



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

FEBRUARY 19, 2016

Members Present: Representatives McGuire, Schmidt, Kidder, Sad, Gottling*, and Hatch*, and Senators Reagan, Cataldo, Feltes, and Daniels*. (*) 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 Sen. Reagan, Vice-Chair, as Acting Chair.

Members present at this time, aside from Sen. Reagan, were Sens. Cataldo, Feltes, and Daniels, and Reps. Schmidt, Kidder, Sad, Hatch, and Gottling.

Sen. Reagan designated Sen. Daniels, Rep. Gottling, and Rep. Hatch as alternates, respectively for Sen. Avard, Rep. Ladd, and Sen. Watters, who were absent.

2. The Committee discussed the minutes of the Committee meeting on January 15, 2016.

Sen. Cataldo moved that the minutes be approved.

Rep. Kidder seconded.

Adopted.

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

CONSENT AGENDA

2. *Committee Approval of Final Proposals and Proposed Expedited Revisions to Agency Forms:*

FP 2015-182 DEPARTMENT OF EMPLOYMENT SECURITY
Pathway to Work Program

FP 2015-186 BOARD OF NURSING
Ethical Standards: Professional Duties of an Advanced Practice Registered Nurse (APRN)

FP 2015-195 FISH AND GAME DEPARTMENT
Marine Aquaculture Reporting and Lobster Tail Possession

FP 2015-197 DEPARTMENT OF LABOR
Incorporation by Reference Revised Safety Summary Form WCSSF

- FP 2015-200 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Expiring Rules Related to Individual Rights and Responsibilities for Financial and Medical Assistance, Institutional Residency, the Adult Standard Disregard, the Cost of Nursing Facility Care, and Allowable Deductions
- FP 2015-201 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Amended Definition of “Off-Premises Retail Licensees that Exclusively or Primarily Sell Beer, Wine, or Other Alcoholic Beverages” As it Pertains to All Categories of Financial Assistance
- FP 2015-202 DEPARTMENT OF REVENUE ADMINISTRATION
Form DP-216, Employee Leasing Company Business Enterprise Tax (BET) Election
- FP 2015-205 BOARD OF DENTAL EXAMINERS
Application for Licensure to Provide Voluntary Services; Renewal and Monitoring; and Criteria of Acceptance
- EXRF 2016-1 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Annual Medicaid Uncompensated Care Data Request Form – He-C 5002.01(a)

3. *Committee Conditional Approvals:*

- FP 2015-185 BOARD OF NURSING
Continued Status
- FP 2015-193 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Cancer Registry Rules
- FP 2015-194 BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS
Written Exam Criteria, Written Exam Administration, Approve/Deny Individuals Licensed in Another State, Instructor Continuing Education

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

Rep. Hatch seconded.

Adopted.

4. The Committee discussed Final Proposal 2015-165 from the Department of Labor (Workers' Compensation Claims). Deputy Commissioner Kathryn Barger and Martin Jenkins testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated February 5, 2016.

Action Minutes
February 19, 2016
Page 3

Rep. McGuire arrived in the meeting as the discussion of this item began, and assumed the role of chair of the meeting.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-165 based on the request, with the understanding that editorial comments, as well as clarity issues on p. 3 and p. 21 relative to changing "may", to "shall", by the Committee Attorney would be addressed in the conditional approval response.

Sen. Reagan seconded.

Adopted.

5. The Committee discussed Final Proposal 2015-167 from the Department of Labor (Workers' Compensation Insurance Coverage).

The Department had submitted a conditional approval request in a letter dated February 17, 2016 and amended rule dated February 16, 2016.

Rep. Sad moved that the Committee conditionally approve Final Proposal 2015-167 based on the request.

Rep. Kidder seconded.

Adopted.

6. The Committee discussed Final Proposal 2015-168 from the Department of Labor (Workers' Compensation Self Insurance). Martin Jenkins testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated February 16, 2016.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-168 based on the request, with the recommendation that the Department would seek legislative changes to its rulemaking authority in RSA 281-A:60 to clarify that the Department does have the authority to create rules related to RSA 281-A:5 and RSA 281-A:5-a.

Rep. Gottling seconded.

Adopted.

7. The Committee discussed Final Proposal 2015-181 from the Department of Labor (Payment of Wages and Requirements of Employers). Rudy Ogden and Michele Small testified for the Department.

The Department had submitted a conditional approval request in an amended rule and a letter dated February 17, 2016.

Michael Somers, representing the N.H. Lodging and Restaurant Association, also testified.

It was the consensus of the Committee to postpone action on Final Proposal 2015-181 until the next Committee meeting.

8. The Committee briefly discussed Proposed Interim Rule INT 2015-14 from the Department of Safety (Interim Certification for Additional Truck Weight Rules).

It was the consensus of the Committee to move discussion of this item to the end of the meeting.

9. The Committee discussed Proposed Interim Rule INT 2016-2 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Medical Assistance Services Provided by Education Agencies). Catherine Bernhard and Melissa Nemeth testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2016-2.

Sen. Feltes seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule INT 2016-3 from the Department of Health and Human Services (Former Division of Public Health Services, Birthing Center Rules). Michael Holt testified for the Department.

Sen. Reagan moved that the Committee approve Proposed Interim Rule INT 2016-3.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed Final Proposal 2015-144 from the Department of Health and Human Services (Former Division of Human Services, Durable Medical Equipment, Prosthetic and Orthotic Devices, and Medical Supplies). Michael Holt and Kimberly Reeve testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated February 18, 2016.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2015-144 based on the request.

Sen. Reagan seconded.

Adopted.

12. The Committee discussed Final Proposal 2015-192 from the Department of Health and Human Services (Former Division of Human Services, Elimination of the Prohibition of Decreasing the Standard Utility Allowance (SUA) in the Food Stamp Program if the CPI-U is Negative). Catherine Bernhard and Kerry Nelson testified for the Department.

Sen. Reagan moved that the Committee approve Final Proposal 2015-192.

Rep. Schmidt seconded.

Adopted.

13. The Committee discussed Final Proposal 2015-207 from the Board of Medicine (Physician Licensing, Renewals, Administrative Fines, Voluntary Surrenders, and Obligation to Obey). Sarah Blodgett from the Office of Professional Licensure and Certification represented the Board.

The Board had submitted a conditional approval request in an amended rule dated February 3, 2016.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-207 based on the request.

Rep. Schmidt seconded.

Adopted.

14. The Committee discussed Final Proposal 2015-208 from the Board of Medicine (Physician Assistant Licensing, Renewals, Administrative Fines, Voluntary Surrenders, and Obligation to Obey). Sarah Blodgett from the Office of Professional Licensure and Certification represented the Board.

The Board had submitted a conditional approval request in an amended rule dated February 3, 2016.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-208 based on the Request.

Rep. Hatch seconded.

Adopted.

15. The Committee discussed again Proposed Interim Rule INT 2015-14 from the Department of Safety (Interim Certification for Additional Truck Weights Rules). David Hilts and State Police Captain William Haynes testified for the Department.

It was the consensus of the Committee that Committee staff should prepare a letter from the Committee to the Governor to acquaint her with the issue of overweight vehicles under Federal law in New Hampshire, the competitive disadvantage faced by N.H. truckers who are limited to lower weights than in Maine and Vermont, and the need for changes in Federal law.

Sen. Feltes moved that the Committee approve Proposed Interim Rule INT 2015-14.

Rep. Schmidt seconded.

Adopted. It was noted for the record that Sen. Reagan voted "no".

16. The Committee briefly discussed the following items on the regular agenda:

11. BOARD OF MENTAL HEALTH PRACTICE

OR 2015-139 Pre-licensure Supervised Practice
(JLCAR Deadline April 26, 2016.)
(Response not yet filed. Response due by February 26, 2016.)

12. Discussion on proposed amendments to the Drafting and Procedure Manual for Administrative Rules.

It was the consensus of the Committee to postpone action on Objection Response 2015-139 to the next Committee meeting and to postpone discussion of amendments to the Manual to the continued meeting of April 1, 2016.

17. The Committee briefly discussed Final Proposal 2015-206 from the Fish and Game Department (Limited Bobcat Season), which had not yet been filed.

Action Minutes
February 19, 2016
Page 6

It was the consensus of the Committee that, if the Final Proposal is filed by March 4, 2016, the deadline under RSA 541-A:12, I for filing for placement on the agenda of the regular meeting of March 18, 2016, then the Final Proposal would be heard at the continued meeting on April 1, 2016.

18. The Committee adjourned by consensus at 10:06 a.m., and cancelled the continued meeting scheduled for March 4, 2016.