



**Board:**

Mark R. Elam, Chairman  
Seema Shrivastava-Patel, Vice-Chair  
Charles M. Joye, II, P.E., Secretary  
Jim P. Creel, Jr.

J.B. (Sonny) Kinney  
Richard V. Lee, Jr.  
Morris E. Brown, III, MD, FAAFP  
Robert R. Morgan, Jr., MD, MBA

**Minutes of the January 5, 2022, meeting of the  
South Carolina Board of Health and Environmental Control**

The South Carolina Board of Health and Environmental Control met virtually on Wednesday, January 5, 2022, at 11:00 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 virtually:

Mark Elam, Chairman  
J.B. (Sonny) Kinney, 1<sup>st</sup> District  
Charles M. Joye, II, P.E., 3<sup>rd</sup> District  
Robert Morgan, MD, 4<sup>th</sup> District  
Richard V. Lee, Jr., 5<sup>th</sup> District  
Morris E. Brown, III, MD, 6<sup>th</sup> District  
Jim P. Creel, Jr., 7<sup>th</sup> District

Not in attendance:

Seema Shrivastava-Patel, Vice-Chairwoman, 2<sup>nd</sup> District

Also, in attendance were Dr. Edward Simmer, Director; W. Marshall Taylor, General Counsel; M. Denise Crawford, Clerk; Department staff; and members of the public. 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 December 9, 2021 meeting** (Attachment 1-1)

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

**Item 2: Minutes of December 20, 2021 meeting** (Attachment 2-1)

**Mr. Kinney moved, seconded by Dr. Morgan, to approve the minutes as amended. The Board voted and Motion carried.**

**Item 3: Agency Affairs**

Dr. Edward Simmer, Director, updated the Board on;

- New Year video for staff;
- Vision for the agency in 2022;
- New Lab;
- SHaPE SC;
- COVID 19;
- Flu vaccination.

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

Dr. Simmer introduced Myra Reece, the Director of Environmental Affairs. Ms. Reece provide an update on New Indy facility.

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

**Item 4: Administrative Orders and Consent Orders issued by Healthcare Quality** (Attachment 4-1)

Ms. Bentley White, Director of Policy and Communications, Healthcare Quality, stated that for this reporting period, seven (7) Consent Orders with assessed civil penalties totaling \$99,950.00 and no Administrative Orders were issued.

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

**Item 5: Administrative Orders and Consent Orders issued by Environmental Affairs** (Attachment 5-1)

Ms. Rebecca Sproles, Liaison, Environmental Affairs, stated that for this reporting period, fifty-six (56) Consent Orders with assessed civil penalties totaling \$132,310.00 and one (1) Administrative Order with assessed civil penalties totaling \$11,300.00 were issued.

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

**Item 6: Request for a nine-month Board extension of Certificate of Need (CON) SC-19-82, issued to Lowcountry Rehabilitation Hospital, for the construction for the establishment of a 33-bed freestanding rehabilitation hospital in Berkeley County** (Attachment 6-1)

Mr. David Fiorini, Senior Consultant, Certificate of Need, Bureau of Planning and Construction, Healthcare Quality, presented this item to the Board.

CON SC-19-82 was issued to Lowcountry Rehabilitation Hospital (LRH) on July 19, 2019 for construction for the establishment of a thirty-three (33) bed freestanding rehabilitation hospital in Berkeley County. The original CON had an expiration date of July 19, 2020.

LRH requested a first staff extension of the CON on April 20, 2020, which was more than 30 days prior to expiration. In the same letter, LRH requested an amendment to the project including prepared schematics by the architect. LRH received CON SC-19-82-EXT-1 on July 19, 2020, and it was valid until April 19, 2021, a period of nine months from original expiration of the CON. On August 19, 2020, the Department received a letter from LRH withdrawing the amendment request described in its letter dated April 20, 2020. On October 23, 2020, the Department received a 5<sup>th</sup> quarterly report concurrent from LRH with a request to amend the CON. The amendment request included new prepared schematics and furnished a project description with an updated cost estimate and project timeline.

LRH requested a second staff extension of the CON on March 5, 2021, which was 30 days prior to expiration. The Department issued a second staff extension CON SC-19-82-EXT-2 to LRH on July 13, 2021 and it will expire on January 19, 2022. Additionally, the Department communicated to LRH via email on July 13, 2021, that the Department has determined the amendment proposed in the letter dated October 23, 2020 is not a substantial amendment to the project and does not constitute a new project. In accordance with R. 61-15, Section 601, LRH submitted a third extension request to the Department on October 18, 2021, which is 90 days prior to expiration.

Department staff reviewed all relevant information concerning this third extension request and found that circumstances beyond the control of LRH contributed to the need for further extension of CON SC-19-82. Specifically, LRH referenced delays as a result schematic re-design and communication with Department staff as the primary driver of the request for extension. LRH provided in its extension request an updated timeline for the project, which Department staff believed achievable given the significant expertise and resources available to LRH. In addition, with the new schematic re-design, LRH will have an estimated cost saving of \$1.8 million. Department Staff expected that subsequent extensions by the Board may be unnecessary given LRH's timeline showing execution of a construction contract for the Project on or about October 2022. This contract will satisfy the requirement for

implementation of the Project under R. 61-15, *Certification of Need for Health Facilities and Services* and will render moot the need for further extension of CON SC-19-82.

Department staff recommended the Board find that Lowcountry Rehabilitation Hospital demonstrated extenuating circumstances beyond its control which prevented the Project from advancing, the Project is likely to be implemented during the period of extension, and a 9-month extension of CON SC-19-82 be granted.

After discussion, **Mr. Lee moved, seconded by Mr. Kinney, to find that Lowcountry Rehabilitation Hospital has demonstrated substantial progress on this project and approve the extension request for CON SC-19-82 issued to Lowcountry Rehabilitation Hospital on July 19, 2019. The Board voted and Motion carried.**

**Item 7: Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-7, Emergency Medical Services, Document No. 5055** (Attachment 7-1)

A Public Hearing was conducted concerning the Regulation. Mr. Richard Wisniewski, Director, EMS and Trauma, Healthcare Quality, presented this item to the Board.

The Bureau of Healthcare Systems and Services ("Bureau") proposed the Notice of Final Regulation amending R.61-7, Emergency Medical Services. Legal authority resides in S.C. Code Sections 44-61-10 et seq., which requires the Department of Health and Environmental Control ("Department") to establish and enforce basic standards for the licensure of ambulance services and emergency medical responder agencies, and certification of EMS personnel to ensure the safe and adequate treatment of persons served in this state. Legal authority also resides in S.C. Code Sections 44-78-10 et seq. and 44-80-10 et seq., which requires the Department to promulgate regulations necessary to provide direction to emergency personnel in identifying patients who have a Do Not Resuscitate Order ("DNR"), and to oversee the Physician Orders for Scope of Treatment (POST) form and carry out other related responsibilities. 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.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions and definitions to conform to statutory mandates and terminology widely used and understood within the provider community. The Department proposed revising requirements for Emergency Medical Technician (EMT) training programs, ambulance design and equipment, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification. The Department also proposed amending the regulation to provide direction to emergency personnel in identifying patients who have a Do Not Resuscitate Order ("DNR"), and to add oversight of the Physician

Orders for Scope of Treatment (POST) form and carry out other related responsibilities to the form.

The Department had a Notice of Drafting published in the February 26, 2021, State Register.

The Bureau held a virtual stakeholder meeting on March 19, 2021.

The Bureau received public comments from 25 parties by the March 29, 2021, close of the public comment period.

Department staff conducted an internal review of the proposed amendments on June 22, 2021.

Bureau staff provided members of the Emergency Medical Services (“EMS”) Advisory Council a draft copy of the Notice of Proposed Regulation for review and response on June 7, 2021. Department staff received comments on the proposed amendments from the EMS Advisory Council on June 29, 2021.

Upon receiving approval during the August 12, 2021, Board meeting, the Bureau had a Notice of Proposed Regulation published in the August 27, 2021, State Register. The Department received public comments from 22 people by the September 27, 2021, close of the public comment period. A summary of public comments received, and Department responses were provided to the Board.

The Bureau held a virtual stakeholder meeting on September 7, 2021.

An EMS Advisory Council meeting took place on September 9, 2021, to discuss the proposed amendments. Department staff received comments on the proposed amendments from the EMS Advisory Council on September 27, 2021.

After consideration of all timely received comments, staff made substantive changes to the regulatory text of the Notice of Proposed Regulation approved by the Board in the August 12, 2021, Board meeting and published in the August 27, 2021, State Register. Descriptions of the changes were provided to the Board. (Attachment 7-3)

The Bureau of Healthcare Systems and Service requested the Board to find need and reasonableness of the proposed amendment of R.61-7, Emergency Medical Services, for submission to the General Assembly.

Board Counsel, W. Marshall Taylor, opened the meeting up for public comments on this matter. Four (4) members of the public spoke. (Attachment 7-2) The public comment portion of the public hearing was closed.

After the public comment portion of the public hearing was closed, another member of the public requested to speak. Mr. Taylor asked the Chairman if he wanted to

reopen the hearing for additional public comment. The Chairman granted the request. Following one (1) addition public comment, the public hearing was closed.

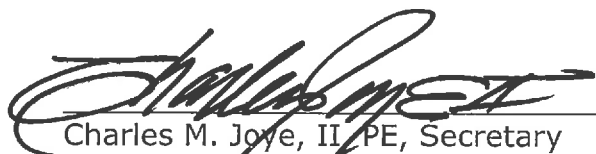
After discussion, **Mr. Kinney moved, seconded by Mr. Lee, that based on the public hearing and documents herein, to find for the need and reasonableness of the Proposed Amendment of Regulation 61-7, Emergency Medical Services, Document No. 5055, and grant approval for submission to the General Assembly for review with the alternative text for Sections 101, 601, 111, and the addition of patches at a section to be determined by staff. The Board voted and Motion carried.**

A verbatim transcript of these proceedings is included as part of the official record. (Attachment 7-3)

Being no further business, Chairman Elam adjourned the meeting.

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

Respectfully submitted,

  
Charles M. Joye, II, PE, Secretary

Minutes approved this 10<sup>th</sup> day of February 2022.

ATTEST:

  
Mark Elam, Chairman

## Attachments

- 0-1 Agenda
- 1-1 Minutes of December 9, 2021 meeting
- 2-1 Minutes of December 20, 2021 meeting
- 4-1 Administrative Orders and Consent Orders issued by Healthcare Quality
- 5-1 Administrative Orders and Consent Orders issued by Environmental Affairs
- 6-1 Request for a nine-month Board extension of Certificate of Need (CON) SC-19-82, issued to Lowcountry Rehabilitation Hospital, for the construction for the establishment of a 33-bed freestanding rehabilitation hospital in Berkeley County
- 7-1 Public Hearing and Request for Final Approval, Proposed Amendment of Regulation 61-7, *Emergency Medical Services*, Document No. 5055
- 7-2 Public Hearing Sign Up Sheet
- 7-3 Possible Alternative Text for NFR. 61-7, *Emergency Medical Services*
- 7-4 Verbatim transcript of public hearing

## ADDENDUM TO MINUTES

After the conclusion of the meeting of the South Carolina Board of Health and Environmental Control, scrivener's errors were identified in the document provided to the Board. A corrected document was provided to the Board, and no objections were raised. The corrected language was subsequently submitted to the General Assembly for approval. The corrected language is attached. (See attachment 7-5)

### Additional Attachments:

7-5 Possible Alternative Text for NFR. 61-7, *Emergency Medical Services*, with corrected scrivener's errors