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Allen Amsler
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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 May 8, 2014, meeting of the

South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, May 8, 2014, at 10:00 a.m. in the Board Room at the South Carolina Department of Health and Environmental Control building, 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 Catherine B. Templeton, Director; W. Marshall Taylor, Jr., General 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.

Director Templeton recognized Carolyn Boltin-Kelly, Deputy Director of OCRM, for her service to the State of South Carolina and the agency. Ms. Boltin-Kelly is leaving the agency after 8 ½ years of service with OCRM as Deputy Director.

Item 1: Minutes of February 27 conference call and March 13 meeting (Attachment 1-1)

Mr. Batts moved, seconded by Mr. Joye, to approve the minutes as submitted for the February 27 conference call and March 13 meeting. The Board voted and Motion carried.

Chairman Amsler welcomed Mr. Lee Hewitt to the Board. Mr. Hewitt represents the 7th Congressional District.

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

Ms. Robin Stephens, Assistant to the Deputy Director, EQC, stated seven (7) Administrative Orders and thirty (30) Consent Orders had been issued with total penalties of \$226,003.50.

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. Melinda Bradshaw, Health Regulation Liaison, stated six (6) Consent Orders had been issued with total penalties of \$34,174.

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

Item 4: Proposed Amendment of Regulation 61-93, Radioactive Materials (Title A), Federally Mandated Regulations, Exempt from Legislative Review (Attachment 4-1)

Ms. Susan Jenkins, Manager, Infectious and Radioactive Waste Management Section, presented this item to the Board.

The Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 51, 70, and 71 throughout each calendar year. Recent amendments include requirements for Decommissioning Planning (RATS-ID 2011-1), Licenses, Certifications, and Approvals for Materials Licensees (RATS-ID 2011-2), Technical Corrections (RATS-ID 2012-3), Requirements for Distribution of Byproduct Material (RATS-ID 2012-4), Physical Protection of Byproduct Material (RATS-ID 2013-1), and Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions (RATS-ID 2013-2) These final rules have been published in the Federal Register at 76 FR 35512 on June 17, 2011, 76 FR 56951 on September 15, 2011, 77 FR 39899 on July 6, 2012, 77 FR 43666 on July 25, 2012, 78 FR 16922 on March 19, 2013, and 78 FR 32310 on May 29, 2013, respectively. The Department is proposing to amend R.61-63 to incorporate the above-described federal regulations to maintain conformity with federal requirements found in 10 CFR

Parts 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 51, and 71 to ensure compliance with federal standards as required by Section 274 of the Atomic energy Act of 1954.

The Department amended R.61-63 on March 26, 2010 to adopt federal regulations published as final rules in the Federal Register at 71 FR 65685, 72 FR 55864, and 73 FR 42761. The Department is also proposing to make minor corrections to 61-63 RHA 2.4, General Licensing Requirements, to clarify the order of text in this section and will add a paragraph at RHA 3.58, Appendix G, Nationally Tracked Sources-Serialization and Reports of Transactions, that was inadvertently omitted in the prior promulgation. These amendments will conform R.61-63 with the federal regulations.

After discussion, Dr. Hutto moved, seconded by Mr. Lutz, to grant approval to publish a Notice of Proposed Regulation R.61-63, Radioactive Materials (Title A), 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 the Motion carried.

Item 5: Proposed Amendment of R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries, Legislative Review is required (Attachment 5-1)

Mr. David Fiorini, Policy Development Coordinator, Bureau of Health Licensing, presented this item to the Board.

Statutory authority for Regulation 61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries can be found in S.C. Code Ann. Sections 44-7-110 through 44-7-394 (2002 & Supp. 2012), 44-37-40, 44-37-50, and 63-7-40. The Department received approval from the Board to submit proposed amendments for the entire Regulation 61-16 on January 9, 2014. The proposed new amendments herein include the Department's Bureau of Health Facilities Licensing's effort to the Perinatal Care Sections to account for evolving practices and to improve overall quality and effectiveness.

An addendum to the regulation package was provided that addressed a typographical error regarding the Statutory Authority. (Attachment 5-2)

After discussion, Mr. Batts moved, seconded by Dr. Kirol, to grant approval to publish a Notice of Proposed Regulation 61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries (Perinatal Care Section only), 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 the Motion carried.

Item 6: Proposed Amendment of R.61-91, Standards for Licensing Ambulatory Surgical Facilities, Legislative review is required (Attachment 6-1)

Mr. David Fiorini, Policy Development Coordinator, Bureau of Health Licensing, presented this item to the Board.

Statutory authority for Regulation 61-91, Standards for Licensing Ambulatory Surgical Facilities can be found in S.C. Code Ann. Sections 44-7-260. The Department substantively amended the regulation June 27, 2003. The purpose of the regulation is to provide a set of standards for facilities defined as a distinct, freestanding, self-contained entity that is organized, administered, equipped, and operated exclusively for the purpose of performing surgical procedures or related care, treatment, procedures and/or services, for which patients are scheduled to arrive and be discharged the same day. The proposed amendments herein include the Department's Bureau of Health Facilities Licensing's effort to incorporate current construction requirements.

An addendum to the regulation package was provided that addressed a typographical error regarding the Statutory Authority. (Attachment 6-2)

After discussion, *Mr. Batts moved, seconded by Mr. Lutz, to grant approval to publish a Notice of Proposed Regulation 61-91, Standards for Licensing Ambulatory Surgical Facilities, 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 7: Proposed Amendment of R.61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence, Legislative review is required (Attachment 7-1)

Mr. David Fiorini, Policy Development Coordinator, Bureau of Health Licensing, presented this item to the Board.

Statutory authority for Regulation 61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence can be found in S.C. Code Ann. Sections 44-7-260. The Department substantively amended the regulation May 25, 2001. The purpose of the regulation is to provide a set of minimum licensing standards for facilities that treat individuals for psychoactive substance abuse or dependence. Psychoactive substance abuse or dependence facilities provide specialized structured psychoactive substance abuse/dependence care/treatment, including outpatient services including narcotic and methadone treatment programs, and inpatient services including residential treatment and/or detoxification.

An addendum to the regulation package was provided that addressed an error regarding the Statutory Authority. (Attachment 7-2)

After discussion, *Mr. Wells moved, seconded by Mr. Lutz, to grant approval to publish a Notice of Proposed Regulation 61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence, 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 8: Agency Affairs

Director Templeton reported on legislative issues and Certificate of Need matter pending before South Carolina Supreme Court.

Chairman Amsler announced the August Board meeting had been moved from August 14 to August 7.

Item 11: Legal Report

Mr. Taylor discussed revising the Final Review Procedure to include that the Requestor provides contact information, i.e.: mailing address, telephone number and an email address as appropriate.

Mr. Lutz moved, seconded by Mr. Batts, for the Final Review Procedure (Rev 1, 12/12/13) be revised to include contact information that would assist with processing of a Request for Review. The Board voted and the Motion carried.

Dr. Hutto moved, seconded by Dr. Kirol, to go into Executive Session for the purpose of obtaining legal advice pertaining to the Certificate of Need litigation covered under the attorney-client privilege. The Board voted and Motion carried.

Chairman Amsler announced the Board was back in public session and while in Executive Session, no actions were taken.

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 12th day of June 2014.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes of February 27 conference call and March 13 meeting
- 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 Proposed Amendment of R.61-63, Radioactive Materials (Title A)
- 5-1 Proposed Amendment of R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries
- 5-2 Addendum to Board package
- 6-1 Proposed Amendment of R.61-91, Standards for Licensing Ambulatory Surgical Facilities
- 6-2 Addendum to Board package
- 7-1 Proposed Amendment of R.61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence
- 7-2 Addendum to Board package