

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2009 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/9	2/13	3/13	4/10	5/8	6/12	7/10	8/14	9/11	10/9	11/13	12/11
Publishing Date	1/23	2/27	3/27	4/24	5/22	6/26	7/24	8/28	9/25	10/23	11/27	12/25

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
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DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
3184		SR33-2	Restructuring ATF Regulations - Pyrotechnic Safety	2/10/09	LLR - Board of Pyrotechnic Safety
3202		SR33-2	Requirements for Licensure as a Physical Therapist	2/11/09	LLR - Board of Physical Therapy Examiners
3201		SR33-2	Mobile Dental Facilities and Portable Dental Operations	2/12/09	LLR - Board of Dentistry
3196		SR33-3	S.C. National Guard College Assistance Program	3/09/09	Commission on Higher Education
3207		SR33-3	Board of Veterinary Medical Examiners Chapter Revision	3/11/09	LLR - Bd of Veterinary Medical Examiners
3204		SR33-3	Licensing Standards for Continuing Care Retirement Communities	3/12/09	Department of Consumer Affairs
3199		SR33-4	South Carolina Trauma Care Systems	3/18/09	Department of Health and Envir Control
3206		SR33-4	Application, Renewal and Continuing Education	3/20/09	LLR - Board of Chiropractic Examiners
3209	R5	SR33-3	Operation of Public Pupil Transportation Services	4/07/09	State Board of Education
3214			Fire Prevention and Life Safety	4/22/09	LLR - Office of State Fire Marshal
3215			Fire Prevention and Life Safety for Special Occupancies	4/22/09	LLR - Office of State Fire Marshal
3216			Explosives	4/22/09	LLR - Office of State Fire Marshal
3217			Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	4/22/09	LLR - Office of State Fire Marshal
3218			Liquefied Petroleum (LP) Gas	4/22/09	LLR - Office of State Fire Marshal
3219			Fireworks and Pyrotechnics	4/22/09	LLR - Office of State Fire Marshal
3220			Fire Prevention and Life Safety in Local Detention Facilities	4/22/09	LLR - Office of State Fire Marshal
3213			Annual Audited Financial Reporting Regulation	4/30/09	Department of Insurance
3208			Contact Information from Traffic Stops	5/13/09	Department of Public Safety
3205			Tax Credits for Fortification Measures	5/13/09	Department of Insurance
3197			Annual Reporting Requirements for Designated Eligible Telecommunications Carriers	5/13/09	Public Service Commission
3203			Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds	5/13/09	Public Service Commission
3210			Licensing of Onsite Wastewater System Master Contractor	5/13/09	Department of Health and Envir Control
3198			Solid Waste Management: Demonstration-of-Need	5/13/09	Department of Health and Envir Control
4004			Federal Government Construction Contracts	5/13/09	Department of Revenue
4003			Donors and Goods Given Away for Advertising Purposes	5/13/09	Department of Revenue
3225			Hazardous Waste Management	5/13/09	Department of Health and Envir Control
4005			Deed Recording Fee	5/13/09	Department of Revenue
3223			Adjustment of Bills and Representation	5/13/09	Public Service Commission
4020			PC&N (Stretcher Vans)	5/13/09	Public Service Commission
3226			X-rays (Title B)	5/13/09	Department of Health and Envir Control
4036			Replacement of Life Insurance and Annuities	5/13/09	Department of Insurance
4035	R20	SR33-4	Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values	5/13/09	Department of Insurance
4028			Charter School Appeals	5/13/09	State Board of Education
4029			Assessment Program	5/13/09	State Board of Education
4027			Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/13/09	State Board of Education
4026			Procedures and Standards for Review of Charter School Applications	5/15/09	State Board of Education
4019			Occupational Safety and Health Act	5/16/09	LLR-Occupational Safety and Health
4041			Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties	5/16/09	LLR-Commissioners of Pilotage
4018			Board of Registration for Professional Engineers and Surveyors	5/16/09	LLR- Bd of Registration for Professional Engineers and Surveyors
4016			Environmental Health Inspections and Fees	5/16/09	Department of Health and Envir Control
3222			Interruption of Service, Computation of Time, and Service Between Parties of Record	5/18/09	Public Service Commission
4039			Designation of Asian Citrus psyllid as Plant Pest and Quarantine	5/20/09	Clemson University-State Crop Pest Comm.
4001			Plum Pox Virus Quarantine	5/20/09	Clemson University-State Crop Pest Comm.
4013			Standards for Licensing Nursing Homes	5/20/09	Department of Health and Envir Control
4040			Consumer Credit Counseling Requirements	5/21/09	Department of Consumer Affairs
4031			LIFE Scholarship & LIFE Scholarship Enhancement	5/22/09	Commission on Higher Education
4032			Need-based Grants Program	5/22/09	Commission on Higher Education
4033			Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	5/22/09	Commission on Higher Education
4034			Determination of Rates of Tuition and Fees	5/22/09	Commission on Higher Education
4030			Public Swimming Pools	5/22/09	Department of Health and Envir Control
4017			Milk and Milk Products	5/27/09	Department of Health and Envir Control
3221			Statewide Criminal Gang Database	5/29/09	State Law Enforcement Division

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4042	Seasons, Bag Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	6/09/09	Department of Natural Resources
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	1/25/10	Workers' Compensation Commission
4049	Use and Dissemination of Test Results	1/25/10	State Board of Education
4053	Enforcement of Pilot Statutes and Maritime Homeland Security	2/09/10	Commissioners of Pilotage
4022	Riverbanks Parks Commission	2/10/10	Riverbanks Parks Commission
4052	Light Brown Apple Moth Quarantine	2/17/10	Clemson University-State Crop Pest Comm.
4054	Registration of Immigration Assistance Services	3/06/10	LLR
4055	Illegal Aliens and Private Employment	3/06/10	LLR
4058	Insurance Holding Company Systems	3/20/10	Department of Insurance
4059	South Carolina Reinsurance Facility Recoupment	3/20/10	Department of Insurance
4060	Life Insurance Disclosure	3/20/10	Department of Insurance
4061	Valuation of Investments	3/20/10	Department of Insurance
Permanently Withdrawn			
3166	SCDOT Chief Internal Auditor		Department of Transportation
Resolution Introduced to Disapprove			
4014	Environmental Protection Fees	Tolled	Department of Health and Envir Control
4015	Environmental Protection Fees	Tolled	Department of Health and Envir Control

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
3184	Restructuring ATF Regulations - Pyrotechnic Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
3202	Requirements for Licensure as a Physical Therapist	Medical, Military, Pub & Mun Affairs	Medical Affairs
3201	Mobile Dental Facilities and Portable Dental Operations	Medical, Military, Pub & Mun Affairs	Medical Affairs
3196	S.C. National Guard College Assistance Program	Education and Public Works	Education
3207	Board of Veterinary Medical Examiners Chapter Revision	Agriculture and Natural Resources	Labor, Commerce and Industry
3204	Licensing Standards for Continuing Care Retirement Communities	Medical, Military, Pub & Mun Affairs	Medical Affairs
3199	South Carolina Trauma Care Systems	Medical, Military, Pub & Mun Affairs	Medical Affairs
3206	Application, Renewal and Continuing Education	Medical, Military, Pub & Mun Affairs	Medical Affairs
3209	Operation of Public Pupil Transportation Services	Education and Public Works	Education
3214	Fire Prevention and Life Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
3215	Fire Prevention and Life Safety for Special Occupancies	Labor, Commerce and Industry	Labor, Commerce and Industry
3216	Explosives	Labor, Commerce and Industry	Labor, Commerce and Industry
3217	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Labor, Commerce and Industry	Labor, Commerce and Industry
3218	Liquefied Petroleum (LP) Gas	Labor, Commerce and Industry	Labor, Commerce and Industry
3219	Fireworks and Pyrotechnics	Labor, Commerce and Industry	Labor, Commerce and Industry
3220	Fire Prevention and Life Safety in Local Detention Facilities	Labor, Commerce and Industry	Labor, Commerce and Industry
3213	Annual Audited Financial Reporting Regulation	Labor, Commerce and Industry	Banking and Insurance
3208	Contact Information from Traffic Stops	Education and Public Works	Transportation
3205	Tax Credits for Fortification Measures	Ways and Means	Banking and Insurance
3197	Annual Reporting Requirements for Designated Eligible Telecommunications Carriers	Labor, Commerce and Industry	Judiciary
3203	Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds	Labor, Commerce and Industry	Judiciary
3210	Licensing of Onsite Wastewater System Master Contractors	Agriculture and Natural Resources	Medical Affairs
3198	Solid Waste Management: Demonstration-of-Need	Agriculture and Natural Resources	Medical Affairs
4004	Federal Government Construction Contracts	Ways and Means	Finance
4003	Donors and Goods Given Away for Advertising Purposes	Ways and Means	Finance
3225	Hazardous Waste Management	Agriculture and Natural Resources	Medical Affairs
4005	Deed Recording Fee	Judiciary	Finance
3223	Adjustment of Bills and Representation	Labor, Commerce and Industry	Judiciary
4020	PC&N (Stretcher Vans)	Labor, Commerce and Industry	Judiciary
3226	X-rays (Title B)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4036	Replacement of Life Insurance and Annuities	Labor, Commerce and Industry	Banking and Insurance
4035	Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values	Labor, Commerce and Industry	Banking and Insurance
4028	Charter School Appeals	Education and Public Works	Education
4029	Assessment Program	Education and Public Works	Education
4027	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Education and Public Works	Education
4026	Procedures and Standards for Review of Charter School Applications	Education and Public Works	Education
4019	Occupational Safety and Health Act	Labor, Commerce and Industry	Medical Affairs
4041	Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties	Labor, Commerce and Industry	Transportation
4018	Board of Registration for Professional Engineers and Surveyors	Labor, Commerce and Industry	Labor, Commerce and Industry
4016	Environmental Health Inspections and Fees	Agriculture and Natural Resources	Medical Affairs
3222	Interruption of Service, Computation of Time, and Service Between Parties of Record	Labor, Commerce and Industry	Judiciary
4039	Designation of Asian Citrus psyllid as Plant Pest and Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4001	Plum Pox Virus Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4013	Standards for Licensing Nursing Homes	Medical, Military, Pub & Mun Affairs	Medical Affairs
4040	Consumer Credit Counseling Requirements	Labor, Commerce and Industry	Banking and Insurance
4031	LIFE Scholarship & LIFE Scholarship Enhancement	Ways and Means	Education
4032	Need-based Grants Program	Ways and Means	Education
4033	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	Ways and Means	Education
4034	Determination of Rates of Tuition and Fees	Ways and Means	Education
4030	Public Swimming Pools	Agriculture and Natural Resources	Medical Affairs
4017	Milk and Milk Products	Agriculture and Natural Resources	Medical Affairs
3221	Statewide Criminal Gang Database	Judiciary	Judiciary
4042	Seasons, Bag Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	Labor, Commerce and Industry	Judiciary
4049	Use and Dissemination of Test Results	Education and Public Works	Education

4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4053	Enforcement of Pilot Statutes and Maritime Homeland Security	Judiciary	Transportation
4022	Riverbanks Parks Commission	Agriculture and Natural Resources	Fish, Game and Forestry
4052	Light Brown Apple Moth Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4054	Registration of Immigration Assistance Services	Labor, Commerce and Industry	Labor, Commerce and Industry
4055	Illegal Aliens and Private Employment	Judiciary	Labor, Commerce and Industry
4058	Insurance Holding Company Systems		
4059	South Carolina Reinsurance Facility Recoupment		
4060	Life Insurance Disclosure		
4061	Valuation of Investments		

Permanently Withdrawn

3166	SCDOT Chief Internal Auditor	Education and Public Works	Transportation
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Resolution Introduced to Disapprove

4014	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4015	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs

BUILDING CODES COUNCIL
NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 6-9-40 of the 1976 Code of Laws of South Carolina, as amended, the Building Codes Council hereby adopts the latest edition of the following nationally recognized code: 2008 Edition of the National Electric Code, with two amendments.

The original promulgating authority for this code is:
 National Fire Protection Association
 1 Batterymarch Park
 Quincy, Massachusetts 02269

The Building Codes Council specifically requested comments concerning sections of this edition, which may be unsuitable for enforcement in South Carolina and considered all submissions. Based upon the evidence presented to it, the Building Codes Council finds the following modifications will provide a reasonable degree of public health, safety and welfare, and will be suitable for enforcement in South Carolina.

Modifications:

The modified sections will now read:

Article 90.2(B)(5)b. Not Covered – Installations under the exclusive control of an electric utility where such installations

b. Are located in legally established easements, rights-of-way, or by other agreements either designated by or recognized by public service commissions, utility commissions, or other regulatory agencies having jurisdiction for such installations, or

Article 210.12(B) Arc-Fault Circuit-Interrupter Protection – Exception (c) A circuit serving no outlets within the bedroom except the smoke detector shall not be protected by an arc-fault protector.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication April 24, 2009, for the following projects. After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah “Sallie” C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Aiken County

Establishment of a home health agency restricted to serve Aiken County
 Amedisys SC, LLC d/b/a Amedisys Home Health of Aiken
 Aiken, South Carolina
 Project Cost: \$136,179

Establishment of a home health agency restricted to serve Aiken County
 Care South HHA Holdings of South Carolina, LLC
 Aiken, South Carolina
 Project Cost: \$125,000

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Establishment of a home health agency restricted to serve Aiken County
Tri-County Home Health Care and Services, Inc.
Batesburg-Leesville, South Carolina
Project Cost: \$77,000

Affecting Greenville County

Construction of new space and renovation of existing space to accommodate the installation of a Phillips Allura XPER FD10 (ceiling mounted) single-plane cardiovascular Stereotaxis Magnetic Catheter Guidance System and a Cardiac Mapping System for use in the treatment of atrial fibrillation, located within Cardiac Cath Lab 4 on the third floor of Greenville Memorial Hospital; this unit will replace the existing cardiovascular imaging equipment; temporary relocation of support areas located on the 2nd floor, underneath Cardiac Cath Lab 4, due to the need for structural reinforcement and re-routing of electrical and system conduits
Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: \$4,391,468

Affecting Calhoun and Orangeburg Counties

Renovation to the existing Operating Room Suite #8 for conversion to a state of the art Hybrid Vascular Surgery Suite
The Regional Medical Center of Orangeburg and Calhoun Counties
Orangeburg, South Carolina
Project Cost: \$1,361,952

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following projects and a proposed decision will be made within 60 days beginning April 24, 2009. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Transfer of ownership of the Cancer Care Institute of Carolina from Aiken Regional Medical Centers, Inc. to the Radiation Oncology Center of Aiken, LLC; purchase and installation of a second linear accelerator to be located in the radiation oncology suite
Radiation Oncology Center of Aiken, LLC
Aiken, South Carolina
Project Cost: \$9,718,071

Affecting Anderson County

Construction of new space and renovation of existing space for the addition of five (5) inpatient rehabilitation beds and additional support space for ten (10) new patient rooms; the five (5) beds being requested in this application are in addition to the three (3) beds previously requested in a separate CON application
AnMed Health Rehabilitation Hospital
Anderson, South Carolina
Project Cost: \$3,509,525

Affecting Charleston County

Renovation for the addition of twenty-six (26) nursing home beds that will not participate in the Medicaid (Title XIX) program for a total of one hundred twenty-five (125) nursing home beds
Heartland of West Ashley Rehabilitation and Nursing Center
Charleston, South Carolina
Project Cost: \$3,915,182

Construction of a new hospital by transferring fifty (50) acute care beds from Roper Hospital to include a multi-slice Computed Tomography (CT) scanner and a 1.5T Magnetic Resonance Imaging (MRI) unit for a total license bed capacity of fifty (50) acute care beds at Roper St. Francis Berkeley and three hundred eighteen (318) total licensed beds at Roper Hospital; the facility will be located on Highway 17A in Goose Creek, South Carolina
Roper St. Francis Hospital - Berkeley
Goose Creek, South Carolina
Project Cost: \$112,978,119

Affecting Pickens County

Establishment of an outpatient Narcotic Treatment Methadone program
Recovery Concepts of the Carolina Upstate, LLC
Easley, South Carolina
Project Cost: \$65,582

Affecting York County

Construction and renovation for the addition of six (6) rehabilitation beds for a total of forty-six (46) rehabilitation beds
HealthSouth Rehabilitation Hospital of Rock Hill
Rock Hill, South Carolina
Project Cost: \$2,279,347

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

South Carolina Department of Health and Environmental Control vs. Atlantic Steel Industries, Inc., et al., Civil Action No. 2:97-726-12 and Consolidated Cases.

DHEC, Bureau of Land and Waste Management, File #51356
Stoller Chemical Company—Charleston Site

NOTICE OF SETTLEMENT

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("DHEC") has entered into a Settlement Agreement ("2008 Settlement Agreement") among and between The Stoller Jericho Working Group ("Settling Defendants"). The Settling Defendants include: Gerdau Ameristeel US, Inc. (f/k/a AmeriSteel Corporation, f/k/a Florida Steel Corporation); I Schumann & Company; Mueller

8 NOTICES

Brass Co.; Nucor Corporation; Nucor-Yamato Steel Company; Owen Electric Steel Company of South Carolina, d/b/a CMC Steel South Carolina (f/k/a SMI Steel-South Carolina); Roanoke Electric Steel Corporation; and The Federal Metals Company. The 2008 Settlement Agreement provides that upon approval by the Court, it shall be entered as a final judgment against the Settling Defendants. The 2008 Settlement Agreement is subject to a thirty-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9622 and the South Carolina Hazardous Waste Management Act ("HWMA") S.C. Code Ann. § 44-56-200 (2002, as amended).

The 2008 Settlement Agreement relates to the release, and threatened release, of hazardous substances, pollutants, or contaminants at the former Stoller Chemical Company Site located in Charleston County, at 7747 Highway 17 South, Jericho, South Carolina. The 2008 Settlement Agreement provides for the recovery of \$350,000 in response costs from Settling Defendants. In consideration of the foregoing, the 2008 Settlement Agreement provides for a release of the Settling Defendants from further liability and confers contribution protection upon Settling Defendants pursuant to CERCLA 42 U.S.C. § 9613.

The 2008 Settlement Agreement will be filed with the Court for approval. Notice of Settlement has been provided to potentially responsible parties including prior settling parties, and shall be published in the State Register.

Copies of the 2008 Settlement Agreement as well as the 2007 Settlement Agreement and the associated 2002 Settlement Agreement are available:

- (1) On-line at http://www.dhec.sc.gov/environment/lwm/public_notice.asp; or
- (2) By providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at: Freedom of Information Office, DHEC, 2600 Bull Street, Columbia, SC 29201-1708; hammjm@dhec.sc.gov.

Any comments to the 2008 Settlement Agreement must be submitted in writing, postmarked no later than Monday, May 25, 2009, and addressed to: Jacquelyn S. Dickman, Esquire, Office of General Counsel, DHEC, 2600 Bull Street, Columbia, SC 29201.

UPON APPROVAL AND ENTRY OF THE 2008 SETTLEMENT AGREEMENT BY THE COURT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST THE SETTLING DEFENDANTS SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE 2008 SETTLEMENT AGREEMENT SHALL BE FORECLOSED.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-75-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-96, Athletic Trainers. Interested persons may submit written comments to Alonzo Smith, Director, Division of Emergency Management Services and Trauma, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m., May 25, 2009, the close of the drafting comment period.

Synopsis:

The Department is proposing to amend Regulation 61-96. Major focus of this revision will address the description of the profession and certification and examination requirements to bring the regulation consistent with changes in South Carolina law and changes in national scope. The enforcement and appeal sections will also be updated to bring the regulations current with changes in state law, and a severability clause will be added. Additionally, changes will be proposed throughout the regulation to improve its overall quality, i.e., stylistic changes in outline, grammatical and punctuation corrections, and language clarifications. The table of contents will be updated, and other minor corrections may be proposed as needed.

Legislative review of this amendment is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control (Department) proposes to amend Regulation 61-62.1, Definitions and General Requirements, of the Air Pollution Control Regulations and Standards and the South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP). Interested persons may submit their views by writing to Andrew O. Hollis, Division of Air Planning, Development and Outreach, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 pm on May 25, 2009, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Air Emissions Reporting Requirements (AERR) in the *Federal Register* on December 17, 2008 [73 FR 76540]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), the EPA has long required SIPs to provide for the submission by states to the EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors. The AERR harmonizes reporting requirements under the NOx SIP Call, Clean Air Interstate Rule (CAIR), and Consolidated Emissions Reporting Rule (CERR). It also removes and simplifies some existing emissions reporting requirements which the EPA believes are not necessary or appropriate; allows states to better track changes in source emissions, shutdowns, and startups over time by using the 40 CFR 70 definition of major source for point source reporting; deletes a requirement for states to report biogenic emissions; and offers states the option of reporting emissions for certain source categories. The Department is also proposing to amend state level reporting requirements to facilitate the collection of more detailed process level emissions inventory data (to include hazardous air pollutants (HAP) data) to insure that the National Emissions Inventory (NEI) maintained by the

10 DRAFTING

EPA contains the best available data. Initial emission reporting under the AERR will be due to the EPA by December 31, 2010. All subsequent data submission will be due within 12 months of the end of each inventory year, as such, the Department may also consider other amendments related to shortening its own emissions reporting due dates as determined to be necessary to comply with the new Federal requirements.

The Department proposes to amend R.61-62.1, Definitions and General Requirements and the SIP to incorporate these requirements. Because the AERR does not explicitly require the Department to adopt a regulatory amendment to enforce these federal reporting requirements, pursuant to S.C. Code Section, 1-23-120(H)(1), the proposed amendments will require legislative review.

Document No. 4072
BOARD OF PHARMACY
CHAPTER 99

Statutory Authority: 1976 Code Sections 40-43-60 and 40-1-70

99-45. Central Fill Pharmacies

Preamble:

The Department of Labor, Licensing and Regulation, Board of Pharmacy, proposes to add Regulation 99-45 to clarify requirements for central fill pharmacies.

Section-by-Section Discussion

99-45. New section; defines central fill pharmacies and requirements for such pharmacies.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be conducted at the Administrative Law Court at 2:00 p.m. on Tuesday, June 2, 2009. Written comments may be directed to Lee Ann F. Bundrick, Administrator, Board of Pharmacy, Department of Labor, Licensing and Regulation, Post Office Box 11927, Columbia, South Carolina 29211-1927, no later than 5:00 p.m. on Monday, May 25, 2009. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This regulation is added in conformance with current statutory and regulatory amendments and in order to define and regulate central fill pharmacies.

DESCRIPTION OF REGULATION:

Purpose: The Department is adding the regulation to clarify the usage and definition of central fill pharmacies in this State.

Legal Authority: 1976 Code Sections 40-43-60 and 40-1-70.

Plan for Implementation: This regulation will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulation and post the regulation on the agency's Web site.

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

The regulation will increase efficiency in the health care delivery process of prescription medication and ensure and improve the safety and welfare of the citizens of the state of South Carolina.

12 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulation will assist other regulatory entities with locating requirements within the regulation. There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no detrimental effects on the environment; however, public health delivery process will improve.

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

The regulation will increase efficiency in the health care delivery process of prescription medication and ensure and improve the safety and welfare of the citizens of this state.

Statement of Rationale:

Regulation 99-45 is added in conformance with current statutory and regulatory amendments and in order to define and regulate central fill pharmacies.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4073

PUBLIC SERVICE COMMISSION

CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

103-102(5). Charter Bus

103-102(31). Equipped to Carry

103-102(32). Passenger

Preamble:

The Public Service Commission of South Carolina (Commission) proposes to amend its regulation regarding the definition of a charter bus. Additionally, it seeks to add definitions to its regulations for the terms “equipped to carry” and “passenger.” The Notice of Drafting regarding these regulations was published on January 23, 2009, in the State Register.

Section-by-Section Discussion

103-102(5) – Charter Bus. This regulation is being amended to state that a “charter bus” is a passenger carrier equipped to carry sixteen (16) or more passengers.

103-102(31) – Equipped to Carry. This regulation is added to state, in part, that equipped to carry means the number of passengers a vehicle is capable of carrying based on the number of seatbelts in that vehicle. The

new regulation provides an alternate method to calculate the number of passengers that a vehicle is equipped to carry in the absence of seatbelts. The phrase “equipped to carry” is currently not defined in the Commission’s regulations.

103-102(32) – Passenger. This regulation is being added to define “passenger” as every person carried or riding in a motor carrier, including the driver.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2009-16-T. To be considered, comments must be received no later than 4:45 p.m. on June 3, 2009. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on July 8, 2009, at 2:45 p.m. in the Commission’s Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION:

26 S.C. Code Ann. Regs. 103-102(5) – Charter Bus.

26 S.C. Code Ann. Regs. 103-102(31) – Equipped to Carry.

26 S.C. Code Ann. Regs. 103-102(32) – Passenger.

Purpose: The purpose of amending Regulation 103-102(5) regarding the definition of a charter bus is to make the language in this regulation consistent with the language defining a limousine in Regulation 103-102(15) by adding the phrase “equipped to carry” to the charter bus definition. Additionally, this proposed regulation deletes language that states a limousine shall not be considered to be a charter bus. The current definition of a limousine is clear. Additionally, the phrase “equipped to carry” is used in the Commission’s regulations; however it is not currently defined in the regulations. Thus, the proposed definition will provide jurisdictional utilities and the public with a definition of this term. Further, the word “passenger” is also currently used in the Commission’s regulations; however, it is not defined. The proposed definition will cure this problem.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2008).

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The amendment of Regulation 103-102(5) provides a regulation that is consistent with the other descriptions of motor vehicle carriers in the Commission’s definitions and deletes unnecessary language in the current definition. The addition of the terms “equipped to carry” and “passenger” clarifies the meaning of these terms as they are used in other motor vehicle carrier Commission regulations.

14 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include the creation of regulations that provide uniform standards; delete unnecessary language; and guidance for the execution of the Commission's regulations.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The purpose of proposing Regulations 103-102(5), 103-102(31), and 103-102(32) is to create uniformity and delete ambiguity in the Commission's regulations. The proposed regulations delete unnecessary language and provide guidance to the public when implementing and executing the Commission's regulations. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4056

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards

Synopsis:

Pursuant to S.C. Code Section 48-1-10 et seq., the South Carolina Department of Health and Environmental Control (Department) has amended Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan, also known as the State Implementation Plan (SIP), to incorporate United States Environmental Protection Agency (EPA) federally mandated regulations. These changes were outlined in *Federal Register* Notices published on May 1, 2007 (72 FR 24060), June 13, 2007 (72 FR 32526), and June 2, 2008 (73 FR 31368).

These amendments revise Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.5, Standard 7.1, Nonattainment New Source Review (NSR); and amend the SIP to change the definition of “major emitting facility” by excluding facilities that produce ethanol by natural fermentation and are classified in the North American Industry Classification System (NAICS) code 325193 or 312140 from the definition of “chemical process plants.” The abovementioned regulations and SIP were also revised to remove pollution control project (PCP) and clean unit (CU) provisions and to make all additional changes necessary (including implementation of provisions for offsetting emissions) for full EPA approval of the State Nonattainment NSR program and the SIP.

These amendments will maintain conformity with Federal requirements and ensure compliance with Federal standards.

Discussion of Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

R. 61-62.5 Standard No. 7(a)(2)(iv)(e):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(a)(2)(iv)(f):

Revise paragraph by changing the regulation citation in sentence one from (a)(2)(iv)(c) through (e) to (a)(2)(iv)(c) and (d), and removing sentence two.

R. 61-62.5 Standard No. 7(a)(2)(vi):

Remove paragraph.

R. 61-62.5 Standard No. 7(b)(12):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(b)(30)(iii)(h):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(b)(32)(i)(a):

Add exclusion to the text of paragraph concerning “chemical process plants.”

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R. 61-62.5 Standard No. 7(b)(32)(iii)(t):

Add exclusion to the definition of “chemical process plants” in paragraph.

R. 61-62.5 Standard No. 7(b)(34)(iii)(b):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(b)(34)(vi)(d):

Remove paragraph.

R. 61-62.5 Standard No. 7(b)(35):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(b)(36):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(b)(41)(ii)(d):

Revise paragraph by changing the regulation citation from (a)(41)(ii)(a) through (c) to (b)(41)(ii)(a) through (c).

R. 61-62.5 Standard No. 7(i)(1)(vii)(t):

Add exclusion to the definition of “chemical process plants” in paragraph.

R. 61-62.5 Standard No. 7(r)(6):

Remove “at a Clean Unit or” from paragraph.

R. 61-62.5 Standard No. 7(r)(7):

Remove “a Clean Unit modification project or” from paragraph.

R. 61-62.5 Standard No. 7(x):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(y):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7(z):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(b)(5):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(b)(6):

Revise paragraph by changing the regulation citation in sentence one from (b)(3) through (5) to (b)(3) and (4), and removing sentence two.

R. 61-62.5 Standard No. 7.1(b)(8):

Remove paragraph.

R. 61-62.5 Standard No. 7.1(c)(4):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(c)(6)(C)(viii):

Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(c)(7)(C)(xx):
Add exclusion to the definition of “chemical process plants” in paragraph.

R. 61-62.5 Standard No. 7.1(c)(8)(C)(iii):
Remove paragraph.

R. 61-62.5 Standard No. 7.1(c)(8)(E)(v):
Remove paragraph.

R. 61-62.5 Standard No. 7.1(c)(10):
Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(d)(1)(C)(v):
Add emissions offsets language to paragraph. This language was developed by the Department in cooperation with stakeholders to address the requirements of the EPA for full approval of the SIP in regard to emissions offsets. This revision specifically fulfills the requirement that reductions be surplus and develops a methodology for calculating offsets. These revisions are no more stringent than the Federal requirements.

R. 61-62.5 Standard No. 7.1(d)(1)(C)(ix) and (x):
Remove and reserve paragraphs.

R. 61-62.5 Standard No. 7.1(d)(3):
Remove “at a Clean Unit or” from paragraph.

R. 61-62.5 Standard No. 7.1(d)(4):
Remove “a Clean Unit modification project or” from paragraph.

R. 61-62.5 Standard No. 7.1(e)(T):
Add exclusion to the definition of “chemical process plants” in paragraph.

R. 61-62.5 Standard No. 7.1(f):
Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(g):
Remove and reserve paragraph.

R. 61-62.5 Standard No. 7.1(h):
Remove and reserve paragraph.

Instructions: Amend Regulation 61-62, Air Pollution Control Regulations and Standards, pursuant to each individual instruction provided below with the text of the amendments.

Text:

R.61-62.5, Standard No. 7 – Prevention of Significant Deterioration:

Revise 61-62.5 Std. 7(a)(2)(iv)(e) and (f) to read:

(e) [Reserved]

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(f) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(c) and (d) as applicable with respect to each emissions unit, equals or exceeds, the significant amount for that pollutant (as defined in paragraph (b)(49)).

Remove 61-62.5 Std. 7(a)(2)(vi):

(vi) An owner or operator undertaking a Pollution Control Project (PCP) (as defined in paragraph (b)(35)) shall comply with the requirements under paragraph (z).

Revise 61-62.5 Std. 7(b)(12) to read:

(12) [Reserved]

Revise 61-62.5 Std. 7(b)(30)(iii)(h) to read:

(h) [Reserved]

Revise 61-62.5 Std. 7(b)(32)(i)(a) to read:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

Revise 61-62.5 Std. 7(b)(32)(iii)(t) to read:

(t) Chemical process plants – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

Revise 61-62.5 Std. 7(b)(34)(iii)(b) to read:

(b) [Reserved]

Remove 61-62.5 Std. 7(b)(34)(vi)(d):

(d) The decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit under paragraph (y) or under regulations approved pursuant to 40 CFR 51.165 or to 40 CFR 51.166 (u). That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the designation is based on in calculating the net emissions increase for another emissions unit (*i.e.*, must not use that reduction in a “netting analysis” for another emissions unit). However, any new emission reductions that were not relied upon in a PCP excluded

pursuant to paragraph (z) or for a Clean Unit designation are creditable to the extent they meet the requirements in paragraph (z)(6)(iv) for the PCP and paragraphs (x)(8) or (y)(10) for a Clean Unit.

Revise 61-62.5 Std. 7(b)(35) and (36) to read:

(35) [Reserved]

(36) [Reserved]

Revise 61-62.5 Std. 7(b)(41)(ii)(d) to read:

(d) In lieu of using the method set out in paragraph (b)(41)(ii)(a) through (c), may elect to use the emissions unit's potential to emit, in tons per year, as defined under paragraph (b)(37).

Revise 61-62.5 Std. 7(i)(1)(vii)(t) to read:

(t) Chemical process plants - The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

Revise introductory text of 61-62.5 Std. 7(r)(6) to read (remaining text of 61-62.5 Std. 7(r)(6)(i) through (v) remains unchanged):

(6) **Monitoring, recordkeeping and reporting.** The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

Revise 61-62.5 Std. 7(r)(7) to read:

(7) If a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements", the owner or operator shall provide notification of source status as part of the permit application to the Department.

Revise 61-62.5 Std. 7(x) to read:

(x) [Reserved]

Revise 61-62.5 Std. 7(y) to read:

(y) [Reserved]

Revise 61-62.5 Std. 7(z) to read:

(z) [Reserved]

R.61-62.5, Standard No. 7.1 – Nonattainment New Source Review (NSR):

Revise 61-62.5 Std. 7.1(b)(5) and (6) to read:

(5) [Reserved]

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(6) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (b)(3) and (4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph (c)(14)).

Remove 61-62.5 Std. 7.1(b)(8):

(8) An owner or operator undertaking a Pollution Control Project (PCP) (as defined in paragraph (c)(10)) shall comply with the requirements under paragraph (h).

Revise 61-62.5 Std. 7.1(c)(4) to read:

(4) [Reserved]

Revise 61-62.5 Std. 7.1(c)(6)(C)(viii) to read:

(viii) [Reserved]

Revise 61-62.5 Std. 7.1(c)(7)(C)(xx) to read:

(xx) Chemical process plants - The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

Remove 61-62.5 Std. 7.1(c)(8)(C)(iii):

(iii) The increase or decrease in emissions did not occur at a Clean Unit, except as provided in paragraphs (f)(8) and (g)(10).

Remove 61-62.5 Std. 7.1(c)(8)(E)(v):

(v) The decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a Clean Unit pursuant to paragraph (g). That is, once an emissions unit has been designated as a Clean Unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the Clean Unit designation is based on in calculating the net emissions increase for another emissions unit (i.e., must not use that reduction in a "netting analysis" for another emissions unit). However, any new emissions reductions that were not relied upon in a PCP excluded pursuant to paragraph (h) or for a Clean Unit designation are creditable to the extent they meet the requirements in paragraphs (h)(6)(iv) for the PCP and paragraphs (f)(8) or (g)(10) for a Clean Unit.

Revise 61-62.5 Std. 7.1(c)(10) to read:

(10) [Reserved]

Revise 61-62.5 Std. 7.1(d)(1)(C)(v) to read:

(v) All emission reductions claimed as offset credit shall be federally enforceable and surplus;

(a) **Eligibility as Emission Offsets.** Any facility that has the potential to emit any NAAQS pollutant that is located in a federally-designated nonattainment area shall be eligible to create emission offsets.

(1) To be eligible to be an emission offset:

(A) A reduction in emissions shall be permanent, quantifiable, enforceable, and surplus and must have occurred after December 31 of the base year inventory for those pollutants that are designated nonattainment by the EPA. The base year inventory date is two years preceding the date of nonattainment designation. However, the Department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.

(B) Emission reductions shall have been created by an existing facility that has obtained an enforceable air quality permit or letter of permit cancellation resulting from the surrender of the source's permit(s).

(2) Emission reductions may be created by any or a combination of the following methods:

(A) Production curtailment or reduction in throughput;

(B) Shutdown of emitting sources; or

(C) Any other enforceable method that the Department determines to result in permanent, quantifiable, enforceable, and surplus reduction of emissions.

(3) Prior to commencing operation of a permitted emissions unit, Department approval for the required emission offsets must be granted.

(4) The following are ineligible for emission offsets:

(A) Emission reductions that are not considered surplus, such as:

(i) Emission reductions that have previously been used to avoid Regulation 61-62.5 Standard No. 7, Prevention of Significant Deterioration, or Regulation 61-62.5 Standard No. 7.1, Nonattainment New Source Review (NSR), through a netting demonstration;

(ii) Emission reductions of hazardous air pollutants, listed in Section 112(b) of the Clean Air Act, to the extent needed to comply with Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP), and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, (however, emission reductions of hazardous volatile organic compound (VOC) and/or hazardous particulate matter (PM) air pollutants beyond the amount of reductions necessary to comply with Regulation 61-62.61, NESHAP, and Regulation 61-62.63, NESHAP for Source Categories, are considered surplus);

(iii) Emission reductions of nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter (PM) and VOCs to the extent needed to comply with Section 111 of the CAA and Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards (NSPS), (however, emission reductions of NO_x, SO₂, PM and VOCs beyond the amount of reductions necessary to comply with Regulation 61-62.60, South Carolina Designated Facility Plan and NSPS, are considered surplus);

(iv) Emission units covered under an agreement, order or variance for exceeding an emission standard until compliance is demonstrated with the emission standard that is the subject of the agreement, order or variance;

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(v) Sources that have operated less than 12 months;

(vi) Emission reductions required in order to comply with any State or Federal regulation not listed above, unless these reductions are in excess of the amount required by the State or Federal regulation; or

(vii) Facilities that have received a Department transmittal letter notifying of permit cancellation due to the facility's decision to close out its operating permit without a request to qualify facility emission reductions as offsets.

(b) Calculation of Emission Offsets

(1) The following procedure shall be used to calculate emission offsets:

(A) The existing source shall calculate average annual actual emissions, in tons per year (tpy), before the emission reduction using data from the 24-month period immediately preceding the reduction in emissions. With the Department's written approval, the use of a different time period, not to exceed 10 years immediately preceding the reduction in emissions, may be allowed if the owner or operator of the source documents that such period is more representative of normal source operation, but not prior to the base year inventory date, which is the last day of the two years preceding the date of nonattainment designation; and

(B) The emission offsets created shall be calculated by subtracting the allowable emissions following the reduction from the average annual actual emissions prior to the reduction.

Revise 61-62.5 Std. 7.1(d)(1)(C)(ix) and (x) to read:

(ix) [Reserved]

(x) [Reserved]

Revise introductory text of 61-62.5 Std. 7.1(d)(3) to read (remaining text of 61-62.5 Std. 7.1(d)(3)(A) through (E) remains unchanged):

(3) The following provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs (c)(11)(B)(i) through (iii) for calculating projected actual emissions.

Revise 61-62.5 Std. 7.1(d)(4) to read:

(4) If a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, "Permit Requirements," the owner or operator shall provide notification of source status as part of the permit application to the Department.

Revise 61-62.5 Std. 7.1(e)(T) to read:

(T) Chemical process plants - The term chemical process plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

Revise 61-62.5 Std. 7.1(f) to read:

(f) [Reserved]

Revise 61-62.5 Std. 7.1(g) to read:

(g) [Reserved]

Revise 61-62.5 Std. 7.1(h) to read:

(h) [Reserved]

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards and the SIP.

Purpose: These amendments will maintain conformity with Federal requirements and ensure compliance with Federal standards.

Legal Authority: The legal authority for R. 61-62 is S.C. Code Section 48-1-10 et seq.

Plan for Implementation: The amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the State Register.

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

The EPA regularly promulgates amendments to Federal regulations to include clarification, guidance, technical amendments, and strengthen air quality provisions. On May 1, 2007, the EPA published a final rule, adding certain exclusions to the definition of “chemical process plants” under the “Major Emitting Facility” definition (72 FR 24060). Also, on June 13, 2007, the EPA amended its regulations to eliminate the pollution control project and clean unit provisions established in a December 31, 2002, rulemaking (72 FR 32526). Furthermore, on June 2, 2008, the EPA took final action to partially approve, disapprove, and conditionally approve revisions to the SIP submitted by the State of South Carolina on July 5, 2005 (73 FR 31368). As part of the conditional approval, the Department has agreed to revise the State Nonattainment New Source Review program and the SIP in order to obtain full approval from the EPA. States are mandated by law to adopt these Federal amendments. These amendments are reasonable as they promote consistency and ensure conformity of State regulations to Federal requirements.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

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UNCERTAINTIES OF ESTIMATES:

EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in Federal law through these amendments to R. 61-62 and the SIP will provide continued protection of the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Document No. 3199

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 44-61-520

61-116. South Carolina Trauma Care Systems

Synopsis:

To satisfy the requirements of Section 44-61-520 of the Trauma Care Act, the Department has promulgated a new regulation entitled R.61-116, South Carolina Trauma Care Systems. The regulation provides for establishing of criteria, procedures and standards for a trauma center designation process; providing enforcement procedures; outlining required staffing patterns within the trauma center; providing a statewide trauma registry for data collection and evaluation; providing for a hospital resources data base to monitor hospital resources on a continuous basis; providing for a trauma care fund to provide financial aid to participating providers of the trauma system; creating a performance improvement system; establishing trauma advisory committees to serve as advisory bodies to the department; mandating trauma triage and transport guidelines to improve the quality of trauma care being provided to patients by ensuring that EMS providers transport patients to the appropriate level of trauma care; and creating a state trauma plan.

Document 3199 was submitted to the South Carolina General Assembly for review on April 25, 2008. Pursuant to the request of the House Medical, Military, Public and Municipal Affairs Committee, by letter dated February 10, 2009, the Department withdrew and resubmitted Document 3199 to clarify funding requirements at Section 1202, Allocation of Funds. Also, pursuant to the request of the Senate Medical Affairs Committee, by letter dated February 25, 2009, the Department withdrew and resubmitted Document 3199 to clarify Section 1202.A by adding the words "in counties" after the word "providers."

Sectional Discussion of New R.61-116:

Section 100: Scope. This section explains the purpose of the regulation which is to establish the standards for implementing provisions of S.C. Code Ann. Sections 44-61-510 through 44-61-550 regarding trauma care systems.

Section 200: Definitions and References. This section includes forty-eight (48) definitions of terms that are found in the text of the regulation and defines Non-Departmental standards, publications, or organizations that are referenced in this regulation.

Section 300: Designation Process. This section explains the procedure for applying for a trauma center designation, the three levels of trauma center designation, and the Department's procedure for verifying that the hospital meets the designation criteria.

Section 400: Certificate of Designation Requirements. This section explains the requirements that a hospital must meet in order to receive a certificate of designation as a trauma center.

Section 500: Enforcing Regulations. This section explains the Department's procedures for inspections and investigations including required documentation and inspection team composition.

Section 600: Enforcement Actions. This section explains possible actions that may be taken by the Department when the regulated entity is found to be non-compliant with any part of the regulation or statute. This section also includes the different violation classifications and the monetary penalty ranges.

Section 700: Staffing. This section explains the required staffing for trauma centers.

Section 800: General Facility, Equipment and Care Requirements. This section explains the requirements of the trauma center's physical environment and equipment, the requirement to have a written transport plan for patients requiring transfer from one facility to another, and the general trauma services that the trauma center will be required to provide.

Section 900: Patient Rights. This section discusses the patient's rights and the requirement for each designated trauma center to establish a written grievance and complaint procedure.

Section 1000: Statewide Trauma Registry. This section explains the purpose of the trauma registry and the requirements for the participation of designated trauma centers to submit data to the trauma registry. This section also explains the types of patient data that shall be included or excluded as well as the requirement to keep all records and reports confidential.

Section 1100: Hospital Resources Data Base. This section explains the purpose of the data base and the required participation of regulated entities.

Section 1200: Trauma Care Fund. This section explains who is eligible to receive a portion of the trauma funds appropriated by the South Carolina General Assembly and the method used to disburse the fund to eligible recipients.

Section 1300: Performance Improvement System. This section explains the Department's requirement to develop a statewide trauma system performance improvement plan and the designated trauma center's requirement to develop a trauma center performance improvement plan.

Section 1400: Advisory Committees. This section explains the purpose of the State Trauma Advisory Council and the Medical Control Committee which is to serve as advisory bodies to the Department.

Section 1500: Trauma Triage and Transport Guidelines. This section explains the purpose of the guidelines and the required participation of regulated entities.

Section 1600: Trauma System Plans. This section explains the Department's responsibility to develop a state trauma system plan as well as the trauma center's requirement to develop an internal trauma plan. The establishment of trauma regions is also discussed in this section.

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Section 1700: Severability. This section explains that should a portion of the regulations be determined to be invalid or unenforceable, the remaining regulations shall remain in effect.

Instructions: Add new R.61-116, South Carolina Trauma Care Systems, to Chapter 61 regulations.

Text:

R. 61-116. SOUTH CAROLINA TRAUMA CARE SYSTEMS

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SECTION 100. SCOPE

This regulation establishes standards for implementing provisions of Sections 44-61-510 through 44-61-550 of the South Carolina Code of Laws, 1976, as amended, regarding trauma care systems in South Carolina.

SECTION 200. DEFINITIONS AND REFERENCES.

201. Definitions.

1. ACS: American College of Surgeons.
2. Bypass (diversion): A medical protocol or request for the transport of an EMS patient past a normally used EMS receiving facility to an alternate medical facility for the purpose of accessing more readily available or appropriate medical care.
3. Certificate: A printed document issued by the Department to a hospital that authorizes trauma services at designated levels, i.e., I, II, III, as determined by the Department subject to the provisions of this regulation.
4. Certificate Holder: The individual, corporation, organization, or public entity that has received a certificate to provide trauma care and with whom rests the ultimate responsibility for compliance with this regulation.
5. CRNA: Certified Registered Nurse Anesthetist.
6. Department: The South Carolina Department of Health and Environmental Control (DHEC).

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7. Designation: The formal determination by the Department that a hospital or health care facility is capable of providing a specified level of trauma care services.
8. Diversion (see “bypass”).
9. Emergency Department: The area of a licensed general acute care hospital that customarily receives patients in need of emergency medical evaluation and/or care.
10. EMS: Emergency Medical Services – the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of emergency care required to prevent and manage incidents that occur from a medical emergency or from an accident, natural disaster, or similar situation.
11. Emergency Medical Services Advisory Council: Emergency Medical Services council created pursuant to S.C. Code of Law Section 44-61-30(c) (2002 and Supp. 2006).
12. Facility: A trauma center having a certificate of designation by the Department.
13. Field Triage: Classification of patients according to medical need at the scene of an injury or onset of an illness.
14. Injury: The result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to thermal, mechanical, electrical or chemical energy or from the absence of such essentials as heat or oxygen.
15. Injury Prevention: Efforts to forestall or prevent incidents that might result in injuries.
16. Level I: Hospitals that have met the requirements for Level I as stated in Section 303 of this regulation and are designated by the Department.
17. Level II: Hospitals that have met the requirements for level II as stated in Section 303 of this regulation and are designated by the Department.
18. Level III: Hospitals that have met the requirements for level III as stated in Section 303 of this regulation and are designated by the Department.
19. Licensed Nurse: An individual licensed by the South Carolina Board of Nursing as a registered nurse or licensed practical nurse.
20. Medical Control: On-line or off-line physician direction over pre-hospital activities to ensure efficient and proficient trauma triage, transportation, and care, as well as ongoing quality management.
21. Participating Providers: Those providers who have been approved by the Department for participation in the trauma system and include, but are not limited to, designated trauma centers, designated rehabilitation facilities, and designated fee-for-service physicians who provide trauma care within a designated facility.
22. Performance Improvement: A method of evaluating and improving processes of patient care that emphasizes a multidisciplinary approach to problem solving and focuses not on individuals, but systems of patient care that might cause variations in patient outcome.
23. Performance Improvement Program: The process used by a facility to examine its methods and practices of providing trauma care and services, identify the ways to improve its performance, and take actions that result in higher quality performance of trauma care and services for the facility's patients.

24. Physician: An individual currently licensed as such by the South Carolina Board of Medical Examiners.
25. Rehabilitation: Services that seek to return a trauma patient to the fullest physical, psychological, social, vocational, and educational level of functioning of which he or she is capable, consistent with physiological or anatomical impairments and environmental limitations.
26. Repeat Violation: The recurrence of any violation cited under the same section of the regulation.
27. Residency Program: A medical education and training program of the Trauma Center. Residency programs may be affiliated with the Trauma Center where residents can participate in educational rotations.
28. Revocation of Certificate: An action by the Department to cancel or annul a certificate by recalling, withdrawing, or rescinding its authority to operate.
29. South Carolina Trauma Plan: An organized plan developed by the Department pursuant to legislative directive that sets out a comprehensive system of prevention and management of major traumatic injuries.
30. State Medical Director (or “State Medical Control Physician”): A South Carolina board-certified physician responsible for providing medical oversight to the Department.
31. State Trauma Advisory Council (or “TAC”): The Department’s advisory committee regarding trauma related issues.
32. State Trauma Registry: A statewide database of information collected by the Department including, but not limited to, the incidence, severity, and causes of trauma and the care and outcomes for certain types of injuries.
33. Suspension of Certificate: An action by the Department terminating the certificate holder’s authority to provide trauma care services for a period of time until such time as the Department rescinds that restriction.
34. TAC: (see “State Trauma Advisory Council”).
35. Trauma: Major injury or wound to a living person caused by the application of an external force or by violence and requiring immediate medical or surgical intervention to prevent death or permanent disability. For the purposes of this regulation, the definition of “trauma” shall be determined by current national medical standards including, but not limited to, trauma severity scales.
36. Trauma Care Facility (or “trauma center”): Trauma care facility or trauma center hospital that has been designated by the Department to provide trauma care services at a particular level.
37. Trauma Care Region: A geographic area of the state formally organized in accordance with standards promulgated by the Department.
38. Trauma Care System: An organized statewide and regional system of care for the trauma patient, including the Department, emergency medical service providers, hospitals, in-patient rehabilitation providers, and other providers who have agreed to participate in and coordinate with and who have been accepted by the Department in an organized statewide system.
39. Trauma Center: (see “Trauma Care Facility”).

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40. Trauma Center Designation: The process by which the Department identifies facilities within a Trauma Care Region.

41. Trauma Patient: An injured patient (see “Trauma”).

42. Trauma Program: An administrative unit that includes the trauma service and coordinates other trauma-related activities, including, but not limited to, injury prevention and public education.

43. Trauma Program Manager: A designated individual with responsibility for coordination of all activities of the trauma service who works in collaboration with the trauma service director.

44. Trauma Service Director: A physician designated by the facility and medical staff to coordinate trauma care.

45. Trauma System Fund: The separate fund established pursuant to this regulation for the Department to create and administer the State Trauma System.

46. Trauma Team: A group of health care professionals organized to provide coordinated and timely care to the trauma patient.

47. Triage: The process of sorting injured patients on the basis of the actual or perceived degree of injury and assigning them to the most effective and efficient regional care resources in order to insure optimal care and the best chance of survival.

48. Verification: The Department's inspection of a participating facility in order to determine whether the facility is capable of providing a designated level of trauma care.

202. References.

The following Non-Departmental standards, publications, or organizations are referenced in this regulation: “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons Committee on Trauma.

SECTION 300. DESIGNATION PROCESS.

301. General.

The Department shall designate the level of trauma care a hospital is able to provide by the issuance of a certificate that shall be posted in a conspicuous location for public view in the hospital.

302. Eligibility for Designation. (II)

A. Any South Carolina licensed hospitals with a functioning emergency room may apply for trauma center designation.

B. Requests for trauma center designation shall be accomplished by letter of intent to the Department and by submission of an application.

C. Within one year of the effective date of this regulation, a trauma center designated prior to the effective date of this regulation, which chooses to remain a designated trauma center, shall comply with the provisions of this regulation as well as submit an application and obtain approval by the Department to maintain its status as a designated trauma center.

303. Levels of Trauma Centers.

The Department shall identify trauma centers by levels of care capability as defined in these regulations. The designations shall be Level I, Level II, and Level III with Level I being the highest level of capability available. Determination of designation level shall be made by the Department based upon a hospital's ability to meet regulatory requirements. Designation of level shall be determined by a special inspection by the Department following the initial request for designation and as an integral part of subsequent renewal procedures. Designation criteria for trauma centers shall be established by the Department, guided by the recommendations outlined in the current edition of "Resources for Optimal Care of the Injured Patient," by the American College of Surgeons.

304. Categories of Designation.

A. Provisional. The Department may initially designate a trauma center as "provisional" for a term not to exceed one year except as granted by the Department. Provisional trauma centers shall have a written work plan of objectives to rectify deficiencies and to demonstrate progress on the work plan throughout the twelve (12) month time period. The Trauma Advisory Council shall provide oversight during the provisional period. At the end of the provisional period the department shall grant full designation, extend the provisional period, or suspend the trauma center for cause.

B. Full Designation. The Department may grant full designation to any hospital in full compliance with these regulations, subject to the review process described, for a period not to exceed five (5) years.

Section 305. Application Process. (II)

A. Applicants shall submit to the Department a letter of intent for initial designation as a hospital trauma center.

B. In addition to the letter of intent, applicants for designation shall submit to the Department a completed application on a form developed and furnished by the Department prior to initial designation and periodically thereafter at intervals determined by the Department. The application shall include the applicant's oath assuring that the contents of the application are accurate and true and that the applicant will comply with this regulation. The application shall be authenticated as follows:

1. The application shall be signed by the owner(s) if an individual or partnership;
2. If the applicant is a corporation, the application shall be signed by two of its officers;
3. If the applicant is a governmental unit, the application shall be signed by the head of the governmental unit having jurisdiction.

C. The application shall set forth the full name and address of the facility for which the designation is sought and the name and address of the owner of the facility in the event that his or her address is different from that of the facility.

D. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with this regulation. Corporations or partnerships shall be registered with the South Carolina Office of the Secretary of State. Other required application information may include, but is not limited to:

1. System criteria for the level at which the hospital is applying together with the current status of each criteria standard and category of designation sought;

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2. Written affirmation of compliance with all applicable federal Occupational Safety and Health Association (OSHA) requirements or guidelines.

E. The application shall become the property of the Department and shall be considered public information at the end of the designation process, subject to state and federal laws.

306. Designation.

A. As soon as practical, but no later than ninety (90) days after receipt of the on-site report inspection document, the State Trauma Advisory Council, or a subcommittee thereof, shall make written recommendations to the Department regarding trauma center designation based on:

1. The Department's evaluation of pre-review documentation submitted as part of the application;
2. The evaluation and recommendations from the Department's on-site review team;
3. The ability of each applicant to comply with goals of the State Trauma Plan.

B. If, after completion of the on-site review and after consideration of the application by the Trauma Advisory Council, the facility does not meet requirements for designation at the level requested, the hospital may submit a written request to be designated at a lower level based on the Department's findings of its original site visit and the facility's application.

C. With the recommendation of the State Trauma Advisory Council, the Department shall notify the hospital of its decision regarding designation at the level requested by the hospital.

307. Process of Re-designation.

A. Scheduled re-designation inspections of currently designated trauma centers shall occur in an interval no greater than five (5) years.

B. Designated trauma centers shall be notified by the Department within six (6) months of the trauma center's scheduled date for the submission of the application for re-designation.

C. If a significant change in the designated trauma center's staffing or resource capabilities occurs at any time during the trauma center's designation period, an inspection may be conducted by the Department as needed to assure compliance with the regulatory requirements. If such inspection reveals that the trauma center may not be meeting regulatory requirements, the Department may require that the trauma center undergo a complete trauma center re-designation verification inspection prior to the next scheduled re-designation date.

D. If the Department determines that a complete on-site inspection shall be conducted, the Department shall give the trauma center a minimum of thirty (30) days to prepare. If, prior to the trauma center's scheduled re-designation inspection date, a focused inspection or unscheduled inspection by the Department has been conducted, this review will not change the scheduled re-designation inspection date.

308. Appeals from Decision for Designation or Non-Designation.

Any Department decision involving the issuance, denial, renewal, suspension, or revocation of a certificate of designation may be appealed pursuant to applicable law, including S.C. Code Ann. Sections 44-1-50 and 44-1-60 (1976, as amended).

309. Change in Trauma Center Designation Status.

A. A designated trauma center shall have the right to withdraw as a trauma center or to request a designation lower than its current designation level by giving a ninety (90) day written notice to the Department.

B. A designated trauma center shall: (II)

1. Notify the Department within ten (10) calendar days if it is unable to comply with any of the standards for its level of designation and its reasons for non-compliance;

2. Notify the Department if it chooses to no longer provide trauma services commensurate with its designation level.

C. If the trauma center chooses to apply for a lower level of designation, the Department, at its discretion, may repeat all or part of the designation process in accordance with this regulation.

310. Public Notification of Trauma Center Designation Status.

A. At the time of designation, or revocation of designation, or of any change in the status of a hospital's designation as a trauma center, the Department shall report such changes to the public by means of public record within thirty (30) days of the change of said hospital's trauma center designation status. The Department shall also notify licensed emergency medical service providers of the change of trauma center designation status.

B. The Department and the members of the on-site inspection team shall maintain confidentiality of information, records, and reports developed pursuant to on-site reviews as permitted by state and federal laws.

SECTION 400. CERTIFICATE OF DESIGNATION REQUIREMENTS.

401. Certification Requirements. (II)

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or market itself or represent itself as a trauma center or use similar terminology, e.g., "trauma hospital", "trauma facility", in South Carolina without first obtaining a certificate of designation from the Department. When it has been determined by the Department that an entity claims, advertises, or represents itself as a trauma center and is not designated by the Department, the entity shall be ordered by the Department to cease operation immediately.

B. A certificate of designation shall not be issued to an entity until the owner and/or operator of that entity has demonstrated to the Department that the facility is in substantial compliance with these standards.

C. A copy of the trauma center criteria standards and regulations shall be maintained by the provider to whom the certificate is issued and accessible to all staff members.

D. No provider that has been issued a certificate for a trauma center at a specific address shall relocate or establish a new trauma center without first obtaining authorization from the Department.

E. No trauma center shall, in any manner, advertise or publicly assert that its trauma designation affects the hospital's care for non-trauma patients or that the designation would influence the referral of non-trauma system patients.

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402. Issuance and Terms of the Certificate of Designation. (II)

A. A certificate shall be issued by the Department and shall be displayed in a conspicuous place in a public area in the trauma center.

B. The trauma center shall maintain a business address and telephone number at which the trauma center may be reached during business hours.

C. The issuance of a certificate does not guarantee adequacy of individual care, treatment, procedures, and/or services, personal safety, fire safety or the well-being of any patient.

D. A certificate is not assignable or transferable and is subject to revocation at any time by the Department for the provider's failure to comply with the laws and regulations of this State.

E. A certificate shall be effective for a specific trauma center, at a specific location(s), for a period of five (5) years following the date of issue. A certificate shall remain in effect until the Department notifies the certificate holder of a change in that status.

Section 403. Exceptions to the Standards.

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the patients will not be compromised and provided the standard is not specifically required by statute.

SECTION 500. ENFORCING REGULATIONS.

501. General.

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed hospital trauma center in order to enforce this regulation. Such areas of review may include, but not be limited to, trauma patient records, trauma process improvement plans, committee minutes, and physical facilities.

502. Inspections and Investigations.

A. An on-site inspection shall be conducted prior to initial designation of a hospital trauma center. Subsequent inspections may be conducted as deemed appropriate by the Department.

B. All facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records. If photocopies are made for the Department, they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained as permitted by state and federal laws. The physical area of inspections shall be determined by the extent to which there is potential impact or effect upon patients as determined by the Department.

D. A facility found noncompliant with this regulation shall submit a written plan of correction to the Department, signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe:

1. The actions taken to correct each cited deficiency;

2. The actions taken to prevent recurrences;
3. The actual or expected completion dates of those actions.

E. Information received by the Department through filed reports, inspections, or as otherwise authorized under this regulation shall not be disclosed publicly in such a manner as to identify hospitals or other participating providers except in proceedings involving the denial, change, or revocation of a trauma center designation or type.

F. The Department and the members of the on-site inspection team shall maintain confidentiality of information, records, and reports developed pursuant to on-site reviews as permitted by state and federal laws.

G. The Department reserves the right to make exceptions to these regulations where it is determined that the health and welfare of those being served would be compromised.

503. Inspection Report for Designation.

A. The inspection team shall provide the Department with the written inspection report of the on-site inspection.

B. Within thirty (30) days of receipt of the information from the site inspection team, the Department shall forward written findings and recommendations to the State Trauma Advisory Council.

C. The Trauma Advisory Council, or a subcommittee thereof, shall review the reports of the on-site inspection team and render a recommendation to the Department.

D. The Department shall make the final determination of designation regarding each application upon consideration of all pertinent facts, including the recommendation of the Trauma Advisory Council.

504. Inspection Team Composition.

A. There shall be a multi-disciplinary on-site inspection team composed of individuals knowledgeable in trauma care and systems, appropriate to the level of designation requested.

B. For the initial inspection, the team shall include, but not be limited to:

1. A trauma surgeon;
2. An emergency physician;
3. A trauma nurse coordinator.

C. The composition of inspection teams subsequent to the initial inspection shall be determined by the Department. Such teams shall consist of professionals who:

1. Do not live or work in the same state as the applicant for the designation of Levels I and II trauma centers;
2. Have been employed in a state-designated or American College of Surgeons-verified trauma center within the past three calendar years;
3. Must have attended a Department-sponsored or approved site inspector training workshop if reviewing applicants for Level III designation; and

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4. Do not live or work in the same region as the applicant for the designation of Level III trauma centers.

D. There shall be no conflict of interest between any inspection team member and the hospital for which the team member has been selected.

E. A hospital applying for a designation may, at its discretion, request a verification site inspection by representatives of the American College of Surgeons or any other national organization where its standards are, at a minimum, equal to the criteria set forth in this regulation. The Department may accept the findings of the verification site visit or may request additional information as necessary to ensure that the hospital meets the criteria set forth in this regulation.

505. Protocol for Inspections.

The applicant's administration, faculty, medical staff, employees and representatives are prohibited from having any contact with any on-site review team member in regards to the designation process after the announcement of the team members and before the on-site review, except as authorized by the Department. A violation of this provision may be grounds for denying that applicant's proposal as determined by the Department.

506. Content of Inspection.

The on-site review team shall evaluate the appropriateness and capabilities of the applicant to provide trauma care services and validate the hospital's ability to meet the responsibilities, equipment and performance standards for the level of designation sought and to meet the overall needs of the trauma system in that region.

507. Investigation Procedures.

A. Any person or entity may communicate a complaint or knowledge of an incident of any alleged violation of these regulations to the Department. Complaints shall be submitted in signed written form to the Department. The Department may begin an investigation without a signed written complaint if there is sufficient cause.

B. All designated trauma centers are subject to investigation at any time without prior notice by individuals authorized by the Department.

C. At the conclusion of the Department's preliminary investigation, the Department shall report its findings to the trauma center in writing, including any requirements for corrective action.

SECTION 600. ENFORCEMENT ACTIONS.

601. Enforcement Actions.

A. When the Department determines that a designated trauma center is in violation of any statutory provision, rule, or regulation relating to the duties therein, the Department may, upon proper notice to that entity, impose a monetary penalty and/or deny, suspend, and/or revoke its certificate of designation.

B. The Department may impose monetary penalties on any licensed emergency medical service provider found noncompliant with this or other related statute or regulations.

602. Violation Classifications.

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of any persons or a substantial probability that death or serious physical harm could occur. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time established by the Department may be considered a subsequent violation.

B. Class II violations are those that the Department determines to have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation may specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time established by the Department may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in this regulation. The citation of a Class III violation may specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time established by the Department may be considered a subsequent violation.

D. In arriving at a decision to take enforcement action, the Department will consider the following factors:

1. The number and classification of violations, including repeat violations;
2. The specific conditions and their impact or potential impact on health, safety or well-being of the patients;
3. The efforts by the facility to correct cited violations;
4. The overall conditions of the facility;
5. The failure or refusal of the facility to comply with the provisions of Regulation 61-16;
6. The failure or refusal to comply with the provisions or requirements of this regulation;
7. The misrepresentation of a material fact about facility capabilities or other pertinent circumstances in any record or in a matter under investigation for any purposes connected with this chapter;
8. The prevention, interference with, or any attempts to impede the work of a representative of the Department in implementing or enforcing these regulations or the statute;
9. The use of false, fraudulent, or misleading advertising, or any public claims regarding the hospital's ability to care for non-trauma patients based on its trauma center designation status;
10. The misrepresentation of the facility's ability to care for trauma patients based on its designation status;
11. The failure to provide data to the Trauma Registry;
12. Any other pertinent conditions that may be applicable to statutes and regulations.

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E. Pursuant to S.C. Code Ann. Sections 44-61-520 (E) & (F) (1976, as amended) the Department may impose monetary penalties.

MONETARY PENALTY RANGES

FREQUENCY	CLASS I	CLASS II	CLASS III
1 st	\$500 - \$1,500	\$300 - \$800	\$100 - \$300
2 nd	\$1,000 - \$3,000	\$500 - \$1,500	\$300 - \$800
3 rd	\$2,000 - \$5,000	\$1,000 - \$3,000	\$500 - \$1,500
4 th	\$5,000	\$2,000 - \$5,000	\$1,000 - \$3,000
5 th	\$7,500	\$5,000	\$2,000 - \$5,000
6 th and more	\$10,000	\$7,500	\$5,000

F. Any Department decision involving the issuance, denial, renewal, suspension, or revocation of a certificate and/or the imposition of monetary penalties where an enforcement order has been issued may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

SECTION 700. STAFFING. (I)

A. Trauma centers shall have adequate staff, to include physicians, to meet criteria established by the Department, guided by the recommendations outlined in the current edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.

B. Detailed components of support services and medical, nursing and ancillary staffing for each level shall meet the criteria established by the Department which shall be guided by the recommendations outlined in the current edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.

SECTION 800. GENERAL FACILITY, EQUIPMENT AND CARE REQUIREMENTS.

801. Physical Facilities. (II)

Environment, equipment, supplies, and procedures utilized in the care of trauma patients shall meet the criteria established by the Department which shall be guided by the recommendations outlined in the current edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.

802. Trauma Care of the Patient (Transfers). (II)

Each hospital providing trauma care services shall establish and implement a written plan that outlines the process, providers, and methods of providing risk-appropriate stabilization and transfer of any patient requiring specialized services as well as reciprocal transfer of those patients when specialized services are no longer required. This plan shall be updated on an annual basis and shall include, but not be limited to, procedures outlining:

- A. Communication between referring hospitals, transport teams, medical control, patients, and families;
- B. Indications for both acute phase and reciprocal transfer between trauma centers, to include essential contact persons and telephone numbers for referrals and transfers;
- C. A list of all medical record copies and additional materials to accompany each patient in transport.

803. Trauma Care Services. (I)

- A. Each trauma care facility shall provide adequate staffing and equipment to meet criteria established by the Department, guided by the recommendations outlined in the current edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.
- B. No person, regardless of his ability to pay or location of residence, may be denied trauma care if a member of the admitting hospital’s medical staff or, in the case of a transfer, a member of the accepting hospital’s staff determines that the person is in need of trauma care services.
- C. If the care required for any patient is not available at the facility, arrangements shall be made for transfer to a more appropriate facility. Prior to the transfer of a patient to another facility, the receiving trauma center shall be notified of the impending transfer.

SECTION 900. PATIENT RIGHTS. (III)

901. General.

The facility shall comply with all relevant federal, state, and local laws and regulations concerning discrimination, e.g., Title VII, Section 601 of the Civil Rights Act of 1964.

902. Grievances and Complaints.

The facility shall establish a written grievance and complaint procedure and make this procedure available to patients upon request.

SECTION 1000. STATEWIDE TRAUMA REGISTRY. (II)

1001. Purpose of Trauma Registry.

- A. The Department shall establish a trauma data collection and evaluation system, known as the “Trauma Registry.” The Trauma Registry shall be designed to include, but not be limited to, trauma studies, patient care and outcomes, compliance with standards of verification, and types and severity of injuries in the State.
- B. The Department may collect, as considered necessary and appropriate, data and information regarding trauma patients admitted to a facility through the emergency department, through a trauma center, or directly to a special care unit. Data and information shall be collected in a manner that protects and maintains the confidential nature of patient and staff identifying information.

1002. Requirement to Submit Data.

- A. Each designated trauma center shall participate in the System Trauma Registry by:
 - 1. Identifying a person to be responsible for coordination of trauma registry activities;

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2. Downloading required trauma data as stipulated by the Department.

B. Only patient care records that are included in the hospital's trauma registry may be requested for review by site inspection teams at the time of initial designation and re-designation or by the Department for focused reviews during any time of the hospital's designation period.

C. Each trauma center designated by the Department shall provide data to the Department at least quarterly (March, June, September, December). The data shall be received by the Department no later than ninety (90) days following the end of each quarter. The trauma center shall establish measures to ensure that the data entered in the trauma registry is accurate and complete.

1003. Inclusion and Exclusion Criteria.

Patient inclusion and exclusion criteria shall be established by the Department under the guidance of the Trauma Advisory Council and its subcommittees.

1004. Confidentiality Protection of Data and Reports.

Records and reports created with the use of the trauma data collection and evaluation system shall be held confidential and privileged within the Department and shall not be available to the public, admissible as evidence, or subject to discovery by subpoena. Information that identifies individual patients shall not be disclosed publicly without the patient's consent.

SECTION 1100. HOSPITAL RESOURCES DATA BASE. (II)

1101. Purpose.

A. The Hospital Resources Data Base shall be used to monitor hospital resources on a continuous basis, disseminate information throughout South Carolina's healthcare system, and inform users of the clinical services offered, laboratory capabilities, and bed capacity.

B. The Department shall manage the Hospital Resources Data Base for South Carolina participants.

1102. Required Participation.

All trauma centers designated by the Department shall utilize the Hospital Resources Data Base. Information shall be updated on a daily basis, which shall include, but not be limited to: hospital bed availability, specialty service capability, and disaster resources.

SECTION 1200. TRAUMA CARE FUND.

1201. Eligible Recipients of Fund.

Trauma centers, rehabilitation centers, physicians, Emergency Medical Services providers licensed by the Department, Regional EMS Councils, and the Division of EMS and Trauma are eligible to receive trauma care funds appropriated by the South Carolina General Assembly.

1202. Allocation of Fund.

The Department may authorize and allocate the distribution of funds as directed by the General Assembly in the Appropriations Act to trauma centers, rehabilitation centers, physicians, Emergency Medical Services providers licensed by the Department, air ambulance providers licensed by the Department that always use a certified paramedic on all flights and maintain a licensed South Carolina medical director on staff, and

Regional EMS Councils. The Department, with the advice of the Trauma Advisory Council and its subcommittees shall determine the priority of distributions, as well as a distribution formula based on the following criteria:

A. Funds shall be distributed equally among the Emergency Medical Services providers in counties with the highest fatality rates per capita due to motor vehicle collisions.

1. The Department shall utilize statistics provided by the South Carolina Department of Public Safety and the National Highway Traffic Safety Administration to determine eligibility.

2. The number of providers receiving funds shall be determined based on the total appropriation for each year.

B. Funds shall be distributed equally to the Regional EMS Councils and shall be based on the total appropriation for each year.

C. The criteria for the distribution of hospital, physician, air ambulance provider, and rehabilitation facility funds shall be established by the Department with the advice of the Trauma Advisory Council and its subcommittees. Hospital and physician disbursements shall be based on unfunded patient days. Only hospitals that have received trauma center designation by the Department are eligible for available trauma funds.

SECTION 1300. PERFORMANCE IMPROVEMENT SYSTEM.

1301. General.

Performance improvement (PI) programs shall be developed at the state and trauma center levels.

1302. Statewide Trauma System Performance Improvement Plan.

The Department shall develop and maintain a Statewide Trauma System PI Plan with input from the state Trauma Advisory Council and its subcommittees. This plan shall, at a minimum, report:

A. Summary statistics and trends for demographic and related information about trauma care for the state Trauma Advisory Council;

B. Outcome measures for evaluation of clinical care and system-wide quality assurance and performance improvement programs.

1303. Trauma Center Performance Improvement Plan. (II)

Each Trauma Center shall have in place an on-going performance improvement process consistent with the designation requirements. Performance improvement records must be available for inspection by the department upon request.

SECTION 1400. ADVISORY COMMITTEES.

1401. State Trauma Advisory Council.

A. The State Trauma Advisory Council shall act as an advisory body for trauma care system development and provide technical support to the Department in areas of trauma care system design, trauma standards, data collection and evaluation, performance improvement, trauma system funding, and evaluation of the trauma care system and trauma care programs.

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B. The State Trauma Advisory Council (TAC), the State EMS Advisory Council, and the Department shall adopt similar guidelines for its operations. These guidelines shall include attendance, maintenance of minutes, and other guidelines necessary to assure the orderly conduct of business. The TAC shall have other functions as follows:

1. Periodically review and comment on the Department's regulations, policies and standards for trauma;
2. Advise the Department regarding trauma system needs and progress throughout the state;
3. Periodically review state and local pre-hospital trauma triage guidelines;
4. Advise the Department on injury prevention and public information/educational programs.

1402. Medical Control Committee.

A. The Medical Control Committee is a subcommittee of the Trauma Advisory Council and the EMS Advisory Council composed of medical control physicians from each of the state's four EMS regions, physician members of the EMS and Trauma Advisory Councils, and the State Medical Control Physician.

B. The Medical Control Committee is an advisory board responsible for the establishment of approved pre-hospital equipment and skills, the State EMS Formulary and other issues pertaining to EMS and trauma care.

SECTION 1500. TRAUMA TRIAGE AND TRANSPORT GUIDELINES. (I)

1501. Purpose.

The Department, with the advice of the Trauma Advisory Council, shall establish Trauma Triage and Transport Guidelines to improve the quality of trauma care being provided to patients by ensuring that EMS providers transport patients to the appropriate level of trauma care.

1502. Required Participation.

All licensed Emergency Medical Services providers shall provide the Department and all trauma centers utilized by the EMS provider with a copy of their system's trauma triage and transport policy that shall be based on the guidelines established by the Department.

SECTION 1600. TRAUMA SYSTEM PLANS.

1601. General.

- A. The Department shall establish a state trauma system plan.
- B. The Department shall use the state trauma system plan as the basis for establishing a statewide inclusive trauma system.
- C. In developing the state trauma system plan, the Department shall consider any available federal model trauma plans.
- D. The Department shall develop and update the State Trauma System Plan periodically with advice from the Trauma Advisory Council.

E. The Department shall provide technical assistance and support to the State Trauma Advisory Council, the Medical Control Committee, hospitals or other healthcare facilities, and EMS providers as necessary to carry out the State Trauma Plan.

1602. Trauma Regions.

A. As part of the state trauma system plan, the Department shall establish geographical trauma regions.

B. Regions shall cover all geographical areas of the state and have boundaries that are coterminous with the boundaries of the emergency medical service regional areas. These regions may serve as the basis for the development of Department-approved regional trauma plans. However, the delivery of trauma services by or in coordination with a trauma agency may extend beyond the geographic boundaries of the EMS or Trauma Regions.

1603. Trauma Center Internal Trauma Plan. (II)

Each designated trauma center shall develop an internal trauma plan that is based on data supplied by the trauma registry and other sources and shall provide for the ongoing assessment and improvement of performances of the trauma center.

SECTION 1700. SEVERABILITY.

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

Fiscal Impact Statement:

Staff anticipates no additional financial impacts upon local governments. Additional costs to State government (the Department) are not anticipated beyond the staff allowed under the Act.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R. 61-116, South Carolina Trauma Care Systems.

Purpose: This regulation will implement the provisions of the S.C. Trauma Care Systems Act codified at S.C. Code Ann. Section 44-61-520 (Supp. 2006) regarding the creation and establishment of a state trauma care system to promote access to trauma care for all residents of the state.

Legal authority: The S.C. Trauma Care Systems Act (2004 Act No. 234) codified at S.C. Code Ann. Section 44-61-520 (Supp. 2006).

Plan for Implementation: This regulation will take effect upon approval by the General Assembly and publication in the State Register. The regulation will be implemented by providing the regulated community with copies of the regulation.

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

The regulation is needed and reasonable because it will satisfy a legislative mandate to implement the provisions of the S.C. Trauma Care Systems Act. This regulation will allow South Carolina to create and establish a State Trauma Care System to promote access to trauma care for all residents of the state by establishing a trauma center designation process; providing enforcement procedures; outlining required staffing patterns within the trauma center; providing a statewide trauma registry for data collection and evaluation; providing for a hospital resources data base to monitor hospital resources on a continuous basis; providing for a trauma care fund to provide financial aid to participating providers of the trauma system; creating a performance improvement system; establishing trauma advisory committees to serve as advisory bodies to the department; mandating trauma triage and transport guidelines to improve the quality of trauma care being provided to patients by ensuring that EMS providers transport patients to the appropriate level of trauma care; and creating a state trauma plan.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those allowed for in the Act. The Act establishes a trauma care fund for the payment of the Department's expenses in establishing, administering, and overseeing the Trauma Care System.

External Costs: Costs are expected to be minimal to the regulated community unless an entity is found to be non-compliant with any section of the regulation and becomes subject to monetary penalties as described in Section 600.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation will promote public health by improving the trauma care system in South Carolina. This will create and establish a trauma system to promote access to trauma care for all residents of the State.

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

If the regulation is not implemented, the Department and the State of South Carolina would lose the opportunity to provide access to appropriate trauma care for the residents of the state which could result in significant loss of life or limb. Potential opportunities to understand and reduce the economic burden of trauma care to the state would also be lost.

Statement of Rationale:

The Department promulgated this regulation to implement the provisions of the S.C. Trauma Care Systems Act codified at S.C. Code Ann. Section 44-61-520 (Supp. 2006).

Document No. 4035
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110, 38-9-180 and 38-63-510 et seq.

69-57.3. Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values

Synopsis:

The Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values was recently adopted by the NAIC to provide for use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. The 2001 CSO Tables promulgated in S.C. Code of Regulations 69-57.1, Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities, do not appropriately reflect the mortality experience of preneed life insurance and may produce inadequate reserves.

Instructions: Add Regulation 69-57.3, Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values, as drafted below, to the South Carolina Code of Regulations.

Text:

69-57.3. Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values.

Section 1. Authority

Section 2. Scope

Section 3. Purpose

Section 4. Definitions

Section 5. Minimum Valuation Mortality Standards

Section 6. Minimum Valuation Interest Rate Standards

Section 7. Minimum Valuation Method Standards

Section 8. Transition Rules

Section 9. Effective Date

Section 1. Authority

This regulation is promulgated by the Director of Insurance pursuant to South Carolina Code Sections 38-9-180 and 38-63-510 et seq. as well as Regulation 69-57.

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Section 2. Scope

This rule applies to preneed insurance contracts, as defined in section 4 of this regulation, and to similar policies and certificates.

Section 3. Purpose

The purpose of this regulation is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products.

Section 4. Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for males and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

B. "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

C. "Preneed insurance" means any life insurance policy or certificate, which has for its purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, mausoleum, grave marker or monument.

Section 5. Minimum Valuation Mortality Standards

For preneed insurance contracts, as defined in section 4C, and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

Section 6. Minimum Valuation Interest Rate Standards

A. The interest rates used in determining the minimum standard for valuation of preneed insurance shall be the calendar year statutory valuation interest rates as defined in South Carolina Code Section 38-9-180.

B. The interest rates used in determining the minimum standard for nonforfeiture values for preneed insurance shall be the calendar year statutory nonforfeiture interest rates as defined in South Carolina Code Section 38-63-510 et seq.

Section 7. Minimum Valuation Method Standards

A. The method used in determining the standard for the minimum valuation of reserves of preneed insurance shall be the method defined in South Carolina Code Section 38-9-180.

B. The method used in determining the standard for the minimum nonforfeiture values for preneed insurance shall be the method defined in South Carolina Code Section 38-63-510 et seq.

Section 8. Transition Rules

A. For preneed insurance policies issued on or after the effective date of this regulation and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

B. If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this regulation and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

- (1) A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;
- (2) A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves. (For the purpose of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies); and
- (3) Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this regulation and using the 2001 CSO as a minimum standard for reserves.

C. Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

Section 9. Effective Date

This regulation is applicable to preneed insurance policies and certificates and similar contracts and certificates, as specified in section 2, issued on or after January 1, 2009.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

The proposed regulation is needed to appropriately reflect the mortality experience of preneed life insurance and produce adequate reserves for preneed life insurance products. The regulation will benefit consumers by increasing necessary reserves to an appropriate level, promoting a responsible competitive environment by ensuring all companies are acting responsibly and creating equitable value for consumers by increasing cash values. The use of the 1980 CSO tables will enhance the availability of preneed life insurance and the establishment of adequate reserves and promote the reliability, solvency and financial stability of insurance companies by increasing the reserve requirement on preneed life insurance policies.

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Document No. 3206
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 25

Statutory Authority: 1976 Code Sections 40-1-70 and 40-9-30

25-1 et seq. Board of Chiropractic Examiners

Synopsis:

The Department of Labor, Licensing and Regulation, Board of Chiropractic Examiners is amending its regulations 25-1 through 25-9 to make enforcement more cost effective and to reflect current professional standards for the practice of chiropractic, including requirements for continuing education as appropriate to assure continued competence.

Instructions: Replace 25-1 through 25-9 as printed below.

Text:

25-1. Organization, Administration and Procedure.

Purpose. The Board of Chiropractic ("Board") was created to protect the health, safety and welfare of the public. This purpose is achieved through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the applicable laws or rules promulgated thereunder.

25-2. Application for Licensure.

A. Application. Any person desiring to be licensed as a chiropractor must apply to the Board and provide all information and documentation required by the Board. Applications and accompanying documents will be valid for one (1) year from the initial application date. After one (1) year, a new application with attendant documents and appropriate fees must be submitted. Applicants must be within ninety (90) days of graduation or graduated, and have passed all applicable National Board examinations prior to taking the Board examination. Applications must include:

(1) Pre-professional education transcript. A certified copy of the applicant's transcript from an accredited pre-professional college. An applicant's transcript must indicate two years (60 semester hours) toward a degree from a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency of equal status and recognition.

(2) Chiropractic college transcript. A certified copy of the applicant's transcript from a chiropractic college accredited by or has recognized candidate status with the Council of Chiropractic Education or with the Commission on Accreditation of the Straight Chiropractic Academic Standards Association or meets equivalent standards. Students who are within ninety (90) days of graduation may submit an attested letter from the chiropractic college establishing estimated date of graduation.

(3) National Board of Chiropractic Examiners scores. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina examination. Examination results must be received thirty (30) days prior to the administration of the South Carolina examination.

(a) Graduates from Chiropractic College prior to July 1, 1987 must have passed Parts I and II and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

(b) Graduates from Chiropractic College on or after July 1, 1987, but before January 1, 1997 must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV.

(c) Applicants graduating from a Chiropractic College on or after January 1, 1997, must have passed Parts I, II, III, and IV with the National Board of Chiropractic Examiners (NBCE) recommended passing score.

(4) South Carolina Board of Chiropractors State Examination. Applicants shall be tested in South Carolina law and ethics and pass with a score of seventy-five percent (75%) or better. If an applicant fails to achieve a score of seventy-five percent (75%) or better the applicant may retake the examination within one (1) year. Applicants will be permitted two (2) successive retake examinations.

(5) Verification(s) of Licensure. Complete verification of licensure, active or inactive, is required from each state in which the applicant is or has been licensed.

(6) Photographs. Two (2) recent passport size photographs of the applicant.

(7) Fees. A payment to cover all fees.

B. Denial of application. An application may be denied if the applicant has committed any act which indicates that the applicant does not possess the character and fitness to practice chiropractic, including any act that would be grounds for disciplinary action against a licensed chiropractor.

25-3. Licensure by Endorsement. A license may be granted for applicants who meet the following requirements:

A. Applicant must have practiced for one (1) continuous year immediately preceding application to this Board.

B. Applicants who matriculated after July 1, 1987 must meet all National Board examination requirements as set forth in Section 25-2.

C. Applicants who matriculated prior to July 1, 1987 must:

(1) have passed a state examination substantially equivalent to the National Board examinations or passed National Board Parts I and II;

(2) if National Board examination Parts I and II have not been passed, a Waiver form must be completed and submitted from the state in which the applicant was licensed by examination, to include subjects tested and grades.

D. Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the respective state board to the South Carolina Board of Chiropractic Examiners.

E. Applicant must be tested in South Carolina law and ethics and pass with a 75% or better. If applicant fails to achieve a score of 75% or better, the applicant may retake the examination within one (1) year. Failure of the second examination disqualifies the chiropractor for endorsement. The chiropractor must apply for license by examination. Applications for endorsement are valid for one year only and the application must be completed within one (1) year of initial application date.

25-4. Waiver of Fees and Special Volunteer License.

A. Waiver of Fees. The Board shall waive all application, examination and renewal fees for any chiropractor who otherwise meets all permanent licensure requirements if the chiropractor proves, to the satisfaction of the Board, that the chiropractor's practice is to be exclusively and totally devoted to providing chiropractic care to the needy and indigent in South Carolina. To be eligible for the waiver of such fees, a chiropractor must acknowledge that there shall be no expectation of payment or compensation, direct or indirect, monetary or in-kind, for chiropractic or any health services rendered.

B. Special Volunteer License. This license shall be issued for one calendar year, or a part thereof, renewable annually upon approval by the Board. It will limit practice to a specific site(s) and practice setting(s). There will be no licensure or other fees associated with this Special Volunteer License. Requirements for the Special Volunteer License shall be as follows:

(1) satisfactory completion of a Special Volunteer License Application, including documentation of chiropractic school graduation and practice history;

(2) documentation of specific proposed practice location(s);

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(3) documentation that applicant has been previously issued an unrestricted license to practice chiropractic in this state or another state of the United States;

(4) documentation that applicant has never been the subject of any disciplinary action in any jurisdiction;

(5) documentation that the applicant shall only practice under a supervising chiropractor(s) approved by the Board. Factors the Board shall consider for supervisor approval will include, but not be limited to:

(a) the training and practice experience of the supervising chiropractor;

(b) the current nature and extent of the supervising chiropractor's practice;

(c) the existence of any recent demonstration of the supervising chiropractor's clinical competency; and

(d) the number of Special Volunteer Licensees the chiropractor proposes to supervise;

(6) documentation of the name(s) of supervising chiropractor(s) and that such chiropractor(s) has agreed to accept supervisory responsibility. All supervising chiropractors must possess an active, unrestricted permanent license to practice chiropractic in South Carolina. An approved supervising chiropractor must physically be on the premises whenever a Special Volunteer Licensee is practicing chiropractic;

(7) documentation and acknowledgment that the applicant shall receive no payment or compensation, either direct or indirect, or have any expectation of payment or compensation for chiropractic services rendered. Moreover, the supervising chiropractor shall not receive any compensation or payment as the result of the Special Volunteer Licensee's provision of chiropractic services.

25-5. Professional Practices.

A. Renewal Fees. Renewal fees shall be in accordance with Section 40-1-50(D) of the South Carolina Code of Laws, as amended.

(1) Licenses shall be renewed biennially upon submission of the renewal fee and the Biennial Renewal Form.

(2) A late fee will be assessed, in addition to the renewal fee, if renewal materials are received within two (2) months after the license renewal deadline date.

B. Expired Licenses. The right to practice in South Carolina is suspended until the following requirements are met.

(1) A chiropractor whose license has been expired for less than twelve (12) months may reactivate the license by submitting satisfactory evidence of continuing education, if applicable, payment of the license fee plus the applicable penalty.

(2) A chiropractor whose license has been expired for more than twelve (12) months but less than three (3) years, may reactivate the license by submitting an Application for Reinstatement, satisfactory evidence of continuing education, if applicable and each year's license fee plus the applicable penalty.

(3) A chiropractor whose license has been expired for three (3) years or longer must complete a new application and meet requirements in effect at the time of application.

C. Continuing Education. As a pre-requisite for biennial renewal of a practitioner's license, the licensee must complete a minimum of thirty-six (36) hours of approved professional continuing education. Of the thirty-six (36) continuing education hours, two (2) hours are required in rules and regulations of the S.C. Board of Chiropractic Examiners and two (2) hours in risk management which include, but are not limited to, boundary or public health issues.

(1) Acceptable educational programs or courses are those that are:

(a) presented and/or sponsored by accredited chiropractic colleges;

(b) taught by post-graduate level instructors of an accredited college or school approved by the Board; or

(c) presented and/or sponsored by other individuals or organizations approved by the Board.

(2) Sponsor Requirements. All sponsors seeking approval for educational programs must submit a written request to the Board Administrator at least ninety (90) days prior to the scheduled date of the presentation. Each provider shall:

(a) have a mechanism for the maintenance of records for no less than three (3) years;

(b) have a method of monitoring and verifying attendance;

- (c) provide each participant adequate documentation of participation in the program to include:
 - (i) name and license number of participant;
 - (ii) name and address of the sponsoring individual(s) or organization;
 - (iii) name of program;
 - (iv) number of hours completed;
 - (v) date and location of program;
 - (vi) authorized signature.

(3) Program Approval Requirements. Requests for program approval must include the following information:

- (a) name and address of the sponsoring individual(s) or organization;
- (b) instructors' name and credentials;
- (c) outline of program content;
- (d) the number of actual 60-minute hours of instruction;
- (e) the method of monitoring and certifying attendance;
- (f) location at which the program will be presented;
- (g) the dates on which the program will be presented.

(4) Program approval will be based on the following criteria:

- (a) The program will enhance the practitioner's knowledge and skill in the practice of chiropractic as defined by state law.
- (b) The instructors are sufficiently qualified in the field of instruction either by practical or academic experience or both.
- (c) The program will be held in a suitable setting, conducive to learning.
- (d) Adequate monitoring or certifying measures are provided.

(5) Practice building subject matter (administration, finance, etc.) will not be approved for license renewal.

(6) Comprehensive Approval. A comprehensive approval allows the provider or sponsor to submit an application indicating all course offerings for a given calendar year. Requests for a comprehensive approval may be submitted to the Board office on an annual basis at least 90 days prior to the beginning of each year or ninety (90) days prior to the beginning of a scheduled program. Providers and sponsors shall be responsible for annual renewal approval.

D. Retention and Audit. Licensees must maintain copies of attendance certificates for three (3) years from the last renewal date. The Board may conduct random audits of licensees on an annual or biennial basis to certify compliance with continuing education requirements.

E. Waiver During Period of Temporary Medical Disability. The Board reserves the right to waive continuing education requirements for individual cases involving extraordinary hardship or incapacitating illness. A licensee may be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that the applicant is unable to participate in a sufficient number of regular continuing education programs for license renewal.

F. Therapeutic Modalities. Usage of therapeutic modalities is permitted only by those chiropractors who have passed the National Board of Chiropractic Examiners' (NBCE). Chiropractors licensed in South Carolina prior to June 1, 1986 are exempt from this examination. Therapeutic modalities are limited to those modalities within the chiropractic scope of practice.

(1) Permitted Machines. The following machines are approved for use in therapeutic modalities:

- (a) high Frequency Diathermy: Shortwave diathermy, Microwave diathermy, Ultrasound;
- (b) low Frequency Direct current: Low voltage galvanism, High voltage galvanism;
- (c) alternating Current: Sine Wave, Faradic, Transcutaneous Stimulation;
- (d) medium Frequency Current: Interferential;
- (e) combination currents: Ultrasound with sine, Ultrasound with high voltage, Sine with galvanism;
- (f) such other machines as may be approved by the Board.

(2) The following therapy procedures are approved for use in therapeutic modalities:

- (a) heat: hot moist packs, heating pads, infrared, paraffin, ultraviolet;
- (b) cold: cold packs, ice massages, ice therapy;

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- (c) hydrotherapy: whirlpool, hubbard tanks;
- (d) nutritional therapies;
- (e) exercise and massage;
- (f) rehabilitation and rehabilitative procedures.

(3) The following traction therapies are approved for use in therapeutic modalities: cervical, thoracic, lumbar, pelvic, intersegmental.

(4) Use of Diagnostic Equipment and Testing Procedures. A chiropractor may request diagnostic and testing procedures, consistent with all other applicable laws and regulations, and may perform those tests which are consistent with the chiropractic scope of practice.

(5) A chiropractor may perform non-invasive EMG testing in order to diagnose and treat conditions within the scope of practice, provided the chiropractor has completed ten (10) hours of instruction offered by a qualified instructor approved by the South Carolina Chiropractic Board of Examiners.

G. Terms and Definitions.

- (1) Accepted terms are Chiropractic Physician, D.C., Chiropractor, Doctor of Chiropractic.
- (2) Chiropractors may not refer to themselves as physical therapists or physiotherapists in any fashion.

25-6. Professional Conduct.

A. Unprofessional Acts. The following acts or activities by a licensee of this Board constitute unprofessional, unethical or illegal conduct and grounds for disciplinary action. The following acts are not to be considered all-inclusive and are subject to revisions and additions necessary to carry out the Board's purpose of protecting the health, safety and welfare of the public.

- (1) Limitation of Practice. Persons licensed by the Board shall be limited to:
 - (a) the care and performance of therapeutic or hygienic treatment of patients;
 - (b) the x-ray of patients; and
 - (c) such other procedures as are generally used in the practice of chiropractic.
- (2) Such other procedures as are generally used in the practice of chiropractic shall be limited to:
 - (a) the use of diagnostic and therapeutic procedures;
 - (b) the adjustment and manipulation of articulations;
 - (c) the treatment of inter-segmental disorders for alleviation of related neurological, muscular, and osseous joint complex aberrations.

(3) Patient care shall be conducted with due regard for environmental, hygiene, sanitation, rehabilitation and physiological therapeutic procedures designed to assist in the restoration and maintenance of neurological and osseous integrity.

(4) Diagnostic or therapeutic procedures shall not include the use of:

- (a) drugs;
- (b) surgery;
- (c) cauterization;
- (d) desiccation or coagulation of tissues;
- (e) rectal examinations;
- (f) gynecological examinations;
- (g) obstetrics;
- (h) catheterization with a needle;
- (i) injecting of dyes for radiological procedures;
- (j) lumbar puncture to obtain spinal fluid;
- (k) treatment of cancer or x-ray therapy.

(5) Fraud or deceit in applying for a license or in taking an examination.

(6) Making misleading, deceptive, untrue or fraudulent representations or communications in the practice of chiropractic.

(7) Unprofessional conduct, gross incompetence, negligence or misconduct in the practice of chiropractic.

(8) Disobedience to a lawful rule or order of the Board.

(9) Practicing while license is suspended or lapsed.

- (10) Being convicted of a felony or misdemeanor.
- (11) Having a license to practice chiropractic suspended, revoked or refused or receiving other disciplinary actions by the proper chiropractic licensing authority of another state, territory, possession or country.
- (12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition. In enforcing this paragraph, the Board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination by physicians approved by the Board.
- (13) Knowingly aiding, assisting, procuring or advising any unlicensed person to practice chiropractic contrary to this act or regulations of the Board.
- (14) Committing immoral or unprofessional conduct. Unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing chiropractic practice. Actual injury to a patient need not be established.
- (15) Improper charges, fraud. Improper charges constitute a form of fraudulent and deceptive practice. Improper charges or fraud may include, but are not limited to: Intentionally submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.
- (16) Advertising x-ray services restricted. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x-radiation is prohibited.

B. X-ray and Patient Records Release.

- (1) A patient or the patient's legal representative has a right to receive a copy of patient records and x-rays, or have the records transferred, upon request, when accompanied by a written authorization from the patient or patient's representative to release the record.
- (2) A chiropractor may rely on the representations of a health and life insurance carrier or administrator of health and life insurance claims that the authorization of the patient or of a person upon whose status the patient's claim depends for release of the record is on file with the carrier as an authorization to release medical information.
- (3) Unpaid charges incurred by the patient are not grounds for refusal to release records.
- (4) A chiropractor may charge reasonable costs for copying patient records.

C. Specialty Certification. Practitioners may not advertise or hold themselves out as a specialist or specializing in any activity unless practitioner is certified from:

- (1) a specialty council approved by the American Chiropractic Association or International Chiropractors Association;
- (2) a specialty taught by a chiropractic college accredited by the Council on Chiropractic Education, or its equivalent specialty board or council; or
- (3) a specialty approved by the Board.

D. Chiropractic Records. A practitioner must keep written chiropractic records justifying the course of treatment of the patient for a minimum of ten (10) years for adult patients and at least thirteen (13) years for minors. These minimum record keeping periods begin to run from the last date of treatment.

E. Contagious and Infectious Diseases. In all cases of known or suspected contagious or infectious diseases occurring within this State, the attending practitioner shall report such disease to the county health department within twenty-four (24) hours, stating the name and address of the patient and the nature of the disease.

- (1) The Department of Health and Environmental Control shall designate the diseases it considers contagious and infectious.
- (2) Any practitioner who fails to comply with this provision is subject to penalties imposed by the appropriate health department.

25-7. Code of Ethics.

A. Doctors of Chiropractic shall be guided by the highest standards of moral conduct. Chiropractors shall exemplify professional qualities in all dealings with patients, the general public and other members of the profession.

B. The Doctor of Chiropractic reserves the option to establish a chiropractor/patient relationship.

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(1) A chiropractor/patient relationship requires that the chiropractor make an informed judgment based on training and experience. This will require that the chiropractor:

(a) discuss with the patient the analysis and the evidence for it, and the risks and benefits of various treatment options; and

(b) ensure the availability of the chiropractic coverage for patient follow-up care.

C. The Doctor of Chiropractic owes a duty to maintain the highest degree of skill and care by keeping abreast of all new developments in Chiropractic to improve knowledge and skill in the Science, Art and Philosophy of Chiropractic.

D. A Doctor of Chiropractic holds in confidence all information obtained at any time during the course of the chiropractor/patient relationship except where required by law or to protect the welfare of the patient or community.

E. A chiropractor may not assume to speak for the chiropractic profession on controversial subjects. The chiropractor should qualify remarks as a personal opinion and not necessarily that of the profession.

F. The commission of an act of sexual misconduct or sexual relations by a chiropractor with a patient is unprofessional conduct and cause for disciplinary action pursuant to Section 25-6 of this chapter. Sexual misconduct is defined as engaging in, soliciting or otherwise attempting to engage in, any form of sexual relationship, activity or contact with a current patient, or with a former patient who has received a professional consultation, diagnostic service or therapeutic service within the past ninety (90) days.

25-8. Advertising and Solicitation.

A. Professional Standards. Advertising practices by chiropractors should be ethical and professional.

B. For the purpose of this regulation, the terms communication, solicitation or advertisement shall mean any message, written broadcast or offer made by or on behalf of a licensee.

C. Signs, solicitations, or advertisements shall clearly indicate that chiropractic services are being offered.

D. A communication, solicitation or advertisement shall not:

(1) contain a material misrepresentation of fact or law, or omit a fact necessary to make the statement considered as a whole not materially misleading;

(2) create an unjustified expectation about results the chiropractor can achieve, or state or imply that the chiropractor can achieve results that violate the rules of Professional Conduct, the Code of Ethics, or other law;

(3) compare the chiropractor's services with other chiropractors' or practitioners' services, unless the comparison can be factually substantiated;

(4) fail to indicate clearly, expressly or by context, that it is an advertisement;

(5) involve intrusion, coercion, duress, compulsion, intimidation, threats, or harassing conduct, particularly those communications requiring an immediate response such as in-person or live telephone contact;

(6) solicit a prospective patient while transmitted at the scene of an accident or en route to a hospital, emergency care center or other health care facility;

(7) involve the payment, receipt of a commission or other gratuity for referral of patients. The chiropractor must limit the source of his professional income to services actually rendered by him or under his supervision, to his patients.

E. Every licensee shall display prominently in the licensee's office the word chiropractor or D.C.

25-9. Disciplinary Actions and Procedures.

A. Complaint; Determination of Just Cause. Any action of the Board shall commence only after the Board receives a written complaint of misconduct. If the Board determines, after a preliminary investigation, the facts are not sufficient to support an alleged violation, the Complainant will be notified, and the complaint dismissed.

B. Formal Complaint and Board Hearing. If the Board determines sufficient facts exist to support an alleged violation, disciplinary action will proceed as follows:

(1) The Office of General Counsel shall provide thirty (30) days' notice to the Complainant and the Respondent and schedule a hearing before the Board.

(2) The General Counsel's office shall present the case for the Complainant before the Board.

(3) The Respondent and counsel shall have the right to appear before the Board at such hearing, submit briefs and be heard in oral argument.

(4) Thereafter, the Board will file a final certified report of its findings of fact, conclusions of law and disciplinary action to be taken.

(5) The Board will notify the Complainant and the Respondent of such action.

(6) A decision by the Board to revoke, suspend or otherwise restrict a license, or to limit or otherwise discipline a licensee, shall require a majority vote by the Board.

(7) A decision by the Board to revoke, suspend or otherwise restrict a license or to limit or otherwise discipline a licensee, or one who is found to be practicing chiropractic in noncompliance with this chapter shall not become effective until the tenth (10) day following the date of delivery to the Respondent of a written copy of the decision. The Board's decision will constitute a final administrative decision.

C. Appeal of Decision. The Board's final administrative decision shall be subject to appeal to the Administrative Law Court. The Respondent shall serve notice of the appeal upon the Board within thirty (30) days from the delivery date of the Board's decision to the Respondent. Service of a petition for a review of the decision shall stay the Board's decision pending completion of the appellate process.

D. Proceedings Confidential Until Filed. As authorized by Sections 40-9-97 and 30-4-70, S. C. Code of Laws 1976, unless and until otherwise ordered by this Board, all proceedings and documents relating to complaints and hearings thereon and to proceedings in connection therewith shall be confidential, unless the Respondent shall in writing request that they be public. The Administrator of the Board shall keep secure in the Board's offices all written records and documents pertaining to disciplinary procedures.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of the amendments is to make enforcement more cost effective and to reflect current professional standards for the practice of chiropractic, including the requirements for continuing education as appropriate to assure continued competence.