

BOARD:
Allen Amsler
Chairman
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 August 7, 2014, meeting of the South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, August 7, 2014, at 10:00 a.m. via conference call in the Board Room 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 via telephone:

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)

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.

Item 1: Minutes of July 10 meeting (Attachment 1-1)

Dr. Kirol moved, seconded by Mr. Batts, to approve the minutes as submitted for the July 10 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, EQC, stated seven (7) Administrative Orders and forty-five (45) Consent Orders had been issued with total penalties of \$209,775.

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 one (1) Administrative Order, four (4) Consent Orders, and one (1) Emergency Suspension Order had been issued with total penalties of \$22,500.

The Board accepted this item as information.

Item 4: Public Hearing and Request for Final Approval – Proposed Repeal of Regulation 61-72, Procedures for Contested Cases, State Register Document No. 4466, Legislative Review is Required (Attachment 4-1)

Mr. Rupi Grewal, Assistant General Counsel, presented this item to the Board.

The Department proposes the attached Notice of Proposed Regulation repealing R.61-72, Procedures for Contested Cases for submission for General Assembly review. Legal authority for this repeal resides in 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60. Adjudicatory hearings as prescribed in R.61-72 no longer occur due to the statutory creation of the Administrative Law Court ("ALC") and 1976 Code Section 44-1-60 providing for ALC review of final agency decisions. The requirements and procedures of R.61-72 have no legal effect. As such, the Department proposes this repeal.

A public hearing was conducted; however, no one in attendance spoke. (Attachment 4-2)

After discussion, *Mr. Batts moved, seconded by Mr. Hewitt, to find for the need and reasonableness of the Proposed Repeal of Regulation 61-72, Procedures for Contested Cases, 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: Proposed Amendment of Regulation 61-91, Standards for Licensing Ambulatory Surgical Facilities, Legislative Review is required (Attachment 5-1)

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

Statutory authority for Regulation 61-91, *Standards for Licensing Ambulatory Surgical Facilities* can be found in 1976 Code Sections 44-7-260. The Department substantively amended the regulation on 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 efforts of the Department's Bureau of Health Facilities Licensing to incorporate current construction requirements and overall improvements to the text of the regulation. The Department recommends revision to ensure compliance with current construction requirements.

After discussion, *Mr. Hewitt moved, seconded by Mr. Batts, to grant approval to publish a Notice of Proposed Amendment of 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 8: Agency Affairs

Director Templeton asked for an Executive Session for the purpose of obtaining legal advice related to the Pinewood Site and the Barnwell/Chem Nuclear Site matters under the attorney-client privilege

Item 11: Legal Report

No report.

Mr. Joye moved, seconded by Mr. Batts, to go into Executive Session for the purpose of obtaining legal advice related to the Pinewood Site and the Barnwell/Chem Nuclear Site matters under the attorney-client privilege. The Board voted and Motion carried.

Vice-Chairman Lutz announced that the meeting would adjourn immediately after the Board returned from Executive Session.

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

The Meeting adjourned.

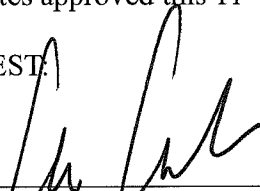
All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,


Ann B. Kirol/DDS, Secretary

Minutes approved this 11th day of September 2014.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes of July 10 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 Public Hearing - Proposed Repeal of R.61-72, Procedures for Contested Cases
- 4-2 Sign-in Sheet for Public Hearing
- 4-3 Verbatim Transcript of Public Hearing
- 5-1 Proposed Amendment of R.61-91, Standards for Licensing Ambulatory Surgical Facilities