

BOARD:
Allen Amsler
Chairman

Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
Charles M. Joye II, P.E.
L. Clarence Batts, Jr.
John O. Hutto, Sr., MD
William Lee Hewitt, III

**Minutes of the March 12, 2015, meeting of the
South Carolina Board of Health and Environmental Control**

The South Carolina Board of Health and Environmental Control met on Thursday, March 12, 2015, at 10:00 a.m. in the Board Room (#3420) of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Allen Amsler, Chairman
Member-at-Large

Mark Lutz, Vice-Chairman
1st District

Ann B. Kirol, DDS, Secretary
5th District

R. Kenyon Wells
2nd District

Charles M. Joye, II, P.E.
3rd District

L. Clarence Batts
4th District

John O. Hutto, Sr., MD
6th District

William Lee Hewitt, III
7th District

Also in attendance were; W. Marshall Taylor, Jr., Acting Director; Elizabeth F. Potter, Legal Counsel; Lisa L. Longshore, Clerk; Department staff and members of the public. (Attachment 0-2)

Chairman Amsler called the meeting to order and stated notice of this meeting had been provided to all persons, organizations and news media, which have requested notification, as required by Section 30-4-80(e) of the South Carolina Code of Laws.

Item 1: Minutes of January 8, January 12, January 27 and February 25 meeting
(Attachment 1-1)

Mr. Batts moved, seconded by Mr. Wells, to approve the minutes as submitted for the January 8, January 12, January 27 and February 25 meetings. The Board voted and Motion carried.

Item 2: Administrative and Consent Orders issued by Environmental Affairs (Attachment 2-1)

Ms. Robin Stephens, Assistant to the Deputy Director, Environmental Affairs, stated five (5) Administrative Orders and seventy-nine (79) Consent Orders had been issued with total penalties of \$237,832.40.

After discussion, *the Board accepted this item as information.*

Item 3: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 3-1)

Ms. Bentley White, Health Regulation Program Manager, stated eight (8) Administrative Orders had been issued with total penalties of \$20,000.

After discussion, *the Board accepted this item as information.*

Item 4: Public Hearing and Request for Final Approval – Proposed Repeals of Regulation 61-28, Horse Meat and Kangaroo Meat; Regulation 61-38, Fairs, Camp Meetings, and Other Gatherings; Regulation 61-39, Camps; Regulation 61-40, Mobile/Manufactured Home Parks; Regulation 61-42, Sanitation of Schools; and Regulation 61-46, Nuisances, State Register Document No. 4552, Legislative Review is required (Attachment 4-1)

Mr. Rick Caldwell, Assistant Bureau Director, Bureau of Environmental Health Services, presented this item to the Board.

Regulation.61-28, *Horse Meat and Kangaroo Meat* was promulgated in 1967. Regulation.61-38, *Fairs, Camp Meetings, and Other Gatherings* was promulgated in 1944. Regulation 61-39, *Camps* was promulgated in 1995. Regulation 61-40, *Mobile/Manufactured Home Park* was promulgated in 1986. Regulation 61-42, *Sanitation of Schools* was promulgated in 1989. Regulation 61-46, *Nuisances* was promulgated in 1946. The regulations were promulgated pursuant to South Carolina Code Section 44-1-140. These regulations have not been amended since the original promulgations, with the exception of Regulation 61-46 in 1972 and have become obsolete and are no longer needed. Under current statutes and other regulations, there exists sufficient authority to address and to control any major environmental and public health issues associated with the regulations for repeal. As such, the Department is proposing repeal of these regulations.

These proposed repeals will have no substantial fiscal or economic impact on the State and its political subdivisions or the regulated community.

A public hearing was conducted; however, no one in attendance spoke. (Attachment 4-2)

After discussion, *Dr. Kirol moved, seconded by Mr. Batts, to find for the need and reasonableness of the Proposed Repeals of Regulation 61-28, Horse Meat and Kangaroo Meat; Regulation 61-38, Fairs, Camp Meetings, and Other Gatherings; Regulation 61-39, Camps; Regulation 61-40, Mobile/Manufactured Home Parks; Regulation 61-42, Sanitation of Schools; and Regulation 61-46, Nuisances, and approve it for submission to the Legislature for review. The Board voted and Motion carried.*

A verbatim transcript of this proceeding is included as part of the permanent record. (Attachment 4-3)

Item 5: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-17, Standards for Licensing Nursing Homes, State Register Document No. 4543, Legislative Review is required (Attachment 5-1)

Ms. Gwen Thompson, Director, Bureau of Health Facilities Regulation, presented this item to the Board.

The proposed amendments incorporated provisions relating to accident and incident reporting requirements, infection control and tuberculosis screening, licensing requirements, meal and dietary service requirements, and staff training requirements. The amendments also updated design and construction, and fire protection and prevention requirements. The amendments incorporated current provider-wide exceptions, memoranda, and governing statutory authority applicable to nursing homes.

A public hearing was conducted. (Attachment 5-2)

After discussion, *Mr. Lutz moved, seconded by Dr. Kirol, to find for the need and reasonableness of the Proposed Amendment of Regulation Standards for Licensing Nursing Homes, and approve it for submission to the Legislature for review with the following revision that was raised, considered or discussed by public comment: change 1603 (A) to read “Each staff member shall receive training within twenty-four (24) to forty-eight (48) hours of his or her first day on the job...”. The Board voted and Motion carried.*

A verbatim transcript of this proceeding is included as part of the permanent record. (Attachment 5-3)

Item 6: Public Hearing and Request for Final Approval – Proposed Amendment of 61-78, Standards for Licensing Hospices, State Register Document No. 4553, Legislative Review is required (Attachment 6-1)

Ms. Gwen Thompson, Director, Bureau of Health Facilities Regulation, presented this item to the Board.

Hospices provide a continuum of medically supervised palliative and supportive care for terminally ill patients and their family including, but not limited to, inpatient services and outpatient services. Hospice facilities house licensed hospices that provide room, board, and appropriate hospice services on a twenty-four (24) hour basis to individuals requiring hospice care pursuant to the orders of a physician.

The proposed amendments incorporate provisions relating to accident and incident reporting, patient and medical record maintenance, infection control and tuberculosis screening, medication administration, patient care, treatment, and services, emergency procedures and disaster preparedness, design and construction, fire and life safety, and overall licensing requirements for hospice facilities and inpatient and outpatient services in accordance with governing statutes. The amendments incorporate current provider-wide exceptions and memoranda that are applicable to inpatient and outpatient services and hospice facilities.

A public hearing was conducted. (Attachment 6-2)

Comments received during the public hearing. (Attachment 6-3)

After discussion, Mr. Joye moved, seconded by Dr. Kirol, that based on comments received during the public hearing to remand Regulation 61-78, Standards for Licensing Hospices to staff for reconsideration of Sections 201.E Scope of Licensure; 1100.E. Rights and Assurances. Discharge and 1608.A. Disposition of Medications and to bring the proposed package to the Board at the April 9 meeting to reconvene the public hearing limited to the topics specified for reconsideration. The Board voted and Motion carried.

A verbatim transcript of this proceeding is included as part of the permanent record. (Attachment 6-4)

Item 7: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-7, Emergency Medical Services, State Register Document No. 4540, Legislative Review is required (Attachment 7-1)

Mr. Robert Wronski, Director, Division of Emergency Medical Services, presented this item to the Board.

The proposed amendment incorporated updated statutory requirements for EMT certification and training; amended the vehicle equipment list; defined Quick Response Vehicles; modified the ground ambulance requirement to reflect the latest standards, including temperature control; changed the air ambulance requirements to reflect the latest statutory amendments; changed

manning requirements for specific situations; clarified on licensure levels; revamped the fines and penalty structures within the regulations; modified names of certain response agencies; and amended other licensure requirements.

A public hearing was conducted. (Attachment 7-2)

After discussion, Mr. Batts moved, seconded by Mr. Lutz, to find for the need and reasonableness of the Proposed Amendment of Regulation 61-7, Emergency Medical Services, and approve for it for submission to the Legislature for review. The Board voted and Motion carried by a vote of 5-1 with Mr. Hewitt being the opposing vote and Mr. Lutz abstaining from the vote.

A verbatim transcript of this proceeding is included as part of the permanent record. (Attachment 7-3)

Dr. Hutto moved, seconded by Mr. Lutz, to go into Executive Session for the purpose of discussing a personnel matter and receipt of legal advice. The Board voted and the Motion carried.

Chairman Amsler announced the Board was back in public session and while in Executive Session on actions were taken.

Item 8: Proposed Amendment of Regulation 61-13, Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions, Legislative Review is required (Attachment 8-1)

Ms. Gwen Thompson, Director, Bureau of Health Facilities Regulation, presented this item to the Board.

Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions are those facilities which serve four (4) or more persons and provide health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services. These facilities provide room and board, and active treatment for individuals with intellectual disabilities and related conditions.

The Department proposed amending R.61-13 pursuant to the S.C. Code Section 1-23-120(J) requirement that the Department perform a review of its regulations every five (5) years and update them if necessary. The proposed amendments herein include the Department's effort to incorporate updates and clarification relating to facility licensure requirements, accident and/or incident reporting requirements, client and medical record maintenance, emergency procedures and disaster preparedness, client care, treatment and services, design and construction, and fire and life safety. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

After discussion, Mr. Wells moved, seconded by Mr. Lutz, to grant approval to publish the Notice of Proposed Amendments of Regulation 61-13, Standards for Licensing Habilitation

Centers for Persons with Intellectual Disability or Persons with Related Conditions, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.

Item 9: Proposed Amendment of Regulation 61-92, Underground Storage Tank Control Regulations, Legislative Review is required (Attachment 9-1)

Mr. Mihir Mehta, Director, Division of Underground Storage Tank Management, presented this item to the Board.

Regulation 61-92, South Carolina Underground Storage Tank Control Regulations Part 280 was promulgated under Title 44, Chapter 2, of the 1976 South Carolina Code of Laws to regulate UST systems. This regulation also adopted the federal requirements of 40 CFR 280 and 281. This regulation was amended on May 23, 2008 to adopt the provisions of the Energy Policy Act of 2005.

Pursuant to S.C. 1976 Code Section 44-2-10, et seq., the South Carolina Department of Health and Environmental Control (Department) proposes amending S.C. Regulation 61-92, *Underground Storage Tank Control Regulations* to focus on provisions of Section 280.25, relating to secondary containment or closure requirements for all UST systems located within 100 feet of an existing water supply well, a coastal zone critical area, or state navigable waters.

After discussion, *Mr. Batts moved, seconded by Mr. Hewitt, to grant approval to publish the Notice of Proposed Amendments of Regulation 61-92, Underground Storage Tank Control Regulations, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 10: Hearing Procedures for Certified Nurse Aides (Attachment 10-1)

Ms. Mary Jo Roue, Bureau Chief, Bureau of Certification, presented this item to the Board.

The South Carolina Department of Health and Environmental Control is the state survey agency for providers/suppliers participating in the federal Medicare and Medicaid programs. The Department's Bureau of Certification performs a number of functions concerning the programs including, but not limited to, identifying potential participants, conducting investigations and fact-finding surveys, certifying and recertifying providers to participate and explaining requirements for participation.

Each state is required by federal law to maintain a registry of all nurse aides certified in the state. The nurse aide registry must provide for the inclusion of specific findings by the state survey agency of abuse, neglect, or misappropriation of resident property involving an individual listed in the registry. South Carolina Health and Human Services maintains South Carolina's nurse aide registry. Nursing facilities participating in the programs are prohibited from employing

individuals who have had a finding of abuse, neglect or misappropriation of resident property in the state nurse aide registry.

As the state survey agency, SCDHEC is responsible for investigating allegations of neglect, abuse and misappropriation of resident property by nurse aides in nursing facilities participating in the programs.

The South Carolina Board of Health and Environmental Control adopted the current Hearing Procedures for Nurse Aides in 1992 and the procedures were last amended in 1995.

The Bureau of Certification proposed to update and revise the current Hearing Procedures for nurse aides contesting allegations of abuse, neglect, or misappropriation of property to provide more uniformity and consistency with the agency's policy and application of S.C. Code Ann. § 44-1-60.

After discussion, *Mr. Hewitt moved, seconded by Dr. Hutto, to grant approval to implement the updated and revised Hearing Procedure for Certified Nurse Aides effective March 12, 2015. The Board voted and Motion carried.*

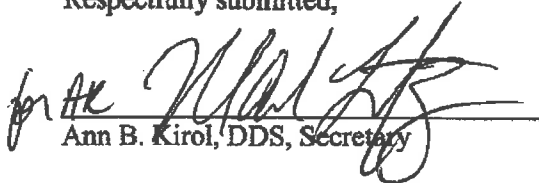
Item 11: Agency Affairs

Acting Director Taylor updated the Board on the following issues: 2016 Budget, legislation pertaining to the agency, and pending revisions to the FOI Act.

Chairman Amsler adjourned the meeting.

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,


Ann B. Kirol, DDS, Secretary

Minutes approved this 9th day of April 2015.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 January 8, January 12, January 27, and February 25
- 2-1 Administrative Orders, Consent Orders issued by Environmental Affairs
- 3-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 4-1 Public Hearing - Proposed Repeals of Regulation 61-28, Horse Meat and Kangaroo Meat; Regulation 61-38, Fairs, Camp Meetings, and Other Gatherings; Regulation 61-39, Camps; Regulation 61-40, Mobile/Manufactured Home Parks; Regulation 61-42, Sanitation of Schools; and Regulation 61-46, Nuisances
- 4-2 Sign-in Sheet in Public Hearing
- 4-3 Verbatim Transcript of Public Hearing
- 5-1 Public Hearing – Proposed Amendment of R.61-17, Standards for Licensing Nursing Homes
- 5-2 Sign-in Sheet for Public Hearing
- 5-3 Verbatim Transcript of Public Hearing
- 6-1 Public Hearing – Proposed Amendment of R.61-78, Standards for Licensing Hospices
- 6-2 Sign-in Sheet for Public Hearing
- 6-3 Comments received during Public Hearing
- 6-4 Verbatim Transcript of Public Hearing
- 7-1 Public Hearing – Proposed Amendment of R.61-7, Emergency Medical Services
- 7-2 Sign-in Sheet for Public Hearing
- 7-3 Verbatim Transcript of Public Hearing
- 8-1 Proposed Amendment of R.61-13, Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions
- 9-1 Proposed Amendment of R.61-92, Underground Storage Tank Control Regulations
- 10-1 Hearing Procedure for Certified Nurse Aides