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- 01/20/2009 Received by Lt. Gov & Speaker 05/20/2009

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provided for in the Regulation

Document No. 4013

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Section 44-7-250

61-17. Standards for Licensing Nursing Homes

**Synopsis:**

South Carolina Code Ann. Section 1-23-120.J directs that staffs of State agencies review their regulations every five years and update them if necessary. Regulation 61-17 was last amended June 27, 2008, but did not include an increase in licensing fees. The last amendment of this regulation to increase licensing fees was February 28, 1992. Since 1992, there have been increases in costs that have necessitated amendment of this regulation in order to make fees more up-to-date and commensurate with current expenditure needed to enforce the regulations.

Discussion of Revision:

202.A. This subsection addresses licensing fees (increasing from $10.00 per licensed bed to $20.00 per licensed bed and adding “or $400.00, whichever is greater”).

**Instructions:** Revise R.61-17 by replacing Section 202.A with the text of the amendment provided below.

Indicates New Matter

**Text :**

202. License Fees

A. Licensing Fees. A nonrefundable initial and annual licensing fee of twenty dollars ($20.00) per licensed bed, or four hundred dollars ($400.00), whichever is greater, shall be submitted to the Department. Such fee shall be made payable by credit card, check or money order to the Department.

**Fiscal Impact Statement:**

There will not be cost to the Department, the State and its political subdivisions. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined by staff analysis pursuant to the S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: Regulation 61-17. Standards For Licensing Nursing Homes.

Purpose of the Regulation: Revision of this regulation is to increase licensing fees from $10 per licensed bed to $20 and to add a minimum of $400, whichever of the two ($20 per licensed bed or $400) is greater.

Legal Authority: S.C. Code Ann. Section 44-7-250(2002).

Plan for Implementation: This amendment takes effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the S.C. General Assembly. The amendment will be implemented by providing the regulated community with copies of the regulation or by correspondence and enforced through the internal procedures for initial and annual licensing established by the Department.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

This regulation revision is needed and reasonable because its development will satisfy a legislative mandate pursuant of S.C. Code Ann. Section 1-23-120 (J) to review Department regulations every five years and amend them as needed.

The regulation was last amended to increase licensing fees February 28, 1992. Since that time there have been increases in costs that have led to the necessity to amend these regulations in order to make fees more up-to-date and commensurate with current expenditure needed to enforce the regulations.

DETERMINATION OF COSTS AND BENEFITS:

There will be no cost to political subdivisions of the state. There will be minimal costs to the regulated community. The fee increase from $10 to $20 per licensed bed per year or $400, whichever greater, is not excessive on a per license basis.

Processing applications for the nursing home licensing program requires considerable commitment of the Department’s fiscal resources. Inflation has increased the costs associated with inspections, investigations, processing licenses, and travel. Program costs have been incurred for increased confidentiality requirements of Department records, all contributing to an overall increase in costs to run an effective program. The anticipated growth of elderly citizens needing nursing home care in South Carolina will increase the demands on Department staff and resources. In addition, in expanding its enforcement of the regulation, the Department has increased its onsite consultation efforts to foster regulatory compliance and such activity is an added cost.

Without the increase in licensing fee, the program’s ability to continue service to the state’s nursing home providers and residents in a timely, effective and efficient manner may be compromised.

Nursing home fees have not increased since 1992. Since FY 1999, the fees have generated less money than needed to operate the program. The program remains under funded until such time as a fee increase is authorized.

Monies generated over and above the costs of the current program go into the general fund to cover the costs of inflation and increased costs incurred over the years. According to the U.S. Department of Labor, Bureau of Labor Statistics, costs have increased on average approximately 3% per year since 1992, and the first six months of 2008 the Consumer Price Index reflected a 4.7% increase. With the probable continued increases in costs, the proposed fee increase is both reasonable and necessary.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by updating licensing fees giving the additional resources needed in regulating nursing homes.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be an adverse effect on the public health if the regulation revision is not implemented since it is likely that continuing to provide inadequate funding of the program may impact the Department’s ability to adequately enforce the regulation, ultimately resulting in possible negative health outcomes. There will be possible detrimental effect on public health in general and vulnerable adults specifically because the program may not have the resources to continue vigilant regulatory oversight of nursing home facilities in a timely, effective and efficient manner.

**Statement of Rationale:**

Department staff determined during its review of R.61-17 that it was appropriate to revise the regulation. R.61-17 was last amended to increase licensing fees in 1992. See the Synopsis and Statement of Need and Reasonableness above for more information regarding the factors influencing the Department’s decision to revise the regulation.