



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

Action Minutes

SEPTEMBER 17, 2015

Members Present: Representatives McGuire, Schmidt, Ladd, Sad, Gottling*, Sytek*, and Hatch*, and Senators Reagan, Cataldo, Avar, 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 9:01 a.m. by Rep. McGuire as Chair.

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

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

Sen. Reagan moved that the minutes be approved.

Rep. Schmidt seconded.

Adopted.

Sen. Avar arrived at this time.

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

Rep. Gottling was not a voting member at this time.

3. The Committee discussed the following Final Proposals and Proposed Interim Rule (Consent Agenda – Final Proposals and Proposed Interim Rules):

FP 2015-102 DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Quality and Quantity Programs
Public Swimming Pools - Materials and Methods of Construction

FP 2015-106 BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS
Operator Requirements

FP 2015-107 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Mileage Reimbursement for the Food Stamp Employment and Training (FSET) Program

FP 2015-113 FISH AND GAME DEPARTMENT
Freshwater Fishing Changes – 2015.

Action Minutes
September 17, 2015
Page 2

- FP 2015-114 DEPARTMENT OF ADMINISTRATIVE SERVICES
Division of Personnel
Written Warning
- FP 2015-118 BOARD OF NURSING
Continued Status
- FP 2015-119 BOARD OF NURSING
Ethical Standards: Professional Duties of an Advanced Practice Registered Nurse (APRN)
- FP 2015-126 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Exempt Concentrations of Radioactive Isotopes in Gas, Liquid, and Solid Concentrations
and Exempt Quantities
- INT 2015-10 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Public Health Services
Public Health Laboratories Fee Schedule

Sen. Reagan moved that the Committee approve the Final Proposals and Proposed Interim Rule.

Rep. Ladd seconded.

Adopted.

Rep. McGuire designated Rep. Gottling as an alternate for Sen. Feltes, who was absent.

4. The Committee noted that the following Final Proposal was postponed on August 20, 2015 to the regular JLCAR meeting on October 15, 2015:

- FP 2015-67 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Medicaid Managed Care
(JLCAR Deadline October 15, 2015.)

No further action was taken.

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

It was the consensus of the Committee to take no action to postpone.

6. The Committee discussed Final Proposal 2015-80 from the Department of Agriculture, Markets, and Food (Importation of Bovines and Other Domestic Animals into New Hampshire). Dr. Stephen Crawford testified for the Department.

Sen. Feltes arrived during the discussion of this item. Rep. Gottling was no longer a voting member.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2015-30 on the condition that the Department make the following amendments: (1) change the reference in Agr 2103.03(d) intro.

Action Minutes
September 17, 2015
Page 3

from "Agr 2103.03(b)" to "Agr 2103.03(a)", and (2) delete all text in Agr 2116.02(a) after the reference to "9 C.F.R. Parts 55 and 81."

Rep. Sad seconded.

Adopted.

Sen. Feltes indicated to Committee staff that it should follow-up with agencies about the effect of HB 425 which forbids enforcement of expired rules.

7. The Committee discussed Final Proposal 2015-117 from the Board of Nursing (Licensing Requirements). Denise Nies, Executive Director, testified for the Board.

The Board had submitted a conditional approval request in a letter and amended rule dated September 10, 2015.

Sen. Feltes moved that the Committee conditionally approve Final Proposal 2015-117 based on the request.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2015-130 from the Insurance Department (Continuing Care Retirement Communities). Heather Silverstein testified for the Department.

Rep. Hatch arrived during the discussion of this item but was not a voting member at this time.

The Department had submitted a conditional approval request in a letter and amended rule dated September 16, 2015.

Sen. Reagan moved that the Committee conditionally approve Final Proposal 2015-130 based on the Department's request, but with the following amendments:

- Give the custodian agreement reference in Ins 1807.01(d)(10) and (f), and in Appendix B, a form number or title to clearly indicate that it is a Department form, insert a date on the form, and amend Ins 1807.01(d)(10) and (f), and Appendix B, accordingly; and
- Amend Ins 1809.01(e)(2) by adding a second sentence that reads: "However, the per diem allowance under RSA 400-A:37, VII shall not exceed \$1,000."

Rep. Sytek seconded.

Adopted.

9. The Committee discussed the response by the Board of Funeral Directors and Embalmers to the Committee's preliminary objection to Final Proposal 2015-39 (Funeral Director's Place of Establishment). Randy Gordon, Board Chair, testified for the Board.

Randy Gordon requested a revised objection on behalf of the Board, based on the grounds as outlined in the annotations by Committee staff in the Objection Response for Final Proposal 2015-39.

Sen. Feltes moved that the Committee make a revised objection to the Objection Response for Final Proposal 2015-39 as requested.

Sen. Avard seconded.

Adopted.

10. The Committee discussed the response by the Board of Funeral Directors and Embalmers to the Committee's preliminary objection to Final Proposal 2015-40 (Crematories). Randy Gordon, Board Chair, testified for the Board.

Sen. Reagan moved that the Committee accept the response and approve the rules, but with the understanding that the Board will make editorial changes to Frl 801.01(g)-(i) in the adopted rules as follows: (1) delete "if" and "in (h) below" in Frl 801.10(g); (2) delete the introduction "Before imposing disciplinary sanctions, the Board shall consider the following factors" in (h); (3) renumber (h)(1)-(9) as (g)(1)-(9); and (4) renumber paragraph (i) as (h).

Sen. Feltes seconded.

Adopted.

11. The Committee discussed the response by the Commissioner of Agriculture, Markets and Food on July 22, 2015 to the Committee's rulemaking petition of June 19, 2015 relative to the registration of poultry and rabbit producers to implement RSA 143-A:16, II.

Sen. Reagan moved that the Committee accept the response.

Sen. Feltes seconded.

Adopted.

12. The Committee discussed amendments to the Drafting and Procedures Manual on Administrative Rules based on the proposal prepared by Committee staff for the Committee's review.

Sen. Reagan, Sen. Feltes, and Rep Hatch left the meeting during the discussion of this item.

No action was taken at this time.

13. It was the consensus of the Committee to cancel the continued meeting scheduled for October 1, 2015.
14. The Committee adjourned by consensus at 10:40 a.m.