



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

Action Minutes

AUGUST 21, 2014

Members Present: Senators Reagan, Cataldo, and Watters, and Representatives McGuire, Ladd, Sad, and Kidder*. (*) 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 9:01 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. Cataldo and Reps. McGuire, Ladd, Sad, and Kidder.

Sen. Reagan designated Rep. Kidder as an alternate for Rep. Schmidt, who was absent.

2. The Committee discussed the minutes of the Committee meeting on July 17, 2014.

Rep. McGuire moved that the minutes be approved.

Sen. Cataldo seconded.

Sen. Watters arrived in the meeting at this time.

The motion was adopted.

3. The Committee discussed the following Final Proposals (Consent Agenda – Final Proposals):

- FP 2014-37* NH LOTTERY COMMISSION
Rules of Practice and Procedure
**(The only substantive issue with this final proposal is that the agency continued to operate under expired rules as noted in the fiscal impact statement.)*
- FP 2014-47 REAL ESTATE APPRAISER BOARD
Real Estate Appraiser Board Rules Regarding Responsibility of Supervising Appraisers
- FP 2014-57 HEALTH SERVICES PLANNING AND REVIEW BOARD
Organizational Rules
- FP 2014-59 DEPARTMENT OF REVENUE ADMINISTRATION
Railroad and Private Rail Car Company Taxation
- FP 2014-69 BOARD OF EDUCATION
Requirements for Initial Certification
- FP 2014-73 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Scheduling of Substances

FP 2014-75 GOVERNING BOARD OF GENETIC COUNSELORS
Ethical Standards

Rep. Ladd moved that the committee approve the Final Proposals.

Rep. McGuire seconded.

Adopted.

4. The Committee discussed the following Final Proposals (Consent Agenda – Committee Issuance of Preliminary Objections):

FP 2014-79 BOARD OF DENTAL EXAMINERS
Licensure by Examination; Organization of Board; and Complaints of Licensee Misconduct

FP 2014-80 BOARD OF DENTAL EXAMINERS
Licensure Applications; EFDA Qualifications; Jurisprudence Exam; Anesthesia/Sedation

Rep. McGuire moved that the Committee make a preliminary objection to the Final Proposals on the grounds as outlined in the annotations by Committee staff.

Rep. Sad seconded.

Adopted.

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

Rep. McGuire moved that the Committee postpone action on the following items to the Committee meeting on September 18, 2014:

7. DEPARTMENT OF REVENUE ADMINISTRATION

(b) FP 2014-31 Lien Procedures, Installment Payment Agreements, and Settlement Agreements
(JLCAR Deadline September 18, 2014.)
(Formerly Item #12(b) on 6-20-14 agenda and Item #9(b) on 7-17-14 agenda.)

8. DEPARTMENT OF EMPLOYMENT SECURITY

FP 2014-20 Penalty Weeks under RSA 282-A:164
(JLCAR Deadline August 21, 2014.)
(Formerly Item #8(a) on 6-20-14 agenda and Item #10 on 7-17-14 agenda.)

14. DEPARTMENT OF SAFETY

FP 2013-222 Commissioner
Readoption of Marketing, Sales, and Possession of Fireworks Rules
(JLCAR Deadline September 18, 2014.)
(Formerly Item #9(a) on 6-20-14 agenda and Item #16 on 7-17-14 agenda.)

Sen. Watters seconded.

Adopted.

6. The Committee discussed the following Final Proposals from the Pharmacy Board:

FP 2014-66 Pharmacy Technicians

FP 2014-67 Pharmacy Interns

Rep. McGuire moved that the Committee make preliminary objections to Final Proposal 2014-66 and Final Proposal 2014-67 on the grounds as outlined in the annotations to the Final Proposals by Committee Staff.

Sen. Watters seconded.

Adopted.

7. The Committee discussed Final Proposal 2014-16 from the Department of Revenue Administration (Real Estate Transfer Tax (RETT)). Caroline Delaney and Kathryn Skouteris testified for the Department.

The Department had submitted a conditional approval request in a letter and amended rule dated July 8, 2014, an amended conditional approval request in a letter and amended rule dated July 22, 2014, and a second, amended conditional approval request in a letter and amended rule dated August 19, 2014.

Rep. McGuire moved that the Committee accept the second, amended conditional approval request and conditionally approve Final Proposal 2014-16 based on the request, with the understanding that the Department would also correct the Department's forms to address any inconsistencies with the rules as referenced in the Committee staff's annotations.

Sen. Cataldo seconded.

John Mintken of Concord, N.H. testified at this time.

The motion was adopted.

Sen. Reagan noted for the record that Sen. Watters voted "no".

8. The Committee discussed Final Proposal 2014-61 from the Department of Revenue Administration (Taxation of Wood or Timber Cut). Caroline Delaney, Kathryn Skouteris, and Jesse Bushaw testified for the Department.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2014-61 on the condition that Rev 3402.01(g) be amended by replacing the word "requesting" with the word "filing" in the phrase "without requesting an extension".

Sen. Cataldo seconded.

Adopted.

9. The Committee discussed Final Proposal 2014-48 from the Governing Board of Speech Language Pathologists (Initial Application Form, Documents Required for Full, Conditional, and Provisional Licensure, and Practice Under a Provisional License). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

The Board had submitted a request for a conditional approval in a letter dated August 15, 2014 and amended rules dated July 15 [sic], 2014.

Rep. Ladd moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-48 based on the request, but with the following additional amendments:

- Amend Spe 308.04(c) by deleting the words “and assigned to duty in the state of New Hampshire”; and
- Amend Spe 309.01(a)(1)a. so that it reads as follows: “a. Be licensed in New Hampshire or, for an active duty military provisional licensee or the spouse of an active duty individual, be licensed in any state within the United States for the supervision of not more than 2 periods of the postgraduate professional experience pursuant to Spe 308.03 and Spe 308.04; and”.

Rep. McGuire seconded.

Adopted.

10. The Committee discussed Final Proposal 2014-49 from the Governing Board of Speech Language Pathologists (Procedure for Not Renewing a License, License Renewal Procedure, Renewal Application Form, Maintenance of Continuing Competence, Audit Procedures, Reinstatement of Licenses, and Administrative Obligations of Licensees). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

The Board had submitted a request for conditional approval in a letter dated August 15, 2014 and amended rules dated July 15, [sic], 2014.

Rep. McGuire moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-49 based on the request, but with the additional amendment to Spe 402.04(g)(8) so that it reads as follows: “(8) Email address, if applicable.”

Sen. Cataldo seconded.

Adopted.

11. The Committee discussed Final Proposal 2014-50 from the Governing Board of Speech Language Pathologists (Eligibility for Initial Certification of Speech Language Assistants, Application Procedures, Renewal of Certification, Non-compliance of Continuing Competence, Reinstatement & Supporting Materials of Certification and Administrative Obligations of Certificate Holders). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

The Board had submitted a request for conditional approval in a letter dated August 15, 2015 and amended rules dated July 15 [sic], 2014.

Sen. Cataldo moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2014-50 based on the request.

Rep. Sad seconded.

Adopted.

12. The Committee discussed Final Proposal 2014-64 from the Governing Board of Genetic Counselors (Initial Licensure and Provisional Licensure). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2014-64 on the condition that Gen 303.02(d)(8) be amended by replacing the word "correspondence" with "notifications".

Rep. Ladd seconded.

Adopted.

13. The Committee discussed Final Proposal 2014-65 from the Governing Board of Genetic Counselors (Continued Status of Licensees). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

The Board had submitted a request for conditional approval in a letter and amended rules dated August 15, 2015.

Sen. Watters moved that the Committee accept the request and conditionally approve Final Proposal 2014-65 based on the request, with the additional amendment to Gen 402.04(g)(8) so that it reads as follows: "(8) E-Mail address, if applicable."

Rep. Kidder seconded.

Adopted.

14. The Committee discussed the response by the Governing Board of Respiratory Care Practitioners to the Committee's preliminary objection to Final Proposal 2014-27 (Material Management). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Rep. McGuire moved that the Committee accept the response and approve the rules, but with the recommendation that the Board seek legislative clarification to RSA 326-E regarding authority to regulate persons who deliver respiratory care equipment, as described in the comment by Committee staff to Resp 409.01(e).

Rep. Ladd seconded.

Adopted.

15. The Committee discussed the response by the Governing Board of Respiratory Care Practitioners to the Committee's preliminary objection to Final Proposal 2014-28 (Polysomnographic Technologist Limited Scope of Practice and Polysomnographic Trainee). Tina Kelley of the Office of Licensed Allied Health Professionals testified for the Board.

Rep. Sad moved that the Committee accept the response and approve the rules.

Sen. Watters seconded.

Adopted.

16. The Committee discussed Final Proposal 2014-38 from the N.H. Lottery Commission (Rules for Sales Agents). Lynda Plante testified for the Commission.

Rep. McGuire moved that the Committee make a preliminary objection to Final Proposal 2014-38 on the grounds as outlined in the annotations to the Final Proposal by Committee staff.

Rep. Ladd seconded.

Adopted.

17. The Committee discussed Final Proposal 2014-39 from the N.H. Lottery Commission (Rules for Prize Claims). Lynda Plante testified for the Commission.

Rep. Sad moved that the Committee conditionally approve the Final Proposal on the condition that Final Proposal 2014-39 be amended by (1) inserting the date of the current edition of the "Alternate W-9 Form", both in Sw 602.03(d) and on the form itself, and (2) replacing the word "perjury" on the form by the words "unsworn falsification", in order to be consistent with the deletion of "perjury" from the Final Proposal.

Rep. Kidder seconded.

Adopted.

18. After a break, with Sens. Reagan and Cataldo, and Reps. McGuire, Ladd, Sad, and Kidder present, the Committee discussed as "other business" the issue of agency forms as defined in RSA 541-A:1, VII-a, including the degree to which the Department of Safety is subject to RSA 541-A for application forms for resident and non-resident pistol licenses under RSA 159:6, and the need for standard naming and dating requirements for agency forms.

It was the consensus of the Committee that staff examine forms of state agencies, such as the Department of Environmental Services and the Department of Safety, for a recommended format for standardization of agency forms.

19. The Committee discussed the scheduled continued meeting date of September 4, 2014.

It was the consensus of the Committee to cancel the continued meeting date.

20. Rep. Ladd moved that the Committee adjourn.

Sen. Cataldo seconded.

Adopted.

The Committee adjourned at 11:10 a.m.