

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

June 14, 2012

The South Carolina Board of Health and Environmental Control met on Thursday, June 14, 2012 at 10:00 via conference call 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 present:

Mark S. Lutz, Vice-Chairman
1st District

R. Kenyon Wells
2nd District
In person

L. Clarence Batts
4th District
In person

Ann B. Kirol, DDS
5th District

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

Also in attendance were Catherine B. Templeton, Director, W. Marshall Taylor, Jr., General Counsel, Lisa Lucas Longshore, Clerk, and guests. (Attachment 0-2)

Mr. Lutz, who chaired the meeting, 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 April 26 conference call, May 8 meeting and May 31 conference call

Mr. Batts moved, seconded by Mr. Wells, to approve the minutes as submitted for the April 26 conference call, the May 8 meeting and the May 31 conference call. Approved.

Item 2: Updates: CON Review Panel and State Health Planning Committee

Dr. Kirol gave an update on the CON Review Panel discussions and plan of action for the next couple of meetings.

Dr. Hutto briefed the Board on the first meeting of the State Health Planning Committee.

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) actions had been taken with total penalties of \$118,635.

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) actions had been taken with total penalties of \$26,256.

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 three (3) actions and one (1) compliance agreement had been issued with total penalties of \$6,250.

The Board accepted this item as information.

Item 6: Appointment of one (1) member to the Drycleaning Advisory Council (Attachment 6-1)

Mr. Ken Taylor, Director, Division of Site Assessment, Remediation and Revitalization, Environmental Quality Control, stated the Drycleaning Facility Restoration Trust Fund of 1995, as amended in 2009, established a Drycleaning Advisory Council members of which must be appointed by the Board of Health and Environmental Control. The Advisory Council advises DHEC on matters relating to regulations and standards, which affect drycleaning and related industries. Advisory Council members serve terms of two years and until their successors are appointed. The Advisory Council is composed of eight representatives of the drycleaning industry, one representative of the Wholesale Industry, and one representative of the drycleaners who have a Drycleaning Facility Exemption Certificate, all of whom must be appointed by the S.C. Board of Health and Environmental Control. A DHEC Fund administrator will be a member and an employee of the Department of Revenue will participate.

The credentials of Mr. Larry Koester have been examined and determined to be in order, and Mr. Koester has agreed to serve if appointed by the SC Board of Health and Environmental Control.

After discussion, *Dr. Hutto moved, seconded by Mr. Batts, to approve, Mr. Larry Koester, as recommended, to serve a two (2)-year term on the dry-cleaning advisory council. Approved.*

Item 7: Request for Final Approval – Proposed New Regulation 61-____, South Carolina Immunization Registry, State Register Document No. 4259, Legislative review is required (Attachment 7-1)

Ms. Leann Bailey, RN, Director, Immunization Division, presented this item to the Board. The Department proposes to create regulations to implement provisions of S.C. Code Ann. Section 44-29-40, as amended by 2010 Act No. 210, regarding the implementation of the South Carolina Immunization Registry. This legislative mandate requires the Department to promulgate regulations to implement the required entry of all immunizations given by health care providers into the South Carolina Immunization Information System (Registry). Specific areas which the Department addresses in the Regulation include definitions of terms, registration and reporting requirements, schedule of implementation by providers, implementation schedule, permitted uses and disclosures, compliance and enforcement, exceptions to the requirements and severability. Ms. Bailey submitted corrected copies of Attachments D and G. (Attachment 7-2)

After conducting a public hearing on February 9, 2012, the Board deferred action asking staff to consider the issues addressed during the public hearing and to come back to the Board for Final Approval at a later date. After meeting with immunization partners, including representatives from South Carolina Medical Association (SCMA), South Carolina Hospital Association (SCHA), SC Chapter of American Academy of Pediatricians (SCAAP), SC Department of Health and Human Services (SCDHHS), SC Academy of Family Physicians (SCAFP), SC Primary Health Care Association (SCPHCA), SC Office of Research and Statistics (SCORS), SCHIE, SC Retail Association, National Association of Chain Drug Stores (SCNACDS) and University of South Carolina Health Sciences, staff was able to resolve the issues with the regulation which was revised to include the provisions agreed upon.

Following discussion, ***Mr. Batts moved, seconded by Dr. Hutto, 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 7-3)

Item 8: Handling of Requests for Final Review requiring action before July 12, 2012 (Attachment 8-1)

Chairman Lutz stated that 12-RFR-19 and 12-RFR-29 would be discussed and considered together.

Dr. Hutto moved, seconded by Mr. Wells, to go into Executive Session for the purpose of obtaining legal advice on the matter being discussed as covered by the attorney-client privilege. Approved.

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

Mr. Lutz asked for discussion or motion on Docket No. 12-RFR-19 and Docket No. 12-RFR-29, ***Dr. Hutto moved, seconded by Mr. Batts, not to conduct a Final Review Conference on Docket no. 12-RFR-19, based on grounds the Board considers this matter moot based on the letter of May 21, 2012, implying a resolution was reached. Approved.***

After discussion, ***Mr. Batts moved, seconded by Mr. Wells, not to conduct a Final Review Conference on Docket No. 12-RFR-29 since Lee County Landfill, SC, LLC, the Permittee, has not weighed in on discussions between Department staff and Sayreville Seaport Associates, LLC, and Lee County Landfill, SC, LLC, has not requested a modification to their permit. Approved.***

Mr. Lutz asked for discussion or motion on Docket No. 12-RFR-27. After discussion, ***Dr. Kirol moved, seconded by Mr. Batts, not to conduct a final review conference on Docket No. 12-RFR-27. Motion carries by a vote of 3-2 (In favor – Kirol, Batts, Lutz; Opposed – Wells, Hutto)***

Item 9: Agency Affairs (Attachment 9-1)

Director Templeton stated she would provide a budget update for the next fiscal year at the next meeting, due to the fact the legislature had not completed the budget. She also updated the Board on “one DHEC” vision.

The Board accepted this item as information.

Item 10: Legal Report

Mr. Taylor asked for an Executive Session to brief the Board on pending litigation under the Attorney-Client Privilege.

Mr. Batts moved, seconded by Mr. Wells, to go into Executive Session for discussion of pending litigation under the Attorney-Client privilege. Approved.

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

There being no further business, Mr. Lutz 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 12th day of July 2012.

ATTEST:

Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes for April 26 conference call, May 8 meeting and May 31 conference call
- 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 Appointment of one (1) member to the Drycleaning Advisory Council
- 7-1 Proposed New Regulation 61-____, SC Immunization Registry
- 7-2 Corrected Attachments D & G
- 7-3 Verbatim Transcript
- 8-1 Handling of Requests for Final Review requiring action by July 12, 2012