

BOARD:
Allen Amsler
Chairman
Mark S. Lutz
Vice Chairman



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
L. Clarence Batts, Jr.
Ann B. Kirol, DDS
John O. Hutto, Sr., MD

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

July 12, 2012

The South Carolina Board of Health and Environmental Control met on Thursday, July 12, 2012 at 10:00 in the Board Room of the S.C. Department of Health and Environmental Control, 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

R. Kenyon Wells
2nd District

L. Clarence Batts
4th District

Ann B. Kirol, DDS
5th District

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

Also in attendance were Catherine Templeton, Director, W. Marshall Taylor, Jr., General Counsel, Lisa Lucas Longshore, Clerk, 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.

Item 1: Board Minutes for June 14 meeting

Mr. Lutz moved, seconded by Dr. Kirol, to approve the minutes as submitted for June 14 meeting. Approved.

Item 2: Update: CON Review Panel

Dr. Kirol gave an update on the CON Review Panel discussion from the June 26 meeting.

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

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

Ms. Robin Stephens, Assistant to the Deputy Commissioner, EQC, stated twenty-seven (27) Consent Orders and one (1) Administrative Order had been issued with total penalties of \$94,973.

After discussion, *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, Health Regulation Liaison, stated two (2) Suspension Orders and one (1) Consent Order had been issued with no monetary penalties.

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

Item 5: Orders issued by the Office of Ocean and Coastal Resource Management (Attachment 5-1)

Ms. Carolyn Boltin-Kelly, Deputy Director, Ocean and Coastal Resource Management, stated one (1) Settlement Agreement and Release had been entered with a penalty of \$1,000.

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

Item 6: Status Report – Environmental Fees and Time Frames (Attachment 6-1)

Mr. Michael Rowe, Director, Division of Research and Planning, EQC, presented this quarterly item to the Board.

The 1993 Environmental Protection Fund Act transferred authority for the collection of certain environmental fees from the annual appropriations process to a permanent funding authority. Regulation 61-30, passed by the General Assembly in 1995, requires the Department staff to make quarterly reports to the Board on fees collected and expended, permitting activities, and permit review time frames. This informational item represents a report for the third quarter of the 2011-2012 fiscal year and summarizes activity for the fiscal year to date. In addition, this report contained a staff update on the pilot programs for expedited permitting during the second quarter and fiscal year as a whole.

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

Item 7: Request for first Board extension of Certificate of Need SC-10-07 issued to Lighthouse Care Center of Conway for the construction and renovation for the addition of fifteen (15) psychiatric beds and six (6) inpatient treatment substance abuse beds for a total of fifty-nine (59) psychiatric beds and fourteen (14) inpatient treatment substance abuse beds (Attachment 7-1)

Ms. Beverly Brandt, Director, Division of Health Facilities and Services Development, presented this item to the Board.

Lighthouse Care Center of Conway was requesting additional time to implement Certificate of Need SC-10-07. Lighthouse of Conway had provided staff with substantial evidence that they intend to move forward with the project and are diligently attempting to finalize and execute a valid construction contract. Ms. Andrea Brisbin, Esquire and Mr. Tom Ryba, CEO, were in attendance representing Lighthouse Care Center of Conway.

After discussion, *Mr. Batts moved, seconded by Dr. Kirol, to find that Lighthouse of Conway has demonstrated substantial progress and approve an additional nine-month extension to implement Certificate of Need SC-10-07. Approved.*

Item 8: Proposed Amendment of R.61-79, Hazardous Waste Management Regulations, Federally Mandated Regulations exempt from Legislative Review (Attachment 8-1)

Mr. Richard Haynes, Director, Division of Waste Management, presented this item to the Board.

The Department of Health and Environmental Control (Department) proposed to amend R.61-79, Hazardous Waste Management Regulations by promulgating regulations to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency (EPA) between July 1, 2009 and June 30, 2010, and is also proposing to correct errors and omissions in the language of the previously adopted National Manifest Final Rule.

The Department proposed to adopt final rules as follows:

- (1) "Revisions to the Requirements for Transboundary Shipments of Hazardous Wastes Between Organization for Economic Cooperation and Development (OECD) Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes," Final Rule (OECD Rule) published on January 8, 2010 at 75 FR 1236.
- (2) "Withdrawal of the Emission Comparable Fuel Exclusion Under the RCRA," Final Rule, published on June 15, 2010 at 75 FR 33712.
- (3) "Hazardous Waste Technical Corrections and Clarifications Final Rule," published on March 18, 2010 at 75 FR 12989.
- (4) Correction of errors and omissions in the previously adopted National Manifest Final Rule at 70 FR 10776 (March 4, 2005), published as a final regulation in the S.C. State Register on May 28, 2010 in Document 4080.

Adoption of these federal amendments is required to comply with federal law and will bring R.61-79 into conformity with the federal regulation. Legislative review of these amendments is not required pursuant to Section 1-23-120(H). These regulations are exempt from the requirements of a fiscal impact statement and assessment report pursuant to Sections 1-23-110(A)(3)(e) and (f).

After discussion, *Mr. Lutz moved, seconded by Mr. Batts, to grant approval to publish a Notice of Proposed Regulations in the State Register, to provide opportunity for public comment and to allow staff to proceed with a public hearing before the Board. Approved.*

Item 9: Handling of Requests for Review requiring action by August 9, 2012 (Attachment 9-1)

Mr. Amsler stated that for discussion and action, Docket Nos. 12-RFR-30 and 12-RFR-31 would be considered together.

After discussion, *Mr. Batts moved, seconded by Dr. Hutto, to deny a final review conference on Docket No. 12-RFR-30, Tri-County Home Health Care & Services Certificate of Need for Allendale County Home Health Services and Docket No. 12-RFR-31, denial of Certificate of Need to United Home Care for Allendale County Home Health Services. Approved.*

After discussion, *Mr. Batts moved, seconded by Mr. Wells, to support staff and deny a final review conference on Docket No. 12-RFR-32, Showa Denko Carbon, Inc. Approved.*

After discussion, *Mr. Lutz moved, seconded by Mr. Wells, to conduct a final review conference on Docket No. 12-RFR-33, Garfield Park Phase 3 development. Approved.*

After discussion, *Dr. Hutto moved, seconded by Mr. Wells, to deny a final review conference on Docket No. 12-RFR-34, Willena N. Hudgins, 5 Aces Custom Tattoo, on the premise that the request for review was presented to the Board late. Approved.*

After a brief discussion on Docket No. 12-RFR-35, Andrea Magwood, Fair Havens Manor, *Mr. Wells moved, seconded by Mr. Lutz, to go into Executive Session for the purpose of obtaining legal advice on the matter presently being discussed. Approved.*

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

After further discussion, *Dr. Kirol moved, seconded by Mr. Batts, to deny a final review conference on Docket No. 12-RFR-35, Andrea Magwood, Fair Havens Manor. Approved.*

Item 10: Agency Affairs

Director Templeton updated the Board on agency affairs as follows:

1. 2012-2013 Budget;
2. "One DHEC" vision for agency.

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

Item 11: Legal Report

Mr. Taylor stated he had nothing to report on this month.

There being no further business, Mr. Amsler declared the meeting adjourned.

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

Respectfully submitted,

Mark S. Lutz, Vice-Chairman

Minutes approved this 13th day of September 2012.

ATTEST:

Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes for June 14
- 3-1 Administrative and Consent Orders issued by EQC
- 4-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 5-1 Orders issued by Ocean and Coastal Resource Management
- 6-1 Status Report – Environmental Fees and Time Frames
- 7-1 Request for first Board extension of Certificate of Need SC-10-07 issued to Lighthouse Care Center of Conway
- 8-1 Proposed Amendment of R.61-79, Hazardous Waste Management Regulations
- 9-1 Handling of Requests for Review requiring action by August 9, 2012