



Board:
Robert Bolchoz, Chairman
Seema Shrivastava-Patel, Vice-Chair
Charles M. Joye, II, P.E., Secretary
Jim P. Creel, Jr.
J.B. (Sonny) Kinney
Richard V. Lee, Jr.
Morris E. Brown, III, MD, FAAFP
Robert R. Morgan, Jr., MD, MBA

Minutes of the November 10, 2022, meeting of the The South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, November 10, 2022, at 10:00 a.m. in the Boardroom (#3420) at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Robert Bolchoz, Chairman
J. B. (Sonny) Kinney, 1st District
Robert Morgan, MD, 4th District
Richard V. Lee, 5th District
Morris E. Brown III, MD, 6th District

In attendance virtually:
Charles M. Joye, II, P. E., 3rd District
Jim P. Creel, Jr., 7th District

Not in attendance:
Seema Shrivastava-Patel, Vice-Chairwoman, 2nd District

Also in attendance were Dr. Edward Simmer, Director, W. Marshall Taylor, Board Counsel; Department staff and members of the public. The meeting was also available via Livestream. (Attachment 0-2)

Chairman Bolchoz called the meeting to order and stated notice of this meeting had been provided to all persons, organizations, 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 September 8, 2022 meeting (Attachment 1-1)

Mr. Kinney moved, seconded by Mr. Lee, to approve the minutes as presented. The Board voted and the Motion carried.

Item 2: Administrative and Consent Orders issued by Healthcare Quality (Attachment 2-1)

Ms. Bentley White, Director of Policy and Communications, Healthcare Quality, stated that for this reporting period, one Administrative Order and eight (8) Consent Orders totaling \$77,195 were issued.

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

Item 3: Administrative and Consent Orders issued by Environmental Affairs (Attachment 3-1)

Ms. Rebecca Sproles, Liaison, Environmental Affairs, stated that for this reporting period, two hundred seven (207) Consent Orders with civil penalties totaling \$409,351.00 and sixteen (16) Administrative Orders with assessed civil penalties totaling \$75,519.00, were issued.

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

Item 4: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-19, Vital Statistics, Document No. 5118 (Attachment 4-1)

A public hearing was conducted concerning this regulation. Mr. Caleb Cox presented this item to the Board.

The Bureau of Vital Statistics proposed the Notice of Final Regulation for amending R.61-19, Vital Statistics. Legal authority resides in 44-63-20, which provides that the Department of Health and Environmental Control (“Department”) shall establish the Bureau of Vital Statistics and formulate, promulgate, and enforce regulations regarding registration and certification of Vital Statistics. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The purpose of this proposed revision to R.61-19 is to make general updates that will make processes more clear, concise, customer-friendly, and efficient; to remove obsolete sections; to add and update definitions; to address advancements in processes for the creation and amendment of vital records; and to bring the regulation into conformity with changes in South Carolina law.

The Department had a Notice of Drafting published in the April 22, 2022, *State Register*.

Department staff conducted an internal review of the proposed amendment on May 25, 2022.

Department staff conducted a general stakeholder meeting on May 19, 2022, to receive comments on the proposed amendments. Additional targeted stakeholder meetings were held via Microsoft Teams on April 29, May 3, May 5, May 11, May 13, and May 16, 2022, to address specific sections that impact these groups, including funeral home personnel, medical certifiers for death certificates, Induced Termination of Pregnancy (ITOP) facilities, LGBTQ advocacy groups, surrogacy providers, and attorneys. A total of approximately 120 individuals attended these various stakeholder meetings online; three stakeholders attended the general in-person meeting on May 19, 2022. Overall feedback from all meetings was positive. The most frequent concern raised regarded new sections related to administrative penalties (Section 700). However, it was discussed that the statute is very clear on what these fines are and when they are to be administered. The proposed regulations are simply defining the process for individuals to be notified and to have an opportunity to respond, as well as to receive a reduction of the fines if paid in a timely manner. The meeting for LGBTQ groups (May 11) to discuss the regulations relating to amending the sex marker on certificates, as well as parental titles, did not have any stakeholders in attendance. The meeting to discuss the sections relating to surrogacy (May 13) had two attorneys in attendance, who offered very valuable insight into the court processes and procedures that influenced our drafting of the sections relating to surrogacy and gestational carriers.

Upon receiving approval during the August 11, 2022, Board meeting, the Bureau had a Notice of Proposed Regulation published in the August 26, 2022, *State Register*. The Department received public comments by

the September 26, 2022, close of the public comment period and presented a summary of the public comments received and Department responses to the Board.

After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the August 11, 2022, Board meeting and published in the August 26, 2022, *State Register*. Descriptions of the changes appear in Attachment A, Summary of Public Comments and Department Responses.

The Bureau of Vital Statistics respectfully requested the Board to find need and reasonableness of the attached proposed amendment of R.61-19, Vital Statistics, for submission to the General Assembly.

Board Counsel, W. Marshall Taylor, opened the meeting up for public comments on this matter. Two members of the public spoke. The public hearing was closed.

After discussion, **Dr. Morgan moved, seconded by Dr. Brown, that based on the public hearing and documents herein, move to find for the need and reasonableness of the Proposed Amendment of Regulation 61-19, *Vital Statistics*, Document No. 5118, and grant approval for submission to the General Assembly for review. The Board voted and the Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 4-2)

Item 5: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-68, *Water Classifications and Standards (Triennial Review)*, Document No. 5119 (Attachment 5-1)

A public hearing was conducted for this item. Drew Edwards presented this item to the Board.

The Bureau of Water proposed the attached Notice of Final Regulation amending R.61-68, *Water Classifications and Standards*. Legal authority resides in S.C. Code Sections 48-1-10 et seq., which provides that the Department of Health and Environmental Control (“Department”) shall promulgate regulations to implement the South Carolina Pollution Control Act. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

R.61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected; general rules and water quality criteria to protect classified and existing water uses; and an antidegradation policy to protect and maintain the levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the federal Clean Water Act (“CWA”) requires South Carolina’s water quality standards be reviewed and revised, where necessary, at least once every three years. Referred to as the triennial review, this required process consists of reviewing and adopting, where appropriate, the Environmental Protection Agency’s updated numeric and narrative criteria according to Section 304(a) and Section 307(a) of the CWA.

The Department published a Notice of Drafting in the February 25, 2022, *State Register*.

The Department met with stakeholders to discuss the Notice of Drafting and to receive stakeholder input on April 19, 2022, and May 24, 2022.

Department staff conducted an internal review of the proposed amendment on July 13, 2022.

Upon receiving approval during the August 11, 2022, Board meeting, the Bureau had a Notice of Proposed Regulation published in the August 26, 2022, *State Register*. The Department received public comments from seven (7) people by September 26, 2022, the close of the public comment period. A summary of the public comments received and Department responses were provided to the Board.

The Department hosted a Staff Informational Forum on September 20, 2022, to answer stakeholder questions based on the Notice of Proposed Regulation.

After consideration of all timely received comments, staff has made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the August 11, 2022, Board meeting and published in the August 26, 2022, *State Register*. Descriptions of the changes were provided to the Board.

The Bureau of Water respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R.61-68, *Water Classifications and Standards*, for submission to the General Assembly.

Board Counsel, W. Marshall Taylor, opened the meeting up for public comments on this matter. No members of the public spoke. The public hearing was closed.

After discussion, **Mr. Kinney moved, seconded by Mr. Lee that based on the public hearing and documents herein, move to find for the need and reasonableness of the Proposed Amendment of Regulation 61-68, *Water Classifications and Standards (Triennial Review)*, Document No. 5119, and grant approval for submission to the General Assembly for review. The Board voted and the Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 5-2)

Item 6: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-69, *Classified Waters (Triennial Review)*, Document No. 5116 (Attachment 6-1)

A public hearing was conducted for this item. Drew Edwards presented this item to the Board.

The Bureau of Water (“Bureau”) proposed the attached Notice of Final Regulation amending R.61-69, *Classified Waters*. Legal authority resides in S.C. Code Sections 48-1-10 et seq., which provides that the Department of Health and Environmental Control (“Department”) shall promulgate regulations to implement the South Carolina Pollution Control Act. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

R.61-69 establishes South Carolina’s site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The Bureau proposes amending R.61-69 to clarify and correct, as needed, waterbody names, counties, classes, and descriptions. The Bureau also proposes stylistic changes for overall improvement of the text of the regulation.

The Department had a Notice of Drafting published in the February 25, 2022, *State Register*.

Department staff met with stakeholders to discuss the Notice of Drafting and receive stakeholder input on the proposed amendments on April 19, 2022, and May 24, 2022.

Department staff conducted an internal review of the proposed amendment on July 13, 2022.

Upon receiving approval during the August 11, 2022, Board meeting, the Bureau had a Notice of Proposed Regulation published in the August 26, 2022, *State Register*. The Department received public comments from nine (9) people by September 26, 2022, the close of the public comment period. A summary of the public comments received and Department responses were provided to the Board.

The Department hosted a Staff Informational Forum on September 20, 2022, to answer stakeholder questions based on the Notice of Proposed Regulation.

After consideration of all timely received comments, staff has made no changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the August 11, 2022, Board meeting and published in the August 26, 2022, *State Register*.

The Bureau requested the Board to find need and reasonableness of the attached proposed amendment of R.61-69, *Classified Waters*, for submission to the General Assembly.

Board Counsel, W. Marshall Taylor, opened the meeting up for public comments on this matter. No members of the public spoke. The public hearing was closed.

After discussion, **Mr. Lee moved, seconded by Mr. Kinney that based on the public hearing and documents herein, move to find for the need and reasonableness of the Proposed Amendment of Regulation 61-69, *Classified Waters (Triennial Review)*, Document No. 5116, and grant approval for submission to the General Assembly for review. The Board voted and the Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 6-2)

Item 7: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-94, *WIC Vendors*, Document No. 5120 (Attachment 7-1)

A public hearing was conducted for this item. Barry Kelly presented this item to the Board.

The Bureau of Community Nutrition Services proposed the attached Notice of Final Regulation amending R.61-94, *WIC Vendors*. Legal authority resides in S.C. Code Section 43-5-930, which directs the Department to outline the responsibilities and duties of all potential and authorized WIC Vendors. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

R.61-94, *WIC Vendors*, outlines the responsibilities and duties of potential and authorized WIC Vendors. The purpose of this promulgation is to implement the transition from food instruments to South Carolina Electronic WIC Benefits (eWIC) and update associated provisions and requirements.

The Department had a Notice of Drafting published in the February 25, 2022, *State Register*.

Department staff conducted an internal review of the proposed amendment on July 20, 2022.

Upon receiving approval during the August 11, 2022, Board meeting, the Bureau had a Notice of Proposed Regulation published in the August 26, 2022, *State Register*. The Department received public comments from zero (0) people by the September 26, 2022, close of the public comment period.

The Bureau of Community Nutrition Services respectfully requests the Board to find need and reasonableness of the attached proposed amendment of R. 61-94, *WIC Vendors* for submission to the General Assembly.

Board Counsel, W. Marshall Taylor, opened the meeting up for public comments on this matter. No members of the public spoke. The public hearing was closed.

After discussion, **Dr. Morgan moved, seconded by Mr. Lee that based on the public hearing and documents herein, move to find for the need and reasonableness of the Proposed Amendment of Regulation 61-94, *WIC Vendors*, Document No. 5120, and grant approval for submission to the General Assembly for review. The Board voted and the Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 7-2)

Item 8: 2023 Proposed Meeting Dates for SC Board of Health and Environmental Control
(Attachment 8-1)

Mr. Lee moved, seconded by Dr. Morgan that the Board approve the Proposed 2023 Board Meeting Dates. The Board voted and the Motion carried.

Item 9: Proposed Revised Guide to Board Review (Attachment 9-1)

W. Marshall Taylor presented this item to the Board.

The following is a summary of some of the significant changes:

- To save paper, allows staff to reference the website or attach a copy of the Guide to Board Review to staff decisions
- Allows RFRs to be filed and fees to be paid electronically
- Places responsibility of identifying personal or confidential information in the RFR on the Requestor
- Expands Chairman's authority to review RFRs for proper filing
- Expands time for staff to respond to an RFR to ten (10) days
- Allows applicant, permittee, or licensee, if other than the Requestor, to provide a response to the RFR
- Expands time for initial Board review from forty-eight (48) to seventy-two (72) hours
- Requires Board member requesting further review to appear at the RFR Committee meeting to discuss the RFR unless excused by the presiding member
- Provides for questions to parties by an RFR Committee member to be answered before the RFR Committee meeting, if time allows
- Provides the RFR Committee will recommend to Chairman how a Conference will be held (ie, by RFR Committee, Board, or a designee)
- Removes requirement the entire Administrative Record be produced by staff. Parties, including staff, should provide relevant evidence to support their position
- Clarifies when information/slides should be provided to the Clerk and will limit multiple responses by a party prior to initial Board consideration
- Expands recommended time limitations for Conference presentations and provides for rebuttal by applicant, permittee, or licensee, if not the Requestor

After discussion, Mr. Lee moved, seconded by Dr. Morgan, that the Board Approve the Proposed Revised Guide to Board Review effective December 1, 2022. The Board voted and the Motion carried.

Item 10: Agency Affairs

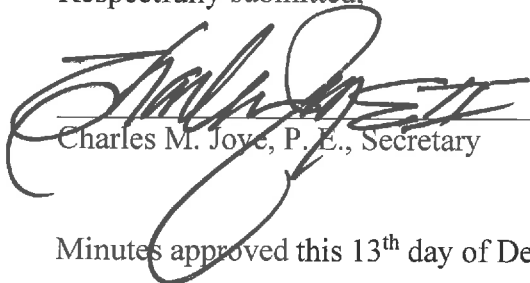
Dr. Edward Simmer, Director, updated the Board on:

- Veterans Day video and Department's goal to hire veterans;
- COVID 19 and the After Action Report;
- Paper reduction by issuance of iPads to Board Members;
- ePermitting;
- Display of photos of current Board Members;
- Plaques recognizing former board members;
- Flu and RSV statistics;
- Health department visits;
- Town Hall meetings with public;
- Stakeholder visits;
- TB Staff recognition.

Being no further business, Chairman Bolchoz adjourned the meeting.

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

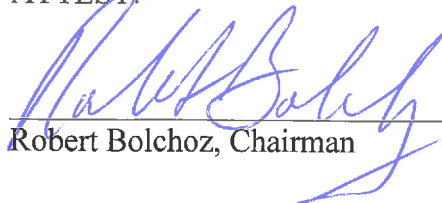
Respectfully submitted,



Charles M. Joye, P. E., Secretary

Minutes approved this 13th day of December, 2022.

ATTEST:



Robert Bolchoz, Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign in Sheet
- 1-1 Minutes of September 8, 2022 meeting
- 2-1 Administrative Orders and Consent Orders issued by Healthcare Quality
- 3-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 4-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-19, *Vital Statistics*, Document No. 5118
- 4-2 Public Hearing Sign in Sheet
- 4-3 Transcript of Public Hearing
- 5-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-68, *Water Classifications and Standards* (Triennial Review), Document No. 5119
- 5-2 Public Hearing Sign in Sheet
- 5-3 Transcript of Public Hearing
- 6-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-69, *Classified Waters* (Triennial Review), Document No. 5116
- 6-2 Public Hearing Sign in Sheet
- 6-3 Transcript of Public Hearing
- 7-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-94, *WIC Vendors*, Document No. 5120
- 7-2 Public Hearing Sign in Sheet
- 7-3 Transcript of Public Hearing
- 8-1 Proposed Meeting Dates for SC Board of Health and Environmental Control 8-2 Public
- 9-1 Proposed Revised Guide to Board Review