



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

**Action Minutes**

**MARCH 17, 2017**

**Members Present:** Senators Reagan, Feltes, and Kahn, and Representatives McGuire, Schmidt, Ladd, Gottling\*, Matthews\* and Ohm\*. (\*) 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 as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. Feltes and Reps. Schmidt, Gottling, Matthews, and Ohm.

Sen. Reagan designated Rep. Gottling, Rep. Matthews, and Rep. Ohm as alternates, respectively, for Sen. Kahn, Rep. Graham, and Sen. Avard, who were absent.

2. The Committee discussed the minutes of the Committee meeting on February 17, 2017.

Rep. Schmidt moved that the Committee approve the minutes with an amendment to Item #12 relative to the conditional approval of Final Proposal 2016-230 of the Insurance Department (Form and Rate Filings) by changing "Rep. McGuire" to "Sen. Feltes" as the member who made the motion to conditionally approve Final Proposal 2016-230.

Sen. Feltes seconded.

Rep. McGuire arrived during the discussion of this item.

The motion was adopted.

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

**CONSENT AGENDA**

***2. Committee Approval of Final Proposals:***

- |             |  |
|-------------|--|
| FP 2016-171 | FISH AND GAME DEPARTMENT<br>Conservation of Threatened and Endangered Species; Wildlife Control Operators; and<br>Limits on Take of Certain Fish |
| FP 2016-216 | BOARD OF EDUCATION<br>World Language   |
| FP 2016-219 | DEPARTMENT OF SAFETY<br>Commissioner<br>Operation of the Central Repository: Criminal Records  |

- FP 2016-240 ADULT PAROLE BOARD  
Criteria for Granting, Denying, and Revoking Parole and Conditions for the Conduct of Parolees
- FP 2017-4 DEPARTMENT OF HEALTH OF HUMAN SERVICES  
Commissioner  
Certification Payment Standards for Community Based In-Home Service Providers
- FP 2017-6 DEPARTMENT OF REVENUE ADMINISTRATION  
Land and Community Heritage Investment Program Recording Surcharge
- FP 2017-7 DEPARTMENT OF REVENUE ADMINISTRATION  
Electricity Consumption Tax
- FP 2017-8 DEPARTMENT OF HEALTH OF HUMAN SERVICES  
Former Division of Human Services  
Pharmaceutical Services

**3. *Committee Conditional Approvals:***

- FP 2017-5 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Commissioner  
Certification for Payment Standards for Foster Family Care Service Credentials

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2 and conditionally approve Final Proposal 2017-5 in Item #3 based on the agency's conditional approval request.

Rep. McGuire seconded.

Rep. Ladd arrived during the discussion of this item.

The motion was adopted.

4. The Committee discussed whether to postpone action on certain items to another Committee meeting.

Rep. McGuire moved that the Committee postpone action on the following item and request a waiver from the Director of the Office of Legislative Services pursuant to RSA 541-A:40, IV of the Committee's deadline of March 31, 2107 to act on the Final Proposal:

**8. *BOARD OF EDUCATION***

- FP 2016-210 Manifest Educational Hardship  
*(JLCAR Deadline March 31, 2017. Former interim rule expired January 12, 2017.)*

Rep. Schmidt seconded.

Adopted.

5. The Committee discussed Final Proposal 2016-174 from the Department of Environmental Services (Water Quality and Quantity Programs, Water Use Registration and Reporting). Peter Demas testified for the Department.

Rep. McGuire moved that the Committee approve Final Proposal 2016-174 with the understanding that, although the format of statutory definitions as a table included in Env-Wq 2102.03 does not comport with the requirements of § 3.7 of Ch. 4 of the Drafting and Procedure Manual for Administrative Rules, the Committee staff would prepare amendments to the Manual, including this format, for the Committee's consideration at a future date.

Rep. Schmidt seconded.

Adopted.

6. The Committee discussed Final Proposal 2016-239 from the Adult Parole Board (Organizational and Procedural Rules). Donna Sytek, Board Chair, and Andrea Goldberg testified for the Board.

Sen. Kahn arrived during the discussion of this item. Rep. Gottling was not a voting member at this point.

Rep. McGuire moved that the Committee approve Final Proposal 2016-239.

Rep. Schmidt seconded.

At this time Chris Dornin, representing Citizens for Criminal Justice Reform, testified.

The motion was adopted.

Sen. Reagan designated Rep. Gottling as an alternate for Sen. French, who was absent, so Rep. Gottling was once again a voting member.

7. The Committee discussed Final Proposal 2016-168 from the Fish and Game Department (Partial Closure of Willand Pond, Dover and Somersworth NH to Hunting). Paul Sanderson testified for the Department.

Sen. Kahn moved that the Committee approve Final Proposal 2016-168.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2016-175 from the Naturopathic Board of Examiners (Licensing and Certification Requirements; Continued Status). Robert Lamberti from the Office of Professional Licensure and Certification testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rules dated March 16, 2017.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2016-175 based on the request.

Sen. Feltes seconded.

Adopted.

9. The Committee discussed Final Proposal 2017-9 from the Department of Health and Human Services (Former Division of Mental Health and Developmental Services, Community Mental Health Services and Peer Support Specialist). Catherine Bernhard and Raymond Perry testified for the Department.

Maggie Pritchard, representing the Community Behavioral Health Association, also testified.

The Department had requested a conditional approval in a letter dated March 17, 2017 and amended rules dated March 16, 2107.

Sen. Feltes moved the Committee conditionally approve Final Proposal 2017-9 based (1) on the request, and (2) on the condition that editorial corrections be made to all the citations in Final Proposal 2017-9 in sections following the former He-M 426.14, that He-M 426.13(d)(4) be reworked so that it reads "Such person is a peer support specialist, who shall:", and that all the requirements under what in the Conditional Approval Request appeared as He-M 426.13(d)(4).a.-e. be reworked as clauses of subparagraph (d)(4). Sen. Feltes also moved that the Committee conditionally approve Final Proposal 2017-9 with the understanding (1) that the Department would meet with the Medical Care Advisory Committee (MCAC) on March 28, 2017, to discuss the inclusion of a new definition of "peer support services" in the rules, and (2) if the Department can reach an agreement with the MCAC as to an appropriate definition, the Department would seek a change to the State Plan to implement those services as Medicaid billable services and undertake any necessary rulemaking to implement that change.

Rep. Schmidt seconded.

Adopted.

10. The Committee discussed Proposed Interim Rule INT 2017-6 from the Department of Health and Human Services (Commissioner, Data Submission and Release of Health Care Facility Data Sets). Catherine Bernhard testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2017-6.

Rep. Schmidt seconded.

Adopted.

11. The Committee discussed Proposed Expedited Revisions to Agency Form EXRF 2017-1 from the Department of Safety (Commissioner, Non-Resident Pistol/Revolver License Application Form). Marta Modigliani testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Expedited Revisions to Form EXRF-1.

Sen. Feltes seconded.

Adopted

12. The Committee discussed the response by the Board of Auctioneers to the Committee's preliminary objection to Final Proposal 2016-138 (Definitions, Organization, and Public Information). Roy Tilsley, Board member, testified for the Board.

Rep. McGuire moved that the Committee accept the response and approve the rules with the understanding that the Board would undertake a new rulemaking proceeding to create rules regarding record retention as referenced in the Committee staff comment on page 3 of the response.

Rep. Gottling seconded.

Adopted.

13. The Committee discussed the response by the Board of Auctioneers to the Committee's preliminary objection to Final Proposal 2016-139 (Complaints and Hearing Procedures, Licensing Requirements, Continued Status, and Ethical Standards). Roy Tilsley, Board member, testified for the Board.

The Board had requested a revised objection as stated in a letter received on March 6, 2017 from Gregory J. Walsh, Board Chairman, and to address the issues identified in the Committee staff comments to the objection response.

Rep. Schmidt moved that the Committee make a revised objection to Final Proposal 2016-139 as requested.

Rep. McGuire seconded.

Adopted.

14. The Committee discussed again Proposed Expedited Revisions to Agency Form EXRF-1 from the Department of Safety (Non-Resident Pistol Revolver License Application Form).

Rep. J.R. Hoell testified.

It was the consensus of the Committee for Rep. Hoell to ask Committee staff to prepare a letter to the Department regarding his concern.

15. The Committee discussed the status of agency rule reports requested in the Governor's rulemaking moratorium of January 5, 2017.

The following persons testified:

Paul Sanderson, representing the Fish and Game Department.

Michael Holt, representing the Department of Health and Human Services.

Robert Lamberti, representing the Office of Professional Licensure and Certification.

No further action was taken at this time.

16. The Committee discussed RSA 153:5 relative to the exemption of the State Fire Code from RSA 541-A.

No further action was taken at this time.

17. It was the consensus of the Committee to cancel the continued meeting scheduled for April 7, 2017.

18. The Committee adjourned by consensus at 10:44 a.m.