

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 South Carolina Board of Health and Environmental Control

October 11, 2012

The South Carolina Board of Health and Environmental Control met on Thursday, October 11, 2012 at 10:00 a.m. in the Board Room of the South Carolina 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, by telephone, W. Marshall Taylor, Jr., General Counsel, Lisa Lucas Longshore, Clerk, Department staff with members of the public. (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.

Chairman Amsler stated that Agenda Item 5, the Request for approval of the 2012-2013 South Carolina Health Plan, would be taken up after agenda Item 8.

Item 1: Board Minutes of the September 13 meeting (Attachment 1-1)

Mr. Batts moved, seconded by Dr. Kirol, to approve the minutes as submitted for the September 13, 2012, meeting. The Board voted and the Motion carried.

Item 2: Administrative and Consent Orders issued by Environmental Quality Control (Attachment 2-1)

Ms. Robin Stephens, Assistant to the Deputy Director, EQC, stated twenty-seven (27) Consent Orders and four (4) Administrative Orders had been issued with total penalties of \$124,790.

After discussion, *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 two (2) Suspension Orders, one (1) Consent Order and seven (7) Administrative Orders had been issued with total penalties of \$73,400.

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

Item 4: Orders issued by the Office of Ocean and Coastal Resource Management (Attachment 4-1)

Ms. Barbara Neale, Office of Ocean and Coastal Resource Management, stated one (1) Consent Order had been entered with a penalty of \$800.

The Board accepted this item as information.

Item 6: Public Hearing and Request for Final Approval, Proposed New Regulation 61-____, Standards for Licensing In-Home Care Providers, Document No. 4288, Legislative Review is required (Attachment 6-1)

Ms. Gwen Thompson, Director, Division of Health Licensing, presented this item to the Board.

The Licensure of In-Home Care Providers Act of 2011, S.C. Code Section 44-70-10 et seq., directed the Department to promulgate regulations for the licensure of in-home care providers. To satisfy the requirements of Section 44-70-40 of the Act, the Department proposed a new regulation entitled, "Standards for Licensing In-Home Care Providers." The regulation will provide standards and procedures including license application and renewal procedures; criminal records checks for licensure applicants; drug testing of licensure applicant; responsibilities and duties of a licensee, including the requirements for bonding, record keeping and reporting; fees the Department may charge to process an application for a license, the issuance of the license, the renewal of a license and the reinstatement of a revoked or suspended license, and criteria that a licensee's employee, agent, independent contractor, or referral must satisfy before providing in-home care service. These criteria must include, but are not limited to, personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements and screening for communicable diseases; standards for liability and other appropriate insurance coverage; and sanctions the Department may impose for violation of this chapter, including the suspension or revocation of a license or the imposition of a monetary penalty.

A public hearing was held with twenty-six (26) people speaking, although not everyone signed up to speak. (Attachment 6-2)

After the public hearing and discussion, *Mr. Batts moved, seconded by Mr. Lutz, to go into Executive Session for the purpose of obtaining legal advice pertaining to the matter being discussed and covered by the attorney-client privilege. The Board voted and the Motion carried.*

Chairman Amsler stated the Board was back in public session. While in Executive Session no actions were taken.

After further discussion, *Mr. Lutz moved, seconded by Dr. Kirol, to find for the need, but not necessarily the reasonableness, of the proposed regulation and recommend modifications on drug testing and health assessment as discussed during the public hearing and to direct staff to work with stakeholders on these two issues and based on that approve for submission to the Legislature. The Board voted and the Motion carried.*

The Board requests staff report back on the outcome of the discussions with stakeholders.

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 6-3)

Item 7: Final Review Conference, Docket No. 12-RFR-44. This item was continued until the November 8 meeting and removed from the agenda.

Item 8: Final Review Conference – Docket No. 12-RFR-45, Decision dated August 21, 2012, to issue a Fire and Life Safety Citation for the violation of standards. Requestor/Applicant – Three Rivers Behavioral Health (Attachment 8-1)

Mr. Taylor introduced the matter to the Board. Ms. Ashley Biggers, Esq., represented the Department. Mr. David Summer, Esq., represented Three Rivers Behavioral Health. (Attachment 8-2)

After presentation from all parties and discussion, *Mr. Lutz moved, seconded by Dr. Kirol, to go into Executive Session for the purpose of obtaining legal advice and deliberation pertaining to the matter being discussed. The Board voted and the Motion carried.*

Chairman Amsler stated the Board was back in public session. While in Executive Session no actions were taken.

Mr. Lutz stated the Board finds the Requestor, Three Rivers Behavioral Health, had met the burden of proof that the exception may apply and directs staff to obtain an opinion from the applicable fire code official in regard to whether or not locking doors under the cited regulation in this case constitute a distinct hazard to life. A written decision will be issued within 30 days.

Item 5: Request for approval of the 2012-2013 South Carolina Health Plan

Dr. Kirol moved, seconded by Mr. Lutz, to go into Executive Session for obtaining legal advice and discussion of the legal options on handling the matter under discussion. The Board voted and Motion carried.

Chairman Amsler stated the Board was back in public session. While in Executive Session no actions were taken.

Chairman Amsler stated that action on the 2012-2013 South Carolina Health Plan would be deferred until the November 8 meeting.

Item 9: Handling of Requests for Review requiring action by November 8, 2012

Chairman Amsler stated this item would be considered during a special conference call meeting to be scheduled in the near future.

Item 10: Agency Affairs

This item was deferred until the November meeting.

Item 11: Legal Report

Mr. Taylor deferred his report to the November meeting.

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 Lutz, Vice-Chairman

Minutes approved this 8th day of November 2012.

ATTEST:

Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes for September 13 meeting
- 2-1 Administrative and Consent Orders issued by EQC
- 3-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 4-1 Orders issued by Ocean and Coastal Resource Management
- 6-1 Public Hearing – Proposed New Regulation 61-____, Standards for Licensing In-Home Care Providers
- 6-2 Public Hearing Sign-in Sheet
- 6-3 Verbatim Transcript
- 8-1 Final Review Conference
- 8-2 Presentation by Three Rivers Behavioral Health