



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

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

Action Minutes

NOVEMBER 19, 2015

Members Present: Senators Reagan, Cataldo, Avard, Feltes, and Daniels*, and Representatives Schmidt, Ladd, Sad, Hatch*, and Sytek*. (*) 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 9:03 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, Ladd, Sad, Hatch, and Sytek.

Sen. Reagan designated Sen. Daniels, Rep. Sytek, and Rep. Hatch as alternates, respectively, for Sen. Watters, Rep. McGuire, and Rep. Kidder, who were absent.

2. The Committee discussed the minutes of the Committee meeting on October 15, 2015.

Rep. Schmidt moved that the minutes be approved.

Sen. Cataldo seconded.

Adopted.

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

CONSENT AGENDA

2. *Committee Approval of Final Proposals:*

- (a) FP 2015-149 BOARD OF DENTAL EXAMINERS
Direct Supervision, Organization of the Board and Docketing, and Service of Documents
- (b) FP 2015-153 DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD
Pesticide Registration Fees
- (c) FP 2015-159 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Federal Standards Update

3. *Committee Conditional Approvals:*

- (a) FP 2015-128 DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD
Licensing of Commercial Devices

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

- (a) ROR 2015-39 BOARD OF REGISTRATION OF FUNERAL DIRECTORS AND EMBALMERS
Funeral Director's Place of Establishment

The Committee discussed the following additional item for the Consent Agenda for Final Proposals:

13. *BOARD OF DENTAL EXAMINERS*

- FP 2015-150 Application Procedures, Qualification and Supervision, Use of General Anesthesia and Sedation, Dental Assistant and Hygienist Duties, and Ethical Duties

The Committee also discussed the following additional item for the Consent Agenda for Conditional Approvals:

7. *BOARD OF EDUCATION*

- (a) FP 2014-189 Child Restraint Practices
(Proposal includes Amended Final Proposal.)
(Formerly Item #10 on 10-15-15 agenda).

Rep. Schmidt moved that the Committee approve the Final Proposals in Item #2 of the Consent Agenda and in Item #13, and add Item 7(a) to the Consent Agenda for Conditional Approvals.

Sen. Cataldo seconded.

Adopted.

Sen. Cataldo moved that the Committee conditionally approve the Final Proposals in Item #3(a) and the Amended Final Proposal in Item #7(a), based on the agencies' conditional approval requests.

Sen. Feltes seconded.

Adopted.

Rep. Schmidt moved that the Committee accept the response and approve the rules in Item #4(a).

Sen. Cataldo seconded.

Adopted.

Senator Avard arrived in the meeting at this time.

4. The Committee discussed whether to postpone items to another Committee meeting.

Rep. Hatch moved that the Committee postpone the following items to the Committee meeting on December 3, 2015:

15. SITE EVALUATION COMMITTEE

- (a) OR 2015-11 Organizational and Practice and Procedure Rules
(JLCAR Deadline January 19, 2016.)
(Response not yet filed. Response due by November 30, 2015.)
- (b) OR 2015-12 Explanation of Proposed Rule and Certificates of Site and Facility Rules
(JLCAR Deadline January 19, 2016.)
(Response not yet filed. Response due by November 30, 2015.)

16 BOARD OF NURSING

- OR 2015-117 Licensing Requirements
(JLCAR Deadline January 22, 2016.)
(Response not yet filed. Response due by December 3, 2015.)

Rep. Ladd seconded.

Adopted.

5. The Committee discussed Final Proposal 2015-135 from the Board of Education (Minimum Standards for Public School Approval). Erin McIntyre of the Department of Education testified for the Board.

The Board had submitted a conditional approval request in a letter dated November 16, 2015 and an amended rule dated November 17, 2015.

Rep. Ladd moved that the Committee conditionally approve Final Proposal 2015-135 based on the conditional approval request.

Sen. Feltes seconded.

Adopted.

6. The Committee discussed the response by the Department of Health and Human Services to the Committee's petition on October 15, 2015 for an emergency rule on the Standard Utility Allowance (SUA) in the Food Stamp Program. Catherine Bernhard, Mary Castelli, and Terry Smith testified for the Department.

It was the consensus of the Committee to admonish the Department for violation of RSA 541-A, but no further action was taken.

7. The Committee discussed Final Proposal 2015-101 from the Department of Health and Human Services (Former Division of Human Services, Treatment of Jointly Owned Resources for All Categories of Cash Assistance and Those Categories of Medicaid that Require a Resource Test). Catherine Bernhard, Mary Castelli, and Terry Smith testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-101.

Sen. Cataldo seconded.

Adopted.

8. The Committee discussed Final Proposal 2015-127 from the Department of Health and Human Services (Commissioner, Medicaid Covered Services). Michael Holt and Kathleen Talbot testified for the Department.

Rep. Hatch moved that the Committee approve Final Proposal 2015-127.

Rep. Sad seconded.

Adopted.

9. The Committee discussed Final Proposal 2015-132 from the Department of Health and Human Services (Former Division of Human Services, Specific Licenses for Manufacture or Transfer of Certain Items Containing Byproduct Material, Specific Licenses of Broad Scope for Other Than Human Use, and Radiation Safety Requirements for Industrial Radiographic Operations). Catherine Bernhard and Augustinus Ong testified for the Department.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-132.

Rep. Hatch seconded.

Adopted.

10. The Committee discussed Final Proposal 2015-158 of the Department of Health and Human Services (Collection Station Rules). Michael Holt and Rodney Bascom testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated November 18, 2015.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-158 based on the conditional approval request.

Rep. Ladd seconded.

Adopted.

11. The Committee discussed Final Proposal 2015-76 from the Department of Environmental Services (Water Quality and Quantity Programs, State Water Pollution Revolving Loan Fund). Gretchen Hamel and Beth Malcolm testified for the Department.

The Department had submitted a conditional approval request in an amended rule dated November 19, 2015.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-76 as requested by the Department, with the following amendments: (1) Add the date of the meeting, that is, November 19, 2015, to the forms in rules Env-Wq 509.06 (e)(1)-(3), and (2) Amend Env-Wq 507.02 (d)(1) to read: "The department shall adjust the market rate to equal the 11-Bond Index published in the last week of that 4 week period; and".

Rep. Schmidt seconded.

Adopted.

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12. The Committee discussed an emergency rule filed by the Board of Medicine (Emergency Rules for Opioid Processing, Document #10969, effective November 6, 2015). Sarah Blodgett, Executive Director of the Board, and Louise Lavertu, from the Office of Professional Licensure and Certification, testified for the Board.

No further action was taken.

13. The Committee discussed Final Proposal 2015-132 from the Lottery Commission (Rules for Prize Assignments). Valerie King testified for the Commission.

Rep. Schmidt moved that the Committee approve Final Proposal 2015-122.

Sen. Avard seconded.

Adopted.

Sen. Avard left the meeting at this time.

14. The Committee discussed Final Proposal 2015-146 from the Fish and Game Department (License and Permit Fees). Evan Mulholland testified for the Department. Executive Director Glenn Normandeau also represented the Department.

Sen. Feltes moved that the Committee approve Final Proposal 2015-146.

Rep. Schmidt seconded.

Adopted.

15. The Committee discussed Proposed Interim Rule INT 2015-12 from the Banking Department (Collateralization of Public Deposits). Ingrid White and Emilia Galdieri testified for the Department.

Rep. Ladd moved that the Committee approve Proposed Interim Rule INT 2015-12.

Sen. Daniels seconded.

Adopted.

16. The Committee discussed the proposed amendments prepared by Committee staff to the Drafting and Procedure Manual on Administrative Rules.

It was the consensus of the Committee to have the proposed amended Manual on the agenda of the continued Committee meeting on December 3, 2015.

17. The Committee discussed the proposed meeting schedule for 2016 as prepared by Committee staff.

Rep. Schmidt moved that the Committee approve the proposed schedule.

Sen. Cataldo seconded.

Adopted.

18. The Committee recessed by consensus at 10:30 a.m.