

BOARD:
Allen Ansler
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Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary



Catherine E. Heigel, Director

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

Promoting and protecting the health of the public and the environment
South Carolina Board of Health and Environmental Control

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Minutes of the August 13, 2015, meeting of the

South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, August 13, 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:

Mark Lutz, Vice-Chairman
1st District

Ann B. Kirol, DDS (by phone)
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 E. Heigel, Director; W. Marshall Taylor, Jr., General Counsel; Lisa L. Longshore, Clerk; Department staff and members of the public. (Attachment 0-2)

Vice Chairman Lutz 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.

Mr. Lutz announced that Agenda Item #11, Proposed Amendment of R.61-64, X-Rays (Title B) had been removed from the agenda.

Item 1: Minutes of June 11 meeting (Attachment 1-1)

Mr. Batts moved, seconded by Mr. Wells, to approve the minutes as submitted for the June 11, 2015 meeting. 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 four (4) Administrative Orders and seventy-nine (79) Consent Orders had been issued with total penalties of \$692,816.

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 one (1) Administrative Order and fourteen (14) Consent Orders and two (2) Emergency Suspension Orders had been issued with total penalties of \$40,900.

The Board accepted this item as information.

Item 4: Public Hearing and Request for Final Approval - Proposed Repeal of Regulation 61-49, Crabmeat, State Register Document No. 4567, Legislative Review is required (Attachment 4-1)

Ms. Mike Pearson, Director, Shellfish Program, presented this item to the Board.

The Department evaluated Regulation 61-49, Crabmeat, and determined the regulation is obsolete and has been superseded by more up-to-date state and federal laws and regulations for the storage, processing and handling of crab to protect human health. The proposed repeal will have no substantial fiscal or economic impact on the State and its political subdivisions or the regulated community.

A public hearing was conducted and no one requested the opportunity to speak. (Attachment 4-2)

After discussion, *Mr. Batts moved, seconded by Dr. Kirol, to find for the need and reasonableness of the Proposed Repeal of Regulation 61-49, Crabmeat, 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 61-50, Natural Public Swimming Areas, Document No. 4570, Legislative Review is required (Attachment 5-1)

Mr. Doug Kinard, Director, Division of Drinking Water Protection, presented this item to the Board.

Regulation 61-50, Natural Public Swimming Areas, was promulgated to protect public health by ensuring that all natural public swimming areas in the state are properly constructed, maintained and monitored for bacteriological water quality. In 2012, Regulation 61-68, Water Classifications and Standards, was amended and changed the bacteriological water quality indicator used to determine water classifications from fecal coliform to E. coli. The proposed amendment changes the bacteriological water quality indicator in Regulation 61-50 to E. coli so that the regulation is consistent with Regulation 61-68.

A public hearing was conducted and no one requested the opportunity to speak. (Attachment 5-2)

After discussion, *Dr. Kirol moved, seconded by Mr. Joye, to find for the need and reasonableness of the Proposed Amendment of Regulation 61-50, Natural Public Swimming Areas, 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 5-3)

Item 6: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-109, Standards for Permitting Body Piercing Facilities, State Register Document No. 4569, Legislative Review is required (Attachment 6-1)

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

The Department is amending Regulation 61-109, Standards for Permitting Body Piercing Facilities, to update definitions, references, and codification. Moreover, changes had been made to the statutory authority for the Regulation that needs to be addressed.

The amendments updated permitting requirements, reporting requirements, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A public hearing was conducted and no one requested the opportunity to speak. (Attachment 6-2)

After discussion, *Mr. Wells moved, seconded by Mr. Hewitt, to find for the need and reasonableness of the Proposed Amendment of Regulation 61-109, Standards for Permitting Body Piercing Facilities, 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 6-3)

Item 7: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-111, Standards for Licensing Tattoo Facilities, State Register Document No. 4568, Legislative Review is required (Attachment 7-1)

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

The Department is amending Regulation 61-111, Standards for Licensing Tattoo Facilities, to update definitions, references, and codification. Moreover, changes have been made to the statutory authority for the Regulation that needs to be addressed.

The amendments updated licensing requirements, reporting requirements, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. The amendments also incorporate provider-wide exceptions applicable to tattoo facilities. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A public hearing was conducted and although no one signed up to speak, several members of the public spoke at the hearing. (Attachment 7-2)

After discussion, *Dr. Hutto moved, seconded by Dr. Kirol, to find for the need and reasonableness of the Proposed Amendment of Regulation 61-111, Standards for Licensing Tattoo Facilities, 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 7-3)

Item 8: Proposed Amendment of Regulation 61-102, Standards for Licensing Birthing Centers for Deliveries by Midwives, Legislative Review is required (Attachment 8-1)

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

The Department proposed amending Regulation 61-102, Standards for Licensing Birthing Centers for Deliveries by Midwives to include the Department's effort to incorporate updates and clarification relating to licensing procedures, on-call physician availability, governing authority and management, admission and intake, professional care, functional safety, infection control and sanitation, dietary services, design and construction, fire protection and prevention, and overall requirements for licensure. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

Written comments were received from NACPM, National Association of Certified Professional Midwives. (Attachment 8-2)

After discussion, *Dr. Kirol moved, seconded by Mr. Wells, to grant approval to publish the Notice of Proposed Regulation of 61-102, Standards for Licensing Birthing Centers for Deliveries by Midwives, 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 61-62, Air Pollution Control Regulations and Standards and the South Carolina Air Quality Implementation Plan, Legislative Review is not required (Attachment 9-1)

Mr. Robbie Brown, Director, Division of Air Assessment and Regulations, presented this item to the Board.

Pursuant to the South Carolina Pollution Control Act, Section 48-1-10 et seq., along with the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. The United States Environmental Protection Agency (“EPA”) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 51, 52, 60, 61, 63 and 70 include clarification, guidance and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. 7410 & 7413, New Source Performance Standards (“NSPS”) mandated by 42 U.S.C. 7411, and federal National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories mandated by 42 U.S.C 7412.

The Department proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories; and Regulation, 61-62.70, Title V Operating Permit Program, to adopt the federal amendments to these standards put forth from January 1, 2014, through December 31, 2014.

The Department is also proposing other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the State or its political subdivisions resulting from codification of these amendments to federal law. The State of South Carolina is already reaping the environmental benefits of these amendments.

After discussion, *Mr. Batts moved, seconded by Dr. Hutto, to grant approval to publish the Notice of Proposed Regulation of 61-62, Air Pollution Control Regulations and Standards and the South Carolina Air Quality Implementation Plan (“SIP”), 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: Proposed Amendment of Regulation 61-116, South Carolina Trauma Care Systems, Legislative Review is required (Attachment 10-1)

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

The Department proposed amending R.61-116, South Carolina Trauma Care Services, to incorporate changes in the Trauma Care System Act and requirements published by the American College of Surgeons which are necessary to update definitions, references, and codification. Moreover, the amendments include updates to designation process requirements, reporting requirements, facility design and construction, provisions relating to standards of care, staffing requirements, application requirements, triage and transport requirements, inspections and violations enforcement, data collection, and general designation requirements. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

After discussion, *Mr. Joye moved, seconded by Dr. Kirol, to grant approval to publish the Notice of Proposed Regulation of 61-116, South Carolina Trauma Care Systems, in the State Register, to provide opportunity for public comment, to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 11: Withdrawn

Item 12: Proposed Amendment of Regulation 61-94, WIC Vendors, Legislative Review is required (Attachment 12-1)

Mr. Berry Kelly, Director, Women, Infants and Children's Services, presented this item to the Board.

The Department proposed amending Regulation 61-94, WIC Vendors to incorporate provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265). The provisions require the establishment of a vendor peer group system, distinct peer competitive price criteria, allowable reimbursement levels for each peer group and other vendor related provisions to ensure program integrity. In addition, an interim rule, published by the United States Department of Agriculture, Food and Nutrition Services in the Federal Register on December 6, 2007, revised the WIC food packages. The proposed revisions align the WIC food packages with the Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. This rule also encompassed vendor related amendments. All of the vendor provisions and amendments were implemented to ensure adequate and appropriate monitoring of the Program's food delivery system to prevent fraud, waste and abuse from occurring and to safeguard program benefits.

After discussion, *Dr. Kirol moved, seconded by Mr. Batts, to grant approval to publish the Notice of Proposed Regulation of 61-94, WIC Vendors, in the State Register, to provide opportunity for public comment, to receive and consider comments, and to allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 13: Proposed Amendment of Regulation 61-19, Vital Statistics, Legislative Review is required (Attachment 13-1)

Ms. Shae Sutton, Director, Office of Public Health Statistics and Information Services, presented this item to the Board.

The Department proposed to substantially amend Regulation 61-19, Vital Statistics. Sections 1 - 42 of Regulation 61-19 will be revised and replaced in its entirety. The Fees Section, Section 43, of this Regulation is not being changed except for codification consistency. These amendments are intended to improve the quality, security and fraud prevention, protection of confidential information and uniformity of state data by implementing standard reporting requirements, and definitions and procedures for registering vital events as described in the 2011 Model State Vital Statistics Act and Regulations issued by the Centers for Disease Control and Prevention (CDC) National Center for Health Statistics (NCHS). The National Association of Public Health Statistics and Information Systems have also endorsed the Model Act and Regulations. Registration and certification of vital events is a responsibility of individual States, but States and the CDC NCHS cooperate and work together to build and maintain a national vital records system. Also, other changes are being made to improve the overall quality of the regulation to meet Legislative Council guidelines for drafting the text of regulations.

After discussion, *Mr. Wells moved, seconded by Mr. Batts, to grant approval to publish the Notice of Proposed Regulation of 61-19, Vital Statistics, 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 16: Agency Affairs

Director Heigel briefed the Board on the following:

- Privatization of DHEC Home Health Agency;
- Status of vital records paper shortage was covered in detail during the presentation of R.61-19, Vital Statics; and
- Strategic Plan Development.

Item 14: Consolidated for Purpose of Final Review Conference

Docket No. 15-RFR-44, Grand Strand Medical Center, denial of CON application for Rehabilitation Beds in Georgetown and Horry Counties Service Area.

Docket No. 15-RFR-45, Waccamaw Community Hospital, approval of CON application for Rehabilitation Beds in Georgetown and Horry Counties Service Area. (Attachment 14-1)

Mr. Rupi Grewal served as legal counsel to the Board and introduced the matter to the Board.

Legal Counsel for the parties was as follows:

Ms. Ashley Biggers for SCDHEC;
Mr. Will Thomas for Grand Strand Medical Center; and
Mr. Dan Westbrook for Waccamaw Community Hospital.

After presentations by all parties and discussion, *Mr. Joye moved, seconded by Mr. Hewitt, to go into Executive Session for the purpose of obtaining legal advice in this matter. The Board voted and Motion carried.*

Mr. Lutz announced the Board was back in public session and while in Executive Session no actions were taken.

After further discussion, Mr. Joye moved, seconded by Mr. Batts, to uphold the staff decision in the matters of Docket No.15-RFR-44, Grand Strand Medical Center and Docket No. 15-RFR-45, Waccamaw Community Hospital. The Board voted and Motion carried.

Item 15: Request for Approval of South Carolina State Health Plan (Attachment 15-1)

Mr. Sam Phillips, Director, Certificate of Need Program, introduced Ms. Gayle L. Resetar, Chairman, South Carolina State Health Planning Committee.


Ms. Resetar explained the Health Planning Committee Process and reviewed the proposed changes to the each section of the State Health Plan.

After discussion, Mr. Batts moved, seconded by Mr. Hewitt, to approve the State Health Plan in its entirety as submitted. The Board voted and Motion carried.

Mr. Lutz adjourned the meeting.

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

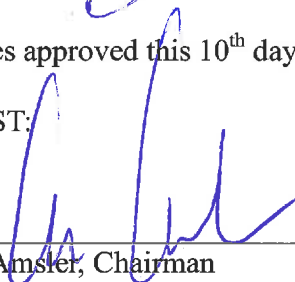
Respectfully submitted,



Ann B. Kirol, DDS, Secretary

Minutes approved this 10th day of September 2015.

ATTEST:



Allen Amstler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 June 11, 2015 minutes
- 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 Repeal of R.61-49, Crabmeat
- 4-2 Sign-in Sheet for Public Hearing
- 4-3 Verbatim Transcript of Public Hearing
- 5-1 Public Hearing - Proposed Amendment of R.61-50, Natural Public Swimming Areas
- 5-2 Sign-in Sheet for Public Hearing
- 5-3 Verbatim Transcript of Public Hearing
- 6-1 Public Hearing – Proposed Amendment of R.61-109, Standards for Permitting Body Piercing Facilities
- 6-2 Sign-in Sheet for Public Hearing
- 6-3 Verbatim Transcript of Public Hearing
- 7-1 Public Hearing – Proposed Amendment of R.61-111, Standards for Permitting Tattoo Facilities
- 7-2 Sign-in Sheet for Public Hearing
- 7-2 Verbatim Transcript of Public Hearing
- 8-1 Proposed Amendment of R.61-102, Standards for Licensing Birthing Centers for Deliveries by Midwives
- 8-2 Correspondence received on R.61-102
- 9-1 Proposed Amendment of R.61-62, Air Pollution Control Regulations and Standards
- 10-1 Proposed Amendment of R.61-116, South Carolina Trauma Care Systems
- 12-1 Proposed Amendment of R.61-94, WIC Vendors
- 13-1 Proposed Amendment of R.61-19, Vital Statics
- 14-1 Final Review Conference – Docket Nos. 15-RFR-44 and 15-RFR-45
- 14-2 Presentations during final review conference
- 15-1 Request for Approval of South Carolina State Health Plan
- 15-2 Correspondence received on State Health Plan