in the State
- FP 2012-104 GOVERNING BOARD OF ATHLETIC TRAINERS
Multipart Renewal Application Form and Voluntary Surrender of License
- FP 2012-107 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Revisions to the Types and Issuance of Employment Support Services (ESS) Offered in the
New Hampshire Employment Program (NHEP)
- FP 2012-109 DEPARTMENT OF ENVIRONMENTAL SERVICES
Hazardous Waste Programs
Hazardous Waste Definitions
- FP 2012-110 DEPARTMENT OF ENVIRONMENTAL SERVICES
Hazardous Waste Programs
Hazardous Waste Amendments Re: Permits, Generators, Transporters, Facility
Owners/Operators, Recycling, HW Cleanup Fund, Universal Waste
- FP 2012-113 INSURANCE DEPARTMENT
Requirements for Accident and Health Insurance Rate Submissions
- FP 2012-118 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Mental Health and Developmental Services
Nursing Facility Preadmission Screening and Resident Review (PASRR)

Rep. Schmidt moved that the Committee approve the Consent Agenda, with the exception of Final Proposal 2012-118.

Rep. McGuire seconded.

Adopted.

4. The Committee discussed Final Proposal 2012-118 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Nursing Facility Preadmission Screening and Resident Review (PASAR)).

The Department had submitted a request for conditional approval in a letter and amended rule dated October 15, 2012.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-118 based on the request.

Sen. Merrill seconded.

At this time, Michael Holt and Jill Desrochers testified for the Department.

The motion was then adopted.

5. The Committee briefly discussed agency responses to conditional approvals in prior Committee meetings. The Committee also discussed the Committee's recommendation in the meeting on October 4, 2012 to the Acting Director of the Office of Legislative Services to accept as an editorial change to adopted rule He-W 540 on private duty nurses (Final Proposal 2012-105) the deletion of He-W 540.06(a)(2)c. as requested by the Department of Health and Human Services.

Rep. Patten noted that the Acting Director subsequently agreed to the recommendation.

Rep. Kidder arrived during the discussion of this item.

Rep. Patten designated Rep. Kidder as an alternate for Sen. Kelly, who was absent.

No further action was taken.

6. 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 to the Committee meeting on November 15, 2012 and request the Acting Director of the Office of Legislative Services to waive the November 9, 2012 Committee deadline to the Committee meeting on November 15, 2012.

8. (b) FP 2012-94 **DEPARTMENT OF SAFETY**
Request for Reconsideration Rule
(JLCAR Deadline November 9, 2012.)

Rep. Winter seconded.

Adopted.

7. The Committee discussed the response of the Department of Labor to the Committee's preliminary objection to Final Proposal 2011-161 (Employee Leasing Companies). Martin Jenkins, Legal Counsel for the Department, testified for the Department.

The Department had previously submitted a response to the preliminary objection in a letter dated September 6, 2012, and an amended rule dated August 21, 2012, and an amended response in a letter and amended rule dated October 10, 2012.

Robert Clegg, representing Legislative Solutions, also testified.

Sen. Carson moved that the Committee accept the amended objection response and approve the rules.

Rep. Pilotte seconded.

Adopted.

8. The Committee discussed Final Proposal 2012-74 from the Department of Safety (Readoption of Motor Carrier Safety Rules). Sheri Kelloway testified for the Department.

The Department had submitted a request for conditional approval in a letter and amended rule dated October 17, 2012.

Sen. Carson left the meeting during the discussion of this item.

Rep. Pilotte moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-74 based on the request.

Rep. Schmidt seconded.

Adopted.

9. The Committee discussed Final Proposal 2012-121 from the Department of Safety (Various Bureau of Electrical Safety and Licensing Rules). Sheri Kelloway represented the Department, and Dean Sotirakopoulos, Joseph Casey, and Patricia Tormey represented the Electricians' Board.

Rep. Manuse arrived during the discussion of this item, and Sen. Carson returned.

It was the consensus of the Committee to postpone this item to the next meeting.

10. After a break, with Reps. Patten, Pilote, Schmidt, McGuire, Manuse, Kidder, Bowers, and Winter, and Sens. Merrill and Carson present, the Committee discussed Final Proposal 2012-62 from the Board of Education (Principal, Associate Principal, District Administrator, Educational Interpreter and Professional Development). Dr. Judith Fillion of the Department of Education testified for the Board.

The Department of Education had submitted a request on behalf of the Board for conditional approval in an amended rule dated October 18, 2012.

Sen. Merrill moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2012-62 based on the request.

Sen. Carson seconded.

Adopted.

11. The Committee discussed the response of the Department of Health and Human Services to the Committee's preliminary objection to Final Proposal 2012-85 (Former Division of Public Health Services, Individual Home Care Service Providers). John Martin and Rodney Bascom testified for the Department.

Rep. Manuse moved that the Committee accept the response and approve the rules, with the recommendation that legislation clarify the definition of "license" in RSA 541-A:1, VIII to address the issue in Committee staff comments on page one of the Objection Response and that legislation reduce the fee in RSA 151:5 for individual home care service providers to \$25.00.

Rep. McGuire seconded.

Adopted.

12. The Committee discussed Final Proposal 2012-89 from the Department of Revenue Administration (Interest and Dividends Tax). Kathryn Skouteris and Kathleen Sher testified for the Department.

Sen. Carson left the meeting during the discussion of this item.

Rep. Pilote moved that the Committee approve Final Proposal 2012-89.

Sen. Merrill seconded.

Adopted.

13. The Committee discussed Final Proposal 2012-116 from the Department of Revenue Administration (Communications Services Tax). Kathryn Skouteris and Kathleen Sher testified for the Department.

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Sen. Merrill moved that the Committee approve Final Proposal 2012-116.

Rep. Winter seconded.

Adopted.

14. The Committee discussed Final Proposal 2012-117 from the Department of Revenue Administration (Financial Accounting for Cites and Towns). Kathryn Skouteris and Barbara Robinson testified for the Department.

Rep. Kidder moved that the Committee approve Final Proposal 2012-117.

Rep. Schmidt seconded.

Adopted.

15. The Committee discussed the response by the Police Standards and Training Council to the Committee's rulemaking petition of August 16, 2012 relative to previously certified corrections officers who have been suspended.

No further action was taken by the Committee.

16. The Committee discussed the emergency rule (Document #10172, effective August 18, 2012), filed by the Department of Resources and Economic Development, relative to firearms, hunting, and alcoholic beverages on state-owned land.

No further action was taken by the Committee.

17. It was the consensus of the Committee that the continued meeting previously scheduled for November 1, 2012 be cancelled.

18. Rep. Schmidt moved that the Committee adjourn.

Rep. Winter seconded.

Adopted.