



Board:

Mark R. Elam, Chairman
Jim P. Creel, Jr., Vice-Chairman
Charles M. Joye, II, P.E., Secretary
J.B. (Sonny) Kinney

Seema Shrivastava-Patel
Richard V. Lee, Jr.
Alex A. Singleton

**Minutes of the August 13, 2020, 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, 2020, 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:

Mark Elam, Chairman
Jim P. Creel, Jr., Vice-Chairman
J.B. (Sonny) Kinney, 1st District
Robert Morgan, MD, 4th District

In attendance via telephone
Seema Shrivastava-Patel, 2nd District
Charles M. Joye, II, P.E., 3rd District
Richard V. Lee, Jr., 5th District
Alex A. Singleton, 6th District

Also, in attendance were W. Marshall Taylor, Acting Director, Rupinderjit S. Grewal, Legal Counsel; M. Denise Crawford, Clerk; and Department staff. The meeting was also available via Livestream.

Chairman Elam 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.

Item 1: Minutes of June 11, 2020 meeting (Attachment 1-1)

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

Item 2: Administrative Orders 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, eight (8) Consent Orders with assessed civil penalties totaling \$59,800.00 have been issued.

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

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

Ms. Rebecca Sproles, Liaison, Environmental Affairs, stated that for this reporting period, forty-three (43) Consent Orders with assessed civil penalties totaling \$155,677.50 and fifteen (15) Administrative Orders with assessed civil penalties totaling \$4,000.00 have been issued.

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

Item 4: Notice of Proposed Regulation Amending R.61-79, Hazardous Waste Management Regulations (Exempt from General Assembly review) (Attachment 4-1)

Ms. Stacey French, Director, Division of Waste Management, Environmental Affairs, presented this item to the Board.

The Bureau of Land and Waste Management ("Bureau") proposed the Notice of Proposed Regulation amending R.61-79, *Hazardous Waste Management Regulations*, for publication in the August 28, 2020, *South Carolina State Register* ("*State Register*"). Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 *et seq.*, which authorizes the Department of Health and Environmental Control ("Department") to promulgate hazardous waste management regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(I), exempts these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal law.

The Bureau proposed amending R.61-79, *Hazardous Waste Management Regulations*, to adopt the Environmental Protection Agency ("EPA") final rule "Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine," published on February 22, 2019, at 84 FR 5816-5950. This rule creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the existing generator regulations and reduces regulatory burdens for over-the-counter Food and Drug Administration-approved nicotine replacement therapies. Adoption of this rule is required to comply with federal law and will bring R.61-79 into conformity with the federal regulations.

The Bureau had a Notice of Drafting published in the April 24, 2020, *State Register*. The Bureau received no comments during the public comment period.

The Bureau published a summary of the proposed amendments on the Department's Regulation Development Update webpage. The Bureau provided notice to interested parties via an email list on April 24, 2020. The Bureau maintains a web site (<https://www.scdhec.gov/about-dhec/laws-regulations-regulatory-updates/hazardous-waste-management-regulations-update-status>) which provides more detail on the proposed amendments.

Department staff conducted an internal review of the proposed rule on June 3, 2020.

The Bureau requested the Board grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.

After discussion, **Mr. Creel moved, seconded by Dr. Morgan, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-79, *Hazardous Waste Management Regulations*, Exempt from General Assembly review, 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 5: Notice of Proposed Regulation Amending R.61-79, *Hazardous Waste Management Regulations* (Attachment 5-1)

Ms. Stacey French, Director, Division of Waste Management, Environmental Affairs, presented this item to the Board.

The Bureau of Land and Waste Management ("Bureau") proposed the Notice of Proposed Regulation amending R.61-79, *Hazardous Waste Management Regulations*, for publication in the August 28, 2020, *South Carolina State Register* ("State Register"). Legal authority resides in the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 *et seq.*, which authorizes the Department of Health and Environmental Control ("Department") to promulgate hazardous waste management regulations, procedures, or standards as may be necessary to protect human health and the environment. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Bureau proposed amending R.61-79, *Hazardous Waste Management Regulations*, to adopt Environmental Protection Agency ("EPA") interim final rule "Safe Management of Recalled Airbags," published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the Resource Conservation and Recovery Act ("RCRA") hazardous waste requirements for entities, including but not limited to, automobile dealerships, automotive salvage and scrap yards, independent repair facilities, and collision centers that collect airbag modules and inflators ("airbag waste") from automobiles as long as certain conditions are met. This rule enables expedited removal of defective airbag inflators.

The Bureau also proposed amending R.61-79, *Hazardous Waste Management Regulations*, to adopt EPA final rule "Universal Waste Regulations: Addition of Aerosol Cans," published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal RCRA regulations. Adopting the rule will reduce regulatory burdens on retail stores and other establishments that generate, manage, and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.

The EPA has given authorized states, including South Carolina, the discretion to adopt these rules, as they will make existing standards less stringent and provide more flexibility to the regulated community.

The proposed amendments also include changes such as corrections for clarity and readability,

grammar, punctuation, codification, and other such regulatory text improvements.

The Bureau had a Notice of Drafting published in the April 24, 2020, *State Register*. The Bureau received no comments during the public comment period.

The Bureau published a summary of the proposed amendments on the Department's Regulation Development Update webpage. The Bureau provided notice to interested parties via an email list on April 24, 2020. °The Bureau maintains a web site (<https://www.scdhec.gov/about-dhec/laws-regulations-regulatory-updates/hazardous-waste-management-regulations-update-status>) which provides more detail on the proposed amendments.

Department staff conducted an internal review of the proposed amendments on June 3, 2020.

The Bureau requested the Board to grant approval of the attached Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.

After discussion, **Mr. Kinney moved, seconded by Mr. Creel, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-79, Hazardous Waste Management Regulations, 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 6: Notice of Proposed Regulation Amending R.61-62, Air Pollution Control Regulations and Standards (Exempt from General Assembly review) (Attachment 6-1)

Ms. Mary Peyton Wall, Section Manager, Air Regulation, Data Analysis, and SIP Management, Environmental Affairs, presented this item to the Board.

The Bureau of Air Quality (Bureau) proposed the Notice of Proposed Regulation amending R.61- 62, *Air Pollution Control Regulations and Standards*, for publication in the August 28, 2020, *South Carolina State Register (State Register)*. Legal authority for these amendments resides in the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 *et seq.* (Pollution Control Act), which authorizes the Department to adopt emission control regulations, standards, and limitations, and take all actions necessary or appropriate to secure to the state the benefits of federal air pollution control laws. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department promulgates these amendments for compliance with federal air pollution control laws.

Pursuant to the Pollution Control Act and 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. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 63, and 68 include revisions to New Source Performance Standards (NSPS)

mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412; and Chemical Accident Prevention Provisions mandated by 42 U.S.C. Section 7412(r).

The Department proposed amending R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; R.61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; and R.61-62.68, *Chemical Accident Prevention Provisions*, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department also proposed amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This proposed amendment is to ensure compliance with federal law.

The Department also proposed amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore proposes to delete R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling and overall improvement of the text of R.61-62 as necessary.

The Bureau held stakeholder meetings concerning South Carolina's implementation of the ACE rule on October 7, 2019, October 21, 2019, February 10, 2020, February 24, 2020, and June 15, 2020. Additionally, the Bureau provided the draft amendments to the affected facilities subject to R.61-62.60, Subpart UUUUa and external stakeholders for their review. The Bureau held stakeholder meetings for affected facilities subject to R.61-62.68, *Chemical Accident Prevention Provisions*, following EPA's initial proposal to amend 40 CFR Part 68. Additionally, the Bureau provided the final federal amendments to 40 CFR Part 68 to affected facilities following the promulgation date.

The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. The Bureau also had the Notice of Drafting published on the Department's Regulatory Information website in the *DHEC Monthly Regulation Development Update*. The Bureau sent a copy of the Notice of Drafting to interested stakeholders via Department email list on February 28, 2020. The Department received no public comments by the March 30, 2020, close of the public comment period.

Department staff conducted an internal review of the proposed amendments on June 18, 2020.

South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

In accordance with S.C. Code Section 1-23-I 20(H)(I), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

The Bureau of Air Quality requested the Board grant approval of the Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.

After discussion, **Mr. Creel moved, seconded by Mr. Joye, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-62, Air Pollution Control Regulations and Standards, exempt from General Assembly review, 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: Notice of Proposed Regulation Amending R.61-56, Onsite Wastewater Systems; and Repealing R.61-55, Septic Tank Site Evaluation Fees; R.61-56-1, License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets; and R.61-56-2, Licensing of Onsite Wastewater Systems Master Contractors (Attachment 7-1)

Mr. David Vaughan, Director, Division of Onsite Wastewater, Rabies Prevention and Enforcement, Environmental Affairs, presented this item to the Board.

The Bureau of Environmental Health Services ("Bureau") proposed the Notice of Proposed Regulation amending R.61-56, *Onsite Wastewater Systems*. The Bureau further proposed amending requirements of R.61-56.1, *License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets*, and R.61-56.2, *Licensing of Onsite Wastewater Systems Master Contractors*, and merging R.61-56.1 and R.61-56.2 into R.61-56. This will entail repealing R.61-56.1 and R.61-56.2 and adding their provisions, as amended, to R.61-56. Additionally, the Department proposed merging R.61-55, *Septic Tank Site Evaluation Fees*, into R.61-56. This will entail repealing R.61-55 and adding its provisions, as amended, to R.61-56. The Bureau proposed these amendments and repeals for publication in the August 28, 2020, *South Carolina State Register* ("State Register"). Legal authority resides in S.C. Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 *et seq.*, which enable the Department of Health and Environmental Control ("Department") to promulgate regulations related to the disposal of sewage and establish fees. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these amendments.

Pursuant to R.61-56, the Department provides oversight for safe treatment and disposal of domestic wastewater to protect the health of families and communities. In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems).

The Department proposed amending R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments will modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program.

The Department also proposes amending provisions of R.61-56.1 and R.61-56.2 and merging R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This will entail repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The proposed amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The proposed amendments will revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach includes new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions will also be consolidated and updated for clarity and to improve administration of the Onsite Wastewater program.

The proposed revisions would expand existing site evaluation options and allow more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC"). Under the proposal, applicants desiring to install systems for a subdivision would be required to submit third-party soils work from a PSC. The PSC would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Subdivision permit applicants may incur additional costs for the third-party work performed by a PSC under this process. Outside of the subdivision context, applicants for conventional systems will retain the option to use a PSC or allow the Department to conduct a soil evaluation and prepare a system layout. The expanded options and enhanced involvement of third-party PSCs will serve to streamline and expedite the permit process for the Department and the regulated community.

In the interest of efficiency, the Department proposed repealing R.61-55 and adding its provisions to R.61-56. The proposed amendments related to R.61-55 include amendments to definitions and other changes as necessary to facilitate merging this regulation into R.61-56.

The Department also proposed other corrections for clarity and readability, grammar, punctuation, codification, and regulation text improvement.

The Department had a Notice of Drafting published in the March 27, 2020, *State Register*. The Department received only one public comment by the April 27, 2020, close of the public comment period.

The Bureau held twenty-two (22) separate meetings between August 2, 2017, and July 1, 2020, to solicit stakeholder input, including open-invitation public meetings, in person and virtually, and individual interest group discussions. A total of three hundred and seventy-

five (375) stakeholders attended. The Bureau utilized the Department's website and agency calendar to advertise these meetings, as well as mailed invitation cards and emailed invitations to identified stakeholders. The Bureau received favorable feedback from these meetings.

Department staff conducted an internal review of the proposed amendments on July 8, 2020.

The Bureau requested the Board to grant approval of the Notice of Proposed Regulation for publication in the August 28, 2020 *State Register*.

After discussion, **Mr. Kinney moved, seconded by Mr. Singleton, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-56, Onsite Wastewater Systems; repealing Regulation 61-55, Septic Tank Site Evaluation Fees; Regulation 61-56.1, License to Construct or Clean Onsite Sewage Treatment and Disposal System and Self-Contained Toilets; and Regulation 61-56.2, Licensing of Onsite Wastewater Systems Master Contractors, 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: Notice of Proposed Regulation Amending R.61-24, Licensed Midwives (Attachment 8-1)

Mr. Russ Morrison, Office of Policy and Communications, Healthcare Quality, presented this item to the Board.

The Bureau of Facilities Oversight ("Bureau") proposed the Notice of Proposed Regulation amending R.61-24, *Licensed Midwives*, for publication in the August 28, 2020, *South Carolina State Register* ("State Register"). Legal authority resides in S.C. Code Sections 44-1-140 et. seq, which requires the Department of Health and Environmental Control ("Department") to establish and enforce basic standards for the licensure of midwives and midwifery services to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department proposed amending R.61-24 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other requirements for licensure.

The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. The Department received public comments from five parties by the March 30, 2020, close of the public comment period. Attachment C presents a summary of these public comments received and Department responses.

The Bureau of Facilities Oversight held a stakeholder meeting on March 17, 2020.

Department staff conducted an internal review of the proposed amendments on July 10, 2020.

The Bureau of Facilities Oversight requested the Board to grant approval for publication in the August 28, 2020, *State Register*.

After discussion, **Mr. Singleton moved, seconded by Mr. Kinney, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-24, Licensed Midwives, in the State Regulation, to provide opportunity for public comment, to received and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.**

Item 9: Notice of Proposed Regulation Amending R.61-75, Standards for Licensing Day Care Facilities for Adults (Attachment 9-1)

Mr. Russ Morrison, Office of Policy and Communications, Healthcare Quality, presented this item to the Board.

The Bureau of Facilities Oversight ("Bureau") proposed the Notice of Proposed Regulation amending R.61-75, *Standards for Licensing Day Care Facilities for Adults*, for publication in the August 28, 2020, *South Carolina State Register* ("*State Register*"). Legal authority resides in S.C. Code Section 44-7-260, which requires the Department of Health and Environmental Control ("Department") to establish and enforce basic standards for the licensure, maintenance, and operation of health facilities and services in order to ensure the safe and adequate treatment of persons served in this state. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Bureau proposed amending R.61-75 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to terminology widely used and understood within the provider community, and revise requirements for incident reporting, staffing and training, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

The Department had a Notice of Drafting published in the February 28, 2020, *State Register*. The Department received public comments from five parties by the March 30, 2020, close of the public comment period.

The Bureau held a stakeholder meeting on March 12, 2020. The Bureau considered stakeholder feedback in formulating the proposed amendments herein.

Department staff conducted an internal review of the proposed amendments on June 29, 2020.

The Bureau of Facilities Oversight requested the Board grant approval of the Notice of Proposed Regulation for publication in the August 28, 2020, *State Register*.

After discussion, Mr. Creel moved, seconded by Ms. Shrivastava-Patel, to grant approval to publish the Notice of Proposed Regulation amending Regulation 61-75, *Standards for Licensing Day Care Facilities for Adults*, 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: Request for a nine-month extension by the Board of Certificate of Need (CON) SC-17-80 issued to KershawHealth Ambulatory Surgery Center, LLC ("KershawHealth") for construction of an ambulatory surgery center with here operating rooms (Attachment 10-1)

Ms. Maggie Murdock, Director, Certificate of Need Program, Health Regulations, presented this item to the Board.

Request for a nine-month extension by the Board for Certificate of Need (CON) SC-17-80 issued to KershawHealth Ambulatory Surgery Center, LLC ("KershawHealth") for construction of an ambulatory surgery center with three operating rooms.

CON SC-17-80 was issued to KershawHealth on December 13, 2017 for the referenced project. The original CON had an expiration date of December 13, 2018. KershawHealth requested a first staff extension of the CON on November 12, 2018, which was more than 30 days prior to its expiration. KershawHealth received CON SC-17-80-EXT-1 on December 13, 2018, and it was valid until September 13, 2019, for a period of nine months from the original expiration of the CON. KershawHealth requested a second staff extension of the CON on August 13, 2019, which was 30 days prior to its expiration. KershawHealth received CON SC-17-80-EXT-2 on September 13, 2019, and it was due to expire on June 13, 2020. In accordance with R. 61-15, *Certification of Need for Health Facilities and Services*, Section 601, KershawHealth submitted a third staff extension request to the Department on March 13, 2020, which is more than 90 days prior to its expiration.

Department staff have reviewed all relevant information concerning this third extension request and found that circumstances beyond the control of KershawHealth have contributed to the need for further extension of CON SC-17-80. Specifically, the applicant stated it had experienced a delay as a result of an ownership change at a level not subject to Department action under R. 61-15, Section 604. Prior to the expiration of SC-17-80-EXT-2, Department staff requested additional information concerning this transaction. On July 15, 2020, counsel for KershawHealth wrote to the Department and fully explained the nature of the purported transaction involving a potential change of ownership related to R. 61-15, Section 604. Department staff's subsequent analysis of this information determined that the CON remained valid and is now subject to appropriate review and extension by the Board. Department staff have also determined that substantial progress towards implementing the project has been made and expect, based on the extension request itself, that the project will be implemented around November 2020.

Department staff recommended that the Board concur that KershawHealth has demonstrated extenuating circumstances beyond its control that have prevented the project from advancing, and that a nine-month extension of CON SC-17-80 be granted, with an expiration date of March 13, 2021.

After discussion, **Mr. Lee moved, seconded by Mr. Creel, that the Board find that KershawHealth Ambulatory Surgery Center, LLC had demonstrated substantial progress on this project and approve the extension request for CON SC-17-80 issued to KershawHealth Ambulatory Surgery Center, LLC on May 26, 2020. The Board voted and Motion carried.**

Item 11: 2021 Proposed Meeting Dates for SC Board of Health and Environmental Control (Attachment 11-1)

Mr. Lee moved, seconded by Mr. Kinney, to approve the 2021 Board Meeting Dates as presented. The Board voted and Motion carried.

Item 12: Agency Affairs

W. Marshall Taylor, Jr., Acting Director, provided an update to the Board on current agency matters.

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

W. Marshall Taylor, Jr., Acting Director, provided an update to the Board on the agency response to COVID 19 and recognized Department staff for their continued efforts to maintain normal operations during the pandemic.

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

Dr. Joan Duwve, Director of Public Health, provided an update on the COVID 19 (Coronavirus).

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

Executive Session

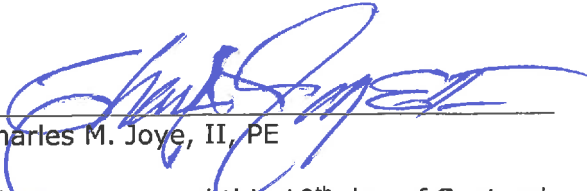
Mr. Creel made a motion that the Board go into Executive Session pursuant to SC Code Section 30-4-70(A)(1) and (A)(2) to obtain legal advice related to a personnel matter. Mr. Kinney seconded the motion and the motion carried unanimously.

Chairman Elam stated the Board was back in public session and while in Executive Session no actions were taken.

Being no further business, the Chairman adjourned the meeting.

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

Respectfully submitted,



Charles M. Joye, II, PE

Minutes approved this 10th day of September 2020.

ATTEST:



Mark R. Elam, Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign in Sheet
- 1-1 August 13, 2020 Minutes
- 2-1 Administrative Orders and Consent Orders issued by Healthcare Quality
- 3-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 4-1 Notice of Proposed Regulation Amending R.61-79, *Hazardous Waste Management Regulations (Exempt from General Assembly review)*
- 5-1 Notice of Proposed Regulation Amending R.61-79, *Hazardous Waste Management Regulations*
- 6-1 Notice of Proposed Regulation Amending R.61-62, *Air Pollution Control Regulations and Standards*
- 7-1 Notice of Proposed Regulation Amending R.61-56, *Onsite Wastewater Systems*; and Repealing R.61-55, *Septic Tank Site Evaluation Fees*; R.61-56-1, *License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets*; and R.61-56-2, *Licensing of Onsite Wastewater Systems Master Contractors*
- 8-1 Notice of Proposed Regulation Amending R.61-24, *Licensed Midwives*
- 9-1 Notice of Proposed Regulation Amending R.61-75, *Standards for Licensing Day Care Facilities for Adults*
- 10-1 Request for a nine-month extension by the Board of Certificate of Need (CON) SC-17-80 issued to KershawHealth Ambulatory Surgery Center, LLC ("KershawHealth") for construction of an ambulatory surgery center with here operating rooms
- 11-1 2021 Proposed Meeting Dates for SC Board of Health and Environmental Control