SOUTH CAROLINA STATE REGISTER DISCLAIMER

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.

2024 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	1/12	2/9	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/26	2/23	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

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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The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is $90.00 plus applicable sales tax. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

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South Carolina General Assembly Home Page: http://www.scstatehouse.gov/regnsrch.php

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***Revised 120 Day Review Expiration Date for Automatic Approval**

Executive Order No. 2024-10

WHEREAS, on August 2, 2023, the undersigned issued Executive Order No. 2023-23, suspending Steven Bradley Coward from office as a member of the Town Council of the Town of Latta pursuant to article VI, section 8 of the South Carolina Constitution after a Grand Jury convened in Dillon County returned an Indictment charging him with Domestic Violence, Second Degree, in violation of section 16-25-20(C) of the South Carolina Code of Laws, as amended; and

WHEREAS, in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned's suspension of Steven Bradley Coward was effective immediately and "until such time as he shall be formally acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first"; and

WHEREAS, the Office of the Solicitor for the Fifteenth Judicial Circuit recently notified the undersigned that the above-referenced Indictment has been dismissed and that the Solicitor has effected a noncriminal disposition of the aforementioned charges, S.C. Code Ann. § 17-22-150; *see Mackey v. State*, 357 S.C. 666, 669, 595 S.E.2d 241, 243 (2004); *State v. Joseph*, 328 S.C. 352, 358, 359, 491 S.E.2d 275, 278 (Ct. App. 1997); *Op. Att'y Gen.*, 2016 WL 2607249, at *2 (S.C.A.G. Mar. 15, 2016); and

WHEREAS, for the foregoing reasons, and in accordance with the cited authorities and other applicable law, the undersigned is required to rescind the previous suspension of Steven Bradley Coward from office as a member of the Town Council of the Town of Latta.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby rescind the suspension set forth in Executive Order No. 2023-23 and reinstate Steven Bradley Coward as a member of the Town Council of the Town of Latta. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 15th DAY OF MAY, 2024.

HENRY MCMASTER
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **June 28, 2024**, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at coninfo@dhec.sc.gov.

Affecting Lexington and Richland Counties
BAYADA Home Health Care, Inc., d/b/a BAYADA Home Health Care- Lexington and Richland
Establishment of a Home Health Agency in Lexington and Richland Counties at a total project cost of $121,843.00.

Affecting Pickens County
BAYADA Home Health Care, Inc., d/b/a BAYADA Home Health Care-Pickens
Establishment of a Home Health Agency in Pickens County at a total project cost of $60,000.00.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made no earlier than 30 days, but no later than 90 days, from **June 28, 2024**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 120 days from the above date. For further information call (803) 545-4200 or email coninfo@dhec.sc.gov.

Affecting Beaufort County
Encompass Health Rehabilitation Hospital of Bluffton, LLC d/b/a Encompass Health Rehabilitation Hospital of Bluffton*
Construction for the addition of 12 rehabilitation beds for a total of 50 rehabilitation beds and the addition of 10,050 sf at a total project cost of $11,300,000.00.

Affecting Charleston County
Encompass Health Rehabilitation Hospital of Charleston, LLC d/b/a MUSC Health Medical University of South Carolina Rehabilitation Hospital an affiliate of Encompass Health
Construction for the addition of 20 rehabilitation beds for a total of 69 rehabilitation beds and the addition of 21,950 sf at a total project of $26,900,000.00.

Affecting Greenville County
Encompass Health Rehabilitation Hospital of Greenville, LLC d/b/a Encompass Health Rehabilitation Hospital of Greenville
Construction for the addition of 40 rehabilitation beds for a total of 80 rehabilitation beds and the addition of 25,605 sf at a total project cost of $33,500,000.00.

*Amended description

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File # 59905
US Fibers Site

NOTICES OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with Pac Tell Group, Inc. (the Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the US Fibers facility located in Edgefield County at 30 Pine House Road, Trenton, South Carolina and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (the Site).

Response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing a remedial investigation and, if necessary, an evaluation of cleanup alternatives for addressing any contamination. Further, the Responsible Party shall reimburse the Department's future costs of overseeing the work performed by the Responsible Party and other Department response costs pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended). Notices of contribution protection and comment period will be provided to other known potentially responsible parties. The VCC is available:

(1) On-line at http://www.scdhec.gov/PublicNotices; or
(2) By contacting Elisa Vincent at 803-898-0882 or vincenef@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than July 29, 2024, and addressed to: Elisa Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved their liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under HWMA, S.C. Code Ann. Section 44-56-200, for the matters addressed in the VCC. Further, to the extent authorized under 42 U.S.C. Section 9613(f)(3)(B), S.C. Code Ann. Section 44-56-200, the Responsible Party may seek contribution from any person who is not a party to this administrative settlement.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING
OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (SCDLLR) does hereby give notice under Section 41-15-220, SC Code of Laws, 1976, as amended, that a public hearing will be held at 10:00 AM on July 30, 2024, at 121 Executive Center Drive, Suite 200, Columbia, SC 29210. Interested persons will be given the opportunity to appear and present their views on the occupational safety and health standards being considered for adoption.

The hearing is to determine if the Director of the SCDLLR will promulgate, revoke, or modify rules and regulations pursuant to Section 41-15-210, SC Code of Laws, 1976. The standards being revised and considered for adoption are Article 1, Subarticle 6, Sections 1910.6, Incorporation by Reference and 1910.1200, Hazard Communication Standard. OSHA is updating the agency's incorporation by reference section, 29 CFR 1910.6, to include the national and international consensus standards. Where OSHA has updated consensus standards, OSHA does not intend to require chemicals already classified using an earlier version of a consensus standard to be reclassified and has retained earlier versions of the consensus standards in the text of the standard where relevant to avoid suggesting retesting is necessary. OSHA is also amending the Hazard Communication Standard (HCS) to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals (GHS), primarily Revision 7, address issues that arose during the implementation of the 2012 update to the HCS, and provide better alignment with other U.S. agencies and international trading partners, while enhancing the effectiveness of the standard. Consistent with Executive Order 13563 and the Regulatory Flexibility Act, which call for assessment and, where appropriate, modification and improvement of existing rules, OSHA has reviewed the existing HCS. The revisions in this final rule will enhance the effectiveness of the HCS by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed, thus reducing the incidence of chemical-related occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, new provisions related to trade secrets, technical amendments related to the contents of safety data sheets (SDSs), and related revisions to definitions of terms used in the standard.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the SCDLLR during normal business hours by contacting the OSHA office at 803-896-5811.

Persons desiring either to speak at the hearing or to have their views submitted on the record, if they cannot appear, must file with the Director of the SCDLLR either a notice of intention to appear or a summary of their views on the matter no later than July 26, 2024.

Emily Farr, Director
SCDLLR
PO Box 11329
Columbia, SC 29211-1329

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-42 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-42 governs credit union branching and sets limitations on the functions of such branches. The State Board of Financial Institutions proposes to repeal this regulation as it contains outdated references to State law and conflicts with current statutory credit union branching provisions. Moreover, the trust powers of credit unions is already articulated in Section 34-26-940 and need not be restated in this regulation.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-50. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-50 governs dividends issued by state-chartered credit unions. The State Board of Financial Institutions proposes to amend this regulation to incorporate clarifying language regarding the meaning of certain undefined terms used in Section 34-26-710, namely “current earnings” and “undivided earnings,” and to clarify other matters regarding credit union dividends.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-26. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-26 establishes rules for the disposition of "Other real estate owned" by state banks, state savings banks, and state savings and loan associations. The State Board of Financial Institutions proposes to amend this regulation to be consistent with the rules regarding national banking institutions.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(1) and (2), as it seeks to permit "state-chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency" and to permit "state-chartered savings and loan associations to engage in any activity authorized… for state-chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-45 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-45 establishes a "pilot program" for credit unions relating to electronic fund transfers. The State Board of Institutions proposes to delete this regulation as it is outdated; Section 34-26-210 now governs credit union electronic fund transfers.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-39H in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-39H governs the sharing of ownership of ATM "branches" by financial institutions. State Board of Financial Institutions proposes to delete this regulation to allow financial institutions parity with their nationally chartered counterparts, as neither the federal regulator, nor current South Carolina statute, contemplates ATMs as "branches."

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(1) and (2), as it seeks to permit "state-chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency" and to permit "state-chartered

savings and loan associations to engage in any activity authorized… for state-chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-32 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-32 establishes rules for state-chartered savings and loan associations issuing home improvement loans. The State Board of Financial Institutions proposes to repeal this regulation because it references a federal agency no longer in existence (The Home Loan Bank Board) and because State law currently allows these institutions to "invest in or otherwise acquire loans and interests in loans, secured or unsecured, of any type or amount and for any purpose…," Section 34-28-510.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(2), as it seeks to permit "state-chartered savings and loan associations to engage in any activity authorized… for state-chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-28 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-28 requires banks to file income and expense statements with the Commissioner of Banking prior to paying cash dividends. The State Board of Financial Institutions proposes to delete this requirement.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-52 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-52 addresses increases in credit union fields of membership. The State Board of Financial Institutions proposes to delete this regulation because the federal policy statements incorporated therein have been withdrawn, and the language is inconsistent with current State law field of membership rules.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(1) because the "underlying federal law… is vacated, repealed, or otherwise does not have the force and effect of law."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-1. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-1 sets limitations and restrictions on purchases and sales of securities by banking institutions. The State Board of Financial Institutions intends to amend this regulations to allow state banking institutions to engage in investment activities in the same manner as national banks.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(1) and (2), as it seeks to permit "state-chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency" and to permit "state-chartered savings and loan associations to engage in any activity authorized… for state-chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-29 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-29 sets requirements for state banks making loans to officers and directors. The State Board of Financial Institutions proposes to delete this requirement as it is unnecessary because S.C. Code Ann. § 34-13-80 and 12 C.F.R. 215, *et seq*., already govern in these circumstances.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(1) because the change is being made in "compliance with federal law"—namely 12 C.F.R. 215, *et seq*., also known in the banking industry as "Reg O."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-47. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-47 establishes procedures for credit union mergers. The State Board of Financial Institutions proposes to amend this regulation to simplify and clarify the process, and address some industry concerns with the existing regulation.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-48 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-48 establishes procedures for credit unions to use "share drafts." The State Board of Financial Institutions proposes to repeal this regulation because the federal regulation incorporated therein is no longer in effect.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(1) because the "underlying federal law… is vacated, repealed, or otherwise does not have the force and effect of law."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-25. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-25 establishes rules for purchases of property for future expansion by state banks, state savings banks, and state savings and loan associations. The State Board of Financial Institutions proposes to amend this regulation to allow state-chartered institutions to purchase and hold such property under the same conditions as their nationally-chartered counterparts.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(2) and Section 34-1-110(A)(1) and (2), as it seeks to permit "state-chartered banks to engage in any activity authorized for national banks by federal law or regulation of the Comptroller of the Currency" and to permit "state-chartered savings and loan associations to engage in any activity authorized… for state-chartered banks by this title or regulation or operational instruction of the State Board of Financial Institutions."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes a new regulation to be added to Chapter 15, Article 2, numbered R.15-54. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

The State Board of Financial Institutions intends to propose a regulation establishing a record retention standard for state-chartered credit unions.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-39R in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-39R references regulatory net worth requirements established by the Federal Savings and Loan Insurance Corporation, which no longer exists. The State Board of Financial Institutions proposes to delete this regulation in light of the outdated federal reference.

Legislative review of this proposal is not required pursuant to Section 1-23-120(H)(1) because the "underlying federal law… is vacated, repealed, or otherwise does not have the force and effect of law."

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-14. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-14 sets forth antiquated record retention rules for financial institutions. The State Board of Financial Institutions proposes to update, simplify and clarify the record retention rules.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS
CHAPTER 15
Statutory Authority: 1976 Code Section 34-1-60

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to amend R.15-4. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-4 sets forth rules for state banking institutions seeking to issue cash dividends. The Board of Financial Institutions proposes to amend this regulation to allow greater flexibility for banks in excellent financial condition.

Legislative review of this proposal will be required.

STATE BOARD OF FINANCIAL INSTITUTIONS

CHAPTER 15

Statutory Authority: 1976 Code Section 34-26-210

Notice of Drafting:

The South Carolina State Board of Financial Institutions proposes to delete R.15-51 in its entirety. Interested persons may submit written comments to Kathy Bickham, Commissioner of Banking, State Board of Financial Institutions, 1205 Pendleton Street, Suite 306, Columbia, S.C. 29201.

Synopsis:

R.15-51 establishes terms and conditions for state credit unions to make adjustable-rate mortgage loans. The State Board of Financial Institutions proposes to delete this regulation as the current State law, Sections 34-26-800 and 810, allow greater flexibility than the federal law incorporated in this regulation.

Legislative review of this proposal will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

CHAPTER 10

Statutory Authority: 1976 Code Section 40-1-50

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to add to, amend, or repeal fees within the fee schedules for certain boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulations. Interested persons may submit comments to Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to add to, amend, or repeal fees within the fee schedules for certain boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulations. The amendments are necessary to ensure that fees required by law to be charged are included in the fee schedules, fees are charged in the correct amounts, and fees that are not authorized by law to be charged or have been rendered obsolete are removed from the fee schedules.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

CHAPTER 10

Statutory Authority: 1976 Code Section 40-1-50

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to add to, amend, or repeal fees within the fee schedules for certain boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulations. Interested persons may submit comments to Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to add to, amend, or repeal fees within the fee schedules for certain boards and commissions whose fees appear in Chapter 10 of the South Carolina Code of Regulations. S.C. Code Section 40-1-50(B) provides that fees for revenue-funded boards must be adjusted biennially to ensure that they are sufficient but not excessive to cover expenses including the total of the direct and indirect costs to the State for the operations of each respective board. The Department most recently adjusted fees during the 2023 legislative session, therefore in accordance with Section 40-1-50(B), it is necessary for the Department to perform fee adjustments in 2025.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE BOARD OF COSMETOLOGY

CHAPTER 35

Statutory Authority: 1976 Code Section 40-13-60

Notice of Drafting:

The South Carolina Board of Cosmetology proposes revising its regulations to add a regulation requiring all applications for initial licensure, endorsement licensure, and renewal and reinstatement licensure to be accompanied by a current 2 x 2 photograph that will be affixed to the license issued. Interested persons may submit comments to Tracy Adams, Board Executive for the Cosmetology Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Cosmetology proposes revising its regulations to add a regulation requiring all applications for initial licensure, endorsement licensure, and renewal and reinstatement licensure to be accompanied by a current 2 x 2 photograph that will be affixed to the license issued. This new requirement would be an effort to combat fraudulent use of a license including license lending, borrowing, and stealing.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS AND PSYCHO-EDUCATIONAL SPECIALISTS

CHAPTER 36

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-75-60

Notice of Drafting:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists proposes to amend R.36-04 and R.36-07 regarding educational requirements for Licensed Professional Counselor associates and Marriage and Family Therapist associates, and to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session. Interested parties may submit comments to Pam Dunkin, Board Executive, Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors and Psycho-Educational Specialists proposes to amend education requirements for Licensed Professional Counselor and Marriage and Family Therapist associates, and to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session requiring an hour of continuing education related to suicide prevention.

Legislative review of this amendment is required

DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93
Statutory Authority: 1976 Code Section 40-35-60

Notice of Drafting:

The South Carolina Board of Long Term Health Care Administrators proposes to amend various sections in Chapter 93. Interested parties may submit comments to Patrice Deas, Board Executive, Board of Long Term Health Care Administrators, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Board of Long Term Health Care Administrators proposes to amend Chapter 93, including but not limited to providing clarification and guidance regarding administrators-in-training.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MASSAGE THERAPY
CHAPTER 77
Statutory Authority: 1976 Code Sections 40-1-70 and 40-30-50

Notice of Drafting:

The South Carolina Board of Massage Therapy proposes to amend its regulations to update and revise regulations regarding massage therapy and sole practitioner establishments. Interested persons may submit written comments to Matalie Mickens, Board Executive, Board of Massage Therapy, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Board of Massage Therapy proposes to amend its regulations to update and revise regulations regarding massage therapy and sole practitioner establishments.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA REAL ESTATE COMMISSION
CHAPTER 105
Statutory Authority: 1976 Code Sections 40-1-70 and 40–57–60

Notice of Drafting:

The South Carolina Real Estate Commission intends to promulgate regulations to conform to Act 204 of the 2024 legislative session. Interested persons may submit comments to Erica Wade, Board Executive, Real Estate Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Real Estate Commission intends to promulgate regulations to conform to Act 204 of the 2024 legislative session.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE BOARD OF SOCIAL WORK EXAMINERS
CHAPTER 110
Statutory Authority: 1976 Code Sections 40-1-70 and 40-63-70

Notice of Drafting:

The Board of Social Work Examiners proposes to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session. Interested parties may submit comments to Pam Dunkin, Board Executive, Board of Social Work Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The Board of Social Work Examiners proposes to amend continuing education requirements for licensees of the Board to conform to Act 158 of the 2024 legislative session requiring an hour of continuing education related to suicide prevention.

Legislative review of this amendment is required.

DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: 1976 Code Sections 43-1-80 and 63-9-360

Notice of Drafting:

The South Carolina Department of Social Services proposes to amend South Carolina Code of Regulations Section 114-4370, Certification of Adoption Investigators and Persons Obtaining Consents or Relinquishments. Interested persons may submit written comments to Melissa S. Lowe, Foster Care & Adoption Support Program Manager and State ICWA Manager at South Carolina Department of Social Services, PO Box 1520, Columbia, SC 29202 or via email at melissa.lowe@dss.sc.gov. To be considered all comments must be received no later than 5:00 p.m. on July 29, 2024, the close of the drafting comment period.

Synopsis:

The Department of Social Services is responsible for establishing and promulgating rules and regulations for the certification requirements and process for an adoption investigator. The proposed amendments will ensure that prospective investigators have the necessary educational and work experience to further the Department's mission to promote safety, permanency, stability, and well-being of children who are in the State's foster care system.

Legislative review of these amendments is necessary.

DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: 1976 Code Section 63-11-30

Notice of Drafting:

The Department of Social Services proposes to amend regulations that address licensing of child placing agencies. Interested persons may submit comments to Dawn Barton, Director, South Carolina Department of Social Services, Office of Permanency Management, P.O. Box 1520, Columbia, SC 29202 or via email at dawn.barton@dss.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on Friday July 12, 2024, the close of the drafting comment period.

Synopsis:

As the administrator of the State's foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of agencies and institutions engaged in the business of receiving children for care and maintenance. The regulations governing licensing standards for child placing agencies (South Carolina Code of Regulations 114-4910, 4920, 4930, 4940, 4950, 4960, 4970, and 4980) are being reviewed and amended to make updates necessary to meet the current needs of the State's foster care and adoption systems.

Legislative review of the amendments is required.

DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services proposes to amend South Carolina Code of Regulations Section 114-140, Foster Care and Section 114-150, Adoptions. Interested persons may submit written comments to Melissa S. Lowe, Foster Care & Adoption Support Program Manager and State ICWA Manager at South Carolina Department of Social Services, PO Box 1520, Columbia, SC 29202 or via email at melissa.lowe@dss.sc.gov. To be considered all comments must be received no later than 5:00 p.m. on July 29, 2024, the close of the drafting comment period.

Synopsis:

The Department is proposing to amend Regulations 114-140 and 114-150, which deal with the fair hearing process specifically related to Foster Care and Adoption appeals. This process allows an individual to contest an adverse action taken by the Department and to have his or her objections to the adverse action heard by an

impartial hearing officer or committee. The proposed amendments will ensure that the Department is able to further its mission to promote safety, permanency, stability, and well-being of children who are in the State's foster care system.

Legislative review of these amendments is necessary.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-9-1700 to 1810

Notice of Drafting:

The South Carolina Department of Social Services proposes to amend Regulation 114-4380, Supplemental Benefits for Adoption and Medical Assistance. Interested persons may submit written comments to Melissa Lowe, Foster Care & Adoption Support Program Manager, Division of Permanency Management at South Carolina Department of Social Services, P.O. Box 1520, Columbia, South Carolina 29202 or via email at melissa.lowe@dss.sc.gov. To be considered all comments must be received no later than 5:00 p.m. July 29, 2024, the close of the drafting comment period.

Synopsis:

The Department of Social Services is responsible for establishing and promulgating rules and regulations to supplement the South Carolina adoption law by making possible thorough public supplemental benefits the most appropriate adoption of each child certified by the Department of Social Services as requiring a supplemental benefit to assure adoption. The Department of Social Services is proposing to revise the current regulations to ensure compliance with statutory authority and to further the Department's mission to promote safety, permanency, stability, and well-being of children who are in the State's foster care system.

Legislative review of these amendments is required.

Document No. 5271
SOUTH CAROLINA CONSERVATION BANK
CHAPTER 16
Statutory Authority: 1976 Code Section 48-59-70(M)

16-10. Procurement of Appraisal Services. (New)

Preamble:

The South Carolina Conservation Bank (Bank) proposes to add a new regulation addressing circumstances under which the Bank may procure independent appraisals of properties intended for conservation.

Section-by-Section Discussion:

16-10. Adds new regulation regarding the procurement of appraisal services.

The Notice of Drafting was published in the *State Register* on April 26, 2024.

Notice of Public Hearing and Opportunity for Public Comment:

If a public hearing is requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws, as amended, a hearing will be conducted at Harbison State Forest Education Center, 5600 Broad River Road, Columbia, SC 29212 on September 24, 2024, at 10:00 AM. Interested persons may submit written comments to J. Raleigh West III, Director, South Carolina Conservation Bank, 2711 Middleburg Drive, Suite 308, Columbia, SC 29204, or admin@sccbank.sc.gov. To be considered, all comments must be received no later than 5:00 PM on July 31, 2024. 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:

The Bank does not anticipate any additional cost to the State, its political subdivisions, or the public as a result of the proposed promulgation of these regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Bank proposes a new regulation regarding the procurement of appraisal services.

Legal Authority: 1976 Code Section 48-59-70(M).

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:

Promulgation of this regulation is necessary to define the circumstances under which the Bank may procure independent appraisal services.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

Statement of Rationale:

Regulation 16-10 will be added to procure independent appraisal services.

Text:

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

Document No. 5272
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA BOARD OF EXAMINERS IN OPTICIANRY
CHAPTER 96
Statutory Authority: 1976 Code Sections 40-1-70 and 40-38-60

96-104. General Licensing Provisions.
96-108. Continuing Education.
96-109. Fees.

Preamble:

The Board of Examiners in Opticianry proposes to repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The Board further proposes to amend R.96-108 to clarify the requirements for continuing education (CE) courses for licensees and the approval process for those courses, and to amend R.96-109 to delete the reference to a Board web address that is no longer active.

Section-by-Section Discussion:

96-104. Repeal.
96-108(A)-(B). No change.
96-108(C). Strike existing language and replace with language explaining criteria necessary for Board-approval of continuing education courses.
96-108(D). Strike existing language and replace with language granting licensees living outside the US a temporary waiver for continuing education and requiring them to obtain the continuing education for each twelve-month period they were overseas once they return to the US.
96-108(E). Strike existing language.
96-109. Strike outdated reference to website.

A Notice of Drafting was published in the *State Register* on May 24, 2024.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on August 27, 2024. Written comments may be directed to Patrice Deas, Board Executive, Board of Examiners in Opticianry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., July 29, 2024. If qualifying requests pursuant to Section 1-23-110(A)(3) are not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

Statement of Need and Reasonableness:

These regulations are necessary to repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The Board further states it is necessary to amend R.96-108 to clarify the requirements for continuing education (CE) courses for licensees and the approval process for those courses, and to provide guidance to licensees living overseas regarding a CE waiver while out of the country and obtaining the CE upon return. Finally, the Board states it is necessary to amend R.96-109 to delete the reference to a Board web address that is no longer active.

DESCRIPTION OF REGULATION:

Purpose: The Board of Examiners in Opticianry proposes to repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The Board further proposes to amend R.96-108 to clarify the requirements for continuing education (CE) courses for licensees and the approval process for those courses, and to provide guidance to licensees living overseas regarding a CE waiver while out of the country and obtaining the CE upon return. Finally, the Board proposes to amend R.96-109 to delete the reference to a Board web address that is no longer active.

Legal Authority: 1976 Code Sections 40-1-70 and 40-38-60.

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

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

The proposed regulations will repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The proposed regulations will amend R.96-108 to clarify the requirements for continuing education (CE) courses for licensees and the approval process for those courses, and to provide guidance to licensees living overseas regarding a CE waiver while out of the country and obtaining the CE upon return. Finally, the proposed regulations will amend R.96-109 to delete the reference to a Board web address that is no longer active.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

The updated regulations will repeal R.96-104 as it is duplicative of statute and therefore unnecessary. The updated regulations will amend R.96-108 to clarify the requirements for continuing education (CE) courses for licensees and the approval process for those courses, and to provide guidance to licensees living overseas regarding a CE waiver while out of the country and obtaining the CE upon return. Finally, the updated regulations amend R.96-109 to delete the reference to a Board web address that is no longer active.

Text:

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

Filed: May 15, 2024 11:40am

Document No. 5270
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Sections 50-11-860, 50-11-2200, and 50-11-2210

123-204. Additional Regulations Applicable to Specific Properties.

Emergency Situation:

The South Carolina Department of Natural Resources is closing all access to Deveaux Bank including all intertidal areas. Deveaux Bank is closed immediately to all access and landing between March 15 and October 15 to protect nesting and migrating sea and shorebirds. This area was impacted by recent storm events and experienced significant erosion. It is closed to prevent disturbance to birds. Due to loss of nesting habitat and potential for significant disturbance to nesting birds by members of the public, it is necessary to file these regulations as emergency.

Text:

123-204. Additional Regulations Applicable to Specific Properties.

A. Aiken County Gopher Tortoise Heritage Preserve.

(1) Bicycles may be ridden on hiking trails. Bicyclists may ride in groups no larger than five (5).

B. Bay Point Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

C. Bear Branch Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

D. Bear Island.

(1) Except when closed for scheduled hunts, the area is open from 1/2 hour before sunrise to 1/2 hour after sunset.

(2) The property is closed to all public access from November 1 through February 8, except for scheduled hunts.

(3) All terrain vehicles are prohibited.

(4) Camping is allowed only at designated sites and only during scheduled big game hunts.

(5) The area is closed to general public access during scheduled hunts.

(6) Fishing is allowed in designated areas from April 1 through September 30.

E. Bird-Key Stono Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

F. Caper's Island Heritage Preserve.

(1) Overnight Camping on Capers Island is by permit only. Permit may be obtained from the DNR Charleston office. No more than 80 people will be allowed to camp per night. These 80 people may be divided into no more than 20 different groups.

(2) Permits will be issued on a first come first served basis.

(3) Campsites will be occupied on a first come first served basis.

(4) Permits are not required for day use.

(5) Persons without permits must be off the island by one hour after sunset.

(6) No trash is to be placed in any fire or buried.

(7) Department maintenance facilities on the island are not open to the public.

(8) No crab or fish pots or traps are allowed in impoundments.

(9) No motorized vehicles, non-motorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

(11) Dogs are allowed on Caper's Island subject to the following restrictions:

(a) Dogs are allowed on the southern beaches of Caper's Island.

(b) Dogs are not allowed in the impoundment area.

(c) Dogs are not allowed on the northern beaches of Capers Island between April 1 and August 31. Areas closed to dogs are posted by the Department.

(d) Dogs restrained by a leash or similar device are allowed in the designated area on Price's Inlet.

G. Crab Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

H. Daws Island Heritage Preserve.

Camping is allowed only by permit issued by the Department. Primitive camping only is allowed. Daws Island camping is limited to two groups of no more than eight people in each group.

I. Deveaux Bank.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) Closed all year above the high tide line. ~~(no seasonal closure) except in the recreation area.~~ March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) No motorized vehicles, bicycles or horses.

J. Donnelley WMA.

(1) Horseback riders must obtain a permit from the Donnelley WMA office prior to riding.

(2) All terrain vehicles are prohibited.

(3) Camping is prohibited.

K. Dungannon Plantation Heritage Preserve.

(1) No person may enter any area of the preserve designated as a nesting area for birds.

(2) Entrance to the preserve is through a designated parking area. Each person must sign in and out of the preserve at a designated entrance/exit.

L. Gopher Branch Heritage Preserve.

Public visitation is by permit only.

M. Great Pee Dee River Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

(2) Each person entering the preserve other than by boat must sign in and out at a designated entrance/exit.

N. Jim Timmerman Natural Resources Area at Jocassee Gorges.

This subsection shall apply to all Department owned and leased land within the boundaries of the Jim Timmerman Natural Resources Area at Jocassee Gorges (hereinafter referred to as Jocassee Gorges).

(1) Camping.

(a) Backcountry camping by permit will be allowed at any time during the year that the main roads allowing access to the Jocassee Gorges are not opened in connection with big game hunting. Backcountry camping is allowed by permit only at any location within the Jocassee Gorges, except for any area closed for camping by the Department. Backcountry camping is defined as minimal impact camping. No fires are allowed and each permitted camper is responsible for camping in a manner that results in no trace of the camping activity being left after breaking camp. Backcountry campers must apply for camping permits over the Department internet site. No camping is permitted within twenty-five (25) feet of a stream, lake, or as posted by the Department.

(b) The Foothills Trail and the Palmetto Trail pass through portions of the Jocassee Gorges. Use of the Foothills Trail and the Palmetto Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trails and within one hundred feet of either side of the trails. Camping along the Foothills Trail and the Palmetto Trail is restricted to hikers while engaged in backpacking.

(2) Operation of motorized, non-motorized vehicles, all-terrain vehicles, and off-road vehicles. Motorized and non-motorized vehicle access to the Jocassee Gorges is limited. Highway 178 and Cleo Chapman Road (county road 143) are the only paved roads that access the property. Access by the general public to the Jocassee Gorges by motorized vehicles will follow a seasonal schedule with the exception of portions of Horsepasture and Camp Adger Roads. Road opening and closing schedules written below are given as general information. The Department may open and close any road at any time and for such duration as deemed necessary by the Department to manage the property.

(a) The operation of a motorized vehicle behind any closed gate is prohibited. Motorized, self-propelled, unmanned electric cargo carriers (“deer carts”) may be used for the purposes of hauling cargo and harvested game only.

(b) Roads open to year-round public access include a section of Horsepasture Road to Jumping Off Rock (from Highway 178 only) and a section of Camp Adger Road.

(c) All roads with Green gates are seasonally open. All roads with red gates are closed to vehicular traffic. This information will be posted at all major entrances.

(d) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(e) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted the speed limit shall be 15 miles per hour.

(f) Subject to the authority in subsection (d) above, the operation of all terrain vehicles is restricted as follows: Operation of all terrain vehicles is restricted to one hour before sunrise to one hour after sunset each day beginning on Monday and continuing through the following Friday. A person may use an all terrain vehicle while actually engaged in hunting at any time hunting is allowed; provided, however, the operation of an all terrain vehicle is restricted to one hour before sunrise to one hour after sunset with the exception of game retrieval, and an all terrain vehicle may be used only on open roads. All terrain vehicles and off-road vehicles

may not be operated on Horsepasture Road or Camp Adger Road during the periods January 16 - March 19 and May 11 - September 14 when the main roads are closed.

(g) All terrain vehicles having three (3) wheels and motorcycles constructed or intended primarily for off road use, such as dirt bikes and motocross bikes, are prohibited within the Jim Timmerman Natural Resources Area at all times.

(h) Bicycles may be ridden on any road or area that is not posted as closed to bicycles except that the Foothills Trail and Palmetto Trail are closed to bicycles.

(3) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

(4) Sassafras Overlook Site. These regulations apply to the portion of Jocassee Gorges designated as the overlook site by the Department.

(a) No camping is allowed on the site.

(b) No fires are allowed on the site.

(c) The hours of operation are one hour before official sunrise to one hour after official sunset, except as permitted by the Department.

(d) No alcohol is allowed on the site.

(e) No motor vehicles are allowed except on public roads and in the designated parking area. Motorized scooters or similar vehicles designed specifically for use by disabled persons may only be used by disabled persons on the site. No ATVs, UTVs or similar vehicles are allowed on the site.

(f) No skateboards, hoverboards or similar devices are allowed on the site.

(g) No exclusive use of the site will be allowed by any party.

(h) No drones may be allowed on the site.

(i) No horses, mules, donkeys or other animals may be allowed on the site except pets as defined below.

(j) No pets will be allowed on the site except for dogs and cats. All pets must be restrained by a leash at all times and may not cause any disruption to other visitors, wildlife or the site. All pet waste must be picked up and removed from the site.

(k) Commercial vending is prohibited on the site.

(l) No bicycles may be ridden on the site, except on roads open to vehicular traffic and in designated parking areas.

(m) Special permits may be issued by the Department to allow activities prohibited herein.

(n) All other laws, regulations, and ordinances that apply to the site are also in effect.

(5) Abner Creek Falls Trail

(a) Human foot traffic only is permitted.

(b) No horses, bicycles, non-motorized conveyances or motor conveyance is permitted, except for motorized scooters or similar vehicles designed specifically for use by disabled persons that may only be used by disabled persons on the site.

(c) No access is allowed from the trail or platform to adjacent areas within 300 feet of the platform.

O. Joiner Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

P. Little Pee Dee Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

Q. Nipper Creek Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

R. North Santee Bar Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

S. St. Helena Sound Heritage Preserve (Ashe Island, Beet Island, Big Island, Warren Island, and South Williman).

Camping is restricted to primitive camping in designated areas only.

T. St. Helena Sound Heritage Preserve (Otter Island).

(1) No dogs are allowed.

(2) Primitive camping only is allowed by permit issued by the Department. Primitive camping is restricted to designated areas and will be allowed only between October 16 and March 14.

U. Samworth WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year. Between November 1 and February 8 these activities will be restricted to designated areas on Butler Creek and the Big Pee Dee River. All public use of this type will be by foot travel only after arriving by watercraft.

(2) The mainland nature trail will be open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

(4) Dirleton grounds are open to the public from 8:30 a.m. until 5:00 p.m., Monday through Friday.

V. Santee Coastal Reserve.

(1) The Santee Coastal Reserve is open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) for limited public use year round except as listed below.

(2) Managed wetlands will be open for wildlife observation, bird watching, photography, or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department.

(3) The dikes around the waterfowl impoundments will be closed, except by prior arrangement, during the period of November 1 through February 8 of the next year.

(4) Prior arrangements must be made with the Reserve Manager to use observation blinds for waterfowl.

(5) Upland trails will be available during open periods stated above.

(6) The beaches on Cedar and Murphy Islands will be open year round, seven days a week, during daylight hours. No person may enter any area designated as a critical area for wildlife.

(7) Bicycles may be ridden on upland trails year round and on dikes from February 9 - October 31.

(8) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled waterfowl hunts. Fishing will be allowed during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset). Fishing is permitted on Murphy and Cedar Island beaches at any time on a year round basis.

(9) Primitive camping on Cedar and Murphy Islands is restricted to designated areas and will be allowed only between October 16 and March 14. Camping on the mainland portion is restricted to the designated campground. Mainland camping registration is required at the campground self-serve kiosk. Advance registration is required for groups greater than 15 people.

(10) Dogs are allowed on Cedar and Murphy Islands subject to the following restrictions:

(a) Dogs are allowed during participation in scheduled hunts

(b) Dogs are allowed in designated areas at the southern end of Cedar Island and the South Santee side of Murphy Island.

(c) Dogs are prohibited in all other areas of Cedar and Murphy Island between April 1 and August 30.

(d) Areas closed to dogs are posted by the Department.

W. Santee-Delta WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department. Area closed to all public access from November 1 through February 8 except for special hunts and events regulated by the Department. All public use of this type will be by foot travel only.

(2) All terrain vehicles, bicycles, and horses are prohibited.

(3) Camping is prohibited.

X. Shealy's Pond Heritage Preserve.

Gasoline powered motors on boats are prohibited.

Y. Tillman Sand Ridge Heritage Preserve.

(1) Camping is allowed in designated campsites during designated hunts only.

Z. Tom Yawkey Wildlife Center.

The Center is a wildlife sanctuary. Boating, fishing and wildlife viewing in or upon navigable waters is allowed.

(1) Public visitation is by pre-scheduled educational field trips only. The scheduling of educational field trips is at the discretion of SCDNR.

(2) Primitive camping is allowed by permit only. Requests for permits should be no less than 2 weeks prior to their effective date. Primitive camping is allowed only at Department designated locations along the beach front from October 16 and March 14. Only one permit will be issued for each location at a time. Camping is allowed for a period of not more than 4 consecutive nights per individual permit holder.

(3) No dogs are allowed on beaches, except in the designated public access area.

AA. Victoria Bluff Heritage Preserve.

(1) No campfires or any other use of fire shall be allowed.

BB. Waccamaw River Heritage Preserve.

Primitive camping only is allowed. Camping is allowed only along riverbanks and on sandbars; campers may approach only by backpacking or boat.

CC. Watson Cooper Heritage Preserve.

Camping is restricted to primitive camping. No live plants may be cut or cleared to improve or expand a campsite. No campsites or campfires within 25 feet of a stream or creek.

DD. Webb WMA.

(1) Webb WMA is closed to the general public from one hour after official sunset to one hour before official sunrise.

(2) Overnight visitors to the Webb Center are not restricted in hours of access.

(3) No camping without a permit except for deer, turkey, and hog hunters on nights before a designated hunt.

(4) Bicycles may be ridden on any area that is not marked or posted as restricted to bicycles. No bicycle may be operated in any manner or place that will damage or degrade any feature or habitat. During scheduled big game hunts, bicycles and all terrain vehicles are prohibited except as used by legal hunters and anglers.

EE. Laurel Fork Heritage Preserve.

(1) All terrain vehicles may be ridden on the portions of Cane Break and Horsepasture roads on the Preserve subject to the same rules as the Jim Timmerman Natural Resources Area at Jocassee Gorges.

FF. Botany Bay Plantation WMA.

(1) No camping is allowed.

(2) All terrain vehicles are prohibited except those permitted by the Department for special management activities.

(3) The Fig Island shell rings are closed to all public access except organized scientific, management or educational activities permitted by the ~~the~~ Department.

(4) Access to the beach is by foot, bicycle or boat; no horses allowed on the beach. No dogs allowed on the beach. No collection, removal or possession of shells, fossils, driftwood or cultural artifacts is permitted.

(5) Sea Cloud Landing on Ocella Creek and all other designated access points are restricted to non-trailered watercraft.

(6) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow instructions on the pass.

(7) Botany Bay Plantation WMA is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(8) No person may gather, collect, deface, remove, damage, disturb, destroy, or otherwise injure in any manner whatsoever the plants, animals (except lawful hunting), fungi, rocks, minerals, fossils, artifacts, or ecofacts including but not limited to any tree, flower, shrub, fern, moss, charcoal, plant remains, or animal remains. The Department may authorize the collection of certain material upon issuance of a permit as provided in 123-206.

(9) Shorebased fishing, shrimping, and crabbing, is allowed only on the front beach and in designated areas only.

(10) The Department reserves the right to close specific areas as needed for management purposes.

(11) Alcoholic beverages are prohibited on the area.

GG. McBee WMA.

(1) All terrain vehicles are prohibited.

HH. Campbells Crossroads and Angelus Tract.

(1) All terrain vehicles are prohibited.

II. Pee Dee Station WMA.

(1) All terrain vehicles are prohibited.

JJ. Daily use cards are required for all users of Hamilton Ridge WMA, Palachucola WMA, Webb WMA, Tillman Sand Ridge Heritage Preserve, Bonneau Ferry WMA, Bear Island WMA, Donnelley WMA, Great Pee Dee River Heritage Preserve, Belfast WMA, Congaree Bluffs Heritage Preserve, Marsh WMA, Woodbury WMA, Worth Mountain WMA, Liberty Hill WMA and Santee Cooper WMA. Cards must be in possession while on the property and completed cards must be returned daily upon leaving the property.

KK. Liberty Hill WMA

(1) All-terrain vehicles are prohibited.

(2) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for hunts and special events regulated by the Department.

LL. Wateree River HP WMA

(1) All-terrain vehicles are prohibited.

(2) The waterfowl impoundments are closed to all public access from November 1 through February 8, except for scheduled hunts.

(3) The area is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(4) All users, including hunters and anglers must obtain and possess a day use pass upon entering the area and follow instructions on the pass. The completed form must be deposited in the designated container before leaving the area.

(5) Special events may be permitted by the Department.

(6) Horseback riding is prohibited except by special permit.

MM. Lewis Ocean Bay HP WMA

(1) Horseback riding is also allowed during the period January 2 through March 1, subject to the restrictions in Regulation 123-203, Paragraph G, sections (2) through (11).

NN. Turtle Island WMA

(1) No dogs are allowed, except during participation in scheduled hunts, and when physically restrained by a leash or similar device between Sept 1 and March 31.

(2) Primitive camping is restricted to designated areas and will be allowed only between October 16 and March 14.

OO. Pine Island

(1) No dogs are allowed, except when physically restrained by a leash or similar device between Sept 1 and March 31.

Fiscal Impact Statement:

The amendment of Regulations 123-204 will result in limited fiscal impact and will protect the State's natural resources. These regulations will provide protection to imperiled species at critical times including, nesting, hatching, rearing of young, feeding, and stop-over.

Document No. 5263
CLEMSON UNIVERSITY
CHAPTER 27
Statutory Authority: 1976 Code Section 46-13-30

27-1070. Definitions.
27-1071. Registration of Pesticides.
27-1078. Certification and Licensing of Commercial Applicators.
27-1083. Pesticide Application Assurance, Vehicle Identification, Applicator Records Maintenance, and Direct Supervision.
27-1085. Standards for Prevention or Control of Wood-destroying Organisms.

Synopsis:

These proposed changes to the existing pesticide regulations consist of wording corrections, deletions and additions to provide greater clarity to readers, as well as to provide increased efficiencies and improvements in how these regulations are carried out. The Notice of Drafting was published in the *State Register* on September 22, 2023.

Instructions:

Print the regulation as show below. All other items remain unchanged.

Text:

27-1070. Definitions.

A. Director means the Director of the Division of Regulatory and Public Service Programs, Clemson University.

B. Department is the Department of Pesticide Regulation, a department within the Division of Regulatory and Public Service Programs, Clemson University, and the successor to the Department of Fertilizer and Pesticide Control and the Plant Pest Regulatory Service.

C. Business means any person, as defined in the Pesticide Control Act, engaging in activities regulated by the Act for hire or remuneration of any kind, including trade or barter, on the property of another. Business activity includes performing structural pest control activities, as defined below.

D. Performing structural pest control activities includes, but is not limited to, the use of any pesticide in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel or otherwise mitigate any pest or engaging in any other activities intended or claimed to mitigate pests in structures including the installation of devices. Structural pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel, or otherwise mitigate any pest. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a structural pest control activity, provided that no claims are made for the control of pests in the structure.

(2) The application of EPA-registered cleaning agents to the interior of ductwork as part of an ordinary cleaning process is not a structural pest control activity, provided that no claims are made for the control of pests in the structure or in the ductwork.

(3) The installation of animal traps in structures for the control of nuisance vertebrate pests other than commensal rodents (e.g. rats and mice) is not a structural pest control activity.

(4) Making an inspection for or issuing the Official South Carolina Wood Infestation Report, which must be issued by a licensed applicator as detailed below, is a structural pest control activity.

(5) Making pesticide treatment recommendations is a structural pest control activity.

(6) The inspection of a structure for the purposes of rendering an opinion as a consultant or expert regarding structural damage due to insects or other organisms, the adequacy of previous treatment or inspection, or similar issues regulated under these Regulations is not a structural pest control activity.

E. Warranty sales means the sale of renewable or non-renewable warranty coverage or contracts against structural pests, excluding guarantees of accuracy associated with the issuance of the Official S.C. Wood Infestation Report, which are not supported by any treatment or control measures. The re-issuance of warranties in the purchasing company's name following the purchase of one company by another is not a warranty sale, nor is the reinstatement of warranties on previously treated structures.

F. Branch office means any physical location at which business records are maintained separate from the main business office, or, if no records are maintained there, any location which three (3) or more employees utilize as their base of daily activities.

G. Termiticide means any pesticide or treated article intended to protect a structure against subterranean termites. The definition includes baits, all conventional soil-applied termiticides regardless of their mode of action, wood-treatment products such as borates when applied during or after construction, and construction materials impregnated with insecticides and intended to protect the structure from attack. It also includes stainless steel mesh, uniform-size sand or gravel materials, detection devices or other physical barriers for which termite control, termite detection, or termite mitigation claims are made.

H. Pretreat and pretreatment refer to the subterranean termite control treatment performed on a building while it is under construction. This treatment is normally performed in several stages as the building is completed.

(1) For liquid treatments a pretreat is considered to begin on the day that the first application of chemical is made.

(2) For pretreatments performed with bait systems or physical barriers the treatment is considered to have begun when bait or monitoring stations are first installed.

(3) For pretreatments conducted with borate or other wood-treatment products the treatment is considered to have begun at the time the first application to the structure is made.

I. Pesticide use means the distribution, holding for distribution or sale, sale, mixing, loading, transportation, application, or storage of any material for which pesticidal claims are made.

J. Performing public health pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel, or otherwise mitigate any pest of public health significance or engaging in any other activities intended or claimed to mitigate pests of public health significance for compensation or as a government employee on the property of another, including the installation of devices. Public health pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel or otherwise mitigate any pest of public health significance. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a public health pest control activity regulated by this Section.

(2) The installation of animal traps in or around privately-owned structures for the control of vertebrate pests of public health significance (e.g., rats and mice) is not a public health pest control activity regulated by this Section.

(3) The installation of animal traps and the distribution of poisons intended to control rat and mouse populations in or around municipal streets, utilities, and public buildings or in other public areas such as recreational and industrial parks, schools, public hospitals, and similar areas is a public health pest control activity regulated by this Section.

(4) The installation of ultraviolet flying insect traps, air curtains, screens, and similar devices is not a public health pest control activity regulated by this Section unless the devices emit or employ pesticides or public health protection claims are made.

K. Performing turf and ornamental pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned turf or ornamental plantings for compensation or as a government employee on the property of another, including the installation of devices. Turf and ornamental pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or otherwise mitigate any pest of turf or ornamental plantings. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The application of pesticides to ornamental plants in a greenhouse or nursery is not a turf and ornamental pest control activity regulated by this Section.

(2) The installation of irrigation systems and similar devices, including chemigation systems, is not a turf and ornamental pest control activity regulated by this Section.

(3) The application of fertilizers not mixed with pesticides or herbicides is not a turf and ornamental pest control activity regulated by this Section, nor is the spray or broadcast application of grass seed, mulch, or mixtures not containing materials registered as pesticides or for which pesticidal claims are made.

(4) Maintenance activities such as mowing, trimming, watering, and landscaping are not turf and ornamental pest control activities regulated by this Section, even if claims of weed reduction or plant health and growth are made.

L. Performing aquatic pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and impoundments, whether or not they are navigable, for compensation on the property of another or as a government employee, including the installation of devices. Aquatic pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and impoundments, whether or not they are navigable, for compensation on the property of another. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The application of pesticides to ornamental aquatic plants in a greenhouse or nursery is not an aquatic pest control activity regulated under this Section.

(2) The installation of aeration systems and similar devices or the use of mechanical harvesters to remove vegetation is not an aquatic pest control activity regulated under this Section.

(3) The application of fertilizers not mixed with pesticides or herbicides is not an aquatic pest control activity regulated under this Section, nor is the use of dyes to suppress the growth of aquatic vegetation.

(4) The installation of devices to exclude, prevent, destroy, repel or otherwise mitigate aquatic pest animals is not an aquatic pest control activity regulated under this Section.

M. Structure and building mean any edifice to which activities regulated under these regulations are applied or proposed to be applied, including the area underneath and immediately adjacent to the foundation.

N. All pronouns and any variations thereof in these Regulations shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the identity of the person or entity may require.

O. "Inactive license" means a commercial applicator's license or a non-commercial applicator's license which the Department has, after a qualified request from the license holder, placed in that status as per Section 27-1078 O, below.

P. "Continuing Certification Unit" (CCU) is a measure of the educational value of a course of study judged by the Department to be suitable for meeting the recertification requirements of Section 27-1078 N, below.

Q. Performing Right-of-way pest control includes but is not limited to pesticide applicators using or supervising the use of pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

27-1071. Registration of Pesticides.

A. All pesticide products must be registered with the Department for the period in which the products are offered for sale or distribution within the State.

(1) Registrations must be maintained for a period of two (2) years after the last shipment of product into the State in order to support materials remaining in the channels of trade after registration ceases. This requirement includes products distributed in bulk but does not include technical-grade pesticide material used for formulation into other pesticide products or pesticides distributed under an experimental use permit.

(2) Unregistered products must be removed from the retailer's shelves. The Director may, however, allow a reasonable period of time for the retailer to dispose of existing stocks of pesticides after the manufacturer or distributor has ceased to register the product with the State. The method of disposal shall be determined by the Director after appropriate consultations with the affected parties or their representatives.

B. The recipient of a Federal experimental use permit must notify the Director in writing of each experimental use permit issued to them under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for pesticides to be used in the State. The notification must be furnished within thirty (30) days after their receipt of the federal permit. The following information must be provided:

(1) A copy of the label accepted by the U. S. Environmental Protection Agency in connection with the permit. The accepted chemical name(s) of the active ingredients must appear on the label.

(2) A copy of the Experimental Use Permit issued by EPA, including the permit's identification number.

(3) A copy of the EPA letter establishing any relevant temporary tolerances.

(4) The location and acreage of each site within the State where the product will be used and the total amount of the product expected to be applied in the State.

(5) The crops or sites involved and the intended purpose or pest targeted by the applications.

C. The State hereby adopts the same requirements for labeling as established by the U. S. Environmental Protection Agency.

(1) The Department will normally accept a copy of the latest label accepted by the EPA for federal registration of the product, provided the label has been fully corrected with respect to changes requested by the EPA and provided the label is in compliance with the labeling requirements in existence at the time the label is submitted to the Department.

(2) Notwithstanding the above, the existence of Federally-accepted labeling does not obligate the Department to register any product for use in the State.

(3) The Director may refuse to register a product if in his opinion there is insufficient credible evidence regarding the formulation, efficacy, or suitability for use in South Carolina of the product, this also includes structural protection claims related to the use of the product.

(4) Before registering a product for use in South Carolina, the Director may require the submission of data satisfactory to him from the registrant specifically supporting any claims made through labeling or any other media about the efficacy, formulation, structural protection or suitability for use in South Carolina of the product.

27-1078. Certification and Licensing of Commercial Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a commercial applicator.

B. Commercial applicators must demonstrate to the Director the financial responsibility required by law, before the Director may issue a license.

C. Continuous financial responsibility is an on-going responsibility of the commercial applicator, and no commercial applicator may receive, purchase, apply, use, supervise, or conduct other application-related activities without the required financial responsibility in place.

(1) Category 3, 5, and 8 applicators must maintain financial responsibility in the amount of $50,000 with an annual aggregate claims limit of not less than $100,000.00 before performing any pest control activities, including advertising, as specified in Section 27-1085 L, below.

(2) Category 7 applicators must maintain comprehensive general liability financial responsibility of not less than $100,000.00 combined single limit liability coverage, which must include both bodily injury and property damage coverage.

(3) Failure to maintain the requisite financial responsibility in any category shall cause the immediate and automatic suspension of the commercial applicator's license until such time as current financial responsibility is satisfactorily demonstrated to the Director. If the applicator fails to re-instate their financial responsibility within three months, or if their license expires sooner, the license is automatically revoked and must not be restored until the applicator has again completed the certification process, including the exams.

D. The insurance or surety company must be one licensed to do business in South Carolina, and must give at least ten days written notice by certified mail to the Department as a condition precedent to the cancellation by the surety or insurer, material change, or cancellation by the insured.

E. The above notwithstanding, commercial applicators are not relieved from liability for damages to persons or property caused by pesticides applied by or under the supervision of the licensee whether or not such use conforms to the requirements of the product label and the rules and regulations promulgated by the Director.

F. Financial Responsibility may be demonstrated by:

(1) A current public liability and property damage insurance policy and or certificate of insurance (issued by an insurance company). Binders are not acceptable.

(2) A certificate of self-insurance issued by the Workman's Compensation Commission. (Although this certificate is specifically designed to cover workman's compensation claims, the Department considers this certificate an indicator of sufficient assets to cover the liability requirements of the law).

G. All commercial applicators must provide a phone number where the commercial applicator can normally be reached during normal working hours. If this number changes, the Department must be notified within three (3) working days.

H. Persons holding a commercial applicator's license may use restricted use pesticides, but only for work in the specific categories in which the commercial applicator has demonstrated competence. Commercial applicator's licenses will be issued for the following categories of commercial pesticide-application operations:

(1) Agricultural Pest Control (Category 1).

(a) Plant (Category 1A).

(b) Animal (Category 1B).

(c) Stored Product Pest Control (Category 1C).

(d) Soil Fumigation (Category 1D).

(2) Forest Pest Control (Category 2).

(3) Ornamental and Turf Pest Control (Category 3).

(4) Seed treatment (Category 4).

(5) Aquatic Pest Control (Category 5).

(6) Right-of-way Pest Control (Category 6).

(7) Industrial, Institutional, Structural and Health-Related Pest Control (Category 7).

(a) General (Category 7A).

(b) Fumigation (Category 7B).

(8) Public Health Pest Control (Category 8).

(9) Regulatory Pest Control (Category 9).

(10) Demonstration and Research Pest Control (Category 10).

(11) Aerial Applicator (Category 11).

(12) Miscellaneous (Category 12).

(a) Wood Preservative Treatment (Category 12A).

(b) Anti-fouling paint (TBT) Application (Category 12B).

(c) Small Animal Pest Control (Category 12C).

(d) Sewer Line Pest Control (Category 12D).

(e) Limited Herbicide Application (Category 12E).

I. Commercial applicators must accomplish all of the following items below prior to being certified and licensed:

(1) Pass the Core examination, a basic test dealing with the minimum amount of subject matter considered essential to the safe use of restricted use pesticides.

(2) Pass a separate Category examination for each of the practice areas listed above. Note: passing the core exam without passing a category exam does not entitle the applicant to use or supervise the use of Restricted Use pesticides or perform pest control activities in categories for which licensing is required. Similarly, passing a category exam without passing the Core examination does not entitle the applicant to use or supervise the use of Restricted Use pesticides.

(3) Complete an application form published by the Department.

(4) Fees for the examinations, licensing, and for certification in additional categories beyond the initial category of certification shall be as prescribed.

J. Aerial Applicators.

(1) All aerial applicators of pesticides (including transient aircraft pilots) are subject to the same requirements outlined in Section 27-1077 F above. All aerial applicators must be certified and licensed by the Department before applying pesticides by air within the State.

(2) These regulations concerning aerial applicators do not in any way negate the regulations promulgated by the Aeronautics Division of the SC Department of Commerce or its successors.

(3) Aircraft must be secured against theft and tampering in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

(4) Chemicals, use-dilutions, and their containers both on and off the aircraft must be secured in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

K. Commercial applicator licenses shall expire on December 31st of each year.

L. Commercial applicator licenses are renewable annually by re-application to the Director prior to January 1st and payment of the prescribed annual fee. A 25% penalty will be charged for renewal applications filed after January 1st. Reexamination is not required for licenses renewed before April 1st as long as the recertification requirements of Section N, below, and continuous financial responsibility has been maintained as per Section 27-1078 C, above.

M. Commercial applicators holding valid licenses who desire to have a private applicators license may submit the proper application form and the prescribed fee to the Director. A private applicator license will be issued with no additional training required.

N. Recertification periods for commercial applicators are five (5) year periods, beginning January 1st of 1994 and ending on December 31st of 1998, 2003, 2008, and every five (5) years thereafter. During each recertification period after the one in which the license is issued each Commercial Applicator must accumulate no less than the number of Continuing Certification Units (CCUs) specified below for each category in which they are licensed, up to a maximum of 24 CCUs. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license.

(1) All courses of study for which CCUs are requested must be submitted to the Department at least fifteen business days in advance of the date of the training. On-line, correspondence, or other self-study programs must be submitted for approval at least fifteen business days before being offered to participants. Submission of a program to the Department does not guarantee that it will receive CCUs.

(2) CCUs will be awarded as either category-specific or core-competency CCUs. Licensed applicators in categories in which licensing is mandatory must accumulate category-specific CCUs as indicated below before renewing their licenses. Licensed applicators holding certification in more than one category in which licensing is mandatory must accumulate the required number of category-specific CCUs for each mandatory category, up to a maximum of 24, as above.

(3) Once the required number of category-specific CCUs has been accumulated, either core-competency CCUs or additional category-specific CCUs may be used to fulfill the remaining CCU requirements.

(4) The Department will award CCUs based on its evaluation of the content of the course of study.

(5) Applicators certified in Category 7A must accumulate 20 CCUs in each recertification period, no less than 12 of which must be specific to Category 7A.

(6) Applicators certified in Category 7B must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to Category 7B.

(7) Applicators certified in Category 3, 5, or 8 must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to each category.

(8) Applicators certified in other categories must accumulate 10 CCUs in each recertification period.

(9) Applicators may obtain no more than one-half of the total number of required category-specific CCUs and no more than one-half of the core-competency CCUs during the last year of any recertification block. Applicators may “carry over” to the next recertification block any CCUs they obtain in excess of the minimum required, both category-specific and core-competency, during the final year of any recertification block.

O. The Department may at its discretion place a license into an inactive status at the request of the license holder for a period of not more than 5 years. During the inactive period the license holder is relieved of the requirement to show financial responsibility.

(1) Holders of inactive licenses must meet the recertification requirements set forth above, and must renew their licenses annually.

(2) No pesticide use or other activities regulated by this Section may be conducted or supervised using an inactive license.

P. Limited Herbicide Application (Category 12 E).

(1) Treatment of turf and ornamental plantings with a herbicide containing glyphosate as the sole active ingredient with "Caution" as the signal word, when performed as part of terrestrial landscape weed control for compensation on the property of another, requires only a Category 12E Limited Herbicide Application license provided that applications are performed using portable backpack and hand-held compressed-air sprayers, each of which is of no more than 5 gallons total capacity per applicator per site.

(2) Category 12E Limited Herbicide Application license holders may not use any other herbicides, rodenticides, miticides, fumigants, nematicides, insecticides, fungicides, Restricted Use Pesticides, any products with a "Warning" or "Danger" signal word, or products with restrictive label language, except under the direct supervision of a Category 3 or other appropriate license holder. The presence of any rodenticides, miticides, fumigants, nematicides, insecticides, fungicides, Restricted Use Pesticides, any products with a "Warning" or "Danger" signal word, or products with restrictive label language as detailed in Section 27-1075 D above, on a vehicle or in application equipment under the control of a Category 12E Limited Herbicide Application licensee is also a violation of this Section.

(3) Applicators certified in Category 12E Limited Herbicide Application must accumulate 5 Continuing Certification Units in each five-year recertification block.

(4) Persons holding only a Category 12E Limited Herbicide Application certified commercial applicator license may provide direct supervision, in accordance with Section 27-1083D, to unlicensed applicators, but only for applications of herbicides containing glyphosate as the sole active ingredient with "Caution" as the signal word.

(5) Applicators seeking certification in Category 12E Limited Herbicide Application are required to pass a 50 question examination, designed for this specific area of pest control.

(6) All other regulations in this Chapter apply to Category 12E Limited Herbicide Application license except that, where more stringent regulations regarding the certification examination and recertification occur in this Chapter, this Section shall take precedence for those certified in the Category 12E Limited Herbicide Application license.

27-1083. Pesticide Application Assurance, Vehicle Identification, Applicator Records Maintenance, and Direct Supervision.

A. At each customer's request, all licensed commercial and non-commercial pesticide applicators are hereby required to provide the following information:

(1) Structural and general household pest control operations:

(a) Provide all customers at their request with a completed, fully legible, statement with respect to any application of pesticides on property under their ownership or control.

(b) The statement must contain at a minimum the following information:

(1) The name of the company or firm and their address.

(2) The pest or pests to be controlled.

(3) The common chemical name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) The name of responsible licensed applicator.

(c) If pest-control services are being provided under a continuing contract (i.e. monthly, quarterly, or otherwise other than a one-time treatment) for general household insect control other than wood-destroying insects or rats and mice, then more general terms may be used relative to the name of the pest and several alternate chemicals may be listed. In this event all of the above requirements for record maintenance and disclosure must also be complied with.

(2) Aerial applicators.

(a) Provide all customers at their request with a completed fully legible statement with respect to any application of pesticides.

(b) The statement must contain the following information, as a minimum:

(1) Company or firm name and address.

(2) The pest or pests to be controlled, or purpose of the pesticide application.

(3) The chemical or common name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) Name of responsible licensed applicator.

(3) Custom ground applicators. (This group includes commercial agricultural applicators, lawn, golf course, ornamental plant and tree pesticide applicators, mosquito control pesticide applicators, wood preservative applicators, and all other types of commercial and non-commercial pesticide applicators.)

(a) Provide all customers at their request with a completed, fully legible, statement with respect to any application of pesticides.

(b) The statement must contain the following information, as a minimum:

(1) Company or firm name and address.

(2) The pest or pests to be controlled, or purpose of the pesticide application.

(3) The chemical or common name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) Name of responsible licensed applicator.

(4) For non-commercial applicators only, or for commercial applicators making applicators for and under the direct supervision of a governmental entity, the disclosure requirements of the above Sections must be met by announcement or publication of the nature and timing of pesticide applications in the appropriate mass media outlets not less than 24 hours prior to the application.

B. All vehicles used by licensed commercial and non-commercial pesticide applicators to transport pesticides to and from the application site, or used in the actual application of pesticides, must bear an identification symbol, furnished by the Department, on both the right and left sides of the vehicle. All boats used in commercial and non-commercial pesticide applications must bear the same symbol on both the right and the left side of the vessel. Aircraft are identified by their registration number and thus will not be required to bear the State identification symbol.

(1) The symbol must be maintained clean and recognizable from a minimum distance of one-hundred (100) feet.

(2) State identification symbols are not required on every piece of small equipment used by a licensed applicator, nor on every automobile or truck owned by a company, firm, or applicator. Symbols are required only on the actual transport, service and application vehicles.

C. Applicator records maintenance.

(1) Records must be maintained by each company or firm employing licensed commercial or noncommercial pesticide applicators, each licensed commercial applicator if self-employed, and by the employer of each licensed noncommercial applicator, of all pesticides used.

(2) The record must include the quantity of each pesticide used, received, or purchased, the common chemical name of the active ingredient(s) (if available), the brand name and EPA Registration Number, the pest or purpose for which the pesticide was applied, and the date and place of application. It is not necessary to list the pests involved for general household insect control or for general insect control measures in commercial and industrial establishments. In these cases the record may indicate merely "household pests" or "general insect control."

(3) Records of pesticide applications must be maintained by the company, firm, or licensed commercial or noncommercial applicator as detailed below:

(a) For pre-construction termite-control treatments ("pretreats"), including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(b) For post-construction termite-control treatments, including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years from the date of application or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(c) Records of pesticide applications other than termiticides must be maintained for a period of two (2) years from the date of the application.

(4) The Director may request records of all pesticides used by any applicator. This includes application records as well as any records of or related to pesticides purchased or otherwise received by the applicator. The expense of copying or duplicating those records shall be paid by the Department.

D. Direct Supervision: The level of direct supervision required for certain pest control activities will vary according to the nature of the application.

(1) Unless the label of the product being applied requires a licensed applicator on site, Licensed Commercial and non-commercial applicators whose business location is not within the boundaries of the State of South Carolina must have a licensed applicator within 30 (thirty) minutes of the application site by ordinary ground transportation and immediately available by telephone or radio.

(2) For Licensed Commercial and non-commercial applicators whose business location is within the boundaries of the State of South Carolina:

(a) The use of all fumigants will require an applicator holding a valid Commercial Applicators License in Category 7B, Category 1C, or other appropriate category as determined by the Department, to be physically present on site and supervising the application at all times when pesticide is being applied.

(b) The use of any pesticide classified as restricted use by the EPA or the Department, regardless of the signal word, will require the supervising licensed applicator (licensed in the proper category), to be within 30 (thirty) miles by ordinary ground transportation of the application site and immediately accessible by telephone or radio.

(c) For categories of use in which licensing is mandatory, the use of any pesticide which has the signal word "Danger" or "Warning" will require the licensee supervising the application to be within 60 (sixty) miles by ordinary ground transportation of the application site and immediately accessible by telephone or radio.

(d) For categories of use in which licensing is mandatory, the use of any pesticide which has the signal word "Caution" will require the licensee supervising the application to be within 100 (one-hundred) miles by ordinary ground transportation of the application site and immediately available by telephone or radio.

(e) For categories of use in which licensing is mandatory, the use of any pesticide without a signal word will require the licensee supervising the application to be within one hundred (100) miles by ordinary ground transportation of the application site and immediately available by telephone or radio.

(f) For all other structural pest control activities, the DCA or licensee supervising the activity must be within one hundred (100) miles by ordinary ground transportation of the activity site and immediately available by telephone or radio.

27-1085. Standards for Prevention or Control of Wood-destroying Organisms.

A. Every person performing either preventive measures against or control measures for termites and other wood-destroying organisms (both insects and fungi) on the property of another must follow at a minimum the methods and procedures specified in the following codified paragraphs of this regulation.

B. Control measures used must be appropriate for the type of termite or other wood-destroying organisms present.

(1) For other than subterranean termite treatments, if no wood-destroying organism is actually present then this fact and the preventative nature of the proposed treatment must be disclosed to the consumer in writing before the work begins.

(2) Treatment and inspection must be performed in accordance with these regulations and with the terms of the written agreement or contract for as long as the contract is valid.

(3) Copies of the warranty, treatment records, waivers issued, and inspection records must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department.

(4) The presence of Formosan subterranean termites (Coptotermes formosanus Shiraki) must be disclosed when an active infestation has been found in a structure. The documentation provided with any subterranean termite control contract or warranty must specify whether coverage for Formosan subterranean termites is included and the nature of that coverage (i.e. whether coverage is for retreatment only or includes the repair of damages due to the Formosan subterranean termite infestation).

C. Treatment for each property must be made to the entire structure and must meet the standards outlined in these Regulations unless structural or physical characteristics of the property or the stipulations of the property owner or their agent make adherence to these standards unnecessarily difficult or costly. In such cases, an Official Waiver of Standards Form clearly identifying the standard(s) not performed must be executed and acknowledged in writing by the property owner before work begins.

(1) The Waiver form must be the most recent version published by the Department and must be provided by the pest control operator. A signed copy of the waiver must be supplied to the property owner. A signed copy of the waiver must be maintained by the pest control operator for as long as the property is covered by the warranty based on the treatment for which the waiver was issued.

(2) Due to the accessibility of the various construction elements during construction and prior to completion of the buildings, waivers must not be issued during preconstruction treatments unless the applicator has requested and received permission in writing from the Director or his authorized representative. This prohibition does not include those situations that are out of the control of the applicator such as wooden decks added after the completion of the final grade, step down footers, or similar items.

(3) All waivers issued must meet the intent of this Section and must not be used to create an opportunity to sell a treatment using less labor or termiticide.

(a) Multiple structures may be included on the same waiver form only if there is a common authorized agent for or owner of the structures and the same treatment standards are being waived on each building. In this case each structure or building where treatment standards are being waived must be identified on the waiver form.

(b) Where the two conditions identified in paragraph “a” above are not both met, a separate and unique waiver must be properly executed for each structure where treatment standards will not be completed.

(4) Waivers are not required for retreatments performed under an existing contract, booster treatments performed to continue coverage under an existing contract, or partial treatments performed to re-instate a contract that has lapsed for less than one (1) year.

D. The chemicals, methods, and systems permitted in the control of termites or other wood-destroying organisms shall be only those pesticides which are registered in South Carolina for that use. The chemical and control methods must be used in the proper proportions and in the quantities and manner directed on the label or in these Standards.

(1) No application of termiticides may be made for any purpose using a rate or volume lower than that specified in the labeling of the product as accepted in South Carolina.

(2) If the State has accepted the labeling of a termiticide product that allows the structure to be protected by completion of less than a full conventional liquid termiticide treatment as described in these Standards, then only those standards that apply to the treatment actually performed shall be required to be completed.

(a) Excepting the standards noted in Section (3) below, waivers as detailed in Section C above need not be completed for standards not required to be completed by the termiticide label.

(b) This provision only applies to post construction treatments.

(3) For each initial termite-control treatment performed in the State, regardless of the method of control employed or whether the treatment is conducted during construction or as a post-construction treatment, the following Standards detailed in Section 27-1085 G (2) (a), (b), and (c) must be completed or waived if they are appropriate to the structure. These Standards require, respectively, the removal of cellulose debris and other

debris that may interfere with inspection and treatment, the correction of wood-to-ground contact, including expanded-foam insulation materials, and the removal of subterranean termite shelter tubes on both masonry and wooden foundation elements. Section 27-1085 G (2) (g), which requires the installation of at least one square foot of ventilator for every 150 (one-hundred fifty) square feet of crawlspace area, must be completed or waived on post-construction treatments.

(4) Termite control products or devices (e.g., barriers, wood treatments) must be properly registered with the Department before they can be used.

(a) Before a licensed applicator can employ, install, or supervise the use of any termite control product or device not applied to the soil the registrant of that product or device must certify to the Department in writing that the applicator has been properly trained in the product's use and management. Use, installation, or supervision of the use of these products by a licensed applicator for whom certification has not been received by the Department at the time of the installation, use, or supervision is a violation of this Section.

(b) Registrants must not provide materials or devices referenced under this section to an applicator who has not been properly trained.

(c) Wood treatment products registered by the Department as a "standalone" method of subterranean termite prevention during preconstruction must be accompanied by a qualitative presence or absence indicator provided by the registrant of the product.

(5) The Standards referenced in Section (3) above must be completed for all bait and wood-treatment termite-control methods unless an Official Waiver of Standards Form or the equivalent documentation published by the Department is properly executed. This form must be completed and signed by the property owner or their agent before the work begins. The Waiver must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. The termiticide residue requirements referenced in this Section cannot be waived.

(6) All applications of termiticides, including re-treatments and supplemental or "booster" treatments, must be properly recorded on the Record of Termiticide Use form published by the Department or in an alternative manner acceptable to the Department. These record-keeping requirements for termiticide applications apply to bait installations and wood-treatment methods as well as to liquid termiticides. These records must be maintained by the firm as specified in Section 27-1083.C. above, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. Record-keeping requirements do not apply to the installation of devices intended only to monitor or reveal subterranean termite populations.

E. Periodic inspections may be made by Department employees to ensure that all structural pest control activities are performed in compliance with these regulations and the treatment standards. Soil, use-dilution, or other appropriate samples may be drawn during these inspections. The Department shall develop sampling protocols and threshold residue levels for each registered termiticide which reflect the minimum amount of termiticide residue expected to be present within an appropriate period of time after a proper treatment. Termiticide applications which do not meet or exceed these residue levels are in violation of this Section.

F. Discrepancies in treatment procedures found during any inspection, including minor violations as determined by the inspector and identified in writing by the Department, must be corrected within a period of time as specified by the Director, after written notification to the applicator. The Department may base formal enforcement actions on these discrepancies. Failure to correct these discrepancies within the period of time specified may result in additional civil/criminal penalties. Corrections must be made so long as the property is under the ownership of the individuals who initially contracted for the subterranean termite treatment, their heirs

or estate, whether or not the property remains under contract with the applicator at the time the notification is given.

G. Only pesticides properly labeled for subterranean termite control and registered for use in South Carolina shall be used.

(1) Where the Federal labeling accepted in the State requires more thorough treatment (e.g. closer spacing of drill holes or more volume of termiticide) than the treatment standards listed below the Federal labeling shall have precedence. Where the State standards require more thorough treatment the State standards must be followed.

(2) On each initial Subterranean Termite Control Treatment the Pest Control Operator must perform a complete treatment as detailed in these Regulations, except as provided for in Section D (2) above, and must provide the following minimum service:

(a) Remove from crawl spaces all cellulose debris (wood, paper, stumps, cloth, cotton, or other similar materials) and any other debris or rubble which would interfere with effective treatment and inspection. Remove all form boards which are in contact with the soil or are less than eight (8) inches from the soil.

(b) In the structure being treated, all wood contacting the ground must be of the proper grade of treated lumber as specified in the current edition of the appropriate Building Code. Where the proper grade of treated wood is not used in a ground contact situation the ground contact must be broken by setting the affected part of the building on a solid concrete base or other such base which is impervious to termites or must otherwise be altered so that there is no direct contact with the ground. Rigid foam-board insulation of polystyrene insulation or similar materials, including the various synthetic stucco systems, are susceptible to subterranean termite attack and must be treated the same as untreated wood in contact with the ground. These requirements cannot be met solely by treatment of the soil immediately adjacent to and in contact with the untreated wood, rigid-foam insulation, or similar material.

(c) Scrape off all visible and accessible termite shelter tubes, including those on the wood. Because the presence of intact subterranean termite shelter tubes is presumptive evidence of the presence of an active infestation of subterranean termites, all subterranean termite shelter tubes must be removed at the time of the first inspection following the initial treatment. Subterranean termite shelter tubes must also be removed following any retreatment of the structure. Breaking gaps into the shelter tubes is not sufficient to meet this requirement.

(d) For conventional liquid treatments, treat all soil adjacent to foundation walls, pillars, and other supports by forming a narrow trench at the base of each side and flooding it with termiticide in accordance with label directions. Back-fill placed in the trench must also be treated in accordance with the label directions. Where footings are not covered by soil the trench may follow the edge of the footing. The soil around locations where pipes enter the soil must be treated in the same manner as foundation supports. When pipes are covered with insulating material, soil or insulation should be removed so that the insulation stops at the soil and the area should be thoroughly treated as previously described. In no case should termiticide be applied to soil in contact with ventilation ducts.

(e) All cavities and voids within hollow masonry units (except bricks), between courses of masonry units, or within or between construction elements that are in contact with the soil must be drilled at intervals of no more than 16 (sixteen) inches or as prescribed by the product label if the label requires closer spacing of drill holes and treated with termiticide as per the label instructions. Voids must be treated as low as practical. Voids that have been filled with concrete need not be treated but should be test-drilled to verify their condition.

(f) Soil areas beneath attached concrete slabs (earth-fill porches, patios, carports, garages, walkways, etc.) which are less than 18 (eighteen) inches below the sill or plate line of the structure must be treated by one of the following methods:

(1) By cutting access openings and removing soil adjacent to the foundation and below the expansion joint the length of the fill at least six (6) inches deep below the bottom of the slab and six (6) inches wide and applying chemical as specified on the label.

(2) Or by drilling vertically and applying chemical from the top of the slab at not more than twelve (12) inch intervals parallel to and not more than twelve (12) inches away from the foundation wall or expansion joint.

(3) Or by rodding from the side(s) and applying the permitted chemical beneath the slab along the length of the expansion joint ("long-rodding") in a continuous barrier not more than six (6) inches from foundation walls.

(4) Or by drilling from the crawl space or basement side and through the foundation wall immediately beneath the slab at no more than twelve (12) inch intervals and treating the soil beneath the slab.

(5) The void in the double brick perimeter walls of earth-filled and suspended porches must be drilled and treated at intervals of no more than sixteen (16) inches if the superstructure above the porch rests on wooden supports such as posts, columns, railings, or similar elements. If there are no wooden supports the voids in the side walls perpendicular to the main structure must be drilled and treated to a distance of 4 feet from the main structure at intervals of no more than sixteen (16) inches.

(g) Install foundation vents to meet the following requirements:

(1) One square foot of ventilator must be present for each 150 (one-hundred-fifty) square feet of crawl space area.

(2) There must be no "dead ends" or other areas left unventilated.

(h) In the crawl space remove enough soil to give sufficient space between the wooden substructure and the soil for access for visual inspection and for the application of proper control measures. In any case, minimum clearance between untreated wood and soil must be at least eight (8) inches.

(i) In treating structures built on a concrete slab or on the ground (including basements), soil beneath all points of potential termite entry, such as expansion joints, plumbing pipes, and similar areas must be saturated with termiticide by treating from above or by horizontally drilling or rodding at no more than twelve (12) inch intervals, immediately beneath the slab. Treatment from above must consist of vertically drilling the slab no more than twelve (12) inches from the potential point of termite entry. Open bath traps must be treated by cutting an access opening to permit the application of termiticide or by a comparable method.

(j) Inspections must be conducted as per the terms of the warranty or the termiticide label, whichever results in more frequent inspection of the structure.

H. Subterranean Termite Control Pretreatment of Structures.

(1) In new construction treatment, the approved liquid termiticide must be applied in accordance with label instructions to cavities in pillars, tiles, brick or concrete block walls, voids between brick and block walls, or other cavities likely to be penetrated by wood destroying organisms by flooding the voids before they are covered.

(2) Soil surfaces to be covered by slabs must be treated with a liquid termiticide or other approved appropriate technology before the slab is poured. If treatment is not performed before the slab is poured then the slab must be treated as per Section G (2) (f) or G (2) (i), or both if both are applicable, above.

(a) Within ninety (90) days after the transfer of the property to the first deeded owner or notification that the final outside grade has been completed, whichever occurs first, treat the soil that is adjacent to the outside foundation wall with an approved liquid termiticide or approved alternative technology.

(b) If another technology is used to protect the slab, such as barriers or termiticide baits, the alternative technology must be used in strict accordance with the accepted South Carolina labeling for the product. All applicators or installers of alternative technology must be trained and certified as per the requirements of Section D (4) above.

(3) For crawlspace foundations the pretreatment must comply with the provisions of Section D (4) above, except as provided for by the label provisions noted in Section D (3). In addition, all applicable treatment Standards detailed in Section G (2) must be properly completed or waived.

(4) Warranty.

(a) For new single family residential construction the Pest Control Operator (PCO) will provide to the Builder (or the owner, if known at time of treatment) a one year transferrable warranty covering the repair of damage due to subterranean termites and retreatment of the infested portions of the property. The warranty period begins the day the first chemical application is made. The licensed pest-control business must offer to transfer the warranty to the first deeded owner of the property or to any person who purchases the property within five (5) years of the initial treatment date provided that the warranty has remained in effect through each owner of the property. The licensed pest-control business must offer each owner of the property the opportunity to renew the warranty on the same terms and conditions the business offers renewals of the regular termite treatment contracts for the first five (5) years after the initial treatment date. Failure of the homeowner to renew in any one year relieves the business of any future responsibility for renewals, based upon this section. The renewal warranty must at a minimum offer retreatment coverage but may also offer damage-repair coverage, at the option of the business.

(b) The requirement to issue warranty coverage shall not extend to:

(1) Violations of the appropriate Building Code by the builder or the first property owner after the builder which are installed after the completion of the pretreatment.

(2) Structures with rigid foam board insulation material of any kind extending below the exterior grade.

(3) Structures with untreated wood or with inadequately treated wood extending below the exterior grade.

(4) Structures with inadequate ground clearance or other design features which preclude the proper completion of the minimum treatment standards referenced in these Regulations.

(5) Structures to which additional rooms or other features have been added after the completion of the pretreat but without the applicator having the opportunity to treat the additions.

(6) Structures where remodeling or landscaping after the completion of the pretreat has resulted in a degree of soil disturbance that could reasonably be expected to have significantly affected the termite treatment.

(7) Structures with sealed/encapsulated crawlspaces and open/closed cell spray polyurethane foam.

(8) Other situations as determined on a case-by-case basis by the Department's field inspectors. In these cases the Department will provide a written explanation of its determination.

(c) Because of the ease of access to all construction features, waivers may not be issued for treatment standards during pretreats without the express written consent of the Department. If waivers are issued both the waiver and the written memorandum from the Department authorizing the waiving of treatment standards on that specific structure must be delivered to the first property owner after the builder.

(d) The Director may require that deficiencies in pretreatments that cannot be corrected as detailed in Section 27-1085 G 2 above because of the completion of that stage of construction be corrected by the treatment of the structure with another appropriate technology.

I. Control measures are not normally necessary for infestations of wood-destroying organisms which are not capable of reinfesting structural lumber or other properly seasoned wood except as provided below.

(1) Control measures may be performed for non-reinfesting wood-destroying pests at the customer's request. In such cases the applicator shall provide to the customer before the work begins a statement to the effect that the infestation is not capable of re-infesting seasoned lumber and that the treatment is being performed at the customer's request.

(2) Rustic structures and modern log homes may be initially infested with large numbers of buprestid and cerambycid beetles. Control measures may be proposed and performed in these situations even though these insects normally do not re-infest, subject to the identification and disclosure requirements of this Section.

(3) Structural infestations of other wood-destroying organisms will be identified and disclosed as follows:

(a) An infestation of old house borers (Hylotrupes bajulus L.) will be reported by either its scientific name or the common name "old house borer."

(b) Powder post beetles for which control strategies are very similar such as the families Lyctidae, Anobiidae, and Bostrichidae will be reported by either their family names or as "powder post beetles."

(c) The specific cause of damage due to non-reinfesting beetles does not have to be identified. This does not relieve the applicator of the responsibility to disclose that damage when required (as on the Official South Carolina Wood Infestation Report).

(d) Wood-decay fungi and surface molds and mildews may be identified and disclosed as such without further detail.

(e) Drywood termites may be disclosed as such without further detail.

(4) Before treatment is recommended, infestations of other wood-destroying organisms capable of reinfesting structural lumber or seasoned wood must be determined to be active.

(a) The following criteria will be used to determine the activity of these infestations.

(1) Drywood termites: The emergence of live insects inside the structure, the repeated presence of swarmers (alive or dead) inside the structure, or a repeated accumulation of fecal pellets in an area are all reasonable indications of an active infestation of drywood termites. Preventative treatments for these insects are not normally warranted in South Carolina due to the slow rate at which their damage accumulates.

(2) Powder Post Beetles (Anobiidae, Lyctidae, Bostrichidae, and related beetles): The presence of a trail or "stream" of fresh frass (the color of fresh-cut wood) stuck to the wood below emergence holes or piled beneath emergence holes indicates an active infestation of powder post beetles. Emergence holes alone do not indicate activity nor does the presence of old dingy frass in emergence holes, galleries, or protected locations.

(3) Old House Borer: (Hylotrupes bajulus L.). A live adult or larval specimen must be collected from the wood to demonstrate activity of this insect in a structure. Alternatively, the presence of the distinctive larval gnawing noises can be used to establish activity. The presence of ragged oval exit holes or fresh-appearing frass is not sufficient to indicate activity in the absence of specimens or noises.

(b) Treatment: All beetle frass must be removed from treated vertical surfaces during a localized treatment. During a fumigation frass must be removed from at least two readily-accessible areas to allow the determination of the success of the fumigation. If streaming frass is observed during the next season of activity the infestation must be considered to have remained active. Treatments, especially fumigations, may be proposed and conducted only when there is conclusive evidence of an active infestation, or with the specific written consent and acknowledgment of the lack of activity on the part of the property owner or their agent.

J. Moisture Control.

(1) Excessive moisture conditions are present any time wood moisture content readings reach or exceed 20% or standing water is present in the crawlspace or around the foundation. Wood-decay fungi become active, and decay damage occurs, at wood moisture-content levels of 28% and above. Reports of excessive moisture conditions and active decay fungi must follow these guidelines.

(2) Correction of excessive wood moisture levels is normally accomplished by the installation of a polyethylene vapor barrier over the crawlspace soil or the installation of additional foundation vents. Excessive moisture conditions caused by poor drainage and the constant influx of water into the crawlspace soil may require the installation of a sump pump and drain system. The application of fungicidal sprays to the substructure for the control of wood-destroying fungi may not be performed until the physical correction of the excessive moisture conditions has been accomplished. Sump pumps may not be installed without an accompanying drain or trench system sufficient to carry water to the pump.

K. Wood Infestation Report.

(1) Any wood infestation report issued for the purpose of describing the apparent absence of wood-destroying organisms from a building or structure in connection with a sale or mortgage of real property must be issued by an individual currently licensed in Category 7A, Industrial, Institutional, Structural, and Health-Related Pest Control and covered under a valid Pest Control Business License issued by the Department. The report must be signed and dated by the licensed individual and include their applicator and business license number.

(2) The inspection must be reported on the most current Official South Carolina Wood Infestation Report Form as published by the Department. The form for this report shall be furnished by the licensee.

(3) The inspection for the Wood Infestation Report must include at a minimum:

(a) A visual inspection of all accessible portions of the interior and exterior of the structure, including crawlspaces, utility areas, and attics.

(b) Careful sounding and probing of all areas where damage is visible.

(c) Representative wood moisture-content readings around the interior perimeter of the crawlspace and in the accessible portions of the center of the crawlspace.

(d) The determination of the nature and activity of all visible and accessible wood-destroying insect infestations in the structure.

(e) The determination of the nature and cause of all visible and accessible wood-destroying insect damage in the structure.

(f) The determination of the nature and activity of all wood-destroying fungi, including decay damage whether active or not, present in the structure below the level of the first main living-area floor. The first main living-area floor of the house is the first floor above the basement or crawlspace, or the elevated living-area floor in houses raised upon pilings. The phrase "below the level of the first main living-area floor" also includes the substructure below the first main living floor of the house. Decay damage in the upper portions of exterior siding, fascia and trim boards, chimneys, eaves, soffits, and similar areas is beyond the scope of the Wood Infestation Report. Decay damage in the lower portions of exterior doors, door jambs and frames, steps, stairs, porch columns and similar construction elements, however, must be reported.

(4) The Wood Infestation Report is in no way a report of the presence or absence of health-related fungi or conditions conducive to their presence or development in the structure.

(5) The Wood Infestation Report must at a minimum disclose:

(a) All inaccessible parts of the structure.

(b) The apparent presence or absence of all visible insect-related damage in all accessible areas of the structure. The reporting of a "previous infestation" of a particular insect is not sufficient to meet this requirement to report insect damage.

(c) The apparent presence or absence of all visible active and previous wood-destroying insect infestation in all accessible areas of the structure.

(d) The wood moisture-content readings obtained in the substructure, as well as any decay damage, active wood-destroying decay fungi, or excessive moisture conditions in visible and accessible areas below the level of the first main floor. Decay damage must be reported as such.

(e) The specific location and approximate extent of all damages, active infestations, previous infestations, and excessive moisture conditions. These items may be reported as "widespread," "throughout the substructure," or in similar terms only if their extent and occurrence justifies such broad language.

(f) All damage must be reported whether or not it requires or may require repair or further inspection by another professional. Damage remaining in areas that have previously been repaired must also be reported.

(g) If the property described was treated by the issuing company, the wood-destroying organism for the which the treatment was made and the date of the treatment must be disclosed. If an Official Waiver of Standards Form was issued and a signed copy must accompany the Wood Infestation Report.

(6) The Wood Infestation Report is not a warranty against future infestation, nor does it place any obligation for the correction of reported damage or infestation upon the applicator or business issuing the report.

(7) In determining whether an infestation of insects or decay fungi is active in a structure the inspector must use the criteria set forth in Sections I and J, above. Inspectors must fully explain on the reverse of the form the basis for their determination of whether an infestation of insects or decay fungi is or is not active in the structure.

L. Any person performing any of the activities listed below on the property of another must be licensed in the category indicated by the Department or must work under the direct supervision of one so licensed.

(1) Any person performing a structural pest control activity as defined in Section 27-1070 D of these Regulations. Persons performing structural pest control activities in or adjacent to property rented, leased, or otherwise occupied by unrelated persons (in schools, apartment or condominium complexes, hospitals, and similar situations) are not exempt from these requirements.

(2) Any person performing a public health pest control activity as defined in Section 27-1070 J of these Regulations.

(3) Any person performing a turf and ornamental pest control activity as defined in Section 27-1070 K of these Regulations.

(4) Any person performing an aquatic pest control activity as defined in Section 27-1070 L of these Regulations.

(5) Any person applying only a glyphosate herbicide on turf or ornamentals for compensation on the property of another, as defined in Section 27-1078 P.

(6) Any person performing ROW and vegetation management pest control activity as defined in Section 27-1070 J.

M. No main business office where records are kept or branch office must engage in structural pest control activities in the State without first obtaining a Pest Control Business License from the Department.

(1) A Business License will be issued only when the location has appointed a Designated Certified Applicator in charge (DCA). The DCA must be licensed by the Department in Category 7A and permanently assigned to that specific location on a full time basis while the business is operating. The DCA must be present during the normal operation of the business, except for normal sick or annual leave and training days away from the office. No individual may be designated as the DCA for more than one location from which pesticide applications are made.

(a) Application must be made to the department on the Business License application form and must include copies of the proposed DCA's Category 7A applicator's current license and proof of financial responsibility statement.

(b) All applicants must demonstrate to the satisfaction of the Department that the DCA is duly licensed and operates from the applicant's location. Additionally, the DCA must possess either a four-year college degree in the natural sciences or two years of verifiable experience in pest control. The Director may waive the experience requirement upon written application by the business licensee. In appointing a DCA the Director will consider, among other factors, the enforcement histories of the business and the proposed DCA, the record of Continuing Certification Hours, and past examination results.

(c) No business whose business license has been revoked or suspended may circumvent this suspension or revocation by applying for a new "Business License" under another name or in the name of another business. This prohibition exists for the duration of the suspension or revocation period. Sale of the business to a separate party is not prohibited by this section provided it is not an attempt to circumvent appropriate enforcement action against the business.

(d) The annual Business License fee shall be as prescribed. The Business License is valid from January 1st through December 31st unless suspended or revoked.

(e) Changes of material information such as, but not limited to, the name or license status of the certified Category 7A applicator, the financial responsibility status of that applicator, or any change in the location of the facility must be reported to the Department within ten (10) days.

(f) Violations of the South Carolina Pesticide Act that occur as a result of activities generated at or by a location may result in sanctions against the Business License as well as or in lieu of sanctions against the individual licensee. Such sanctions may include penalties up to $1000 (one-thousand dollars) and / or modification, suspension, or revocation of the license. Suspension or revocation of the Business License will be reserved for serious or repeated violations. All suspensions or revocations are subject to a hearing upon request.

(g) For each termite treatment performed, the business licensed to perform structural pest control must record, on the Record of Termiticide Use form published by the Department or in a similar manner acceptable to the Department, at least the following information:

(1) The address of the structure and the nature of the treatment (e.g. pretreat, existing structure, retreatment due to infestation, bait installation).

(2) The applicator making the actual treatment and his license number if he is licensed.

(3) Whether an Official Waiver of Standards was issued.

(4) The brand name, the EPA Registration Number, common chemical name (if available), quantity, and dilution rate of the termiticide applied, if applicable.

(5) The treatment technique (trenching, void treatment, pretreat, bait station installation, wood treatment, etc.)

(6) This information must be maintained by the business as detailed below:

(a) For pre-construction termite-control treatments (“pretreats”), including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(b) For post-construction termite-control treatments, including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of two (2) five (5) years from the date of application or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(h) If a DCA can no longer be present at a business location due to unforeseen circumstances, the business must appoint another applicator licensed in Category 7A and employed by the business to serve as DCA. If no new DCA is appointed within 30 (thirty) days of the departure of the previous DCA the Business License must be surrendered to the Department. The Business may petition the Director in writing for a “hardship” stay of the surrender of the Business License. The duration of the stay will be determined by the Director but in normal circumstances will not extend beyond the next available examination date. No structural pest control activities may be performed during the stay.

(2) Business licenses must be prominently displayed at each location.

(3) Each vehicle which transports pesticides used in structural pest control activities must display the appropriate Department decal, the business license number, and the company name. This information must be in letters one (1) inch in height or greater, on a contrasting background, and placed on each side on the front half and above the mid-line of the vehicle. If a vehicle is used at more than one location, it should bear the business license number of its primary location.

(4) All pest control personnel performing structural pest control activities must carry (not display) on their person an official identification card which demonstrates verifiable training (as designated by the Department) in the area of pest control in which they operate and provides the business and appropriate commercial license number, technician's name, or other pertinent information, as designated by the department. This identification must be presented upon request, and failure to do so shall constitute a violation of this Section. The card shall remain the property of the Department and must be surrendered when the cardholder employment ceases. Office personnel who do not conduct inspections or apply pesticides are not subject to this provision.

(5) Warranty sales are prohibited unless exempted in writing by the Director. This does not preclude a company from reinstating an expired warranty or contract on a structure that it has previously treated.

Fiscal Impact Statement:

None.

Statement of Rationale:

Upon a thorough review of this chapter, changes to address errors in grammar and spelling, as well as providing clarity on uncertain statements need to be made. Additionally, the Right of Way (ROW) category has been moved to mandatory licensing to create consistency in South Carolina with other categories and align the requirement with adjacent states. Adding the requirement of a qualitative detection kit for wood treatment allows Clemson to detect and require correction to substandard subterranean termite treatments during construction. Overall, these changes will increase the accuracy and consistency of these pesticide regulations as they are carried out in South Carolina.

Document No. 5265
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394

61-16. Minimum Standards for Licensing Hospitals and Institutional General Infirmaries.

Synopsis:

Pursuant to S.C. Code Sections 44-7-250 and -260(A)(1), the Department of Health and Environmental Control ("Department") establishes and enforces minimum standards for the licensure, maintenance, and operation of hospitals to ensure the safe and appropriate treatment of persons served in this state. The Department proposes to amend the R.61-16 for consistency with current statutory requirements, update and revise definitions, licensure requirements, staff and training, reporting, disaster management, accommodations for patients, patient care and services, design and construction, fire protection and life safety, and policies and procedures. It contains a section-by-section discussion and justification for the proposed amendments. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department had a Notice of Drafting published in the July 28, 2023, *South Carolina State Register*.

Changes made at the request of the House Regulations and Administrative Procedures Committee by letter dated April 19, 2024:

Section 1202.B – Deleted proposed revisions to Anesthesia Services and reverted back to existing language currently in effect at R.61-16 Section 1212. Amended to reflect correct section numbering/lettering.

Section-by-Section Discussion of Amendments:

Section	Type of Change	Purpose
Entire Regulation	Technical Corrections	Amended to clarify references to "Facilities" includes both Hospitals and Institutional General Infirmaries and references to "Hospitals" includes only hospitals. Amended to remove "DHEC" from references to certain Regulations – "DHEC Regulation 61-25". See, e.g., Section 1501.
Table of Contents	Technical Correction Reorganization	Amended language and sections to reflect technical corrections and reorganization proposed in regulation text.
101.E.1. Definitions. General Hospital.	Revision	Amended to be consistent with changes from 2023 Act No. 20.
101.E.2. Definitions. Specialized Hospital.	Revision	Amended to be consistent with changes from 2023 Act No. 20.
101. Definitions. Privately Owned Educational Institutional Infirmary.	Deletion	Deleted definition.
201. License Requirements. 201.F.	Addition	Added requirement to make payment of all fees prior to issuance of licenses.
201. License Requirements. 201.G.	Revision	Amended to clarify method of fee payment.
201. License Requirements. 201.H.3.	Technical Correction	Amended to delete the language "or replacement".
201. License Requirements. 201.H.4.	Technical Correction	Amended to delete the word "or".
201. License Requirements. 201.H.5.	Technical Correction	Amended to add the word "or".
201. License Requirements. 201.H.6.	Addition/Technical Correction	Added language to clarify an amended license shall be requested for move of a facility.
202. Exemptions to Licensing Standards.	Technical Correction/ Revision	Amended to replace "exemption" with "variance" and to add language to provide clarity regarding variances to licensing standards.

Section	Type of Change	Purpose
New 300. Enforcing Regulations and Enforcement Actions.	Revision/Deletion/ Reorganization	Amended to title section as Enforcing Regulations "and Enforcement Actions." Deleted former 400, Enforcement Actions, and recodified former 401, general, as 304, and former 402, violation classifications, as 305. Deleted former 401.B.
New 400. Policies and Procedures.	Addition/Technical Correction/Reorganization	Amended to create section specifically to address policy and procedures.
New 401. General.	Addition/Technical Correction/Reorganization	Amended to add clarifying language and to recodify the section.
New 402. Quality of Care.	Addition	Added requirements to have quality assessment and performance improvement program.
New 403. Security.	Revision/Reorganization	Reorganized to move previous Section 905 to Section 403, with certain minor amendments. .
502. Control.	Deletion/Revision	Removed language in section and revised to clarify governing body and control requirements.
503. Chief Executive Officer.	Revision	Amended for clarification.
504. Medical Staff Appointment. (II)	Revision/ Reorganization	Amended to remove and clarify language; amended to re-letter the section for consistency; amended to add Section 44-7-266(A) requirement .
505. Nursing Services. (II)	Deletion/Revision/ Reorganization/	Amended to remove and add language for clarification; amended to re-letter the section for consistency.
506. Employees. (II)	Deletion/Revision/ Reorganization/	Amended to remove and add language for clarification; amended to re-letter the section for consistency.
507. Job Orientation and In-Service Training.	Deletion/Reorganization	Amended and reorganized to remove and clarify language.
508. Plans and Training for Fires and Other Internal Emergencies. (II)	Deletion/ Reorganization	Amended to delete this section and move it to Section 2005.
604.A. Volunteer Workers. (II)	Revision	Amended to provide an exception to physical examination requirement for volunteers only administering vaccines.
701. Fire Report.	Deletion/Reorganization	Amended to delete this section and move it to new section 2003.

Section	Type of Change	Purpose
New 701. Incident Reports.	Revision/Reorganization	Amended to remove "accident and/or," and add "s" to end of reports in title; amended to add clarifying language and to recodify to section 701; amended to clarify and add reporting obligations to the Department and establish new timeframes for submitting reports.
New 702. Loss of Essential Services.	Addition	Added new language for reporting losses of essential services.
703. Facility Closure.	Revision	Amended to change lower case "f" in word facility to capital "F;" amended to remove and add language in last paragraph for clarification.
704. Zero Census.	Revision	Amended to change lower case "f" in word facility to capital "F;" amended by adding language to clarify numbers in writing; amended by deleting language.
705. Joint Annual Report.	Revision	Amended to clarify language.
706. Hospital Infections Disclosure Act (HIDA) & Reporting Requirements. (I)	Revision	Amended to clarify language.
New 900. Emergency Preparedness.	Revision	Amended to re-name section to specifically address hazardous events outside those considered a disaster.
New 901. All-Hazards Emergency Operations Plan.	Revision/Technical Correction/Reorganization	Amended to change title of section from Emergency Evacuation; amended to remove and clarify language; amended to add language for clarification; amended to re-letter the section for consistency; added subsection F regarding communication with local emergency agencies.
902. Internal Medical Surge.	Technical Correction/Revision/ Reorganization	Amended to change lower case "f" in word facility to capital "F;" amended to remove and clarify language; amended to add language for clarification; amended to re-letter the section for consistency.
903. External Medical Surge.	Technical Correction/Revision/ Reorganization	Amended to remove and clarify language; amended to add language for clarification;

Section	Type of Change	Purpose
		amended to re-letter this section for consistency.
904. Emergency Call Data. (I)	Deletion	Amended to remove and clarify language.
905. Security.	Technical Correction/Reorganization	Amended to delete this section and move it to Section 403.
1001. Maximum Number of Beds.	Addition	Amended to add language for regarding the Facility's ability to setup beds.
1002. Location of Beds.	Revision	Amended to add language for clarification.
1105. Contents.	Revision/Technical Correction/Reorganization	Amended to remove and clarify language; amended to add language regarding race and ethnicity and for clarification; amended to re-number this section for consistency.
Section 1200. Patient Care and Services.	Revision/Reorganization	Amended Section 1200 to have 1201 addressing basic facility functions and 1202 addressing optional hospital services.
New 1201.A. Pharmaceutical Services.	Revision/Technical Correction/Reorganization	Added pharmaceutical services which incorporates applicable federal Medicare standards; reorganized to delete and relocate some of the provisions in former 1201, Medications, 1204, Pharmacy Services, 1205, Drug Distribution and Control, 1206, Physical Facilities and Storage, and 1207, labeling of medications.
New 1201.B. Radiological Services.	Revision/Technical Correction/Reorganization	Added radiological services which incorporates applicable federal Medicare standards; deleted former 1203, Radiology.
New 1201.C. Laboratory Services.	Revision/Technical Correction/Reorganization	Added laboratory services which incorporates applicable federal Medicare standards; deleted former 1202, Laboratory.
New 1201.D. Emergency Services.	Revision/Technical Correction/Reorganization	Amended to add language regarding hospitals' provision of emergency services, including classification of such services the provision of off-campus emergency services, and address diversion. Reorganized to delete and relocate some of the standards at former 1214, Emergency Services.

Section	Type of Change	Purpose
New 1201.E. Central Supply.	Technical Correction/Reorganization	Amended to relocate former 1208, Central Supply, to Section 1201.E; amended to re-number the section for consistency.
New 1202.A. Surgical Services.	Revision/Technical Correction/Reorganization	Added surgical services which incorporates applicable federal Medicare standards and parts of former 1209, surgery; partially relocated former 1211, Equipment, to 1202.A.2.g; deletes former 1210, facilities, and 1216, dental surgery; amended to add language for clarification; amended to re-letter the section for consistency.
New 1202.B. Anesthesia Services.	Technical Correction/Reorganization	Renumbered/re-lettered the former 1212, Anesthesia.
New 1202.C. Nuclear Medicine Services.	Addition	Added nuclear medicine services which incorporates applicable federal Medicare standards.
New 1202.D. Outpatient Services.	Revision/Technical Correction/Reorganization	Added outpatient services which incorporates applicable federal Medicare standards; deletes former 1213, outpatient services.
New 1202.E. Rehabilitation Services.	Revision/Technical Correction/Reorganization	Added rehabilitation services which incorporates applicable federal Medicare standards; deletes former 1217, physical therapy, and 1218, occupational therapy.
New 1202.F. Psychiatric Services.	Revision/Technical Correction/Reorganization	Added psychiatric services which incorporates applicable federal Medicare standards; relocates former 1219, psychiatric services, to 1202.F.
New 1202.G. Respiratory Care Services.	Addition	Added respiratory care services which incorporates applicable federal Medicare standards.
New 1202.H. Inpatient Dialysis Services.	Revision/Technical Correction/Reorganization	Relocated former 1215, inpatient dialysis services, to 1202.H, and adds language regarding quality of care.
New 1202.I. Chemical and Substance Abuse Treatment Services.	Revision/Technical Correction/Reorganization	Relocated former 1220, chemical and substance abuse treatment services, to 1202.I, and adds language regarding quality of care.
New 1202.J. Pediatric Services.	Revision/Technical Correction/Reorganization	Relocated former 1221, pediatrics, to 1202.J, and adds

Section	Type of Change	Purpose
		language regarding quality of care.
New 1202.K. Cardiovascular Care Services.	Addition	Added requirements for the offering of certain cardiovascular care services.
1801.B.3. General [Infection Control].	Revision	Added World Health Organization's Moments of Hand Hygiene Guidelines as an infection control guideline.
1804. Live Animals.	Revision	Amended to delete and add language regarding service animals in facilities.
1900. Design, Construction, Repairs, Alterations, and Additions.	Revision/Technical Correction	Amended to create new title for section – Design, Construction, Repairs, Alterations, and Additions.
1901. General.	Revision	Amended to delete and add language for clarification.
1902. Codes and Standards.	Revision	Amended to delete and add language for clarification of applicable codes.
1903. Submission of Plans.	Revision/Addition	Amended to delete and add language for clarification of the Department's review of certain construction projects.
1904. Constriction Inspections.	Technical Correction/Revision	Amended to remove inspections and add permits to title; amended to delete and add language for clarification.
1905. Patient Rooms.	Revision	Amended to delete and add language for clarification.
1907. Nurses Station.	Revision	Amended to delete and add language for clarification.
1908. Utility Rooms.	Revision/Addition	Amended to delete and add language for clarification; added provision regarding nourishment rooms.
1909. Temperature and Humidity.	Deletion	Deleted this section as it is covered under mechanical section.
New 2003. Fire Reports.	Revision/reorganization	Amended to add language from former 701, fire report.
New 2004. Fire Safety.	Addition	Added language regarding compliance with adopted codes concerning fire safety.
New 2005. Plans and Training for Fires.	Revision/reorganization	Amended to add language from former 508, plans and training for fires and other internal emergencies, and clarify certain requirements.

Section	Type of Change	Purpose
New 2006. Tests and Inspections.	Addition	Added language regarding testing and maintenance of fire systems.
New 2007. Gases.	Addition	Added language regarding safety precautions for administration of oxygen.
New 2008. Furnishings and Equipment.	Addition	Added language regarding maintenance of furnishings/equipment and fire safety.
Section 2100. Preventive Maintenance of Life Support Equipment.	Revision	Amended for correct grammar/spelling.
Section 2200. General.	Deletion	Deleted section.

Instructions:

Print the regulation as shown above. All other items remain unchanged.

Text:

61-16. Minimum Standards for Licensing Hospitals and Institutional General Infirmaries.

(Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394, 44-37-40, 44-37-50, and 63-7-40)

Table of Contents

SECTION 100
DEFINITIONS

101. Definitions.

For the purpose of these Standards, the following definitions shall apply:

A. Administrator: The individual designated by the governing body or owner who is in charge of and responsible for the administration of the facility.

B. Annual (Annually): A time period that requires an activity to be performed at least every twelve to thirteen (12 to 13) months.

C. Contact Investigation: Procedures that occur when a case of infectious TB is identified, including finding persons (contacts) exposed to the case, testing and evaluation of contacts to identify Latent TB Infection (LTBI) or TB disease, and treatment of these persons, as indicated.

D. Department: The South Carolina Department of Health and Environmental Control.

E. Facility: Hospitals and institutional general infirmaries licensed by the Department, shall be defined and classified as follows:

1. General Hospital: A facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment and care of such persons overnight and provides medical and surgical care of acute illness, injury or infirmity and must provide on-campus emergency services; that may provide obstetrical care; and in which all diagnoses, treatment or care are administered by or performed under the direction of persons currently licensed to practice medicine, surgery, or osteopathy in the State of S.C.

2. Specialized Hospital: A facility which has an organized medical staff, maintains and operates organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment and/or care of such persons overnight and which provides a specialized service for one type of care, and must provide on-campus emergency services; and in which all diagnoses, treatment or care are under the direction of persons currently licensed to practice medicine, surgery, osteopathy in the State of S.C.

3. Institutional General Infirmary: A facility which is established within the jurisdiction of a larger nonmedical institution and which maintains and operates organized facilities and services to accommodate two or more nonrelated students, residents or inmates with illness, injury or infirmity for a period exceeding 24 hours for the diagnosis, treatment and care of such persons and which provides medical, surgical and professional nursing care, and in which all diagnoses, treatment and care are performed under the direction of persons currently licensed to practice medicine and surgery in the State of S.C.

4. Long Term Acute Care Hospital (LTACH): A general hospital which has been classified and certified as a long term acute care hospital designed to provide extended medical and rehabilitative care for patients who are clinically complex and have acute or chronic conditions. In a LTACH patients have an average length of stay of 25 days or more.

5. Critical Access Hospital (CAH): A general hospital designated by the state as such through the Medicare Rural Hospital Flexibility Program, in accordance with 42CFR485 Subpart F.

F. Designee: A physician, dentist, osteopath, podiatrist, physician's assistant, or advanced practice registered nurse who has staff privileges, selected by a prescriber to sign verbal orders for medication or treatment in the prescriber's absence.

G. Dietitian: An individual who is registered by the Commission on Dietetic Registration and currently licensed as a dietitian by the South Carolina Department of Labor, Licensing and Regulation.

H. Existing Facility: A facility which was in operation and/or one which began the construction or renovation of a building, for the purpose of operating the facility, prior to the adoption of these standards. The licensing

standards governing new facilities apply if and when an existing facility is not continuously operated and licensed under these Standards.

I. Health Assessment: An evaluation of the health status of a staff member or volunteer by a physician, other legally authorized healthcare provider, or registered nurse, pursuant to written standing orders and/or protocol approved by a physician's signature.

J. Licensee: The individual, corporation, organization, or public entity that has been issued a license to provide care, treatment, and services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.

K. Live Birth: The complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Heartbeats are to be distinguished from transient cardiac contractions and respirations are to be distinguished from fleeting respiratory efforts or gasps.

L. License: A certificate issued by the Department to the licensee that authorizes the operation of a hospital or institutional general infirmary.

M. Legally Authorized Healthcare Provider: An individual authorized by law and currently licensed in South Carolina to provide specific medical treatments, care, or services to staff members and/or patients, e.g., advanced practice registered nurses, physician assistants.

N. New Facility: A facility which began operation and/or one which began construction or renovation of a building for the purpose of operating the facility after the adoption of these standards.

O. Nurse: A registered nurse, licensed practical nurse, or vocational nurse as those terms are defined by each party state's practice laws.

P. Patient: Any individual who is receiving treatment or services at the facility.

Q. Quarterly: A time period that requires an activity to be performed at least four (4) times a year within intervals ranging from eighty-one to ninety-nine (81 to 99) days.

R. External Medical Surge: Providing medical care services in an area outside of the licensed inpatient hospital building(s). For purposes of External Medical Surge, these locations are called Alternate Care Sites.

S. Internal Medical Surge: An emergency situation when a facility needs to set up and utilize beds beyond its licensed bed capacity in an area within the licensed inpatient facility building(s).

T. Inpatient Dialysis: Dialysis which, because of medical necessity, is furnished to an End-Stage Renal Disease (ESRD) patient on a temporary inpatient basis in a hospital.

U. Emergency Care: The treatment which is usually and customarily available at the respective hospital and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide for the care of a woman in active labor and the infant.

SECTION 200
LICENSE REQUIREMENTS AND FEES

201. License Requirements.

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise or market) as a hospital or institutional general infirmary in South Carolina without first obtaining a license from the Department. Admission of patients or the provision of care, treatment, and/or services to patients prior to the effective date of licensure is a violation of S.C. Code Ann. Section 44-7-260(A) (1976, as amended). (I)

B. A license shall be effective for a period of time specified by the Department.

C. A new facility, or one that has not been continuously licensed under these or prior standards, shall not admit patients until permission is granted by the Department.

D. Hospitals that provide services to patients requiring skilled nursing care must maintain a separate license for the areas where the services are provided.

E. Upon receipt of a written request from the hospital authorities to the Department requesting such certification, any general hospital having a current license to operate may be certified as a suitable facility for the performance of abortions. A hospital shall comply with Chapter 41 of Title 44 of the S.C. Code of Laws. (I)

F. Applicants for a license shall file application under oath on a form and frequency specified by the Department. An application shall be signed/authenticated by the owner, if an individual or partnership; or in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction over it. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in case his address is different from that of the facility; the names of persons in control thereof and such additional information as the Department may require, including affirmative evidence of ability to comply with reasonable standards, rules and regulations as may be lawfully prescribed. No proposed hospital shall be named nor may an existing hospital have its name changed to the same or similar name as a hospital licensed in the State. Applicants shall make payment of all outstanding fees (initial licensure fees, annual licensure fees, inspection fees, construction fees, etc.) prior to the Department’s issuance of a license.

G. Licensing Fees. The initial and annual license fee shall be ten dollars ($10.00) per licensed bed. All fees are non-refundable, and shall be made payable to the Department via a secured portal or specific website.

H. A facility shall request issue of an amended license, by application to the Department prior to any of the following circumstances:

1. Change of ownership by purchase or lease;

2. Change of facility’s name;

3. Addition of beds (an inspection will be required prior to issuance of license);

4. Deletion of beds;

5. Reallocation of types of beds as shown on license; or

6. Relocation of a facility.

202. Variance to Licensing Standards.

A variance is an alternative method that ensures the equivalent level of compliance with the standards in this regulation. The Facility may request a variance to this regulation in a format as determined by the Department. Variances shall be considered on a case-by-case basis by the Department. The Department may revoke issued variances as determined to be appropriate by the Department.

SECTION 300
ENFORCING REGULATIONS AND ENFORCEMENT ACTIONS

301. General.

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

302. Inspections and Investigations.

A. An inspection shall be conducted prior to initial licensing. Inspections shall be conducted as deemed appropriate by the Department. (I)

B. All facilities, proposed facilities, or unlicensed facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by South Carolina Code of Laws. (II)

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 inspector, they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact or effect upon patients as determined by the inspector. (I)

D. A facility or proposed facility found noncompliant with the standards of this regulation shall submit an acceptable plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;

2. The actions taken to prevent recurrences (actual and similar); and

3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the response(s) by the facility or proposed facility, shall be provided to the public upon written request with the redaction of the names of those persons in the report as provided by S.C. Code Ann. Sections 44-7-310 and 44-7-315 (1976, as amended).

F. In accordance with S.C. Code Section 44 7 270, the Department may charge a fee for inspections. The fee for initial and biennial routine inspections shall be four hundred fifty dollars ($450.00) plus ten dollars ($10.00) per licensed bed. The fee for initial unit increase or service modification is two hundred fifty dollars ($250.00) plus ten dollars ($10.00) per licensed bed. The fee for follow up inspections shall be two hundred fifty dollars ($250.00) plus ten dollars ($10.00) per licensed bed.

303. Compliance.

A. A license shall not be issued until the licensee has demonstrated to the Department that the proposed facility is in compliance with the licensing standards. In the event a licensee who already has a facility or activity

licensed by the Department makes application for another facility or activity or increase in licensed capacity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or activity or an amended license to the existing facility. Facilities shall comply with applicable State, Federal, and local laws, codes, and regulations. (II)

B. The license is considered property of the Department and may not be duplicated in such a manner that it cannot be distinguished from the original. (II)

C. Any additions or renovations to an existing facility shall be approved by the Department prior to occupancy.

304. Enforcement Actions.

When the Department determines that a licensee, proposed licensee, or an unlicensed facility owner is in violation of statutory provisions, rules, or regulations relating to the operation of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty and/or deny, suspend, revoke, or refuse to issue or renew a license.

305. 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 and safety of the persons in the facility or a substantial probability that death or serious physical harm could result there from. A physical condition or one (1) 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. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health and safety 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. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation may specify the time within which the violation is required to be corrected. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

D. Violations of §44-7-320(A)(1)(c) of the South Carolina Code of Laws of 1976, as amended, are considered Class I violations.

E. The notations, "(I)" or "(II)" placed within sections of this regulation, indicate those standards are considered Class I or II violations, respectively, if they are not met. Standards not so annotated are considered Class III violations.

F. In arriving at a decision to take enforcement action, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health and safety of the patients; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee's character, such as illegal or illicit activities; overall

conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to statutes and regulations.

G. When a decision is made to impose monetary penalties, the Department may invoke S.C. Code Ann. Section 44-7-320(C) (1976, as amended), to determine the dollar amount or may utilize the following schedule as a guide to determine the dollar amount:

Frequency of Violation of Standard within a 24-month period	**MONETARY PENALTY RANGES**		
	Class I	**Class II**	**Class III**
1st	$ 200-1000	$ 100-500	$ 100
2nd	500-2000	200-1000	100-500
3rd	1000-5000	500-2000	200-1000
4th	5000	1000-5000	500-2000
5th	5000	5000	1000-5000
6th and more	5000	5000	5000

H. In addition to or in lieu of any action taken by the Department affecting the license of any hospital, when it is established that any officer, employee, or member of the hospital medical staff has recklessly violated the provisions of Section 1201.D.1, the Department may require the hospital to pay a civil penalty of up to ten thousand dollars pursuant to 44-7-260(E).

I. Any Department decision involving the issuance, denial, renewal, suspension, or revocation of a license and/or the imposition of monetary penalties where an enforcement action 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 400
POLICIES AND PROCEDURES

401. General. (II)

A. The Facility shall maintain and adhere to written policies and procedures addressing the manner in which the requirements of this regulation shall be met. The Facility shall develop, implement, and enforce policies and procedures. The Facility shall be in full compliance with the policies and procedures. (II)

B. The Facility shall establish a time period for review of all policies and procedures, and such reviews shall be documented and signed by the Chief Executive Officer (or his/her designee(s)). All policies and procedures shall be accessible to Facility staff, printed or electronically, at all times.

402. Quality of Care. (II)

The Facility shall develop, implement, and maintain an effective, ongoing, facility-wide, data-driven quality assessment and performance improvement program. The Facility's governing body shall ensure that the program reflects the complexity of the Facility's organization and services; involves all Facility departments and services (including those services furnished under contract or arrangement); and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors.

403. Security. (II)

In order to ensure the safety and well-being of all patients, staff, and visitors, the Facility's governing body (or its designee) shall conduct an annual risk assessment to identify potential areas or situations that may cause harm or where an incident may occur. Based upon the findings of that assessment, the Facility's governing body (or its designee) shall develop and implement a plan to provide for the appropriate level of security necessary.

SECTION 500
STAFF AND TRAINING

501. General.

Every facility shall be organized, equipped, staffed and administered in order that adequate care may be provided for each person admitted.

502. Control. (II)

The Facility shall have a governing body which is effective in carrying out its responsibilities for the conduct of the Facility. In the absence of an organized governing body, the Facility shall maintain written documentation that identifies the individual or individuals that are legally responsible for the conduct of the Facility's operations.

503. Chief Executive Officer.

The Facility shall appoint a Chief Executive Officer (CEO) who is responsible for the administration of the facility and all its branches and departments. The Facility shall notify the Department of any change in the Chief Executive Officer in writing within twenty-four (24) hours and shall provide the Department the name of the newly-appointed, interim CEO, or other person who is in charge of and responsible for administration of the facility, and the effective date of the appointment.

504. Medical Staff Appointment. (II)

A. The Facility shall have a medical staff organized in accordance with the facility's by-laws and accountable to the governing body including, but not limited to the quality of professional services provided by individuals with clinical privileges. Prior to a physician's initial appointment and periodic reappointment, the governing body shall assure itself that the physician is qualified and competent to practice in their profession. This organized group shall, with the approval of the hospital governing body, adopt bylaws, rules and regulations to govern its operation as an organized medical staff. Facility bylaws shall contain renewal procedures, authority to limit or terminate staff privileges, and appeal procedures. A hospital is prohibited from using economic criteria unrelated to quality of care or professional competency in determining an individual's qualifications for initial or continuing hospital medical staff membership or privileges. (II)

B. To be eligible for membership on a staff an applicant must be licensed to practice in his profession in the State of South Carolina competent in his respective field, worthy in character and in matters of professional ethics, and meet the requirements of the hospital's bylaws. Medical staff membership must be limited to doctors of medicine or osteopathy by the State Board of Medical Examiners, dentists licensed to practice dentistry by the State Board of Dentistry and podiatrists licensed to practice podiatry by the State Board of Podiatry Examiners. No individual is automatically entitled to membership on the medical staff or to the exercise of any clinical privilege merely because he is licensed to practice in any state, because he is a member of any professional organization, because he is certified by any clinical examining board, or because he has clinical privileges or staff membership at another Facility without meeting the criteria for membership established by the governing body of the respective Facility.

C. The medical staff, either as a whole or on a department or clinical service basis, shall meet at a frequency as determined by the Facility's policies and procedures to review and analyze their clinical experience. Written

minutes of such meetings shall be recorded and filed. There shall be mechanisms in place for monitoring and evaluation of the quality of patient care services, for improving services, and for evaluation of the effectiveness of improvement efforts.

D. The governing body may establish categories for membership in the medical staff. These categories for membership shall be identified and defined in the medical staff by-laws, rules, or regulations.

E. In hospitals maintaining organized departments or services, the medical staff shall elect periodically a chief of staff and staff members to be the responsible heads or chiefs for each department or service, subject to the approval of the governing body. Minutes of all department or service meetings shall be recorded and filed.

F. In compliance with such rules for professional services of resident physicians as the medical staff prescribes, the medical staff shall supervise resident physicians in the diagnosis and treatment of all patients and in the performance of any other professional duties and shall recommend them for approval or disapproval to the governing body and chief executive officer. (II)

G. All persons admitted to any facility covered by these Standards must be under the care of a person licensed to practice medicine, dentistry or osteopathy. Patients of podiatrists and dentists who are members of the medical staff of a Facility must be co-admitted by a doctor of medicine or osteopathy who is a member of the medical staff of the Facility who shall be responsible for the general medical care of the patient. Oral surgeons who have successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accredited body approved by the U.S. Department of Education may admit patients without the requirement of co-admission if permitted by the bylaws of the Facility and medical staff. (I)

H. All Facilities shall have a licensed physician available on call at all times. (I)

505. Nursing Services. (II)

A. Nursing Services shall be organized and staffed at all times to provide safe, appropriate, and individualized care to each patient. The authority, responsibility and function of all patient care providers shall be clearly defined by written Facility policy and position descriptions.

B. The Facility must have an organized nursing service that provides 24-hour nursing services. This service must be under the direction of a Chief Nursing Officer (CNO), who is a registered nurse. A registered nurse shall be designated in writing to act in the absence of the CNO.

C. There shall be a sufficient number of duly licensed registered nurses on duty at all times provide nursing care to meet the needs of the patient population for all areas where nursing care is provided. A registered nurse must be on duty at all times.

D. Facility personnel may be employed to assist the registered nurse in providing nursing care. Licensed practical nurses and all other workers who are employed by a facility in nursing services shall be assigned based on their education, training, and competency.

E. All personnel who render nursing care services in the Facility shall be under the supervision of nursing leadership and shall be subject to all policies and procedures of the facility.

F. All nurses employed in a nursing role in a facility shall be currently licensed to practice in South Carolina or pursuant to the Nurse Licensure Compact.

506. Employees. (II)

A. The Chief Executive Officer shall designate an individual to conduct Human Resources Management within the organization. That individual, and other individuals as needed, shall have responsibility for hiring, personnel management, compensation and benefits, and maintenance of accurate and complete personnel records.

B. The facility shall develop and make available to the employee a written job description for each type of job in the facility. Each job description shall include a written description of the education, experience, license, certification, or other qualifications required for the position.

C. The Facility personnel records shall contain, at a minimum, the following:

1. For clinical personnel, information sufficient to verify the employee's qualifications for the job for which that individual is employed. That information includes, but is not limited to: employee's education, professional certification or licensure status, other training, experience and indication of clinical competence.

2. For non-clinical personnel, information regarding the employee's education, training, experience and professional competence sufficient to verify the employee's qualifications for the job for which that individual is employed. Such information shall be kept current.

3. Records of pre-employment health assessment as described in Section 602.

D. The Facility must have a written procedure to ensure that nursing personnel, for whom licensure is required, have valid and current licensure.

507. Job Orientation and In-Service Training.

A. Orientation of all new personnel shall be structured to educate them about the organization and environment of the facility, the employees' specific duties and responsibilities, and patients' needs.

B. In-service training programs shall be planned and provided for all personnel to ensure and maintain their understanding of their duties and responsibilities. Records shall be maintained to reflect program content and individuals attending.

C. Either as a component of orientation or in a separate session, all new employees who will have contact with patients or who will handle or potentially handle blood, body fluids or tissue must receive general education regarding infection prevention and control within the hospital.

D. Each employee shall be familiar with the Facility's emergency disaster plan and fire response plans. The hospital must ensure at orientation and annually thereafter that employees receive training regarding emergency management, including surge policies and procedures and events that would indicate a need to implement surge policies and procedures, and fire response.

SECTION 600
EMPLOYEE HEALTH (II)

601. Employee Health Program.

A hospital shall provide an employee health program to support a safe, healthy workplace by providing timely and quality health assessments, prevention services and if needed, intervention strategies. In order to minimize the possibility of contamination and transfer of infection, the employee health program shall include the establishment of policies and monitoring procedures to ensure that all employees are free from communicable infections and open skin lesions.

602. New Employees.

A. To ensure that every person accepted for employment is medically capable of performing the required job duties, a new employee shall be required to satisfactorily pass a health assessment conducted prior to direct patient contact by one of the following:

1. Medical Doctor or Doctor of Osteopathy;

2. Physician Assistant;

3. Nurse Practitioner; or

4. Registered nurse, pursuant to standing orders approved by a physician as required by hospital policy by the physician. The standing orders must be reviewed annually, with a copy maintained at the facility.

B. The health assessment must ensure that all potential hospital employees are evaluated for conditions related to infectious diseases that may have an impact on patient care, the employee, or other healthcare workers. Based upon recommendations of the CDC's Advisory Committee on Immunization Practices (ACIP) for immunization of healthcare personnel, as listed in the CDC Guideline for infection control in healthcare personnel (1998) and as amended, this evaluation must include:

1. Medical history, including immunization status and assessment for conditions that may predispose the person to acquiring or transmitting communicable diseases;

2. Tuberculosis screening, which is performed in a manner prescribed in the CDC and the Department's most current tuberculosis guidelines; and

3. Serologic screening for vaccine-preventable diseases, as deemed appropriate by the hospital.

C. The hospital must provide evidence of education of employees about influenza vaccination and must offer the influenza vaccine to these persons.

D. Employee health programs must provide evidence of ongoing review and monitoring of both CDC and the Department recommendations and updates and methods for revising the programs as needed.

603. Employee Records.

A. All employee health records, including any medical history, shall be retained in a separate and confidential file in Employee Health. Access to these records will be permitted only to those authorized through hospital policy.

B. The hospital shall have policies and procedures for the maintenance and destruction of employee health records after employment has been terminated.

604. Volunteer Workers. (II)

A. All volunteer workers who handle food or provide patient care shall have a physical examination prior to their initial food handling or patient care activity. If a volunteer worker's patient care responsibility is limited to only administering vaccinations, then the facility does not need to have a physical examination of that volunteer worker.

B. For patient care volunteers, the tuberculin testing and treatment program described in Section 602.B also applies.

SECTION 700
REPORTING (II)

701. Incident Reports.

A. The Facility shall document every incident, and include an incident review, investigation, and evaluation as well as corrective action taken, if any. The Facility shall retain all documented incidents reported pursuant to this section for three (3) years following the incident. For the first year following the incident, these records shall be kept on site and readily available at that Facility.

B. The Facility shall report the following types of incidents to the Department and the patient, patient's responsible party, sponsor, or emergency contact within twenty-four (24) hours or by the next regular business day from when the facility had reasonable cause to believe an incident occurred. The Facility shall notify the Department via the Department's electronic reporting system or as otherwise determined by the Department. Initial reports to the Department are intended to collect basic information as may be known at the time about the incident to include, at a minimum, the location of the incident, the type of incident, the date the incident is believed to have occurred or the date the report was filed, the number of residents, clients or patients injured by the incident, as well as contact information for the individual making the report. If the Facility does not have all the information requested, it shall provide a partial report with the information available to the Facility. The following types of incidents require an initial report to the Department as specified in this section:

1. Surgery or other invasive procedure performed on the wrong patient.

2. Surgery or other invasive procedure performed on the wrong site.

3. Wrong surgical or other invasive procedure performed on a patient.

4. Patient death or serious injury associated with patient elopement (disappearance).

5. Patient suicide, attempted suicide, or self-harm that results in serious injury, while being cared for in a healthcare setting.

6. Any incident in which systems designated for oxygen or other gas to be delivered to a patient contain no gas, the wrong gas, or are contaminated by toxic substances.

7. Patient death or serious injury associated with the use of restraints or bedrails while being cared for in a healthcare setting.

8. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider.

9. Abduction of any patient of any age.

C. In addition to the initial report as may be required by Subsection (B), Facilities shall submit a separate written investigation report for the following types of incidents within seven (7) business days from when the facility had reasonable cause to believe an incident occurred via the Department's electronic reporting system or as otherwise determined by the Department. Investigation reports submitted to the Department shall contain at a minimum: facility name, patient age and sex, date of incident, location, witness names, extent and type of injury and how treated, *e.g.*, hospitalization, identified cause of incident, internal investigation results if cause

unknown, identity of other agencies notified of incident and the date of the report. The following types of incidents require a written investigation report to the Department as specified in this section:

1. Surgical or Invasive Procedure Events.

a. Surgery or other invasive procedure performed on the wrong site;

b. Surgery or other invasive procedure performed on the wrong patient;

c. Wrong surgical or other invasive procedure performed on a patient;

d. Unintended retention of a foreign object in a patient after surgery or other invasive procedure; and

e. Intraoperative or immediately postoperative/post procedure death in an American Society of Anesthesiologists (ASA) Class 1 patient.

2. Product or Device Events.

a. Patient death or serious injury associated with the use of contaminated drugs, devices, or biologics provided by the healthcare setting.

b. Patient death or serious injury associated with the use or function of a device in patient care, in which the device is used or functions other than as intended; and

c. Patient death or serious injury associated with intravascular air embolism that occurs while being cared for in a healthcare setting.

3. Patient Protection Events.

a. Discharge or release of a patient of any age, who is unable to make decisions, to other than an authorized person;

b. Patient death or serious injury associated with patient elopement (disappearance); and

c. Patient suicide, attempted suicide, or self-harm that results in serious injury, while being cared for in a healthcare setting.

4. Care Management Events.

a. Patient death or serious injury associated with a medication error (e.g., errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);

b. Patient death or serious injury associated with unsafe administration of blood products;

c. Maternal death or serious injury associated with labor or delivery in a low-risk pregnancy while being cared for in a healthcare setting;

d. Death or serious injury of a neonate associated with labor or delivery in a low-risk pregnancy;

e. Patient death or serious injury associated with a fall while being cared for in a healthcare setting;

f. Any Stage 3, Stage 4, and unstageable pressure ulcers acquired after admission/presentation to a healthcare setting;

g. Artificial insemination with the wrong donor sperm or wrong egg;

h. Patient death or serious injury resulting from the irretrievable loss of an irreplaceable biological specimen; and

i. Patient death or serious injury resulting from failure to follow up or communicate laboratory, pathology, or radiology test results.

5. Environmental Events.

a. Patient or staff death or serious injury associated with an electric shock in the course of a patient care process in a healthcare setting;

b. Any incident in which systems designated for oxygen or other gas to be delivered to a patient contains no gas, the wrong gas, or are contaminated by toxic substances;

c. Patient or staff death or serious injury associated with a burn incurred from any source in the course of a patient care process in a healthcare setting; and

d. Patient death or serious injury associated with the use of physical restraints or bedrails while being cared for in a healthcare setting.

6. Radiologic Events.

a. Death or serious injury of a patient or staff associated with the introduction of a metallic object into the MRI area.

7. Potential Criminal Events.

a. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider;

b. Abduction of a patient of any age;

c. Sexual abuse/assault on a patient or staff member within or on the grounds of a healthcare setting; and

d. Death or serious injury of a patient or staff member resulting from a physical assault (i.e., battery) that occurs within or on the grounds of a healthcare setting.

702. Loss of Essential Services.

Should a facility experience a loss of an essential service such as cooling, potable water, or electrical power, the facility shall notify the Department by email to HQEP@dhec.sc.gov or other email address prescribed by the Department after ensuring the safety of the patients, but not to exceed twenty-four (24) hours from the loss of service.

703. Facility Closure.

A. Prior to the permanent closure of a facility, the Department shall be notified in writing of the intent to close and the effective closure date. Within 10 days of the closure, the facility shall notify the Department of the

provisions for the maintenance of the records, the identification of displaced patients, the relocated site, and the dates and amounts of patient refunds. On the date of closure, the license shall be returned to Department.

B. In instances where a facility temporarily closes, the Department shall be given written notice within a reasonable time in advance of closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the location where the patients have been/will be transferred, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards of the facility prior to its reopening. If the facility is closed for a period longer than one year, and there is a desire to re-open, the facility shall be subject to all licensing requirements prior to reopening, including construction-related requirements for a new facility.

704. Zero Census.

In instances when there have been no patients in a facility for any reason for a period of ninety (90) calendar days or more, the Facility shall notify the Department in writing that there have been no admissions, no later than the hundredth (100^{th}) day following the date of departure of the last active patient. At the time of that notification, the Department shall consider, upon appropriate review of the situation, the necessity of inspecting the Facility prior to any new and/or re-admissions to the Facility. If the Facility has no patients for a period longer than one year, and there is a desire to admit a patient, the Facility shall be subject to all licensing requirements prior to admission of a patient, including construction-related requirements for a new facility.

705. Joint Annual Report.

The Facility shall submit a "Joint Annual Report" as specified by the Department.

706. Hospital Infections Disclosure Act (HIDA) & Reporting Requirements. (I)

The Facility shall collect data and submit reports to the Department on hospital acquired infection rates and methods and adequacy of selected infection control process pursuant to S.C. Code of Laws Sections 44-7-2410 through 44-7-2460.

SECTION 800
REQUIREMENTS OF THE LEWIS BLACKMAN ACT (I)

801. Compliance.

In order to be in compliance with The Lewis Blackman Hospital Patient Safety Act, hospitals are required to:

A. Identify all clinical staff, clinical trainees, medical students, interns, and resident physicians as such with identification badges that include their names, their departments, and their job or trainee titles.

B. Institute a procedure whereby a patient may request that a nurse call his or her attending physician regarding the patient's personal medical care.

C. If the patient is able to communicate with and desires to call his or her attending physician or designee, upon the patient's request, the nurse must provide the patient with the telephone number and assist the patient in placing the call.

D. Provide a mechanism, available at all times, and the method for accessing it, through which a patient may access prompt assistance for the resolution of the patient's personal medical care concerns.

E. Establish procedures for the implementation of the mechanism providing for initiation of contact with administrative or supervisory clinical staff who shall promptly assess the urgent patient care concern and cause the patient care concern to be addressed.

F. Provide to each patient prior to, or at the time of the patient's admission to the hospital for inpatient care or outpatient surgery, written information describing the general role of clinical trainees, medical students, interns, and resident physicians in patient care.

SECTION 900
EMERGENCY PREPAREDNESS

901. All-Hazards Emergency Operations Plan. (II)

A. All facilities shall develop, implement, and maintain a written all-hazards emergency operations plan for actions to be taken in the event of a disaster and/or emergency evacuation. Additionally, in instances where there are applications for increases in licensed bed capacity or a change in ownership, the emergency plan shall be updated to reflect the proposed new total licensed bed capacity and/or change in ownership. The Facility shall review the plan at least annually.

B. The all-hazards emergency operations plan shall include, but not be limited to:

1. A sheltering plan to include:

a. Name, address, and phone number of the sheltering facility(ies) to which patients will be relocated during a disaster; and

b. A letter of agreement signed by an authorized representative of each sheltering facility, which shall include: the number of relocated patients that can be accommodated; sleeping, feeding, and medication plans for the relocated patients; and provisions for accommodating relocated staff members. The letter shall be updated with the sheltering facility at least every three (3) years and whenever significant changes occur. For those facilities located in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper counties, at least one (1) sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include letter of agreement signed by an authorized representative with each entity for relocating patients, which addresses:

a. The relocation needs of the patients and staff contingent upon the type of disaster/emergency confronted;

b. Procedures for providing appropriate medical support, food, water and medications during relocation based on the needs and number of the patients; and

c. Estimated time to accomplish the relocation during normal conditions.

3. A staffing plan for the relocated patients, to include:

a. How care will be provided to the relocated patients, including facility staff members that will accompany patients who are relocated;

b. Prearranged transportation arrangements to ensure staff members are relocated to the sheltering facility; and

c. Co-signed statement by an authorized representative of the sheltering facility if staffing, bedding, or medical supplies that are to be provided by the sheltering facility.

C. The Facility shall maintain written acknowledgement from the local county emergency management agency of such agency's receipt of the Facility's all-hazards emergency operations plan.

D. Facilities annually, prior to June 1st of each year, shall:

1. Validate/provide the information required by the Department's Critical Data Sheet (CDS); and

2. Submit a shelter-in-place plan in a format determined by the Department, if the Facility may seek to shelter-in-place during an emergency evacuation.

E. Within 30 days prior to the renewal of its license, the facility shall provide the information required for the Department's Emergency Evacuation Plan Summary. Submission of this information will be in a format determined by the Department.

F. Each Facility shall maintain a means of primary and secondary communication with their local county emergency management agency that is capable of transmitting information and/or data during periods when normal communication systems are inoperable. The Facility shall also maintain a back-up system. Both systems shall be tested periodically.

902. Internal Medical Surge.

A. A facility desiring to activate internal medical surge and temporarily admit patients in excess of licensed bed capacity due to an emergency shall provide written notification to the Department upon prescribed forms that include the following information:

1. A description of the emergency situation;

2. An outline of the maximum number of patients to be admitted;

3. An anticipated date of discharge of the patients; and

4. A description of how and where the patients will be housed.

B. The Facility must notify the Department in writing when the Facility has deactivated its internal medical surge and its patient census has returned to within the Facility's licensed bed capacity.

C. If the event occurs after normal business hours, the Department must be contacted promptly during the next business day.

D. Other issues, such as staffing for the care of the temporary patients, physicians' orders, additional food for the temporary patients and handling of medications, shall be resolved ahead of time by memorandum of agreements, internal policies and procedures, and emergency planning documents.

903. External Medical Surge.

A. Some emergency situations might overwhelm a Facility's plans for Internal Medical Surge or render the licensed inpatient hospital building(s) unusable. In such situations, a Facility may activate External Medical Surge and operate an Alternate Care Site (ACS) under the authority of its license during an emergency situation such as a mass casualty event or Facility evacuation. To activate an ACS, the Facility's census must be projected

to surge beyond its planned Internal Medical Surge capacity or the Facility's main building, or a portion of the building, must be rendered unusable.

B. If a Facility desires to be approved to operate an ACS, the Facility shall:

1. Conduct an assessment of the proposed ACS location utilizing the Department's Alternate Care Site Preliminary Assessment Form. Every ACS shall be planned, designed, and equipped to provide adequate accommodations for the care, safety, and treatment of each patient. Buildings selected for ACS should comply with the local building codes and ordinances applicable to the buildings' original intended use. It is the Facility's responsibility to use the assessment process to assure that an ACS building is in compliance with local codes and has the structural soundness and capacity to provide patient treatment contemplated by the Facility.

2. Once a location has been identified, the Department will meet with Facility staff to discuss the details of the ACS. When appropriate, the Department will send written confirmation that the location has been approved for future use as an ACS. The location will retain its status as an ACS unless modifications are made to the site. Modifications that might affect the use of an ACS include, but are not limited to, renovations, construction, demolition, or change of ownership. Any modifications to the site should be reported in writing to the Department.

C. Prior to activating an Alternate Care Site, the Facility shall do the following:

1. Have prior approval of the ACS from the Department as described in Section 903.B; and

2. Provide the following information to the Department:

a. Describe the emergency situation;

b. Explain why activating Internal Medical Surge will not address the situation;

c. Identify the ACS;

d. Outline the maximum number of patients to be treated at the ACS; and

e. Provide an anticipated date for discontinuance of the ACS.

D. After the emergency situation is over, the Facility must notify the Department in writing when the ACS is being deactivated.

E. Other issues such as staffing, food service, equipment requirements, medication management, medical records, and physicians' orders shall be resolved prior to activation by memorandum of agreements, internal policies and procedures, and emergency planning documents.

904. Emergency Call Data. (I)

Emergency call information shall be immediately available to personnel on each unit when needed. Emergency call data shall include at least the following information:

A. Non emergency telephone numbers of fire and police departments;

B. Name, address, and telephone number of all personnel to be called in case of fire or emergency;

C. Name, address, and telephone number of physician on call;

D. Name, address, and telephone number of supervisory personnel when on call; and

E. Address and telephone number of a poison control center.

SECTION 1000
ACCOMMODATIONS FOR PATIENTS (II)

1001. Maximum Number of Beds.

A. No facility shall have set up or in use at any time more beds than the number stated on the face of the license except in cases of justified emergencies. The following categories of beds are not chargeable to the licensed number:

1. Labor room;

2. Newborn nursery;

3. Recovery room;

4. Emergency room treatment;

5. Classroom use only.

B. Neonatal special care beds will be shown on the face of the license in addition to the licensed bed capacity.

C. The Facility shall have the capability to set up the number of beds stated on the face of its license.

1002. Location of Beds.

A. In semi-private and multi-bed rooms there shall be curtains or other means of providing privacy that completely shield the patient.

B. Beds, gurneys, recliners, chairs or other similar furniture shall not be placed in corridors, solaria or other locations not designed as patient room areas except in cases of justified emergencies.

SECTION 1100
MEDICAL RECORDS (II)

1101. Physician's Responsibility.

It shall be the responsibility of each physician to complete and authenticate the medical record within a stipulated time after discharge, not to exceed 30 days after discharge.

1102. Organization.

The responsibility for supervision, filing, indexing, maintenance and storage of medical records shall be assigned to a responsible employee of the hospital who has had training in this field.

1103. Indexing.

Medical records shall be properly indexed, organized, filed and ready for access by members of the staff.

1104. Ownership.

Medical records of patients are the property of the organization and must not be released from the hospital's authority or control except by court order.

1105. Contents.

A. Each entry in the medical records must be legible, dated, timed and signed/authenticated by the clinician or designee that created the entry. A medical record must be created for all patients admitted to the hospital and newborns delivered in the hospital. Initials will be accepted provided such initials can be readily identified within the medical record. A minimum medical record shall include the following information:

1. An admission record must be prepared for each patient and must contain the following information, when obtainable: Name; address, including county; age; date of birth; sex; marital status; religion; race and ethnicity; health insurance number; provisional diagnosis; case number; days of care; social security number; name and telephone number of person or persons to be notified in the event of emergency; name of referring physician; name of attending physician; date and hour of admission;

2. History and physical within 48 hours after admission;

3. Provisional or working diagnosis;

4. Pre-operative diagnosis;

5. Plan of care;

6. Complete surgical record, if any, including technique of operation and findings, statement of tissue and organs removed and post-operative diagnosis;

7. Report of anesthesia;

8. Nurses' notes;

9. Progress notes;

10. Gross pathological findings and microscopic, if applicable;

11. Vital signs and other measurements appropriate to patient;

12. Medication Administration Record or similar document for recording of medications, treatments and other pertinent data. This record shall be signed/authenticated after each medication administered or treatment is rendered;

13. Final diagnosis and discharge summary, including date and time of discharge;

14. In case of death, cause and autopsy findings, if autopsy is performed, unless the death becomes subject to review by the coroner's office, and;

15. Special examinations, if any, e.g., consultations, clinical laboratory, x-ray and other examinations.

B. Contingent upon the availability of pertinent information in the perinatal records of the mother, newborn records should include the following:

1. History of hereditary conditions in mother's and/or father's family;

2. First day of the last menstrual period (L.M.P.) and estimated day of confinement (E.D.C.);

3. Mother's blood group and RH type - evidence of sensitization and/or immunization (such as, administration of anti-D hyperimmune globulin);

4. Serological test including dates performed for syphilis, HIV, Rubella, and Hepatitis B, results of any other tests performed during pregnancy (e.g., Group B Strep, Chlamydia, Gonorrhea, Herpes);

5. Maternal disease (e.g., diabetes, hypertension, pre-eclampsia, infections);

6. Drugs taken during pregnancy, labor and delivery;

7. Results of measurements of fetal maturity and well-being (e.g., lung maturity and ultrasonography);

8. Duration of ruptured membranes and labor, including length of second stage;

9. Method of delivery, including indications for operative or instrumental interference;

10. Complications of labor and delivery (e.g., hemorrhage or evidence of fetal distress), including a representative strip of the fetal ECG if recorded;

11. Description of placenta at delivery, including number of umbilical vessels;

12. Estimated amount and description of amniotic fluid;

13. Apgar scores at one and five minutes of age. Description of resuscitations, if required, detailed description of abnormalities and problems occurring from birth until transfer to the special nursery or the referral facility;

14. Results and date specimen was collected for neonatal testing to detect inborn metabolic errors and hemoglobinopathies, including PKU, hypothyroidism and various other metabolic disorders. Exception: Parents may object because of religious grounds only, and in writing using a form promulgated by the Department; and

15. Results and dates of pulse oximetry screening and/or follow up of evaluation for critical congenital heart defects.

Exception: Parents may object only in writing to the screening for reason pertaining to religious beliefs.

C. When restraints are utilized, there must be an order to include length of time to be used and signed/ authenticated by the legally authorized healthcare provider approving use of restraint or seclusion either at the time they are applied to a patient, or in case of emergency, within 24 hours after they have been applied. Each procedure manual shall contain information and instructions on the specific types of safety precautions that may or may not be used.

1106. Orders for Medication and Treatment.

All medical records shall contain the necessary consent forms for the treatment provided, along with orders for medication and treatment, signed/authenticated and dated by the prescriber or his designee. All orders, including verbal orders, shall be properly recorded in the medical record, dated and signed/authenticated by the prescriber within 30 days.

1107. Storage.

A. Provisions shall be made by the hospital for the storage of medical records in an environment which will prevent unauthorized access and deterioration. The records shall be treated as confidential and shall not be disposed of before 10 years. Records may be destroyed after 10 years provided that:

1. Records of minors must be retained until after the expiration of the period of election following achievement of majority as prescribed by statute; and

2. The hospital retains a register, either electronic or paper based.

B. Facilities that store records in a format other than paper, such as, but not limited to, microfilm, before 10 years have expired must include the entire record.

C. In the event of change of ownership, all medical records shall be transferred to the new owners.

D. Prior to the closing of a hospital for any reason, the facility shall arrange for preservation of records to ensure compliance with these regulations. The facility shall notify the Department, in writing, describing these arrangements.

1108. Information to be Provided to Other Health Care Providers.

In order to contribute to the continuity of quality of care, procedures must be established and implemented to provide discharge summaries and/or other appropriate information to health care providers to whom patients are discharged, transferred or referred.

1109. Maintenance and Disposal.

Records shall be maintained and disposed of as specified in Section 1107.

1110. Access to Medical Records.

Only authorized personnel should have access to medical records and a hospital shall have policies and procedures to assure that a patient's protected health information is private. The patient shall have access to his/her clinical records within a reasonable timeframe and a hospital shall have a process in place to facilitate that access if requested.

SECTION 1200
PATIENT CARE AND SERVICES

1201. Basic Facility Functions. (I)

A. Pharmaceutical Services.

The Facility must have pharmaceutical services that meet the needs of the patients. The Facility must have a pharmacy directed by a registered pharmacist or a drug storage area under competent supervision. The medical staff is responsible for developing policies and procedures that minimize drug errors. This function may be delegated to the Facility's organized pharmaceutical service.

1. Pharmacy management and administration. The pharmacy or drug storage area must be administered in accordance with accepted professional principles.

a. A full-time, part-time, or consulting pharmacist must be responsible for developing, supervising, and coordinating all the activities of the pharmacy services.

b. The pharmaceutical service must have an adequate number of personnel to ensure quality pharmaceutical services, including emergency services.

c. Current and accurate records must be kept of the receipt and disposition of all drugs.

2. Delivery of services. In order to provide patient safety, drugs and biologicals must be controlled and distributed in accordance with applicable standards of practice, consistent with Federal and State law.

a. All compounding, packaging, and dispensing of drugs and biologicals must be under the supervision of a pharmacist and performed consistent with State and Federal laws.

b. All drugs and biologicals must be kept in a secure area and locked when appropriate.

c. Drugs listed in Schedules II, III, IV, and V of the State and Federal controlled substances laws must be kept locked within a secure area.

d. Only authorized personnel may have access to locked areas.

e. Outdated, discontinued, mislabeled, or otherwise unusable drugs and biologicals shall not be available for patient use and shall be returned to the pharmacy for proper disposition in accordance with good pharmaceutical practice and facility policy.

f. Multi-dose vials shall be labeled with the date and time when opened or the date and time the vial should expire, as defined by facility policy and/or manufacture guidelines, whichever timeframe is shorter.

g. When a pharmacist is not available, drugs and biologicals must be removed from the pharmacy or storage area only by personnel designated in the policies of the medical staff and pharmaceutical service, in accordance with Federal and State law.

h. Drugs and biologicals not specifically prescribed as to time or number of doses must automatically be stopped after a reasonable time that is predetermined by the medical staff.

i. Drug administration errors, adverse drug reactions, and incompatibilities must be immediately reported to the attending physician and, if appropriate, to the hospital's quality assessment and performance improvement program.

j. Abuses and losses of controlled substances must be reported, in accordance with applicable Federal and State laws, to the individual responsible for the pharmaceutical service, and to the chief executive officer, as appropriate.

k. Information relating to drug interactions and information of drug therapy, side effects, toxicology, dosage, indications for use, and routes of administration must be available to the professional staff.

3. Student nurses may only administer medications under the direct supervision of a registered nurse who is the student's instructor and/or preceptor. The medical record must be signed/authenticated by both parties.

4. Self-administration of medications by patients may be permitted only when specifically ordered by the legally authorized healthcare provider in writing and the medications have been reviewed by a Registered Pharmacist prior to administration.

5. Medication variances and adverse drug reactions shall be reported immediately to the prescriber, supervising nurse and pharmacist, and recorded in the patient's medical record.

B. Radiological Services.

The Facility must maintain, or have available, diagnostic radiologic services. If therapeutic services are also provided, the therapeutic services and diagnostic services must meet professionally approved standards for safety and personnel qualifications.

1. The Facility must maintain, or have available, radiologic services according to needs of the patients.

2. The radiologic services, particularly ionizing radiology procedures, must be free from hazards for patients and personnel.

a. Proper safety precautions must be maintained against radiation hazards. This includes adequate shielding for patients, personnel, and facilities, as well as appropriate storage, use, and disposal of radioactive materials.

b. Periodic inspection of equipment must be made and hazards identified must be promptly corrected.

c. Radiation workers must be checked periodically, by the use of exposure meters or badge tests, for amount of radiation exposure.

d. Radiologic services must be provided only on the order of practitioners with clinical privileges or, consistent with State law, of other practitioners authorized by the medical staff and the governing body to order the services.

3. Personnel must adhere to the following:

a. A qualified full-time, part-time, or consulting radiologist must supervise the ionizing radiology services. For purposes of this section, a radiologist is a doctor of medicine or osteopathy who is qualified by education and experience in radiology.

b. Only personnel designated as qualified by the medical staff may use the radiologic equipment and administer procedures.

4. Records of radiologic services must be maintained.

a. The radiologist or other practitioner who performs radiology services must sign reports of his or her interpretations.

b. The Facility must maintain the following for at least 5 years:

i. Copies of reports and printouts.

ii. Films, scans, and other image records, as appropriate.

C. Laboratory Services.

The Facility must maintain, or have available, adequate laboratory services to meet the needs of its patients. The Facility must ensure that all laboratory services are provided in accordance with Clinical Laboratory Improvement Act (CLIA) requirements.

1. The Facility must have laboratory services available, either directly or through a contractual agreement with a CLIA-certified laboratory.

2. Emergency laboratory services must be available 24 hours a day.

3. A written description of services provided must be available to the medical staff.

4. The laboratory must make provision for proper receipt and reporting of tissue specimens.

5. The medical staff and a pathologist must determine which tissue specimens require a macroscopic (gross) examination and which require both macroscopic and microscopic examinations.

6. The Facility must maintain:

a. Records of the source and disposition of all units of blood and blood components for at least 10 years from the date of disposition in a manner that permits prompt retrieval; and

b. A fully funded plan to transfer these records to another Facility or other entity if such Facility ceases operation for any reason.

D. Emergency Services.

1. No person, regardless of his ability to pay or county of residence, may be denied emergency 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 medical staff determines that the person is in need of emergency care.

2. Hospitals that do not offer Obstetrical services shall have readily available in the emergency department a precipitous delivery kit, to include at a minimum: bulb suction syringe, cord clamp, scissors, sterile towels, and emergency telephone numbers for the appropriate Regional Perinatal Center.

3. If the care required for any patient is not available at the hospital, arrangements must be made for transfer to a more appropriate hospital. Prior to the transfer of a patient to another hospital, the receiving hospital shall be notified of the impending transfer.

4. On its initial and renewal licensure applications, each hospital shall classify itself to indicate its capability in providing emergency care. Such classification will be for the hospital's on-campus emergency service and, if applicable, its off-campus emergency service. General Hospitals shall be classified as a Type I, II, or III, except that an existing General Hospital that was approved and licensed without either a Type I, II, or III emergency service may classify itself as a Type IV emergency service. Specialized Hospitals shall be classified as a Type I, II, III, or IV. Off-campus emergency services may be the same Type as or a lower-level Type than the hospital's on-campus emergency service (*e.g.*, if a hospital's on-campus emergency service is a Type II, the off-campus emergency service may not be a Type I).

a. Type I means a hospital that offers comprehensive emergency care 24 hours per day, with at least one physician experienced in emergency care on duty in the emergency care area. There is in-hospital physician coverage by members of the medical staff or by senior-level residents for at least medical, surgical, orthopedic, obstetric/gynecologic, pediatric, and anesthesia services. Other specialty consultation is available within approximately 30 minutes.

b. Type II means a hospital that offers emergency care 24 hours per day, with at least one physician experienced in emergency care on duty in the emergency care area. Specialty consultation is available within 30 minutes by members of the medical staff or senior-level residents. The hospital's scope of services includes

in-house capabilities for managing physical and related emotion problems, with provision for patient transfer to another organization when needed.

c. Type III means a hospital that offers emergency care 24 hours per day, with at least one physician available to the emergency care area within 30 minutes through a medical staff call roster. Specialty consultation is available by request of the attending medical staff member or by transfer to a designated hospital where definitive care can be provided.

d. Type IV means a hospital that offers reasonable care in determining whether an emergency exists, renders lifesaving first aid, and makes appropriate referral to the nearest organization that is capable of providing needed services. Type IV Hospitals do not represent or hold themselves out to the public as offering emergency care 24 hours per day. The mechanism for providing physician coverage at all times is defined by the medical staff.

5. A hospital licensed in South Carolina may open and operate freestanding emergency services within a 35-mile radius of its hospital campus. This freestanding emergency service shall be an extension of the existing hospital's on-campus emergency service.

6. For Types I, II, and III, the emergency service entrance shall be separated from the main entrance, well-marked and illuminated, easily accessible from the street and sufficiently covered or enclosed to protect ambulance patients from the elements during the unloading process.

7. For Types I, II, and III, the hospital shall post rosters designating medical staff members on duty or on call for primary coverage and specialty consultation in the emergency care area.

8. For Type IV, hospitals shall provide physician and registered nurse coverage 24 hours per day. Nursing and other allied health professionals shall be readily available in the hospital. Staff may have collateral duties elsewhere in the hospital, but must be able to respond when needed without adversely affecting patient care or treatment elsewhere in the hospital. Type IV hospitals shall have trained staff to screen patients, staff, and visitors, to render lifesaving first aid, and transfer to an appropriately licensed facility.

9. Diversion Status – Inability to Deliver Emergency Services.

a. Types I, II, and III hospitals shall develop and implement a diversion policy which describes the process of handling those times when the hospital must temporarily divert ambulances from transporting patients requiring emergency services to the hospital. The policy must include the following: when diversion is authorized to be called; who is authorized to call and discontinue diversion; efforts the hospital will make to minimize the usage of diversion; and how diversion will be monitored and evaluated.

b. Types I, II, and III hospitals shall notify local ambulance providers and/or other appropriate parties when the hospital is temporarily unable to deliver emergency services and is declaring itself on diversion.

10. As part of its quality assessment and performance improvement program, a hospital with a Type I, II, or III emergency service shall on at least an annual basis evaluate its emergency service staffing utilizing appropriate emergency services metrics, which may include door to doctor times, patients leaving without being seen, boarding hours, lengths of stay, and patient experience. The hospital must document the findings and recommendations of its evaluation and, when appropriate, implement measures to improve its emergency services staffing.

E. Central Supply.

1. The department head shall be qualified for the position by education, training and experience as determined by the Facility policies and procedures. (II)

2. The number of supervisory and other personnel shall be related to the scope of the services provided. (II)

3. There shall be written policies and procedures for the decontamination and sterilization activities performed in central supply and elsewhere in the Facility. These policies and procedures shall address the following:

a. The use of sterilization process monitors, including temperature and pressure recordings, and the use and frequency of appropriate chemical indicator and bacteriological spore tests for all sterilizers.

b. Designation of the shelf life for each hospital-wrapped and hospital-sterilized medical item and, to the maximum degree possible, for each commercially prepared item, by a specific expiration date that sets a limit on the number of days an item will be considered safe for use. When possible, load control numbers shall be used to designate the sterilization equipment used for each item, including the sterilization date and cycle.

4. A recognized method of checking sterilizer performance shall be used. A chemical indicator of some type should be included in the largest package of each load. Biological indicators (live bacterial spores) should be included in all steam and hot air sterilizers at least once per week or more often depending upon the degree of sterilizer usage. Gas sterilizers should employ such indicators on at least a weekly basis and preferably on a daily basis. Further, the gas sterilization of implants, prosthetic devices, etc., should be accompanied by a biological monitor in each load. Monthly checks shall be made to ensure the above, and a written report retained.

5. Adequate precautions shall be taken to ensure that sterile supplies and equipment are not mixed with unsterile material. Suitable space shall be provided for keeping equipment and supplies in a clean, convenient and orderly manner.

6. All packaged supplies and containers for solutions, drugs, medicated supplies, etc., shall be labeled so as to remain plainly legible before and after sterilization. Labels shall include at least the expiration date of the contents.

7. Outdated medical supplies, solutions, etc., shall be returned to central supply for resterilization or disposal.

1202. Optional Hospital Services. (I)

A. Surgical Services.

If the hospital provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

1. The organization of the surgical services must be appropriate to the scope of the services offered.

a. The operating rooms must be supervised by an experienced registered nurse or a doctor of medicine or osteopathy.

b. Licensed practical nurses (LPNs) and surgical technologists (operating room technicians) may serve as “scrub nurses” under the supervision of a registered nurse.

c. Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable State laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the supervision of a qualified registered nurse who is immediately available to respond to emergencies.

d. Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must maintain a roster of practitioners specifying the surgical privileges of each practitioner.

2. Surgical services must be consistent with needs and resources. Policies governing surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

a. Prior to surgery or a procedure requiring anesthesia services and except in the case of emergencies:

i. A medical history and physical examination must be completed and documented no more than 30 days before or 24 hours after admission or registration, and except as provided under Section 1202.A.2.a.iii.

ii. An updated examination of the patient, including any changes in the patient's condition, must be completed and documented within 24 hours after admission or registration when the medical history and physical examination are completed within 30 days before admission or registration, and except as provided under Section 1202.A.2.a.iii.

iii. An assessment of the patient must be completed and documented after registration (in lieu of the requirements of Section 1202.A.2.a.i and -ii) when the patient is receiving specific outpatient surgical or procedural services and when the medical staff has chosen to develop and maintain a policy that identifies specific patients as not requiring a comprehensive medical history and physical examination, or any update to it, prior to specific outpatient surgical or procedural services.

b. A properly executed informed consent form for the operation must be in the patient's chart before surgery, except in emergencies.

c. The following equipment must be available to the operating room suites: call-in-system, cardiac monitor, resuscitator, defibrillator, aspirator, and tracheotomy set.

d. There must be adequate provisions for immediate post-operative care.

e. The operating room register must be complete and up-to-date.

f. An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.

g. Hospitals shall provide surgical equipment and instruments in good repair and free of potentially harmful microorganisms to assure safe and aseptic treatment. Any indication of contamination shall be immediately called to the attention of the nursing supervisor or the physician in charge of the service.

B. Anesthesia Services.

1. Anesthesia shall be administered according to the South Carolina Code of Laws and the South Carolina Code of State Regulations by:

a. A qualified anesthesiologist;

b. A doctor of medicine or osteopathy other than an anesthesiologist;

c. A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

d. A certified registered nurse anesthetist (CRNA), as defined in S.C. Code Ann. Section 40-33-20(20), is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed; or

e. An anesthesiologist's assistant, as defined in S.C. Code Ann. Section 40-47-1210(2), who is under the supervision of an anesthesiologist who is immediately available if needed.

2. The organization of anesthesia services must be appropriate to the scope of the services offered.

3. Operations under a general anesthetic shall not be performed nor a general anesthetic given until the patient has had a physical examination except in emergency situations. The results of these examinations shall be entered in the patient's record. The history and physical must be readily available in the patient medical record.

4. Anesthesia apparatus shall be equipped with a device to measure the oxygen concentration of the gas being inhaled by the patient. The device shall emit an audible and/or visual alarm should the proportion of oxygen fall below a safe level.

C. Nuclear Medicine Services.

If the hospital provides nuclear medicine services, those services must meet the needs of the patients in accordance with acceptable standards of practice.

1. The organization of the nuclear medicine service must be appropriate to the scope and complexity of the services offered.

a. There must be a director who is a doctor of medicine or osteopathy qualified in nuclear medicine.

b. The qualifications, training, functions, and responsibilities of nuclear medicine personnel must be specified by the service director and approved by the medical staff.

2. Radioactive materials must be prepared, labeled, used, transported, stored, and disposed of in accordance with acceptable standards of practice.

a. In-house preparation of radiopharmaceuticals is by, or under the supervision of, an appropriately trained registered pharmacist or a doctor of medicine or osteopathy.

b. There is proper storage and disposal of radioactive material.

c. If laboratory tests are performed in the nuclear medicine service, the service must meet the applicable requirement for laboratory services.

3. Equipment and supplies must be appropriate for the types of nuclear medicine services offered and must be maintained for safe and efficient performance. The equipment must be:

a. Maintained in safe operating condition; and

b. Inspected, tested, and calibrated at least annually by qualified personnel.

4. The hospital must maintain signed and dated reports of nuclear medicine interpretations, consultations, and procedures.

a. The hospital must maintain copies of nuclear medicine reports for at least 5 years.

b. The practitioner approved by the medical staff to interpret diagnostic procedures must sign and date the interpretation of these tests.

c. The hospital must maintain records of the receipt and disposition of radiopharmaceuticals.

d. Nuclear medicine services must be ordered only by a practitioner whose scope of Federal or State licensure and whose defined staff privileges allow such referrals.

D. Outpatient Services.

If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice.

1. Outpatient services must be appropriately organized and integrated with inpatient services.

2. The hospital must:

a. Assign one or more individuals to be responsible for outpatient services.

b. Have appropriate professional and nonprofessional personnel available where outpatient services are offered, based on the scope and complexity of outpatient services.

3. Outpatient services must be ordered by a practitioner who meets the following conditions:

a. Is responsible for the care of the patient.

b. Is licensed in the State where he or she provides care to the patient.

c. Is acting within his or her scope of practice under State law.

d. Is authorized in accordance with State law and policies adopted by the medical staff, and approved by the governing body, to order the applicable outpatient services. This applies to the following:

i. All practitioners who are appointed to the hospital's medical staff and who have been granted privileges to order the applicable outpatient services.

ii. All practitioners not appointed to the medical staff, but who satisfy the above criteria for authorization by the medical staff and the hospital for ordering the applicable outpatient services for their patients.

E. Rehabilitation Services.

If the hospital provides rehabilitation, physical therapy, occupational therapy, audiology, or speech pathology services, the services must be organized and staffed to ensure the health and safety of patients.

1. The organization of the service must be appropriate to the scope of the services offered.

a. The director of the services must have the necessary knowledge, experience, and capabilities to properly supervise and administer the services.

b. Physical therapy, occupational therapy, speech-language pathology or audiology services, if provided, must be provided by qualified physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, speech-language pathologists, or audiologists.

2. Services must only be provided under the orders of a qualified and licensed practitioner who is responsible for the care of the patient, acting within his or her scope of practice under State law, and who is authorized by the hospital's medical staff to order the services in accordance with hospital policies and procedures and State laws.

a. All rehabilitation services orders must be documented in the patient's medical record.

b. The provision of care and the personnel qualifications must be in accordance with national acceptable standards of practice.

F. Psychiatric Services.

If the hospital provides psychiatric services, the services must be organized and staffed to ensure the health and safety of patients.

1. A physician, preferably a board-certified psychiatrist, shall be designated as physician-in-charge (or chief) of the psychiatric service. A designated physician who is experienced in the practice of psychiatry should be on call at all times.

2. A registered nurse who has had at least two years of training and/or experience in psychiatric nursing shall be responsible for the nursing care of psychiatric patients. At least one registered nurse shall be on duty in each nursing unit at all times.

3. Each patient must receive a psychiatric evaluation that must:

a. Be completed within 60 hours of admission;

b. Include a medical history;

c. Contain a record of mental status;

d. Note the onset of illness and the circumstances leading to admission;

e. Describe attitudes and behavior;

f. Estimate intellectual functioning, memory functioning, and orientation; and

g. Include an inventory of the patient's assets in descriptive, not interpretative, fashion.

4. Treatment plan:

a. Each patient must have an individual comprehensive treatment plan that must be based on an inventory of the patient's strengths and disabilities. The written plan must include:

i. A substantiated diagnosis;

ii. Short-term and long-range goals;

iii. The specific treatment modalities utilized;

iv. The responsibilities of each member of the treatment team; and

v. Adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out.

b. The treatment received by the patient must be documented in such a way to assure that all active therapeutic efforts are included.

5. Progress notes for the patient must be documented, in accordance with applicable State scope-of-practice laws and hospital policies, by the following qualified practitioners: Doctor(s) of medicine or osteopathy, or other licensed practitioner(s), who is responsible for the care of the patient; nurse(s) and social worker(s) (or social service staff) involved in the care of the patient; and, when appropriate, others significantly involved in the patient's active treatment modalities. The frequency of progress notes is determined by the condition of the patient but must be recorded at least weekly for the first 2 months and at least once a month thereafter and must contain recommendations for revisions in the treatment plan as indicated, as well as precise assessment of the patient's progress in accordance with the original or revised treatment plan.

6. The record of each patient who has been discharged must have a discharge summary that includes a recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up or aftercare as well as a brief summary of the patient's condition on discharge.

G. Respiratory Care Services.

If the hospital provides respiratory care services, the services must be organized and staffed to ensure the health and safety of patients.

1. The organization of the respiratory care services must be appropriate to the scope and complexity of the services offered.

a. There must be a director of respiratory care services who is a doctor of medicine or osteopathy with the knowledge, experience, and capabilities to supervise and administer the service properly. The director may serve on either a full-time or part-time basis.

b. There must be adequate numbers of respiratory therapists, respiratory therapy technicians, and other personnel who meet the qualifications specified by the medical staff, consistent with State law.

2. Services must be delivered in accordance with medical staff directives.

a. Personnel qualified to perform specific procedures and the amount of supervision required for personnel to carry out specific procedures must be designated in writing.

b. If blood gases or other laboratory tests are performed in the respiratory care unit, the unit must meet the applicable requirements for laboratory services.

c. Services must only be provided under the orders of a qualified and licensed practitioner who is responsible for the care of the patient, acting within his or her scope of practice under State law, and who is authorized by the hospital's medical staff to order the services in accordance with hospital policies and procedures and State laws.

d. All respiratory care services orders must be documented in the patient's medical record.

H. Inpatient Dialysis Services.

If the hospital provides inpatient dialysis services, the services must be organized and staffed to ensure the health and safety of patients.

1. Written policies and procedures shall be developed and maintained by the service provider responsible for the service in consultation with other appropriate health professionals and the administration. Procedures shall be approved by the administration and medical staff where such is appropriate.

2. Renal Dialysis Service Equipment and Supplies

a. Equipment and supplies shall include at least:

i. A dialysis machine or equivalent (with appropriate monitoring equipment) for each bed or station.

ii. Dialysis equipment appropriate for pediatric patients, if treated.

b. Water used for dialysis purposes shall be analyzed for bacteriological quality at least monthly and chemical quality at least quarterly and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. Water used to prepare a dialysate shall not contain concentrations of elements or organisms in excess of those specified below:

ELEMENTS	LIMIT IN MILLIGRAMS PER LITER
Aluminum	.01
Arsenic	.005
Barium	.100
Cadmium	.001
Calcium	2.0
Chloramines (Tested Daily)	.001
Chlorine (Tested Daily)	.500
Chromium	.014
Copper	.100
Fluorides	.200
Lead	.005
Magnesium	4.0
Mercury	.0002
Nitrates (Nitrogen)	2.0
Potassium	8.0
Selenium	.090
Silver	.005
Sodium	70.0
Sulfates	100.0
Zinc	.100
Bacteria	200 colonies per milliliter

c. A written preventive maintenance program for all equipment used in dialysis and related procedures including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient ground systems, and medical gas systems shall be developed and implemented. This equipment shall be checked and/or tested at such intervals to ensure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper

operation before returning it to service. Records shall be maintained on each piece of equipment to indicate its history of testing and maintenance.

I. Chemical and Substance Abuse Treatment Services.

If the hospital provides chemical and substance abuse treatment services, the services must be organized and staffed to ensure the health and safety of patients.

1. A physician, who is experienced in the treatment of chemical and substance abuse, shall be designated as physician-in-charge of this service. Such a physician shall also be on call at all times.

2. A registered nurse who has had at least two years training and/or experience in chemical and substance abuse care shall be responsible for the nursing care of this service. At least one registered nurse shall be on duty in each nursing unit at all times who has demonstrable training in chemical and substance abuse treatment. Relevant content of this training shall include physical and psychological assessment, psychopharmacology, basic counseling and intervention techniques, and the role of self-help groups in the recovery process. The training may be received through on-the-job training, specialized workshops, or classroom experience.

J. Pediatric Services.

If the hospital provides pediatric services, the services must be organized and staffed to ensure the health and safety of patients.

1. Organization: Pediatric services, if provided, shall be under the supervision of a registered nurse.

2. Facilities: Pediatric services shall have separate facilities for the care of children. Facilities and procedures shall be provided for isolation of children having contagious infections or communicable diseases.

3. Pediatric Nursery: Pediatric nurseries shall provide at least 40 square feet per bassinet or 80 square feet per crib.

K. Cardiovascular Care Services.

1. Prior to establishing or offering any cardiac catheterization or cardiac surgery services, the hospital must have applied for and be in the process of obtaining accreditation for such services from the American College of Cardiologists, Accreditation for Cardiovascular Excellence, or other nationally recognized accrediting organization approved by the Department with standards at least equal to those of the Accreditation for Cardiovascular Excellence or American College of Cardiologists. To continue offering such services, a hospital must obtain such accreditation within two years from application unless otherwise approved by the Department. Hospitals must maintain documentation evidencing their application for accreditation and accreditation for such services. If a hospital is denied accreditation or has its accreditation revoked, the hospital must immediately notify the Department in writing, cease offering such services, and cannot resume offering such services until the hospital is accredited or re-accredited.

2. Hospitals that offer cardiac catheterization services without onsite cardiac surgery shall have written protocols ensuring immediate, efficient, and safe transfer of patients to the nearest hospital with onsite cardiac surgery in the case of an emergency.

SECTION 1300
PERINATAL SERVICES

1301. Newborn Hearing Screening.

A. A facility that averages greater than 100 deliveries a year shall conduct a hearing screening on each newborn prior to discharge. In addition, the facility shall provide educational information about the screening procedure, the importance of the screening and the importance of having a complete audiobiological evaluation after discharge if the need is indicated.

B. If a facility averages fewer than 100 deliveries a year, a hearing screening is not required for each newborn, but the facility shall give the parents of each newborn educational information concerning the hearing screening procedure and the importance of having the screening procedure after discharge.

C. Each facility required to conduct newborn hearing screening shall regularly report the results of the screening to the Department in the required format.

1302. Shaking infant video & infant CPR information for parents and caregivers of newborn infants and adoptive parents.

A. A facility shall provide to the parents of each newborn baby delivered in the facility a video presentation on the dangers associated with shaking infants and young children. The facility shall also make available information on the importance of parents and caregivers learning infant CPR.

B. The facility shall request that the maternity patient, the father, or the primary caregiver view the video. Those persons whom the facility requests to view the video shall sign a document prescribed by the Department of Health and Environmental Control stating that they have been offered an opportunity to view the video.

C. The facility shall only use a video approved by the Director, or his/her designee, of the Department of Health and Environmental Control.

1303. Providing a Safe Haven for Abandoned Babies.

Facilities and outpatient facilities shall:

A. Accept temporary physical custody of an infant not more than sixty (60) days old who is voluntarily left by a person who does not express an intent to return for the infant and the circumstances create a reasonable belief that a person does not intend to return for the infant.

B. Be in full compliance with EMTALA rules and regulations and perform any act necessary to protect the physical health or safety of the infant.

C. Offer the person information concerning the legal effect of leaving the infant by delivering to the person the information brochure supplied by the state DSS. Ask the person to identify any parent other than the person leaving the infant. Attempt to obtain from the person information concerning the infant’s background and medical history as specified in the forms provided by DSS and appropriate forms available from facility files.

D. Using the DSS form, an attempt must be made to get information concerning use of controlled substances by the infant’s mother and other pertinent health information which might determine medical care required by the infant.

E. If the person does not wish to provide or is unable to provide the information to the facility, the person must be offered the DSS form with a prepaid envelope supplied to the facility by DSS.

F. No later than the close of the first business day, after the date on which the facility takes possession of the infant, the facility must notify DSS that it has taken temporary physical custody of the infant. DSS will have

legal custody of the infant upon receipt of this notice and DSS will assume physical custody no later than 24 hours after receiving notice that the infant is ready for discharge.

1304. Paternity – In-Hospital Voluntary Paternity Acknowledgement Program.

A. In accordance with 45 CFR 303, a hospital that provides obstetrical services at a minimum must provide to both the mother and alleged father:

1. Written materials about paternity establishment.

2. Forms as provided by the Department necessary to voluntarily acknowledge.

3. Notice, both orally and in writing of the alternatives to the legal consequences of, and the rights and responsibilities of acknowledging paternity, and

4. The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment.

B. Hospital must forward completed voluntary acknowledgement forms, or copies to the Department Division of Vital Records.

1305. Perinatal Organization.

A. Each hospital providing perinatal services shall request designation as a Level I, II, III, or IV perinatal hospital, or regional perinatal center (RPC) by letter to the Department. Initially, a hospital shall demonstrate capability to comply with requirements of a particular designation by submitting to the Department documentation pertaining to the request for desired designation. For licensure renewals, along with maintaining compliance with the requirements of Section 1306, the hospital shall have birth weight-specific neonatal mortality data readily available for Department review relative to hospitals in the state of the same designation.

B. Each Level I, II, III, and IV hospital shall maintain and document a relationship with its designated RPC for consultation, transport and continuing education. All patients shall be transferred to the appropriate RPC when medically appropriate, if beds are available. This agreement/relationship shall include the ability to share data, as appropriate, related to these functions.

C. Labor and delivery shall occur in a hospital capable of meeting the expected needs of both the mother and the neonate. Ongoing risk assessment shall occur to determine the appropriate level of care.

1306. Designation of Inpatient Perinatal Care Services.

A. Basic Perinatal Center with Well Newborn Nursery (Level I). Level I hospitals shall provide services for normal uncomplicated pregnancies. Level I hospitals shall identify maternity patients requiring transfer to a facility providing the appropriate level of care for the fetus, consult with the RPC on such matters, and offer a basic level of newborn care to infants at low risk. Level I hospitals shall have personnel who provide care for physiologically stable infants born at or beyond 35 weeks of gestation and stabilize ill newborn infants born at less than 35 weeks of gestation until they can be transferred to a facility where the appropriate level of neonatal care is provided. Level I hospitals shall have personnel and equipment available to provide neonatal resuscitation at every delivery and to evaluate and provide routine postnatal care for healthy term newborn infants. Level I hospitals shall have the capability to begin an emergency cesarean delivery within an interval based on timing that best incorporates maternal and fetal risks and benefits. When it is anticipated or determined that these criteria will not be or have not been met, consultation and a plan of care shall be initiated and mutually agreed upon with the RPC and documented in the medical record, immediately after the patient is stabilized. Level I hospitals shall provide care of postpartum conditions and make provisions of accommodations and policies that allow

families, including their other children, to be together in the hospital following birth. Appropriate anesthesia, radiology, and laboratory and blood bank services shall be available on a twenty-four (24) hour basis. Management shall include emergency resuscitation and/or stabilization for both maternal and neonatal patients in preparation for transfer/transport for more specialized services. Hospitals at this level shall not provide care or services which are designated only for higher level hospitals, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

B. Specialty Perinatal Center with Special Care Nursery (Level II). In addition to complying with all requirements of Section 1306.A, Level II hospitals shall provide services for both normal and selected high-risk obstetrical and neonatal patients. Level II hospital care shall include management of neonates who are at least 32 weeks of gestation with an anticipated birth weight of at least 1500 grams and problems expected to resolve rapidly (neonates not in need of sub-specialty services on an urgent basis). Level II hospitals shall provide care for infants convalescing after intensive care. Level II hospital shall stabilize infants born before 32 weeks of gestation and weigh less than 1500 grams until transfer to a neonatal intensive care facility. Level II hospitals shall have experienced personnel capable of providing continuous positive pressure airway pressure or mechanical ventilation for a brief period (less than 24 hours) or both until the infant's condition improves or the infant can be transferred to a higher-level facility. Level II hospitals shall have equipment (e.g. portable x-ray equipment, blood gas laboratory) and personnel (e.g. physicians, specialized nurses, respiratory therapists, radiology technicians, and laboratory technicians) available at all times to provide ongoing care and address emergencies. Referral to a higher level of care should occur for all infants when needed, for medical or subspecialty intervention. Support personnel shall include respiratory therapists, radiology technicians, laboratory technicians, and a lactation consultant. A board-certified or board-eligible pediatrician shall be in the hospital or on site within 30 minutes, 24 hours a day. There shall be no limit on the duration of Nasopharyngeal Continuous Positive Airway Pressure (NCPAP) or Nasal Prong Continuous Positive Airway Pressure (NPCPAP) when cared for by a neonatologist. The provision of CPAP or mechanical ventilation beyond the immediate stabilization period requires the immediate availability of respiratory therapists with neonatal training (including intubation of premature infants), nursing support with training to identify and respond to complications of ventilation, and the immediate availability of personnel and equipment to evacuate a pneumothorax. Level II hospitals with a board certified or board eligible neonatologist having responsibilities limited to a single center and in house or within 30 minutes of the unit at all times may provide care for patients requiring mechanical ventilation for up to 24 hours. For shared neonatology coverage, a certified Neonatal Nurse Practitioner having responsibilities limited to a single center and in house may provide coverage for that center. Neonates requiring the initiation of mechanical ventilator support beyond 24 hours of age shall be referred to the RPC. Neonates shall not require high-frequency ventilation support. These hospitals shall manage no less than an average of 500 deliveries annually, calculated over the previous three years based on the individual hospital statistics. This calculation shall include the number of maternal transfers made prior to delivery to higher level perinatal hospitals. A Level II hospital shall not admit outborn neonates into its nursery without prior concurrence with the RPC. Level II units shall not transport neonates between hospitals. Hospitals at this level shall not provide care or services which are designated only for higher level hospitals, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

C. Subspecialty Perinatal Center with Neonatal Intensive Care Unit (Level III). In addition to complying with all requirements of Sections 1306.A through 1306.B, Level III hospitals shall provide all aspects of perinatal care, including intensive care and a range of continuously available subspecialty consultation as recommended in the most recent edition of the *Guidelines for Perinatal Care* (GPC) by the American Academy of Pediatrics (AAP) and The American College of Obstetricians and Gynecologists. Level III hospitals shall provide care for mothers and infants at less than 32 weeks gestation, estimated fetal weight less than 1500 grams, and anticipated complex medical or surgical conditions for mother or infant that may require sub-specialty services. Level III hospitals shall also provide care for infants born at less than 32 weeks of gestation and weigh less than 1500 grams at birth or have actual or anticipated complex medical or surgical conditions regardless of gestational age. Level III hospital care shall include expertise in neonatology and maternal-fetal medicine. Level III neonatal intensive care units (NICUs) shall include continuously available personnel (neonatologists, neonatal nurses,

and respiratory therapists) and equipment available to provide life support as long as needed. Level III facilities shall provide ongoing assisted ventilation for periods longer than 24 hours, which may include conventional ventilation, high- frequency ventilation, and inhaled nitric oxide. Level III hospitals shall provide services and care for women and fetuses at high risk, both admitted and transferred to the facility. Level III hospitals shall have advanced respiratory support and physiologic monitoring equipment, laboratory and imaging facilities, nutrition and pharmacy support with pediatric expertise, social services, and pastoral care. Pediatric ophthalmology services and an organized program for the monitoring, treatment, and follow-up of retinopathy of prematurity shall also be readily available in Level III hospitals. Level III hospitals shall have the capability to perform advanced imaging with interpretation on an urgent basis, including computed tomography, magnetic resonance imaging, and echocardiography. Level III hospitals shall also have the capability to perform major surgery on site or at a closely related institution. A board-certified or board-eligible neonatologist shall be in the hospital or on site within 30 minutes, 24 hours a day. A board-certified maternal-fetal medicine specialist (perinatologist) shall be available for supervision and consultation, 24 hours a day. Perinatal consultation requirements may be met via telemedicine arrangements with a RPC. In addition to the Level II capabilities, Level III hospitals shall have the staffing and technical capability to manage high-risk obstetric and complex neonatal patients, including neonates requiring prolonged ventilatory support, surgical intervention, or 24-hour availability of multispecialty management. Hospitals with Level III designation shall manage no less than an average of 1500 deliveries annually, calculated over the previous three years, and at least an average of 100 neonate admissions who weigh less than 1500 grams each, require ventilatory support for over twenty-four (24) hours, or require surgery based on individual hospital statistics. This calculation shall include the number of maternal transfers made prior to delivery to higher level perinatal hospitals. The NICU budget shall include support for outcomes measurement, including data collection and membership in a multi-institutional collaborative quality improvement data base. Level III hospitals shall collect data to assess outcomes within their facility and to compare with other hospitals within their level. Hospitals at this level shall not provide additional care or services designated only for RPC's, or perform neonatal transport, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

D. Regional Perinatal Center with Neonatal Intensive Care Units (Level III) (RPC). In addition to complying with all requirements of Sections 1306.A through 1306.C, the RPC shall provide consultative, outreach, and support services to Level I, II, and III hospitals in the region. The RPC shall manage no less than an average of 2000 deliveries annually, calculated over the previous three years. Personnel qualified to manage obstetric or neonatal emergencies shall be in-house. A board- certified maternal-fetal medicine specialist (perinatologist) shall be in the hospital or on site within 30 minutes for supervision and consultation, 24 hours a day. The RPC shall participate in residency programs for obstetrics, pediatrics, and/or family practice. Physician-to-physician consultation shall be available 24 hours a day for Level I, II, and III hospitals. Regional Perinatal Centers shall coordinate the development and implementation of professional continuing education to maintain competency and provide education to other facilities within the region, facilitate transport from the perinatal centers to the regional perinatal center and back transport when possible, and collect data on long-term outcomes to evaluate the effectiveness of delivery of perinatal care services and the efficacy of new therapies. The RPC shall provide a perinatal transport system that operates 24 hours a day, seven days a week, and return transports neonates to lower level perinatal hospitals when the neonates' condition and care requirements are within the capability of those hospitals.

E. Complex Neonatal Intensive Care Unit (Level IV). In addition to complying with all requirements of Sections 1306.A through 1306.C, Level IV hospitals shall include additional capabilities and considerable experience in the care of the most complex and critically ill newborn infants and have pediatric medical and surgical specialty consultants available 24 hours a day. Level IV hospitals shall have capability to perform surgical repair of complex congenital or acquired conditions (e.g. Congenital malformations that require cardiopulmonary bypass with or without extracorporeal membrane oxygenation). Level IV hospitals shall maintain a full range of pediatric medical subspecialists, pediatric surgical subspecialists, and pediatric anesthesiologists at the facility. Not all Level IV hospitals need to act as regional centers. Regional organization of perinatal health care services requires that there be coordination in the development of specialized services, professional continuing education to maintain competency, facilitation of opportunities for transport and return

transport, and collection of data on long-term outcomes to evaluate both the effectiveness of delivery of perinatal health care services and the safety and efficacy of new therapies. Level IV hospitals shall collect data to assess outcomes within their facility, and to compare with other hospitals within their level, if applicable.

1307. Personnel.

A. Detailed components of support services and medical, nursing and ancillary staffing for each level shall meet the recommendations outlined in the most recent edition of the *Guidelines for Perinatal Care*.

B. The following medical specialists and subspecialists shall have medical staff credentials and/or written consultative agreements as follows:

1. Level I shall include:

a. Membership: Physician designated as physician-in-charge of obstetric services, physician designated for supervision of newborn care, anesthesia personnel with credentials to administer obstetric anesthesia available within 30 minutes, 24-hours a day, one person capable of initiating neonatal resuscitation available at every delivery.

b. Consultation: Obstetrician, pediatrician, general surgeon.

2. Level II, in addition to Level I requirements, shall include:

a. Membership: General surgeon, pathologist, radiologist, obstetrician, pediatrician, and anesthesiologist;

b. Consultation: Maternal-fetal medicine specialist, neonatologist, and pediatric surgeon.

3. Level III and RPC, in addition to Level II requirements, shall include:

a. Membership: Maternal-fetal medicine specialist or effective consultation with Maternal- Fetal medicine specialist, (available 24 hours a day, 7 days a week) via telemedicine, obstetrician or radiologist with special interest and competence in maternal disease and its complications, pediatric radiologist, anesthesiologist with perinatal training and/or experience; pathologists with special competence in placental, fetal, and neonatal disease, and pediatric surgeon.

b. Urgent Consultation: Pediatric subspecialists including cardiology, neurology, hematology, genetics, endocrinology, nephrology, gastroenterology-nutrition, infectious diseases, pulmonology, immunology, pathology, metabolism and pharmacology. Pediatric surgical subspecialists, to include cardiovascular, neurosurgery, orthopedics, ophthalmology, urology and otolaryngology.

c. For Level III hospitals: Pediatric medical subspecialists, pediatric anesthesiologists, pediatric surgeons, and pediatric ophthalmologists may be at the site or at a closely related institution by prearranged consultative agreement. Prearranged consultative agreements can be performed using, for example, telemedicine technology, or telephone consultation, or both from a distant location.

4. Level IV, in addition to Level III requirements, shall include: Membership and on-site: Maternal-fetal medicine specialist, obstetrician or radiologist with special interest and competence in maternal disease and its complications, pediatric radiologist, anesthesiologist with perinatal training and/or experience; pathologists with special competence in placental, fetal, and neonatal disease, and pediatric surgeon.

1308. Neonatal Intensive Care Nurse Staffing.

Neonatal intensive care nurse staffing is required if any of the following conditions exist:

A. Any advanced support therapy, e.g., extracorporeal membrane oxygenation, nitric oxide, high frequency ventilation, peritoneal dialysis;

B. Acute pre- or post-operative surgical conditions, except for minor surgical procedures such as inguinal hernia repair;

C. Ventilator support (with the exception of do-not-resuscitate situations and chronic ventilator- dependent conditions);

D. Less than 32 weeks of gestation and less than 1500 grams on the first day of life;

E. Chest tubes required;

F. Cardio-pulmonary resuscitation required in the previous 24 hours;

G. Vital signs required every hour or more frequently;

H. Umbilical artery or vein catheterization or three or more intravenous sites required;

I. Pressor agent (excluding initial stabilization) or inotropic support required, e.g., dopamine (doses for renal perfusion maintenance excluded);

J. Complex diagnostic/assessment support required; or

K. Evidence of seizure activity/unstable neurologic status.

1309. General Facility and Care Requirements.

A. Environment, equipment, supplies, and procedures utilized in the care of perinatal patients shall meet the recommendations outlined in the most recent edition of the *Guidelines for Perinatal Care*. The environmental temperature in newborn care areas should be independently adjustable, as to maintain per the GPC.

B. Obstetrical Care: In each hospital providing obstetrical services, written policies and procedures shall be established and implemented through cooperative efforts of the medical and nursing staffs. These policies and procedures shall outline the process, providers, and methods of providing risk-appropriate care to the obstetrical patient, and shall include, but not be limited to:

1. Admission criteria and documentation;

2. Preterm labor;

3. Maternal transfer to another hospital;

4. Induction and augmentation;

5. Analgesia and anesthesia;

6. Labor process;

7. Capability to perform cesarean delivery within 30 minutes of the decision to do so;

8. Immediate neonatal care/resuscitation;

9. Recovery room care; and

10. Postpartum care.

1310. Neonatal Care.

Specific policies and procedures for the care of the neonate shall follow the recommendations outlined in the most recent edition of the GPC.

1311. Neonatal Resuscitation.

A. Personnel, equipment, supplies, and medications as recommended by the most recent edition of the American Heart Association and AAP *Textbook of Neonatal Resuscitation* shall be readily available in every hospital providing perinatal services.

B. In order to meet the potential need for resuscitation of every neonate, at least one person who has a current provider-designation, as defined by completion of the AAP Neonatal Resuscitation Program, shall be on site.

C. Personnel trained and qualified to perform neonatal resuscitation must be immediately available and not responding from an area removed from the delivery or nursery area.

D. Equipment, supplies, and medications for neonatal resuscitation must be immediately available to the delivery and nursery areas at all times.

1312. Inter-hospital Care of the Perinatal Patient (Transport).

A. Each hospital providing perinatal services shall establish and implement a written plan which outlines the process, providers, and methods of providing risk-appropriate stabilization and transport of any high-risk perinatal patient requiring specialized services. This plan shall be updated in conjunction with the designated RPC on an annual basis, and shall include, but not be limited to, procedures outlining:

1. Communication between referring hospitals and the RPC, transport teams and medical control, and perinatal providers and families;

2. Indications for both acute phase and return transport between perinatal hospitals, to include essential contact persons and telephone numbers for referral and transport; and

3. A list of all medical record copies and additional materials to accompany each patient in transport.

B. Equipment, supplies, and procedures used in preparation and support of transport of maternal patients shall be based upon the most recent edition of the GPC. Equipment, supplies, and procedures used in the transport of a neonate shall be based upon the most recent edition of the AAP *Guidelines for Air and Ground Transport of Neonatal and Pediatric Patients*.

1313. Evaluation of Perinatal Care.

A. Review of maternal and neonate mortality and morbidity shall be conducted at least every three months by the medical staff or designated committee, regardless of the size or designation of the perinatal service. A perinatal mortality and morbidity review committee composed of representatives from the pediatric, obstetrical,

and nursing staffs, with additional participation from other professionals, depending upon the cases to be reviewed, shall be established at all perinatal centers.

B. In all perinatal centers, selected case reviews shall include, but not be limited to:

1. Analysis of total perinatal mortality with identification of deaths attributable to various categories of complication;

2. Analysis of perinatal morbidity and related factors.

C. Level I and II hospitals shall review all live births or fetal/neonatal deaths in which the neonate weighed at least 350 grams and less than 1500 grams, utilizing the Department's *Very Low Birthweight Self-monitoring Tool*. Each completed self-monitoring DHEC form shall be retained by the facility and a copy made available to the Department as specified in the self-monitoring tool.

D. Each event shall be evaluated for potential opportunities for intervention with the intervention and follow-up described, if applicable. Written minutes of committee meetings shall be maintained and made available to the Department for review.

E. Each Level I, II, and III perinatal center shall annually review and document the findings from these case reviews with its designated RPC. Minutes of these meetings shall be maintained and made available to the Department for review.

SECTION 1400
VITAL STATISTICS

1401. General.

Hospitals must comply fully with the Regulations of the Department relating to vital statistics.

1402. Birth Certificates.

A. For inpatient newborns a licensee shall be responsible for filing a birth certificate for all live births occurring in the licensed facility (see Regulation 61-19 for definition of live birth). The record should be filed as prescribed within five (5) days of delivery per Regulation 61-19.

B. A licensee shall be responsible for filing a birth certificate for outpatient newborns brought to the emergency room when a live birth was delivered either at home or en route to the hospital. If the live birth is delivered by a licensed midwife or other practitioner, the licensee shall not be responsible for filing a birth certificate.

1403. Death Certificates.

Filing of a death certificate shall be in accordance with Regulation 61-19 and the S.C. Code of Laws.

SECTION 1500
FOOD AND NUTRITION SERVICE (II)

1501. Approval.

All facilities that prepare food on-site shall be approved by the Department, and shall be regulated, inspected, and graded pursuant to Regulation 61-25.

1502. Services.

All facilities shall provide food and nutrition services to meet the daily nutritional and dietary needs of patients in accordance with written policies and procedures.

1503. Management.

The nutrition services shall be under the direction of a dietitian or qualified food and nutrition manager/director who has a written agreement for consultation services by a dietitian. These services shall be organized with established lines of accountability and clearly defined job assignments. A qualified food and nutrition manager/director shall be a person who:

A. Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or

B. Is a graduate of a course of study meeting the requirements of the American Dietetic Association and approved by the Department; or

C. Is certified by the Certifying Board for Dietary Managers of the Dietary Managers Association and maintains that credential; or

D. Has at least three (3) years of training and experience in meal service supervision and management in military service equivalent in content to the programs described in paragraph A, B, or C above.

1504. Personnel.

A. Dietary services shall be organized with established lines of accountability and clearly defined job assignments for those engaged in food preparation and serving. There shall be trained staff members/volunteers to supervise the preparation and serving of the proper diet to the patients including having sufficient knowledge of food values in order to make appropriate substitutions when necessary.

B. The qualified food and nutrition manager/director shall be responsible for supervising food and nutrition service personnel, the preparation and serving of the food, and the maintenance of proper records. When the qualified food and nutrition service manager/director is not on duty, a responsible person shall be assigned to assume their job responsibilities.

C. Work assignments and duty schedules shall be posted and kept current.

D. No person, infected with or a carrier of a communicable disease, or while having boils, open or infected skin lesions, or an acute respiratory infection, shall work in any area of food preparation and service.

E. Employees shall wear clean garments, maintain a high degree of cleanliness, and conform to hygienic practices while on duty. Individuals engaged in the preparation and service of food shall wear clean hair restraints, e.g., hair nets, hair wraps, hats, that will properly restrain all hair of the face and head and prevent contamination of food and food contact surfaces. They shall wash their hands thoroughly in an approved hand washing lavatory before starting work, after visiting the bathroom and as often as may be necessary to remove soil and contamination.

1505. Diets.

Diets shall be prepared in conformance with orders of a physician or, if permitted by the facility's policies, a dietitian. A current diet manual shall be readily available to attending physicians, food and nutrition service personnel, nursing personnel, and dietitians.

A. Diets shall be prescribed, dated and signed or authenticated by the physician or dietitian.

B. Facilities with patients in need of special or therapeutic diets shall provide for such diets.

C. Notations shall be made in the medical record of diet served, counseling or instructions given, as identified by patient and/or nutritional assessment and patient's tolerance of the diet.

D. Diets shall be planned, written, prepared and served with consultation from a dietitian.

E. Persons responsible for diets shall have sufficient knowledge of food values in order to make substitutions when necessary. All substitutions made on the master menu shall be documented.

F. Nothing in this regulation shall be read or interpreted to prohibit a facility's policies from allowing a dietitian to:

1. Order or prescribe patient diets, including therapeutic diets;

2. Order laboratory tests to monitor the effectiveness of dietary plans and orders; and/or

3. Make subsequent modifications to patient diets based on the results of laboratory tests.

1506. Planning of Menus and Food Supplies.

A. Menus shall be planned and written at least two weeks in advance and dated as served. The current week's menus, including routine and special diets and any substitutions or changes made, shall be posted in one or more conspicuous places in the Food and Nutrition Services area.

B. Records of menus as served shall be filed and maintained for at least 30 days.

C. Food supplies shall be adequate to meet menu and emergency plan requirements.

D. Records of food and supplies purchased shall be kept on file.

1507. Preparation and Serving of Food.

A. Food shall be prepared by methods that conserve the nutritive value, flavor and appearance. The food shall be palatable, properly prepared, and sufficient in quantity and quality to meet the nutritional needs of the patients.

B. A file of tested recipes, adjusted to appropriate yield, shall correspond to items on the posted menus.

C. Food shall be served with special attention given to preparation and prompt serving in order to maintain correct food temperatures in accordance with Regulation 61-25 and to meet individual needs.

D. Food and Nutrition service personnel will have the responsibility of accompanying the food cart to the patient care area when necessary to complete tray assembly. Facilities with automated food distribution systems in operation are not required to have dietary personnel accompanying the cart. Each facility shall designate who will be responsible for distribution of trays, feeding of patients, and collection of soiled trays.

1508. Dietary and Food Sanitation.

A. Sanitary conditions shall be maintained in all aspects of the storage, preparation and distribution of food.

B. The facility shall be in compliance with local health codes and Regulation 61-25.

C. Written procedures for cleaning, disinfecting and sanitizing all equipment and work areas shall be developed and followed.

D. Written reports of inspections by state and local health authorities shall be kept on file in the facility with notations made of actions taken by the facility to comply with recommendations.

E. Drugs shall not be stored in the food and nutrition services area or any refrigerator or storage area utilized by the food and nutrition services area.

F. All walk-in refrigerators and freezers must be equipped with opening devices which will permit opening of the door from the inside at all times.

1509. Meal Service.

A minimum of three nutritionally balanced meals in each 24-hour period shall be offered for each patient unless otherwise directed by the patient's physician. Not more than 14 hours shall elapse between the serving of the evening meal and breakfast. As an exception, there may be up to 16 hours between the scheduled serving of the evening meal and breakfast the following day if approved by the patient's attending physician and the patient, and if a nourishing snack is provided after the evening meal.

1510. Ice and Drinking Water.

Ice and water that meets the approval of the Department shall be available and precautions shall be taken to prevent contamination. Ice delivered to patient areas in bulk shall be in nonporous, easily cleanable covered containers. The ice scoop shall be stored in a sanitary manner with the handle at no time coming in contact with the ice. Clean, sanitary drinking water shall be available and accessible in adequate amounts at all times.

SECTION 1600
MAINTENANCE (II)

An institutional structure, its component parts, facilities, and all equipment shall be kept in good repair and operating condition.

SECTION 1700
HOUSEKEEPING AND REFUSE DISPOSAL (II)

1701. Housekeeping.

A. A facility shall be kept neat and clean. Accumulated waste material must be removed daily or more often if necessary. There must be frequent cleaning of floors, walls, ceilings, woodwork, windows and premises. There must be an effective rodent and insect control program for the facility to prevent infestation. Bath and toilet facilities must be maintained in a clean and sanitary condition at all times. Dry dusting and dry sweeping are prohibited.

B. Upon discharge or transfer of a patient, all bedside equipment shall be cleansed and disinfected. Bed linen shall be removed and mattresses turned; if damaged, replaced. Beds shall be made with fresh linens to maintain them in a clean and sanitary condition for each patient.

C. Employee locker rooms shall be maintained in a clean and sanitary condition.

D. Janitor closets, floors, walls, sinks, mops, mop buckets, and all equipment shall be cleaned daily or more often as needed. A supervisory hospital employee shall make frequent inspections to assure compliance.

E. All storage spaces shall be kept clean, orderly and free of trash, papers, old cloths and empty boxes. In areas provided with a sprinkler system, a minimum vertical distance of 18 inches shall be maintained between the top of stored items and the sprinkler heads.

1702. Refuse Disposal.

A. All garbage and refuse storage shall be in accordance with Regulation 61-25.

B. All contaminated dressings, pathological, and/or similar waste shall be properly disposed of in accordance with Regulation 61-105.

C. All radioactive waste shall be disposed of by a method in accordance with Regulation 61-63.

D. All outside areas, grounds and/or adjacent buildings on the premises shall be maintained neat and clean.

SECTION 1800
INFECTION CONTROL (I)

1801. General.

A. The hospital shall provide a safe and healthy environment that minimizes infection exposure and risk to patients, employees, health care workers, volunteers and visitors. The hospital shall implement and maintain a written, effective, organized, active, hospital-wide program for the surveillance, prevention, control, and investigation of infections, infectious agents and communicable diseases, with the goal of implementing best practices and continuously reducing infections. The infection prevention and control program must be implemented in a manner that minimizes the risk of health care associated infections. The hospital must designate a qualified employee as the hospital's Infection Practitioner, whose function is to administer the infection prevention and control program. The Infection Practitioner must be provided with the resources and assistance necessary to carry out the activities of the infection prevention and control program. Each hospital must assess the time requirement needed for surveillance and infection prevention activities at each of its locations and provide sufficient staffing to meet the organization's assessed needs.

B. Hospital policies and procedures for infection prevention and control shall comply with Federal and State laws and regulations and shall reference guidelines, including but not limited to, the following:

1. Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; 29 CFR 1910 Occupational Safety and Health Standards with emphasis on compliance with 29 CFR 1910-1030 (Bloodborne Pathogens);

2. The Center for Disease Control and Prevention's (CDC) Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Hospital Infection Control Practices Advisory Committee (HICPIC);

3. CDC's Guideline for Hand Hygiene in Health-Care Settings and/or the World Health Organization's Moments of Hand Hygiene Guidelines;

4. CDC's Guidelines for Environmental Infection Control in Health-Care Facilities;

5. CDC's Guideline for Disinfection and Sterilization in Healthcare Facilities;

6. CDC's Guidelines for the Management of Multidrug-Resistant Organisms In Healthcare Settings;

7. Regulation 61-105;

8. CDC's Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings; and

9. CDC's Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.

C. The hospital must comply with and demonstrate compliance with this regulation as well as their own policies and procedures.

1802. Infection Control Training.

A. The hospital shall require annual education regarding infection prevention and control for all employees, students, and volunteers who have contact with patients or who handle or potentially handle blood, body fluids, or tissue. If any of these persons work or perform tasks at more than one hospital, the hospital may accept infection prevention and control education received at another hospital or at an in-person or online seminar to meet this requirement, but only if the education is reported to and documented by the hospital.

B. Infection prevention and control education requirements may be met through in-person or online training, or completion of modules, videos or other training materials designed to convey such education.

C. In addition to general infection prevention education provided during initial orientation, each employee, student, and volunteer who has contact with patients or who handles or potentially handles blood, body fluids or tissue, shall receive infection prevention and control education specific to his/her job classification and work activities to inform him/her about the infection prevention and control policies and procedures of his/her position. Infection prevention and control training should be targeted to the functions of different categories of employees.

1803. Patient/Public Education and Disclosure.

Prior to or upon admission to the hospital as an inpatient or for outpatient surgery, the hospital must provide to patients materials designed to educate the patient and his/her responsible party about the prevention of healthcare associated infections and the public availability of healthcare associated infection reports through the Hospital Infections Disclosure Act, S.C. Code Ann. Section 44-7-2410, et. seq. The hospital must document provision of this information to the patient or responsible party. The hospital is not required to provide the information to the patient or responsible party if he or she is unable or unwilling to receive the information or if there is no responsible party.

1804. Live Animals.

Service animals may be permitted in the facility in accordance with the Americans with Disability Act and other applicable state or federal statutes or regulations.

1805. Laundry and Linens.

A. Linen includes surgical clothing. An adequate supply of clean, sanitary linen shall be available at all times.

B. The hospital shall have a clean linen storage area and a separate soiled linen storage area. These storage areas shall be used solely for their intended purposes. The soiled linen storage area shall have mechanical ventilation to the outside.

C. In order to prevent contamination of clean linen by dust or other airborne particles or organisms, linen shall be stored and transported in a sanitary manner, i.e., enclosed and covered. Clean linen shall be stored in a

dedicated cart, closet, or cabinet which is covered and dedicated only for the use of clean linen. Non-linen items shall not be stored in the same cart as clean linen. Clean non-linen items may be stored in the same closet or cabinet as clean linen, but shall not be stored on the same shelf.

D. The hospital shall have policies addressing the storage, handling, distribution, collection, and reprocessing of linen for the hospital. If the hospital uses an off-site laundry, the hospital must ensure through contract that the linen is handled and cleaned properly to institutional standards. The hospital will assure that laundry services whether operated by the hospital or contracted will exercise necessary precautions to render all linen to be safe for reuse.

E. The hospital shall have policies for collecting, transporting, and storing all soiled linen. Soiled linen shall be kept in closed or covered containers while being collected, transported or stored and shall be stored separately from clean linen and patient areas. These containers shall be cleaned and disinfected weekly at a minimum and immediately if visibly soiled. Hospitals operating laundries within the buildings accommodating patients shall provide proper insulation to prevent transmission of noises to patient areas. The laundry shall be well ventilated and the general air movement shall be from the cleanest areas to the most contaminated areas.

F. All used linen must be handled as if it is infectious. Used linen shall be placed in durable bags which, by color or terminology, identify the contents as contaminated and must be transported in these closed bags to the soiled linen holding area or laundry. All linen from patients with infectious or communicable diseases shall be placed in durable bags identified “contaminated” and transported in these closed bags to the soiled linen holding area or laundry.

G. Soiled linen shall be neither sorted nor rinsed in patient rooms.

H. Laundry operations shall not be carried out in patient rooms or where food is prepared, served, or stored.

I. Soiled linen area floors shall be cleaned daily. The area shall be cleaned and disinfected weekly at a minimum and more frequently if necessary to control odors and bacteria.

J. If linen chutes are used, the linen shall be enclosed in durable bags, identified, by color or terminology, as contaminated, before placing in the chute. Chutes shall be cleaned monthly.

K. Personnel must wear appropriate protective attire in accordance with the hospitals policies and procedures. Personnel must wash their hands thoroughly after handling soiled linen.

1806. Waste Management.

A. The hospital shall be able to demonstrate that it has a comprehensive waste management program for identification, collection, handling, and management, of all medical waste, including nonhazardous and hazardous pharmaceutical waste.

B. The hospital shall provide for a regular review of its policies and procedures to assure compliance of its waste management practices in comparison with federal EPA and state regulatory requirements.

C. Accumulated waste, including all contaminated sharps, dressings, and/or similar infectious waste, shall be disposed of in compliance with the following standards: Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; related regulations at 29 CFR 1910; the Department’s *Guidelines for Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings*; Regulation 61-105, and other applicable federal, state and local laws and regulations.

D. The hospital shall inform personnel involved in the handling and disposal of potentially infectious waste of health and safety hazards, and ensure that they are trained in appropriate handling and disposal methods.

E. The hospital shall have policies for the use and disposal of sharps. The hospital shall use sharps containers capable of maintaining their impermeability after waste treatment to avoid subsequent physical injuries during final disposal. Disposable syringes with needles, including sterile sharps that are being discarded, scalpel blades, and other sharp items must be placed into puncture-resistant containers located as close as practical to the point of use.

F. Regulated medical wastes awaiting treatment shall be stored in a properly ventilated area inaccessible to vermin. Waste containers that prevent development of noxious odors must be used. If treatment options are not available at the site where the medical waste is generated, the hospital must ensure transport of the regulated medical wastes in closed, impervious containers to the on- site treatment location or to another facility for treatment as appropriate. Regulated medical wastes must be treated by using a method (e.g., steam sterilization, incineration, interment, or an alternative treatment technology) in accordance with local, state and federal laws and regulations.

1807. Water Requirements.

A. The hospital shall establish written policies and procedures to prevent waterborne microbial contamination within the water distribution system.

B. The hospital shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions (e.g. gloves) in accordance with established guidelines.

C. The hospital shall eliminate contaminated water or fluid from environmental reservoirs (e.g. in equipment or solutions) wherever possible.

D. The hospital shall not place decorative fountains and fish tanks in patient-care areas. If decorative fountains are used in separate public areas, the hospital shall ensure that they are disinfected in accordance with manufacturer’s instructions and safely maintained.

E. The hospital plumbing fixtures which require hot water and which are accessible to patients shall be supplied with water which thermostatically controlled to a temperature of at least 100 degrees F. (37.8 degrees C) and not exceeding 125 degrees F. (51.7 degrees C.) at the fixture.

F. The hospital shall have a written plan to respond to disruptions in water supply. The plan must include a contingency plan to estimate water demands for the entire facility in advance of significant water disruptions (i.e., those expected to result in extensive and heavy microbial or chemical contamination of the potable water), sewage intrusion, or flooding.

G. When a significant water disruption or an emergency occurs, the hospital shall:

1. Adhere to any advisory to boil water issued by the municipal water utility;

2. Alert patients, families, employees, volunteers, students and visitors not to consume water from drinking fountains, ice, or drinks made from municipal tap water, while the advisory is in effect, unless the water has been disinfected;

3. After the advisory is lifted, run faucets and drinking fountains at full flow for greater than 5 minutes, or use high-temperature water flushing or chlorination;

4. All ice and drinks that may have been contaminated must be disposed and storage containers cleaned; and

5. Decontaminate the hot water system as necessary after a disruption in service or a cross-connection with sewer lines has occurred.

H. The hospital shall adhere to Association for the Advancement of Medical Instrumentation (AAMI) standards for quality assurance performance of devices and equipment used to treat, store and distribute water in hemodialysis units and for the preparation of concentrates and dialysate.

I. The hospital shall follow appropriate recommendations to prevent cross connection and other sources of contamination of ice for human consumption, and to prevent contamination of hydrotherapy equipment and medical equipment connected to water systems (e.g. automated endoscope reprocessors).

J. The hospital shall maintain and implement policies and procedures addressing the management of failure of waste water systems.

SECTION 1900
DESIGN, CONSTRUCTION, REPAIRS, ALTERATIONS, AND ADDITIONS

1901. General. (II)

The Facility shall be planned, designed, and equipped to provide for and promote the care, safety, and well-being of each patient. The Facility design shall be such that all patients shall have access to required services.

1902. Codes and Standards. (II)

A. Facility design and construction shall comply with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal. Further, the design and construction shall comply with the provisions of the Facility Guidelines Institute's (FGI) *Guidelines for Design and Construction of Hospitals* and *Guidelines for Design and Construction of Outpatient Facilities*. When conflict exists for compliance with the FGI *Guidelines* and officially adopted codes or this regulation, the Facility shall comply with the strictest provision.

B. Unless specifically required otherwise by the Department, all facilities shall comply with the codes and regulations applicable at the time of final plan approval by the Department.

1903. Submission of Plans. (II)

A. Plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina. Unless directed otherwise by the Department, the architect and/or engineer shall submit plans at the schematic, design development, and final stages. All plans shall be drawn to scale. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction, the Facility shall employ a registered architect and/or engineer for construction administration. Upon approval of the Department, construction administration may be performed by an entity other than the architect. The Department shall conduct periodic inspections throughout each project.

B. Plans and specifications shall be submitted to the Department for a project that has an effect on:

1. The function of a space;

2. The accessibility to or of an area;

3. The structural integrity of the facility;

4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);

5. Doors;

6. Walls;

7. Ceiling system assemblies;

8. Exit corridors;

9. Life safety systems; or

10. Increases the occupant load or licensed capacity of the facility.

C. The Facility shall submit all subsequent addenda, change orders, field orders, and documents altering the Department's review . Any substantial deviation from the accepted documents shall require written notification, review, and approval from the Department.

D. The licensee shall pay the following inspection fees during the construction phase of the project. The plan inspection fee is based on the total estimated cost of the project whether new construction, an addition, or a renovation. The fees are detailed in the table below.

Construction Inspection Fees	
Plan Inspection	
Total Project Cost	**Fee**
< $10,001.00	$750
$10,001 - $100,000	$1,500
$100,001 - $500,000	$2,000
> $500,000	$2,500 plus $100 for each additional $100,000 in project cost
Site Inspection	
50% Inspection	$500
80% Inspection	$500
100% Inspection	$500

E. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating, smoke development, or other safety criteria shall be documented with copies of the documentation and certifications kept on file at the facility and made available to the Department.

F. Any construction work which violates codes or standards will be required to be brought into compliance.

1904. Construction Permits. (II)

The Facility shall obtain all required permits (i.e., zoning and building) from the locality having jurisdiction for all projects. Construction without proper permitting shall not be inspected by Department.

1905. Patient Rooms.

A. The Facility shall ensure that all curtains are flame proof (including cubicle curtains).

B. The Facility shall ensure patient beds are placed with at least three feet of clearance on three sides of the bed.

C. The Facility shall ensure at least one private room is provided in each nursing unit for purposes of medical isolation, incompatibility, personality conflicts, etc.

1906. Signal System. (II)

A signal system shall be provided for each patient. The system shall consist of a call button for each bed, bath, toilet and treatment/examination room; a light at or over each patient room door visible from the corridor; a control panel in utility rooms, treatment/examination rooms, medication rooms, nurses' lounges and floor kitchens. Indicators and control panels shall employ both an audible and visual signal.

1907. Nurses Station.

The Facility shall ensure each nurses' station serves no more than forty-four (44) beds, unless additional services and facilities are provided. In order for a nurses' station to be permitted to serve more than forty-four (44) beds, the Facility shall provide the Department, in writing, justification showing how the additional beds served will not adversely affect the care provided to each patient.

1908. Utility Rooms.

A. Soiled Utility Room. The Facility shall ensure at least one soiled utility room per main/central nurses' station is provided, which contains a clinical sink, work counter, hand wash sink, waste receptacle, and soiled linen receptacle. This requirement is not applicable to satellite/remote nurses' stations.

B. Clean Utility Room. The Facility shall ensure at least one clean utility room per main/central nurses' station is provided, which contains a counter with hand wash sink, space for the storage, and space assembly of supplies for nursing procedures. If the Facility provides individually sealed, one-time-use packaged items for patient care, a hand wash sink is not required. This requirement is not applicable to satellite/remote nurses' stations.

C. Nourishment Room. The Facility shall ensure there is at least one nourishment room per main/central nurses' station which contains a counter with hand wash sink, refrigerator, ice machine, space for storage, and space for the assembly of packaged food and drink for patient use. This requirement is not applicable to satellite/remote nurses' stations.

SECTION 2000
FIRE PROTECTION, PREVENTION AND LIFE SAFETY (I)

2001. Alarms.

A. A partial, manual, automatic, supervised fire alarm system shall be provided. The system shall be arranged to transmit an alarm automatically to a third party by an approved method. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. There must be a fire alarm pull station in or near each nurses station.

C. All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.

2002. Emergency Generator Service.

A. Facilities shall provide certification that construction and installation of emergency generator service complies with requirements of all adopted State, Federal, or local codes, ordinances, and regulations.

B. An emergency generator shall be provided to deliver emergency electrical service during interruption of the normal electrical service and shall be provided to the distribution system as follows:

1. Exit lights and exit directional signs;

2. Exit access corridor lighting;

3. Lighting of means of egress and staff work areas;

4. Fire detection and alarm systems;

5. In patient care areas;

6. Signal system;

7. Equipment necessary for maintaining telephone service;

8. Elevator service that will reach every patient floor when rooms are located on other than the ground floor;

9. Fire pump;

10. Equipment for heating patient rooms;

11. Public restrooms;

12. Essential mechanical equipment rooms;

13. Battery-operated lighting and a receptacle in the vicinity of the emergency generator;

14. Alarm systems, water flow alarm devices, and alarms required for medical gas systems;

15. Patient records when solely electronically based.

2003. Fire Reports. (II)

The Facility shall immediately notify the Department by email to firewatch@dhec.sc.gov or other email address prescribed by the Department regarding any fire, regardless of size or damage that occurs in the facility, and followed by a complete written report to include fire department reports, if any, to be submitted within a time period determined by the facility, but not to exceed 7 business days.

2004. Fire Safety. (II)

The facility shall comply with the provisions of the codes officially adopted by the South Carolina Building Codes Council, and the South Carolina State Fire Marshal.

2005. Plans and Training for Fires. (II)

A. Each facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fires. All employees shall be made familiar with these plans and instructed as to required actions.

B. Each employee shall receive fire protection training.

C. A fire drill shall be conducted for each shift at least quarterly. Records of drills shall be maintained to report the date, time, shift and a description and evaluation of the drill.

D. Drills shall be designed and conducted to:

1. Assure that all personnel are capable of performing assigned tasks or duties;

2. Assure that all personnel know the location, use and how to operate firefighting equipment;

3. Assure that all personnel are thoroughly familiar with the fire plan; and

4. Evaluate the effectiveness of plans and personnel.

2006. Tests and Inspections. (II)

The Facility shall maintain and test all fire protection and suppression systems in accordance with the provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to the Facility.

2007. Gases.

The Facility shall take safety precautions against fire and other hazards when oxygen is dispensed, administered, or stored. “No Smoking” signs shall be posted conspicuously, and cylinders shall be properly secured in place.

2008. Furnishings and Equipment. (II)

A. The Facility shall maintain the physical plant free of fire hazards or impediments to fire prevention.

B. The Facility shall not permit portable electric or unvented fuel heaters.

C. The Facility shall require all wastebaskets, window dressings, portable partitions, cubicle curtains, mattresses, and pillows to be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant.

SECTION 2100
PREVENTIVE MAINTENANCE OF LIFE SUPPORT EQUIPMENT

A written preventive maintenance program for all life support equipment including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient grounding systems, and medical gas systems shall be developed and implemented. This equipment shall be checked and/or tested at such intervals to ensure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper operation before returning it to service. Records shall be maintained on each piece of life support equipment to indicate its history of testing and maintenance.

Fiscal Impact Statement:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

These revised regulations are updated to ensure alignment with current state laws and to update and revise definitions, license requirements and fees, staff and training, reporting, disaster management, accommodations for patients, patient care and services, design and construction, fire protection, prevention and life safety, and policies and procedures.

Document No. 5264
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394

61-91. Standards for Licensing Ambulatory Surgical Facilities.

Synopsis:

Pursuant to S.C. Code Sections 44-7-250 and 44-7-260(A)(4), the Department establishes and enforces the minimum standards for the licensure, maintenance, and operation of ambulatory surgical facilities to ensure the safe and appropriate treatment of persons served in this state. In accordance with 2023 Act No. 20 (S.164), the Department proposes amending R.61-91 to promulgate regulations concerning the provision of uncompensated indigent/charity care required pursuant to S.C. Code Section 44-7-266(B) and -(C), including related definitions, licensure requirements, reporting requirements, and enforcement. Additionally, the Department proposes amending the regulation to address the required quality of care, services, and treatment provided by facilities and to prescribe the manner and method of fee payments. The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

The Department had a Notice of Drafting published in the August 25, 2023, South Carolina State Register.

Section-by-Section Discussion of Proposed Amendments:

Section	Type of Change	Purpose
101	Reorganization	Recodification of definitions due to additions of new definition.
101.B, 101.J, 101.M, 101.N, 101.W, 101.X, 101.Z, 101.AA, 101.MM, 101.NN, 101.HHH, 101.III, 101.JJJ	Addition	Added definitions for clarity.
103.G	Addition	Added requirement to make payment of fees before the Department's issuance of a license.
103.H	Revision	Revised for clarification.
103.N.1 and 103.N.2	Addition	Language added in accordance with ACT 20.
202.F and 202.G	Addition	Inspection and Construction fees added for clarification.

Section	Type of Change	Purpose
401.A and 402.B	Revision	Revised to clarify requirements for policies and procedures, the time period for reviewing policies and procedures, and their accessibility to staff.
503	Addition	The governing body section added to address quality of care, services and treatment provided by facilities.
504, 505, 506, 507, 508, and 509	Reorganization	Recodification of section due to addition of section 503.
601.B	Revision	Revised to add some of the NQF Serious Reportable Events as reportable incidents.
801.D	Addition	Added a new section for transfer agreements including an exception for when a facility is unable to secure such an agreement.
804.B	Addition	Added to be consistent with federal regulation and to address quality of care.
807.A and -B	Revision	Revised to add provisions regarding the offering of cardiovascular care services.
808 and 809	Reorganization	Recodified due to the addition of 807.
804.C	Reorganization	Recodified due to the addition of 804.B.
901.A	Deletion	Deletion of incorrect reference to SC Code.
1201.A	Addition	Added emergency equipment requirements.
1201.B	Deletion	Deleted subsection.
1504.E	Addition	Added requirement concerning collection, transportation, and storage of contaminated equipment.
1601.C	Addition	Added requirements concerning governing body involvement with the quality improvement program to be consistent with federal regulations and to address quality of care.
2006.E	Revision	Revised the minimum toilet fixture requirement.

Instructions:

Print the regulation as shown below. All other items remain unchanged.

Text:

61-91. Standards for Licensing Ambulatory Surgical Facilities.

Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394

SECTION 100

DEFINITIONS, REFERENCES, AND LICENSE REQUIREMENTS

101. Definitions.

For the purpose of these standards, the following definitions shall apply:

A. Administrator. The individual designated by the facility licensee to have the authority and responsibility to manage the facility.

B. Adjusted Gross Revenue. Total Gross Revenue minus Medicaid and Medicare contractual adjustments only and bad debt.

C. Administering Medication. The direct application of a single dose or multi-dose of medication to the body of a patient by injection, ingestion, or any other means.

D. Advance Directive. A written statement such as a living will, a durable power of attorney for health care, or a do-not-resuscitate order relating to the provision of health care when the individual is incapacitated. The exercise by a patient of self-determination that encompasses making choices regarding life-sustaining treatment (including resuscitative services).

E. Advanced Practice Registered Nurse. An individual who has official recognition as such by the S.C. State Board of Nursing.

F. Ambulatory Surgical Facility. A facility organized and administered for the purpose of performing surgical procedures and/or endoscopy for which patients are scheduled to arrive, receive surgery, and be discharged on the same day.

1. The owner or operator shall make the facility available to other providers who comprise an organized professional staff, *i.e.*, an open medical staff (see Section 101.BB).

2. This definition does not apply to any facility used as an office or clinic for the private practice of licensed healthcare professionals (see Section 101.JJ).

G. Anesthesiologist's Assistant. An individual currently licensed as such by the S.C. Board of Medical Examiners.

H. Anesthesiologist. A physician who has completed a residency in anesthesiology.

I. Anesthetic Agent. Any drug or combination of drugs administered parenterally or inhaled with the purpose of creating conscious or deep sedation.

J. Bad Debt. The amount a party has an obligation to pay, but that is considered uncollectible. Bad debt represents the portion of a patient's account not expected to be collected from the patient or other responsible party (the patient's portion). The patient's portion of a bill should not be categorized as bad debt for medically

indigent patients. Bad debt must be differentiated from charity services. Patient charges otherwise eligible for classification as charity care should only be treated as bad debt if all conditions of your facility's charity care criteria are not met.

K. Certified Nursing Assistant. A person whose duties are assigned by a licensed nurse and who has successfully completed a state-approved training program or course with a curriculum prescribed by the South Carolina Department of Health and Human Services, holds a certificate of training from that program or course and is listed on the South Carolina Registry of Certified Nurse Aides.

L. Certified Registered Nurse Anesthetist. A registered nurse who is authorized to practice as a certified registered nurse anesthetist by the S. C. State Board of Nursing.

M. Charity Care. Any unpaid charges for services to patients as defined in S.C. Code Ann. Section 44-6-5(5). Only the portion of a patient's account that meets the facility's charity care criteria is recognized as charity.

N. Contractual Adjustments. Any charges that are not paid by third-party payers and cannot be billed to the patient pursuant to contractual agreements. Contractual adjustments for Medicare, Medicaid and other payers should be captured separately.

O. Controlled Substance. A medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act and the S.C. Controlled Substances Act.

P. Consultation. A visit by Department representatives who will provide information to the licensee in order to facilitate compliance with these regulations.

Q. Dentist. An individual currently licensed by the S.C. Board of Dentistry to practice dentistry.

R. Department. The S.C. Department of Health and Environmental Control (DHEC).

S. Direct Care Staff Member. An individual who provides care, treatment, surgery, and/or services, or performs procedures for a patient.

T. Endoscopy. Visual inspection of any cavity of the body by means of an endoscope.

U. Existing Facility. A facility that was in operation and/or one that began the construction or renovation of a building, for the purpose of operating the facility, prior to the promulgation of this regulation. The licensing standards governing new facilities apply if and when an existing facility is not continuously operated and licensed under this regulation.

V. Facility. An ambulatory surgical facility licensed by the Department.

W. Gross Indigent and Charity Care Patient Charges. The total uncompensated charges for patients who qualify as indigent or charity under the relevant definitions.

X. Gross Patient Revenue. Includes charges generated by all patients at full-established rates before provisions for contractual and other adjustments are applied. Include any revenue forgone for provision of care for indigent/charity patients at full-established rates.

Y. Health Assessment. An evaluation of the health status of a staff member or volunteer by a physician, physician assistant, or advanced practice registered nurse, or by a registered nurse, pursuant to standing orders approved by a physician, as evidenced by the physician's signature in accordance with facility policy.

Z. Indigent and Charity Care Write-Offs. Unpaid charges for indigent and charity care cases should be related only to the provision of ambulatory surgical facility services that are licensed and regulated by the Department. Unpaid charges from other lines of business should not be included.

AA. Indigent Care. Any unpaid charges for services to medically indigent patients as defined in S.C. Code Ann. Section 44-6-5(5). Unpaid charges for patients who were eligible for Medicare, Medicaid, Third Party, or patients provided other free care are not included in Indigent Care.

BB. Inspection. A visit by Department representative(s) for the purpose of determining compliance with this regulation.

CC. Investigation. A visit by Department representative(s) to a licensed or unlicensed entity for the purpose of determining the validity of allegations received by the Department relating to this regulation.

DD. Initial License. A license granted to a new facility.

EE. Legally Authorized Healthcare Provider. An individual authorized by law and currently licensed in S.C. to provide specific medical care, treatment, procedures, surgery, and/or services to patients. Examples of individuals who may be authorized by law to provide the aforementioned care, treatment, procedures, surgery, and/or services may include, but are not limited to, advanced practice registered nurses, and physician assistants.

FF. Legend Drug.

1. A drug required by federal law to be labeled with any of the following statements prior to being dispensed or delivered:

a. “Caution: Federal law prohibits dispensing without prescription”;

b. “Rx only.”

2. A drug required by federal or state law to be dispensed pursuant to a prescription drug order or restricted to use by practitioners only;

3. Any drug products designated by the S.C. Board of Pharmacy to be a public health threat; or

4. Any prescribed compounded prescription within the meaning of the Pharmacy Act.

GG. License. A certificate issued by the Department to an Ambulatory Surgical Facility to provide care, treatment, procedures, surgery, and/or services.

HH. Licensed Nurse. An individual currently licensed by the S.C. State Board of Nursing as a registered nurse or licensed practical nurse.

II. Licensee. The individual, corporation, organization, or public entity that has received a license to provide care, treatment, procedures, surgery, and/or services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.

JJ. New Facility. All buildings or portions of buildings, new and existing, that are:

1. Being licensed for the first time;

2. Providing a different service that requires a change in the type of license;

3. Being licensed after the previous licensee's license has been revoked, suspended, or after the previous licensee has voluntarily surrendered the license and the facility has not continuously operated.

KK. Open Medical Staff. Members of the medical staff, which includes physicians, dentists, or podiatrists, of an ambulatory surgical facility, that have individually submitted application to the facility, and subsequently been approved to perform surgery/procedures in accordance with criteria established by the facility for approving qualified applicants.

LL. Operating Room. A room in which surgery is performed.

MM. Other Free Care. Other uncompensated care provided as a result of employee discounts, administrative adjustments, courtesy discounts, small bill write-offs, or other similar write-offs not based on a patient's inability to pay. Should not include amounts properly classified as "contractual adjustments."

NN. Other Revenue. Other revenues or gains are derived from services other than providing services to patients. This may include revenues shared with the facility from another organizational entity.

OO. Nonlegend Medication. A medication that may be sold without a prescription and that is labeled for use by the consumer in accordance with the requirements of the laws of this State and the Federal government.

PP. Pharmacist. An individual currently registered as such by the S.C. Board of Pharmacy.

QQ. Physical Examination. An examination of a patient by a physician or physician assistant that addresses those issues identified in Section 802 of this regulation.

RR. Physician. An individual currently licensed as such by the S.C. Board of Medical Examiners.

SS. Physician Assistant. An individual currently licensed as such by the S.C. Board of Medical Examiners.

TT. Podiatrist. An individual currently licensed as such by the S.C. Board of Podiatry Examiners.

UU. Private Practice. An individually-licensed physician or group of licensed physicians who practice together at a certain location/address in a legally-constituted professional corporation, association, or partnership; patient encounters in the office or clinic are for the purpose of diagnosis and treatment, and not limited primarily to the performance of surgery and related care, treatment, procedures, and/or services.

VV. Procedure Room. A room where procedures not requiring general anesthesia can be safely performed.

WW. Quality Improvement Program. The process used by a facility to examine its methods and practices of providing care, treatment, procedures, surgery, and/or services, identify the ways to improve its performance, and take actions that result in higher quality of care, treatment, procedures, surgery, and/or services for the facility's patients.

XX. Recovery Area. An area used for the recovery of patients.

YY. Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.

ZZ. Responsible Party. A person who is authorized by law to make decisions on behalf of a patient, including, but not limited to, a court-appointed guardian or conservator, or person with a health care power of attorney or other durable power of attorney.

AAA. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding its authority to operate.

BBB. Same Day. A period of time not to exceed twenty-four (24) hours after admission.

CCC. Staff Member. An adult who is a compensated employee of the facility on either a full or part-time basis.

DDD. Surgery. Treatment of conditions by operative means involving incision, whether with a scalpel or a laser, followed by removal or repair of an organ or other tissue.

EEE. Surgical Suite. An area that includes one or more operating rooms and a recovery area.

FFF. Surgical Technologist. An individual who meets one of the requirements listed in 1976 Code Section 44-7-380(B)(1)(a) – (d) to practice surgical technology in South Carolina.

GGG. Suspension of License. An action by the Department requiring a facility to cease operation for a period of time or to require a facility to cease admitting patients until such time as the Department rescinds that restriction.

HHH. Total Expenses. The sum of resources consumed in fulfillment of a facility's ongoing major or central operations. Expenses may result from current expenditures, incurring obligations to make future expenditures, or consuming resources obtained from previous expenditures. Expenses related to activities shared with entities other than the ambulatory surgical facility should be allocated between the entities. The expense component not allocated to the ambulatory surgical facility should not be included in the report. Appropriate matching of revenues and expenses excluded from the report should be made. Do not include bad debt as a total expense, but as a deduction from revenue.

III. Total Gross Revenue. The total revenue for the facility from all patient revenue and from other revenues or gains derived from services other than providing services to patients.

JJJ. Total Indigent and Charity Compensation. Funds provided by all public and private sources that are earmarked as compensation to offset uncompensated charges from indigent or charity care cases.

102. References.

The following publications/standards are referenced in this regulation:

A. Departmental:

1. R.61-4, *Controlled Substances*;

2. R.61-12, *Standards for Licensing Abortion Clinics*;

3. R.61-16, *Standards for Licensing Hospitals and Institutional General Infirmaries*;

4. R.61-20, *Communicable Diseases*;

5. R.61-25, *Retail Food Establishments*;

6. R.61-58, *State Primary Drinking Water Regulations*;

7. R.61-63, *Title A, Rules and Regulations for Radioactive Materials*;

8. R.61-64, *X-Rays, (Title B)*;

9. R.61-67, *Standards for Wastewater Facility Construction*;

10. R.61-105, *Infectious Waste Management Regulations*;

11. Guidelines for Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings.

B. Non-Departmental:

1. American Association of Blood Banks;

2. American National Standards Institute (ANSI);

3. American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE);

4. Bloodborne Pathogens Standards, Occupational Safety and Health Act (OSHA) of 1970;

5. Civil Rights Act of 1964;

6. Centers for Disease Control and Prevention (CDC);

7. International Building Code (IBC);

8. National Fire Protection Association (NFPA);

103. License Requirements (II).

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise/market) as an ambulatory surgical facility in S.C. without first obtaining a license from the Department. No such party shall provide care, treatment, procedures, surgery, and/or services to patients prior to the effective date of licensure. Upon the Department's determination that such party provides care, treatment, procedures, surgery, and/or services without a Department-issued license, the party shall cease operation immediately and ensure safety, health, and well-being of the patients. Current or previous violations of the S.C. Code and/or Department regulations may jeopardize the issuance of a license or licensing of another facility or addition to an existing facility owned or operated by the violating licensee. (I)

B. Compliance. An initial license shall not be issued to a proposed facility that has not been previously and continuously licensed under Department regulations until the licensee has demonstrated to the Department that the proposed facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility/activity licensed by the Department makes application for another facility or increase in licensed capacity, the currently licensed facility/activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or an amended license to the existing facility. A copy of the licensing standards shall be maintained at the facility and accessible to all staff members. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations.

C. Compliance with Structural Standards. Facilities possessing a license issued prior to January 1, 2016 are considered in compliance with Section 1703 without modification of its licensed structure.

D. Licensed Capacity. No facility that has been licensed for a set number of operating rooms or procedure rooms shall exceed that number of operating or procedure rooms or establish new care, treatment, procedures, surgery, and/or services without first obtaining authorization from the Department. (I)

E. Issuance and Terms of License.

1. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the facility.

2. The issuance of a license does not guarantee adequacy of individual care, treatment, procedures, surgery, and/or services, personal safety, fire safety, or the well-being of any patient or occupant of a facility.

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

4. A license shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A license shall remain in effect until the Department notifies the licensee of a change in that status.

5. Facilities owned by the same entity but not located on the same adjoining or contiguous property shall be separately licensed. Roads or local streets, except limited access, *e.g.*, interstate highways, shall not be considered as dividing otherwise adjoining or contiguous property.

6. Separate licenses are not required, but may be issued, for separate buildings on the same or adjoining grounds where a single level or type of care is provided.

7. Multiple types of facilities on the same premises shall be licensed separately even though owned by the same entity.

8. A facility shall provide only the care, treatment, procedures, surgery, and/or services of which it is capable and equipped to provide, and has been authorized by the Department to provide pursuant to the definition in Section 101.E of this regulation.

9. Abortions shall not be performed in an ambulatory surgical facility unless it is also licensed as an abortion clinic pursuant to R.61-12.

F. Facility Name. No proposed facility shall be named nor shall any existing facility have its name changed to the same or similar name as any other facility licensed in S.C. The Department shall determine if names are similar. If the facility is part of a "chain operation" it shall then have the geographic area in which it is located as part of its name.

G. Application. Applicants for a license shall submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes 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 signed by the owner(s) if an individual or partnership; in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his or her address is different from that of the facility, and the names of the persons in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with these regulations. Corporations or partnerships shall be registered with the S.C. Office of the Secretary of State. Applicants shall make payment of all outstanding fees (initial licensure

fees, annual licensure fees, inspection fees, construction fees, etc.) prior to the Department's issuance of a license.

H. Fees. The initial and annual license fee shall be $150.00 per operating/procedure room or $600.00, whichever is greater. All fees are non-refundable and shall be made payable to the Department via a secured portal or specific website.

I. Late Fee. Failure to submit a renewal application after the license expiration date may result in a late fee of 25% of the licensing fee amount, in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time-period specified by the Department may result in an enforcement action.

J. License Renewal. To renew a license, an applicant shall file an application with the Department and pay a license fee. If the license renewal is delayed due to enforcement action, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable. If an application is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure year.

K. Change of License.

1. A facility shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

a. Change of ownership;

b. Reallocation of types of operating or procedure rooms as shown on the license;

c. Change of facility location from one geographic site to another;

d. The addition or replacement of a surgical suite or any part thereof, or the deletion of operating or procedure rooms.

2. Changes in facility name or address (as notified by the post office) shall be accomplished by application or by letter from the licensee.

L. An ambulatory surgical facility license shall not be required for, nor shall such a license be issued to:

1. Facilities operated by the federal government;

2. Ambulatory surgical services or procedures provided in licensed hospitals (such services remain within the purview of R.61-16);

3. Private practices (see Section 101.JJ).

M. Exceptions to Licensing Standards. The Department has the authority to make exceptions to these standards where it is determined that the health, safety, and well-being of the patients are not compromised, and provided the standard is not specifically required by statute.

N. Indigent/Charity Care. Any Facility established or constructed after May 16, 2023, and which did not require a Certificate of Need, must provide indigent charity care as described below in Section 103.N.2 after it has been in operation for two calendar years:

1. Annual Reports: After being in operation for two calendar years, a Facility subject to Section 103.N shall submit annual reports in a form prescribed by the Department and located on the Department's website. Further, a Facility subject to Section 103.N shall submit the annual reports by a deadline set by the Department and indicated on the Department's website. The annual reports shall include, but not be limited to the following information:

a. Gross patient revenue;

b. Medicare contractual adjustments;

c. Medicaid contractual adjustments;

d. Other contractual adjustments;

e. Bad debt;

f. Indigent care gross charges;

g. Indigent care compensation;

h. Charity care gross charges;

i. Charity care compensation;

j. Other free care;

k. Other revenue; and

l. Total expenses.

2. Indigent/Charity Care requirements:

a. If the Facility provides care to Medicaid beneficiaries, it must provide uncompensated indigent/charity care to the underinsured or medically indigent in an amount equal to or greater than 2% of its adjusted gross revenue; or

b. If the Facility does not provide care to Medicaid beneficiaries, it must provide uncompensated indigent/charity care to the underinsured or medically indigent in an amount equal to or greater than 3% of its adjusted gross revenue.

c. Noncompliance with Section 103.N.2.a or -b shall result in a monetary penalty in the amount of the difference between the services which the Facility is required to provide and the amount it actually provided.

SECTION 200

ENFORCING REGULATIONS

201. General.

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

202. Inspections/Investigations.

A. An inspection shall be conducted prior to initial licensing of a facility and subsequent inspections conducted as deemed appropriate by the Department. Other regulatory-related inspections may be considered in determining the appropriateness of Department inspections, e.g., Joint Commission on Accreditation of Health Care Organizations (JCAHO), Accreditation Association for Ambulatory Health Care (AAAHC), American Osteopathic Association (AOA), American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) inspections.

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, and have the authority to require the facility to make photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used for purposes of enforcement of regulations and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. (II)

D. A facility found noncompliant with the standards of this regulation shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;

2. The actions taken to prevent recurrences (actual and similar);

3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the facility response, shall be made available upon written request with the redaction of the names of those individuals in the report as provided by § 44-7-310 and 315 of the S.C. Code Ann. (2002).

F. Inspection Fees. The Facility shall pay the inspection fee for initial, relocation, routine inspection, and routine follow-up. The Facility shall pay a fee for unit increase of service modification or follow-up.

Initial/Relocation Inspection Fee	Calculated - $350 + $45 per operating, endoscopy, and procedure room
Initial/Relocation Follow-Up Fee	Calculated - $200 + $45 per operating, endoscopy, and procedure room
Routine Inspection Fee	Calculated - $350 + $45 per operating, endoscopy, and procedure room
Routine Follow-Up Fee	Calculated - $350 + $45 per operating, endoscopy, and procedure room
Unit Increase or Service Modification Fee	Calculated - $200 + $45 per operating, endoscopy, and procedure room
Unit Increase of Service Modification Follow-Up Fee	Calculated - $200 + $45 per operating, endoscopy, and procedure room

G. Construction Fees. The Facility shall pay the following inspection fees during the construction phase of the project.

Construction Inspection Fees
Plan Inspection

Total Project Cost	Fee
< $10,001	$750
$10,001 -$100,000	$1,500
$100,001 - $500,00	$2,000
> $500,000	$2,500 plus $100 for each additional $100,000 in project costs
Site Inspection	$500

SECTION 300

ENFORCEMENT ACTIONS

301. General.

When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such facility, the Department, upon proper notice to the licensee, may impose a mandatory penalty and/or deny, suspend, and/or revoke its license.

302. 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 the persons in the facility or a substantial probability that death or serious physical harm could result therefrom. 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, other than Class I violations, 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 may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. 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 may be considered a subsequent violation.

D. The notations "(I)" or "(II)", placed within sections of this regulation, indicate that those standards are considered Class I or II violations, if they are not met, respectively. Standards not so annotated are considered Class III violations.

E. In arriving at a decision to take enforcement actions, the Department shall consider the following factors: specific conditions and their impact or potential impact on health, safety, or well-being of the patients; efforts by the facility to correct cited violations; behavior of the licensee that reflects negatively on the licensee's character, such as illegal or illicit activities; overall conditions; history of compliance; and any other pertinent factors that may be applicable to current statutes and regulations.

F. When a decision is made to impose monetary penalties, the following schedule shall be used as a guide to determine the dollar amount:

Frequency of violation of standard within a 36-month period:

MONETARY PENALTY RANGES

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

G. Any enforcement action taken by the Department may be appealed in a manner pursuant to the Administrative Procedures Act, 1976 Code Section 1-23-310, et seq.

SECTION 400

POLICIES AND PROCEDURES

401. General (II).

A. The Facility shall maintain and adhere to policies and procedures addressing each section of this regulation regarding care, treatment, procedures, surgery, and/or services, patient rights, and the operation of the facility. The policies and procedures shall follow current accepted standards of medical and surgical practice to ensure services are provided in a manner which protects the health and safety of patients. The Facility shall be in full compliance with the policies and procedures.

B. The Facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures, and such reviews shall be documented. The Facility shall ensure all policies and procedures are accessible to staff at all times, either by hard copy or electronically.

SECTION 500

STAFF

501. General (II).

A. A facility shall be fully staffed in sufficient numbers and training as required by this Section at all times a patient is in the facility or the facility is open to accept patients, in order to:

1. Effectively meet the needs and condition of the patients, to include the demands of effective emergency on-site action that might arise;

2. Properly operate equipment in accordance with the equipment manufacturer’s recommendations;

3. Adhere to current professional organizational standards;

4. Comply with all local, state, and federal laws.

B. The facility shall provide additional staff members if the Department determines that the facility staff on duty is inadequate to provide appropriate care, treatment, procedures, surgery, and/or services to the patients of a facility.

C. All staff members shall be assigned duties and responsibilities in accordance with the individual's capability that shall be in writing and be reviewed on an annual basis by the staff member and supervisor.

D. There shall be accurate current information maintained regarding all staff members of the facility, to include at least an address, phone number, and health and personal/work/training background. For those staff members who are licensed/certified, a copy of the license/certificate shall be available for review.

E. Direct care staff members of the facility shall not have a prior conviction or have pled no contest (nolo contendere) within the last 10 years for child or adult abuse, neglect, exploitation, or mistreatment, or for sexual assault or assault with a deadly weapon. Facilities may take certain considerations into account regarding criminal records when making hiring decisions, i.e., discretion may be exercised regarding convictions/nolo contendere pleas occurring more than 10 years ago and may determine that an applicant, who would otherwise be disqualified, could be hired. (I)

F. A staff member shall not have an active dependency on a psychoactive substance(s) that would impair his or her ability to perform assigned duties. (I)

502. Administrator (II).

A. The facility shall have an administrator who shall be capable of meeting the responsibilities of operating the facility to ensure that it is in compliance with these regulations, and shall demonstrate adequate knowledge of these regulations. An administrator appointed subsequent to the promulgation of this regulation shall be a registered nurse or shall have a baccalaureate or associate degree with at least three years experience in a health-related field within the past five years.

B. A staff member shall be designated, by name or position, in writing, to act in the absence of the administrator.

503. Control (I).

The Facility must have a governing body designated in writing by the licensee that assumes full responsibility for determining, implementing, and monitoring policies governing the Facility's total operations. The governing body has oversight and accountability for the quality improvement program, and ensures that Facility policies and programs are administered so as to provide quality health care in a safe environment.

504. Medical Director (II).

A. There shall be a medical director of the facility who is a physician.

B. The administrator and medical director may be the same individual.

505. Medical Staff (I).

A. Physicians, dentists, and podiatrists performing surgery and/or procedures shall be appropriately licensed to perform these functions as well as adequately trained in any special requirements that are necessary to perform such surgery/procedures, including being board certified or board eligible.

B. Privileges for each physician, dentist, and podiatrist performing surgery/procedures shall be in accordance with criteria that the facility has established and approved.

C. There shall be a roster of medical staff having surgery, procedures, and anesthesia privileges at the facility, specifying the privileges and limitations of each and a current listing of all types of surgery and/or procedures offered by the facility.

D. A physician shall be physically present or available within 30 minutes until all patients have departed the premises.

E. There shall be at least one physician on staff who has admitting privileges at one or more hospitals.

506. Nursing Staff (I).

A. An adequate number of licensed nurses shall be on duty to meet the total nursing needs of patients.

B. At least one registered nurse shall be on duty whenever patients are present in the facility.

C. Nursing staff shall be assigned to duties consistent with their scope of practice as determined through their licensure and educational preparation.

507. Advanced Cardiac Life Support (I).

A. An individual who possesses a valid Advanced Cardiac Life Support credential shall be on duty in the facility whenever patients are present in the facility.

B. An individual who possesses a valid Pediatric Advanced Life Support credential shall be on duty in the facility whenever pediatric patients are present in the facility.

508. Inservice Training (II).

A. Training for the tasks each staff member performs shall be conducted in order to provide the care, treatment, procedures, surgery, and/or services delineated in Sections 501.A and 800.

B. The following training shall be provided to staff members by appropriate resources, e.g., licensed or registered persons, video tapes, books, *etc.*, to all staff members in context with their job duties and responsibilities, prior to patient contact and at a frequency determined by the facility, but at least annually:

1. Cause, effect, transmission, prevention, and elimination of infections, to include management and care of persons with contagious and/or communicable disease, *e.g.*, hepatitis, tuberculosis, HIV infection;

2. OSHA standards regarding bloodborne pathogens;

3. Confidentiality of patient information and records and the protection of patient rights;

4. Emergency procedures and disaster preparedness within 24 hours of their first day on the job in the facility (see Section 1200).

5. Fire response training within 24 hours of their first day on the job in the facility (see Section 1303);

6. Aseptic techniques such as handwashing and scrubbing practices, proper gowning and masking, dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of equipment and supplies.

C. All licensed nurses shall possess a valid cardio-pulmonary resuscitation (CPR) certificate within three months from the first day on the job in the facility; a staff member with a valid CPR certificate shall be on duty whenever patients are present in the facility.

D. All newly-hired staff members shall be oriented to acquaint them with the facility organization and physical plant, specific duties and responsibilities of staff members, and patients' needs.

509. Health Status (I).

A. All staff members who have contact with patients shall have, within 12 months prior to initial patient contact, a health assessment as defined in Section 101.R.

B. The health assessment shall include a tuberculin skin test as described in Sections 1505 and 1506.

C. If a staff member is working at multiple facilities operated by the same licensee, copies of records for tuberculin skin testing and the pre-employment health assessment shall be acceptable at each facility. (II)

SECTION 600

REPORTING

601. Accidents/Incidents (II).

A. The licensee shall report a record of each accident and/or incident occurring at the facility to the Department within five (5) days of occurrence. Reports submitted to the Department shall contain only: facility name, license number, type of accident/incident, date of accident/incident occurred, number of patients directly injured or affected, patient medical record identification number, patient age and sex, number of staff directly injured or affected, number of visitors directly injured or affected, witness(es) name(s), identified cause of accident/incident, internal investigation results if cause unknown, a brief description of the accident/incident including location where occurred, and treatment of injuries. The report retained by the facility, in addition to the minimum reported to the Department, shall contain: names of patient(s), staff, and/or visitor(s), the injuries and treatment associated with each patient, staff, and/or visitor. Records of all accidents and incidents shall be retained by the facility for ten (10) years after the patient stops receiving services at the facility.

B. The licensee shall report each accident and/or incident resulting in unexpected death or serious injury to the next of kin or party responsible for each affected individual at the earliest practicable hour, not exceeding twenty-four (24) hours. The licensee shall notify the Department immediately, not to exceed twenty-four (24) hours, via telephone, email or facsimile. The licensee shall submit a report of the licensee's investigation of the accident and/or incident to the Department within five (5) days. Accidents and/or incidents requiring reporting include, but are not limited to,:

1. Surgical or Invasive Procedure Events

   a. Surgery or other invasive procedure performed on the wrong site;

   b. Surgery or other invasive procedure performed on the wrong patient;

   c. Wrong surgical or other invasive procedure performed on a patient;

   d. Unintended retention of a foreign object in a patient after surgery or other invasive procedure; and

   e. Intraoperative or immediately/postprocedure death.

2. Product or Device Events

a. Patient death or serious injury associated with the use of contaminated drugs, devices, or biologics provided by the Facility;

b. Patient death or serious injury associated with the use or function of a device in patient care, in which the device is used or functions other than as intended; and

c. Patient death or serious injury associated with intravascular air embolism that occurs while being cared for in the Facility.

3. Patient Protection Events

a. Discharge or release of a patient of any age, who is unable to make decisions, to other than an authorized person;

b. Patient death or serious injury associated with patient elopement; and

c. Patient suicide, attempted suicide, or self-harm that results in serious injury while being cared for in the Facility.

4. Care Management Events

a. Patient death or serious injury associated with a medication error (e.g., errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration);

b. Patient death or serious injury associated with unsafe administration of blood products;

c. Patient death or serious injury associated with a fall while being cared for in the Facility;

d. Patient death or serious injury resulting from failure to follow up or communicate laboratory, pathology, or radiology test results.

5. Environmental Events

a. Patient or staff death or serious injury associated with an electric shock in the course of a patient care process in the Facility;

b. Any incident in which systems designated for oxygen or other gas to be delivered to a patient contains no gas, the wrong gas, or are contaminated by toxic substances;

c. Patient or staff death or serious injury associated with a burn incurred from any source in the course of a patient care process in the Facility; and

d. Patient death or serious injury associated with the use of physical restraints or bedrails while being cared for in the Facility.

6. Potential Criminal Events

a. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider;

b. Abduction of any patient of any age;

c. Sexual abuse/assault on a patient or staff member within or on the grounds of the Facility; and

d. Death or serious injury of a patient or staff member resulting from a physical assault (i.e., battery) that occurs within or on the grounds of the Facility.

602. Fire/Disasters (II).

A. The Department shall be notified immediately via telephone, email or facsimile regarding any fire in the facility, and followed by a complete written report, to include fire department reports, if any, to be submitted within a time-period determined by the facility, but not to exceed seventy-two (72) hours from the occurrence of the fire.

B. Any natural disaster that requires displacement of the patients or jeopardizes or potentially jeopardizes the safety of the patients, shall be reported to the Department via telephone, email or facsimile immediately, with a complete written report submitted within a time-period as determined by the facility, but not to exceed seventy-two (72) hours.

C. Where a required fire protection system is out of service, the facility shall notify the fire department and the fire code official immediately, and where required by the fire code official, the building shall either be evacuated or the facility shall provide an approved fire watch for all occupants left unprotected by the shut down until the fire protection system has been returned to service, as applicable to Division of Health Facilities Construction (DHFC) Guidelines Manual.

603. Communicable Diseases (I).

All cases of diseases that are required to be reported to the appropriate county health department shall be accomplished in accordance with R.61-20.

604. Administrator Change.

The Department shall be notified in writing by the licensee within 10 days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual, documented qualifications as required by Section 502, and the effective date of the appointment.

605. Joint Annual Report.

Facilities shall complete and return a “Joint Annual Report” to the Department’s Planning and Certificate of Need Division within the time-period specified by that division.

606. Accounting of Controlled Substances (I).

Any facility registered with the Department’s Bureau of Drug Control and the federal Drug Enforcement Agency shall report any theft or loss of controlled substances to local law enforcement and to the Bureau of Drug Control within three working days of the discovery of the loss/theft. Any facility permitted by the S.C. Board of Pharmacy shall report the loss or theft of drugs or devices within three working days of the discovery of the loss/theft.

607. Facility Closure.

A. Prior to the permanent closure of a facility, the Department shall be notified in writing of the intent to close and the effective closure date. Within 10 days of the closure, the facility shall notify the Department of the provisions for the maintenance of the records. On the date of closure, the current original license shall be returned to the Department.

B. In instances where a facility temporarily closes, the Department shall be given written notice within a reasonable time in advance of closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening. If the facility is closed for a period longer than one year, and there is a desire to re-open, the facility shall re-apply to the Department and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.

608. Zero Census.

In instances when there have been no patients in a facility for any reason, for a period of 90 days or more, the facility shall notify the Department in writing no later than the 100th day following the date of the last procedure/surgery performed. At the time of that notification, the Department shall consider, upon appropriate review of the situation, the necessity of inspecting the facility prior to any new and/or re-admissions to the facility. The facility shall still apply and pay the licensing fee to keep the license active despite being at zero census or temporarily closed. If the facility has no patients for a period longer than one year, and there is a desire to re-open, the facility shall re-apply to the Department and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.

SECTION 700

PATIENT RECORDS

701. Content (II).

A. The facility shall initiate and maintain an organized record for each patient. The record shall contain: sufficient documented information to identify the patient; the person responsible for each patient; the description of the diagnosis and the care, treatment, procedures, surgery, and/or services provided, to include the course of action taken and results; and the response and reaction to the care, treatment, procedures, surgery, and/or services provided. All entries shall be indelibly written, authenticated by the author, and dated.

B. Specific entries/documentation shall include at a minimum:

1. Consultations by physicians or other legally authorized healthcare providers;

2. Physical examination report, including pertinent medical history;

3. Orders and recommendations for all care, treatment, procedures, surgery, and/or services from physicians or other legally authorized healthcare providers, completed prior to, or at the time of patient arrival at the facility, and subsequently, as warranted;

4. Care, treatment, procedures, surgery, and/or services provided;

5. Record of administration of each dose of medication;

6. Medications administered and procedures followed if an error is made;

7. Special procedures and preventive measures performed, *e.g.*, isolation for symptoms of tuberculosis;

8. Notes of observation during recovery, to include vital signs pre- and post-operative;

9. Discharge summary, including condition at discharge or transfer, instructions for self-care and instructions for obtaining postoperative emergency care;

10. Special information, *e.g.*, allergies, *etc*. Documentation regarding organ donation shall be included in the record at the patient's request;

11. Signed informed consent;

12. If applicable, anesthesia records of pertinent preoperative and postoperative reports including pre-anesthesia evaluation, type of anesthesia, technique and dosage used, and post-anesthesia follow-up note;

13. Operative report (dictated or written into the record after surgery/procedure) to include at least:

a. Description of findings;

b. Techniques utilized to perform procedure/surgery;

c. Specimens removed, if applicable;

d. Primary surgeon and assistants.

14. Reports of all laboratory, radiological, and diagnostic procedures along with tests performed and the results appropriately authenticated.

C. Except as required by law, patient records may contain written and interpretative findings and reports of diagnostic studies, tests, and procedures, *e.g.*, interpretations of imaging technology and video tapes without the medium itself.

702. Authentication.

A. Each document generated by a user shall be separately authenticated.

B. Written signatures or initials and electronic signatures or computer-generated signature codes are acceptable as authentication.

C. In order for a facility to employ electronic signatures or computer-generated signature codes for authentication purposes, staff shall be identified who are authorized to authenticate patient records utilizing electronic or computer-generated signatures.

1. At a minimum, the facility shall provide authentication safeguards to ensure confidentiality, including, but not limited to, the following:

a. Each user shall be assigned a unique identifier that is generated through a confidential code;

b. The facility shall certify in writing that each identifier is kept strictly confidential. This certification shall include a user's commitment to terminate his or her use of an assigned identifier if it is found that the identifier has been misused, meaning that the user has allowed another person(s) to use his or her personally-assigned identifier, or that the identifier has otherwise been inappropriately utilized;

c. The user shall certify in writing that he or she is the only person with access to the identifier and the only person authorized to use the signature code.

2. The authentication system shall include a verification process to insure that the content of authenticated entries is accurate. The verification process shall include, at a minimum, the following provisions:

a. Blanks, gaps, obvious contradictory statements, or other documentation that require the attention of the authorized user shall be considered authenticated until reviewed and corrected by the user and a revised report issued;

b. Opportunity shall be provided for the user to verify that the document is accurate and that the signature has been properly recorded.

3. A user may terminate authorization for use of electronic or computer-generated signature upon written notice to the individual responsible for the maintenance of patient records.

D. The use of rubber stamp signature is acceptable under the following conditions:

1. The individual whose signature the rubber stamp represents shall be the only individual who has possession of and utilizes the stamp;

2. The individual places in the administrative offices of the facility a signed statement indicating that he or she is the only individual who has possession of and shall utilize the stamp;

3. Rubber stamp signatures are not permitted on orders for medications listed as "controlled substances" pursuant to R.61-4.

703. Record Maintenance.

A. The licensee shall provide accommodations, space, supplies, and equipment adequate for the protection, security, and storage of patient records.

B. When a patient is transferred to an emergency facility, a transfer summary to include, at a minimum, the diagnosis and medication administration record, shall accompany the patient to the receiving facility at the time of transfer or forwarded immediately after the transfer. Documentation of the information forwarded shall be maintained in the facility's patient record. (I)

C. The patient record is confidential. Records containing protected or confidential health information shall be made available only to individuals granted access to that information, in accordance with state and federal laws. The facility shall have a written policy designating the persons allowed to access confidential patient information. (II)

D. Records generated by organizations or individuals contracted by the facility for care, treatment, procedures, surgery, and/or services shall be maintained by the facility that has admitted the patient. Appropriate information shall be provided to assure continuity of care.

E. The facility shall determine the medium in which information is stored. The information shall be readily retrievable and accessible by facility staff, as needed, and for regulatory compliance inspections.

F. Upon discharge of a patient, the record shall be completed within 60 days and filed in an inactive/closed file maintained by the licensee. Prior to the closing of a facility for any reason, the licensee shall arrange for preservation of records to ensure compliance with these regulations and other applicable law. The licensee shall notify the Department, in writing, describing these arrangements and the location of the records.

G. Records of patients shall be maintained for at least six years following the discharge of the patient. Other documents required by the regulation, *e.g.*, fire drills, shall be retained at least 12 months or until the next Department inspection, whichever is longer.

H. Patient records are the property of the facility; the original record shall not be removed without court order. (II)

SECTION 800

CARE/TREATMENT/PROCEDURES/SURGERY/SERVICES

801. General (I).

A. Care, treatment, procedures, surgery, and/or services shall be provided, given, or performed effectively and safely in accordance with orders from physicians or other legally authorized healthcare providers, and precautions shall be taken for patients with special conditions, *e.g.*, pacemakers, pregnancy, Alzheimer's disease, etc., and/or for those who may be susceptible to deleterious effects as a result of the treatment.

B. The facility shall comply with all current federal, state, and local laws and regulations related to patient care, treatment, procedures, surgery, and/or services, and protection.

C. When a facility engages a source other than the facility to provide services normally provided by the facility, *e.g.*, staffing, training, food service, maintenance, housekeeping, there shall be a written agreement with the source that describes how and when the services are to be provided, the exact services to be provided, and a statement that these services are to be provided by qualified individuals. The source shall comply with this regulation in regard to patient care, treatment, procedures, surgery, and/or services, confidentiality, and rights. (II)

D. The Facility shall have a written transfer agreement with one (1) or more hospitals that provides reasonable assurance that transfer of patients will be made between the hospital and the facility. The transfer agreement shall be dated and signed by authorized officials who are a party to the agreement. The agreement shall be updated following a change of Administrator; the agreement shall be updated following changes in licensee or at any other time as deemed advisable to maintain or further improve continuity of care.

Exception: A facility which has attempted, but has been unable to secure such an agreement shall maintain documentation of its efforts, and shall provide the local hospitals written notice of its hours of operation and patient population.

802. Physical Examination (I).

A. A preoperative history and physical examination, pertaining to the procedure to be performed, shall be completed by a physician or legally authorized healthcare provider no earlier than 14 days prior to surgery/procedure, or 30 days prior to surgery/procedure with the condition that, on the day of surgery/procedure, the physician or legally authorized healthcare provider documents no notable changes in the original history and physical examination. If notable changes are discovered at that time, a history and physical examination shall be completed. A discharge summary from a health care facility that includes a history and physical examination may be acceptable as the preoperative history and physical examination, provided the summary is within the time requirements of this section, and is reviewed by the physician or legally authorized healthcare provider performing the surgery/procedure.

B. If a patient or potential patient has a communicable disease, a physician or other legally authorized healthcare provider shall insure that the facility has the capability to provide adequate care and prevent the spread

of the disease, and that the staff members are adequately trained and qualified to manage the patient, or transfer the patient to an appropriate facility, if necessary.

803. Surgical Services.

If surgical services are provided, a current listing of all types of surgical services offered by the facility shall be available.

804. Anesthesia Services (I).

A. Anesthesia shall be administered only by:

1. An anesthesiologist;

2. A physician, other than an anesthesiologist, or dentist, or podiatrist who is qualified to administer anesthesia pursuant to the S.C. Code of Laws;

3. A certified registered nurse anesthetist; or

4. An anesthesiologist's assistant.

B. Immediately before surgery:

1. A physician must examine the patient to evaluate the risk of the procedure to be performed; and

2. A physician, certified registered nurse anesthetist, or anesthesiologist's assistant must examine the patient to evaluate the risk of anesthesia.

C. After the administration of a general anesthetic, a patient shall be attended by a physician until the patient may be safely placed under post-operative/procedure supervision by the nursing staff who shall then attend the patient until he or she has regained full consciousness, or until the effects of the anesthetic have sufficiently subsided for the patient to be able to summon aid when needed.

805. Laboratory Services (II).

A. Each facility shall provide or make arrangements for obtaining laboratory services required in connection with the surgery/procedure to be performed.

B. Should the facility conduct tests that involve human specimens by utilizing any laboratory equipment such as finger-stick glucose, hemoglobin, monitoring devices, *etc.*, for the purpose of providing information for the diagnosis, prevention, or treatment of disease or impairment, or assessment of health, the facility shall obtain a Certificate of Waiver from the Clinical Laboratories Improvement Amendments (CLIA) Program through the Department's CLIA Program.

C. Laboratory supplies shall not be expired.

D. A pathologist shall examine all surgical specimens except for those types of specimens that the medical staff has determined and documented do not require examination.

806. Radiology Services (II).

A. Each facility shall have the capability of providing or obtaining diagnostic radiology services in connection with the surgery/procedure to be performed.

B. Those facilities where radiological equipment and materials are used shall be in compliance with R.61-63 and R.61-64.

807. Cardiovascular Care Services.

A. Prior to establishing or offering invasive cardiac procedures, including cardiac catheterization services, a facility must have applied for and be in the process of obtaining accreditation for such services from the American College of Cardiologists, Accreditation for Cardiovascular Excellence, or other nationally recognized accrediting organization approved by the Department with standards at least equal to those of the Accreditation for Cardiovascular Excellence or American College of Cardiologists. To continue providing such services, a facility must obtain such accreditation within two years from application unless otherwise approved by the Department. Facilities must maintain documentation evidencing their application for accreditation and accreditation for such services. If a facility is denied accreditation or has its accreditation revoked, the facility must immediately notify the Department in writing, cease offering such services, and cannot resume offering such services until the facility is accredited or re-accredited.

B. Facilities that offer cardiac catheterization services shall have written protocols ensuring immediate, efficient, and safe transfer of patients to the nearest hospital with onsite cardiac surgery in the case of an emergency.

808. Adverse Conditions (I).

Patients in whom any adverse condition exists or in whom a complication is known or suspected to have occurred during or after the performance of the operative procedure shall remain in the facility until the condition/complication is eliminated, as determined by the physician, and the patient is stabilized. Patients requiring care for periods in excess of those set forth in Section 101.RR shall be transferred to a hospital.

809. Patient Instruction (I).

Written instructions shall be issued to all patients upon discharge and shall include, at a minimum, the following:

A. Signs and symptoms of possible complications;

B. Telephone number of the facility or the attending physician or other knowledgeable professional staff member from the facility should any complication occur or question arise;

C. An emergency telephone number should any complication occur. It shall be the responsibility of the attending physician to arrange for needed care;

D. Limitations regarding activities, foods, *etc.*;

E. Date for follow-up or return visit, if applicable.

SECTION 900

RIGHTS AND ASSURANCES

901. General (II).

A. The facility shall comply with all current federal, state, and local laws and regulations concerning patient care, treatment, procedures, surgery, and/or services, patient rights and protections, and privacy and disclosure requirements.

B. 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, and insure that there is no discrimination with regard to source of payment in the recruitment, location of patient, acceptance or provision of services to patients or potential patients, provided that payment offered is not less than the cost of providing services.

C. The facility shall develop and post in a conspicuous place in a public area of the facility a grievance/complaint procedure to be exercised on behalf of the patients that includes the address and phone number of the Department and a provision prohibiting retaliation should the grievance right be exercised.

D. Care, treatment, procedures, surgery, and/or services provided by the facility, and the charges for such, shall be delineated in writing. Patients shall be made aware of such charges and services, as verified by the signature of the patient or responsible party.

E. Patients shall be permitted to use the telephone and allowed privacy when making calls.

F. Adequate safeguards shall be provided for protection and storage of patients' personal belongings.

G. Patient rights shall be guaranteed, prominently displayed, and the facility shall inform the patient of these rights, to include, at a minimum:

1. The care, treatment, procedures, surgery, and/or services to be provided;

2. Informed consent for care, treatment, procedures, surgery, and/or services;

3. Respect for the patient's property;

4. Freedom from mental and physical abuse and exploitation;

5. Privacy while being treated and while receiving care;

6. Respect and dignity in receiving care, treatment, procedures, surgery, and/or services;

7. Refusal of treatment. The patient shall be informed of the consequences of refusal of treatment, and the reason shall be reported to the physician and documented in the patient record;

8. Refusal of experimental treatment and drugs. The patient's written consent for participation in research shall be obtained and retained in his or her patient record;

9. Confidentiality and privacy of records. Written consent by the patient shall be obtained prior to release of information except to persons authorized by law. If the patient is mentally incompetent, written consent is required from the patient's responsible party. The facility shall establish policies to govern access and duplication of the patient's record.

H. Except in emergencies, documentation regarding informed consent shall be properly executed prior to surgery/procedure.

SECTION 1000

MEDICATION MANAGEMENT

1001. General (I).

A. Medications, including controlled substances, medical supplies, intravenous solutions, and those items necessary for the rendering of first aid shall be properly managed in accordance with local, state, and federal laws and regulations, to include the securing, storing, and administering of medications, medical supplies, first aid supplies, biologicals and their disposal when discontinued or expired, or at discharge, death, or transfer of a patient.

B. Non-legend medications that can be obtained without a prescription may be retained and labeled as stock in the facility for administration as ordered by a physician or other legally authorized healthcare provider.

C. If controlled substances are to be used, a controlled substances registration from the Department's Bureau of Drug Control and a controlled substance registration from the federal Drug Enforcement Administration (DEA) shall be obtained. The registration(s) shall be displayed in a conspicuous location within the facility.

D. Each facility shall maintain, upon the advice and written approval of the Medical Director or consultant pharmacist, an emergency kit/cart of lifesaving medicines and equipment for the use of physicians or other legally authorized healthcare providers in treating the emergency needs of patients.

1. The kit/cart shall be sealed and stored in such a manner as to prevent unauthorized access and to ensure a proper environment for preservation of the medications within, but in such a manner as to allow immediate access.

2. The exterior of each emergency medication kit/cart shall have displayed the following information:

a. "For Emergency Use Only";

b. Name, address, and telephone number of the consultant pharmacist.

3. Whenever the kit/cart is opened, it shall be restocked and resealed within a reasonable time to prevent risk of harm to a patient.

4. Medications used from the kit/cart shall be replaced pursuant to orders from a physician or other legally authorized healthcare provider according to facility policy.

5. Contents of each section of the kit/cart shall be listed and maintained on or in the kit/cart, and shall correspond to the list. Documentation of monthly checks of expiration dates of medications and supplies is to be retained by the facility for a period of two years or until the Department's next inspection, whichever is longer.

E. Medications shall not be expired.

F. Applicable reference materials published within the previous year shall be available at the facility in order to provide staff members with adequate information concerning medications.

1002. Medication Orders (I).

A. Medications, to include oxygen, shall be administered in the facility to patients only upon orders of a physician or other legally authorized healthcare provider.

B. All orders (including verbal) shall be received only by licensed nurses or authorized healthcare providers, and shall be authenticated and dated by a physician or other legally authorized healthcare provider pursuant to the facility's policies and procedures, but no later than 72 hours after the order is given. Verbal orders received

shall include the time of receipt of the order, description of the order, and identification of the physician or other legally authorized healthcare provider and the individual receiving the order.

C. Medications and medical supplies ordered for a specific patient shall not be provided to or administered to any other patient.

1003. Administering Medication (I).

A. Each medication dose administered shall be properly recorded in the patient's record as the medication is administered. The medication administration record shall include the name of the medication, dosage, mode of administration, date, time, and the signature of the individual administering the medication. Initials may be utilized when recording administration, provided identification of the individual's initials is located within the record.

B. Expired medications shall not be administered to patients.

1004. Pharmacy Services (I).

Facilities that maintain stocks of legend medications and biologicals for patient use within the facility shall obtain and maintain from the S.C. Board of Pharmacy a valid, current, nondispensing drug outlet permit, displayed in a conspicuous location in the facility, and have a consultant pharmacist on-call during facility operating hours.

1005. Medication Containers (I).

Medications for each patient shall be dispensed from their original container(s), to include unit dose systems. There shall be no transferring between containers or opening blister packs to remove medications for destruction or adding new medications for administration, except by direction of a pharmacist.

1006. Medication Storage (I).

A. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, safety and security. Medications shall be stored in accordance with manufacturer's directions and in accordance with all applicable state and federal laws and regulations.

B. Medications shall be properly stored and safeguarded to prevent access by unauthorized persons. Expired or discontinued medications shall not be stored with current medications. Storage areas shall be of sufficient size for clean and orderly storage, and shall be locked when not under direct observation by a licensed healthcare provider. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf-life.

C. Medications requiring refrigeration shall be stored in a refrigerator at the temperature established by the U. S. Pharmacopeia (36 - 46 degrees F.). Food and drinks shall not be stored in the same refrigerator in which medications and biologicals are stored. Blood and blood products may be stored in the same refrigerator with medications and biologicals if stored in a separate compartment from the medications and biologicals.

D. Medications shall be stored:

1. Separately from poisonous substances, blood, or body fluids;

2. In a manner that provides for separation between oral and topical medications;

3. Separately from food.

E. Records shall be maintained of all stock controlled substances that indicate an accounting of all items received and/or administered in such a manner that the disposition of each dose of any particular item may be readily traced. Records shall be maintained for a minimum of two years or until the next inspection by the Department, whichever is longer.

F. Review of medication storage areas shall be conducted by the consultant pharmacist or his or her designee on at least a monthly basis. Records of such reviews shall be retained by the facility for at least two years or until the Department's next inspection, whichever is longer.

1007. Disposition of Medications (I).

A. Medications shall not be retained in stock after the expiration date on the label and no contaminated or deteriorated medications shall be maintained. Expired, damaged, or deteriorated medications and biologicals shall be disposed of in the following manner:

1. When noncontrolled legend medications are destroyed, the following shall be documented: date of destruction, medication name, strength, quantity, mode of destruction, and the names of the individual performing the destruction and a witness. (This shall not be applicable to partial unused doses of medications.) The medications may also be disposed of by returning them to the dispensing pharmacy and obtaining a receipt from the pharmacy.

2. The destruction of controlled substances shall be accomplished pursuant to the requirements of R.61-4.

B. Destruction records shall be retained by the facility for at least two years or until the Department's next inspection, whichever is longer.

SECTION 1100

MEAL SERVICE

1101. General (II).

A. All facilities that prepare food on-site shall be approved by the Department, and shall be regulated, inspected, and graded pursuant to R.61-25.

B. When meals or snacks are catered to a facility, such meals shall be obtained from a food service establishment graded by the Department, pursuant to R.61-25, and there shall be a written executed contract with the food service establishment.

1102. Food Storage (II).

A. All food items shall be stored at a minimum of six inches above the floor on clean surfaces and in such a manner as to be protected from splash and other contamination.

B. Food stored in the refrigerator or freezer shall be covered, labeled, and dated. Prepared food shall not be stored in the refrigerator for more than 72 hours.

1103. Food Equipment and Utensils (II).

The equipment and utensils utilized, and the cleaning, sanitizing, and storage of such shall be in accordance with R.61-25.

1104. Ice and Drinking Water (II).

A. Ice from a water system that is in accordance with R.61-58, shall be available and precautions taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside of the ice container.

B. Potable drinking water shall be available and accessible to patients at all times.

C. The use of common drinking cups shall be prohibited.

D. Ice delivered to patient areas in bulk shall be in nonporous, covered containers that shall be cleaned after each use.

1105. Equipment (II).

A. Liquid or powder soap in dispensers and sanitary paper towels shall be available at each food service handwash lavatory.

B. The facility shall include a separate handwash sink, convenient to serving, food preparation, and dishwashing areas.

C. All walk-in refrigerators and freezers shall be equipped with opening devices that will permit opening of the door from the inside at all times. (I)

1106. Refuse Storage and Disposal (II).

Refuse storage and disposal shall be in accordance with R.61-25.

SECTION 1200

EMERGENCY PROCEDURES/DISASTER PREPAREDNESS

1201. Emergency Services (I).

A. Appropriate equipment and services shall be provided to render emergency resuscitative and life-support procedures pending transfer to a hospital. The emergency equipment must meet the following requirements:

1. Be immediately available for use during emergency situations;

2. Be appropriate for the facility's patient population; and

3. Be maintained by appropriate personnel in accordance with manufacturer's instructions.

1202. Disaster Preparedness (II).

A facility that participates in a community disaster plan shall establish plans, based on its capabilities, to meet its responsibilities for providing emergency care.

1203. Emergency Call Numbers (I).

Although the facility may have access to "911," emergency call data shall be immediately available and shall include, at a minimum, the telephone numbers of fire and police departments, ambulance service, and the Poison Control Center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members to be notified in case of emergency.

1204. Continuity of Essential Services (II).

There shall be a written plan to be implemented to assure the continuation of essential patient support services for reasons such as power outage, water shortage, or in the event of the absence of any portion of the staff resulting from inclement weather or other causes.

SECTION 1300

FIRE PREVENTION

1301. Arrangements for Fire Department Response/Protection (I).

A. Each facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire, *i.e.*, fire plan and evacuation plan.

B. Facilities located outside a service area or range of a public fire department shall arrange for the nearest fire department to respond in case of fire by written agreement with that fire department. A copy of the agreement shall be kept on file in the facility.

1302. Tests and Inspections (I).

A. Fire protection and suppression systems shall be maintained and tested in accordance with NFPA 10, 13, 14, 15, 25, 70, 72, and 96.

B. Fire alarm systems shall be maintained in a safe, operable condition in accordance with NFPA 70 and 99 and shall be inspected at least annually.

1303. Fire Response Training (I).

A. Each staff member shall receive training within 24 hours of his or her first day of employment in the facility and at least annually thereafter, addressing at a minimum, the following:

1. Fire plan;

2. Reporting a fire;

3. Use of the fire alarm system, if applicable;

4. Location and use of fire-fighting equipment;

5. Methods of fire containment; and

6. Specific responsibilities, tasks, or duties of each staff member.

B. A plan for the evacuation of patients, staff members, and visitors, to include evacuation routes and procedures in case of fire or other emergencies, shall be established and posted in conspicuous public areas throughout the facility.

1304. Fire Drills (I).

A. An unannounced fire drill shall be conducted at least quarterly for all shifts. Each staff member shall participate in a fire drill at least once each year. Records of drills shall be maintained at the facility, indicating

the date, time, shift, description and evaluation of the drill, and the names of staff members directly involved in responding to the drill. If fire drill requirements are mandated by statute or regulation, the provisions of the statute or regulation shall be complied with and shall supersede the requirements of this section.

B. Drills shall be designed and conducted in consideration of and reflecting the content of the fire response training described in Section 1303 above.

SECTION 1400

MAINTENANCE

1401. General (II).

A. The structure, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed.

B. The facility shall keep its component parts and all equipment in good repair and operating condition and documented.

1402. Equipment (II).

A. Equipment used in the provision of care, treatment, procedures, surgery, and/or services shall meet appropriate specifications and calibrations and shall be monitored and operated in accordance with the manufacturer's guidelines and with local, State, and Federal laws.

B. If utilized, all equipment for the administration of anesthesia shall be readily available, clean or sterile, and operating properly.

1. Anesthesia apparatus shall be equipped with a device to measure the oxygen component of the gas being inhaled by the patient. The device shall emit audible and visual alarms should the proportion of oxygen fall below a safe level. (I)

2. Inspections shall be made prior to each use of the anesthesia equipment, as well as a record of all service and repair performed on all anesthesia machines, vaporizers, and ventilators, shall be maintained and retained for a minimum of two years or until the next Department's inspection, whichever is longer.

1403. Preventive Maintenance of Life Support Equipment (II).

A. A written preventive maintenance program shall be developed and implemented for all life support equipment, to include, but not be limited to:

1. Patient monitoring equipment;

2. Isolated electrical systems;

3. Patient ground systems; and

4. Medical gas systems.

B. This equipment shall be calibrated, if applicable, and/or tested at periodic intervals, but not less than annually, to insure proper operation. After repairs and/or alterations are made to any equipment or system, thorough testing for proper operation shall be accomplished prior to returning it to service. (I)

C. Records shall be maintained on all life support equipment to indicate its history of testing and maintenance.

SECTION 1500

INFECTION CONTROL AND ENVIRONMENT

1501. Staff Practices (I).

Staff and volunteer practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures and practices shall be in compliance with applicable guidelines of the Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; the Centers for Disease Control and Prevention (CDC) Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices and the Hospital Infection Control Practices Advisory Committee; the Department's *Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings*, and R.61-105; and other applicable federal, state, and local laws and regulations.

1502. Vaccinations (I).

A. Hepatitis B.

1. All direct care staff who perform tasks involving contact with blood, blood-contaminated body fluids, other body fluids, or sharps shall have the hepatitis B vaccination series unless the vaccine is contraindicated or an individual is offered the series and declines. In either case the decision shall be documented.

2. Each staff member who elects vaccination shall have completed the initial dose of the three-dose series within 30 days of employment.

B. Influenza. All direct care staff shall have an annual influenza vaccination unless contraindicated or offered and declined. In either case the decision shall be documented.

C. MMR and Varicella. All direct care staff shall have been vaccinated or have evidence of immunity for measles, rubella, and varicella prior to patient contact unless contraindicated or offered and declined. In either case the decision shall be documented. Immunity to mumps is recommended.

1503. Live Animals.

Live animals shall not be permitted in facilities.

EXCEPTION: This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying individuals with disabilities.

1504. Sterilization Procedures (I).

A. Sterilizing equipment of appropriate type shall be available and of adequate capacity to properly sterilize instruments and operating room materials as well as laboratory equipment and supplies. The sterilizing equipment shall have approved control and safety features. The accuracy of instrumentation and equipment shall be tested at least quarterly; periodic calibration and/or preventive maintenance shall be provided as necessary and a history of testing and service maintained.

B. The dates of sterilization and expiration shall be marked on all supplies sterilized in the facility.

EXCEPTION: Facilities may utilize "event-related" methodologies for determining sterile integrity in lieu of "time-related" methods provided there is an established policy and procedure.

C. The facility shall provide for appropriate storage and distribution of sterile supplies and equipment pursuant to facility policies and procedures.

D. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area, appropriate to the area and the equipment's purpose or use, shall be accomplished. A recognized method of monitoring disinfectant performance shall be employed. Disinfectants, *e.g.*, glutraldehyde, Cidex, Sporox, hydrogen peroxide, shall be tested and maintained according to manufacturer's instructions and shall include, at a minimum, a record of readings/testings and change dates of the disinfectant solution.

E. Collection, transportation, and storage of contaminated or used equipment must be performed in a safe manner and in accordance with approved policies and procedures of the Facility.

1505. Tuberculosis Risk Assessment (I).

A. All facilities shall conduct an annual tuberculosis risk assessment in accordance with CDC guidelines (See Section 102.B.6) to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

B. The risk classification, *i.e.*, low risk, medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff and patients and the frequency of screening. A risk classification shall be determined for the entire facility. In certain settings, *e.g.*, healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, patient population, job type, or location within the setting may have separate risk classifications.

1506. Staff Tuberculosis Screening (I).

A. Tuberculosis Status. Prior to date of hire or initial patient contact, the tuberculosis status of direct care staff shall be determined in the following manner in accordance with the applicable risk classification:

B. Low Risk:

1. Baseline two-step Tuberculin Skin Test (TST) or a single Blood Assay for *Mycobacterium tuberculosis* (BAMT): All staff (within three (3) months prior to contact with patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.

2. Periodic TST or BAMT is not required.

3. Post-exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified.

Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to *M. tuberculosis* ended.

C. Medium Risk:

1. Baseline two-step TST or a single BAMT: All staff (within three (3) months prior to contact with patients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly

employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.

2. Periodic testing (with TST or BAMT): Annually, of all staff who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff about symptoms of TB disease (including the staff and/or direct care volunteers responses), documenting the questioning of the staff about the presence of symptoms of TB disease, and instructing the staff to report any such symptoms immediately to the administrator or director of nursing. Treatment for latent TB infection (LTBI) shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.

3. Post-exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case/suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8-10) weeks after that exposure to *M. tuberculosis* ended.

D. Baseline Positive or Newly Positive Test Result:

1. Staff with a baseline positive or newly positive test result for *M. tuberculosis* infection (*i.e.*, TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, *e.g.*, cough, weight loss, night sweats, fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). These staff members will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (*i.e.*, the Department's TB Control program).

2. Staff who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician or legally authorized healthcare provider, and permitted to return to work only with approval by the Department TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB diseases develop or unless recommended by a physician or legally authorized healthcare provider.

1507. Housekeeping (II).

The facility and its grounds shall be uncluttered, clean, and free of vermin and offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the facility (dry sweeping and dusting shall be prohibited in restricted areas as identified in facility policies and procedures);

2. Cleaning of operating/procedure rooms in accordance with established written procedures after each operation/procedure.

B. Exterior housekeeping shall at a minimum include:

1. Cleaning of all exterior areas, *e.g.*, porches and ramps, and removal of safety impediments such as snow and ice;

2. Keeping facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin.

1508. Infectious Waste (I).

Accumulated waste, including all contaminated sharps, dressings, and/or similar infectious waste, shall be disposed of in a manner compliant with OSHA Bloodborne Pathogens Standard, the Department's Guidelines For Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings, and R.61-105.

1509. Clean/Soiled Linen and Surgical Clothing (II).

A. A supply of clean, sanitary linen/surgical clothing shall be available at all times. In order to prevent the contamination of clean linen/surgical clothing by dust or other airborne particles or organisms, it shall be stored and transported in a sanitary manner, *i.e.*, enclosed and covered. Linen/Surgical clothing storage rooms shall be used only for the storage of linen/surgical clothing. Clean linen/Surgical clothing shall not be stored with other items.

B. Soiled linen/Surgical clothing.

1. Provisions shall be made for collecting, transporting, and storing soiled linen and surgical clothing;

2. Soiled linen/Surgical clothing shall be kept in enclosed/covered containers.

SECTION 1600

QUALITY IMPROVEMENT PROGRAM

1601. General (II).

A. There shall be a written, implemented quality improvement program that provides effective self-assessment and implementation of changes designed to improve the care, treatment, procedures, surgery, and/or services provided by the facility.

B. The quality improvement program, at a minimum, shall:

1. Establish desired outcomes and the criteria by which policy and procedure effectiveness is systematically, objectively, and regularly accomplished at a frequency as determined by the facility to ensure that policies and procedures and this regulation are met, but not less than every three months;

2. Identify, evaluate, and determine the causes of any deviation from the desired outcomes;

3. Identify the action taken to correct deviations and prevent future deviation, and the person(s) responsible for implementation of these actions;

4. Establish ways to measure the quality of patient care and staff performance as well as the degree to which the policies and procedures are followed;

5. Analyze the necessity of care, treatment, procedures, surgery, and/or services rendered;

6. Analyze the effectiveness of the fire plan;

7. Analyze all serious incidents and accidents, to include all patient deaths and significant medication errors;

8. Analyze any other unusual occurrences that threaten the health, safety, or well-being of the patients;

9. At least every three months, review an established percentage of patient records to verify the accuracy and integrity of the system, and take corrective action as needed;

10. Establish a systematic method of obtaining feedback from patients and other interested persons, *e.g.*, family members and peer organizations, as expressed by the level of satisfaction with care, treatment, procedures, surgery, and/or services received.

C. The governing body must ensure the quality improvement program:

1. Is defined, implemented, and maintained by the Facility;

2. Addresses the Facility's priorities and that all improvements are evaluated for effectiveness;

3. Specifies data collection methods, frequency, and details;

4. Clearly establishes its expectations for safety; and

5. Adequately allocates sufficient staff, time, information systems, and training to implement the quality improvement program.

SECTION 1700

DESIGN AND CONSTRUCTION

1701. General (II).

A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each patient.

1702. Local and State Codes and Standards (II).

Buildings shall comply with pertinent local and state laws, codes, ordinances, and standards with reference to design and construction. No facility shall be licensed unless the Department has assurance that responsible local officials (zoning and building) have approved the facility for code compliance.

1703. Applicable Code Editions (II).

A. Facility design and construction shall comply with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal applicable to ambulatory surgical facilities.

B. Unless specifically required otherwise by the Department, all facilities shall comply with the construction codes and construction regulations applicable at the time its license was issued.

C. Any facility that closes, has its license revoked, or surrenders its license, and applies for re-licensure at the same site, shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for re-licensing.

1704. Submission of Plans and Specifications.

A. Plans and specifications shall be submitted to the Department for review and approval for new construction, additions or alterations to existing buildings, replacement of major equipment, buildings being licensed for the

first time, buildings changing license type, and for facilities increasing occupant load or licensed capacity. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. Unless directed otherwise by the Department, submit plans at the schematic, design development, and final stages. All plans shall be drawn to scale with the title, stage of submission and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction the owner shall employ a registered architect and/or engineer for observation and inspections. Upon approval of the Department, construction administration may be performed by an entity other than the architect. The Department shall conduct periodic inspections throughout each project.

B. Plans and specifications shall be submitted to the Department for review and approval for projects that have an effect on:

1. The function of a space;

2. The accessibility to or of an area;

3. The structural integrity of the facility;

4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);

5. Doors;

6. Walls;

7. Ceiling system assemblies;

8. Exit corridors;

9. Life safety systems; or

10. That increases the occupant load or licensed capacity of the facility.

C. All subsequent addenda, change orders, field orders, and documents altering the Department review must be submitted. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

D. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications kept on file at the facility and made available to the Department.

E. Any construction work which violates codes or standards will be required to be brought into compliance. All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by Department.

1705. Construction Inspections.

All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by Department.

SECTION 1800

FIRE PROTECTION EQUIPMENT AND SYSTEMS

1801. Fire Alarms (I).

A. A facility shall include a partial, manual, automatic, supervised fire alarm system. The system shall be arranged to transmit an alarm automatically to a third party by an approved method. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. There must be a fire alarm pull station at each required exit and in or near each nurses station.

C. All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.

1802. Gases (I).

Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. “No Smoking” signs shall be posted conspicuously inside the facility and on oxygen cylinders. All cylinders shall be properly secured in place.

SECTION 1900

ELECTRICAL

1901. Signal System.

A. All facilities shall have a signal system consisting of a call button for each bed, bath, toilet and treatment/examination room. A light shall be at or over each patient room door visible from the corridor. There shall be an audio-visual master station in a location continuously monitored by staff.

B. Activation of signal system shall be by pull cord or electronic device. Pull cord shall hang to a maximum of four (4) inches above finished floor.

1902. Emergency Generator Service (I).

A. With concurrence of the local authority having jurisdiction, facilities shall have an emergency generator with a ten (10) second startup and six (6) hour run time based on the maximum load rating of the generator. As a minimum, emergency power shall be provided for but not limited to:

1. Emergency and Exit lighting;

2. Lighting for staff work areas;

3. All lighting and power at patient care areas;

4. Fire alarm telephone and signal systems;

5. At least one (1) elevator where required;

6. Fire pump and associated equipment;

7. Public toilet rooms;

8. All HVAC equipment serving patient areas; and

9. All patient life safety equipment;

EXCEPTION: In endoscopy facilities, an emergency power supply system is not required.

B. An Uninterruptible Power System (UPS) is not acceptable as an alternative to the generator system.

C. In the event of natural disaster or electrical power failure, no new surgery/procedures shall commence, and surgery/procedures in progress shall be concluded as soon as possible.

SECTION 2000

PHYSICAL PLANT

2001. Surgical Suite(s).

The size and design of the surgical suite(s) shall be in accordance with individual programs and this regulation. The following basic elements, designed to ensure no flow of through traffic, shall be incorporated in all facilities:

A. Operating/Procedure Room(s).

1. The number shall depend on the projected caseload and types of procedures to be performed. Rooms shall have adequate space to accommodate necessary equipment and staff.

2. Each operating room shall have a minimum clear area of 180 square feet exclusive of fixed and movable cabinets and shelves. The minimum width shall be 12 feet.

3. Each procedure room shall have a minimum clear area of 140 square feet exclusive of fixed and movable cabinets and shelves. The minimum width shall be 10 feet.

4. Additional clear area may be required as described in the narrative program to accommodate special functions in one or more of these rooms.

5. The facility shall include an emergency communication system connecting with the surgical suite work station.

B. Surgery/Procedure and Recovery Equipment and Supplies

1. Each operating/procedure room shall be completely equipped and supplied for the types of procedures to be performed. (I)

2. The center's medical staff and governing body shall develop policies and procedures to specify the types of emergency equipment required for use in the Ambulatory Surgical Facility's operating room(s). The equipment must meet the following requirements: (I)

(a) Be immediately available for use during emergency situations;

(b) Be appropriate for the facility's patient population; and

(c) Be maintained by appropriate personnel.

C. Surgical/Procedure Service Areas. The facility shall include the following:

1. A work station located to permit visual surveillance of persons entering the surgical/procedure areas and the recovery area;

2. Sterilizing equipment with autoclave(s) conveniently located to serve all operating rooms;

EXCEPTION: Sterilizing equipment is not required in endoscopy facilities; however, a high-level disinfection of equipment is required in such facilities.

3. A medication distribution station provided for storage and preparation of medication to be administered to patients;

4. Scrub facilities provided near the entrance to each operating room. Scrub facilities with foot or knee controls shall be arranged to minimize any incidental splatter on nearby staff or supply carts. At a minimum, the facility shall include the following:

a. Scrub sink with knee, elbow, or foot controls;

b. Soap dispenser.

EXCEPTION: For endoscopy facilities, in lieu of scrub facilities, there shall be a handwash sink in each procedure room that is equipped with valves that can be operated without the use of hands.

5. A soiled workroom for the exclusive use of the surgical suite staff. The soiled workroom shall contain a clinical sink or equivalent flushing type fixture, waste receptacle, and covered soiled receptacle, unless there is a separate soiled linen storage room;

EXCEPTION: In endoscopy facilities, a designated soiled work area will suffice in lieu of a soiled workroom.

6. A clean workroom when clean materials are assembled within the surgical suite prior to use. The workroom shall contain a work counter, a sink equipped for handwashing and space for clean and sterile supplies;

EXCEPTION: In endoscopy facilities, a designated clean work area will suffice in lieu of a clean workroom.

7. An area for cleaning, testing, and storing anesthesia equipment in accordance with accepted principles of aseptic technique.

EXCEPTION: An anesthesia area is not required in endoscopy facilities.

8. Staff change areas that shall contain adequate dressing space for changing of scrubs and shall contain lockers, showers, toilets, lavatories, and receptacles and facilities for the appropriate disposition of soiled scrubs; these areas shall be arranged to allow a restricted traffic pattern of authorized staff from outside the surgical suite to change into appropriate attire and enter the surgical suite;

EXCEPTION: Showers and areas for donning of scrub suits and boots are not required in endoscopy facilities.

9. Provisions for emergency eye-washing.

D. Recovery Area. The facility shall include the following:

1. An area for recovery of patients;

2. Handwashing facilities, secured medication storage space, clerical work space, and sufficient storage space for supplies and equipment;

3. At least four feet between beds or stretchers (two feet if next to a wall) and adequate space at the foot of the bed or stretcher as needed for work and staff circulation;

4. Partitions, walls and/or cubicle curtains (on built-in tracks) to afford visual privacy for each patient;

5. Recovery beds or reclining type of vinyl upholstered chairs or recovery stretchers;

6. Equipment for oxygen, resuscitation, and suction.

2002. Soiled Utility Room.

Facilities shall have at least one soiled utility room per floor containing a clinical sink, work counter, waste receptacle and soiled linen receptacle.

2003. Clean Utility Room.

Facilities shall have at least one clean utility room per floor containing a counter with handwashing sink and space for the storage and assembly of supplies for nursing procedures.

2004. Corridors (II).

A. Minimum public corridor width shall be five feet.

B. There shall be at least one corridor that is no less than eight feet clear width between doors from the recovery area and/or operating/procedure rooms and an exit door. In a one-story building or on the ground floor of a multi-story building, if there is less than eight feet clear width, the corridors shall be so arranged as to allow a stretcher to exit from the recovery area or operating rooms directly into the corridor without turning and move to the required exit without having to make a turn. Minimum width shall be five feet.

C. The location of items such as drinking fountains, telephone booths, vending machines, and portable equipment shall not restrict corridor traffic or reduce the required corridor width. (II)

2005. Handrails/Guardrails (II).

The facility shall have handrails on at least one side of each corridor/hallway, and on all stairways, ramps, and porches with two or more steps. Ends of all installed handrails shall return to the wall.

2006. Restrooms (II).

A. There shall be an appropriate number of restrooms in the facility, to accommodate patients, staff, and visitors.

B. The restrooms shall be accessible during all operating hours of the facility.

C. A restroom(s) shall be equipped with at least one toilet fixture, toilet paper installed in a holder, a lavatory supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle.

D. The waiting/lobby area must have at least one restroom.

E. The facility shall have toilet fixtures in restrooms for patient use in ample number, located within or adjacent to the recovery area. The minimum requirement is one toilet fixture for every eight pre-operative and post-operative beds.

F. All toilet fixtures used by patients shall have approved grab bars securely fastened in a usable fashion.

G. Privacy shall be provided at toilet fixtures and urinals.

2007. Janitor's Closets.

A. The facility shall include at least one (1) lockable janitor's closet throughout the facility.

B. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies, *e.g.*, mops.

2008. Storage Areas.

A. Adequate general storage areas shall be provided for patient and staff/volunteer belongings, equipment, and supplies as well as clean linen, soiled linen, wheelchairs, and general supplies and equipment.

B. Soiled linen shall be stored in an enclosed room. This room may also be the soiled workroom.

C. Storage buildings on the premises shall meet the requirements of the current building code regarding distance from the licensed building. Storage in buildings other than on the facility premises shall be secure and accessible. An appropriate controlled environment shall be provided if necessary for storage of items requiring such an environment.

D. Supplies/Equipment shall not be stored directly on the floor. Supplies/Equipment susceptible to water damage/contamination shall not be stored under sinks or other areas with a propensity for water leakage.

E. Chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be safely stored in cabinets or well-lighted closets/rooms.

2009. Elevators (II).

Elevators shall be inspected and tested upon installation, prior to first use, and annually thereafter by a certified elevator inspector.

2010. Telephone Service.

At least one land-line telephone shall be available on each floor of the facility for use by patients and/or visitors for their private, discretionary use; pay phones for this purpose are acceptable

2011. Location.

A. Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The facility shall have a parking area to reasonably satisfy the needs of patients, staff members, and visitors.

C. Access to firefighting equipment. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

2012. Incinerators (I).

If the facility has an incinerator, it shall conform to the requirements of the Department.

2013. Furnishings/Equipment (I).

A. The facility shall maintain the physical plant free of fire hazards and impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted in the facility except as permitted by the State Fire Marshal Regulations.

C. Wastebaskets, window dressings, portable partitions, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with the applicable code in Section 1700.

2014. Water Requirements.

A. The facility shall establish written policies and procedures to prevent waterborne microbial contamination within the water distribution system.

B. The facility shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions (e.g. gloves) in accordance with established guidelines.

C. The facility shall eliminate contaminated water or fluid from environmental reservoirs (e.g. in equipment or solutions) wherever possible.

D. The facility shall not place decorative fountains and fish tanks in patient-care areas. If decorative fountains are used in separate public areas, the facility shall ensure they are disinfected in accordance with manufacturer's instructions and safely maintained.

E. The facility plumbing fixtures that require hot water and are accessible to patients shall be supplied with water which thermostatically controlled to a temperature of at least 100 degrees F. (37.8 degrees C) and not exceeding 125 degrees F. (51.7 degrees C.) at the fixture.

F. The facility shall have a written plan to respond to disruptions in water supply. The plan must include a contingency plan to estimate water demands for the entire facility in advance of significant water disruptions (i.e., those expected to result in extensive and heavy microbial or chemical contamination of the potable water), sewage intrusion, or flooding.

G. When a significant water disruption or an emergency occurs, the facility shall:

1. Adhere to any advisory to boil water issued by the municipal water utility;

2. Alert patients, families, employees, volunteers, students and visitors not to consume water from drinking fountains, ice, or drinks made from municipal tap water, while the advisory is in effect, unless the water has been disinfected;

3. After the advisory is lifted, run faucets and drinking fountains at full flow for greater than 5 minutes, or use high-temperature water flushing or chlorination;

4. All ice and drinks that may have been contaminated must be disposed and storage containers cleaned; and

5. Decontaminate the hot water system as necessary after a disruption in service or a cross-connection with sewer lines has occurred.

H. The facility shall follow appropriate recommendations to prevent cross connection and other sources of contamination of ice for human consumption and to prevent contamination of hydrotherapy equipment and medical equipment connected to water systems (e.g. automated endoscope reprocessors).

I. The facility shall maintain and implement policies and procedures addressing the management of failure of waste water systems.

J. Patient and staff handwashing lavatories and showers, if any, shall include hot and cold water at all times.

2015. Panelboards (II).

The directory shall be labeled to conform to the actual room designations. Clear access of stored materials shall be maintained to the panel. The panelboard directory shall be labeled to conform to the actual room numbers or designations.

2016. Lighting.

A. Spaces occupied by persons, machinery, equipment within buildings, approaches to buildings, and parking lots shall be lighted. (II)

B. The facility shall have adequate artificial light to include sufficient illumination for reading, observation, and activities.

2017. Heating, Ventilation, and Air Conditioning (HVAC) (II).

A. The HVAC system shall be inspected at least once a year by a certified/licensed technician.

B. No HVAC supply or return grill shall be installed within three feet of a smoke detector. (I)

C. Intake air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials.

D. Each bath/restroom shall have either operable windows or have approved mechanical ventilation.

SECTION 2100

SEVERABILITY

2101. General.

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.

SECTION 2200

GENERAL

2201. General.

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

Statement of Rationale:

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(A)(3)(h):

These revised regulations are updated to implement new statutory requirements concerning uncompensated indigent/charity care, and to ensure the safety and wellbeing of patients of ambulatory surgical facilities.

Document No. 5266
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
CHAPTER 67
Statutory Authority: 1976 Code Section 42-3-30

67-1602. Payment of Compensation.

Synopsis:

The South Carolina Workers' Compensation Commission proposes to amend the regulation that addresses methods of payment by which compensation can be paid.

Section-by-Section Discussion:

67-1602. Payment of Compensation.

1. Revises subsection A to allow the Commission to approve recipients who may accept payments on behalf of claimants.
2. Revises subsection B to clarify the purpose of subsection B.
3. Revises subsection C to make electronic means the default method of payment for temporary disability payments and reimbursements for expenses under Reg. 67-1601.
4. Adds paragraph C(1) to require payers to provide claimants with notice of the method of electronic payment.
5. Adds paragraph C(2) to allow for payers to send payments via a check in the event that a claimant does not respond to the aforementioned notice.
6. Adds paragraph C(3) to allow claimants to opt into payments via checks and require payers to honor these requests.

7. Adds subsection D to allow payers to petition the Commission for the right to make payments via checks within two (2) years of the effective date of the regulation. Payers must show that they would undergo hardship without this right.

8. Deletes the old subsection E.

9. Adds a new subsection E to set forth requirements for payers who use an electronic payment method.

10. Adds paragraph E(1) to ensure claimants can immediately obtain their electronic payments.

11. Adds paragraph E(2) to ensure that the chosen electronic payment method is easily accessible to claimants.

12. Adds paragraph E(3) to give claimant the option to opt into payments via checks given 30 days notice to payer.

13. Adds subsection G to define when payment via check is considered complete and to require payers via check to keep records of the checks they send.

14. Revises subsection I (formerly subsection G) to clarify claimants' recourse for late payments and errant suspension or termination of benefits. This revision specifies that recourse can be taken by filing a WCC Form 50 Employee's Request for Hearing.

The Notice of Drafting was published in the *State Register* on October 27, 2023.

Instructions:

Print the regulation as shown below. All other items remain unchanged.

Text:

67-1602. Payment of Compensation.

A. Unless otherwise ordered by the Commission, the employer's representative shall pay all compensation directly to (1) the claimant or (2) the guardian, if the claimant is a minor or incapacitated person, or (3) another person approved by a court or the Commission to accept payment on behalf of the claimant.

B. To pay an award or settlement the employer's representative shall make a check payable to the claimant and the claimant's attorney, as allowed pursuant to an approved Form 61, Attorney Fee Petition, or by order of the Commission.

C. Periodic payments of temporary disability and reimbursements for expenses under Reg. 67-1601 shall be made by electronic payment systems, subject to the following conditions:

(1) The employer, employer's representative, or other payer must provide the claimant written or electronic notice of the method of electronic payment available and how to access it on or before the date compensation becomes due;

(2) If the claimant does not respond within seven (7) days of the date such notice is given the employer, employer's representative, or other payer may provisionally issue payment in the form of a check. The check must be accompanied by written instructions for the claimant to commence payment electronically. If the claimant subsequently requests electronic payment, the employer, employer's representative, or other payer must commence payment electronically; and

(3) A claimant may at any time elect in writing or electronically to receive such payments by check and the employer, employer's representative, or other payer shall honor such request.

D. An employer, employer's representative, or other payer may petition the Commission for an order allowing the payer to make periodic payments of temporary disability and reimbursements of expenses under Reg. 67-1601 using a check. The Commission shall only grant such petitions for a time period not to exceed two years from the effective date of this regulation, and only upon a showing of hardship by the payer. Such petitions shall be decided by written order of the Commission, with right to review and appeal as in other cases. Any employer, employer's representative, or payer granted the privilege of making payment by check pursuant to this subsection shall provide the claimant with written notice that payment will be made by check on or before the date compensation becomes due. The employer, employer's representative, or payer shall notify the claimant as soon as electronic payment is available.

E. An employer, employer's representative, or other payer using an electronic payment system, including, but not limited to, an electronic funds transfer, a direct deposit, debit card, or similar payment system, must meet the following conditions:

(1) the claimant can immediately obtain the full amount of the periodic payment;

(2) the method of payment is easily and readily accessible to the claimant; and

(3) the claimant retains the right to opt for payment by check consistent with paragraph (C) by giving 30 days written or electronic notice to the payer.

F. When payment is made to a debit card account:

(1) the payer shall not charge the claimant any fee related to the issuance of the debit card;

(2) the claimant must be provided a reasonable method to obtain payment in full without incurring any usage fee; and

(3) any other fees associated with the use of the debit card shall be disclosed to the claimant in writing by the payer.

G. When making payment using a check in accordance with paragraphs (C)(2) or (D), above, payment is deemed complete on the date the employer, employer's representative, or other payer delivers the check into the possession of the U.S. Postal Service or common carrier with postage or other charges paid. The employer, employer's representative, or other payer shall keep record of the date each check is delivered into the possession of the U.S. Postal Service or common carrier and shall provide such records to the claimant or the Commission immediately upon request. If there are any tracking numbers or similar information associated with the shipment of the check by U.S. Mail or common carrier, such information shall be provided to claimant or the Commission immediately upon request.

H. Payment made other than as directed in this section shall not acquit, protect, or discharge the employer, employer's representative, or other payer for the payment due.

I. The claimant may request a hearing to assess a penalty and/or interest as authorized by statute for late payment or suspension or termination of benefits by filing with the Commission's Judicial Department a WCC Form 50 Employee's Request for Hearing.

Fiscal Impact Statement:

There are no anticipated costs incurred by the State or any of its political subdivisions.

Statement of Rationale:

Due to the quick, traceable, and accessible nature of electronic payment systems, Regulation 67-1602 is being revised to make payment by electronic means the default method of payment for temporary disability and reimbursements.