

Minutes of S.C. Board of Health and Environmental Control Meeting

April 14, 2011

The S.C. Board of Health and Environmental Control met on Thursday, April 14, 2011, at 9:00 a.m. in the S.C. Department of Health and Environmental Control Board Room, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)
The following members were in attendance:

- Allen Amsler, Chairman
Member-at-large
- Mark S. Lutz, Vice-Chairman
1st District
- Steven G. Kisner, Secretary
3rd District
- R. Kenyon Wells
2nd District
- L. Clarence Batts
4th District
- Ann B. Kirol, DDS
5th District
- John O. Hutto, Jr., MD
6th District

Also in attendance were C. Earl Hunter, Commissioner, Carlisle Roberts, Jr., General Counsel, Lisa Longshore, Clerk, department staff and guests. (Attachment 0-2)

Mr. Amsler stated notice of this meeting has 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. Roberts requested an Executive Session for legal advice and matters covered by the attorney-client privilege in regard to legal orientation of new Board members.

Dr. Hutto moved, seconded by Mr. Batts, to go into Executive Session for legal advice and matters covered by the attorney-client privilege in regard to legal orientation of new Board members. Approved.

While in Executive Session, no actions were taken.

Item 1: Consideration of Board Minutes – March 10, 2011, minutes - For Approval (Attachment 1-1)

Mr. Kisner moved, seconded by Mr. Batts, to approve the minutes as submitted for the March 10 Board meeting. Approved.

Item 2: Monthly Award for Excellence for April 2011 (Attachment 2-1)

Commissioner Hunter recognized the following recipients:

- Environmental Quality Control – Cynthia Hamilton;
- Health Services – Office of Public Health Nutrition's Supplemental Nutrition Assistance Program (SNAP) Education Team – Brooke Kalbaugh Brittain, MS, CHES, RD, Shorus Manning, , Jamie Thomas, RD, LD, and Rebecca Wrenn, MS, RD, LD;
- Region 1 Public Health Office – Irene Grant, LPN;

- Region 2 Public Health Office – Denise Velez;
- Region 3 Public Health Office – Leanne Waters;
- Region 5 Public Health Office – Linda Adams;
- Region 6 Public Health Office – Gina Miller, RN, BSN;
- Region 7 Public Health Office – Melanie Robinson, RD, LD, CDE and Kacey Schmitt;
- Region 8 Public Health Office – Sarah Smith, MAT, RD, LD, CDE;
- OCRM – Matt Slagel.

The Board extended its thanks to all recipients.

Item 3: Orders issued by Ocean and Coastal Resource Management(Attachment 3-1)

Ms. Rheta DiNovo, Assistant Director, Regulatory, stated one (1) action had been taken with a penalty of \$1,000.

The Board accepted this item as information.

Item 4: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation

(Attachment 4-1)

Ms. Melinda Bradshaw, Bureau of Radiological Health, stated one (1) action had been taken with a penalty of \$6,000.

The Board accepted this item as information.

Item 5: Administrative and Consent Orders issued by Environmental Quality Control (Attachment 5-1)

Ms. Robin Stephens, Compliance Assistance and Enforcement, stated eighteen (18) actions had been taken with penalties of \$170,010.

The Board accepted this item as information.

Item 6: Request for a first Board Extension of Certificate of Need SC-09-10 issued to Providence Hospital Northeast, Columbia, SC for the construction and renovation to include an expanded Emergency Department, addition of a 1.5T Magnetic Resonance Imaging (MRI) unit, and the addition of thirty-eight (38) general acute care beds for a total licensed bed capacity of eighty-four (84) general acute care beds

(Attachment 6-1)

Ms. Beverly Brandt, Director, Bureau of Health Facilities and Services Development, presented this item. Providence Hospital Northeast has provided staff with substantial evidence they intend to move forward provided the project. In addition to reducing the cost of a \$82 million project by \$35 million, a reduction of almost 60%, other significant progress has been made with SC-09-10. Progress includes bringing ten (10) of the thirty-eight (38) beds on line, obtaining financing for the project and selection of the general contractor. To date, the facility has spent \$780,797 on architectural fees and other construction-related documents. Even though a GMP is expected to be received by the end of April, an extension must be filed due to time constraints.

Mr. Kisner moved, seconded by Mr. Batts, to find that Providence Hospital Northeast has demonstrated substantial progress and approve an additional nine-month extension to implement Certificate of Need SC-09-10. Approved.

Item 7: Public Hearing and Request for Final Approval – Proposed New Regulation 61-118, Electronic Equipment Collection and Recovery, State Register Document No. 4179, Legislative review is required

(Attachment 7-1)

Mr. Kent Coleman, Director, Division of Solid Waste Planning and Recycling, presented this item. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, codified at Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, established requirements for the sale, disposal and recovery of covered electronic devices, specifically for household computers,

printers and televisions. The Act requires the Department of Health and Environmental Control staff to promulgate regulations to implement the provisions of the Act. To satisfy the requirements of the Act, staff is proposing new Regulation 61-118, Electronic Equipment Collection and Recovery. The proposed regulation establishes standards for labeling covered devices and for the registration of manufacturers and recoverers of covered devices. The proposed regulation establishes procedures for banning covered devices from solid waste landfills. The proposed regulation specifies fees for manufacturers relative to sales of computers and market share of sales for televisions. The proposed regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery, recycling or disposal of discarded devices and reporting requirements. The regulation will also establish fines for violations of the Act and the regulation. The proposed regulation would not take effect prior to July 1, 2011. A copy of the powerpoint presentation and a Letter of Support from Hewlett Packard is included in the record. (Attachment 7-2) A public hearing was conducted. (Attachment 7-3)

Mr. Batts moved, seconded by Dr. Kirol, to find for the need and reasonableness of the proposed regulation and approve it for submission to the legislature for review. Approved.

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 7-4)

Item 8: Public Hearing and Request for Final Approval – Proposed Amendment of Regulation 61-15, Certification of Need for Health Facilities and Services, State Register Document No. 4181, Legislative review is required (Attachment 8-1)

Ms. Brandt presented this item. The Department proposes to revise R.61-15, Certification of Need for Health Facilities and Services, to incorporate applicable amendments from Act 278 of 2010 which amended Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended, effective July 1, 2010, and to make other revisions. The proposed amendments include the following, in addition to incorporating provisions from Act 278: increase filing, application and issuance fees for Certificate of Need applications; add provisions to submit information related to quality of patient care as part of Section 202.2.b; revise the Part A- Questionnaire; and, make other changes to R.61-15 to improve the overall quality of the regulation, such as deleting references to federal acts that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes.

A public hearing was conducted. (Attachment 8-2)

Mr. Wells moved, seconded by Mr. Lutz, to find for the need and reasonableness of the proposed regulation and approve it for submission to the legislature for review. Approved.

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 8-3)

Item 9: Final Review Conference Docket No. 11-RFR-11, Spartanburg Regional Healthcare System– Determination E-11-01 dated February 22, 2011, that replacement of the existing PMD2 linear accelerator with like equipment at Gibbs Regional Cancer Center, Spartanburg Regional Healthcare System does not require CON review (Attachment 9-1)

Mr. Roberts introduced the matter. Ms. Ashley Biggers represented the Department. Mr. Travis Dayhuff represented Spartanburg Regional Healthcare System. Mr. Raymon Lark represented Cancer Centers of the Carolinas.

After presentations and discussion, *Mr. Kisner moved, seconded by Mr. Wells, to go into Executive Session for legal advice on the matter currently before the Board. Approved.*

While in Executive Session, no actions were taken.

Mr. Kisner moved, seconded by Dr. Kirol, to uphold the staff decision. Approved.

Item 10: Final Review Conference Docket No. 10-RFR-112 (continued from November 2010) re: Decision dated September 14, 2010, to issue NPDES Permits #SC0026743 and SC0026751 to Tega Cay WWTP# 2 and Tega Cay WWTP #3 & #4. (Attachment 10-1)

Mr. Roberts stated the Requestor in this matter had submitted a letter withdrawing his request for review. (Attachment 10-2)

Item 11: Handling of Request for Final Review requiring action by May 12, 2011 (RFR Docket No. 11-RFR-12 through 11-RFR-15) (Attachment 11-1)

Mr. Roberts stated that the Requestors in Docket No. 11-RFR-14 and Department staff had agreed to hold the decision on this matter in abeyance until the July Board meeting and presented a Consent Agreement signed by all parties to the Board for approval. (Attachment 11-2)

Mr. Batts moved, seconded by Mr. Lutz, to approve the Consent Order. (Attachment 11-2) Approved.

Mr. Amsler asked if anyone wished to conduct review conferences on any of the remaining pending requests for review.

Mr. Kisner moved, seconded by Dr. Hutto, to conduct a final review conference on Docket No. 11-RFR-12, Debordieu Beach renourishment and groin construction; and to decline to conduct review conferences on Docket Nos. 11-RFR-13, and -15. Approved.

Item 12: Agency Affairs

Commissioner Hunter gave a brief update on the budget, but deferred the remainder of this report until the next meeting.

Item 13: Election of Board Officers

Mr. Kisner moved, seconded by Mr. Wells, to elect Mr. Mark Lutz as Vice Chairman of the Board. Approved.

Item 14: Legal Report

Mr. Roberts deferred this report until the next meeting.

Mr. Kisner moved, seconded by Mr. Lutz, to adjourn. Approved.

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

Respectfully submitted,
Steven G. Kisner
Secretary of the Board

Minutes approved this 12th day of May 2011.

ATTEST:
Allen Amsler
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 March 10, 2011 minutes
- 2-1 Monthly Award for Excellence Recipients for April 2011
- 3-1 Orders issued by the Office of Ocean and Coastal Resource Management
- 4-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation

- 5-1 Administrative and Consent Orders issued by Environmental Quality Control
- 6-1 Request for a nine-month extension of Certificate of Need SC-09-10, Providence Hospital Northeast
- 7-1 **Public Hearing** - Proposed New R. 61-118, Electronic Equipment Collection and Recovery
- 7-2 Powerpoint Presentation and Letter of Support from Hewlett Packard
- 7-3 Sign-in sheet for Public Hearing
- 7-4 Verbatim Transcript
- 8-1 **Public Hearing** – Proposed Amendment of R.61-15, Certification of Need for Health Facilities and Services
- 8-2 Sign-in sheet for Public Hearing
- 8-3 Verbatim Transcript
- 9-1 **Final Review Conference** – Docket No. 11-RFR-11
- 10-1 **Final Review Conference** – Docket No. 10-RFR-112 (continued from November 2010)
- 10-2 Letter Withdrawing Request for Review
- 11-1 Handling of Requests for Final Review requiring action by May 12, 2011, Docket No. 11-RFR-12 through Docket No. 11-RFR-15
- 11-2 Consent Agreement – Docket No. 11-RFR-14