

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

**Minutes of the October 10, 2013, meeting of the
South Carolina Board of Health and Environmental Control**

The South Carolina Board of Health and Environmental Control met on Thursday, October 10, 2013, at 10:00 a.m. in the Board Room at the South Carolina Department of Health and Environmental Control building, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Allen Amsler, Chairman
Member-At-Large

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

Also in attendance were Catherine B. Templeton, Director; W. Marshall Taylor, Jr., General Counsel; Pamela G. Hawley, Assistant Clerk; Department staff and members of the public. (Attachment 0-2)

Chairman Amsler 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: Board Minutes of the September 12 meeting (Attachment 1-1)

Mr. Batts moved, seconded by Dr. Kirol, to approve the minutes as submitted for the September 12 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 twenty-nine (29) Consent Orders and one (1) Administrative Order had been issued with total penalties of \$77,060.

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) Emergency Suspension Orders had been issued.

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

Item 4: Proposed Amendment of Regulation 61-68, Water Classifications and Standards, Legislative Review is required (Attachment 4-1)

Ms. Heather Preston, Director, Division of Water Quality, presented this item to the Board. Regulation 61-68 establishes appropriate goals and water uses to be achieved, maintained, and protected; general rules and water quality criteria to protect classified and existing water uses; and an anti-degradation policy to protect and maintain levels of water quality necessary to support and maintain those existing and classified uses. Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires the Department review, and amend as necessary, this regulation once every three years in order to incorporate the most recently published Federal criterion recommendations and guidance.

Mr. Joye moved, seconded by Mr. Wells, to grant approval to publish a Notice of Proposed Regulation 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: Proposed Amendment of Regulation 61-25, Retail Food Establishments, Legislative Review is Required (Attachment 5-1)

Ms. Renee Shealy, Bureau Chief, Bureau of Environmental Health Services, presented this item to the Board.

The regulation governing R.61-25, *Retail Food Establishments*, is authorized pursuant to S.C. Code Ann. § 44-1-140 (Revised 2002). The intent of R.61-25, *Retail Food Establishments*, is to safeguard public health and provide to consumers safe, unadulterated food and food products at the retail level. The regulation governs restaurants, grocery stores, school cafeterias and other establishments, where food is prepared and served to the public.

R.61-25 was last amended in 1995. Since that amendment, there have been numerous changes in the retail food industry, including food handling practices, food equipment technology, and food preparation processes, making R.61-25 in its current form outdated. The Department intends to strike the text of the existing regulation in total and amend the regulation in its entirety to meet current standards of the most recent edition of the United States Food and Drug Administration (FDA) Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers practical, science-based guidance that addresses the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. The Department also intends to incorporate into R.61-25 statutory changes in the administrative appeals process pursuant to S.C. Code Ann. § 44-1-60 (Supp. 2012).

Dr. Hutto moved, seconded by Mr. Wells, to go into Executive Session for the purpose receiving legal advice relating to the Retail Food Establishment Regulation under the attorney-client privilege. The Board voted and Motion carried.

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

After discussion, ***Mr. Batts moved, seconded by Dr. Kirol, to grant approval to publish a Notice of Proposed Regulation 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: Agency Affairs

Director Templeton briefed the Board on the following issues: issuance of Emergency Regulations regarding PCBs; Prescription Monitoring; Savannah River TMDL; Federal Government Shutdown; Underground Storage Tank Fund; Surface Water Permitting Program.

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

Item 6: Legal Report

Dr. Hutto moved, seconded by Mr. Batts, to go into Executive Session for the purpose of receiving legal advice relating to the Bay View Nursing Center case under the attorney-client privilege. The Board voted and the Motion carried.

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

Mr. Taylor provided the Board for consideration and approval a Standing Order which is intended to expedite the review process for any requests for final review that may be received regarding staff decisions under the *Medicaid Nursing Home Permits Act*, S.C. Code Ann. §§ 44-7-80 through -90, by providing automatic notice that the Board will decline to conduct a final review conference on any such decisions.


Dr. Hutto moved, seconded by Mr. Wells, to approve the Standing Order presented to the Board regarding Requests for Review of staff decisions on violations and or fines under the Medicaid Nursing Home Permits Act. The Board voted and Motion carried.

Mr. Taylor reported on the status of the Supreme Court Petitions concerning the Certificate of Need matter.

Chairman Amsler adjourned the meeting.

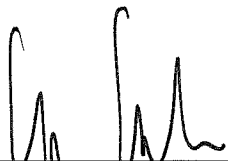
All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,


Ann B. Kirol, DDS, Secretary

Minutes approved this 4th day of November 2013.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes of September 12 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 Proposed Amendment of R.61-68, Water Classifications and Standards
- 5-1 Proposed Amendment of R.61-25, Retail Food Establishments