



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

**Action Minutes**

**MARCH 20, 2015**

**Members Present:** Representatives McGuire, Schmidt, Ladd, Sad, Gottling\*, Hatch\*, and Sytek\*, and Senators Reagan, Cataldo, Avard, Watters, 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 Rep. McGuire as Chair.

Members present at this time, aside from Rep. McGuire, were Reps. Schmidt, Ladd, Sad, Gottling, and Hatch, and Sens. Reagan, Cataldo, Watters, and Daniels.

Rep. McGuire designated Sen. Daniels, Rep. Gottling, and Rep. Hatch as alternates, respectively, for Sen. Avard, Sen. Feltes, and Rep. Kidder, who were absent.

2. The Committee discussed the minutes of the Committee meeting on February 20, 2015.

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

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

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

- (a) FP 2014-185    ELECTRICIANS' BOARD  
Electricians' Board Rules Regarding Applications and Examinations
- (b) FP 2015-5    DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Human Services  
Expiring Rules Related to the Financial Assistance to Needy Families (FANF)  
Financial Assistance Program
- (c) FP 2015-10    DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Expiring Radiological Health Rules for Radiation Safety Requirements for Analytical  
X-Ray Equipment and Radiation Requirements for Particle Accelerators

**3. Committee Conditional Approvals:**

- (a) FP 2015-8 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Former Division of Public Health Services  
Radiological Health Rules Relating to Scope, Exemptions, and General Provisions,  
Notices, Instructions, Report to Workers, Inspections, and Surveys and Monitoring

**4. Committee Acceptance of Agency Responses to Objections:**

- (a) ROR 2014-143 DEPARTMENT OF LABOR  
Safety and Health of Public Employees
- (b) OR 2014-157 BOARD OF BARBERING, COSMETOLOGY, AND ESTHETICS  
Apprentice, School Instructor and Shop License, School and Shop Requirements,  
Estheticians, Individuals Licensed in Another State, Fine Procedures, Notice, Violation  
Points, Tanning Facilities

Sen. Reagan moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2, conditionally approve the Final Proposals in Item #3 based on the requests from the agencies, and accept the responses and approve the rules in Item #4.

Rep. Ladd seconded.

Adopted.

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

Sen. Reagan moved that the Committee postpone action on the following items to the next Committee meeting and request a waiver from the Director of the Office of Legislative Services of the JLCAR deadline for Final Proposal 2014-118:

**13. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

- (a) FP 2014-118 Former Division of Mental Health and Developmental Services  
Rights of Persons Receiving Developmental Services or Acquired Brain Disorder  
Services in the Community  
(JLCAR Deadline April 13, 2015.)

**15. EXECUTIVE BRANCH ETHICS COMMITTEE**

- FP 2014-132 Organizational Rules; Practice and Procedure Rules  
(JLCAR Deadline April 17, 2015.)  
(Formerly Item #7 on the 2-20-15 agenda.)

**16. BOARD OF MENTAL HEALTH PRACTICE**

- OR 2014-12 License Requirements, Applications, and Fees  
(JLCAR Deadline May 26, 2015.)  
(Response not yet received. Response due by April 6, 2015.)

**17. DEPARTMENT OF ADMINISTRATIVE SERVICES**

OR 2014-139                      Division of Personnel  
Personnel Rules - Readoption and Various Amendments to Per 300 through Per 1500  
(JLCAR Deadline May 26, 2015.)  
(Response not yet received. Response due by April 6, 2015.)

Rep. Ladd seconded.

Sen. Avard arrived during the discussion of this item. Rep. McGuire designated Sen. Daniels as an alternate for Sen. Feltes, in place of Rep. Gottling, who was therefore no longer a voting member.

The motion was adopted.

5. The Committee discussed Final Proposal 2014-150 from the Pharmacy Board (Pharmacist Renewal Fees and Fee for Immunization Administration).

The Board had previously submitted a conditional approval request in amended rules dated March 16, 2015 and received March 19, 2015.

Sen. Watters moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-150 based on the request.

Rep. Sad seconded.

Adopted.

6. The Committee discussed Final Proposal 2014-165 from the Pharmacy Board (Continued Status for Licensees, CE Requirements, Compounding, and Nuclear Pharmacy).

Sen. Watters moved that the Committee approve Final Proposal 2014-165.

Rep. Hatch seconded.

Adopted.

7. The Board discussed Final Proposal 2014-136 from the Board of Education (Chartered Public School and Open Enrollment Schools). Mary Mayo and Erin McIntyre from the Department of Education testified for the Board.

The Department of Education, on behalf of the Board, had submitted a conditional approval request in amended rules, received on March 18, 2015.

Matt Southerton also testified.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2014-136.

Sen. Watters seconded.

After further discussion, the Committee recessed on this item.

8. The Committee discussed Final Proposal 2014-178 from the Department of Agriculture, Markets, and Food (Transfer of Animals and Birds).

Rep Schmidt moved that the Committee make a preliminary objection to Final Proposal 2014-178 on the grounds as outlined in the annotations to the Final Proposal by Committee staff.

Rep. Sad seconded.

Adopted.

9. The Committee discussed Final Proposal 2015-3 from the Department of Environmental Services (Cross-Program Rules: Applicability, Submitting Confidential Information, Request Under RSA 72:12-a). Peter Demas testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-3.

Sen. Cataldo seconded.

Adopted.

The Committee then discussed the issue of expiring rules vs. non-expiring rules pursuant to RSA 541-A:17, II, to the extent it affected rule Env-C 211 in Final Proposal 2015-3.

It was the consensus of the Committee to revisit the issue in June through a discussion of amendments to the Drafting and Procedure Manual for Administrative Rules.

10. The Committee discussed again Final Proposal 2014-136 from the Board of Education (Chartered Public School and Open Enrollment Schools). Mary Mayo and Michelle Gauthier of the Department of Education testified for the Board.

Eileen Liponis, representing the N.H. Public Charter School Association, also testified.

Rep. Sytek arrived during the discussion of this item but was not yet designated by the Chair as an alternate for an absent regular member, and therefore was not a voting member at this time.

The previous motion and second to conditionally approve Final Proposal 2014-136 were withdrawn.

Rep. Schmidt moved that the Committee make a preliminary objection to Final Proposal 2014-136 on the grounds as outlined in the Committee staff annotations to the Final Proposal, public testimony, and the Committee's concerns regarding reporting requirements for charter schools.

Sen. Reagan seconded.

Adopted.

11. The Committee discussed Final Proposal 2014-163 from the N.H. Retirement System (Manner of Making Requests). Carolyn Johnson and Mark Cavanaugh testified for the Board of Trustees of the Retirement System.

Sen. Reagan moved that the Committee approve Final Proposal 2014-163.

Sen. Cataldo seconded.

Adopted.

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12. The Committee discussed Final Proposal 2014-164 from the Pesticide Control Board (Aquatic Application of Pesticides). David Rousseau, from the Division of Pesticide Control of the Department of Agriculture, Markets and Food, testified for the Board.

Rep. Sad moved that the Committee conditionally approve Final Proposal 2014-164 on condition that the words "for appropriateness" be inserted immediately after "equipment" in rule Pes 603.02(a)(7).

Sen. Watters seconded.

Adopted.

Senators Avard and Daniels left the meeting at this time.

13. The Committee discussed Final Proposal 2014-145 from the Department of Health and Human Services (Former Division of Human Services, General Medical Transportation). Michael Holt and Mary Fields testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated March 11, 2015.

Rep. Hatch moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-145 based on the request.

Rep. Ladd seconded.

Adopted.

14. The Committee discussed an emergency rule filed by the Department of Safety (Law Enforcement Provider Rules) which amended Saf-C 5900 (Document #10786, effective 3-20-15). David Hilts and Nick Mercuri testified for the Department.

No further action was taken.

15. The Committee discussed the scheduled continued meeting date on April 3, 2015.

It was the consensus of the Committee to cancel the April 3 continued meeting.

16. The Committee adjourned by consensus at 10:41 a.m.