

OCTOBER 4



Tuesday, October 4, 2005

3:00 p.m. to 5:00 p.m.

Legislative Rule-Making
Review Committee
(Code §29A-3-10)

Earl Ray Tomblin
ex officio nonvoting member

Robert "Bob" Kiss
ex officio nonvoting member

Senate

House

Minard, Chairman
Fanning, Vice Chair
Prezioso
Unger
Boley
Minear

Mahan, Chairman
Palumbo, Vice Chair
Cann
Pino
Armstead
Overington
Absent

The meeting was called to order by Mr. Minard, Co-Chairman.

The minutes of the May 16, 2005, meeting were approved.

Debra Graham, Chief Counsel, reviewed her abstract on the rule proposed by the **WV State Fire Commission, State Fire Code, 87CSR1**, and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV State Board of Examiners for Licensed Practical Nurses, Policies Regulation Licensure of the Licensed Practical Nurse, 10CSR2**, and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Board of Pharmacy, Ephedrine and Pseudoephedrine Control, 15CSR11**, stated that the Board has agreed to technical modifications and responded to questions from the Committee.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **Division of Rehabilitation Services, Ron Yost Personal Assistance Services Act Board, 198CSR1**, stated that the Board has agreed to technical modifications and answered questions from the Committee.

Jane Lilly-Stewart, Chair of the Ron Yost Personal Assistant Service Act Board, answered questions from the Committee.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Joe Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the **Oil and Gas Conservation Commission, Rules of the Commission, 39CSR1.**

Mr. Armstead requested that he be excused from voting under Rule 49. The Chairman excused him from voting.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer explained his abstract on the rule proposed by the **Office of Waste Management, Hazardous Waste Management Rule, 33CSR20.**

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Board of Veterinary Medicine, Organization and Operation, 26CSR1,** and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Board of Veterinary Medicine, Certified Animal Euthanasia Technicians, 26CSR5,** and stated that the Board has agreed to technical modifications.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Board of Veterinary Medicine, Schedule of Fees, 26CSR6.**

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Radiologic Technology Board of Examiners, Rule of the West Virginia Board of Examiner for Radiologic Technologists, 18CSR1.**

Grady Bowyer, Executive Director, with the WV Radiologic Technology Board of Examiners responded to questions from the Committee.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Brian Skinner, Associate Counsel, reviewed his abstract on the rule proposed by the **Real Estate Appraiser Licensing and Certification Board, Renewal of Licensure or Certification, 190CSR3**.

Ms. Mahan moved that the proposed rule be approved. The motion was adopted.

Mr. Skinner explained his abstract on the rule proposed by the **WV Statewide Addressing and Mapping Board, Final Distribution and Use of Statewide Addressing and Mapping Fund, 169CSR3**, and stated that the Board has agreed to technical modifications.

Craig Neidig, Chairman, with the Statewide Addressing and Mapping Board answered questions from the Committee.

Mr. Armstead moved the rule be laid over until the November Committee meeting. The motion failed.

Ms. Mahan moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Armstead, Mr. Palumbo, and Mr. Overington requested to be recorded as voting No.

Mr. Skinner reviewed his abstract on the rule proposed by the **WV Statewide Addressing and Mapping Board, Standard Fees for Planimetric Elevation Data, 169CSR4**, and stated that the Board has agreed to technical modifications.

Mr. Neidig responded questions from the Committee.

Mr. Unger moved to modify the proposed rule by adding language tying termination of the proposed rule to the sun setting of the Board. The motion was adopted.

Mr. Pino moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Skinner explained his abstract on the rule proposed by the **WV Division of Forestry, Ginseng Regulations, 22CSR1**, and stated that the Board has agreed to technical modifications.

Edward C. Murriner, with the Division of Forestry, answered questions from the Committee.

Mr. Palumbo moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Division of Labor, West Virginia Manufactured Housing Construction and Safety Standards Board, 42CSR19**, and stated that the Board has agreed to technical modifications.

Andrew A. Brown, Assistant to the Commissioner, with the Division of Labor responded to questions from the Committee.

Mr. Pino moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Division of Natural Resources, Commercial Whitewater Outfitters, 58CSR12**, and stated that the Board has agreed to technical modifications.

Ms. Boley moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Division of Natural Resources, Boating Rule, 58CSR25**, and stated that the Board has agreed to technical modifications.

Mr. Palumbo moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Division of Natural Resources, Terms Defining the Terms to be Used Concerning All Hunting and Trapping Rules, 58CSR46**, and stated that the Board has agreed to technical modifications.

Mr. Pino moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Division of Natural Resources, Wild Boar Hunting Rule, 58CSR52**.

Mr. Palumbo moved that the proposed rule be approved. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Division of Natural Resources, Special Waterfowl Hunting Rule, 58CSR58**.

Mr. Palumbo moved that the proposed rule be approved. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Division of Natural Resources, Falconry, 58CSR65**, and stated that the Board has agreed to technical modifications.

Mr. Palumbo moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained her abstract on the rule proposed by the **WV Division of Natural Resources, Lifetime Hunting, Trapping and Fishing Licenses, 58CSR67**.

Brett Preston, with the Division of Natural Resources, answered questions from the Committee.

Ms. Minear moved that the proposed rule be approved. The motion failed.

Mr. Minard stated that the proposed rule would lie over until the November Committee meeting.

Ms. Graham reviewed her abstract on the rule proposed by the **WV Division of Natural Resources, Rules Governing Public Use of West Virginia State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources, 58CSR31**, stated that the Board has agreed to technical modifications and answered questions from the Committee.

John R. Pope, Chief of the Division of Natural Resources Parks and Recreation, responded to questions from the Committee.

Mr. Armstead moved to amend the proposed rule by deleting Subsection 2.21 in its entirety. The motion was adopted.

Ms. Minear moved that the proposed rule be approved as modified and amended. The motion was adopted.

The meeting was adjourned.

Division of Natural Resources

Rules Governing Public Use of West Virginia State Parks, State Forests, and State Wildlife Management Areas Under the Division of Natural Resources, 58CSR31

AMENDMENT

On page 3, subsection 2.21, by striking out the words "Except as authorized in writing by the Director for group functions, no" and inserting in lieu thereof the word "No";

On page 3, subsection 2.21, after the words "Chief Logan", by striking out the words "except in the lodge and conference center";

And,

On page 4, subsection 2.21, after the words "prohibited by posted signs" by striking out the period and inserting in lieu thereof the following ": Provided, That any person, group or association sponsoring a private party at the restaurant at Chief Logan State Park or the multi-purpose log barn at Prickett's Fort State Park may provide beer, wine, liquor and all other alcoholic beverages for guests at a private party as long as the party is not open to the general public.".

OCTOBER INTERIM ATTENDANCE
Legislative Interim Meetings
October 2, 3, and 4, 2005

Tuesday, October 4, 2005

3:00 - 5:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member _____

Robert S. Kiss, ex
officio nonvoting member _____

Senate

Minard, Chair

Fanning, Vice Chair

Prezioso

Unger

Boley

Minear

✓

✓

✓

✓

✓

✓

House

Mahan, Chair

Palumbo, Vice Chair

Cann

Pino

Armstead

Overington

✓

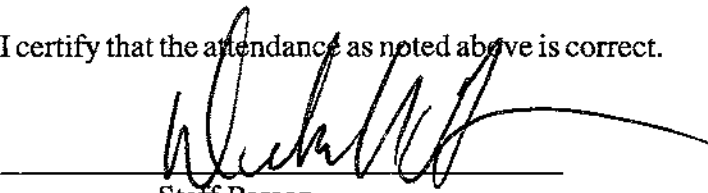
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✓

✓

✓

I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, October 4, 2005
3:00 p.m. to 5:00 p.m.
House Finance Committee Room

1. **Approval of Minutes** - Meetings of May 16, 2005
2. **Review of Legislative Rules:**
 - a. **Fire Commission, WV State**
State Fire Code
87CSR1
 - b. **Licensed Practical Nurses, WV State Board of Examiners**
Policies Regulation Licensure of the Licensed Practical Nurse
10CSR2
 - c. **Pharmacy, WV Board of**
Ephedrine and Pseudoephedrine Control
15CSR11
 - d. **Rehabilitation Services, Division of**
Ron Yost Personal Assistance Services Act Board
198CSR1
 - e. **Oil and Gas Conservation Commission**
Rules of the Commission
39CSR1
 - f. **Waste Management, Office of**
Hazardous Waste Management Rule
33CSR20
 - g. **Veterinary Medicine, Board of**
Organization and Operation
26CSR1
 - h. **Veterinary Medicine, Board of**
Certified Animal Euthanasia Technicians
26CSR5
 - i. **Veterinary Medicine, Board of**
Schedule of Fees
26CSR6

- j. **Radiologic Technology Board of Examiners**
Rule of the West Virginia Board of Examiners of Radiologic Technologists
18CSR1
- k. **Real Estate Appraiser Licensing & Certification Board**
Renewal of Licensure or Certification
190CSR3
- l. **Statewide Addressing and Mapping Board**
Final Distribution and Use of Statewide Addressing and Mapping Fund
169CSR3
- m. **Statewide Addressing and Mapping Board**
Standard Fees for Planimetric Elevation Data
169CSR4
- n. **Forestry, Division of**
Ginseng Regulations
22CSR1
- o. **Labor, Division of**
West Virginia Manufactured Housing Construction and Safety Standards Board
42CSR19
- p. **Natural Resources, Division of**
Commercial Whitewater Outfitters
58CSR12
- q. **Natural Resources, Division of**
Boating Rule
58CSR25
- r. **Natural Resources, Division of**
Terms Defining the Terms to be Used Concerning All Hunting & Trapping Rules
58CSR46
- s. **Natural Resources, Division of**
Wild Boar Hunting Rule
58CSR52
- t. **Natural Resources, Division of**
Special Waterfowl Hunting Rule
58CSR58

- u. **Natural Resources, Division of**
Falconry
58CSR65
- v. **Natural Resources, Division of**
Lifetime Hunting, Trapping and Fishing Licenses
58CSR67
- w. **Natural Resources, Division of**
*Rules governing public use of West Virginia State Parks,
State Forests, and State Wildlife Management Areas under the
Division of Natural Resources*
58CSR31

3. **Other Business**

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State Fire Code
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* Approve as Modified
 - b. **Licensed Practical Nurses, WV State Board of Examiners**
Policies Regulation Licensure of the Licensed Practical Nurse
10CSR2

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 - c. **Pharmacy, WV Board of**
Ephedrine and Pseudoephedrine Control
15CSR11

* Approve as Modified
 - d. **Rehabilitation Services, Division of**
Ron Yost Personal Assistance Services Act Board
198CSR1

* Approve as Modified
 - e. **Oil and Gas Conservation Commission**
Rules of the Commission
39CSR1

* Approve
 - f. **Waste Management, Office of**
Hazardous Waste Management Rule
33CSR20

* Approve

- g. **Veterinary Medicine, Board of**
Organization and Operation
26CSR1
 - * Approve as Modified
- h. **Veterinary Medicine, Board of**
Certified Animal Euthanasia Technicians
26CSR5
 - * Approve as Modified
- i. **Veterinary Medicine, Board of**
Schedule of Fees
26CSR6
 - * Approve
- j. **Radiologic Technology Board of Examiners**
Rule of the West Virginia Board of Examiners of Radiologic Technologists
18CSR1
 - * Approve
- k. **Real Estate Appraiser Licensing & Certification Board**
Renewal of Licensure or Certification
190CSR3
 - * Approve
- l. **Statewide Addressing and Mapping Board**
Final Distribution, and Use of Statewide Addressing and Mapping Fund
169CSR3
 - * Approve as Modified
- m. **Statewide Addressing and Mapping Board**
Standard Fees for Planimetric Elevation Data
169CSR4
 - * Approve as Modified
- n. **Forestry, Division of**
Ginseng Regulations
22CSR1
 - * Approve as Modified

- o. **Labor, Division of**
West Virginia Manufactured Housing Construction and Safety Standards Board
42CSR19
 - * *Approved as Modified*

- p. **Natural Resources, Division of**
Commercial Whitewater Outfitters
58CSR12
 - * *Approve as Modified*

- q. **Natural Resources, Division of**
Boating Rule
58CSR25
 - * *Approve as Modified*

- r. **Natural Resources, Division of**
Terms Defining the Terms to be Used Concerning All Hunting & Trapping Rules
58CSR46
 - * *Approve as Modified*

- s. **Natural Resources, Division of**
Wild Boar Hunting Rule
58CSR52
 - * *Approve*

- t. **Natural Resources, Division of**
Special Waterfowl Hunting Rule
58CSR58
 - * *Approve*

- u. **Natural Resources, Division of**
Falconry
58CSR65
 - * *Approve as Modified*

- v. **Natural Resources, Division of**
Lifetime Hunting, Trapping and Fishing Licenses
58CSR67
 - * *Approve*

- w. **Natural Resources, Division of**
*Rules governing public use of West Virginia State Parks,
State Forests, and State Wildlife Management Areas under the
Division of Natural Resources*
58CSR31

* *Approve as Modified*

3. **Other Business**

OCTOBER INTERIM ATTENDANCE

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officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Minear

✓
✓
✓
✓
✓
✓

Mahan, Chair
Palumbo, Vice Chair
Cann
Pino
Armstead
Overington

✓
✓
✓
✓
✓
✓

minutes approved

Fire - Fire Code

*Mahan
adopted*

Approve as mod

LPN

*Mahan
adopted*

Approve as mod

Pharmacy

Counsel &

to questions

*Mahan
adopted*

Approve as mod

Bd of Pharmacy responded

Check on rule 49

Rehabilitation Services

Counsel & Bd Chairman responded to

questions

Approve as mod

Mahan adopted

Oil & Gas Conservation Commission

Joe explained

Approve

Armistead → rule 49

Mahan adopted

Waste Mgt

Joe explained

Approve

Mahan

Vets - Orgs

Approve as mod

Mahan adopted

Vets - fees

Rod Tech

Study responded to q.

Real Estate

Approve

Mahan
adopted

Statewide Addressing & Mapping - Final Dist

Counsel responded to questions

Chairman of the Bd

Move to lay over

Armistead

~~Armistead~~

defeated

Mahan

Approve as mod.

Armistead & Palumbo & Overington "No"

State-wide - Standard fees

Counsel responded to questions

Chairman of Bd

Unger

Modify to be tied to Bd's sunset

Approve as mod
adopted

Forestry - Ginseng

responded to questions

Ed Munro, Div of F

Palumbo
adopted

Approve as mod

Labor - Manuf Housing

Andy responded to questions

Approve as mod

Pino
~~Palumbo~~

~~lay over~~

DNR - State Parks

Amended
amend

Delete allowance for alcohol adopted

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Tuesday, October 4, 2005
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1. **Approval of Minutes** - Meetings of May 16, 2005

2. **Review of Legislative Rules:**

*Approved
as modified*

Fire Commission, WV State
a. **State Fire Code**
87CSR1

* Approve as Modified

*Approved
as modified*

Licensed Practical Nurses, WV State Board of Examiners
b. **Policies Regulation Licensure of the Licensed Practical Nurse**
10CSR2

* Approve as Modified

*Approved
as modified*

Pharmacy, WV Board of
c. **Ephedrine and Pseudoephedrine Control**
15CSR11

* Approve as Modified

*Approved
as modified*

Rehabilitation Services, Division of
d. **Ron Yost Personal Assistance Services Act Board**
198CSR1

* Approve as Modified

Approved

Oil and Gas Conservation Commission
e. **Rules of the Commission**
39CSR1

* Approve

Approved

Waste Management, Office of
f. **Hazardous Waste Management Rule**
33CSR20

* Approve

Approved
as modified

**Veterinary Medicine, Board of
Organization and Operation**
26CSR1

* Approve as Modified

Approved
as modified

**Veterinary Medicine, Board of
Certified Animal Euthanasia Technicians**
26CSR5

* Approve as Modified

Approved

**Veterinary Medicine, Board of
Schedule of Fees**
26CSR6

* Approve

Approved

Radiologic Technology Board of Examiners
Rule of the West Virginia Board of Examiners of Radiologic
Technologists
18CSR1

* Approve

Approved
k.

Real Estate Appraiser Licensing & Certification Board
Renewal of Licensure or Certification
190CSR3

* Approve

Approved
as modified
l.

Statewide Addressing and Mapping Board
Final Distribution, and Use of Statewide Addressing and
Mapping Fund
169CSR3

* Approve as Modified

Approved
as modified
m.

Statewide Addressing and Mapping Board
Standard Fees for Planimetric Elevation Data
169CSR4

* Approve as Modified

Approved
as modified
n.

Forestry, Division of
Ginseng Regulations
22CSR1

* Approve as Modified

Approve
as mod.

Labor, Division of
West Virginia Manufactured Housing Construction and Safety
Standards Board
42CSR19

* Approved as Modified

Approve
as modified

Natural Resources, Division of
Commercial Whitewater Outfitters
58CSR12

* Approve as Modified

Approve
as modified

q. **Natural Resources, Division of**
Boating Rule
58CSR25

* Approve as Modified

Approve
as modified

r. **Natural Resources, Division of**
Terms Defining the Terms to be Used Concerning All Hunting
& Trapping Rules
58CSR46

* Approve as Modified

Approve

s. **Natural Resources, Division of**
Wild Boar Hunting Rule
58CSR52

* Approve

Approve

Natural Resources, Division of
Special Waterfowl Hunting Rule
58CSR58

* Approve

Approve
as modified

t. **Natural Resources, Division of**
Falconry
58CSR65

* Approve as Modified

~~Approve~~
lay over

Natural Resources, Division of
Lifetime Hunting, Trapping and Fishing Licenses
58CSR67

* Approve

Approve^w
as modified
&
amended

Natural Resources, Division of
Rules governing public use of West Virginia State Parks,
State Forests, and State Wildlife Management Areas under the
Division of Natural Resources
58CSR31

JR Pope

* Approve as Modified

3. Other Business

OCTOBER INTERIM ATTENDANCE

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Robert "Bob" Kiss, ex
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Senate

House

Minard, Chair

✓

Mahan, Chair

✓

Fanning, Vice Chair

✓

Palumbo, Vice Chair

✓

Prezioso

✓

Cann

✓

Unger

✓

Pino

✓

Boley

✓

Armstead

✓

Minear

✓

Overington

✓

Minard called meeting to Order

Minutes approved

✓ • Debra Explained

Fire 81 CSR1

Mahan moved

Approve as Modified

✓ • LPN 10CSR2

Debra Explained

Mahan moved

Approve as Modified

✓ • Pharmacy 15CSR11

Debra Explained

Debra, Minard, & Prezioso answered 7's

Mahan moved

Approve as Modified

✓ Rehab 198 CSR1
Debra Explained ? ans ?'s Mahan moved
① June Stewart answered ?'s
Approve as Modified

✓ Oil & Gas 39 CSR1
Joe Explained Mahan moved rule
Armstead requested to be removed - Minard removed him
Minard answered ?'s
Approve

✓ Waste Management 33 CSR20
Joe Explained Mahan moved
Approve

✓ Vet. Med. 26 CSR1
Debra Explained Mahan moved
Approve as Modified

✓ Vet Med 26 CSR 5
Debra Explained Mahan moved
Approve as Modified

✓ Vet Med 26 CSR 6
Debra Explained Mahan moved
Approve

✓ • Rad Tech 18 CSR1
Debra Explained Mahan Moved
Grady Bowyer answered ?'s
Approve

✓ • Real Estate 190 CSR3
Brian Explained Mahan moved
Approve

✓ • Statewide 169 CSR3
Brian Explained
Craig Niedig answered ?'s Mahan moved
Armstead Motion to Lay Over
Mahan says vote
Armstead debates
Hand count 3 years
Approve as modified
recorded Armstead Palumbo Overington voted NO

• Statewide 169 CSR4
Brian Explained & answered ?'s
Craig Niedig answered ?'s
Ungr suggest amendment for 2 years on sunset
Brian says implied Board Fee Sunset
Counsel & Agency w/ll clarify
Pino moved
Approve as modified

✓ • Forestry 22CSR1
Brian Explained Palumbo moved
Edward ~~Munim~~ answered questions
Approved as Modified

✓ • Labor 42CSR19
Debra Explained Pino moved
Andrew Brown answered questions
Approved as Modified

✓ • DNR 58CSR12
Debra Explained Boley moved
Approved as Modified

✓ • DNR 58CSR25
Debra Explained Palumbo moved
Approved as modified

✓ • DNR 58CSR46
Debra Explained Pino moved
Approved as Modified

✓ • DNR 58CSR52
Debra Explained Palumbo moved
Approve

✓ • DNR 58CSR58
Debra Explained Palumbo moves
Approve

✓ • DNR 58CSR65
Debra Explained Palumbo moves
Approved as modified

• DNR 58CSR67
Debra Explained : answered ?'s
Brett Preston answered ?'s
~~4~~ 4 yes → Minard no vote
4 no

Minard

Motion to lay over rule
*Laid Over

• DNR 58CSR31
Debra Explained : answered ?'s Minard move
JR Pope answered ?'s

~~Amended motion to delete 2.21 (alcohol)~~
Motion moved
Approved as modified : amended