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COMMITTEE AMENDMENT ADOPTED AND AMENDED
February 20, 2024

S. 915

Introduced by Senators Peeler, Alexander, Setzler, Verdin, Davis, Hutto, Kimbrell, Young, Senn and Fanning

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Read the first time January 09, 2024

A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS SO AS TO CREATE THE EXECUTIVE OFFICE OF HEALTH AND POLICY AND PROVIDE FOR THE DUTIES OF THE SECRETARY OF THE AGENCY; BY AMENDING SECTION 1-30-10, RELATING TO DEPARTMENTS OF STATE GOVERNMENT, SO AS TO DISSOLVE SEVERAL DEPARTMENTS AND CREATE THE STATE OFFICE OF THE SECRETARY OF PUBLIC HEALTH AND POLICY; BY AMENDING SECTION 8-17-370, RELATING TO THE MEDIATION OF GRIEVANCES BY THE STATE HUMAN RESOURCES DIRECTOR SO AS TO ADD THE SECRETARY OF HEALTH AND POLICY, THE DIRECTORS OF THE COMPONENT DEPARTMENTS OF THE EXECUTIVE OFFICE OF HEALTH AND POLICY, AND ALL DIRECT REPORTS TO THE SECRETARY AND TO DIRECTORS OF THE COMPONENT DEPARTMENTS; BY AMENDING SECTION 43-21-70, RELATING TO THE EMPLOYMENT OF THE DIRECTOR OF THE DEPARTMENT AND ADVISORY COUNCIL ON AGING, SO AS TO PROVIDE THAT THE SECRETARY OF HEALTH AND POLICY SHALL APPOINT A DIRECTOR TO BE THE ADMINISTRATIVE OFFICER OF THE DEPARTMENT ON AGING; AND TO REPEAL TITLE 44, CHAPTER 9 RELATING TO THE STATE DEPARTMENT OF MENTAL HEALTH.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 44 of the S.C. Code is amended by adding:

CHAPTER 12

Executive Office of Health and Policy

Section 44-12-10. There is created within the executive branch of the state government an agency to be known as the Executive Office of Health and Policy with the organization, duties, functions, and powers defined in this chapter and other applicable provisions of law.

Section 44-12-20. The Secretary of Health and Policy shall be the head and governing authority of the office. The secretary must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to provisions of Section 1-3-240(B).

Section 44-12-30. As used in this chapter:

(1) "Secretary" means the Secretary of Health and Policy.

(2) "Office" means the Executive Office of Health and Policy.

(3) "Department" or "departments" mean any one or more of the component departments housed within the office.

(4) "State Health Services Plan" means the cohesive, coordinated, and comprehensive State Plan for public health services developed by the Secretary.

Section 44-12-40. In performing his duties as authorized by this chapter, the secretary:

(1) shall develop a cohesive, coordinated, and comprehensive State Health Services Plan for public health services provided by the component departments housed within the office so that there is a maximum level of coordination among the component departments. The plan should serve as a blueprint for the State to assess and improve the quality of care that South Carolinians receive. The plan should be continually updated and must include, at a minimum, an inventory, projections, and standards for health services, facilities, equipment, and workforce which have the potential to substantially impact delivery of care, costs, and accessibility within the State. The plan should also address how to improve health services delivery in the State, recognize operational efficiencies, and maximize resource utilization. The plan should address how to ensure that service and support for South Carolinians with disabilities are, to the greatest extent possible, provided in the community instead of in an institutional setting in accordance with the requirements of the American's with Disabilities Act and the U.S. Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581. The secretary shall appoint a South Carolina Director of Community Living Integration who will be responsible for providing oversight in the assessment of the current state of community integration in South Carolina and in the creation of the community integration goals and objectives to be included in the State Health Services Plan. The South Carolina Director of Community Living will report to the Secretary of Health and Policy and shall select an American's with Disabilities Coordinator. The secretary shall establish and appoint members to a health planning advisory committee to provide advice in the development of the plan. Members of the advisory committee shall include health care providers, consumers, payers, representatives from the disabled community, disability advocacy agencies, and public health professionals. When developing the community integration goals and objectives, the committee must seek input from people with disabilities of different types and varying levels of severity, family members of people with disabilities, and people currently providing services to the disabled community. The committee must identify objectives for the successful implementation of the community integration program. Members of the advisory committee are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions;

(2) shall review and approve or disapprove all regulations promulgated by the component departments prior to their submission to the General Assembly;

(3) shall be the sole advisor of the State concerning all questions involving the protection of public

health within its limits;

(4) shall have the authority to determine the appropriate course of treatment for patients with complex or co-occurring diagnoses necessitating involvement of two or more component departments, provided that the determination may not preempt or override treatment decisions arrived at between a patient and his physician;

(5) shall, subject to applicable federal law, require data sharing to the fullest extent possible among the component departments when necessary to accomplish the goals of the plan;

(6) shall, to the extent practicable, consolidate administrative services among the component departments. Consolidated administrative services include, but are not limited to:

(a) financial and accounting support, such as accounts payable and receivable processing, procurement processing, journal entry processing, and financial reporting assistance;

(b) human resources administrative support, such as transaction processing and reporting, payroll processing, and human resources training;

(c) budget support, such as budget transaction processing and budget reporting assistance; and

(d) information technology;

(7) shall, with regard to information technology, ensure that the office and the component departments comply with all plans, policies, and directives of the Department of Administration;

(8) may employ such persons as he determines are necessary to carry out the office's duties; and

(9) may enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of carrying out the office's duties.

Section 44-12-50. (A) The Executive Office of Health and Policy shall consist of the following component departments:

(1) the Department of Health Financing;

(2) the Department of Public Health;

(3) the Department on Aging;
(4) the Department of Intellectual and Related Disabilities; and
(5) the Department of Behavioral Health.

(B)(1) The component departments shall be headed by a department director appointed by the secretary with the advice and consent of the Senate. Department directors shall serve at the will and pleasure of the secretary. In the case of a vacancy in a department director's position prior to the appointment and confirmation of a successor, the secretary may assign an employee of the department or the office to perform the duties required of the vacant position on an interim basis.

(2) The secretary shall develop the budget for the office with each component department constituting a separate program area. The secretary shall consult with each component department director in developing the priorities and funding request for his component department.

(3) The secretary may, to the extent authorized through the annual appropriations act or relevant permanent law, organize the administration of the office, including the assignment of personnel to the office and among its component departments, as is necessary to carry out the office's duties.

Section 44-12-60. The component departments shall carry out their duties, functions, and powers as provided in their respective enabling statutes and as otherwise provided by laws subject to the management decisions, policy development, and standards established of and by the secretary as provided in this chapter.

SECTION 2. Section 1-23-600(H)(1) of the S.C. Code is amended to read:

(H)(1) This subsection applies to timely filed requests for a contested case hearing of decisions by the Department of Environmental Services or the Department of Public Health. Emergency actions taken by the Department of Environmental Services or the Department of Public Health pursuant to an applicable statute or regulation are not subject to the provisions of this subsection.

SECTION 3. Section 1-30-10(A) of the S.C. Code is amended to read:

(A) There are hereby created, within the executive branch of the state government, the following departments:
1. Department of Administration
2. Department of Agriculture
~~3. Department of Alcohol and Other Drug Abuse Services~~
~~4.~~3. Department of Commerce
~~5.~~4. Department of Corrections
~~6. Department of Disabilities and Special Needs~~
~~7.~~5. Department of Education
~~8. Department of Public Health~~
~~9. Department of Health and Human Services~~
~~10.~~6. Department of Insurance
~~11.~~7. Department of Juvenile Justice
~~12.~~8. Department of Labor, Licensing and Regulation
~~13. Department of Mental Health~~
~~14.~~9. Department of Motor Vehicles
~~15.~~10. Department of Natural Resources
~~16.~~11. Department of Parks, Recreation and Tourism

~~17.~~12. Department of Probation, Parole and Pardon Services
~~18.~~13. Department of Public Safety
~~19.~~14. Department of Revenue
~~20.~~15. Department of Social Services
~~21.~~16. Department of Transportation
~~22.~~17. Department of Employment and Workforce
~~23. Department on Aging~~
~~24.~~18. Department of Veterans' Affairs.
~~25.~~19 Department of Environmental Services
20. Executive Office of Health and Policy

SECTION 4. Section 3-5-140 of the S.C. Code is amended to read:

Section 3-5-140. (A) If the person in whose favor or the person against whom such determination is made shall be dissatisfied therewith, such person may apply to an Administrative Law Judge to review the determination. An appeal from the decision of the Administrative Law Judge may be taken to ~~the Coastal Zone Management Appellate Panel. An appeal from the decision of the Panel may be taken to~~ the court of common pleas for the county in which the oyster beds lie. The Court shall review the award in the same manner as reports of a master in equity are reviewed by the court and the determination of the amount of the award by the court of common pleas shall be final.

(B) Before a review shall be granted to the person against whom the award is made, such person shall pay to the person in whose favor the award is made, one half of the amount of the said award, and shall file with the said clerk of court a bond conditioned for the payment of the remaining half of the award or so much thereof as may be finally awarded, such bond to be approved by the clerk of court of the county in which the oyster beds lie as to form, surety and amount.

(C) The final award shall be entered on record in the office of the clerk of court of common pleas for the county in which the oyster beds lie and when so entered shall have the force and effect of a judgment. The amount of the award shall be limited to the direct actual damage suffered by the person owning in fee or in leasehold the oyster beds and the oysters growing therein.

SECTION 5. Section 6-11-285 of the S.C. Code is amended to read:

Section 6-11-285. (A) For purpose of this section:

(1) "Political subdivision" means any municipality, county, public service district, special service district, or other public entity charged with the operation and maintenance of wastewater plants or treatment facilities, water treatment facilities, or with the operation and management of any water

distribution system;

(2) "Person" means a person as defined in item (1) of ~~§~~ Section 48-1-10.

(B) Any person violating any ordinance or regulation of a political subdivision or any permit, permit condition, or final determination of any political subdivision as required by state or federal law is subject to a civil penalty not to exceed two thousand dollars for each day of violation.

(C) Any political subdivision, prior to the imposition of any civil penalty, shall issue a rule to show cause requiring the person to appear and show cause why civil penalties should not be imposed and specifying which violations are charged. A hearing upon the rule must be held before a hearing officer designated by the governing body of the political subdivision.

(D) All penalties assessed under the provisions of this section must be held as debt and payable to the political subdivision by the person against whom they have been charged and shall constitute a lien against the property of the person.

~~(E) The hearing procedure required under the provisions of this section must be in accordance, as practicably possible, with that procedure as prescribed by Regulation 61-72 of the Department of Health and Environmental Control.~~

~~(F)~~(E) All appeals from the decision of the hearing officer under the provisions of this section must be heard in the court of common pleas in the county in which the political subdivision is located.

SECTION 6. Section 8-17-370 of the S.C. Code is amended by adding:

(21) The Secretary of Health and Policy, the directors of the component departments of the Executive Office of Health and Policy, and all direct reports to the Secretary and to directors of the component departments.

SECTION 7. Section 43-21-70 of the S.C. Code is amended to read:

Section 43-21-70. The ~~Governor~~ Secretary of Health and Policy shall appoint with the advice and consent of the Senate a director to be the administrative officer of the Department on Aging who shall serve at the ~~Governor's~~ secretary's pleasure ~~and who is subject to removal pursuant to the provisions of Section 1-3-240~~.

SECTION 8. Chapter 1, Title 44 of the S.C. Code is amended to read:

CHAPTER 1

Section 44-1-20. There is created the South Carolina Department of Public Health to be headed by a director who is appointed by the Secretary of Health and Policy upon the advice and consent of the Senate pursuant to Section 44-12-50(B)(1).

Section 44-1-50. The ~~board~~ Executive Office of Health and Policy may conduct such administrative reviews as may be required by law, as considered necessary by the ~~board~~ office to render a final agency determination in matters involving the issuance, denial, renewal or revocation of permits, licenses, or other actions of the department which may give rise to a contested case pursuant to Chapter 23 of Title 1.

The ~~board~~ office shall provide for the administrative organization of the department and shall consolidate and merge existing duties, functions, and officers of the former agencies as may be necessary for economic and efficient administration. Provided, however, that the ~~board~~ Secretary of Health and Policy may appoint such advisory boards as ~~it~~ he considers necessary to carry out the functions of Sections 44-1-10 to 44-1-70, and there shall be provided a compensation for their services as provided by the law for members of boards and commissions.

Section 44-1-60.(A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case must be made using the procedures set forth in this section.

(B) The department ~~staff~~ shall comply with all requirements for public notice, receipt of public comments and public hearings before making a department decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment and public hearings.

~~(C) The initial decision involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other action of the department shall be a staff decision.~~

~~(D)~~(C) In making a ~~staff~~ decision on any permit, license, certification or other approval, the department ~~staff~~ shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny or condition such permit, license, certification or other approval. At the time that ~~such staff~~the decision is made, the department shall issue a ~~department~~ written decision, and shall base its ~~department~~ decision on the administrative record which shall consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification or other approval. The administrative record may also include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as ~~such~~ those materials are ~~specifically~~ referred to in the department decision. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. The department is not required to issue a written decision ~~need not be issued~~ for routine permits for which ~~no~~ the departments has not received adverse public comments ~~have been received~~.

~~(E)~~(D)(1) ~~Notice of a department decision must be sent~~The department shall send notice of a decision by certified mail, returned receipt requested to the applicant, permittee, licensee, certificate holder, and affected persons who have requested in writing to be notified. Affected persons may request in writing to be notified by regular mail or electronic mail in lieu of certified mail. Notice of ~~staff~~ decisions for which a department decision is not required pursuant to subsection ~~(D)~~(C) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, certificate holder and affected persons who have requested in writing to be notified.

~~(2) The staff decision becomes the final agency decision fifteen calendar days after notice of the staff decision has been mailed to the applicant, unless a written request for final review accompanied by a filing fee is filed with the department by the applicant, permittee, licensee, or affected person.~~

~~(3)~~(2) ~~The filing fee must be in the amount of one hundred dollars unless the department establishes a fee schedule by regulation after complying with the requirements of Article 1, Chapter 23, Title 1. This fee must be retained by the department in order to help defray the costs of the proceedings and legal expenses.~~Within thirty calendar days after decision is mailed, an applicant, permittee, licensee, certificate holder, or affected person desiring to contest the department's decision may request a contested case hearing before the Administrative Law Court in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions contained in Section 1-23-330 regarding the department's specialized knowledge.

~~(F) No later than sixty calendar days after the date of receipt of a request for final review, a final review conference must be conducted by the board, its designee, or a committee of three members of the board appointed by the chair. If the board declines in writing to schedule a final review conference or if a final review conference is not conducted within sixty calendar days, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person requests pursuant to subsection (G) a contested case hearing before the Administrative Law Court. The department shall set the place, date, and time for the conference; give the applicant and affected persons at least ten calendar days' written notice of the conference; and advise the applicant that evidence may be presented at the conference. The final review conference must be held as follows:~~

~~(1) Final review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the moving party. During the course of the final review conference, the staff must explain the staff decision and the materials relied upon in the administrative record to support the staff decision. The applicant or affected party shall state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. The staff may rebut information and arguments presented by the applicant or affected party and the applicant or affected party may rebut information and arguments presented by the staff. Any final review conference officer may request additional information and may question the applicant or affected party, the staff, and anyone else providing information at the conference.~~

~~(2) After the final review conference, the board, its designee, or a committee of three members of the board appointed by the chair shall issue a written final agency decision based upon the evidence presented. The decision may be announced orally at the conclusion of the final review conference or it may be reserved for consideration. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. In either event, the written decision must be mailed to the parties no later than thirty calendar days after the date of the final review conference. Within thirty calendar days after the receipt of the decision an applicant, permittee, licensee, or affected person desiring to contest the final agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions of Section 1-23-330 regarding the department's specialized knowledge.~~

~~(3) Prior to the initiation of the final review conference, an applicant, permittee, licensee, or affected person must be notified of their right to request a transcript of the proceedings of the final review conference. If a transcript is requested, the applicant, permittee, licensee, or affected person making the request is responsible for all costs.~~

~~(G) An applicant, permittee, licensee, or affected person may file a request with the Administrative Law Court for a contested case hearing within thirty calendar days after:~~

~~(1) notice is mailed to the applicant, permittee, licensee, and affected persons that the board declined to hold a final review conference; or~~

~~(2) the sixty calendar day deadline to hold the final review conference lapses and no conference has been held; or~~

~~(3) the final agency decision resulting from the final review conference is received by the parties.~~

~~(H) Applicants, permittees, licensees, and affected persons are encouraged to engage in mediation during the final review process.~~

~~(I) The department may promulgate regulations providing for procedures for final reviews.~~

~~(J)~~(E) ~~Any statutory deadlines applicable to permitting and licensing programs administered by the department must be extended to all for this final review process.~~ If any deadline provided for in this section falls on a Saturday, Sunday, or state holiday, the deadline must be extended until the next calendar day that is not a Saturday, Sunday, or state holiday.

Section 44-1-80. (A) The ~~Board~~ Department of Public Health ~~and Environmental Control~~ or its designated agents must investigate the reported causes of communicable or epidemic disease and must enforce or prescribe these preventive measures as may be needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as may be necessary to protect the citizens of the State. The ~~Board~~ Department of Public Health ~~and Environmental Control~~ or its designated agents shall declare, when the facts justify it, any place as infected and, in case of hydrophobia or other diseases transmitted from animals to man, must declare such animal or animals quarantined, and must place all such restrictions upon ingress and egress of persons or animals therefrom as may be, in its judgment, necessary to prevent the spread of disease from the infected locality.

(B)(1) Whenever the ~~board~~ department learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to cause a public health emergency, as defined in Section 44-4-130, it is authorized to notify the appropriate public safety authority, tribal authorities, and federal health and public safety authorities.

(2) The sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between authorized personnel must be restricted to information necessary for the treatment, control, investigation, and prevention of a public health emergency. Restriction of access to this information to those authorized personnel for the protection of public health ensures compliance with all state and federal health information privacy laws.

(3) The ~~board~~ department and its agents must have full access to medical records and nonmedical records when necessary to investigate the causes, character, and means of preventing the spread of a qualifying health event or public health emergency. For purposes of this item, "nonmedical records" mean records of entities, including businesses, health facilities, and pharmacies, which are needed to adequately identify and locate persons believed to have been potentially exposed or known to have been infected with a contagious disease.

(4) An order of the ~~board~~ department given to effectuate the purposes of this subsection is enforceable immediately by the public safety authority.

(5) For purposes of this subsection, the terms qualifying health event, public health emergency, and public safety authority have the same meanings as provided in Section 44-4-130.

Section 44-1-90. The ~~State Board~~Department of Public Health ~~and Environmental Control~~ or its designated agents, when it is deemed necessary by the municipal officers of any town or city or the governing body of any county, may (a) visit cities, towns, villages or localities where disease is prevalent or threatened, (b) investigate and advise with the local authorities or persons as to such measures as may tend to prevent the spread of disease or to remove or abate causes that may tend to cause or intensify disease, and (c) advise, when practicable or possible, as to measures of sanitation or hygiene ~~and (d) investigate and advise as to all matters respecting water supply, sewage, drainage, ventilation, heating, lighting or other measures connected with public sanitation or safety~~.

Section 44-1-100. All sheriffs and constables in the several counties of this State and police officers and health officers of cities and towns must aid and assist the Director of the Department of Public Health ~~and Environmental Control~~ and must carry out and obey his orders, or those of the Department of Public Health ~~and Environmental Control~~, to enforce and carry out any and all restrictive measures and quarantine regulations that may be prescribed. During a state of public health emergency, as defined in Section 44-4-130, the director may request assistance in enforcing orders issued pursuant to this chapter and pursuant to Chapter 4, Title 44, from the public safety authority, as defined in Section 44-4-130, other state law enforcement authorities, and local law enforcement. The public safety authority may request assistance from the South Carolina National Guard in enforcing orders made pursuant to this chapter or pursuant to Chapter 4, Title 44.

Section 44-1-110. (A) ~~The Department of Health and Environmental Control is invested with all the rights and charged with all the duties pertaining to organizations of like character and is the sole advisor of the State in all questions~~

~~involving the protection of the public health within its limits.~~The Department of Public Health shall advise the Secretary of Health and Policy regarding all questions concerning the protection of public health within its jurisdiction.

(B) ~~It~~ The Department of Public Health shall, through its representatives, investigate the causes, character, and means of preventing the epidemic and endemic diseases as the State is liable to suffer from and the influence of climate, location, and occupations, habits, drainage, scavengering, water supply, heating, and ventilation. It shall have, upon request, full access to the medical records, tumor registries, and other special disease record systems maintained by physicians, hospitals, and other

health facilities as necessary to carry out its investigation of these diseases. No physician, hospital, or health facility, or person in charge of these records is liable in any action-at-law for permitting the examination or review. Patient-identifying information elicited from these records and registries must be kept confidential by the department and it is exempt from the provisions of Chapter 4 of Title 30. It shall supervise and control the quarantine system of the State. It may establish quarantine both by land and sea.

Section 44-1-130. (A) The Department of Public Health ~~and Environmental Control~~ may divide the State into health districts and establish in these districts advisory boards of health which shall consist of representatives from each county in the district. Boards of health now existing in the districts shall have representation on the district advisory board. Counties not having local boards of health shall be represented by individuals appointed by the county legislative delegation. The number of members of a district advisory board shall be determined by the ~~Department~~ department with due consideration to

the population and community needs of the district. District advisory boards of health shall be subject to the supervisory and advisory control of the ~~Department~~department. District advisory boards are charged with the duty of advising the district medical director or administrator in all matters of sanitary interest and scientific importance bearing upon the protection of the public health.

(B) The district medical director or administrator shall be secretary of the advisory board and the district advisory board shall elect annually from its membership a chairman.

Section 44-1-140.(A) The Department of Public Health may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the thorough sanitation and disinfection of all passenger cars, sleeping cars, steamboats, and other vehicles of transportation in this State and all ~~convict camps, penitentiaries, jails,~~ hotels, schools, and other places used by or open to the public;

(2) the sanitation and regulation of ~~hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, and all other places or establishments providing eating or drinking facilities and all other places known as private nursing homes or places of similar nature, operated for gain or profit~~ food services provided for patients and facility residents at health care facilities or other facilities regulated by the Department of Public Health pursuant to the State Health Facility Licensure Act;

(3) the ~~safety and sanitation in the harvesting, storing, processing, handling and transportation of mollusks, fin fish, and crustaceans~~control of disease-bearing insects, including impounding water;

~~(4) the safety, safe operation and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs;~~

~~(5)~~(4) the care, segregation, and isolation of persons having or suspected of having any communicable, contagious, or infectious disease; and

~~(6)~~(5) the thorough investigation and study of the causes of all diseases, epidemic and otherwise, in this State, the means for the prevention of contagious disease and the publication and distribution of such information as may contribute to the preservation of the public health and the prevention of disease.

(B) The department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other danger to the public life and health.

(C) The Secretary of Health and Policy must approve these rules and regulations prior to submission.

~~Section 44-1-143. (A) For the purposes of this section:~~

~~(1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person, including online and by mail order, or to retail stores, including grocery stores.~~

~~"Home-based food production operation" does not include preparing, processing, packaging, storing, or distributing aluminum canned goods or charcuterie boards.~~

~~(2) "Nonpotentially hazardous foods" are foods that are not potentially hazardous.~~

~~(3) "Person" means an individual consumer.~~

~~(4) "Potentially hazardous foods" includes:~~

~~(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;~~

~~(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:~~

~~Aw values~~	~~pH values~~	~~—~~	~~—~~
	~~4.6 or less~~	~~>4.6-5.6~~	~~>5.6~~
~~(1) <0.92~~	~~non-PHF~~	~~non-PHF~~	~~non-PHF~~
~~(2) >0.92-0.95~~	~~non-PHF~~	~~non-PHF~~	~~PHF~~
~~(3) >0.95~~	~~non-PHF~~	~~PHF~~	~~PHF~~

~~Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.~~

~~(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items including, but not limited to:~~

~~(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;~~

~~(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;~~

~~(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;~~

~~(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation;~~

~~and~~

~~(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.~~

~~(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:~~

~~(1) department-approved water supply;~~

~~(2) a separate storage place for ingredients used in foods intended for sale;~~

~~(3) a properly functioning refrigeration unit;~~

~~(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;~~

~~(5) adequate facilities for the storage of utensils and equipment;~~

~~(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;~~

~~(7) a properly functioning toilet facility;~~

~~(8) no evidence of insect or rodent activity; and~~

~~(9) department-approved sewage disposal, either onsite treatment or publicly provided.~~

~~(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:~~

~~(1) the name and address of the home-based food production operation. If a home-based food production operator does not want to include his address on the label, then the department shall provide an identification number to the operator, upon the operator's request, that can be used on the label instead;~~

~~(2) the name of the product being sold;~~

Section 44-1-150. (A) ~~Except as provided in Section 44-1-151, a~~A person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Public Health, made by the department pursuant to Section 44-1-140, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to Section 44-1-140 is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term "notice" as used in this section means either actual notice or constructive notice.

~~(E) Reserved.~~

Section 44-1-151. Notwithstanding any other provision of law, all shellfish involved in any violation of law, including any regulation, regarding shellfish may be confiscated and disposed of at the discretion of the arresting officer. Any person convicted of a second offense of harvesting shellfish in any polluted area shall, upon such conviction, be fined not less than two hundred dollars and not more than five hundred dollars or imprisoned for not less than thirty days and not more than sixty days. Any person convicted of a third or subsequent offense of harvesting shellfish in any polluted area shall, upon such conviction, be fined not less than five hundred dollars and not more than one thousand or imprisoned for not less than sixty days and not more than ninety days. All equipment, including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a first offense of harvesting shellfish in any polluted area may be impounded at the discretion of the arresting officer. The equipment impounded shall be delivered to the sheriff of the county in which the arrest was made and shall be retained by the sheriff. Such equipment may not be returned to the owner until the case has been finally disposed of. All equipment, including, but not limited to, vehicles, boats, motors, trailers, harvesting equipment, weapons, spotlights, bags, boxes, or tools, used or in any other manner involved in a second, third, or subsequent offense of harvesting shellfish in any polluted area shall be confiscated. All such confiscated equipment shall be sold at auction by the sheriff of the county in which such second, third, or subsequent offense took place and by a representative of the State Department of ~~Health and~~
Environmental ~~Control~~Services, except for weapons, which, following confiscation, shall be disposed of in the manner set forth in Sections 16-23-50, 16-23-460, and 16-23-500.

Section 44-1-152. Notwithstanding any other provision of law, all revenue from any fine or any forfeiture of bond for any violation of any shellfish law or regulation provided by this title must be deposited monthly with the treasurer of the county in which the arrest for such violation was made. One-third of such revenue must be retained by the county treasurer to be used for the general operating needs of the county pursuant to the direction of the governing body of the county. Two-thirds of such revenue must be remitted quarterly to the state Department of ~~Health and~~ Environmental ~~Control~~ Services of which one-half is to be used in enforcing shellfish laws and regulations and one-half of such revenue must be remitted quarterly to the state's general fund. All monies derived from auction sales of confiscated equipment pursuant to Section 44-1-151 must be deposited, retained, remitted, and used in the same manner as provided in this section for all revenue derived from any fine or any violation of any shellfish law or regulation. A report of fines for forfeitures of bonds regarding shellfish violations must be sent to the state Department of ~~Health and~~ Environmental ~~Control~~ Services monthly by each magistrate and clerk of court in this State. A report of monies derived from auction of sales of

confiscated equipment must be sent to the state Department of ~~Health and~~ Environmental ~~Control~~ Services monthly by each sheriff.

Section 44-1-155. When any person is apprehended by a shellfish patrolman upon a charge of violating the health and sanitary aspects of shellfish, crab and shrimp laws or regulations, such person upon being served with a summons by the patrolman may in lieu of being immediately brought before the proper judicial officer enter into a formal recognizance or deposit a proper sum of money in lieu of a recognizance or incarceration with the patrolman as bail which shall be not less than the minimum nor more than the maximum fine, but in no case to exceed one hundred dollars. The bail shall be turned over to the proper judicial officer. A receipt for the sum so deposited shall be given to the person by the patrolman. The summons duly served shall give the judicial officer jurisdiction to dispose of the matter. Upon receipt of bail the patrolman shall release the person so charged and he may appear in court at the time stated in and required by the summons.

Section 44-1-160. Nothing contained in Section 44-1-140 shall in any way abridge or limit the right of any person to maintain or prosecute any proceedings, civil or criminal, against a person maintaining a nuisance.

Section 44-1-165. (A) There is established within the Department of ~~Health and~~ Environmental ~~Control~~ Services the Expedited Review Program to provide an expedited process for permit application
review. Participation in this program is voluntary and the program must be supported by expedited review fees promulgated in regulation pursuant to subsection (B)(1). The department shall determine the project applications to review, and the process may be applied to any one or all of the permit programs administered by the department.

(B)(1) ~~Before January 1, 2009, the~~The department shall promulgate regulations necessary to carry out the provisions of this section. The regulations shall include, but are not limited to, definitions of "completeness" for applications submitted, consideration of joint federal- state permitting activities, standards for applications submitted that advance environmental protection, and expedited process application review fees.

(2) Regulations promulgated pursuant to this section must not alter public notice requirements for any permits, certifications, or licenses issued by the department.

(C) Until such time as regulations are promulgated pursuant to subsection (B), the department shall conduct a pilot expedited review program to determine the most environmentally sound, cost efficient, and economically beneficial process for implementation of a statewide expedited review program. The department shall determine which permit programs, or subcomponents of a program, to include in the pilot program and also may establish pilot program expedited process application fees.

(D) There is created the Expedited Review Fund that is separate and distinct from the general fund of the State and all other funds. Fees established in regulation pursuant to subsection (B)(1) ~~and assessed pursuant to subsection (C)~~ must be credited to the fund and used for the costs of implementing the expedited review program. Interest accruing to the fund must be retained by the fund and used for the same purposes. Revenue in the fund not expended during a fiscal year~~, including fees generated pursuant to subsection (C),~~ must be carried forward to the succeeding fiscal year and must be used for the same purposes.

~~(E) No later than January 1, 2008, the department shall report to the Board of Health and Environmental Control the department's findings on the implementation of the pilot expedited review program provided for in subsection (C).~~

Section 44-1-170. The Department of Public Health~~ and Environmental Control~~ may direct and supervise the action of the local boards of health in incorporated cities and towns and in all townships in all matters pertaining to such local boards.

Section 44-1-180. The Department of Public Health~~ and Environmental Control~~ may establish charges for maintenance and medical care for all persons served in State health centers and other health facilities under the jurisdiction of the ~~Department~~ department and by personnel of the ~~Department~~ department and of the health units under its jurisdiction in homes and any other places where health services are needed. The terms "medical care" and "health services" include the services of physicians,
dentists, optometrists, nurses, sanitarians, physical therapists, medical social workers, occupational therapists, health aides, speech therapists, X-ray technologists, dietitians, nutritionists, laboratory technicians, and other professional and subprofessional health workers. The charges, which may be adjusted from time to time, shall be reasonable and based on the total costs of the services rendered, including operating costs, depreciation costs, and all other elements of costs.

Section 44-1-190. The Department of Public Health~~ and Environmental Control~~ shall make such investigations as it deems necessary to determine which persons or which of the parents, guardians, trustees, committees or other persons or agencies legally responsible therefor are financially able to pay the expenses of the care and treatment, and may contract with any person or agency for the care and treatment of any person to the extent permitted by the resources available to the ~~Department~~department. The ~~Department~~ department may require any county or State agency to furnish information which would be helpful to it in making the investigations. In arriving at the amount to be charged, the ~~Department~~ department shall have due regard for the financial condition and estate of the person, his present and future needs and the present and future needs of his lawful dependents, and whenever considered necessary to protect him or his dependents, may agree to accept a sum less than

the actual cost of services. No person shall be deprived of available health services solely because of inability to pay. No fees shall be charged for services which in the judgment of the ~~Department~~ department should be made freely available in order to protect and promote the public health.

Section 44-1-200. The Department of Public Health~~ and Environmental Control~~ may provide home health services to those persons living in areas of the State in which adequate home health services are not available and may charge fees for such services. Home health services shall include care of the ill and disabled rendered at home including, but not limited to, bedside care, treatment and rehabilitation services. In order that it may provide such services, the department may employ the necessary personnel, including nurses, physical therapists, speech therapists, occupational therapists, medical social workers, home health aides, nutritionists, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program. The ~~Department~~ department shall, wherever possible, assist and advise nonprofit agencies or associations in the development of home health services programs and may enter into agreements with such agencies or associations specifying the type of assistance and advice it will provide.

Section 44-1-210. All fees and charges collected pursuant to Sections 44-1-180 to 44-1-200, including vital statistics fees as now provided by law, shall be deposited in the State Treasury and shall be used in the operation of the public health program of the bureau, division, district health unit or local county health department which performed the services for which the fees and charges were collected.
An annual report shall be made to the State Fiscal Accountability Authority, Executive Budget Office and the Revenue and Fiscal Affairs Office of the receipts and expenditures made under the provisions of Sections 44-1-180 to 44-1-200.

Section 44-1-215. Notwithstanding Section 13-7-85, the Department of ~~Health and~~ Environmental ~~Control~~ Services may retain all funds generated in excess of those funds remitted to the general fund in fiscal year 2000-2001 from fees listed in Regulation R61-64 Title B.

Section 44-1-220. All skilled and intermediate care nursing facilities licensed by the Department of Public Health~~ and Environmental Control~~ shall be required to furnish an item-by-item billing for all charges to the patient or the person paying such bill, upon request by such patient or person. Items which remain unpaid are not required to be itemized again. Such requests for itemized billing shall remain in effect until further notification by the patient or person paying such bill. Provided, that the provision herein shall not apply to the contracted amount of a state or federal agency. Any amount above such contract shall be itemized as provided herein.

Section 44-1-230. The Department of Public Health ~~and Environmental Control~~ shall give

consideration to any benefits available to an individual, including private, group or other insurance benefits, to meet, in whole or in part, the cost of any medical or health services. ~~Such~~ The benefits shall be utilized insofar as possible; ~~-~~provided, ~~-~~however, the availability of ~~such~~ the benefits shall not be the sole basis for determining eligibility for program services of the department. Insurance carriers shall not deny payment of benefits otherwise available to the insured solely on the basis that an individual has applied for, or has been deemed eligible to receive, or has received, services, or on the basis that payments have been made for services by the department.

Section 44-1-260. Upon conducting an early periodic screening, diagnosis, and treatment screening (EPSDT), or another physical examination of a child from which it is determined that the child may benefit from the use of assistive technology, the department or person conducting the screening or examination may refer the child to an appropriate agency for an assistive technology evaluation. For purposes of this section, "assistive technology" means a device or service which is used to increase, maintain, or improve the functional capacities of an individual with a disability. An "assistive technology device" is an item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capacities of an individual with a disability including, but not limited to, aids for daily living, augmentative communication devices, wheelchairs, and mobility aids, seating and positioning aids, computer aids, environmental controls, home and workplace modifications, prosthetics and orthotics,
or aids for vision or hearing impairments. An "assistive technology service" is a service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

Section 44-1-280. The ~~Board and~~ Department of Public Health~~ and Environmental Control~~ in establishing priorities and funding for programs and services which impact on children and families during the first years of a child's life, within the powers and duties granted to it, must support, as appropriate, the South Carolina First Steps to School Readiness initiative, as established in Title 59, Chapter 152, at the state and local levels.

Section 44-1-290. A corporation or person whose only purpose is furnishing, supplying, marketing, or selling treated effluent for irrigation purposes, shall not be considered a public utility for purposes of Title 58 by virtue of the furnishing, supplying, marketing, or selling of the treated effluent, provided that the effluent has not been permitted for consumption by the ~~department~~ Department of Environmental Services or other regulatory agency.

Section 44-1-300. The ~~department~~ Department of Agriculture shall not use any funds appropriated

or authorized to the department to enforce Regulation 61-25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.

Section 44-1-310. (A) The Department of Public Health ~~and Environmental Control~~ shall establish a Maternal Morbidity and Mortality Review Committee to review maternal deaths and to develop strategies for the prevention of maternal deaths. The committee must be multidisciplinary and composed of members deemed appropriate by the department. The committee also may review severe maternal morbidity. The department may contract with an external organization to assist in collecting, analyzing, and disseminating maternal mortality information, organizing and convening meetings of the committee, and performing other tasks as may be incident to these activities, including providing the necessary data, information, and resources to ensure successful completion of the ongoing review required by this section.

(B) The State Registrar shall provide the following necessary data from death certificates of women who died within a year of pregnancy to the department staff for review to assist in identifying maternal death information:

(1) name;
(2) date and time of death;
(3) state and county of residence;
(4) date of birth;
(5) marital status;
(6) citizenship status;
(7) United States armed forces veteran status;
(8) educational background;
(9) race and ethnicity;
(10) date and time of injury;
(11) place of injury;
(12) location where injury occurred;
(13) place of death (facility name and/or address);
(14) manner of death;
(15) whether an autopsy was performed and findings available as to the cause of death;
(16) whether tobacco contributed to death;
(17) primary and contributing causes of death.

(C) The State Registrar shall provide the following necessary data from birth certificates or fetal death reports linked to the woman for whom data from the death certificate was provided pursuant to subsection (B), where available, to department staff for review to assist in identifying maternal death

information:

(1) medical record number;
(2) date of delivery;
(3) location of event;
(4) name of mother;
(5) mother's date of birth;
(6) mother's race and ethnicity;
(7) mother's pregnancy history;
(8) mother's height and weight;
(9) date of last normal menstrual period;
(10) date of first prenatal visit;
(11) number of prenatal visits;
(12) plurality;
(13) use of WIC during pregnancy;
(14) delivery payment method;
(15) cigarette smoking before and during pregnancy;
(16) risk factors during pregnancy;
(17) infections present or treated during pregnancy;
(18) onset of labor;
(19) obstetric procedures;
(20) characteristics of labor and delivery;
(21) maternal morbidity.

(D) The department must not disclose any information collected under this section that would identify the mother or baby with anyone outside the department, including the committee. Identifying information includes, but may not be limited to, names, addresses more specific than the county of residence, medical record numbers, and dates and times of birth or death.

(E) The department, or its representatives, on behalf of the committee, shall:

(1) extract necessary data elements from death certificates and birth certificates or fetal death reports, as applicable, and provide de-identified information to the committee for its review and consideration;
(2) review and abstract medical records and other relevant data;
(3) contact family members and other affected or involved persons to collect additional data.

(F) The committee shall:

(1) review information and records provided by the department;
(2) determine whether maternal death cases reviewed are pregnancy related, as defined as a death within one year of the pregnancy with a direct or indirect causation related to the pregnancy or

postpartum period;

(3) consult with relevant experts to evaluate the records and data;
(4) make determinations regarding the preventability of maternal deaths;
(5) develop recommendations for the prevention of maternal deaths; and
(6) disseminate findings and recommendations pursuant to subsection (J).

(G)(1) Health care providers and pharmacies licensed pursuant to Title 40 shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant medical records associated with a case under review by the committee.

(2) A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this subsection are not liable for civil damages or subject to criminal or disciplinary action for good faith efforts in providing the records.

(3) Coroners and law enforcement shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant records associated with a case under review by the committee.

(H)(1) Information, records, reports, statements, notes, memoranda, or other data collected pursuant to this section are not admissible as evidence in any action of any kind in any court or before another tribunal, board, agency, or person. The information, records, reports, statements, notes, memoranda, or other data must not be exhibited nor their contents disclosed, in whole or in part, by an officer or a representative of the department or another person, except as necessary for the purpose of furthering
the review of the committee of the case to which they relate. A person participating in a review may not disclose the information obtained except in strict conformity with the review project.

(2) All information, records of interviews, written reports, statements, notes, memoranda, or other data obtained by the department, the committee, and other persons, agencies, or organizations authorized by the department pursuant to this section are confidential.

(I)(1) All proceedings and activities of the committee, opinions of members of the committee formed as a result of the proceedings and activities, and records obtained, created, or maintained pursuant to this section, including records of interviews, written reports, and statements procured by the department or another person, agency, or organization acting jointly or under contract with the department in connection with the requirements of this section, are confidential and are not subject to the provisions of Chapter 4, Title 30 relating to open meetings or public records, or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. However, this section must not be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the committee's proceedings.

(2) Members of the committee must not be questioned in a civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. However, this section must not be construed to prevent a member of the committee from

testifying to information obtained independently of the committee or which is public information.

(J) Reports of aggregated nonindividually identifiable data for the previous calendar year must be compiled and disseminated by March first of the following year in an effort to further study the causes and problems associated with maternal deaths. Reports must be distributed to the General Assembly, the Director of the Department of Public Health ~~and Environmental Control~~, health care providers and facilities, key governmental agencies, and others necessary to reduce the maternal death rate.

(K) Members shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(L) The department shall apply for and use any available federal or private monies to help fund the costs associated with implementing the provisions of this section.

(M) The Executive Office of Health and Policy shall have access to data collected pursuant to Section 44-1-170 as necessary for the execution of the Secretary's duties and in furtherance of the State Health Services Plan. The Executive Office of Health and Policy shall not disclose this data except as provided by law.

Section 44-1-315. (A) For purposes of the section, "impacted location" means any facility issued or otherwise subject to a permit, license, or approval from the North Carolina Department of Environment and Natural Resources that has now been determined to be located within the jurisdiction of the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services as a result of the amendments to Section 1-1-10~~, effective January 1, 2017~~.

(B) Notwithstanding any other provision of law, the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services, in issuing any environmental permit, license, or approval to an impacted location shall provide a schedule of compliance that allows the permittee a reasonable period of time to be no greater than five years to come into compliance with any South Carolina environmental rule, regulation, or standard established by the department or by law that has no corresponding rule, regulation, or standard under North Carolina law or regulation, or is more stringent than the corresponding rule, regulation, or standard established under North Carolina law or regulation. The department may include increments of progress applicable in each year of the schedule established under this subsection, and may shorten the period of compliance as necessary to prevent an imminent threat to the public health and environment. The department may extend a permittee's compliance schedule under this section beyond five years upon written application by the permittee only if the department determines that circumstances reasonably require such an extension, and the extension of time would pose no threat to public health or the environment.

SECTION 9. Chapter 6, Title 44 of the S.C. Code is amended to read:

CHAPTER 6

Department of Health ~~and Human Services~~Financing

Article 1

General Provisions

Section 44-6-5. As used in this chapter:

(1) "Department" means the ~~State~~ Department of Health Financing ~~and Human Services~~.

(2) "Office" means the Revenue and Fiscal Affairs Office.

(3) "Costs of medical education" means the direct and indirect teaching costs as defined under Medicare.

(4) "Market basket index" means the index used by the federal government on January 1, 1986, to measure the inflation in hospital input prices for Medicare reimbursement. If that measure ceases to be calculated in the same manner, the market basket index must be developed and regulations must be promulgated by the ~~commission~~ department using substantially the same methodology as the federal market basket uses on January 1, 1986. Prior to submitting the regulations concerning the index to the General Assembly for approval pursuant to the Administrative Procedures Act, the department shall submit them to the Health Care Planning and Oversight Committee for review.

(5) "Medically indigent" means:

(a) all persons whose gross family income and size falls at or below the federal Community Service Administration guidelines and who meet certain qualifying criteria regarding real property allowance, qualifying services, residency requirements, and other sponsorship, and migrant or seasonal farm workers who have no established domicile in any state; and

(b) all persons whose gross family income and size falls between one hundred percent and two hundred percent of the Community Service Administration guidelines who meet certain other qualifying criteria regarding real property allowance, qualifying services, residency requirements, and other sponsorship and whose medical bill is sufficiently large in relation to their income and resources to preclude full payment. For the purposes of this definition, the qualifying criteria for real property allowance shall permit ownership of up to fifty acres of farmland upon which the family has resided for at least twenty-five years.

(6) "Net inpatient charges" means the total gross inpatient charges, minus the unreimbursed cost of medical education and the unreimbursed cost of providing medical care to medically indigent persons. The cost of care provided by a hospital to meet its Hill-Burton obligation is not considered an unreimbursed cost of providing medical care to medically indigent persons.

(7) "Secretary" means the Secretary of Health and Policy.

~~(7)~~(8) "South Carolina growth index" means the percentage points added to the market basket index to adjust for the South Carolina specific experience. ~~The Health Care Planning and Oversight Committee shall complete a study which identifies and quantifies those elements which should be included in the growth index.~~ The index's elements may include, but are not limited to: population increases, aging of the population, changes in the type and intensity of hospital services, technological advances, the cost of hospital care in South Carolina relative to the rest of the nation, and needed improvements in the health status of state residents. ~~Based on the study, the~~The department shall develop and promulgate regulations for the annual computation of the growth index. ~~Prior to submitting the regulations concerning the index to the General Assembly for approval pursuant to the Administrative Procedures Act, the department shall submit them to the Health Care Planning and Oversight Committee for review. Until a formula for computing the South Carolina growth index is promulgated, the annual index must be six and six-tenths percent which is equal to the average percentage difference between South Carolina hospital expenditures and the federal market basket index for the previous ten years.~~

~~(8)~~(9) "State resident" means a person who is domiciled in South Carolina. A domicile once established is lost or changes only when one moves to a new locality with the intention of abandoning his old domicile and intends to live permanently or indefinitely in the new locale.

~~(9)~~(10) "Target rate of increase" means the federal market basket index as modified by the South Carolina growth index.

~~(10)~~(11) "General hospital" means any hospital licensed as a general hospital by the Department of Public Health ~~and Environmental Control~~.

Section 44-6-10. There is created the State Department of Health ~~and Human Services~~Financing which shall be headed by a ~~Director~~ director appointed by the ~~Governor~~secretary, upon the advice and consent of the Senate. The director is subject to removal by the ~~Governor~~ secretary pursuant to the provisions of Section ~~1-3-240~~44-12-50(B)(1).

Section 44-6-30. The department shall:

(1) administer Title XIX of the Social Security Act (Medicaid)~~, including the Early Periodic Screening, Diagnostic and Treatment Program, and the Community Long-Term Care System~~;

(2) be designated as the South Carolina Center for Health Statistics to operate the Cooperative Health Statistics Program pursuant to the Public Health Services Act;

(3) administer payments for programs designated by the secretary; and

~~(3)~~(4) be prohibited from engaging in the delivery of services.

Section 44-6-35. In administering home- and community-based waiver programs, the department shall, to the extent possible, maintain the waiver status of an eligible family member of a member of the armed services who maintains his South Carolina state residence, regardless of where the service member is stationed. Consequently, a person on a waiver waiting list would return to the same place on the waiting list when the family returns to South Carolina. Furthermore, the eligible family member previously enrolled in a waiver program and who received active services would be reinstated into the waiver program once Medicaid eligibility is established, upon their return to South Carolina. It is not the intent of this section to authorize services provided outside the South Carolina Medicaid Service Area. These provisions are contingent upon the department receiving federal approval.

Section 44-6-40. For all health and human services interagency programs provided for in this chapter, the department shall have the following duties:

(1) Prepare and approve state and federal plans prior to submission to the appropriate authority as required by law for final approval or for state or federal funding, or both. Such plans shall be guided by the goal of delivering services to citizens and administering plans in the most effective and efficient ways possible.

(2) Compile and maintain in a unified, concise, and orderly form information concerning programs provided for in this chapter.

(3) Continuously review and evaluate programs to determine the extent to which they:

(a) meet fiscal, administrative, and program objectives; and

(b) are being operated cost effectively.

(4) Evaluate plans and programs in terms of their compatibility with state objectives and priorities giving specific attention to areas outlined in Section 44-6-70.

(5) Formulate for consideration and promulgation criteria, standards, and procedures that ensure assigned programs are administered effectively, equitably, and economically and in accordance with statewide policies and priorities.

(6) Inform the ~~Governor~~ secretary and the General Assembly as to the effectiveness of the criteria, standards, and procedures promulgated pursuant to item (5) of this section.

(7) ~~Develop in conjunction with other state agencies~~Cooperate with the secretary concerning the development of an information system to provide data on comparative client and fiscal information needed for programs.

(8) Develop a mechanism for local planning.

(9) ~~Obtain from participating state agencies~~Coordinate with the secretary concerning the development of information considered necessary by the department to perform duties assigned to the department.

Section 44-6-45. The ~~State Department of Health and Human Services~~department may collect administrative fees associated with accounts receivable for those individuals or entities which negotiate repayment to the agency. The administrative fee may not exceed one and one-half percent of the amounts negotiated and must be remitted to the State Treasurer and deposited to the credit of the general fund of the State.

Section 44-6-50. In carrying out the duties provided for in Section 44-6-30 the department shall:

(1) Contract for health and human services eligibility determination with performance standards regarding quality control as required by law or regulation.

(2) Contract for operation of certified Medicaid management information claims processing system. ~~For the first year of its operation it shall contract for such system with the Department of Social Services.~~

(3) Contract for other operational components of programs administered under this chapter as considered appropriate.

(4) Monitor and evaluate all contractual services authorized pursuant to this chapter to assure effective performance. Any contract entered into under the provisions of this chapter must be in accordance with the provisions of the South Carolina Consolidated Procurement Code.

(5) Establish a procedure whereby inquiries from members of the General Assembly concerning the department's work and responsibility shall be answered as expeditiously and definitely as possible in coordination with the secretary.

Section 44-6-70. A state plan must be prepared by the department for each program assigned to it and the department must also prepare resource allocation recommendations based on such plans. The resource allocation recommendations must be approved pursuant to state and federal law. The state plans must address state policy and priority areas of service with specific attention to the following objectives:

(a) Prevention measures as addressed in health and human services programs.

(b) Achievement of a balanced health care delivery system assuring that regulations, coverage, and reimbursement policies assure that while the most appropriate care is given, tailored to the client's needs, it is delivered in the most cost-effective manner.

(c) Simplification of paperwork requirements.

(d) Achievement of optimum cost effectiveness in administration and delivery of services provided quality of care is assured.

(e) Improvement of effectiveness of ~~third party~~third-party reimbursement efforts.
(f) Assurance of maximum utilization of private and nonprofit providers in administration and service delivery systems, provided quality of care is assured.
(g) Encouragement of structured volunteer programs in administration and service delivery.

Section 44-6-80. (A) The department must submit to the ~~Governor~~secretary~~, the State Fiscal Accountability Authority, Revenue and Fiscal Affairs Office, and the Executive Budget Office, and the General Assembly~~ an annual report concerning the work of the department including details on improvements in the cost effectiveness achieved since the enactment of this chapter and must recommend changes for further improvements.
(B) Interim reports must be submitted as needed to advise the Governor and the General Assembly of substantive issues.

Section 44-6-90. (A) The department may promulgate regulations to carry out its duties. The secretary must approve regulations promulgated pursuant to this section prior to their submission.
(B) All state and local agencies whose responsibilities include administration or delivery of services which are covered by this chapter shall cooperate with the department and comply with its regulations.

Section 44-6-100. (A) The department employees shall have such general duties and receive such compensation as determined by the director, with the authority provided by the secretary. The director shall be responsible for administration of state personnel policies and general ~~department~~ personnel policies established by the Executive Office of Health and Policy. The director shall have sole authority to employ and discharge employees subject to such personnel policies and funding available for that purpose.
(B) In all instances, the director shall serve as the chief administrative officer of the department and shall have the responsibility of executing policies, directives, and actions of the department either personally or by issuing appropriate directives to the employees.
(C) The goal of the provisions of this section is to ensure that the department's business is conducted according to sound administrative practice~~, without unnecessary interference with its internal affairs.~~ Public officers and employees shall be guided by this goal and comply with these provisions.

Section 44-6-110. A Medicaid provider, outside of the geographical boundary of South Carolina but within the South Carolina Medicaid Service Area, as defined by R. 126-300(B) of the Code of State Regulations, prior to the effective date of the amendments to Section 1-1-10, which are effective January 1, 2017, shall not lose status as a Medicaid provider as a result of the clarification of the South Carolina-North Carolina border.

Section 44-6-115. (A) Pharmacy services are a benefit under South Carolina Medicaid, subject to approval by the federal Centers for Medicare and Medicaid Services. The department shall establish a fee schedule for the list of pharmacy services.

(B)(1) The following services are covered pharmacy services that may be provided to a Medicaid beneficiary:
(a) dispensing self-administered hormonal contraceptives, as outlined and authorized in Section 40-43-230; and
(b) administering injectable hormonal contraceptives, as outlined and authorized in Section 40-43-230.
(2) Covered pharmacy services shall be subject to department protocols and utilization controls.
(C) A pharmacist shall be enrolled as an ordering, referring, and dispensing provider under the Medicaid program prior to rendering a pharmacist service that is submitted by a Medicaid pharmacy provider for reimbursement pursuant to this section.
(D) The director of the department shall seek any necessary federal approvals to implement this section. This section shall not be implemented until the necessary federal approvals are obtained and shall be implemented only to the extent that federal financial participation is available.
(E) This section does not restrict or prohibit any services currently provided by pharmacists as authorized by law including, but not limited to, this chapter or the Medicaid state plan.

Article 2

Medically Indigent Assistance Act

Section 44-6-132. The General Assembly finds that:
(1) There are citizens who cannot afford to pay for hospital care because of inadequate financial resources or catastrophic medical expenses.
(2) Rising health care costs and the growth of the medically indigent population have increased the strains on the health care system with a growing burden on the hospital industry, health insurance companies, and paying patients.
(3) This burden has affected businesses, which are large purchasers of health care services through employee insurance benefits, and taxpayers in counties which support public hospitals, and it causes the cost of services provided to paying patients to increase in a manner unrelated to the actual cost of services delivered to them.
(4) Hospitals which provide the bulk of unreimbursed services cannot compete economically with hospitals which provide relatively little care to indigent persons.
(5) Because of the complexity of the health care system, any effort to resolve the problem of paying for care for medically indigent persons must be multifaceted and shall include at least four general principles:
(a) Funds must be made available to assure continued access to quality health care for medically indigent patients.
(b) Cost containment measures and competitive incentives must be placed into the health care system along with the additional funds.
(c) The cost of providing indigent care must be equitably borne by the State, the counties, and the providers of care.
(d) State residents must be guaranteed access to emergency medical care regardless of their ability to pay or county of residence.
It is the intent of the General Assembly to:
(1) assure care for the largest possible number of its medically indigent citizens within funds available by:
(a) expanding the number of persons eligible for Medicaid services, using additional state and county funds to take advantage of matching federal funds;
(b) creating a fund based on provider and local government contributions to provide medical assistance to those citizens who do not qualify for Medicaid or any other government assistance and who do not have the means to pay for hospital care; and
(c) mandating access to emergency medical care for all state residents in need of the care;
(2) Provide incentives for cost containment to providers of care to indigent patients by implementing a prospective payment system in the Medicaid and Medically Indigent Assistance Fund programs;
(3) monitor efforts to foster competition in the health care market place while being prepared to make adjustments in the system through regulatory intervention if needed;
(4) promote market reforms, as the single largest employer in the State, by structuring its health insurance program to encourage healthy lifestyles and prudent use of medical services; and
(5) reduce where possible or maintain the current rate schedules of hospitals to keep costs from escalating.

Section 44-6-135. The following sections shall be known and may be cited as the "South Carolina Medically Indigent Assistance Act".

Section 44-6-140. (A) To provide cost containment incentives for providers of care to Medicaid recipients, the department shall convert the Medicaid hospital reimbursement system from a retrospective payment system to a prospective payment system ~~by October 1, 1985~~. The prospective payment system includes, at a minimum, the following elements:
(1) a maximum allowable payment amount established for individual hospital products, services, patient diagnoses, patient day, patient admission, or per patient, or any combination thereof. This payment must be based on hospital costs rather than hospital charges and must be adjusted at least every two years to reflect the most recent audited cost data available. The department shall set by regulation those circumstances under which a hospital may seek an exception. The maximum allowable payment amount must be weighted to allow for the costs of medical education and primary, secondary, or tertiary care considerations;
(2) payment on a timely basis to the hospital by the ~~commission~~ department or patient or both, of the maximum allowable payment amount determined by the ~~commission; and~~department; and
(3) acceptance by the hospital of the maximum payment amount as payment in full, which includes any deductible or copayment provided for in the state Medicaid program.
(B)(1) The department shall at the same time implement other cost containment measures which include, but are not limited to:
~~(1)~~(a) utilization reviews for appropriateness of treatment and length of stay;
~~(2)~~(b) preadmission certification of nonemergency admissions;
~~(3)~~(c) mandatory outpatient surgery in appropriate cases;
~~(4)~~(d) a second surgical opinion pilot study; and
~~(5)~~(e) procedures for encouraging the use of outpatient services.
(2) The department, to the fullest extent possible, shall utilize information required in this subsection in the form hospitals are presently submitting the information to other governmental agencies or in the form hospitals are presently utilizing the information within the hospital.

Section 44-6-146. (A) Every fiscal year the State Treasurer shall withhold from the portion of the Local Government Fund allotted to the counties a sum equal to fifty cents per capita based on the population of the several counties as shown by the latest official census of the United States. The money withheld by the State Treasurer must be placed to the credit of the ~~commission~~ department and used to provide Title XIX (Medicaid) services.
(B)(1) County governments are assessed an additional thirteen million dollars annually for use as matching funds for Medicaid services. Of these funds, seven and a half million dollars must be deposited into the Medicaid Expansion Fund created by Section 44-6-155.
(2) The department shall assess each county its share of the thirteen million dollars based on a formula which equally weighs the following factors in each county: property value, personal income, net taxable sales, and the previous two years of claims against the medically indigent assistance fund or program against county residents. If a trust fund has been established in a county to fund indigent care in the county, contributions on behalf of the county must be credited against the county assessment.

(C)(1) Within thirty days of the first day of the state's fiscal year, and on the first day of the other three quarters, each county shall remit one-fourth of its total assessment to the department. The department shall allow a brief grace period during which late payments are not subject to interest or penalty.

(2) Any county which fails to pay its assessment within the time allotted must pay, in addition to the

assessment, a penalty of five percent of the assessment and interest at one and one-half percent per month from the date the assessment was originally due to the date of the payment of the assessment and penalty. The department may in its discretion waive or reduce the penalty or interest or any part thereof.

Section 44-6-150. (A)(1) There is created the South Carolina Medically Indigent Assistance Program administered by the department. The program is authorized to sponsor inpatient hospital care for which hospitals shall receive no reimbursement. A general hospital equipped to provide the necessary treatment shall:

~~(1)~~(a) admit a patient sponsored by the program; and

~~(2)~~(b) accept the transfer of a patient sponsored by the program from a hospital which is not equipped to provide the necessary treatment.

(2) In addition to or in lieu of an action taken affecting the license of the hospital, when it is established that an officer, employee, or member of the hospital medical staff has violated this section, the South Carolina Department of Public Health~~ and Environmental Control~~ shall require the hospital to pay a civil penalty of up to ten thousand dollars.

(B) Hospital charges for patients sponsored by the Medically Indigent Assistance Program must be reported to the Revenue and Fiscal Affairs Office pursuant to Section 44-6-170.

(C) In administering the Medically Indigent Assistance Program, the department shall determine:

(1) the method of administration including the specific procedures and materials to be used statewide in determining eligibility for the program;

(a) In a nonemergency, the patient shall submit the necessary documentation to the patient's county of residence or its designee to determine eligibility before admission to the hospital.

(b) In an emergency, the hospital shall admit the patient pursuant to Section 44-7-260. If a hospital holds the patient financially responsible for all or a portion of the inpatient hospital bill, and if the hospital determines that the patient could be eligible for the program, it shall forward the necessary documentation along with the patient's bill and other supporting information to the patient's county of residence or its designee for processing. A county may request that all hospital bills incurred by its residents sponsored by the program be submitted to the county or its designee for review.

(2) the population to be served, including eligibility criteria based on family income and resources. Eligibility is determined on an episodic basis for a given spell of illness. Eligibility criteria must be uniform statewide and may include only those persons who meet the program's definition of medically indigent;

(3) the health care services covered;

(4) a process by which an eligibility determination can be contested and appealed; and

(5) the program may not sponsor a patient until all other means of paying for or providing services

have been exhausted. This includes Medicaid, Medicare, health insurance, employee benefit plans, or other persons or agencies required by law to provide medical care for the person. Hospitals may require eligible patients whose gross family income is between one hundred percent and two hundred percent of the federal poverty guidelines, to make a copayment based on a sliding payment scale developed by the department based on income and family size.

(D) Nothing in this section may be construed as relieving hospitals of their Hill-Burton obligation to provide unreimbursed medical care to indigent persons.

Section 44-6-155. (A) There is created the Medicaid Expansion Fund into which must be deposited funds:

(1) collected pursuant to Section 44-6-146;

(2) collected pursuant to Section 12-23-~~810; and~~810; and

(3) appropriated pursuant to subsection (B).

This fund must be separate and distinct from the general fund. These funds are supplementary and may not be used to replace general funds appropriated by the General Assembly or other funds used to support Medicaid. These funds and the programs specified in subsection (C) are exempt from any budgetary cuts, reductions, or eliminations caused by the lack of general fund revenues. Earnings on investments from this fund must remain part of the separate fund and must not be deposited in the
general fund.

(B) The department shall estimate the amount of federal matching funds which will be spent in the State during the next fiscal year due to the changes in Medicaid authorized by subsection (C). Based on this estimate, the General Assembly shall appropriate to the Medicaid Expansion Fund state funds equal to the additional state revenue generated by the expenditure of these federal funds.

(C) Monies in the fund must be used to:

(1) provide Medicaid coverage to pregnant women and infants with family incomes above one hundred percent but below one hundred eighty-five percent of the federal poverty guidelines;

(2) provide Medicaid coverage to children aged one through six with family income below federal poverty guidelines;

(3) provide Medicaid coverage to aged and disabled persons with family income below federal poverty guidelines;

~~(4) [reserved];~~

~~(5) [reserved];~~

~~(6) [reserved];~~

~~(7)~~(4) provide up to two hundred forty thousand dollars to reimburse the Revenue and Fiscal Affairs Office and hospitals for the cost of collecting and reporting data pursuant to Section 44-6-170;

~~(8) [reserved].~~

(D) Any funds not expended for the purposes specified in subsection (C) during a given year are carried forward to the succeeding year for the same purposes.

Section 44-6-160. (A) By August first of each year, the department shall compute and publish the annual target rate of increase for net inpatient charges for all general hospitals in the State. The target rate of increase will be established for a twelve-month period from October first through September thirtieth of the following year. Once established, the target rate of increase must not be amended during the year except as provided in subsection (B) of this section. The department shall monitor the performance of the hospital industry to contain costs, specifically as evidenced by the annual rate of growth of net inpatient charges. If the department determines that the annual rate of increase in net inpatient charges for the hospital industry has exceeded the target rate of increase established for that year, the department shall appoint an expert panel for the purpose of analyzing the financial reports of each hospital whose net inpatient charges exceeded the target rate of increase. The panel's review shall take into consideration service volume, intensity of care, and new services or facilities. The panel shall consist of at least three members who have broad experience, training, and education in the field of health economics or health care finance. The panel shall report its findings and recommendations, including recommended penalties or sanctions, to the department. The department shall decide what, if any, penalty it will impose within three months of receiving all necessary data.

(B) The department may impose penalties or sanctions it considers appropriate. Penalties must be prospective. Financial penalties are limited to a reduction in a hospital's target rate of increase for the following year. Any reduction in a hospital's target rate of increase for the next year must not be greater than the amount the hospital exceeded the industry's target rate of increase for the previous year. Once a hospital is sanctioned, it must be reviewed annually until it succeeds in remaining below its target
rate of increase.

Section 44-6-170. (A) As used in this section:

(1) "Office" means the Revenue and Fiscal Affairs Office.

(2) "Council" means the Data Oversight Council.

~~(3) "Committee" means the Joint Legislative Health Care Planning and Oversight Committee.~~

(B) There is established the Data Oversight Council. The members enumerated in items (1) through (10) must be appointed by the secretary and shall serve at the secretary's pleasure. The remaining members shall serve ex-officio. The secretary shall appoint one of the members to serve as chairman. The office shall provide staff assistance to the council. The council shall be comprised of:

(1) one hospital administrator;

(2) the chief executive officer or designee of the South Carolina Hospital Association;

(3) one physician;

(4) the chief executive officer or designee of the South Carolina Medical Association;

(5) one representative of major third-party health care payers;

(6) one representative of the managed health care industry;

(7) one nursing home administrator;

(8) three representatives of nonhealth care-related businesses;

(9) one representative of a nonhealth care-related business of less than one hundred employees;

(10) the executive vice president or designee of the South Carolina Chamber of Commerce;

(11) a member of the Governor's office staff;

(12) the director or his designee of the South Carolina Department of Public Health~~ and Environmental Control~~;

(13) the executive director or his designee of the State Department of Health Financing~~ and Human Services~~

~~The members enumerated in items (1) through (10) must be appointed by the Governor for three-year terms and until their successors are appointed and qualify; the remaining members serve ex-officio. The Governor shall appoint one of the members to serve as chairman. The office shall provide staff assistance to the council.~~

(C) The duties of the council are to:

(1) make periodic recommendations to the ~~committee and the General Assembly~~secretary
concerning the collection and release of health care-related data by the State which the council considers necessary to assist in the formation of health care policy in the State;

(2) convene expert panels as necessary to assist in developing recommendations for the collection and release of health care-related data;

(3) approve all regulations for the collection and release of health care-related data to be promulgated by the office;

(4) approve release of health care-related data consistent with regulations promulgated by the office;

(5) recommend to the office appropriate dissemination of health care-related data reports, training of personnel, and use of health care-related data.

(D) The office, with the approval of the council, shall promulgate regulations in accordance with the Administrative Procedures Act regarding the collection of inpatient and outpatient information. No data may be released by the office except in a format recommended by the council and consistent with regulations. Before the office releases provider identifiable data the office must determine that the data to be released is for purposes consistent with the regulations as promulgated by the office and the release must be approved by the council and the committee. Provided, however, committee approval of the release is not necessary if the data elements and format in the release are substantially similar to releases or standardized reports previously approved by the committee. The council shall make

periodic recommendations to the committee and the General Assembly concerning the collection and release of health care-related data by the State. Regulations promulgated by the office mandating the collection of inpatient or outpatient data apply to every provider or insurer affected by the regulation regardless of how the data is collected by the provider or insurer. Every effort must be made to utilize existing data sources.

(E) Information may be required to be produced only with respect to admissions of and treatment to patients after the effective date of the regulations implementing this section, except that data with respect to the medical history of the patient reasonably necessary to evaluation of the admission of and treatment to the patient may be required.

(F) The office shall convene a Health Data Analysis Task Force composed of technical representatives of universities and other private sector and public agencies including, but not limited to, health care providers and insurers to make recommendations to the council concerning types of analyses needed to carry out this section.

(G)(1) All general acute care hospitals and specialized hospitals including, but not limited to, psychiatric hospitals, alcohol and substance ~~abuse~~ use hospitals, and rehabilitation hospitals shall provide inpatient and financial information to the office as set forth in regulations.

(2) All hospital-based and freestanding ambulatory surgical facilities as defined in Section 44-7-130, hospital emergency rooms licensed under Chapter 7, Article 3, and any health care setting which provides on an outpatient basis radiation therapy, cardiac catherizations, lithotripsy, magnetic resonance imaging, and positron emission therapy shall provide outpatient information to the office as set forth in the regulation. Other providers offering services with equipment requiring a Certificate of Need shall provide outpatient information to the office. Additionally, licensed home health agencies shall provide outpatient information to the office as set forth in the regulation.

(3) Release must be made no less than semiannually of the patient medical record information specified in regulation to the submitting hospital and other information specified in regulation to the hospital's designee. However, the hospital's designee must not have access to patient identifiable data.

(H) If a provider fails to submit the health care data as required by this section or regulations promulgated pursuant to this section, the office may assess a civil fine of up to five thousand dollars for each violation, but the total fine may not exceed ten thousand dollars.

(I) A person, as defined in Section 44-7-130, seeking to collect health care data or information for a registry shall coordinate with the office to utilize existing data collection formats as provided for by the office and consistent with regulations promulgated by the office. With the exception of information that may be obtained from the Office of Vital Records, Department of Public Health ~~and Environmental Control~~, in accordance with Section 44-63-20 and Regulation 61-19 and disease information required to be reported to the Department of Health and Environmental Control under Sections 44-29-10, 44-29-70, and 44-31-10 and Regulations 61-20 and 61-21 and notwithstanding any other provision of law,

no hospital or health care facility or health care professional required by this section to submit health care data is required to submit data to a registry which has not complied with this section.

(J) The Executive Office of Health and Policy shall have access to data collected pursuant to Section 44-6-170 as necessary for the secretary to execute the duties of his office and in furtherance of the State Health Services Plan. The Executive Office of Health and Policy shall not disclose this date except as permitted by law.

Section 44-6-180. (A) Patient records received by counties, the department, or other entities involved in the administration of the program created pursuant to Section 44-6-150 are confidential. Patient records gathered pursuant to Section 44-6-170 are also confidential. The Revenue and Fiscal Affairs Office shall use patient-identifiable data collected pursuant to Section 44-6-170 for the purpose of linking various data bases to carry out the purposes of Section 44-6-170. Linked data files must be made available to those agencies providing data files for linkage. No agency receiving patient-identifiable data collected pursuant to Section 44-6-170 may release this data in a manner such that an individual patient or provider may be identified except as provided in Section 44-6-170. Nothing in this section may be construed to limit access by a submitting provider or its designee to that provider's information.

(B) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 44-6-190. (A) The department may promulgate regulations pursuant to the Administrative Procedures Act. Appeals from decisions by the department are heard pursuant to the Administrative Procedures Act, Administrative Law Judge, Article 5, Chapter 23 of Title 1 of the 1976 Code.

(B) The department shall promulgate regulations to comply with federal requirements to limit the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the Medicaid program.

(C) The Secretary of Health and Policy must approve these regulations prior to their submission to the General Assembly.

Section 44-6-200. (A) A person who commits a material falsification of information required to determine eligibility for the Medically Indigent Assistance Program is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than one year, or both.

(B) Unless otherwise specified in this chapter, an individual or facility violating this chapter or a regulation under this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars for the first offense and not more than five thousand dollars for a subsequent offense.

Section 44-6-220. All applications for admission to a nursing home must contain a notice, to be signed by the applicant, stating:

"Eligibility for Medicaid-sponsored long-term care services is based on income and medical necessity. To qualify for assistance through the Medicaid program, a nursing home patient must need intermediate or skilled nursing care as determined through an assessment conducted by Medicaid program staff. The fact that a patient has already been admitted to a nursing home is not considered in this determination. It is possible that a patient could exhaust all other means of paying for nursing home care and meet Medicaid income criteria but still be denied assistance due to the lack of medical necessity.

"It is recommended that all persons seeking admission to a nursing home be assessed by the Medicaid program prior to admission. This assessment will provide information about the level of care needed and the viability of community services as an alternative to admission. The department may charge a fee, not to exceed the cost of the assessment, to persons not eligible for Medicaid-sponsored long-term care services."

~~Article 3~~

~~Child Development Services [Repealed]~~

Article 4

Intermediate Sanctions for Medicaid Certified Nursing Home Act

Section 44-6-400. As used in this article:

(1) "Department" means the Department of Health ~~and Human Services~~Financing.

(2) "Nursing home" means a facility subject to licensure as a nursing home by the Department of Public Health ~~and Environmental Control~~ and subject to the permit provisions of Article 2, Chapter 7 of Title 44 and which has been certified for participation in the Medicaid program or has been dually certified for participation in the Medicaid and Medicare programs.

(3) "Resident" means a person who resides or resided in a nursing home during a period of an alleged violation.

(4) "Survey agency" means the South Carolina Department of Public Health ~~and Environmental Control~~ or any other agency designated to conduct compliance surveys of nursing facilities participating in the Title XIX (Medicaid) program.

Section 44-6-420. (A) When the department is notified by the survey agency that a nursing home is in violation of one or more of the requirements for participation in the Medicaid program, it may take enforcement action as follows:

(1) if the nursing home is dually certified for participation in both the Medicare and Medicaid programs, the department shall coordinate any enforcement action with federal authorities and shall defer to the actions of these federal authorities to the extent required by federal statute or regulation;

(2) if the nursing home is only certified for participation in the Medicaid program and is not certified for participation in the Medicare program, the department may take any enforcement action authorized under federal statute or regulation that would have been available for use by federal authorities if the nursing home had been dually certified;

(B) Any enforcement actions taken solely by the department under item (A)(2) must be proportionate to the scope and severity of the violations and also shall take into account the factors considered by federal authorities in similar enforcement actions. Dually certified nursing homes and nursing homes only certified for participation in the Medicaid program must be subjected to comparable enforcement actions for comparable violations.

Section 44-6-470. Any use of funds collected by the department as a result of the imposition of civil monetary penalties or other enforcement actions must be for a purpose related to the protection of the health and property of residents of nursing homes that participate in the Medicaid program. These funds may be used for the cost of relocating residents to other nursing homes, if necessary, and also may be used to reimburse residents for personal funds lost as a result of violations of the requirements for participation in the Medicaid program by the nursing home. In addition, these funds may be used for other costs directly associated with enforcement or corrective measures at facilities found to be out of compliance with the requirements for participation in the Medicaid program or for any other purpose that enhances or improves the health and quality of life for residents. These requirements for the use of funds collected also apply to funds received by the department that are collected as the result of enforcement actions directed by federal authorities.

Section 44-6-530. Before instituting an action under this article, the Department of Health ~~and Human Services~~Financing shall determine if the Secretary of the United States Department of Health and Human Services has jurisdiction under federal law. In such cases, it shall coordinate its efforts with the secretary to maintain an action against the nursing home. In an action against a nursing home owned and operated by the State of South Carolina, the ~~secretary~~ Secretary of the United States Department of Health and Human Services has exclusive jurisdiction.

Section 44-6-540. The department is authorized to promulgate regulations, pursuant to the Administrative Procedures Act, to administer this article, and to ensure compliance with the requirements for participation in the Medicaid program. The Secretary of Health and Policy must approve the regulations prior to their submission to the General Assembly.

Article 6

Trusts and Medicaid Eligibility

Section 44-6-710. If an applicant for Medicaid for nursing home care would be ineligible because a trust established for the applicant was deemed a Medicaid qualifying trust or resources in the trust were deemed an improper transfer of resources, the person's application must be treated as a case of undue hardship under federal law if all of the criteria in Section 44-6-720 are met. For the purposes of this section, 'Medicaid qualifying trust' has the same meaning as set forth in 42 U.S.C. Section 1396a(k).

Section 44-6-720. (A) To be considered for a waiver due to undue hardship, the applicant must meet all other applicable eligibility criteria for assistance. If the federal "transfer of resources" rule set forth in 42 U.S.C. Section 1396p(c), as amended, applies to the applicant, then no undue hardship waiver may be granted until the period of ineligibility has expired. For the purposes of this subsection, the maximum length of ineligibility is extended to sixty months from the date of any improper transfer.

(B) The trust established for the applicant must meet the following criteria:

(1) the applicant's monthly gross income from all sources, without reference to the trust, exceeds the income eligibility standard for Medicaid then in effect but is less than the average private pay rate for nursing home care for the State;

(2) the property used to fund the trust is limited to monthly unearned income owned by the applicant, including any pension payment;

(3) the applicant and the state Medicaid program are the sole beneficiaries of the trust;

(4) the entire income and corpus of the trust, or as much as may be distributed each month without violating federal requirements for federal financial participation, must be distributed each month for expenses related to the applicant's nursing home care that are approved under the Medicaid program, except that:

(a) an amount reasonably necessary to maintain the existence of the trust, as approved by the Medicaid program, may be retained in the trust; and

(b) deductions may be distributed from the trust to the same extent deductions from the income of a nursing home resident who is not a trust beneficiary are allowed under the Medicaid program, which shall include:

(i) monthly personal needs allowance;

(ii) payments to the beneficiary's community spouse or dependent family members as provided and in accordance with state and federal law;

(iii) specified health insurance costs and special medical services provided under Title XIX of the federal "Social Security Act", 42 U.S.C. Section 1396a(r), as amended; and

(iv) other deductions provided in regulations of the ~~State~~ Department of Health Financing ~~and Human Services Finance Commission~~;

(5) upon the death of the beneficiary, a remainder interest in the corpus of the trust passes to the ~~State~~ Department of Health Financing ~~and Human Services Finance Commission~~. The ~~commission~~ department shall remit the state share of the trust to the general fund; and

(6) the trust is not subject to modification by the beneficiary or the trustee without the approval of the state Medicaid program.

Section 44-6-725. Any promissory note received by a Medicaid applicant or recipient or the spouse of a Medicaid applicant or recipient in exchange for assets which if retained by the applicant or recipient or his spouse would cause the applicant or recipient to be ineligible for Medicaid benefits, shall, for Medicaid eligibility purposes, be deemed to be fully negotiable under the laws of this State unless it contains language plainly stating that it is not transferable under any circumstances. A promissory note will be considered valid for Medicaid purposes only if it is actuarially sound, requires monthly installments that fully amortize it over the life of the loan, and is free of any conditional or self-canceling clauses.

Section 44-6-730. The ~~State~~ Department of Health Financing ~~and Human Services Finance Commission~~ shall promulgate regulations as are necessary for the implementation of this article and as are necessary to comply with federal law. The Secretary of Health and Policy must approve the regulations prior to their submission. In addition, the ~~commission~~ department shall amend the state Medicaid plan in a manner that is consistent with this article.

Article 7

Recognition and Designation of Federally Qualified Health Centers, Rural Health Clinics, and Rural Hospitals

Section 44-6-910. (A) Federally Qualified Health Centers (FQHC's), Rural Health Clinics (RHC's), and Rural Hospitals are recognized and designated as essential community providers for underserved patients which include Medicaid and Medicare recipients, the underinsured, and the uninsured. These populations require more extensive services by community-based providers, and the FQHC's, RHC's, and Rural Hospitals have extensive experience and knowledge in providing quality, cost-effective care for these populations. The State shall include these essential community providers as contracted entities in any formulation of the state health care system. The inclusion of FQHC's, RHC's, and Rural Hospitals as contracted entities in the state health care system recognizes the importance of these providers to South Carolina and assures that the reimbursement to these essential community providers will be funded through cost-based reimbursement or a capitated fee based on reasonable costs.

(B) A hospital located in an urban area (MSA County), can be considered "rural" for the purposes of the Medicare Rural Hospital Flexibility Program if it meets the following criteria:

(1) enrolled as both a Medicaid and Medicare provider and accepts assignment for all Medicaid and Medicare patients;

(2) provides emergency health care services to indigent patients;

(3) maintains a twenty-four hour emergency room;

(4) staffs fifty or less acute care beds; and

(5) located in a county with twenty-five percent or more rural residents, as defined by the most recent United States decennial census.

Article 8

Medicaid Pharmacy and Therapeutics Committee

Section 44-6-1010. There is created within the Department of Health Financing ~~and Human Services~~ the Pharmacy and Therapeutics Committee. The committee must consist of fifteen members appointed by the director and serving at the pleasure of the director of the department. The members must include eleven physicians and four pharmacists licensed to practice in South Carolina and actively engaged in providing services to the South Carolina Medicaid population. The physicians may include, but are not limited to, doctors who have experience in treating diabetes, cancer, HIV/AIDS, mental illness, and hemophilia and who practice in internal medicine, primary care, and pediatrics.

Section 44-6-1020. The committee shall adopt bylaws that include, at a minimum, the length of membership. A chairman and a vice chairman shall be elected on an annual basis from the committee membership. Committee members must not be compensated for service to the committee. However, committee members may be reimbursed for actual and necessary expenses incurred by discharging committee duties in an amount not to exceed the mileage and subsistence amounts allowed by law for members of boards, commissions, and committees. The committee must meet at least quarterly and may meet at other times in the chairman's or the director's discretion. Committee meetings are subject to the provisions of the Freedom of Information Act. The department shall publish notice of regular business meetings of the committee at least thirty days before the meeting. However, the director or chairman may call special meetings of the committee and provide notice as soon as practical. The committee must provide for public comment, including comment on clinical and patient care data from Medicaid providers, representatives of the pharmaceutical industry, and patient advocacy groups. Proprietary information as defined in the trade secret law shall not be discussed. Trade secrets as defined in Section 30-4-40(a)(1) and relevant federal law must not be publicly disclosed.

Section 44-6-1030. The committee must recommend to the department therapeutic classes of drugs that should be included on a preferred drug list. For those recommended classes, the committee shall recommend the drug or drugs considered preferred within that class based on safety and efficacy. In determining safety and efficacy, the committee may consider all submitted public comment or clinical information including, but not limited to, scientific evidence, standards of practice, peer-reviewed medical literature, randomized clinical trials, pharmacoeconomic studies, and outcomes research data. The committee also shall recommend prior authorization criteria for nonpreferred drugs in the recommended therapeutic classes.

Section 44-6-1040. Any preferred drug list program implemented by the department must include:

(1) procedures to ensure that a request for prior authorization that has no material defect or impropriety can be processed within twenty-four hours of receipt;

(2) procedures to allow the prescribing physician to request and receive notice of any delays or negative decision in regard to a prior authorization;

(3) procedures to allow the prescribing physician to request and receive a second review of any denial of a prior authorization request; and

(4) procedures to allow a pharmacist to dispense an emergency, seventy-two hour supply of a drug requiring prior authorization without prior authorization if the pharmacist:

(a) has made a reasonable attempt to contact the physician and request that the prescribing physician secure prior authorization; and

(b) reasonably believes that refusing to dispense a seventy-two-hour supply would unduly burden the Medicaid recipient and produce undesirable health consequences.

Section 44-6-1050. A grant of prior authorization for a drug is specific to the drug, rather than the actual prescription, and extends to all refills allowed pursuant to the original prescription and to subsequent prescriptions for the same drug at the same dosage provided the time allowed by the prior authorization has not expired. A Medicaid recipient who has been denied prior authorization for a prescribed drug is entitled to appeal this decision through the department's appeals process.

SECTION 10. Section 44-7-77 of the S.C. Code is amended to read:

Section 44-7-77. The Department of Public Health~~ and Environmental Control~~ and the State Department of Social Services, in conjunction with the South Carolina Hospital Association, shall develop and implement a program to promote obtaining voluntary acknowledgments of paternity as soon after birth as possible and where possible before the release of the newborn from the hospital. A voluntary acknowledgment including those obtained through an in-hospital program shall contain the requirements of Section 63-17-60(A)(4) and the social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of both parents, and must be signed by both parents. The signatures must be notarized. As part of its in-hospital voluntary acknowledgment of paternity program, a birthing hospital as part of the birth registration process, shall collect, where ascertainable, information which is or may be necessary for the establishment of the paternity of the child and for the establishment of child support. The information to be collected on the father or on the putative father if paternity has not been established includes, but is not limited to, the name of the father, his date of birth, home address, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, and employer's name, and additionally for the putative father, the names and addresses of the putative father's parents.

SECTION 11. Article 2, Chapter 7, Title 44 of the S.C. Code is amended to read:

Article 2

Medicaid Nursing Home Permits

Section 44-7-80. For the purposes of this article:

(1) "Nursing home" means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours, which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled nursing care for persons who are not in need of hospital care. Rehabilitative therapies may be provided on an outpatient basis.

(2) "Medicaid nursing home permit" means a permit to serve Medicaid patients in an appropriately certified nursing home.

(3) "Medicaid patient" means a person who is eligible for Medicaid (Title XIX) sponsored long-term care services.

(4) "Medicaid patient day" means a day of nursing home care for which a nursing home receives Medicaid reimbursement.

(5) "Medicaid permit day" means a day of service provided to a Medicaid patient in a Medicaid-certified nursing home which holds a Medicaid days permit.

(6) "Department" means the Department of Public Health~~ and Environmental Control~~.

Section 44-7-82. No nursing home may provide care to Medicaid patients without first obtaining a permit in the manner provided in this article.

Section 44-7-84. (A) In the annual appropriations act, the General Assembly shall establish the maximum number of Medicaid patient days for which the department is authorized to issue Medicaid nursing home permits. The ~~State~~ Department of Health Financing~~ and Human Services~~ shall provide the number of Medicaid patient days available to the department within thirty days after the effective date of the annual appropriations act.

(B) Based on a method the department develops for determining the need for nursing home care for Medicaid patients in each area of the State, the department shall determine the distribution of Medicaid patient days for which Medicaid nursing home permits can be issued. Nursing homes holding a Medicaid nursing home permit must be allocated Medicaid days based on their current allocation and available funds. Requests for days must be submitted to the department no later than June fifteenth each year. The department shall issue permits to the facilities by August first of each year. The application must state the specific number of Medicaid patient days the nursing home will provide. If a nursing home requests fewer days than the previous year, or is permitted fewer days, those days first must be offered to the facilities within the same county currently holding a Medicaid nursing home permit. However, if Medicaid patient days remain available after being offered to those nursing homes currently holding a Medicaid patient days permit in that county, then existing nursing homes with a restricted Certificate of Need, within the same county, may apply for a Medicaid nursing home permit to receive the Medicaid permit days remaining available. Following the initial allocation of Medicaid patient days, any additional Medicaid permit days must be credited to a statewide pool and the days must be allocated to those counties showing the greatest need based on the average number of fully eligible Medicaid nursing facility applicants by county in the Community Long Term Care awaiting placement reports for the past twelve months. The Department of Health Financing~~ and Human Services~~ shall provide this information to the department no later than July fifteenth of each year. The Medicaid permit days must be proportionately allocated to each facility within the county that currently holds a Medicaid permit and is currently in compliance with its Medicaid permit. A facility is deemed to be in compliance for allocation of these additional Medicaid permit days if it has not exceeded its stated Medicaid permit by more than seven percent. In addition, a nursing home that provides less than ninety percent of the stated Medicaid permit in any fiscal year may not apply for additional Medicaid permit days in the next fiscal year. If a nursing home fails to provide ninety percent of the stated Medicaid permit days for two consecutive fiscal years, the department may issue a Medicaid nursing home permit for fewer days than requested in order to ensure that the nursing home will serve the minimum number of Medicaid patients and that the State will optimize the available Medicaid days. If a nursing home has its Medicaid patient days reduced, the freed days first must be offered to other facilities in the same county before being offered to other nursing homes in the State. The department shall analyze the performance of nursing homes that are under the permit minimum or exceed the permit maximum for a fiscal year, including utilization data from the State Department of Health Financing~~ and Human Services~~, anticipated back days, delayed payments, CLTC waiting list, and other factors considered significant by the department. A nursing home which terminates its Medicaid contract must not be penalized for not meeting the requirements of this section if the nursing home was in compliance with its permit at the time of the cancellation. Facilities designated as Special Focus Facilities may not be issued additional Medicaid permit days while they remain on the Special Focus list.

(C) If the Department of Health ~~and Human Services~~Financing or the General Assembly decreases the number of Medicaid patient days available to the department, the department shall proportionately decrease the authorized Medicaid patient days for each nursing home. If additional Medicaid patient days are authorized in the following year, they must be restored proportionately to each nursing home in accordance with subsection (B).

Section 44-7-88. Nursing home patients may not be involuntarily discharged or transferred due to the Medicaid status. If no Medicaid patients are waiting for admission to the nursing home, or if for some other reason a nursing home anticipates the possibility that the home cannot satisfy the Medicaid nursing home permit requirements, the home may request a waiver of the Medicaid permit requirements from the department.

Section 44-7-90. (A) Based on reports from the State Department of Health ~~and Human Services~~Financing, the department shall determine each nursing home's compliance with its Medicaid nursing home permit. Violations of this article include:

(1) a nursing home exceeding by more than five percent the number of Medicaid patient days stated in its permit;

(2) the provisions of any Medicaid patient days by a home without a Medicaid nursing home permit.

(B) A nursing home which exceeds its Medicaid patient days stated in its permit may be fined on the number of Medicaid patient days exceeding the permit days multiplied by its daily Medicaid per diem. Medicaid permit days provided to Complex Care residents, as certified by the Department of Health ~~and Human Services~~Financing, must not be counted against the facility's Medicaid permit for the first six months of their care. Any complex care provided after six months must be counted toward the facility's Medicaid patient days under the permit days times their daily Medicaid per diem rate less the statewide average patient per diem recurring income times thirty percent. Complex Care reimbursement must not be used in the fine calculation. A facility may be fined incrementally for exceeding its Medicaid permit. Violations above five and up to ten percent of the stated permit may be fined at thirty percent of its Medicaid per diem rate less the statewide average patient per diem recurring income times the number of excess Medicaid permit days. A facility may be fined fifty percent of its Medicaid per diem rate less the statewide average patient per diem recurring income for each day above ten and up to fifteen percent of its Medicaid permit. A facility may be fined seventy percent of its Medicaid per diem rate less the statewide average patient per diem recurring income for each day in excess of fifteen percent of its stated Medicaid permit. A facility may appeal to the department any fine for days over its permit based on the facility's inability to discharge a resident based on the requirements of Section 44-7-88 if the facility can prove:

(1) the resident's primary pay source upon admission was not Medicaid;

(2) the resident did not convert to Medicaid within twenty days of being admitted as a Medicare or Medicaid replacement policy ~~resident; and~~resident; and

(3) the resident did not convert to Medicaid within thirty days of being admitted as a private pay resident.

(C) In the event of a voluntary or involuntary discontinuation of participation of a nursing facility in the Medicaid program, the State must ensure that the facility provides for patient safety and freedom of choice. The Department of Public Health~~ and Environmental Control~~ and the Department of Health ~~and Human Services~~Financing must determine the availability of existing patient days statewide for the purpose of relocating these patients. Based upon this determination, the department, at its discretion, may reallocate the patient days from a facility discontinuing its Medicaid participation to a facility that participates in the Medicaid program and agrees to accept the residents from the facility that is discontinuing Medicaid participation. The Medicaid permit day shall permanently remain with the facility accepting the resident. In the allocation of patient days from the facility discontinuing Medicaid participation, the department must give first priority to restoring a county's allocation where a facility holding a permit closes, or discontinues participation in Medicaid. A nursing home receiving beds under the provisions of this subsection must not be a Special Focus Facility at the time of allocation.

(D) ~~Effective July 1, 2014, all~~All nursing facility providers holding a Medicaid permit must report their daily Medicaid resident census information to the ~~South Carolina~~ Department of Health ~~and Human Services~~Financing or its contractor for the purpose of maintaining a statewide bed locator and permit day tracking system.

(E) Each Medicaid day above the allowable range is considered a separate violation. A fine assessed against a nursing home must be deducted from the nursing home's Medicaid reimbursement.

SECTION 12. A. Section 44-7-130 of the S.C. Code is amended to read:

Section 44-7-130. As used in this article:

(1) "Affected person" means the applicant, a person residing within the geographic area served or to be served by the applicant, persons located in the health service area in which the project is to be located and who provide similar services to the proposed project, persons who before receipt by the department of the proposal being reviewed have formally indicated an intention to provide similar services in the future, persons who pay for health services in the health service area in which the project is to be located and who have notified the department of their interest in Certificate of Need applications, the State Consumer Advocate, and the State Ombudsman. Persons from another state who would otherwise be considered "affected persons" are not included unless that state provides for similar involvement of persons from South Carolina in its certificate of need process.

(2) "Ambulatory surgical facility" means a facility organized and administered for the purpose of performing surgical procedures for which patients are scheduled to arrive, receive surgery, and be discharged on the same day. The owner or operator makes the facility available to other providers who comprise an organized professional staff.

(3) "Birthing center" means a facility or other place where human births are planned to occur. This does not include the usual residence of the mother, any facility that is licensed as a hospital, or the private practice of a physician who attends the birth.

~~(4) "Board" means the State Board of Health and Environmental Control.~~

~~(5)~~(4) "Children, adolescents, and young adults in need of mental health treatment in a residential treatment facility" means a child, adolescent, or young adult under age twenty-one who manifests a substantial disorder of cognitive or emotional process that lessens or impairs to a marked degree that
child's, adolescent's, or young adult's capacity either to develop or to exercise age-appropriate or age-adequate behavior including, but not limited to, marked disorders of mood or thought processes; severe difficulties with self-control and judgment, including behavior dangerous to himself or others; and serious disturbances in a child's, adolescent's, or young adult's ability to care for and relate to others.

~~(6)~~(5) "Community residential care facility" means a facility which offers room and board and provides a degree of personal assistance for two or more persons eighteen years old or older.

~~(7)~~(6) "Competing applicants" means two or more persons or health care facilities as defined in this article who apply for Certificates of Need to provide similar services or facilities in the same service area within a time frame as established by departmental regulations and whose applications, if approved, would exceed the need for services or facilities.

~~(8)~~(7) "Crisis stabilization unit facility" means a facility, other than a health care facility, that
provides a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals five and older, twenty-four hours a day, seven days a week.

~~(9)~~(8) "Daycare facility for adults" means a facility for adults eighteen years or older that:

(a) offers in a group setting a program of individual and group activities and therapies;

(b) is directed toward providing community-based care for those in need of a supportive setting for less than twenty-four hours a day, in order to prevent unnecessary institutionalization; and

(c) provides a minimum of four and a maximum of fourteen hours of operation a day.

~~(10)~~(9) "Department" means the Department of Public Health~~ and Environmental Control~~.

~~(11)~~(10) "Facility for chemically dependent persons or people with substance use disorder~~addicted persons~~" means a facility organized to provide outpatient or residential services to chemically dependent persons or people with substance abuse disorder ~~addicted persons~~ and their families based on an individual treatment plan including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.

~~(12)~~(11) "Facility wherein abortions are performed" means a facility, other than a hospital, in which any second trimester or five or more first trimester abortions are performed in a month.

~~(13)~~(12) "Freestanding emergency service" or "off-campus emergency service" means an extension of an existing hospital emergency department that is intended to provide comprehensive emergency service but does not include a service that does not provide twenty-four hour, seven day per week operation or that is not capable of providing basic services as defined for hospital emergency departments. A service that does not qualify as a freestanding emergency service must not be classified as a freestanding emergency service and must not advertise, or display or exhibit any signs or symbols, that would identify the service as a freestanding emergency service.

~~(14)~~(13) "Freestanding or mobile technology" means medical equipment owned or operated by a person other than a health care facility for which the total cost is in excess of that prescribed by regulation and for which specific standards or criteria are prescribed in the State Health Services Plan.

~~(15)~~(14) "Health care facility" means, at a minimum, acute care hospitals, psychiatric hospitals, alcohol and substance ~~abuse~~ use hospitals, nursing homes, ambulatory surgical facilities, hospice facilities, radiation therapy facilities, rehabilitation facilities, residential treatment facilities for children and adolescents, intermediate care facilities for persons with intellectual disability, or narcotic treatment programs.

~~(16)~~(15) "Health service" means clinically related, diagnostic, treatment, or rehabilitative services and includes alcohol, drug ~~abuse~~use, and mental health services.

~~(17)~~(16)(a) "Hospital" means a facility that is organized and administered to provide overnight medical or surgical care or nursing care for an illness, injury, or infirmity and must provide on-campus emergency services; that may provide obstetrical care; and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or
osteopathy.

(b) "Hospital" may include a residential treatment facility for children, adolescents, or young

adults in need of mental health treatment that is physically a part of a licensed psychiatric hospital. This definition does not include facilities that are licensed by the Department of Social Services. A residential treatment facility for children, adolescents, or young adults in need of mental health treatment that is physically part of a licensed psychiatric hospital is not required to provide on-campus emergency services.

~~(18)~~(17) "Intermediate care facility for persons with intellectual disability" means a facility that serves four or more persons with intellectual disability or persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their intellectual disability or related conditions.

~~(19)~~(18) "Like equipment with similar capabilities" means medical equipment in which functional and technological capabilities are identical to the equipment to be replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and does not constitute a material change in service or a new service.

~~(20)~~(19) "Nursing home" means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled nursing care for persons who are not in need of hospital care.

~~(21)~~(20) "Person" means an individual, a trust or estate, a partnership, a corporation including an association, joint stock company, insurance company, and a health maintenance organization, a health care facility, a state, a political subdivision, or an instrumentality including a municipal corporation of a state, or any legal entity recognized by the State.

~~(22)~~(21) "Radiation therapy facility" means a person or a health care facility that provides or seeks to provide mega-voltage therapeutic services to patients through the use of high energy radiation.

~~(23)~~(22) "Residential treatment facility for children and adolescents" means a facility operated for the assessment, diagnosis, treatment, and care of two or more "children and adolescents in need of mental health treatment" which provides:

(a) a special education program with a minimum program defined by the South Carolina Department of Education;

(b) recreational facilities with an organized youth development program; and

(c) residential treatment for a child or adolescent in need of mental health treatment.

(23) "Secretary" means the Secretary of Health and Policy.

(24) "Solely for research" means a service, procedure, or equipment which has not been approved
by the Food and Drug Administration (FDA) but which is currently undergoing review by the FDA as an investigational device. FDA research protocol and any applicable Investigational Device Exemption

(IDE) policies and regulations must be followed by a facility proposing a project "solely for research".

B. Section 44-7-150 of the S.C. Code is amended to read:

Section 44-7-150. (A) In carrying out the purposes of this article, the department shall:

(1) require reports and make inspections and investigations as considered necessary;

(2) to the extent that is necessary to effectuate the purposes of this article, enter into agreements with other departments, commissions, agencies, and institutions, public or private;

(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department and approved by the ~~board~~ secretary to carry out the department's licensure duties under this article;

(4) accept on behalf of the State and deposit with the State Treasurer, any grant, gift, or contribution made to assist in meeting the cost of carrying out the purpose of this article and expend it for that purpose; and

(5) promulgate regulations, in accordance with the Administrative Procedures Act, that establish fees as authorized by this article. The Secretary of Health and Policy must approve the regulations prior to them being submitted to the General Assembly.

(B) Fee schedules authorized by Article 3, Chapter 7, Title 44 that are in effect as of January 1, 2023, shall remain in effect until further regulations are promulgated pursuant to Section 44-7-150 (5), as amended by this act.

C. Section 44-7-170 of the S.C. Code is amended to read:

Section 44-7-170. (A) The following are exempt from Certificate of Need review:

(1) the relocation of a licensed hospital in the same county in which the hospital is currently located, as long as:

(a) any Certificate of Need issued to the hospital for a project to be located at the hospital's existing location has been fulfilled, withdrawn, or has expired in accordance with Section 44-7-230 and the department's implementing regulations; and

(b) the proposed site of relocation is utilized in a manner that furthers health care delivery and innovation for the citizens of the State of South Carolina;

(2) the purchase, merger, or otherwise the acquisition of an existing hospital by another person or health care facility;

(3) crisis stabilization unit facilities. Notwithstanding subsection (C), crisis stabilization unit
facilities will not require a written exemption from the department.

(4) the establishment or addition of inpatient psychiatric beds pursuant to an agreement with a

South Carolina state agency to apply appropriated funds for increased access or availability of services.

(B) This article does not apply to:

(1) construction of a new hospital with up to fifty beds in any county currently without a hospital;

(2) hospitals owned and operated by the ~~South Carolina~~ Department of ~~Mental~~ Behavioral Health and the ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~, except an addition of one or more beds to the total number of beds of the departments' health care facilities existing on July 1, 1988;

(3) any federal hospital sponsored and operated by this State;

(4) hospitals owned and operated by the federal government.

(C) Before undertaking a project enumerated in subsection (A), a person shall obtain a written exemption from the department as may be more fully described in regulation.

D. Section 44-7-190 of the S.C. Code is amended to read:

Section 44-7-190. (A) The department shall adopt, upon approval of the ~~board~~secretary, Project Review Criteria which, at a minimum, must provide for the determination of need for health care facilities, beds, services and equipment, including demographic needs, appropriate distribution, and utilization; accessibility to underserved groups; availability of facilities and services without regard to ability to pay; absence of less costly and more effective alternatives; appropriate financial considerations, including method of financing, financial feasibility, and cost containment; consideration of impact on health systems resources; site and building suitability; consideration of quality of care; and relevant special considerations as may be appropriate. ~~The Project Review Criteria must be adopted as a regulation pursuant to the Administrative Procedures Act.~~

~~(B) The project review criteria promulgated in regulation must be used in reviewing all projects under the Certificate of Need process. When the criteria are weighted to determine the relative importance for the specific project, the department may reorder the relative importance of the criteria no more than one time after the project review meeting. When an application has been appealed, the department may not change the weighted formula.~~

~~(C) Project review criteria must prioritize timely access to health care services and seek a balance between competition in the marketplace and regulation in the provision of health care and must support reasonable patient choice in health care facilities and services. The department shall promulgate regulations within one year of the effective date of this act identifying how the department will incorporate these considerations in reviewing Certificate of Need applications.~~

E. Section 44-7-200 of the S.C. Code is amended to read:

Section 44-7-200. (A) An application for a Certificate of Need must be submitted to the department in a form established by regulation. The application must address all applicable standards and requirements set forth in departmental regulations, Project Review Criteria of the department, and the South Carolina Health Plan.

(B) Within twenty days before submission of an application, the applicant shall publish notification that an application is to be submitted to the department in a newspaper serving the area where the project is to be located for three consecutive days. The notification must contain a brief description of the scope and nature of the project. No application may be accepted for filing by the department unless accompanied by proof that publication has been made for three consecutive days within the prior twenty-day period and payment of the initial application fee has been received.

~~(C) Upon publication of this notice and until a contested case hearing is requested pursuant to Section 44-1-60(G):~~

~~(1) members of the board and persons appointed by the board to hold a final review conference on staff decisions may not communicate directly or indirectly with any person in connection with the application; and~~

~~(2) no person shall communicate, or cause another to communicate, as to the merits of the application with members of the board and persons appointed by the board to hold a final review conference on staff decisions.~~

~~A person who violates this subsection is subject to the penalties provided in Section 1-23-360.~~

~~(D)~~(C) After receipt of an application with proof of publication and payment of the initial application fee, the department shall publish in the State Register a notice that an application has been accepted for filing. Within fifteen days of acceptance of the application, the department may request additional information as may be necessary to complete the application. The applicant has fifteen days from the date of the request to submit the additional information. If the applicant fails to submit the requested information within the fifteen-day period, the application is considered withdrawn.

~~(E)~~(D) After a Certificate of Need application has been filed with the department, state and federal elected officials are prohibited from communicating with the department with regard to the Certificate of Need application at any time. This prohibition does not include written communication of support or opposition to an application. Such written communication must be included in the administrative record.

F.Section 44-7-210 of the S.C. Code is amended to read:

Section 44-7-210. (A) After the department has determined that an application is complete, affected persons must be notified in accordance with departmental regulations. The notification to affected persons that the application is complete begins the review period; however, in the case of competing applications, the review period begins on the date of notice to affected persons that the last of the competing applications is complete and notice is published in the State Register. The staff shall issue its decision to approve or deny the application no earlier than thirty calendar days, but no later than ninety calendar days, from the date affected persons are notified that the application is complete, unless a public hearing is timely requested as may be provided for by department regulation. If a public hearing is properly requested, the staff's decision must not be made until after the public hearing, but in no event shall the decision be issued more than one hundred twenty calendar days from the date affected persons are notified that the application is complete. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period provided for in this section.

(B) The department may not issue a Certificate of Need unless an application complies with the South Carolina Health Plan, Project Review Criteria, and other regulations. Based on project review criteria and other regulations, which must be identified by the department, the department may refuse to issue a Certificate of Need even if an application complies with the South Carolina Health Plan. In the case of competing applications, the department shall award a Certificate of Need, if appropriate, on the basis of which, if any, most fully complies with the requirements, goals, and purposes of this article and the State Health Services Plan, Project Review Criteria, and the regulations adopted by the department.

(C) On the basis of staff review of the application, the staff shall make a staff decision to grant or deny the Certificate of Need and the staff shall issue a decision in accordance with Section 44-1-60(D). Notice of the decision must be sent to the applicant and affected persons who have asked to be notified. ~~The decision becomes the final agency decision unless a timely written request for a final review is filed with the department as provided for in Section 44-1-60(E).~~However, a person may not file a request for a contested case hearing in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the department during the staff review that he is an affected person and specifically states his opposition to the application under review.

~~However, a person may not file a request for final review in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the department during the staff review that he is an affected person and specifically states his opposition to the application under review.~~

~~(D) The staff's decision is not the final agency decision until the completion of the final review process provided for in Section 44-1-60(F).~~

~~(E)~~(D) A contested case hearing of the final agency decision must be requested in accordance with Section 44-1-60(G). The issues considered at the contested case hearing considering a Certificate of Need are limited to those presented or considered during the staff review.

~~(F)~~(E) Notwithstanding any other provision of law, including Section 1-23-650(C), in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the following apply:

(1) each party may name no more than five witnesses who may testify at the contested case hearing;

(2) each party is permitted to take only the deposition of a person listed by an opposing party as a witness who may testify at the contested case hearing and one Federal Rules of Civil Procedure Rule 30(b)(6) deposition;

(3) each party is permitted to serve only ten interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure;

(4) each party is permitted to serve only ten requests for admission, including subparts;

(5) each party is permitted to serve only fifteen requests for production, including subparts; and

(6) the parties shall complete discovery within one hundred twenty days after the assignment of the administrative law judge.

~~(G)~~(F) Notwithstanding any other provision of law, in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the Administrative Law Court shall file a final decision no later than twelve months after the contested case is filed with the Clerk of the Administrative Law Court. An affected person who was a party to the contested case has a right to appeal to the Supreme Court final decisions issued by the Administrative Law Court for a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or denial of a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160.

G. Section 44-7-260 of the S.C. Code is amended to read:

Section 44-7-260. (A) If they provide care for two or more unrelated persons, the following facilities or services may not be established, operated, or maintained in this State without first obtaining a license in the manner provided by this article and regulations promulgated by the department:

(1) hospitals, including general and specialized hospitals;

(2) nursing homes;

(3) residential treatment facilities for children and adolescents;

(4) ambulatory surgical facilities;

(5) crisis stabilization unit facilities;

(6) community residential care facilities;

(7) facilities for chemically dependent persons or people with substance abuse disorder~~addicted persons~~;

(8) end-stage renal dialysis units;

(9) day care facilities for adults;

(10) any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury, or other infirmity and for which the department has adopted standards of operation by regulation;

(11) intermediate care facilities for persons with intellectual disability;

(12) freestanding or mobile technology;

(13) facilities wherein abortions are performed;

(14) birthing centers.

(B) The licensing provisions of this article do not apply to:

(1) infirmaries for the exclusive use of the student bodies of privately-owned educational institutions which maintain infirmaries;

(2) community-based housing sponsored, licensed, or certified by the ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~. The Department of Intellectual and Related Disabilities ~~and Special Needs~~ shall provide to the Department of Public Health ~~and Environmental Control~~ the names and locations of these facilities on a continuing basis; or

(3) homeshare programs designated by the Department of ~~Mental~~ Behavioral Health, provided that these programs do not serve more than two persons at each program location, the length of stay does not exceed fourteen consecutive days for one of the two persons, and the temporarily displaced person must be directly transferred from a homeshare program location. The Department of ~~Mental~~ Behavioral Health shall provide to the Department of Public Health ~~and Environmental Control~~ the names and locations of these programs on a continuing basis.

(C) The department is authorized to investigate, by inspection or otherwise, any facility to determine if its operation is subject to licensure.

(D) Each hospital must have a single organized medical staff that has the overall responsibility for the quality of medical care provided to patients. Medical staff membership must be limited to doctors of medicine or osteopathy who are currently licensed to practice 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 hospital without meeting the criteria for membership established by the governing body of the respective hospital. Patients of podiatrists and dentists who are members of the medical staff of a hospital must be coadmitted by a doctor of medicine or osteopathy who is a member of the medical staff of the hospital who is 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

who is a member of the medical staff of the hospital who is 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 United States Office of Education may admit patients without the requirement of coadmission if permitted by the bylaws of the hospital and medical staff.

(E) 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. "Emergency care" means 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 if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm. In addition to or in lieu of any action taken by the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~ 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 this section, the department may require the hospital to pay a civil penalty of up to ten thousand dollars.

H. Section 44-7-265 of the S.C. Code is amended to read:

Section 44-7-265. The department shall promulgate regulations for licensing freestanding or mobile technology. The Secretary of Health and Policy must approve the regulations prior to their submission to the General Assembly. At a minimum, the regulations must include:

(1) standards for the maintenance and operation of freestanding or mobile technology to ensure the safe and effective treatment of persons served;

(2) a description of the professional qualifications necessary for personnel to operate the equipment and interpret the test results;

(3) minimum staffing requirements to ensure the safe operation of the equipment and interpret the test results; and

(4) that all freestanding or mobile technology must be in conformance with professional organizational standards.

I.Section 44-7-266(D) of the S.C. Code is amended to read:

(D) The department shall promulgate regulations within one year of the effective date of this act setting forth the necessary duties to comply with this provision. The Secretary of Health and Policy

must approve the regulations before they are submitted to the General Assembly.

J.Section 44-7-370 of the S.C. Code is amended to read:

Section 44-7-370. (A) The ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~ shall establish a Residential Care Committee to advise the department regarding licensing and inspection of community residential care facilities.

(1) The committee consists of the Long Term Care Ombudsman, three operators of homes with ten beds or less, four operators of homes with eleven beds or more, and three members to represent the department appointed by the ~~commissioner~~ director for terms of four years.

(2) The terms must be staggered and no member may serve more than two consecutive terms. Any person may submit names to the ~~commissioner~~ director for consideration. The advisory committee shall meet at least once annually with representatives of the department to evaluate current licensing regulations and inspection practices. Members shall serve without compensation.

(B) The Department of Public Health ~~and Environmental Control~~ shall appoint a Renal Dialysis Advisory Council to advise the department regarding licensing and inspection of renal dialysis centers. The council must be consulted and have the opportunity to review all regulations promulgated by the ~~board~~ department affecting renal dialysis prior to submission of the proposed regulations to the General Assembly.

(1) The council is composed of a minimum of fourteen persons, one member recommended by the Palmetto Chapter of the American Nephrology Nurses Association; one member recommended by the South Carolina Chapter of the National Association of Patients on Hemodialysis and Transplants; three physicians specializing in nephrology recommended by the South Carolina Renal Physicians Association; two administrators of facilities certified for dialysis treatment or kidney transplant services; one member recommended by the South Carolina Kidney Foundation; one member recommended by the South Carolina Hospital Association; one member recommended by the South Carolina Medical Association; one member of the general public; one member representing technicians working in renal dialysis facilities; one member recommended by the Council of Nephrology Social Workers; and one member recommended by the Council of Renal Nutritionists. The directors of dialysis programs at the Medical School of the University of South Carolina and the Medical University of South Carolina, or their designees, are ex officio members of the council.

(2) Members shall serve four-year terms and until their successors are appointed and qualify. No member of council shall serve more than two consecutive terms. The council shall meet as frequently as the ~~board~~ director considers necessary, but not less than twice each year. Members shall serve without compensation.

K. Section 44-7-392 of the S.C. Code is amended to read:

Section 44-7-392. (A)(1) All proceedings of, and all data, documents, records, and information prepared or acquired by, a hospital licensed under this article, its parent, subsidiaries, health care system, committees, whether permanent or ad hoc, including the hospital's governing body, or physician practices owned by the hospital (its parent or subsidiaries), relating to the following are confidential:

(a) sentinel event investigations or root cause analyses, or both, as prescribed by the joint commission or any other organization under whose accreditation a hospital is deemed to meet the Centers for Medicare and Medicaid Services' conditions of participation;

(b) investigations into the competence or conduct of hospital employees, agents, members of the hospital's medical staff or other practitioners, relating to the quality of patient care, and any disciplinary proceedings or fair hearings related thereto;

(c) quality assurance reviews;

(d) the medical staff credentialing process;

(e) reports by a hospital to its insurance carriers;

(f) reviews or investigations to evaluate the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(g) reports or statements, including, but not limited to, those reports or statements to the National Practitioner Data Bank and the South Carolina Board of Medical Examiners, that provide analysis or opinion (including external reviews) relating to the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(h) incident or occurrence reports and related investigations, unless the report is part of the medical record.

(2) The proceedings and data, documents, records, and information described in subsection (A)(1) may be shared with a parent corporation, subsidiaries, other hospitals in the health care system, directors, officers, employees, and agents of the hospital and if shared, remain confidential. These proceedings and data, documents, records, and information in subsection (A)(1) are not subject to discovery, subpoena, or introduction into evidence in any civil action unless the hospital and any affected person who is a party to such action waives the confidentiality in writing. Notwithstanding the foregoing, however, in the event an affected person asserts a claim in any civil action against a hospital, its parent, affiliates, directors, officers, agents, employees, or member of any committee of a licensed hospital, relating to any proceeding identified in subsection (A)(1), the hospital may, without consultation with the affected person, waive confidentiality in that civil action. Likewise, if a hospital asserts a claim in any civil action against an affected person relating to any proceeding identified in subsection (A)(1) in which the affected person was a party, the affected person may use information in

the affected person's possession that is otherwise confidential under this section in that civil action.

(3) Data, documents, records, or information which are otherwise available from original sources are not confidential and are not immune from discovery from the original source under this section or use in a civil action merely because they were acquired by the hospital.

(4) This subsection does not make confidential the outcome of a practitioner's application for medical staff membership or clinical privileges, nor does it make confidential the list of clinical privileges requested by the practitioner or the list of clinical privileges that were approved. However, the practitioner's application for medical staff membership or clinical privileges, and all supporting documentation submitted or requested for the application are confidential. Nevertheless, the application itself may be obtained from the physician requesting privileges or the practice where the physician works as an employee or an independent contractor.

(5) If a practitioner is the subject of a disciplinary proceeding or fair hearing, this subsection does not, subject to the provisions of the medical staff bylaws, prohibit the practitioner from receiving data, documents, records, and information relating to this practitioner that is relevant to the proceeding or fair hearing, even if the data, documents, records, and information are otherwise confidential under this section. Such a disclosure to a practitioner in a disciplinary proceeding or fair hearing must not be considered a waiver of any privilege or confidentiality provided for in subsection (A)(1). The practitioner must not, however, without the written consent of the hospital, publish to any third party, other than legal counsel or a person retained for the purposes of representing the practitioner in a disciplinary proceeding or fair hearing, the data, documents, records, or information that were disclosed to him as part of the disciplinary proceeding or fair hearing.

(6) There is nothing in this section which makes any part of a patient's medical record confidential from the patient, including any redactions, corrections, supplements, or amendments to the patient's record, whether electronic or written.

(B) The confidentiality provisions of subsection (A) do not prevent committees appointed by the Department of Public Health ~~and Environmental Control~~ from issuing reports containing solely nonidentifying data and information.

(C) Nothing in this section affects the duty of a hospital licensed by the Department of Public Health ~~and Environmental Control~~ to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered a waiver of any privilege or confidentiality provided in subsection (A).

(D) Any data, documents, records or information that is reported to or reviewed by the joint commission or other accrediting bodies must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(E) Any data, documents, records, or information of an action by a hospital to suspend, revoke, or otherwise limit the medical staff membership or clinical privileges of a practitioner that is submitted to

the South Carolina Board of Medical Examiners pursuant to a report required by Section 44-7-70, or the National Practitioner Data Bank must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(F) An affected person may file a civil action to assert a claim of confidentiality before a court of competent jurisdiction and file a motion to request the court to issue an order to enjoin a hospital from releasing data, documents, records, or information to the department, the South Carolina Board of Medical Examiners, the National Practitioner Data Bank, and the joint commission or other accrediting bodies that are not required by law or regulation to be released by a hospital. The data, documents, records, or information in controversy must be filed under seal with the court having jurisdiction over the pending action and are subject to judicial review. If the court finds that a party acted unreasonably in unsuccessfully asserting the claim of confidentiality under this subsection, the court shall assess attorney's fees against that party.

(G) For purposes of this section, an "affected person" means a person, other than a patient, who is a subject of a proceeding enumerated in subsection (A)(1).

SECTION 13. Section 44-7-510(4) of the S.C. Code is amended to read:

(4) "Department" means the Department of Public Health ~~and Environmental Control~~.

SECTION 14. Section 44-7-570(D) of the S.C. Code is amended to read:

(D) The department shall promulgate regulations to implement the provisions of this article including any fees and application costs associated with the monitoring and oversight of cooperative agreements approved under this article. The Secretary of Health and Policy shall approve regulations prior to their being submitted to the General Assembly.

SECTION 15. A. Section 44-7-1420 of the S.C. Code is amended to read:

Section 44-7-1420. (A) It is hereby declared to be the policy of the State of South Carolina to promote the public health and welfare by providing means for the financing, refinancing, acquiring, enlarging, improving, constructing, equipping, and providing of hospital facilities to serve the people of the State and to make accessible to them modern and efficient hospital facilities at the lowest possible expense to those utilizing such hospital facilities.

(B) The General Assembly hereby finds and declares that:

(1) ~~There~~ there is a need to overcome existing and anticipated physical and technical obsolescence of existing hospital facilities, to provide additional modern and efficient hospital facilities in the State

and to provide assistance to the extent herein provided in order that such hospital facilities may be made available at the lowest possible expense~~.~~;

(2) ~~Unless~~ unless measures are adopted to alleviate such need, the shortage of such facilities will become increasingly more urgent and serious; ~~and~~

(3) ~~In~~ in order to meet such shortage and thereby promote the public health and welfare of the people of the State, it is necessary that assistance be afforded in the providing of adequate, modern and efficient hospital facilities in the State so that health and hospital care and services may be expanded, improved and fostered to the fullest extent practicable at the lowest possible expense~~.~~; and

(4)(a) ~~It~~ it is the purpose of this article to empower the governing bodies of the several counties of the State under the terms and conditions of this article to finance the acquisition, enlargement, improvement, construction, equipping and providing of such hospital facilities to the end that the public health and welfare of the people of the State will be promoted at the least possible expense to those utilizing such hospital facilities so provided. In this connection, such governing bodies shall function under the guidance of the State Fiscal Accountability Authority ~~of South Carolina~~ and the Department of Public Health ~~and Environmental Control~~ and shall be vested with all powers necessary to enable them to accomplish the purposes of this article, which powers shall be in all respects exercised for the benefits of the inhabitants of the State and to promote the public health and welfare of its citizens~~.~~; and

(b) ~~It~~ it is specifically found and declared that all action taken by any county in carrying out the purposes of this article will perform an essential governmental function.

B. Section 44-7-1440 of the S.C. Code is amended to read:

Section 44-7-1440. Subject to obtaining approvals from the Authority required by Section 44-7-1590 and from the Department of Public Health ~~and Environmental Control~~, required by Section 44-7-1490, the several counties of the State functioning through their respective county boards shall be empowered to:

(1) ~~To~~ enter into agreements with any hospital agency or public agency necessary or incidental to the issuance of bonds~~.~~;

(2) ~~To~~ acquire and in connection with such acquisition, to enlarge or expand, whether by purchase, gift or lease, hospital facilities and in the case of hospital facilities located in more than one county, the facilities may be acquired jointly by the county boards of the counties wherein such hospital facilities shall be located~~.~~;

(3) ~~To~~ enter into loan agreements with any hospital agency or public agency, prescribing the payments to be made by the hospital agency or public agency to the county or its assignee to meet the payments that shall become due on bonds, including terms and conditions relative to the acquisition and use of hospital facilities and the issuance of bonds~~.~~;

(4) ~~To~~ issue bonds for the purpose of defraying the cost of providing hospital facilities and to secure the payment of such bonds as hereafter provided~~.~~;

(5) ~~To~~ receive and accept from any public agency loans or grants for or in aid of the construction of hospital facilities or any portion thereof, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made~~.~~;

(6) ~~To~~ mortgage any hospital facilities and the site thereof for the benefits of the holders of bonds issued to finance such hospital facilities~~.~~;

(7) ~~To~~ issue bonds to refinance or to refund outstanding obligations, mortgages or advances heretofore or hereafter issued, made or given by a hospital or public agency for the cost of hospital facilities~~.~~;

(8) ~~To~~ charge to each hospital and public agency utilizing this article any administrative costs and expenses incurred in the exercise of the powers and duties conferred by this article~~.~~;

(9) ~~To~~ do all things necessary or convenient to carry out the purposes of this article~~.~~;

(10) ~~To~~ to make and execute contracts and agreements necessary or incidental to the exercise of its powers and duties under this article, with persons, firms, corporations, governmental agencies and others~~.~~;

(11) ~~To~~ make the proceeds of any bonds available by way of a loan to a hospital or public agency pursuant to a loan agreement~~.~~;

(12) ~~To~~ acquire by purchase, lease, gift or otherwise, or to obtain options for the acquisition of, existing hospital facilities and any property, real or personal, improved or unimproved, including interests in land in fee or less than fee for any hospital facilities, upon such terms and at such cost as shall be agreed upon by the owner and the county board~~.~~;

(13) ~~To~~ arrange or contract with any county, city, town or other political subdivision or instrumentality of the State for the opening or closing of streets or for the furnishing of utility or other services to any hospital facilities~~.~~;

(14) ~~To~~ enter into lease agreements with any hospital or public agency whereby the county board leases hospital facilities to such hospital or public agency, including hospital facilities located in more than one county~~.~~; and

(15) ~~To~~ pledge or assign any money, rents, charges, fees or other revenues, including any proceeds of insurance or condemnation awards, pursuant to any loan agreement to the payment of the bonds issued pursuant to such loan agreement.

C. Section 44-7-1490 of the S.C. Code is amended to read:

Section 44-7-1490. The county board shall not undertake the acquisition, construction, expansion,

equipping or financing of any hospital facilities unless and until such approval of the Department of Public Health ~~and Environmental Control~~ for such undertaking as may be required under Article 3, Chapter 7, Title 44, shall have been obtained.

D. Section 44-7-1590 of the S.C. Code is amended to read:

Section 44-7-1590. (A) No bonds may be issued pursuant to the provisions of this article until the proposal of the county board to issue the bonds receives the approval of the authority. Whenever a county board proposes to issue bonds pursuant to the provisions of this article, it shall file its petition with the authority setting forth:

(1) a brief description of the hospital facilities proposed to be undertaken and the refinancing or refunding proposed;

(2) a statement setting forth the action taken by the Department of Public Health ~~and Environmental Control~~ in connection with the hospital facilities;

(3) a reasonable estimate of the cost of hospital facilities;

(4) a general summary of the terms and conditions of the proposed loan agreement; and

(5) such other information as the authority requires.

(B) Upon the filing of the petition the authority, as soon as practicable, shall conduct the review as it considers advisable, and if it finds that the proposal of the governing board is intended to promote the purposes of this article, it is authorized to approve the proposal. At any time following the approval, the county board may proceed with the issuance of the bonds in accordance with the proposal as approved by the authority. Notice of the approval of the proposal by the authority must be published at least once by the authority in a newspaper having general circulation in the county where the hospital facilities are or are to be located. The notice must set forth the action taken by the county board pursuant to Section 44-7-1480 and the action taken by the Department of Public Health ~~and Environmental Control~~ pursuant to Section 44-7-1490.

(C) Any interested party, within twenty days after the date of the publication of the notice, but not afterwards, may challenge the action so taken by the authority, the county board, or the Department of Public Health ~~and Environmental Control~~, by action de novo in the court of common pleas in any county where the hospital facilities are to be located.

E. Section 44-7-1660(B) of the S.C. Code is amended to read:

(B) The county board may not enter into a subsidiary loan agreement to finance the acquisition, construction, expansion, equipping, or financing of any hospital facilities until approval of the agreement by the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~ as may be

required under Article 3 of Chapter 7 of Title 44.

F. Section 44-7-1690 of the S.C. Code is amended to read:

Section 44-7-1690. (A) Notice of the approval by a county board of any intergovernmental loan agreement or subsidiary loan agreement must be published at least once in a newspaper having general circulation in each county by the respective county board prior to the execution of such agreements. With respect to a subsidiary loan agreement, the notice must set forth the action taken by the county board and the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~ pursuant to Section 44-7-1660. The intergovernmental loan agreement and subsidiary loan agreement must be filed with the clerk of court of the authorizing issuer and the clerk of court of the project county prior to the issuance of the bonds authorized thereby.

(B) Any interested party may, within twenty days after the date of the publication of the notice, challenge the action taken by the county board of the authorizing issuer or the project county in approving the intergovernmental loan agreement by action de novo in the court of common pleas of the project county or the authorizing issuer.

(C) Any interested party may, within twenty days after the date of the publication of the notice, challenge the action taken by the county board in approving the subsidiary loan agreement or the Department of Health and Environmental Control with respect to the hospital facilities by action de novo in the court of common pleas in any county where the hospital facilities are to be located.

SECTION 16. Article 20, Chapter 7, Title 44 of the S.C. Code is amended to read:

Article 20

Hospital Infections Disclosure

Section 44-7-2410. This article may be cited as the "Hospital Infections Disclosure Act".

Section 44-7-2420. As used in this article:

(1) "Department" means the Department of Public Health~~ and Environmental Control~~.

(2)(a) "Hospital" means a facility organized and administered to provide overnight medical or surgical care or nursing care of illness, injury, or infirmity and may provide obstetrical care, and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy and is licensed by the department as a hospital.

(b) "Hospital" may include residential treatment facilities for children and adolescents in need of mental health treatment which are physically a part of a licensed psychiatric hospital. This definition does not include facilities that are licensed by the Department of Social Services.

(3) "Hospital acquired infection" means a localized or systemic condition that:

(a) results from adverse reaction to the presence of an infectious agent or agents or its toxin or toxins; and

(b) was not present or incubating at the time of admission to the hospital.

Section 44-7-2430. (A)(1) Individual hospitals shall collect data on hospital acquired infection rates for the specific clinical procedures as recommended by the advisory committee and defined by the department, including the following categories:

(a) surgical site infections;

(b) ventilator associated pneumonia;

(c) central line related bloodstream ~~infections; and~~infections; and

(d) other categories as provided under subsection (D).

(2) Hospitals also shall report completeness of certain selected infection control processes, as recommended by the advisory committee and defined by the department, according to accepted standard definitions.

(B)(1) Hospitals shall submit reports at least every six months on their hospital acquired infection rates to the department. Reports must be submitted in a format and at a time as provided for by the department. Data in these reports must cover a period ending not earlier than one month prior to submission of the report. These reports must be made available to the public at each hospital and through the department. The first report must be submitted before February 1, 2008. Subsequent reports must be submitted at least every six months on dates determined by the department. When compiling its reports, the department may combine data from multiple reporting periods in order to better demonstrate hospital acquired infection rates.

(2) If the hospital is a division or subsidiary of another entity that owns or operates other hospitals, or related facilities, the report must be for the specific division or subsidiary and not for the other entity.

(C)(1) The ~~Board of Health and Environmental Control~~Secretary of Health and Policy shall appoint an advisory committee that must have an equal number of members representing all involved parties. The ~~board~~ secretary shall seek recommendations for appointments to the advisory committee from organizations that represent the interests of hospitals, consumers, businesses, purchasers of health care services, physicians, and other professionals involved in the research and control of infections.

(2) The advisory committee shall assist the department in the development of all aspects of the department's methodology for collecting, analyzing, and disclosing the information collected under this article, including collection methods, formatting, and methods and means for release and dissemination of this information.

(3) In developing the methodology for collecting and analyzing the infection rate data, the department and advisory committee shall consider existing methodologies and systems for data collection, such as the Centers for Disease Control and Prevention's National Healthcare Safety ~~Network; however~~Network; however, the department's discretion to adopt a methodology is not limited or restricted to any existing methodology or system. The data collection and analysis methodology must be disclosed to the public prior to any public disclosure of hospital acquired infection rates.

(4) The department and the advisory committee shall evaluate on a regular basis the quality and accuracy of hospital information reported under this article and the data collection, analysis, and dissemination methodologies.

(D) The department may, after consultation with the advisory committee, require hospitals to collect data on hospital acquired infection rates in categories additional to those set forth in subsection (A).

Section 44-7-2440. (A) The department annually shall submit to the General Assembly a report summarizing the hospital reports submitted pursuant to Section 44-7-2430 and shall publish the annual report on its website. The first annual report must be submitted and published before February 1, 2009. Subsequent annual reports to the General Assembly must be submitted before April sixteenth of each year. The department may issue quarterly informational bulletins summarizing all or part of the information submitted in the hospital reports.

(B) All reports issued by the department must be risk adjusted.

(C) The annual report must compare the risk adjusted hospital acquired infection rates, collected under Section 44-7-2430, for each individual hospital in the State. The department, in consultation with the advisory committee, shall make this comparison as easy to comprehend as possible. The report also must include an executive summary, written in plain language, that must include, but is not limited to, a discussion of findings, conclusions, and trends concerning the overall state of hospital acquired infections in the State, including a comparison to prior years. The report may include policy recommendations, as appropriate.

(D) The department shall publicize the report and its availability as widely as practical to interested parties including, but not limited to, hospitals, health care providers, media organizations, health insurers, health maintenance organizations, purchasers of health insurance, consumer or patient advocacy groups, and individual consumers. The annual report must be made available to any person upon request and the department may charge a fee for such copies, not to exceed the actual cost of the copy of the report.

(E) No hospital report or department disclosure may contain information identifying a patient, employee, or licensed health care professional in connection with a specific infection incident.

(F) The department, after consultation with the advisory committee, may phase-in the reporting requirements of this section.

Section 44-7-2450. (A) It is the intent of the General Assembly that a patient's right of privilege or confidentiality must not be violated in any manner. Patient social security numbers and any other information that could be used to identify an individual patient must not be released notwithstanding any other provision of law to the contrary.

(B) Nothing in this section affects the duty of a facility or activity licensed by the Department of Public Health~~ and Environmental Control~~ to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered to waive any privilege or confidentiality provided in subsection (A).

Section 44-7-2460. (A) The department shall ensure and enforce compliance with this article and regulations promulgated pursuant to this article by the imposition of civil monetary penalties and as a condition of licensure or permitting under this chapter pursuant to Section 44-7-320.

(B) The department may promulgate regulations as necessary to carry out its responsibilities under this article. The Secretary of Health and Policy must approve the regulations prior to being submitted to the General Assembly.

SECTION 17. Section 44-7-2550 of the S.C. Code is amended to read:

Section 44-7-2550. The department shall promulgate regulations necessary to carry out the purposes of this article. Through regulation or interagency agreement when appropriate the department may develop standards addressing the coordination and provision of early intervention services, including personnel qualifications and health, safety, and program standards for the facilities where the services are offered. The regulations must be approved by the Secretary of Health and Policy prior to being submitted to the General Assembly.

SECTION 18. Section 44-7-2910(B) of the S.C. Code is amended to read:

(B) For purposes of this article:

(1) "Direct care entity" means:

(a) a nursing home, as defined in Section 44-7-130;

(b) a daycare facility for adults, as defined in Section 44-7-130;

(c) a home health agency, as defined in Section 44-69-20;

(d) a community residential care facility, as defined in Section 44-7-130;

(e) a residential program operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health or the Department of Intellectual and Related Disabilities~~ and Special Needs~~;

(f) residential treatment facilities for children and adolescents;

(g) hospice programs.

(h) an in-home care provider, as defined in Section 44-70-20(3).

(2) "Direct caregiver" or "caregiver" means:

(a) a registered nurse, licensed practical nurse, or certified nurse assistant;

(b) any other licensed professional employed by or contracting with a direct care entity who provides to patients or clients direct care or services and includes, but is not limited to, a physical, speech, occupational, or respiratory care therapist;

(c) a person who is not licensed but provides physical assistance or care to a patient or client served by a direct care entity;

(d) a person employed by or under contract with a direct care entity who works within any building housing patients or clients;

(e) a person employed by or under contract with by a direct care entity whose duties include the possibility of patient or client contact.

For purposes of this article, a direct caregiver does not include a faculty member or student enrolled in an educational program, including clinical study in a direct care entity.

Section 44-7-2940 of the S.C. Code is amended to read:

Section 44-7-2940. The Department of Public Health~~ and Environmental Control~~ shall verify that a direct care entity is conducting criminal record checks as required in this article before the department issues a renewal license for the direct care entity. The department shall act as the channeling agency for any federal criminal record checks required by this article.

SECTION 19. Section 44-7-3430 of the S.C. Code is amended to read:

Section 44-7-3430. All clinical staff, clinical trainees, medical students, interns, and resident physicians of a hospital shall wear badges clearly stating their names, using at a minimum either first or last names with appropriate initials, their departments, and their job or trainee titles. All clinical trainees, medical students, interns, and resident physicians must be explicitly identified as such on their badges. This information must be clearly visible and must be stated in terms or abbreviations reasonably understandable to the average person, as recognized by the Department of Public Health~~ and Environmental Control~~.

Section 44-7-3455 of the S.C. Code is amended to read:

Section 44-7-3455. The provisions of this article do not apply to hospitals owned or operated by the Department of ~~Mental~~ Behavioral Health or by specialized hospitals licensed exclusively for treatment of alcohol or drug ~~abuse~~ use and which are under contract with the Department of ~~Alcohol and Other Drug Abuse Services~~Behavioral Health.

Section 44-7-3460 of the S.C. Code is amended to read:

Section 44-7-3460. The Department of Public Health~~ and Environmental Control~~ shall administer and enforce the provisions of this article in accordance with procedures and penalties provided in law and regulation.

SECTION 20. Chapter 9, Title 44 of the S.C. Code is amended to read:

CHAPTER 9

~~State~~ Department of ~~Mental~~ Behavioral Health

Section 44-9-10. There is hereby created the ~~State~~ Department of ~~Mental~~ Behavioral Health, which shall have jurisdiction over all of the State's mental hospitals, clinics and centers, joint State and community sponsored mental health clinics and centers and facilities for the treatment and care of ~~alcohol and drug addicts~~people with substance disorder, alcohol use disorder, or both, including the authority to name each facility. The department is vested with all of the functions, powers, and duties of the Commission on Alcoholism and the Commission on Alcohol and Drug Abuse. The department has full authority for formulating, coordinating, and administering the state plans for controlling narcotics, controlled substances, and alcohol use. The department shall promote comprehensive, client-centered services in the areas of mental health and substance use treatment in furtherance of the State Health Services Plan's goals.

Section 44-9-20. All the powers and duties vested in the South Carolina Mental Health Commission immediately prior to March 26, 1964 are hereby transferred to and vested in the Department of ~~Mental~~ Behavioral Health. All records, files and other papers belonging to the South Carolina Mental Health Commission shall be continued as part of the records and files of the Department of ~~Mental~~ Behavioral Health.

Section 44-9-30. (A)(1) There is created the ~~governing board~~advisory board for the ~~State~~ Department of ~~Mental~~ Behavioral Health known as the ~~South Carolina Mental~~ Behavioral Health Advisory Board~~ Commission~~. The ~~commission~~ advisory board shall consist of seven members, one from each congressional district, appointed by the ~~Governor, upon the advice and consent of the Senate~~Secretary of Health and Policy.

(2) The ~~Governor~~ secretary shall consider consumer and family representation when appointing members.

(B) The members serve for terms of five years and until their successors are appointed and qualify. The terms of no more than two members may expire in one year. The ~~Governor~~ secretary may remove a member pursuant to the provisions of Section ~~1-3-240~~44-12-50(B)(1). A vacancy must be filled by the ~~Governor~~ secretary for the unexpired portion of the term.

~~(C) The commission shall determine policies and promulgate regulations governing the operation of the department and the employment of professional and staff personnel.~~

~~(D)~~(C) The members shall receive the same subsistence, mileage, and per diem provided by law for members of state boards, committees, and commissions.

Section 44-9-40. The ~~Mental Health Commission~~Secretary of Health and Policy shall appoint, with the advice and consent of the Senate, and may remove at his pleasure, a ~~State~~ Director of ~~Mental~~ Behavioral Health, who is the chief executive of the ~~State~~ Department of ~~Mental~~ Behavioral Health. ~~Subject to the supervision and control of the Mental Health Commission, the state director shall administer the policies and regulations established by the commission.~~ The director must be a person of proven executive and administrative ability with appropriate education and substantial experience in the field of mental illness treatment. ~~The director must appoint and remove all other officers and employees of the Department of Mental Health, subject to the approval of the Mental Health Commission.~~The department's employees shall have general duties and receive compensation as determined by the director, within the director's authority as provided by the Secretary of Health and Policy. The director shall be responsible for the administration of state personnel policies and the general personnel policies implemented by the Executive Office of Health and Policy. The director shall have sole authority to employ and discharge employees subject to applicable personnel policies and funding available for that purpose.

Section 44-9-50. (A) The Department of ~~Mental~~ Behavioral Health may be divided into such divisions as may be authorized by the director~~ of Mental Health and approved by the commission~~. One of the divisions must be a Division on Alcohol and Drug Addiction which shall have primary responsibility in the State for treatment of ~~alcohol and drug addicts~~people with substance or alcohol use disorder. One of the divisions must be a Division for Long Term Care which shall have primary responsibility for care and treatment of elderly persons with mental and physical disabilities to the extent that their needs are not met in other facilities either public or private.

(B) The director shall appoint a supervisor of adult education for the prevention of alcohol use disorder, who shall be responsible for activating and implementing an adequate alcoholic education program for the residents of this State above high school age. The program shall be designed to prevent or reduce alcohol use disorder in South Carolina and to created a recognition and understanding of the problem. The department shall furnish the supervisor with adequate ways and means to accomplish an effective educational program as required by this subsection. In carrying out the provisions of this subsection the department and the supervisor may consult with and work in conjunction with groups such as Alcoholics Anonymous, the Yale Center of Alcohol Studies, the Research Council on Problems of Alcohol of the American Association for the Advancement of Science, the South Carolina Medical Association, the Christian Action Council, the Committee on Alcoholism of the South Carolina Conference on Social Work, and other groups or agencies that able to assist in the study, prevention, treatment, and rehabilitation of alcoholics and in a scientific educational programs concerning the problems related to alcohol.

(C) The director shall establish a program to provide alcohol and drug use intervention, prevention, and treatment services for the State's public schools. The department shall provide staff and support necessary to administer the program. Funds for the program must be annually appropriated by the General Assembly from the Education Improvement Act of 1984 Fund as it determines appropriate.

Section 44-9-60. The director of the Department of ~~Mental~~ Behavioral Health may appoint a director of each hospital. Each director must be knowledgeable in the treatment of the mentally ill and in hospital administration. The director of each hospital under the jurisdiction of the Department of ~~Mental~~ Behavioral Health is responsible for the employment of all personnel at the hospital, subject to the approval of the director of the department. The director of the department may serve as director of one or more hospitals or other mental health facilities.

Section 44-9-70. The ~~State~~ Department of ~~Mental~~ Behavioral Health is hereby designated as the State's ~~mental~~ behavioral health authority for purposes of administering Federal funds allotted to South Carolina under the provisions of the National Mental Health Act, as amended. The ~~State~~ Department of ~~Mental~~ Behavioral Health is further designated as the State agency authorized to administer minimum standards and requirements for mental health clinics as conditions for participation in Federal-State grants-in-aid under the provisions of the National Mental Health Act, as amended, and is authorized to promote and develop community mental health outpatient clinics. Provided, that nothing in this article shall be construed to prohibit the operation of outpatient mental health clinics by the ~~South Carolina Medical College Hospital~~Medical University of South Carolina in Charleston. Provided, further, that nothing herein shall be construed to include any of the functions or responsibilities now granted the Department of Public Health~~ and Environmental Control~~, or the administration of the State Hospital Construction Act (Hill-Burton Act), as provided in the 1976 Code of Laws and amendments thereto.

Section 44-9-80. Payments made to a mental health facility which are derived in whole or in part from Federal funds which become available after June 30, 1967, and which are provided with the stipulation that they be used to improve services to patients shall not be considered fees from paying patients under the terms of Act No. 1100 of 1964 but may be utilized by the ~~State~~ Department of ~~Mental~~ Behavioral Health to improve South Carolina's comprehensive mental health program.

Section 44-9-90. (A) The ~~commission~~ department shall:

~~(1) form a body corporate in deed and in law with all the powers incident to corporations;~~

~~(2)~~(1) cooperate with persons in charge of penal institutions in this State for the purpose of providing proper care and treatment for mental patients confined in penal institutions because of emergency;

~~(3)~~(2) inaugurate and maintain an appropriate mental health education and public relations program;

~~(4)~~(3) collect statistics bearing on mental illness, ~~drug addiction~~substance use disorder, and ~~alcoholism~~alcohol use disorder;

~~(5)~~(4) provide vocational training and medical treatment which must tend to the mental and physical betterment of patients and which is designed to lessen the increase of mental illness, ~~drug addiction~~substance use disorder, and ~~alcoholism~~alcohol use disorder;

~~(6)~~(5) encourage the directors of hospitals and their medical staffs in the investigation and study of these subjects and of mental health treatment in general; ~~and~~

~~(7)~~(6) provide for and promote a statewide system for the delivery of mental health services to treat, care for, reduce, and prevent mental illness and provide mental health services for citizens of this State, whether or not in a hospital. The system shall account for residents with mile to moderate persistent, chronic, or acute symptoms requiring care and must include services to prevent or postpone the commitment or recommitment of citizens to hospitals~~.~~;

(7) coordinate with state agencies and other providers to ensure the appropriate provision of care for individuals with co-occurring diagnoses. The department shall coordinate and cooperate with the Secretary of Health and Policy in complex cases;

(8) perform all functions, powers, and duties of the commissioner of the narcotics and controlled substances section of the State Planning and Grants Division previously transferred to the Department of Alcohol and Other Drug Abuse Services, except those powers and duties related to the traffic of narcotics and controlled substances as defined in Section 44-53-130 which are be vested in the State

Law Enforcement Division;

(9) establish a block grant mechanism to provide such monies as may be appropriated by the General Assembly for this purpose to each of the agencies designated under Section 61 12 20(a). The agencies designated under Section 61-12-20(a) must expend any funds received through this mechanism in accordance with the county plans required under Section 61-12-20(b).

(10) exercise the following powers and duties relating to narcotics and controlled substances:

(a) arrange for the exchange of information between governmental officials concerning the misuse of controlled substances;

(b) in conformance with its administration and coordinating duties under this chapter and Article 3, Chapter 53, Title 44, rely and act upon results, information, and evidence received from the Department of Public Health relating to the regulatory functions of this chapter and Article 3 of Chapter 53, including results of inspections conducted by the department; may be relied upon and acted upon by the department;

(c)(1) plan, coordinate and cooperate in educational programs for schools, communities and general public designed to prevent and deter misuse of controlled substances;

(2) promote improved recognition of the problems of misuse and use of controlled substances within the regulated industry and among interested groups and organizations;

(3) assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and use of controlled substances;

(4) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(5) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and use of controlled substances;

(6) disseminate the results of research on misuse and use of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them;

(7) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and use of controlled substances;

(8) encourage research on misuse and use of controlled substances;

(9) cooperate in establishing methods to assess accurately the effects of controlled substances and to identify and characterize controlled substances with potential for use;

(10) cooperate in making studies and in undertaking programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of Sections 44 49 10, 44 49 40 and 44 49 50 and Article 3 of Chapter 53;

(ii) determine patterns of misuse and use of controlled substances and the social effects thereof; and

(iii) improve methods for preventing, predicting, understanding and dealing with the

misuse and use of controlled substances;

(d) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and use of controlled substances.

(e) enter into contracts for educational and research activities without performance bonds.

(f) accept gifts, bequests, devises, contributions, and grants, public or private, including federal funds, or funds from any other source for use in furthering the purpose of the department. The department is authorized to administer the grants and contracts arising from the federal program entitled the Drug Free Schools and Communities Act of 1986, P.L. 99 570.

(B) The department shall determine policies and promulgate regulations governing the operation of the department and the employment of professional and staff personnel. Prior to the submission of these regulations, the department must receive approval from the Secretary of Health and Policy.

Section 44-9-100. The ~~commission~~ department may:

(1) prescribe the form of and information to be contained in applications, records, reports, and medical certificates provided for under this chapter, Chapter 11, Chapter 13, Article 1 of Chapter 15, Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52;

(2) require reports from the director of a state hospital relating to the admission, examination, diagnosis, discharge, or conditional discharge of a patient;

(3) investigate complaints made by a patient or by a person on behalf of a patient;

(4) adopt regulations not inconsistent with this chapter, Chapter 11, Chapter 13, Article 1 of Chapter 15, Chapter 17, Chapter 22, Chapter 23, Chapter 24, Chapter 27, Chapter 48, and Chapter 52 as it may find to be reasonably necessary for the government of all institutions over which it has authority and of state mental health facilities and the proper and efficient treatment of persons with a mental illness or substance use disorder. The Secretary of Health and Policy must approve regulations prior to their submission to the General Assembly;

(5) take appropriate action to initiate and develop relationships and agreements with state, local, federal, and private agencies, hospitals, and clinics as the commission considers necessary to increase and enhance the accessibility and delivery of emergency and all other types of ~~mental~~ behavioral health services~~.~~; and

(6) develop rules and promulgate regulations consistent with the provisions of this chapter as may be reasonably appropriate for the government of the county plans provided for in Section 61-12-20(b), and the financial and programmatic accountability of funds provided for in this section, and all other funds provided by the department to agencies designated pursuant to Section 61-12-20(a).

Section 49-9-105. (A) The department shall develop and initiate negotiation of the service contracts

through which it provides funds to service providers to accomplish the purposes of this chapter. The department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for substance use services directly to the service provider.

(B) Service contracts shall:

(1) clearly delineate the responsibilities of the department and the service provider;

(2) specify conditions that must be met for the receipt of state and federal funds;

(3) identify the groups of individuals to be served with state and federal funds;

(4) contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members;

(5) contain provisions that enable the department to enforce the service contract in the event that the service provider fails to substantially comply with the requirements of its service contract. The enforcement provisions shall include:

(a) notification to a service provider when it fails to substantially comply with the requirements of its service contract;

(b) a remediation process to allow the service provider, after failing to substantially comply with its service contract, to come into substantial compliance with its service contract;

(c) a mechanism for withholding or reducing funds, repayment of funds, or termination of all or part of a service contract in accordance with the provisions of subsection (D) in the event that the service provider fails to come into substantial compliance with the provisions of its service contract despite utilization of the remediation process described in subsection (B)(5)(b); and

(d) an appeals process for an enforcement action undertaken by the department; and

(6) contain requirements for the service provider to report specific information concerning:

(a) its revenues, costs, and services;

(b) individuals served; and

(c) any other information deemed necessary by the department, which shall be displayed in a consistent, comparable format developed by the department.

(C) The department shall develop and implement a process for regular, ongoing monitoring of the performance of service providers to ensure compliance with the requirements of service contracts entered into pursuant to this section.

(D)(1) If a service provider fails to comply with the requirements of its service contract, the department shall utilize the remediation process described in the service contract to allow the service provider to come into compliance. The department shall notify the service provider upon initiation of the remediation process and provide regular updates regarding the service provider's progress toward coming into compliance.

(2) If a service provider fails to come into compliance after utilization of the remediation process,

the department shall, after affording the service provider an adequate opportunity to use the appeal process described in the service contract, terminate all or a portion of the service contract.

(E) Upon terminating all or a portion of a service contract pursuant to subsection (D)(2), the department may negotiate a performance contract with another service provider to obtain the services that were the subject of the terminated performance contract.

(F) No service provider shall be eligible to receive state or federal funds for substance use services, unless:

(a) its performance contract has been approved or renewed by the department;

(b) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services to the department in the format prescribed by the department;

(c) it uses standardized cost accounting and financial management practices approved by the department, and

(d) the service provider is in compliance with its service contract or is making progress to become compliant through the department's remediation process.

Section 44-9-110. The ~~Mental Health Commission may accept on behalf of the~~ Department of ~~Mental~~ Behavioral Health~~ or any of its facilities or services,~~ gifts, bequests, devises, grants, donations of money or real and personal property of whatever kind, but no such gift or grant shall be accepted upon the condition that it shall diminish an obligation due the ~~Department~~department. The ~~Commission~~ department may refuse to accept any such gift or grant and the acceptance of any such gift or grant shall not incur any obligation on the part of the State. Any gift or grant given to a specific facility or service shall be used for that facility or service only, or to its successor. The ~~Commission~~ department may promulgate rules and regulations governing the disposition of such gifts and grants. The Secretary of Health and Policy must approve the regulations prior to their submission to the General Assembly.

Section 44-9-120. The ~~Commission~~ department shall submit an annual report to the ~~Governor~~ Secretary of Health and Policy before the eleventh day of January of each year setting forth its activities, the financial affairs and the state and condition of the State mental health facilities and any other statistical information which is usually required of facilities of the type over which it has charge. The report shall include any recommendations which in the opinion of the ~~Commission~~ department will improve the ~~mental~~ behavioral health program of the State.~~ A copy of the report shall also be submitted to the General Assembly.~~

Section 44-9-160. Wherever in the 1976 Code reference is made to the State Hospital, it shall mean a state hospital; wherever reference is made requiring the signature of the superintendent of any mental

health facility, it shall mean the superintendent or his designee; and wherever reference is made to the State Commissioner of Mental Health, it shall mean the ~~State~~ Director of the Department of ~~Mental~~ Behavioral Health.

SECTION 21. Section 61-12-20 of the S.C. Code is amended to read:

Section 61-12-20. Before the use of the revenue described in Section 61-12-10, the governing body of each county must:

(a) designate a single existing county agency or organization, either public or private, as the sole agency in the county for alcohol and drug ~~abuse~~ use planning for programs funded by the revenue described in Section 61-12-10 or create a new agency for that purpose;

(b) develop a county plan in accordance with the state plan for alcohol ~~abuse~~ use and ~~alcoholism~~ alcohol use disorder and the state plan for drug ~~abuse~~ use required by Public Laws 91-616 and 92-255 for the prevention and control of alcohol and drug ~~abuse~~ use and obtain written approval of the plan by the Department of ~~Alcohol and Other Drug Abuse Services~~Behavioral Health. Written approval must be given by the Department of ~~Alcohol and Other Drug Abuse Services~~Behavioral Health if the plan is reasonable. If approval is denied, the county may appeal to the Governor. The appeal must state fully the reasons why it is made. If the ~~Governor~~ Secretary of Health and Policy considers the nonapproval of the plan by the Department of ~~Alcohol and Other Drug Abuse Services~~ Behavioral Health to be unreasonable, he must communicate his reasons to the Department of ~~Alcohol and Other Drug Abuse Services~~Behavioral Health and require it to reexamine the plan in light of his objections. Following the reexamination, no further appeal may be taken.

Section 12-33-245 of the S.C. Code is amended to read:

Section 12-33-245. (A) In addition to taxes imposed pursuant to the provisions of Sections 12-33-230, 12-33-240, Article 5 of this chapter, and Chapter 36, Title 12, there is imposed an excise tax equal to five percent of the gross proceeds of the sales of alcoholic liquor by the drink for on-premises consumption in an establishment licensed for sales pursuant to Article 5, Chapter 6, Title 61 or at a location holding a temporary license or permit that authorizes the sale of liquor by the drink. All proceeds of this excise tax must be deposited to the credit of the general fund of the State. Except with respect to the distribution of the revenue of this tax, this excise tax is considered to be imposed pursuant to Chapter 36, Title 12. For purposes of this subsection, "gross proceeds of sales" has the meaning as provided in Section 12-36-90, except that the sales tax imposed under Chapter 36, Title 12 is not included in "gross proceeds of sales". The term "gross proceeds of sales" also includes, but is not limited to, the retail value of a complimentary or discounted beverage containing alcoholic liquor, an

amount charged for ice for a drink containing alcoholic liquor, and an amount charged for a nonalcoholic beverage that is sold or used as a mixer for a drink containing alcoholic liquor. This section does not apply to nonprofit organizations that are issued a temporary permit to allow possession, sale, and consumption of alcoholic liquors pursuant to subarticle 5, Article 5, Chapter 6, Title 61.

(B) In addition to amounts distributed pursuant to Section 6-27-40(B), eleven percent of the revenue generated by the excise tax provided for in subsection (A) must be placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. On a quarterly basis, the State Treasurer shall allocate this revenue to the Department of Health Financing ~~counties on a per capita basis according to the most recent United States Census. The State Treasurer must notify each county of the allocation pursuant to this subsection in addition to the funds allocated pursuant to Section 6-27-40(B),~~ and ~~the combination~~ of these funds must be used ~~by counties for educational purposes relating to the use of alcoholic liquors and~~ for reimbursement of services related to the rehabilitation of ~~alcoholics and drug addicts~~people with substance or alcohol use disorder. ~~A county may pool these funds with other counties and may combine these funds with other funds for the same purpose.~~

~~(C) Those state agencies and local entities, including counties, which by law received minibottle tax revenues in fiscal year 2004-2005 for education, prevention, and other purposes, shall receive in a fiscal year at least the same amount of revenues from the excise tax revenues as they received from minibottle tax revenues during fiscal year 2004-2005. If these state agencies and local entities do not, the difference must be made up from the general fund. Payments will be distributed in four equal payments based on the total payments remitted to these state agencies and entities in fiscal year 2004-2005, including funds received pursuant to Section 6-27-40(B). At the end of each fiscal year, the State Treasurer, in consultation with the Department of Revenue, shall determine whether the tax collected pursuant to these sections exceed the total collection and remittance for fiscal year 2004-2005. If the tax collected exceeds the amount collected and allocated in fiscal year 2004-2005, a distribution of the difference will be remitted to the county treasurers within thirty days after the close of each fiscal year.~~

~~(D)~~(C) In addition to all other penalties that may be imposed for violations arising pursuant to subsection (A) of this section, a failure to report and remit the full amount of the excise tax imposed pursuant to subsection (A) on the gross proceeds of the sale of each drink of alcoholic liquor sold for consumption in the establishment subjects the licensee to the following penalties:

(1) for a first violation, a civil penalty of one thousand dollars;

(2) for a second violation, a civil penalty of one thousand dollars and an automatic suspension for thirty days of the license allowing such sales; and

(3) for a third or subsequent violation, a civil penalty of five thousand dollars and a revocation of the license.

~~(E)~~(D) When a license is suspended or revoked, a partner or person with a financial interest in the

business may not be issued a license for the premises concerned. A person within the second degree of kinship to a person whose license is suspended or revoked may not be issued a license for the premises concerned for a period of one year after the date of suspension or revocation.

SECTION 22. Chapter 20, Title 44 of the S.C. Code is amended to read:

CHAPTER 20

South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act

Article 1

General Provisions

Section 44-20-10. This chapter may be cited as the "South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act".

Section 44-20-20. The State of South Carolina recognizes that a person with intellectual disability, a related disability, head injury, or spinal cord injury is a person who experiences the benefits of family, education, employment, and community as do all citizens. It is the purpose of this chapter to assist persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries by providing services to enable them to participate as valued members of their communities to the maximum extent practical and to live with their families or in family settings in the community in the least restrictive environment available.

When persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries cannot live in communities or with their families, the State shall provide quality care and treatment in the least restrictive environment practical.

In order to plan and coordinate state and locally funded services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries, a statewide network of local boards of disabilities and special needs is established. Services will be delivered to clients in their homes or communities through these boards and other local providers.

It is recognized that persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries have the right to receive services from public and other agencies that provide services to South Carolina citizens and to have those services coordinated with the services needed because of their disabilities.

South Carolina recognizes the value of preventing intellectual disability, related disabilities, head injuries, and spinal cord injuries through education and research and supports efforts to this end.

The State recognizes the importance of the role of parents and families in shaping services for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries as well as the importance of providing services to families to enable them to care for a family member with these disabilities.

Admission to services of the ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs does~~ not terminate or reduce the rights and responsibilities of parents. Parental involvement and participation in mutual planning with the department to meet the needs of the client facilitates decisions and treatment plans that serve the best interest and welfare of the client.

Section 44-20-30. As used in this chapter:

(1) "Applicant" means a person who is believed to have intellectual disability, one or more related disabilities, one or more head injuries, one or more spinal cord injuries, or an infant at high risk of a developmental disability who has applied for services of the ~~South Carolina~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~.

(2) "Autism" means Autism Spectrum Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

~~(2)~~(3) "Client" is a person who is determined by the Department of Intellectual and Related Disabilities~~ and Special Needs~~ to have intellectual disability, a related disability, head injury, or spinal cord injury and is receiving services or is an infant at risk of having a developmental disability and is receiving services.

~~(3)~~(4) ~~"Commission"~~ "Advisory Board" means the ~~South Carolina Commission on Disabilities and Special Needs~~ Intellectual and Related Disabilities Advisory Board, the ~~policy-making and governing body~~entity that advises ~~of~~ the Department of Intellectual and Related Disabilities~~ and Special Needs~~ concerning the policy and issues affecting the department's clients.

~~(4)~~(5) "County ~~disabilities and special needs boards~~Intellectual and Related Disabilities Board" or "County Board" means the local public body administering, planning, coordinating, or providing services within a county or combination of counties for persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries, or autism and recognized by the department.

~~(5)~~(6) "Day programs" are programs provided to persons with intellectual disability, related disabilities, head injuries, or spinal cord injuries outside of their residences affording development, training, employment, or recreational opportunities as prescribed by the Department of Intellectual and Related Disabilities~~ and Special Needs~~.

~~(6)~~(7) "Department" means the ~~South Carolina~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~.

~~(7)~~(8) "Director" means the ~~South Carolina~~ Director of the Department of Intellectual and Related Disabilities~~ and Special Needs, the chief executive director~~ appointed by the ~~commission~~Secretary of Health and Policy.

~~(8)~~(9) "Disabilities and special needs services" are activities designed to achieve the results specified in an individual client's plan.

~~(9)~~(10) "High risk infant" means a child less than thirty-six months of age whose genetic, medical, or environmental history is predictive of a substantially greater risk for a developmental disability than that for the general population.

~~(10)~~(11) "Least restrictive environment" means the surrounding circumstances that provide as little intrusion and disruption from the normal pattern of living as possible.

~~(11)~~(12) "Improvements" means the construction, reconstruction of buildings, and other permanent improvements for regional centers and other programs provided by the department directly or through contract with county boards of disabilities and special needs, including equipment and the cost of acquiring and improving lands for equipment.

~~(12)~~(13) "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

~~(13)~~(14) "Obligations" means the obligations in the form of notes or bonds or contractual agreements issued or entered into by the commission pursuant to the authorization of this chapter and of Act 1377 of 1968 to provide funds with which to repay the proceeds of capital improvement bonds allocated by the State Fiscal Accountability Authority.

~~(14)~~(15) "Regional residential center" is a twenty-four hour residential facility serving a multicounty area and designated by the department.

~~(15)~~(16) "Related disability" is a severe, chronic condition found to be closely related to intellectual disability or to require treatment similar to that required for persons with intellectual disability and must meet the following conditions:

(a) It is attributable to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with intellectual disability and requires treatment or services similar to those required for these persons.

(b) It is manifested before twenty-two years of age.

(c) It is likely to continue indefinitely.

(d) It results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

~~(16)~~(17) "Residential programs" are services providing dwelling places to clients for an extended period of time with assistance for activities of daily living ranging from constant to intermittent supervision as required by the individual client's needs.

~~(17)~~(18) "Revenues" or "its revenues" means revenue derived from paying clients at regional residential centers and community residences but does not include Medicaid, Medicare, or other federal funds received with the stipulation that they be used to provide services to clients.

~~(18)~~(19) "State capital improvement bonds" means bonds issued pursuant to Act 1377 of 1968.

~~(19)~~(20) ~~"Department" shall mean the State Department of Administration as constituted pursuant to Chapter 11, Title 1.~~ "State Health Services Plan" means the State Plan for Health developed by the Secretary of Health and Policy.

Article 3

Organization and System for Delivery of Services

Section 44-20-210. There is created the ~~South Carolina Commission on Disabilities and Special Needs~~Intellectual and Related Disabilities Advisory Board. The ~~commission~~ advisory board consists of seven members. One member must be a resident of each congressional district appointed by the ~~Governor upon the advice and consent of the Senate~~Secretary of Health and Policy. They shall serve for four years and until their successors are appointed and qualify. Members of the commission are subject to removal by the ~~Governor~~ Secretary pursuant to the provisions of Section ~~1-3-240~~44-12-50(B)(1). A vacancy ~~may~~ shall be filled by the ~~Governor~~ Secretary for the unexpired portion of the term.

Section 44-20-220. The ~~commission~~ advisory board shall ~~determine~~ advise the department concerning the policy and issues affecting the department's clients. ~~and promulgate regulations governing the operation of the department and the employment of professional staff and personnel.~~ The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions. ~~The commission shall appoint and in its discretion remove a South Carolina Director of Disabilities and Special Needs who is the chief executive officer of the department.~~ The ~~commission~~ advisory board may appoint advisory committees it considers necessary to assist in the effective conduct of its responsibilities. The advisory board shall submit an annual written report to the director concerning policy recommendations. ~~The commission may educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries and promote the best interest of persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries. The commission is authorized to promulgate regulations to carry out the provisions of this chapter and other laws related to intellectual disability, related disabilities, head injuries, or spinal cord injuries. In promulgating these regulations, the commission must consult with the advisory committee of the division for which the regulations shall apply.~~

Section 44-20-230. The department shall be headed by a director appointed by the Secretary of Health and Policy upon the advice and consent of the Senate. ~~Subject to the supervision, direction, and control of the commission, the director~~The director shall administer the department's policies and regulations~~ established by the commission~~. ~~The director may appoint and in his discretion remove all other officers and employees of the department subject to the approval of the commission.~~ Departmental employees shall have general duties and receive compensation as determined by the director, within the authority vested in the director by the Secretary of Health and Policy. The director shall be responsible for the administration of state personnel policies and general personnel policies implemented by the Secretary of Health and Policy. The director shall have sole authority to employ and discharge employees subject to the personnel policies and funding available for that purpose.

Section 44-20-240. There is created the ~~South Carolina~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~ which has authority over all of the state's services and programs for the treatment and training of persons with intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute unless those services are delivered pursuant to the State Health Services Plan. The department is authorized to promulgate regulations governing the operation of the department and to carry out the provisions of this chapter and other laws related to intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries. The Secretary of Health and Policy must approve the regulations prior to their submission to the General Assembly. ~~The department must be comprised of an Intellectual Disability Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions as may be determined by the director and approved and named by the commission. Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs.~~

Section 44-20-250. (A) The department shall coordinate services and programs with other state and local agencies for persons with intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries pursuant to the State Health Services Plan. The department may negotiate and contract with local agencies, county boards of disabilities and special needs, private organizations, and foundations in order to implement the planning and development of a full range of services and programs for persons with intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries subject to law and the availability of fiscal resources. The department has the same right to be reimbursed for expenses in providing intellectual and related disabilities~~ and special needs~~ services through a contractual arrangement as it has to be reimbursed for expenses provided through direct departmental services. The department shall develop service standards for programs of the department and for programs for which the department may contract and shall review and evaluate these programs on a periodic basis.

(B) The department shall coordinate with state agencies and other providers to ensure the appropriate provision of care for individuals with cooccurring diagnoses. The department shall coordinate with the Secretary of Health and Policy in complex cases.

(C) The department is designated as the responsible lead agency through which the federal Individuals with Disabilities Education Act (IDEA) Part C program with be administered pursuant to 20 U.S.C. 1400, et. seq.

(D) The department shall regularly report to the Secretary of Health and Policy concerning operation of the county boards, including information reported by the county boards pursuant to Section 44-20-385.

Section 44-20-255. (A) Upon execution of the deed as provided in subsection (B) of this section, ownership of the tract of real property in Richland County described in Section 1 of Act 1645 of 1972 is confirmed in the ~~South Carolina~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~ as the successor agency to the Department of Disabilities and Special Needs, which was the successor to the South Carolina Department of Mental Retardation.

(B) The State Department of Administration shall cause to be executed and recorded an appropriate deed conveying the tract to ~~the South Carolina Department~~the Department of Intellectual and Related Disabilities~~ and Special Needs~~.

(C) Proceeds of a subsequent sale of the tract that is the subject of this section may be retained by the ~~South Carolina~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~.

Section 44-20-260. The department, with funds available for these purposes, may conduct research to determine the causes, proper treatment, and diagnosis of intellectual disability, related disabilities, head injuries, and spinal cord injuries and may use facilities and personnel under its control and management for carrying out the research so long as the rights of the client are preserved and prior consent is obtained pursuant to Section 44-26-180.

Section 44-20-270. The department is designated as the state's intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries authority for the purpose of administering federal funds allocated to South Carolina for intellectual disability programs, related disability programs, head injury programs, and spinal cord injury programs. This authority does not include the functions and responsibilities granted to the ~~South Carolina~~ Department of Public Health, ~~and Environmental Control or to the South Carolina Department~~ Department of Vocational Rehabilitation, or the administration of the "State Hospital Construction and Franchising Act".

Section 44-20-280. The department may negotiate and contract with an agency of the United States or a state or private agency to obtain grants to assist in the expansion and improvement of services to persons with intellectual disability, related disabilities, head injuries, autism, or spinal cord injuries and may expend the grants under the terms and conditions of the award.

Section 44-20-290. The director or his designee may employ at regional centers security guards who are vested and charged with the powers and the duties of peace officers. They may arrest felons and misdemeanants, eject trespassers, and, without warrant, arrest persons for disorderly conduct who are trespassers on the grounds of the regional center and have them tried in a court of competent jurisdiction. Officers so employed must be bonded and under the direct supervision of the South Carolina Law Enforcement Division and shall report directly to the director or his designee.

Section 44-20-300. The department may acquire motor vehicle liability insurance for employees operating department vehicles or private vehicles in connection with their official departmental duties to protect against liability.

Section 44-20-310. The department may sell timber from its forest lands with the proceeds from the sales to be deposited in the general fund of the State. Before a sale, the Department of Administration

shall consult with the State Forester to determine the economic feasibility of the sale, and a sale must not be made without the approval of the department.

Section 44-20-320. The department or any of its programs may accept gifts, bequests, devises, grants, and donations of money, real property, and personal property for use in expanding and improving services to persons with intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries available to the people of this State. However, nothing may be accepted by the department with the understanding that it diminishes an obligation for paying care and maintenance charges or other monies due the department for services rendered. The ~~commission~~ department may formulate policies and promulgate regulations governing the disposition of gifts, bequests, devises, grants, and donations. If they are given to a specific service program of the department they must remain and be used for that program only or to its successor program.

Section 44-20-330. The department may grant easements, permits, or rights-of-way on terms and conditions it considers to be in the best interest of the State, across, over, or under land held by the department for the construction of water, sewer, drainage, natural gas, telephone, telegraph, and electric power lines.

Section 44-20-340. (A) A person, hospital, or other organization may provide information, interviews, reports, statements, written memoranda, documents, or other data related to the condition and treatment of a client or applicant to the department, and no liability for damages or other relief arises against the person, hospital, or organization for providing the information or material.

(B) All records pertaining to the identity of a person whose condition or treatment has been studied by the department are confidential and privileged information. However, upon the written request of the client, the client's or applicant's parent with legal custody, legal guardian, or spouse with the written permission of the client or applicant or under subpoena by a court of law, the department may furnish pertinent records in its possession to appropriate parties.

Section 44-20-350. (A) Reasonable reimbursement to the State for its fiscal outlay on behalf of services rendered by the department or any other agency authorized by the department to offer services to clients is a just obligation of the person with intellectual disability, a related disability, head injury, autism, or spinal cord injury, his estate, or his parent or guardian under the conditions and terms provided in this section.

(B) The department or an agency authorized by the department to offer services to clients may charge for its services. However, no service may be denied a client or his parent or guardian because of inability to pay part or all of the department's or other agency's expenses in providing that service. Where federal reimbursement is authorized for services provided, the department initially shall seek federal reimbursement. No charge or combination of charges may exceed the actual cost of services rendered. The ~~commission~~ department shall approve the procedures established to determine ability to pay and may authorize its designees to reduce or waive charges based upon its findings.

(C) Parents, guardians, or other responsible relatives must not be charged for regional center or community residential services provided by the department for their child or ward. However, a person receiving nonresidential services or his parent or guardian may be assessed a charge for services received, not to exceed cost. The department ~~with the approval of the commission~~ may determine for which services it charges.

(D) The department shall establish a hearing and review procedure so that a client or his parent or guardian may appeal charges made for services or may present to officials of the department information or evidence to be considered in establishing charges. The department may utilize legal procedures to collect lawful claims.

(E) The department may establish by regulation charges for other services it renders.

Section 44-20-355. The department shall assess and collect a fee on all Intermediate Care Facilities for the persons with intellectual disability, as defined in Section 44-7-130(19). Providers holding licenses on these facilities shall pay to the department a fee equal to eight dollars and fifty cents a patient day in these facilities. The department shall pay all proceeds from the fee into the general fund of the State.

Section 44-20-360. (A) The physical boundaries of Midlands Center, Coastal Center, Pee Dee Center, and Whitten Center are designated as independent school districts. These facilities may elect to participate in the usual activities of the districts, to receive state and federal aid, and to utilize other benefits enjoyed by independent school districts in general.

(B) The ~~commission~~ department operates as the board of trustees for these districts for administrative purposes, including the receipt and expenditure of funds granted to these districts for any purpose.

Section 44-20-365. No regional center of the department may be closed except as authorized by the General Assembly by law in an enactment that specifies by name the regional center to be closed.

Section 44-20-370. (A) The department shall:

(1) notify applicants when they have qualified under the provisions of this chapter;

(2) establish standards of operation and service for county disabilities and special needs programs funded in part or in whole by state appropriations to the department or through other fiscal resources under its control;

(3) review service plans submitted by county boards of disabilities and special needs and determine priorities for funding plans or portions of the plans subject to available funds;

(4) review county programs covered in this chapter;

(5) offer consultation and direction to county boards;

(6) take other action not inconsistent with the law to promote a high quality of services to persons with intellectual disability, related disabilities, head injuries, autism, or spinal cord injuries and their families.

(B) The department shall seek to develop and utilize the most current and promising methods for the training of persons with intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries. It shall utilize the assistance, services, and findings of other state and federal agencies. The department shall disseminate these methods to county boards and programs providing related services.

Section 44-20-373. (A) The department shall develop and initiate negotiation of the service contracts

through which it provides funds to service providers to accomplish the purposes of this chapter. The department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for intellectual and related disabilities directly to the service provider.

(B) Service contracts shall:

(1) clearly delineate the responsibilities of the department and the service provider;

(2) specify conditions that must be met for the receipt of state and federal funds;

(3) identify the groups of individuals to be served with state and federal funds;

(4) contain specific outcome measures for individuals receiving services, provider performance measures, satisfaction measures for individuals receiving services, and participation and involvement measures for individuals receiving services and their family members;

(5) contain provisions that enable the department to enforce the service contract in the event that the service provider fails to substantially comply with the requirements of its service contract. The enforcement provisions shall include:

(a) notification to a service provider when it fails to substantially comply with the requirements of its service contract;

(b) a remediation process to allow the service provider, after failing to substantially comply with its service contract, to come into substantial compliance with its service contract;

(c) a mechanism for withholding or reducing funds, repayment of funds, or termination of all or part of a service contract in accordance with the provisions of subsection (D) in the event that the service provider fails to come into substantial compliance with the provisions of its service contract despite utilization of the remediation process described in subsection (B)(5)(b); and

(d) an appeals process for an enforcement action undertaken by the department; and

(6) contain requirements for the service provider to report specific information concerning:

(a) its revenues, costs, and services;

(b) individuals served; and

(c) any other information deemed necessary by the department, which shall be displayed in a consistent, comparable format developed by the department.

(C) The department shall develop and implement a process for regular, ongoing monitoring of the performance of service providers to ensure compliance with the requirements of service contracts entered into pursuant to this section.

(D)(1) If a service provider fails to comply with the requirements of its service contract, the department shall utilize the remediation process described in the service contract to allow the service provider to come into compliance. The department shall notify the service provider upon initiation of the remediation process and provide regular updates regarding the service provider's progress toward coming into compliance.

(2) If a service provider fails to come into compliance after utilization of the remediation process,

the department shall, after affording the service provider an adequate opportunity to use the appeal process described in the service contract, terminate all or a portion of the service contract.

(E) Upon terminating all or a portion of a service contract pursuant to subsection (D)(2), the department may negotiate a performance contract with another service provider to obtain the services that were the subject of the terminated performance contract.

(F) No service provider shall be eligible to receive state or federal funds for intellectual and related disabilities services, unless:

(a) its performance contract has been approved or renewed by the department;

(b) it provides service, cost, and revenue data and information, and aggregate and individual data and information about individuals receiving services to the department in the format prescribed by the department;

(c) it uses standardized cost accounting and financial management practices approved by the department, and

(d) the service provider is in compliance with its service contract or is making progress to become compliant through the department's remediation process.

Section 44-20-375. (A) Before July 1, 1992, county boards of ~~disabilities and special needs~~intellectual and related disabilities must be created within a county or within a combination of counties by ordinance of the governing bodies of the counties concerned. The ordinance must establish the number, terms, appointment, and removal of board members and provide for their powers and duties in compliance with state law and the process for appointing board members which existed on January 1, 1991, must be preserved in the ordinance. However, where the county legislative delegation or county council recommends board members to the appointing authority, the delegation may transfer its authority to recommend to the council or the council may transfer its authority to the delegation. If there is a transfer, preservation of the authority to recommend existing on January 1, 1991, is not required, and the new recommending authority must be contained in the ordinance.

(B) County boards of disabilities and special needs established before January 1, 1991, shall continue to exist, operate, and function as they existed on January 1, 1991, until created by ordinance pursuant to subsection (A).

(C) After June 30, 1992, the department shall recognize only county boards of disabilities and special needs that plan, administer, or provide services to persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries within a county or combination of counties which are created or established pursuant to this section, including those whose members are appointed by the Governor. A county board of disabilities and special needs created by ordinance before January 1, 1991, is considered created pursuant to this section, provided the ordinance includes and complies with the provisions of subsection (A).

(D) A county board of disabilities and special needs is a public entity.

(E) In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996.

(F) In Georgetown County, appointments made pursuant to this section are governed by the provisions of Act 515 of 1996.

Section 44-20-378. A county board of disabilities and special needs established pursuant to Section 44-20-375 must consist of not less than five members. If the board is created within a combination of counties, the number of members representing each county must be proportional to the county's population in relation to the total population of the counties served by the board. However, a county participating in a multicounty board must not have less than two members. The term of the members is four years and until their successors are appointed and qualify. Vacancies for unexpired terms must be filled in the same manner as the original appointments. A member may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard.

Section 44-20-380. (A) County ~~disabilities and special needs~~ boards are encouraged to utilize lawful sources of funding to further the development of appropriate community services to meet the needs of persons with intellectual disability, related disabilities, head injuries, autism, or spinal cord injuries and their families.

(B) County boards may apply to the department for funds for community services development under the terms and conditions as may be prescribed by the department. The department shall review the applications ~~and~~, with the approval of the Secretary of Health and Policy, and subject to state appropriations to the department or to other funds under the department's control, may fund the programs it considers in the best interest of service delivery to the citizens of the State with intellectual disability, related disabilities, head injuries, autism, or spinal cord injuries.

(C) Subject to the approval of the department, county boards may seek state or federal funds administered by state agencies other than the department, funds from local governments or from private sources, or funds available from agencies of the federal government. The county boards may not apply directly to the General Assembly for funding or receive funds directly from the General Assembly.

Section 44-20-385. Subject to the provisions of this chapter and the regulations of the department each county ~~disabilities and special needs~~ board:

(1) is the administrative, planning, coordinating, and service delivery body for county disabilities and special needs services funded in whole or in part by state appropriations ~~to the department or funded from other sources under the department's control~~. It is a body corporate in deed and in law with all the

powers incident to corporation including the power to incur debt insofar as that debt is payable from contract, grant, or other revenues and is not the debt of the State or its other political subdivisions. A county board may purchase and hold real and mortgage property and erect and maintain buildings. The department shall approve all debt of a county board to be paid in whole or in part from contract, grant, or other revenues provided by the State. However, the department has no responsibility for the debt so approved;

(2) shall submit an annual plan and projected budget to the department for approval and consideration of funding;

(3) shall review and evaluate on at least an annual basis the ~~county disabilities and special needs~~ services it provided pursuant to this chapter and report its findings and recommendations to the department;

(4) shall promote and accept local financial support for the county program from private and other lawful sources and promote public support from municipal and county sources;

(5) shall employ personnel and expend its budget for the direct delivery of services or contract with those service vendors necessary to carry out the county intellectual disability, related disabilities, head injuries, autism, and spinal cord injuries services program who meet specifications prescribed by the
department;

(6) shall plan, arrange, implement, and monitor working agreements with other human service agencies, public and private, and with other educational and judicial agencies;

(7) shall provide the department records, reports, and access to its sponsored services and facilities the department may require and submit its sponsored services and facilities to licensing requirements of the department or to the licensing requirements of other state or local agencies having this legal authority;

(8) shall represent the best interest of persons with intellectual disability, related disabilities, head injuries, autism, or spinal cord injuries to the public, public officials, and other public or private organizations.

Section 44-20-390. (A) In order to provide assistance to families and individuals the department shall provide an initial intake and assessment service to a person believed to be in need of services and who makes application for them. An assessment must be provided through diagnostic centers operated by or approved by the department. If upon completion of the assessment, the applicant is determined to have intellectual disability, a related disability, head injury, autism, or spinal cord injury and be in need of services, he may become a client of the department and eligible for services. A service plan must be designated for each person assessed. A person determined to have intellectual disability, a related disability, head injury, autism, or spinal cord injury and who chooses to become a client of the department, must be provided with the delivery or coordination of services by the department. A person

determined not to have intellectual disability, a related disability, head injury, autism, or spinal cord injury may be provided by the department with referral and assistance in obtaining appropriate services or further evaluation.

(B) Service plans must recommend the services to assist the individual in developing to the fullest potential in the least restrictive environment available. The department shall determine the "least restrictive environment" and may contract with individuals or organizations for a reasonable sum as determined by the department to provide the services. The department shall review service plans of its clients at least periodically according to standards prescribing the frequency to ensure that appropriate services are being provided in the least restrictive environment available. The parents, the legal guardian, the client, and other appropriate parties must be included in the review. The department shall develop standards prescribing the service plan review.

(C) No individual believed to have intellectual disability, a related disability, head injury, autism, or spinal cord injury may be admitted to the services of the department until he has been examined at a diagnostic center of the department or a diagnostic center approved by the department and certified by the department on the basis of acceptable data to have intellectual disability, a related disability, head injury, autism, or spinal cord injury or unless he is an infant at risk of a developmental disability and
in need of the department's services.

(D) The applicant shall meet residency requirements in at least one of the following categories:

(1) The applicant or his spouse, parent, with or without legal custody, or legal guardian is domiciled in South Carolina.

(2) The applicant or his spouse, parent, with or without legal custody, or legal guardian lives outside South Carolina but retains legal residency in this State and demonstrates to the department's satisfaction his intent to return to South Carolina.

(3) The applicant or his spouse or parent, with or without legal custody, or legal guardian is a legal resident of a state which is an active member of the Interstate Compact on Mental Health and qualifies for services under it.

Section 44-20-400. Upon the written request of the person, the person's parents, parent with legal custody, or lawful custodian or legal guardian and subject to the availability of suitable accommodations and services, a person with intellectual disability, a related disability, head injury, autism, or spinal cord injury may be admitted to the services of the department for evaluation and diagnosis and shall remain in the residential services of the department for that period required to complete the diagnostic study. However, this period may not exceed thirty days except upon approval of the director or his designee. Individuals admitted under the provisions of this section are subject to the same regulations and departmental policies as regular admissions. The department may prescribe the form of the written application for diagnostic services.

Section 44-20-410. A person who is determined to be eligible for services is subject to the following considerations regarding his order of admission to services and programs:

(1) relative need of the person for special training, supervision, treatment, or care;

(2) availability of services suitable to the needs of the applicant.

Section 44-20-420. The director or his designee may designate the service or program in which a client is placed. The appropriate services and programs must be determined by the evaluation and assessment of the needs, interests, and goals of the client. The service or program to which a client is placed pursuant to this section must comply with the State Health Services Plan.

Section 44-20-430. The director or his designee has the final authority over applicant eligibility, determination, or services and admission order, subject to policies ~~adopted by the commission~~ adopted by the Secretary of Health and Policy and direction as specified in the State Health Services Plan.

Section 44-20-440. Subject to the availability of suitable services and programs and subject to the
provisions of "Requirement for Admission to Services", "Order in which Person May be Admitted", and "Final Authority over Eligibility", the director or his designee may admit a client to the services of the department upon the written request of the parents of the person with intellectual disability, a related disability, head injury, autism, or spinal cord injury, a parent with legal custody, spouse, lawful custodian or legal guardian, or the person with intellectual disability, a related disability, head injury, autism, or spinal cord injury seeking to be admitted to the department's services if the person is twenty-one years of age or over and competent to make the decision. The department shall prescribe the form of the application for services.

Section 44-20-450. (A) Proceedings for the involuntary admission of a person with intellectual disability or a related disability to the services of the department may be initiated by the filing of a verified petition with the probate or the family court by:

(1) the spouse;

(2) a relative;

(3) the parents;

(4) a parent with legal custody;

(5) the legal guardian of the person;

(6) the person in charge of a public or private institution in which the individual is residing at the time;

(7) the director of the county department of social services of the county in which the person resides; or

(8) a solicitor or an assistant solicitor responsible for the criminal prosecution pursuant to Section 44-23-430(2).

Upon filing of the petition, the judge shall set a date for a hearing on it and ensure that the client has an attorney who represents him. The parents, parent with legal custody, spouse, guardian, or nearest known relative of the person alleged to have intellectual disability or a related disability and in whose behalf the petition has been made and in the discretion of the court, the individual alleged to have intellectual disability or a related disability and the department must be served by the court with a written notice of the time and place of the hearing, together with a written statement of the matters stated in the petition. If no parent, spouse, legal guardian, or known relative of the person alleged to have intellectual disability or a related disability is found, the court shall appoint a guardian ad litem to represent the person alleged to have intellectual disability or a related disability, and the notice must be served upon the guardian. If the parent, spouse, guardian, or known relative of the person alleged to have intellectual disability or a related disability is found, he must be notified of the right to an attorney at the hearing.

(B) The hearing on the petition may be in the courthouse or at the place of residence of the person alleged to have intellectual disability or a related disability or at another place considered appropriate by the court. The person alleged to have intellectual disability or a related disability does not need to be present if the court determines that the hearing would be injurious or detrimental to the person alleged to have intellectual disability or a related disability or if the person's mental or physical condition prevents his participation in the hearing. However, his attorney must be present.

(C) A report of the person in charge of the examination of the person alleged to have intellectual disability or a related disability at the diagnostic center referred to in "Requirement for Admission" must be submitted to the court at the hearing. The court may not render judgment in the hearing unless this report is available and introduced.

(D) If the court determines that the evidence presented by the examiners at the diagnostic center, along with other evidence presented to the court, is to the effect that the person does not in fact have intellectual disability or a related disability to an extent which would require commitment, it shall terminate the proceeding and dismiss the petition.

(E) If the person is found by the court to have intellectual disability or a related disability and be in need of placement in a facility or service program of the department, the court shall order that he be admitted to the jurisdiction of the department as soon as necessary services are available and include in the order a summary of the evidence presented and order of the court.

(F) The department shall inform the court as soon after the date of the order as practical that suitable accommodations and services are available to meet the needs of the person with intellectual disability or a related disability. Upon notification, the court shall direct the petitioner in these proceedings to transport the person with intellectual disability or a related disability to a program the department designates.

(G) A party to these proceedings may appeal from the order of the court to the court of common pleas, and a trial de novo with a jury must be held in the same manner as in civil actions unless the petitioner through his attorney waives his right to a jury trial. Pending a final determination of the appeal, the person with intellectual disability or a related disability must be placed in protective custody in either a facility of the department or in some other suitable place designated by the court. No person with intellectual disability or a related disability must be confined in jail unless there is a criminal charge pending against him.

Section 44-20-460. (A) A person admitted or committed to the services of the department remains a client and is eligible for services until discharged. When the department determines that a client admitted to services is no longer in need of them, the director or his designee may discharge him. When the only basis of the department's provision of services to a client is that he is a person with intellectual disability or a related disability and it is determined that he is no longer in that condition, the director or his designee shall discharge him as soon as practical. A client of the department who is receiving residential services may be released to his spouse, parent, guardian, or relative or another suitable person for a time and under conditions the director or his designee may prescribe.

(B) When a client voluntarily admitted requests discharge or the person upon whose application the client was admitted to the department's services requests discharge in writing, the client may be detained by the department for no more than ninety-six hours. However, if the condition of the person is considered by the director or his designee to be such that he cannot be discharged with safety to himself or with safety to the general public, the director or his designee may postpone the requested discharge for not more than fifteen days and cause to be filed an application for judicial admission. For the purpose of this section, the Probate Court or Family Court of the county in which the facility where the person with intellectual disability or a related disability resides is located is the venue for judicial admission. Pending a final determination on the application, the court shall order the person with intellectual disability or a related disability placed in protective custody in either a facility of the department or in some other suitable place designated by the court.

Section 44-20-470. (A) The department may return a nonresident person with intellectual disability or a related disability admitted to a service or program in this State to the proper agency of the state of his residence.

(B) The department is authorized to enter into reciprocal agreements with the proper agencies of other states to facilitate the return to the state of their residence persons admitted or committed to services for persons with intellectual disability or a related disability in this State or other states.

(C) The department may detain a person with intellectual disability or a related disability returned to this State from the state of his commitment for not more than ninety-six hours pending order of the court in commitment proceedings in this State.

(D) The expense of returning persons with intellectual disability or a related disability to other states must be paid by this State, and the expense of returning residents of this State with intellectual disability or a related disability must be paid by the state making the return when interstate agreements to that effect have been negotiated.

Section 44-20-480. When the department determines that the welfare of a client would be facilitated by his placement out of the home, the client must be evaluated by the department, and the least restrictive level of care possible for the client must be recommended and provided when available. The department shall determine which levels of care are more restrictive and is responsible for providing a range of placements offering various levels of supervision. The department may pay an individual or organization furnishing residential alternatives to clients under this section a reasonable sum for services rendered, as determined by the department.

Section 44-20-490. (A) When the department determines that a client may benefit from being placed in an employment situation, the department shall regulate the terms and conditions of employment, shall supervise persons with intellectual disability, a related disability, head injury, autism, or spinal cord injury so employed, and may assist the client in the management of monies earned through employment to the end that the best interests of the client are served.

(B) The department may operate sheltered employment and training programs at its various facilities and in communities and may pay clients employed in these settings from earnings of the program or from other funds available for this purpose.

(C) Clients who receive job training and employment services from the department must be compensated in accordance with applicable state and federal laws and regulations.

Section 44-20-500. When a client is absent from a facility or program and there is probable cause the client may be in danger, the director or his designee may issue an order of confinement for the client. This order, when endorsed by the judge of the probate, family, or Circuit Court of the county in which the client is present or residing, authorizes a peace officer to take the client into custody for not more than twenty-four hours and to return him or cause him to be returned to the place designated by the director or his designee.

Section 44-20-510. Placement of a person with intellectual disability, a related disability, head injury, autism, or spinal cord injury in a program of the department does not preclude his attendance in community-based public school classes when the individual qualifies for the classes.

Article 5

Licensure and Regulation of Facilities and Programs

Section 44-20-710. No day program in part or in full for the care, training, or treatment of a person with intellectual disability, a related disability, head injury, autism, or spinal cord injury may deliver services unless a license first is obtained from the department. For the purpose of this article "in part" means a program operating for ten hours a week or more. Educational and training services offered under the sponsorship and direction of school districts and other state agencies are not required to be licensed under this article.

Section 44-20-720. The department shall establish minimum standards of operation and license programs provided for in "Facilities and Programs must be Licensed".

Section 44-20-730. In determining whether a license may be issued, the department shall consider if the program for which the license is applied conforms with the local and state service plans and if the proposed location conforms to use.

Section 44-20-740. No day program may accept a person with intellectual disability, a related disability, head injury, autism, or spinal cord injury for services other than those for which it is licensed. No program may serve more than the number of clients as provided on the license. An applicant for a license shall file an application with the department in a form and under conditions the department may prescribe. The license must be issued for up to three years unless sooner suspended, revoked, or surrendered. The license is not transferable and must not be assigned.

Section 44-20-750. The department shall make day program inspections as it may prescribe by regulation. The day programs subject to this article may be visited and inspected by the director or his designees no less than annually and before the issuance of a license. Upon request, each program shall file with the department a copy of its bylaws, regulations, and rates of charges. The records of each licensed program are open to the inspection of the director or his designees.

Section 44-20-760. Information received by the department through licensing inspections or as otherwise authorized may be disclosed publicly upon written request to the department. The reports may not identify individuals receiving services from the department.

Section 44-20-770. The department shall deny, suspend, or revoke a license on any of the following grounds:

(1) failure to establish or maintain proper standards of care and service as prescribed by the department;

(2) conduct or practices detrimental to the health or safety of residents or employees of the day program. This item does not apply to healing practices authorized by law;
(3) violation of the provisions of this article or regulations promulgated under it.

Section 44-20-780. (A) The department shall give written notification to the governing board or if none, the operator of a program of deficiencies, and the applicant or licensee must be given a specified time in which to correct the deficiencies. If the department determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee by certified mail a notice setting forth the reason for the determination. The denial, suspension, or revocation becomes final fifteen calendar days after the mailing of the notice, unless the applicant or licensee within that time gives written notice of his desire for a hearing. If the applicant or licensee gives that notice, he must be given a hearing before the
department and may present evidence. On the basis of the evidence, the determination must be affirmed or set aside by the director, and a copy of the decision, setting forth the findings of fact and the reasons upon which it is based must be sent by registered mail to the applicant.
(B) If an existing program has conditions or practices which, in the department's judgment, provide an immediate threat to the safety and welfare of the person with intellectual disability, a related disability, head injury, or spinal cord injury served, the department may immediately suspend or revoke the license of the program. Notification of the program board or operator by certified mail of the license suspension or revocation also must include the reasons or conditions. A person operating a program which has had its license suspended or revoked must be punished as provided in "Injunctions; Penalties".

Section 44-20-790. The procedures governing hearings authorized by "Notice of Deficiencies ...." must be in accordance with regulations promulgated by the department. The director may appoint a review team, including consumers, to assist in the collection of information pertinent to the hearing.

Section 44-20-800. An applicant or licensee who is dissatisfied with the decision of the department as a result of the hearing provided for by "Procedures Governing Disciplinary Hearings ...." may appeal to a South Carolina administrative law judge as provided in Article 5, Chapter 23, Title 1.

Section 44-20-900. (A) The department, in accordance with the laws of the State governing

injunctions and other processes, may maintain an action in the name of the State against a person for establishing, conducting, managing, or operating a day program for the care, training, and treatment of a person with intellectual disability, a related disability, head injury, autism, or spinal cord injury without obtaining a license as provided in this article. In charging a defendant in a complaint in the action, it is sufficient to charge that the defendant, upon a certain day and in a certain county, provided day program services without a license, without averring more particular facts concerning the charge.
(B) A person violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and two thousand dollars for a subsequent offense. Each day the day program operates after a first conviction is considered a subsequent offense.

Section 44-20-1000. Licensing by the department must be done in conjunction with and not in place of licensing by an agency having responsibilities outside the department's jurisdiction. However, nothing in this section prevents the department from entering into cooperative agreements or contracts with an agency which has or may have licensing responsibilities in order to accomplish the licensing of programs.

Article 7

Capital Improvements~~ for Disabilities and Special Needs~~

Section 44-20-1110. The department has authority for all of the state's ~~disabilities and special needs~~intellectual and related disabilities services and programs.

Section 44-20-1130. The aggregate of the outstanding principal amounts of state capital improvement bonds issued for the ~~commission~~ department may not exceed twenty million dollars.

Section 44-20-1140. If the ~~commission~~ department determines that improvements are required for a residential regional center or community facility, it may make application for them to the State Fiscal Accountability Authority or Department of Administration, as appropriate. The application must contain:
(1) a description of the improvements sought and their estimated cost;
(2) the number of paying clients receiving services from the department, the amount of fees received from the clients during the preceding fiscal year, and the estimated amount to be received from them during the next succeeding fiscal year;
(3) the revenues derived from the paying clients during the preceding three fiscal years;

(4) a suggested maturity schedule, which may not exceed twenty years, for the repayment of monies to be made available to the commission for state capital improvement bonds;
(5) a statement showing the debt service requirements of other outstanding obligations.

Section 44-20-1150. The State Fiscal Accountability Authority or Department of Administration, as appropriate, may approve, in whole or in part, or may modify an application received from the ~~commission~~department. If it finds that a need for the improvements sought by the ~~commission~~ department exists, it may contract to make available to the ~~commission~~ department funds to be realized from the sale of state capital improvements bonds if it finds that the revenues for the preceding fiscal year, if multiplied by the number of years, which may not exceed twenty, contemplated by the suggested or revised maturity schedule for the repayment of the monies to be made available to the commission, result in the production of a sum equal to not less than one hundred twenty-five percent of the aggregate principal and interest requirement of all outstanding obligations and all obligations to
be incurred by the ~~commission~~department.

Section 44-20-1160. Upon receiving the approval of the State Fiscal Accountability Authority or Department of Administration, as appropriate, the ~~commission~~ department shall obligate itself to apply all monies derived from its revenues to the payment of the principal and interest of its outstanding obligations and those to be issued and to deliver to the county board its obligations.

Section 44-20-1170. (A) Following the execution and delivery of its obligations, the ~~commission~~ department shall remit to the State Treasurer all its revenues, including accumulated revenues not applicable to prior obligations, for credit to a special fund. The special fund must be applied to meet the sums due by the ~~commission~~ department under its obligations. These monies from the special fund must be applied by the State Treasurer to the payment of the principal of and interest on outstanding state capital improvement bonds.
(B) If the accumulation of revenues of the ~~commission~~ department in the special fund exceeds the payment due or to become due during the then current fiscal year and an additional sum equal to the maximum annual debt service requirement of the obligations for a succeeding fiscal year, the State Fiscal Accountability Authority or the Department of Administration, as applicable, may permit the ~~commission~~ department to withdraw the excess and apply it to improvements that have received the approval of the ~~authority or department~~State Fiscal Accountability Authority or the Department of Administration, as applicable, or to transfer the excess out of the special fund for contract awards to ~~local disabilities and special needs~~county boards for needed improvements at the local level and for nonrecurring prevention, assistive technology, and quality initiatives at the regional centers and ~~local~~ county boards.

SECTION 23. Sections 43-21-10 through 43-21-140 of the S.C. Code are amended to read:

Section 43-21-10. There is created the Department on Aging. The department must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas and five members from the State at large. The director of the department shall provide statewide notice that nominations may be submitted to the director from which the ~~Governor~~ Secretary of Health and Policy shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a
successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter and special meetings may be called at the discretion of the director of the department. Rules and procedures must be adopted by the council for the governance of its operations and activities.

Section 43-21-20. (A) The members of the advisory council shall serve for terms of four years and until their successors are appointed and qualify. The terms of the members expire on June thirtieth and all vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member may serve more than two consecutive terms.
(B) The ~~Governor~~ Secretary of Health and Policy may terminate a member of the council for any reason pursuant to the provisions of Section ~~1-3-240~~44-12-50(B)(1)~~, and the reason for the termination must be communicated to each member of the council~~.

Section 43-21-30. Reserved

Section 43-21-40. (A) The department shall be the designated state agency to implement and administer all programs of the federal government relating to the aging, requiring acts within the State which are not the specific responsibility of another state agency under the provisions of federal or state law. The department may accept and disburse any funds available or which might become available pursuant to the purposes of this chapter, upon the prior approval of the Secretary of Health and Policy.
(B) The department shall study, investigate, plan, promote, and execute a program to meet the present and future needs of aging citizens of the State, pursuant to the State Health Services Plan, and it shall

receive the cooperation of other state departments and agencies in carrying out a coordinated program.
(C) It shall also be the duty of the department to encourage and assist in the development of programs for the aging in the counties and municipalities of this State. It shall consult and cooperate with the Secretary of Health and Policy, public and voluntary groups, with county and municipal officers and agencies, and with any federal or state agency or officer for the purpose of promoting cooperation between state and local plans and programs, and between state and interstate plans and programs for the aging.

(D) Without limiting the foregoing, the department is specifically authorized to:

(1) initiate requests for the investigation of potential resources and problems of the aging people of the State, encourage research programs, initiate pilot projects to demonstrate new services, and promote the training of personnel for work in the field of aging;

(2) promote community education in the problems of older people through institutes, publications, radio, television, and the press;

(3) cooperate with, encourage, and assist local groups, both public and voluntary, which are concerned with the problems of the aging;

(4) encourage the cooperation of agencies in dealing with problems of the aging and offer assistance to voluntary groups in the fulfillment of their responsibility for the aging;

(5) serve as a clearinghouse for information in the field of aging;

(6) appoint such committees as it deems necessary for carrying out the purposes of this chapter, such committee members to serve without compensation;

(7) engage in any other activity deemed necessary by the department to promote the health and well-being of the aging citizens of this State, not inconsistent with the purposes of this chapter or the public policies of the State, including the State Health Services Plan;

(8) certify homemakers and home health aides pursuant to the Federal Omnibus Budget Reconciliation Act of 1987 and subsequent amendments to that act and through regulations promulgated in accordance with the Administrative Procedures Act establish and collect fees for the administration of this certification program. Fees collected must be placed on deposit with the State Treasurer. Accounting records must be maintained in accordance with the Comptroller General's policies and procedures. Unused fees may be carried forward to the next fiscal year for the same purpose;

(9) award grants and contracts to public and private organizations for the purpose of planning, coordinating, administering, developing, and delivering aging programs and services;

(10) designate area agencies on aging as required by the Older Americans Act; and

(11) administer the Senior Citizens Center Permanent Improvement Fund established pursuant to Section 12-21-3441 and community services programs in accordance with Section 12-21-3590.

Section 43-21-45. The Department on Aging shall designate area agencies on aging, and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.

Section 43-21-50. The department may receive on behalf of the State any grant or grant-in-aid from government sources, or any grant, gift, bequest, or devise from any other source. Title to all funds and other property received pursuant to this section shall vest in the State unless otherwise specified by the grantor.

Section 43-21-60. The Department on Aging shall submit an annual report to the Governor Governor, the Secretary of Health and Policy, and to the General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the department during the year.

Section 43-21-70. The Governor Secretary of Health and Policy shall appoint with the advice and consent of the Senate a director to be the administrative officer of the Department on Aging who shall serve at the Governor's secretary's pleasure and who is subject to removal pursuant to the provisions of Section 1-3-240.

Section 43-21-80. The director shall appoint any other personnel and consultants considered necessary for the efficient performance of the duties prescribed by this chapter and shall fix the compensation therefore in accordance with the Human Resource Management Division of the State Department of Administration and Merit System requirements. The director shall administer the policies and regulations of the department. Department employees shall have such general duties and receive such compensation as determined by the director, within the authority given by the Secretary. The director shall be responsible for the administration of state personnel policies and general personnel policies of the Executive Office of Health and Policy. The director shall have sole authority to employ and discharge employees subject to such personnel policies and funding available for that purpose.

Section 43-21-100. The Department on Aging shall prepare the budget for its operation which must be submitted to the Governor and to the General Assembly for approval.

Section 43-21-110. The General Assembly shall provide an annual appropriation to carry out the work of the commission.

Section 43-21-120. There is created the Coordinating Council to the Department on Aging to work with the department on the coordination of programs related to the field of aging, and to advise and make pertinent recommendations, composed of the following: the Director of the Department of Health and Environmental Control, the State Director of Social Services, the Director of the Department of Mental Health, the Superintendent of Education, the Director of the State Department of Labor, Licensing and Regulation, the Executive Director of the South Carolina State Department of Employment and Workforce, the Secretary of Commerce, the Commissioner of the State Department of Vocational Rehabilitation, the Director of the Clemson University Extension Service, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Director of the South Carolina Retirement System, the Executive Director of the South Carolina Municipal Association, the Executive Director of the State Office of Economic Opportunity, the Executive Director of the South Carolina Association of Counties, the Commissioner of the Commission for the Blind, the Director of the Department of Health and Human Services, the Director of the Department of Alcohol and Other Drug Abuse Services, and the Chairperson of the Commission on Women.

The council shall meet at least once each six months and special meetings may be called at the discretion of the chairman or upon request of a majority of the members.

The chairman of the advisory commission and the director of the Department on Aging, who shall serve as secretary to the council, shall attend the meetings of the council.

The director of each agency or department making up the council shall serve as chairman of the council for a term of one year. The office of chairman is held in the order in which the membership of the council is listed in this section.

Section 43-21-130. (A) There is created the Long Term Care Council (council) composed of the following voting members:

(1) the Governor or his designee Long Term Care Ombudsman;

(2) the Director of the Department of Social Services;

(3) the Director of the Department of Public Health and Environmental Control;

(4) the Director of the Department of Mental Behavioral Health;

(5) the Director of the Department of Intellectual and Related Disabilities and Special Needs;

(6) the Director of the Division Department on Aging;

(7) the Director of the Department of Health Financing and Human Services;

(8) the Chairman of the Joint Legislative Health Care Planning and Oversight Committee, or his designee;

(9) the Chairman of the Joint Legislative Committee on Aging, or his designee;

(10)(8) one representative of each of the following groups appointed by the Lieutenant Governor Secretary of Health and Policy annually:

(a) long term care providers;

(b) long term care consumers;

(c) persons in the insurance industry developing or marketing a long term care product.

(B) Each director serving as a council member may authorize in writing a designee to vote on his behalf at two meetings a year. Members appointed by the Lieutenant Governor Secretary of Health and Policy to represent private groups serve without compensation.

(C) The council shall meet at least quarterly, provide for its own officers, and make an annual report to the Secretary of Health and Policy, the General Assembly, and the Governor before January second each year. This report must include new council recommendations.

Section 43-21-140. (A) The council has no authority to direct or require any implementing action from any member agency. The council shall identify future policy issues in long term care and may conduct research and demonstration activities related to these issues. Through close coordination of each member agency's planning efforts, the council shall develop recommendations for a statewide service delivery system for all health-impaired elderly or disabled persons, regardless of the persons' resources or source of payment in furtherance of the State Health Services Plan. These recommendations must be updated annually as needed. The service delivery system must provide for:

(1) charges based on ability to pay for persons not eligible for Medicaid;

(2) coordination of community services;

(3) access to and receipt of an appropriate mix of long term care services for all health-impaired elderly or disabled persons;

(4) case management; and

(5) discharge planning and services.

(B) The council, through its member agencies, shall study and make recommendations concerning the costs and benefits of: adult day care centers, in-home and institutional respite care, adult foster homes, incentives for families to provide in-home care, such as cash assistance, tax credits or deductions, and home-delivered services to aid families caring for chronically impaired elderly relatives.

SECTION 24. Section 1-3-240(C)(1) of the S.C. Code is amended to read:

(C)(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:

(a) Workers' Compensation Commission;
~~(b) [Reserved]~~
~~(c)~~(b) Ethics Commission;
~~(d)~~(c) Election Commission;
~~(e)~~(d) Professional and Occupational Licensing Boards;
~~(f)~~(e) Juvenile Parole Board;
~~(g)~~(f) Probation, Parole and Pardon Board;
~~(h)~~(g) Director of the Department of Public Safety;
~~(i) Board of the Department of Health and Environmental Control, excepting the chairman;~~
~~(j)~~(h) Chief of State Law Enforcement Division;
~~(k)~~(i) South Carolina Lottery Commission;
~~(l)~~(j) Executive Director of the Office of Regulatory Staff;
~~(m)~~(k) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58-31-20;
~~(n)~~(l) State Ports Authority;
~~(o)~~(m) State Inspector General;
~~(p)~~(n) State Adjutant General;
~~(q)~~(o) South Carolina Retirement Investment Commission members appointed by the Governor or members of the General Assembly; and
~~(r)~~(p) South Carolina Public Benefit Authority members.

SECTION 25. Section 1-5-40(A) of the S.C. Code is amended to read:

(A) The office of Secretary of State is designated as the state office whose responsibility it is to monitor positions on the state boards and commissions specified in this subsection and any elected or appointed state boards and commissions established after the effective date of this section. The dates of the terms of office for appointments to boards and commissions made with the advice and consent of the Senate are the dates as certified to the Secretary of State by the Senate. The dates of the terms of office for all other elected or appointed boards and commissions are the dates certified to the Secretary of State by the Governor for his direct appointments and the dates for the terms of office for members of boards and commissions elected by the General Assembly shall be the dates as certified to the Secretary of State by the clerks of the two houses. The specified boards and commissions referred to in this subsection are:

(1) Accountancy, Board of
~~(2) Aging, Division on Advisory Council~~
~~(3)~~(2) Agriculture Commission

~~(4)~~(3) Architectural Examiners, State Board of
~~(5)~~(4) Arts Commission
~~(6)~~(5) Athletic Commission
~~(7)~~(6) Auctioneer's Commission
~~(8)~~(7) Accessibility Committee for the Building Codes Council
~~(9)~~(8) Blind, Commission for the
~~(10)~~(9) Builders Commission, Residential
~~(11)~~(10) Building Code Council
~~(12)~~(11) College of Charleston Board of Trustees
~~(13)~~(12) Children's Trust Fund Board of Trustees
~~(14)~~(13) Children, Foster Care Review Board
~~(15)~~(14) Chiropractic Examiners, State Board of
~~(16)~~(15) The Citadel Board of Visitors
~~(17)~~(16) Clemson University Board of Trustees
~~(18)~~(17) Coastal Carolina University Board of Trustees
~~(19)~~(18) Consumer Affairs, Commission on
~~(20)~~(19) Contractors' Licensing Board
~~(21)~~(20) Cosmetology, State Board of
~~(22)~~(21) Professional Counselors, Associate Counselors and Marital and Family Therapists, State Board of Examiners
~~(23)~~(22) Deaf and Blind, School for the
~~(24)~~(23) Dentistry Board
~~(25) Disabilities and Special Needs Commission~~
~~(26)~~(24) Education, State Board of
~~(27)~~(25) Education Board, Southern Regional
~~(28)~~(26) Education Council
~~(29)~~(27) Educational Television Commission
~~(30)~~(28) Election Commission
~~(31)~~(29) Department of Employment and Workforce
~~(32)~~(30) Registration for Professional Engineers and Land Surveyors
~~(33)~~(31) Environmental Certification Board
~~(34)~~(32) Ethics Commission
~~(35)~~(33) Financial Institutions, Board of
~~(36)~~(34) Fisheries Commission, Atlantic States Marine
~~(37)~~(35) Office of General Services, State Fleet Management
~~(38)~~(36) Forestry Commission

~~(39)~~(37) Francis Marion University Board of Trustees
~~(40)~~(38) Funeral Service Board
~~(41)~~(39) Geologists, Board of Registration for
~~(42)~~(40) Governor's Mansion and Lace House Commission
~~(43) DHEC~~
~~(a) Board of Health and Environmental Control~~
~~(b) Office of Ocean and Coastal Resource Management Board~~
~~(44)~~(41) Higher Education Commission
~~(45)~~(42) Holocaust, Council on the
~~(46)~~(43) Housing, Finance and Development Authority
~~(47)~~(44) Human Affairs Commission
~~(48)~~(45) Indigent Defense, Commission on
~~(49)~~(46) Intergovernmental Relations, Advisory Commission on
~~(50)~~(47) Jobs and Economic Development Authority
~~(51)~~(48) John de la Howe School
~~(52)~~(49) Judicial Merit Selection Commission
~~(53)~~(50) Juvenile Justice, Dept. of, Board of Juvenile Parole
~~(54)~~(51) Lander University Board of Trustees
~~(55)~~(52) Law Examiners Board
~~(56)~~(53) Legislative Audit Council
~~(57)~~(54) Library Board
~~(58)~~(55) Liquefied Petroleum Gas Board
~~(59)~~(56) Long Term Health Care Administrators, Board of
~~(60)~~(57) Manufactured Housing Board

~~(61)~~(58) Maternal, Infant and Child Health, Council on
~~(62)~~(59) Medical Examiners, Board of
~~(63)~~(60) Medical University of South Carolina Board of Trustees
~~(64)~~(61) Mental Health, State Department of, Commission
~~(65)~~(62) Migrant Farm Workers Commission
~~(66)~~(63) Mining Council
~~(67)~~(64) Minority Affairs, Commission for
~~(68)~~(65) Museum Commission
~~(69)~~(66) Natural Resources, Department of
(a) Natural Resources Board
(b) Heritage Trust Advisory Board
~~(70)~~(67) Nuclear Advisory Council

~~(71)~~(68) Nursing, Board of
~~(72)~~(69) Occupational Health and Safety Review Board
~~(73)~~(70) Occupational Therapy, Board of
~~(74)~~(71) Old Exchange Building Commission
~~(75)~~(72) Opportunity School, Wil Lou Gray Board of Trustees
~~(76)~~(73) Opticianry, Board of Examiners in
~~(77)~~(74) Optometry, Board of Examiners in
~~(78)~~(75) Patriots Point Development Authority
~~(79)~~(76) Pharmacy, Board of
~~(80)~~(77) Physical Therapy Examiners, State Board of
~~(81)~~(78) Podiatry Examiners, Board of
~~(82)~~(79) Ports Authority Board
~~(83)~~(80) Prisoner of War Commission
~~(84)~~(81) Probation, Parole and Pardon Services, Board of
~~(85)~~(82) Prosecution Coordination, Commission on
~~(86)~~(83) Psychology, Board of Examiners in
~~(87)~~(84) Public Service Authority, Board of Directors
~~(88)~~(85) Public Service Commission
~~(89)~~(86) Pyrotechnic Safety, Board of
~~(90)~~(87) Radiation Control Technical Advisory Council
~~(91)~~(88) Real Estate Commission
~~(92)~~(89) Real Estate Appraisers Board
~~(93)~~(90) Reorganization Commission
~~(94)~~(91) Salary, Executive and Performance Evaluation Commission
~~(95)~~(92) Social Work Examiners, Board of
~~(96)~~(93) South Carolina State University Board of Trustees
~~(97)~~(94) Speech-Language Pathology and Audiology, Board of Examiners
~~(98)~~(95) Tax Board of Review
~~(99)~~(96) Technical and Comprehensive Education, Board for
~~(100)~~(97) Transportation Department Commission
~~(101)~~(98) University of South Carolina Board of Trustees
~~(102)~~(99) Veterinary Medical Examiners, Board of
~~(103)~~(100) Vocational Rehabilitation, Board of
~~(104)~~(101) Winthrop University Board of Trustees
~~(105)~~(102) Women, Governor's Office, Commission on
~~(106)~~(103) Workers' Compensation Commission

~~(107)~~(104) South Carolina First Steps to School Readiness Board of Trustees~~.~~

SECTION 26. Section 2-13-240 of the S.C. Code is amended to read:

Section 2-13-240. (a) Sets of the Code of Laws of South Carolina, 1976, shall be distributed by the Legislative Council as follows:
(1) Governor, three;
(2) Lieutenant Governor, two;
(3) Secretary of State, three;
(4) Treasurer, one;
(5) Attorney General, fifty;
(6) Adjutant General, one;
(7) Comptroller General, two;
(8) Superintendent of Education, two;
(9) Commissioner of Agriculture, two;
(10) each member of the General Assembly, one;
(11) office of the Speaker of the House of Representatives, one;
(12) Clerk of the Senate, one;
(13) Clerk of the House of Representatives, one;
(14) each committee room of the General Assembly, one;
(15) each member of the Legislative Council, one;
(16) Code Commissioner, one;
(17) Legislative Council, ten;
(18) Supreme Court, fourteen;
(19) Court Administration Office, five;
(20) each circuit court judge, one;
(21) each circuit court solicitor, one;
(22) each family court judge, one;
(23) each county court judge, one;
(24) Administrative Law Judge Division, nine;
(25) College of Charleston, one;
(26) The Citadel, two;
(27) Clemson University, three;
(28) Francis Marion College, one;
(29) Lander College, one;
(30) Medical University of South Carolina, two;

(31) South Carolina State ~~College~~University, two;
(32) University of South Carolina, four;
(33) each regional campus of the University of South Carolina, one;
(34) University of South Carolina Law School, forty-six;
(35) Winthrop College, two;
(36) each technical college or center, one;
(37) each county governing body, one;
(38) each county clerk of court and register of deeds where such offices are separate, one;
(39) each county auditor, one;
(40) each county coroner, one;
(41) each county magistrate, one;
(42) each county master in equity, one;
(43) each county probate judge, one;
(44) each county public library, one;
(45) each county sheriff, one;
(46) each public defender, one;
(47) each county superintendent of education, one;
(48) each county treasurer, one;
(49) Library of Congress, three;
(50) United States Supreme Court, one;
(51) each member of Congress from South Carolina, one;
(52) each state library which furnishes this State a free set of its Code of Laws, one;
(53) Division of Aeronautics of the Department of Commerce, one;
~~(54) Department of Alcohol and other Drug Abuse Services, one;~~

~~(54)~~(54) Department of Alcohol and other Drug Abuse Services, one;
~~(55)~~(54) Department of Archives and History, one;
~~(56)~~(55) Board of Bank Control, one;
~~(57)~~(56) Commissioner of Banking, one;
~~(58) Budget and Control Board:~~
~~(a) Auditor, six;~~
~~(b) General Services Division, six;~~
~~(c) Personnel Division, one;~~
~~(d) Research and Statistical Services Division, one;~~
~~(e) Retirement System, one.~~
~~(59)~~(57) Children's Bureau, one;
~~(60)~~(58) Department of Consumer Affairs, one;
~~(61)~~(59) Department of Corrections, two;

~~(62)~~(60) Criminal Justice Academy, one;
~~(63)~~(61) Department of Commerce, five;
~~(64)~~(62) Department of Employment and Workforce, two;
~~(65)~~(63) Ethics Commission, one;
~~(66)~~(64) Forestry Commission, one;
~~(67)~~(65) Department of Public Health ~~and Environmental Control~~, five;
~~(68)~~(66) Department of Transportation, five;
~~(69)~~(67) Department of Public Safety, five;
~~(70)~~(68) Human Affairs Commission, one;
~~(71)~~(69) Workers' Compensation Commission, seven;
~~(72)~~(70) Department of Insurance, two;
~~(73)~~(71) Department of Juvenile Justice and Aftercare, one;
~~(74)~~(72) Department of Labor, Licensing and Regulation, two;
~~(75)~~(73) South Carolina Law Enforcement Division, four;
~~(76)~~(74) Legislative Audit Council, one;
~~(77)~~(75) State Library, three;
~~(78)~~(76) Department of ~~Mental~~ Behavioral Health, ~~three~~six;
~~(79)~~(77) Department of Intellectual and Related Disabilities ~~and Special Needs~~, five;
~~(80)~~(78) Ports Authority, one;
~~(81)~~(79) Department of Probation, Parole and Pardon, two;
~~(82)~~(80) Public Service Commission, three;
~~(83)~~(81) Department of Social Services, two;
~~(84)~~(82) Department of Revenue, six;
~~(85)~~(83) Board for Technical and Comprehensive Education, one;
~~(86)~~(84) Veterans' Affairs Department of the Governor's office, one;
~~(87)~~(85) Vocational Rehabilitation, one;
~~(88)~~(86) Department of Natural Resources, four~~.~~
(87) State Fiscal Accountability Authority; six
(88) Department of Administration, six;
(89) Department on Aging, one;
(90) Department of Health Financing, one;
(91) Department of Environmental Services; five;
(92) Executive Office of Health and Policy; five.
(b) If any technical college or center offers a course in paralegal practice such college or center shall be allowed two additional sets of the Code.
(c) All remaining copies of the Code may be sold or distributed in the best interest of the State as

may be determined by the Legislative Council.
(d) The provisions of Sections 8-15-30 and 8-15-40 of the 1976 Code shall not apply to members of the General Assembly, members of the Legislative Council and the Code Commissioner.

SECTION 27. Section 3-5-130 of the S.C. Code is amended to read:

Section 3-5-130. Staff of the ~~Coastal~~ Division of Coastal Management of the Department of ~~Health and~~ Environmental ~~Control~~ Services shall make a determination of the amount of actual damage.

SECTION 28. A. Section 4-33-10 of the S.C. Code is amended to read:

Section 4-33-10. The Commissioner of Agriculture, who is the authorized custodian of the State exhibit property, and the Department of Public Health and the Department of Environmental ~~Control~~ Services shall, whenever application is made to either or both by the officials of county fairs held in the State and upon the guarantee by such officials of all expenses connected with the undertaking, prepare and send to such fairs exhibits of such educational character as will be instructive and beneficial to the people attending the fairs.

B. Section 4-33-20 of the S.C. Code is amended to read:

Section 4-33-20. The Commissioner of Agriculture, ~~and~~ the Department of Public Health, and the Department of Environmental ~~Control~~ Services shall send in charge of these exhibits demonstrators competent to explain fully to visitors at the fairs the educational value of such exhibits.

C. Section 4-33-30 of the S.C. Code is amended to read:

Section 4-33-30. The Commissioner of Agriculture, ~~and~~ the Department of Public Health, and the Department of Environmental ~~Control~~Services may detail necessary ~~men~~ staff to this service, though they may be employed and paid for other purposes, and may expend such funds as may be at their command and as may be necessary to prepare and arrange the exhibits contemplated by Section 4-33-10.

SECTION 29. Section 6-19-30 of the S.C. Code is amended to read:

Section 6-19-30. The fund for such grants must be from either revenue-sharing trust funds or from general appropriations to the Department of ~~Health and~~ Environmental ~~Control~~Services, which shall

administer the grants for intermission to public water supply authorities or districts, sewer authorities or districts, water and sewer authorities, rural community water or sewer systems, nonprofit corporations, or municipal sewer systems to which the grant is made. The Governor, with the advice and consent of the Senate, shall appoint an advisory committee composed of seven members, one from each congressional district of the State. In addition an employee of the Department of ~~Health and~~ Environmental ~~Control~~Services, designated by the ~~commissioner thereof~~director, shall serve ex officio as a member of the committee. The Governor may invite a director, or his representative, from an agency providing water and sewer funds to serve as an advisory nonvoting member to the committee. All members must be appointed for terms of three years. In the event of a vacancy a successor shall be appointed for the unexpired term in the manner of original appointment. The advisory committee shall meet as soon after its appointment as may be practicable and shall organize by electing a chairman, vice chairman, secretary, and such other officers as it may deem desirable. The advisory committee shall select the projects to be funded pursuant to Section 6-19-40. Funds also may be expended from
gifts or grants from any source which are made available for the purpose of carrying out the provisions of this chapter. Appropriations made to the fund but not expended at the end of the fiscal year for which appropriated shall not revert to the general fund but shall accrue to the credit of the fund. Grants must be made only for water supply and waste water facilities projects on which construction was not commenced before April 1, 1974.

SECTION 30. Section 10-5-270(A) of the S.C. Code is amended to read:

(A) All plans for buildings, structures, and facilities to be constructed or altered must be reviewed and approved for compliance with this chapter and must be submitted to one of the following officials for approval:
(1) for state owned or leased facilities, to the State Engineer, Office of General Services, Department of Administration;
(2) for elementary and secondary public schools, to the Director, Office of Facilities Management, State Department of Education;

(3) for health care facilities, to the Director, ~~Bureau~~ Division of Health Facilities Construction, ~~Licensing and Certification, State~~ Department of Public Health ~~and Environmental Control~~;
(4) for buildings not covered by this subsection or subsections (B) or (C), to the local building officials appointed by a municipal or county government within their respective jurisdictions;
(5) in jurisdictions without building officials, to the Administrator, Building Codes Council.

SECTION 31. Section 12-6-3775(B)(1) of the S.C. Code is amended to read:

(B)(1) A taxpayer is allowed an income tax credit equal to twenty-five percent of the cost, including the cost of installation, of a solar energy property if he constructs, purchases, or leases a solar energy property that is located in the State of South Carolina and if:
(a) the property is located on:
(i) the Environmental Protection Agency's National Priority List;
(ii) the Environmental Protection Agency's National Priority List Equivalent Sites;
(iii) a list of related removal actions, as certified by the Department of ~~Health and~~ Environmental ~~Control~~Services;
(iv) land that is subject to a Voluntary Cleanup Contract with the Department of Health and Environmental Control as of December 31, 2017, which is transferred to the Department of Environmental Services as of July 1, 2024, or to corrective action under the Federal Resource Conservation and Recovery Act of 1976; or
(v) land that is owned by the Pinewood Site Custodial Trust; and
(b) he places it in service in this State during the taxable year.

SECTION 32. Section 13-2-10 of the S.C. Code is amended to read:

Section 13-2-10. (A) Notwithstanding any other provision of law, the South Carolina Department of Social Services, ~~and~~ the ~~South Carolina~~ Department of Public Health, and the Department of Environmental ~~Control~~Services, or any other state agency, are hereby authorized to enter into written agreements with any other state agency or interagency council, whether created by statute or executive order, to ensure that the purposes and function of comprehensive development programs can be more effectively and efficiently implemented.
(B) Provided, however, that no agency shall commit any funds by contract unless previously appropriated by the General Assembly. Provided, that any state agency which is created by executive order, and exercising the provisions of this section, shall contain at least four members of the legislature on its governing board, two of whom shall be selected from the membership of the Senate by the President of that body and two of whom shall be selected from the membership of the House of Representatives by the Speaker of that body.

SECTION 33. Section 14-7-1630(C) of the S.C. Code is amended to read:

(C) In all investigations of crimes specified in subsection (A)(12), except in matters where the Department of ~~Health and~~ Environmental ~~Control~~ Services or its officers or employees are the subjects of the investigation, the ~~Commissioner of the Department of Health and Environmental Control~~Director of the Department of Environmental Services must consult with and, after investigation, provide a

formal written recommendation to the Attorney General and the Chief of the South Carolina Law Enforcement Division. The Attorney General and the Chief of the South Carolina Law Enforcement Division must consider the impaneling of a state grand jury necessary and the commissioner must sign a written recommendation before the Attorney General notifies the chief administrative judge pursuant to subsection (B).
(1) In the case of evidence brought to the attention of the Attorney General, the Chief of the South Carolina Law Enforcement Division, or the Department of ~~Health and~~ Environmental ~~Control~~ Services by an employee or former employee of the alleged violating entity, there also must be separate, credible evidence of the violation in addition to the testimony or documents provided by the employee or former employee of the alleged violating entity.
(2) When an individual employee performs a criminal violation of the environmental laws that results in actual and substantial harm pursuant to subsection (A)(12) and which prompts an investigation authorized by this article, only the individual employee is subject to the investigation
unless or until there is separate, credible evidence that the individual's employer knew of, concealed, directed, or condoned the employee's action.

SECTION 34. Section 15-74-40 of the S.C. Code is amended to read:

Section 15-74-40. The provisions of this act shall not be deemed to in any manner restrict the authority of the Department ~~of Health and Environmental Control~~Agriculture to regulate or ban the use or consumption of distressed food donated, collected or received for charitable purposes but deemed unfit for human consumption, nor shall the exemption from liability provided for in this chapter in any manner affect the liability of a producer or processor of food products for defects existing in a food product prior to the time such product became "distressed food" as defined in § 15-74-10.

SECTION 35. Section 31-13-30 of the S.C. Code is amended to read:

Section 31-13-30. (A) The Governor shall appoint, with the advice and consent of the Senate, seven persons to be commissioners of the South Carolina State Housing Finance and Development Authority. The seven persons so appointed shall have experience in the fields of mortgage finance, banking, real estate, and home building. The Governor shall appoint a chairman from among the seven commissioners.
(B) The commissioners must be appointed for terms of four years, except that all vacancies must be filled for the unexpired term. A commissioner shall hold office until his successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner must be filed in the office of the Secretary of State and in the office of the Authority, and the certificate is conclusive

evidence of the due and proper appointment of the commissioner. The Governor, or his designee, and the ~~State Commissioner~~Director of the Department of Public Health ~~and Environmental Control~~, or his designee from his administrative staff, shall serve ex officio as commissioners of the Authority with the same powers as the other commissioners.

SECTION 36. Section 38-55-530(A) of the S.C. Code is amended to read:

(A) "Authorized agency" means any duly constituted criminal investigative department or agency of the United States or of this State; the Department of Insurance; the Department of Revenue; the Department of Public Safety; the Department of Motor Vehicles; the Workers' Compensation Commission; the State Accident Fund; the Second Injury Fund; the Department of Employment and Workforce; the Department of Consumer Affairs; the Human Affairs Commission; the Department of Public Health, the Department of ~~and~~ Environmental ~~Control~~Services; the Department of Social
Services; the Department of Health ~~and Human Services~~Financing; the Department of Labor, Licensing and Regulation; all other state boards, commissions, and agencies; the Office of the Attorney General of South Carolina; or the prosecuting attorney of any judicial circuit, county, municipality, or political subdivision of this State or of the United States, and their respective employees or personnel acting in their official capacity.

SECTION 37. Section 40-23-10(A) of the S.C. Code is amended to read:

(A) There is created the South Carolina Environmental Certification Board composed of nine members appointed by the Governor. Of the nine members, one must be a licensed public water
treatment operator and one must be a licensed public water distribution system operator; two must be licensed wastewater operators, one of whom must be certified in the physical chemical specialty; one must be a licensed well driller; one must be a member of the public at large; one must be a representative from the Land, Water, and Conservation Division of the Department of Natural Resources; one must be a staff member of the Department of ~~Health and~~ Environmental ~~Control~~ Services, designated by the ~~Commissioner~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~Services; and one must be a representative from a technical education or other higher education institution actively involved in operator training.

SECTION 38. Section 40-25-170 of the S.C. Code is amended to read:

Section 40-25-170. ~~(A)~~ The final order of the department in proceedings for the suspension or revocation of certificates of registration are subject to ~~review by the circuit court of Richland County,~~

~~the county in which the registrant has his principal place of business, or the county in which the books and records of the department are kept. Other final orders of the department under this chapter are subject to review in the same courts~~appeal pursuant to Section 44-1-60 and other applicable law.
~~(B) Appeals to the circuit court must be upon the original records before the department, and the court in its discretion may affirm, reverse, or modify an order made by the department.~~

SECTION 39. Section 40-33-20(62) of the S.C. Code is amended to read:

(62) "Underserved population" means a population residing in a rural or urban area, which includes, but is not limited to:
(a) persons receiving Medicaid, Medicare, healthcare from the Department of Public Health ~~and Environmental Health care~~, or free clinic care;
(b) those residing in long-term care settings or receiving care from a licensed hospice;
(c) those in institutions including, but not limited to, incarceration institutions and mental health institutions; and
(d) persons including, but not limited to, the homeless, HIV patients, children, women, the economically disadvantaged, the uninsured, the underinsured, the developmentally disabled, the medically fragile, the mentally ill, migrants, military persons and their dependents, and veterans and their dependents.

SECTION 40. Section 40-35-10(A) of the S.C. Code is amended to read:

(A)(1) There is created the South Carolina Board of Long Term Health Care Administrators composed of nine members who must be appointed by the Governor, with the advice and consent of the Senate, for three-year terms and until their successors are appointed and qualify. Of the nine members:

(1)(a) three must be qualified nursing home administrators licensed under this chapter; one must be from a proprietary nursing home; one must be from a nonproprietary nursing home; and one must be a qualified hospital administrator;

(2)(b) three must be community residential care facility administrators, licensed under this chapter, at least one of whom must be from a community residential care facility with ten or fewer residents;

(3)(c) one must be a consumer, sponsor, or family member of a consumer of nursing home services;

(4)(d) one must be a consumer, sponsor, or family member of a consumer of community residential care services;

(5)(e) one must be a voting member of the Long Term Care Committee of the Health and Human Services Coordinating Council who must be nominated by election of the committee from among its voting members. If the Governor does not accept the nomination, an additional nominee must be selected in the same manner.

(2) The Commissioner Director of the Department of Public Health and Environmental Control, or his designee, also shall serve as a nonvoting member on the board, ex officio.

(3) An individual, group, or association may submit the names of qualified individuals to the Governor for his consideration in making these appointments.

(4) A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term. A member may not serve more than two consecutive full terms.

SECTION 41. Section 43-33-50 of the S.C. Code is amended to read:

Section 43-33-50. Each year, the Governor shall take suitable public notice of October fifteenth as White Cane Safety Day. He shall issue a proclamation in which:

(a) he comments upon the significance of the white cane;

(b) he calls upon the citizens of the State to observe the provisions of the White Cane Law and to take precautions necessary to the safety of the disabled;

(c) he reminds the citizens of the State of the policies with respect to the disabled herein declared and urges the citizens to cooperate in giving effect to them;

(d) he emphasizes the need of the citizens to be aware of the presence of disabled persons in the community and to keep safe and functional for the disabled the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort, and other places to which the public is invited, and to offer assistance to disabled persons upon appropriate occasions.

SECTION 42. Section 43-33-350 of the S.C. Code is amended to read:

Section 43-33-350. The system has the following powers and duties:

(1) It shall protect and advocate for the rights of all persons with a developmental or other disability, including the requirements of Section 113 of Public Law 94-103, Section 105 of Public Law 99-319, and Section 112 of Public Law 98-221, all as amended, and for the rights of other persons with disabilities by pursuing legal, administrative, and other appropriate remedies to insure the protection of the rights of these persons.

(2) It may investigate complaints by or on behalf of any person with a developmental or other disability.

(3) It may establish a priority for the delivery of protection and advocacy services according to the type, severity, and number of disabilities of the person making a complaint or on whose behalf a complaint has been made.

(4) It may conduct team advocacy inspections of a facility providing residence to a person with a developmental or other disability. Inspections must be completed by the system's staff and trained volunteers. Team advocacy inspections are unannounced visits to review the living conditions of a residential facility, including the plans of care for individuals in a residential care facility and a community mental health center day program. Only the coordinator of the team advocacy project or the coordinator's designee is authorized to perform reviews of plans of care. The system shall prepare a report based on the inspection which must be submitted to the South Carolina Department of Public Health and Environmental Control and the State Department of Mental Behavioral Health.

(5) It shall administer the Client Assistance Program, as established pursuant to 29 U.S.C. Section 732.

SECTION 43. Section 43-35-310 of the S.C. Code is amended to read:

Section 43-35-310. (A) There is created the Adult Protection Coordinating Council under the auspices of the South Carolina Department of Health and Human ServicesFinancing and is comprised of:

(1) one member from the institutional care service provision system who is a consumer or a family member of a consumer of that system and one member from the home and community-based service provision system who is a consumer or a family member of a consumer of that system, both of whom must be appointed by the council for terms of two years; and

(2) these members who shall serve ex officio:

(a) Attorney General or a designee;

(b) Office Department on Aging, Executive Director, or a designee;

(c) Criminal Justice Academy, Executive Director, or a designee;

(d) South Carolina Department of Public Health and Environmental Control, CommissionerDirector, or a designee;

(e) State Department of Mental Behavioral Health, Director, or a designee;

(f) South Carolina Department of Intellectual and Related Disabilities and Special Needs, Director, or a designee;

(g) Adult Protective Services Program, Director, or a designee;

(h) South Carolina Department of Health Financingand Human Services, Executive Director, or a designee;

(i) Police Chiefs' Association, President, or a designee;

(j) South Carolina Commission on Prosecution Coordination, Executive Director, or a designee;

(k) Protection and Advocacy for People with Disabilities, Inc., Executive Director, or a designee;

(l) South Carolina Sheriff's Association, Executive Director, or a designee;

(m) South Carolina Law Enforcement Division, Chief, or a designee;

(n) Long Term Care Ombudsman or a designee;

(o) South Carolina Medical Association, Executive Director, or a designee;

(p) South Carolina Health Care Association, Executive Director, or a designee;

(q) South Carolina Home Care Association, Executive Director, or a designee;

(r) South Carolina Department of Labor, Licensing and Regulation, Director, or a designee;

(s) executive director or president of a provider association for home and community-based services selected by the members of the council for terms of two years, or a designee;

(t) South Carolina Court Administration, Executive Director, or a designee;

(u) executive director or president of a residential care facility organization selected by the members of council for terms of two years, or a designee.

(B) Vacancies on the council must be filled in the same manner as the initial appointment.

SECTION 44. Section 43-35-560(A) of the S.C. Code is amended to read:

(A) There is created a multidisciplinary Vulnerable Adults Fatalities Review Committee composed of:

(1) the Director of the South Carolina Department of Social Services;

(2) the Commissioner Director of the South Carolina Department of Public Health and Environmental Control;

(3) the Executive Director of the South Carolina Criminal Justice Academy;

(4) the Chief of the South Carolina Law Enforcement Division;

(5) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services;

(6) the Director of the South Carolina Department of Mental Behavioral Health;

(7) the Director of the South Carolina Department of Intellectual and Related Disabilities and Special Needs;

(8) the Director of the Office Department on Aging;

(9) the Executive Director of Protection and Advocacy for People with Disabilities, Inc.;

(10) two representatives from two county boards of disabilities and special needs established pursuant to Section 44-20-375;

(11) a county coroner or medical examiner;

(12) an attorney with experience in prosecuting crimes against vulnerable adults;

(13) a physician with experience in treating vulnerable adults, appointed from recommendations submitted by the South Carolina Medical Association;

(14) a solicitor;

(15) a forensic pathologist; and

(16) two members of the public at large, one of whom must represent a private nonprofit community residential care facility and one of whom must represent a public for profit community residential care facility, both of which must provide services to vulnerable adults.

SECTION 45. Section 44-2-130(E)(1) of the S.C. Code is amended to read:

(E)(1) An owner or operator of an underground storage tank or his agent seeking to qualify for compensation from the Superb Account for site rehabilitation shall submit a written application to the department. The written application must be on a form specified by the department and include
certification that site rehabilitation is necessary, the tanks at the site have been registered in compliance with applicable law and regulations, and all registration fees have been paid. The department shall accept certification that the release at the site is in need of rehabilitation if the certification is provided jointly by the owner or operator and a South Carolina registered professional geologist or engineer, and if the certification is supported with geotechnical data which reasonably justifies the claim. Upon final determination the department shall provide written notice to the applicant of its findings including detailed reasons for any denial. Any denial of an application must be appealable to the ~~Board of Health and Environmental Control~~state's Administrative Law Court. The department is exempt from this time frame for applications which are received within three months of the close of the grace period allowed in Section 44-2-110.

SECTION 46. Section 44-2-150(C) of the S.C. Code is amended to read:

(C) The committee shall consist of fourteen members, appointed by the ~~commissioner~~ department's director of the department as follows:
(1) one member representing the general public;
(2) two members representing environmental organizations;
(3) one member representing the South Carolina Petroleum Council;
(4) one member representing the South Carolina Petroleum Marketers Association;
(5) one member representing the South Carolina Service Station Dealers Association;
(6) one member representing the South Carolina Chamber of Commerce;
(7) one member representing the South Carolina Bankers Association;
(8) one member representing a business that specializes in the assessment or remediation, or both,

of contamination resulting from leaking underground storage tanks;
(9) one member representing the South Carolina Department of Insurance;
(10) one member representing the Department of ~~Health and~~ Environmental ~~Control~~Services;
(11) one member representing the State Department of Administration, Division of General Services;
(12) one member representing the Municipal Association of South Carolina; and
(13) one member representing the South Carolina Association of Counties.

SECTION 47. Section 44-4-130 of the S.C. Code is amended to read:

Section 44-4-130. As used in the chapter:
(A) "Biological agent" means a microorganism, virus, infectious substance, naturally occurring or bioengineered product, or other biological material that could cause death, disease, or other harm to a human, an animal, a plant, or another living organism.
(B) "Bioterrorism" means the intentional use or threatened use of a biological agent to harm or endanger members of the public.
(C) "Chemical agent" means a poisonous chemical agent that has the capacity to cause death, disease, or other harm to a human, an animal, a plant, or another living organism.
(D) "Chemical terrorism" means the intentional use or threatened use of a chemical agent to harm or endanger members of the public.
(E) "Chain of custody" means the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens
and reporting test results.
(F) ~~"Commissioner"~~ "Director" means the ~~Commissioner~~ Director of the Department of Public Health ~~and Environmental Control~~.
(G) "Contagious disease" is an infectious disease that can be transmitted from person to person, animal to person, or insect to person.
(H) "Coroners, medical examiners, and funeral directors" have the same meanings as provided in Sections 17-5-5 and 40-19-10, respectively.
(I) ~~"DHEC"~~ "DPH" means the Department of Public Health ~~and Environmental Control~~ or any person authorized to act on behalf of the Department of Public Health ~~and Environmental Control~~.
(J) "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation.
(K) "Health care facility" means any nonfederal institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health

services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to, ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, skilled nursing facilities, and adult daycare centers. The term also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories, research facilities, pharmacies, laundry facilities, health personnel training and lodging facilities, and patient, guest, and health personnel food service facilities, and offices and office buildings for persons engaged in health care professions or services.
(L) "Health care provider" means any person or entity who provides health care services including, but not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses,
paramedics, firefighters who provide emergency medical care, emergency medical or laboratory technicians, and ambulance and emergency medical workers. This includes out-of-state medical laboratories, provided that such laboratories have agreed to the reporting requirements of South Carolina. Results must be reported by the laboratory that performs the test, but an in-state laboratory that sends specimens to an out-of-state laboratory is also responsible for reporting results.
(M) "Infectious disease" is a disease caused by a living organism or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.
(N) "Isolation" and "quarantine" mean the compulsory physical separation (including the restriction of movement or confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others; if the context so requires, "quarantine" means compulsory physical separation, including restriction of movement, of populations or groups of healthy people who have been potentially exposed to a contagious disease, or to efforts to segregate these persons within specified geographic areas. "Isolation" means the separation and confinement of individuals known or suspected (via signs, symptoms, or laboratory criteria) to be infected with a contagious disease to prevent them from transmitting disease to others.
(O) "Protected health information" means any information, whether oral, written, electronic, visual, pictorial, physical, or any other form, that relates to an individual's past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or reasonably should be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

(P) "Public health emergency" means the occurrence or imminent risk of a qualifying health condition.
(Q) "Public safety authority" means the Department of Public Safety, the State Law Enforcement Division, or designated persons authorized to act on behalf of the Department of Public Safety, the State Law Enforcement Division including, but not limited to, local governmental agencies that act principally to protect or preserve the public safety, or full-time commissioned law enforcement persons.
(R) "Qualifying health condition" means:
(1) a natural disaster; or
(2) an illness or health condition that may be caused by terrorism, epidemic or pandemic disease, or a novel infectious agent or biological or chemical agent and that poses a substantial risk of a significant number of human fatalities, widespread illness, or serious economic impact to the agricultural sector, including food supply.
(S) "Radioactive material" means a radioactive substance that has the capacity to cause bodily injury
or death to a human, an animal, a plant, or another living organism.
(T) "Radiological terrorism" means the intentional use or threatened use of a radioactive material to harm or endanger members of the public.
(U) "Specimens" include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests, and environmental samples or other samples needed to diagnose potential chemical, biological, or radiological contamination.
(V) "Tests" include, but are not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public's health, safety, and welfare.
(W) "Trial court" is the circuit court for the county in which the isolation or quarantine is to occur or to the circuit court for the county in which a public health emergency has been declared. If that court
is unable to function because of the isolation, quarantine, or public health emergency, the trial court is a circuit court designated by the Chief Justice upon petition and proper showing by the Department of Public Health ~~and Environmental Control~~.

SECTION 48. Section 44-6-400 of the S.C. Code is amended to read:

Section 44-6-400. As used in this article:
(1) "Department" means the Department of Health ~~and Human Services~~Financing.
(2) "Nursing home" means a facility subject to licensure as a nursing home by the Department of Public Health ~~and Environmental Control~~ and subject to the permit provisions of Article 2, Chapter 7 of Title 44 and which has been certified for participation in the Medicaid program or has been dually certified for participation in the Medicaid and Medicare programs.
(3) "Resident" means a person who resides or resided in a nursing home during a period of an alleged

violation.
(4) "Survey agency" means the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~ or any other agency designated to conduct compliance surveys of nursing facilities participating in the Title XIX (Medicaid)

program.

SECTION 49. Section 44-7-180 of the S.C. Code is amended to read:

Section 44-7-180. (A) There is created a health planning committee comprised of fourteen members. The Governor shall appoint twelve members, which must include at least one member from each congressional district. In addition, each of the following groups must be represented among the Governor's appointees: health care consumers, health care financiers, including business and insurance, and health care providers, including an administrator of a licensed for-profit nursing home. The ~~chairman of the board~~director shall appoint one member. The South Carolina Consumer Advocate or the Consumer Advocate's designee is an ex officio nonvoting member. Members appointed by the Governor are appointed for four-year terms, and may serve only two consecutive terms. Members of the health planning committee are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions. The committee shall elect from among its members a chairman, vice chairman, and such other officers as the committee considers necessary to serve a two-year term in that office.

(B)(1) With the advice of the health planning committee, the department shall prepare a South Carolina Health Plan for use in the administration of the Certificate of Need program provided in this article. The plan at a minimum must include:

~~(1)~~(a) an inventory of existing health care facilities, beds, specified health services, and equipment;

~~(2)~~(b) projections of need for additional health care facilities, beds, health services, and equipment;

~~(3)~~(c) standards for distribution of health care facilities, beds, specified health services, and equipment including scope of services to be provided, utilization, and occupancy rates, travel time, regionalization, other factors relating to proper placement of services, and proper planning of health care facilities; and

~~(4)~~(d) a general statement as to the project review criteria considered most important in evaluating Certificate of Need applications for each type of facility, service, and equipment, including a finding as to whether the benefits of improved accessibility to each such type of facility, service, and equipment may outweigh the adverse affects caused by the duplication of any existing facility, service, or equipment.

(2) The South Carolina Health Plan must address and include projections and standards for specified health services and equipment which have a potential to substantially impact health care cost and accessibility. Nothing in this provision shall be construed as requiring the department to approve any project which is inconsistent with the South Carolina Health Plan.

(C) Upon approval by the health planning committee, the South Carolina Health Plan must be submitted at least once every two years to the ~~board~~ Secretary of Health and Policy for final revision and adoption. Once adopted by the ~~board~~secretary, the plan may later be revised through the same planning and approval process. The department shall adopt by regulation a procedure to allow public review and comment, including regional public hearings, before adoption or revision of the plan.

SECTION 50. Section 44-7-230(D) of the S.C. Code is amended to read:

(D) A Certificate of Need is valid for one year from the date of issuance. A Certificate of Need must be issued with a timetable submitted by the applicant and approved by the department to be followed for completion of the project. The holder of the Certificate of Need shall submit periodic progress reports on meeting the timetable as may be required by the department. Failure to meet the timetable results in the revocation of the Certificate of Need by the department unless the department determines that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay. The department may grant two extensions of up to nine months each upon evidence that substantial progress has been made in accordance with procedures set forth in regulations. The ~~board~~ department's director may grant further extensions of up to nine months each only if ~~it~~ he determines that substantial progress has been made in accordance with the procedures set forth in regulations.

SECTION 51. Section 44-7-320(B) of the S.C. Code is amended to read:

(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, return receipt requested, a notice setting forth the particular reasons for the determination and stating that the decision may be appealed by requesting a contested case hearing in accordance with Section 44-1-60 and the Administrative Procedures Act. ~~The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within such thirty-day period, requests in writing a contested case hearing before the board, or its designee, pursuant to the Administrative Procedures Act.~~ On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.

SECTION 52. Section 44-7-325(A)(1) of the S.C. Code is amended to read:

(A)(1) A health care facility, as defined in Section 44-7-130, and a health care provider licensed pursuant to Title 40 may charge a fee for the search and duplication of a medical record, whether in paper format or electronic format, but the fee may not exceed:

(a) for records requested to be produced in an electronic format, the total charge to the requestor may not exceed one hundred fifty dollars per request regardless of the number of records produced or number of times the patient has been admitted to the health care facility. The charge, not to exceed one hundred fifty dollars, shall be calculated as follows: sixty-five cents per page for the first thirty pages provided in an electronic format and fifty cents per page for all other pages provided in an electronic format, plus a clerical fee not to exceed twenty-five dollars for searching and handling, which combined with the per page costs may not exceed a total of one hundred fifty dollars per request, and to which may be added actual postage and applicable sales tax;

(b) for paper requests, sixty-five cents per page for the first thirty printed pages and fifty cents per page for all other printed pages, plus a clerical fee not to exceed twenty-five dollars for searching and handling, which combined with the per page print costs may not exceed two hundred dollars per admission to the health care facility, and to which may be added actual postage and applicable sales tax. The patient may have more than one admission on file when the record request is made. If multiple admissions exist, the print fee applies per admission, but only one clerical fee may be charged. Multiple emergency room records without an admission to the hospital are considered one admission;

(c) notwithstanding whether the records are requested in print or electronic format, the search and handling fees in subitems (a) and (b) are permitted even though no medical record is found as a result of the search, except where the request is made by the patient; and

(d) all of the fees allowed by this section, including the maximum, must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region (CPI-U), published by the U.S. Department of Labor. The Department of Public Health ~~and Environmental Control~~ is responsible for calculating this annual adjustment, which is effective on July first of each year~~, starting July 1, 2015~~.

SECTION 53. Section 44-21-10(D) of the S.C. Code is amended to read:

(D) The General Assembly recognizes that the ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~ for several years has developed and maintained a family support program that provides support services to some families with members with intellectual disability. The success of this program demonstrates the need and value of family support services. More families in the State should be able to receive appropriate services and assistance needed to stabilize the family unit.

SECTION 54. Section 44-21-20(1) of the S.C. Code is amended to read:

(1) "Department" means the Department of Intellectual and Related Disabilities ~~and Special Needs~~.

SECTION 55. Section 44-29-150 of the S.C. Code is amended to read:

Section 44-29-150. No person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the ~~Board~~ Department of Public Health ~~and Environmental Control~~. Re-evaluation will not be required for employment in consecutive years unless otherwise indicated by such guidelines.

SECTION 56. Section 44-29-210(A) of the S.C. Code is amended to read:

(A)(1) If the ~~Board of~~ the Department of Public Health ~~and Environmental Control or the Director of the Department of Health and Environmental Control~~ approves in writing a mass immunization project to be administered in any part of this State in cooperation with an official or volunteer medical or health agency, any authorized employee of the agency, any physician who does not receive compensation for his services in the project, and any licensed nurse who participates in the project, except as provided in subsection (B), is not liable to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine administered in the project by the employee, physician, or nurse. Neither the board nor the director may approve the project unless ~~either~~ he finds that the project conforms to good medical and public health practice.

(2) For purposes of this section, a person is considered to be an authorized employee of an official or volunteer medical or health agency if he has received the necessary training for and approval of the department for participation in the project.

SECTION 57. Section 44-31-105(A) of the S.C. Code is amended to read:

(A) If the Department of Public Health ~~and Environmental Control~~ determines that the public health or the health of any individual is endangered by a case of tuberculosis, or a suspected case of tuberculosis, the ~~commissioner~~director, or his ~~or her~~ designee, may issue an emergency order he ~~or she~~ considers necessary to protect the public health or the health of any person, and law enforcement shall aid and assist the department in accordance with Section 44-1-100.

SECTION 58. Section 44-37-40(B) of the S.C. Code is amended to read:

(B) For purposes of this section:

(1) "Advisory council" means the Newborn Hearing Screening and Intervention Advisory Council.

(2) "Audiologist" means an individual licensed to practice audiology by the South Carolina Board of Examiners in Speech-Language Pathology and Audiology.

(3) "Audiologic evaluation" means an evaluation consisting of procedures to assess the status of the auditory system; to establish the site of an auditory disorder; the type and degree of hearing loss, and the potential effects of hearing loss on communication; and to identify appropriate treatment and referral options. Referral options for evaluation should include linkage to state Part C "Individuals with Disabilities Education Act" coordinating agencies or other appropriate agencies, medical evaluation, hearing aid/sensory aid assessment, audiologic rehabilitation treatment, national and local consumer, self-help, parent and education organizations, and other family centered services.

(4) "Auditory habilitation" means intervention which includes the use of procedures, techniques, and technologies to facilitate the receptive and expressive communication abilities of a child with hearing loss.

(5) "Birth admission" means the time after birth that the newborn remains in the hospital nursery before discharge.

(6) ~~"Commissioner"~~ "Director" means the ~~Commissioner~~ Director of the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~.

(7) "Department" means the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~.

(8) "Early intervention" means providing appropriate services for a child with hearing loss and ensuring that the family of the child is provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and communication options and is given the opportunity to consider the full range of educational and program placements and options for this child.

(9) "Hearing loss" for newborns and neonates means failure to pass the brainstem auditory evoked response performed at the audiologic evaluation. Current hearing screening technology detects levels of hearing loss as low as 35 decibels.

(10) "Hearing screening" means newborn and infant hearing screening consisting of objective physiologic procedures to detect possible hearing loss and to identify newborns and infants who, after rescreening, require further audiologic and medical evaluations.

(11) "Infant" means a child twenty-nine days to twenty-four months old.

(12) "Medical intervention" means the process by which a physician provides medical diagnosis and direction for medical or surgical treatment options for hearing loss or related medical disorders

associated with hearing loss.

(13) "Newborn" means a child up to twenty-eight days old.

(14) "Normal hearing" for newborns and infants is 0-15 decibels hearing level. Any hearing level greater than 15 decibels can adversely affect speech and language development. The greater the hearing level the greater the adverse impact on speech and language development.

(15) "Parent" means a natural parent, step-parent, adoptive parent, legal guardian, or other legal custodian of a child.

(16) Part C of "Individuals with Disabilities Education Act" means the federal "Early Intervention Program for Infants and Toddlers with Disabilities and Developmental Delay Act" which encourages exemplary practices that lead to improved teaching and learning experiences for children with developmental delay, and that can result in more productive independent adult lives, including employment.

SECTION 59. Section 44-37-70 of the S.C. Code is amended to read:

Section 44-37-70. (A) The Department of Public Health~~ and Environmental Control~~ shall require each birthing facility licensed by the department to perform on every newborn in its care a pulse oximetry or other department-approved screening to detect critical congenital heart defects when the baby is twenty-four to forty-eight hours of age, or as late as possible if the baby is discharged from the hospital before reaching twenty-four hours of age. A department-approved screening must be based on standards set forth by the United States Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and Children, the American Heart Association, and the American Academy of Pediatrics. If a parent of a newborn objects, in writing, to the screening, for reasons
pertaining to religious beliefs only, the newborn is exempt from the screening required by this subsection.

(B) The Department of Health ~~and Human Services~~Financing shall work with birthing facilities through its partnership with the Birth Outcomes Initiative to recommend policies for critical congenital heart defect screening. The Department of Health ~~and Human Services~~ Financing shall provide reimbursement for services provided pursuant to this section.

(C) For purposes of this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Public Health~~ and Environmental Control~~ that provides birthing and newborn care services.

(D) The department with advice from the Birth Outcome Initiative Leadership Team under the Department of Health ~~and Human Services~~Financing shall promulgate regulations necessary to implement the provisions of this section. In promulgating the regulations, the department must consider the best practices in screening, current scientific guidelines and recommendations, and advances in

medical technology.

SECTION 60. A. Section 44-38-30(A) of the S.C. Code is amended to read:

(A) There is the South Carolina Head and Spinal Cord Injury Information System Council established for the purpose of overseeing the daily activities of the system which shall be under the Head and Spinal Cord Injury Division of the Department of Intellectual and Related Disabilities~~ and Special Needs~~. The council is composed of the following ex officio members or their designees: the chairman, Developmental Disabilities Council, Office of the Governor, the chairman of the Joint Committee to Study the Problems of Persons with Disabilities, the State Director of the State Department of Behavioral ~~Mental~~ Health and Substance Abuse Services, the Commissioner of the Department of Vocational Rehabilitation, the Director of the ~~State~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~, the Director of the ~~South Carolina~~ Department of Public Health
~~and Environmental Control~~, the Director of the ~~South Carolina~~ Department of Health ~~and Human Services~~Financing, Dean of the University of South Carolina School of Medicine, the Dean of the Medical University of South Carolina, the Executive Director of the South Carolina Hospital Association, one representative from each of the head injury advocacy organizations, and one individual with a spinal cord injury. The council shall elect a chairman who may appoint such other nonvoting members who may serve in an advisory capacity to the council, including representatives from the private service delivery sector.

B. Section 44-38-380(A) of the S.C. Code is amended to read:

(A) There is created an Advisory Council to the South Carolina Head and Spinal Cord Service Delivery System composed of:

(1) the following members or a designee, who shall serve ex officio:

(a) Chairperson for the Joint Legislative Committee for the Disabled;

(b) Director of the ~~State~~ Department of Intellectual and Related Disabilities~~ and Special Needs~~;

(c) Commissioner of the State Agency for Vocational Rehabilitation;

(d) Director of the University Affiliated Program of the University of South Carolina;

(e) Director of the South Carolina Developmental Disabilities Council;

(f) Director of Special Education of the State Department of Education;

(g) Director of the Interagency Office of Disability Prevention;

(h) Director of the Continuum of Care for Emotionally Disturbed Children;

(i) ~~Executive~~ Director of the ~~South Carolina~~ Department of Health ~~and Human Services Finance Commission~~Financing;

(j) Director of the ~~State~~ Department of ~~Mental~~ Behavioral Health;

(k) ~~Commissioner~~ Director of the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~;

(l) Commissioner of the South Carolina Commission for the Blind;

(2) the following members or a designee:

(a) President of the South Carolina Head Injury Association;

(b) President of the South Carolina Association of Independent Head Injury Groups;

(c) President of the South Carolina Spinal Cord Injury Association;

(d) Director of the South Carolina Disabilities Research Commission;

(3) the following members to be appointed by the Governor for four-year terms and until their successors are appointed and qualified:

(a) three health care providers knowledgeable in head injuries and spinal cord injuries;

(b) three consumers of case management services or family members or legal guardians of
consumers of case management services;

(c) of those members first appointed, two of the health care providers and two of the consumers or family members of consumers shall serve four-year terms and one health care provider and one consumer or family member of a consumer shall serve two-year terms.

C. Section 44-38-630(A) of the S.C. Code is amended to read:

(A) The members of the South Carolina Brain Injury Leadership Council should have knowledge or expertise in the area of brain injury or related services. The council shall be comprised of representatives of the following agencies and organizations, shall be appointed by the director of the
agency or organization and shall serve ex officio:

(1) South Carolina Department of Education;

(2) ~~South Carolina~~ Department of Health~~ and Human Services~~Financing;

(3) ~~South Carolina~~ Department of ~~Mental~~ Behavioral Health;

(4) ~~South Carolina~~ Department of Social Services;

(5) ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~;

(6) ~~South Carolina~~ Vocational Rehabilitation Department;
(7) ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~;
(8) Head and Spinal Cord Injury Division within the ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~;
(9) Medical University of South Carolina;
(10) University Center for Excellence in Developmental Disabilities within the University of South Carolina School of Medicine;

(11) South Carolina Statewide Independent Living Council;
(12) South Carolina Developmental Disabilities Council;
(13) Protection and Advocacy for People with Disabilities, Inc.; and
(14) Brain Injury Association of South Carolina.

SECTION 61. Section 44-39-20(B) of the S.C. Code is amended to read:

(B) The board consists of:
(1) the following officials or their designees:
(a) the President of the Medical University of South Carolina;
(b) the Dean of the University of South Carolina School of Medicine;
(c) the Director of the Department of Public Health ~~and Environmental Control~~;
(d) the Director of the ~~State~~ Department of Health ~~and Human Services~~Financing;
(e) the President of the South Carolina Medical Association;
(f) the Vice President of the Southeastern Division of the American Diabetes Association;
(g) the President of the American Association of Diabetes Educators;
(h) the President of the South Carolina Academy of Family Physicians;
(i) the Head of the Office of Minority Health, or its successor, ~~in~~ of the ~~Department of Health and Environmental Control~~Commission for Minority Affairs;
(j) the Governor of the South Carolina Chapter of the American College of Physicians;
(k) the Chair of the Division of Endocrinology at the Medical University of South Carolina;
(l) the President of the South Carolina Hospital Association;
(2) a representative of the Office of the Governor, to be appointed by the Governor; and
(3) six representatives appointed by the President of the Medical University of South Carolina, three of whom must be from the general public and one each from the Centers of Excellence Council, the Outreach Council, and the Surveillance Council, all of whom must be persons knowledgeable about diabetes and its complications.

SECTION 62. Section 44-44-40(A) of the S.C. Code is amended to read:

(A) There is established the Birth Defects Advisory Council composed of at least thirteen members to be appointed by the ~~commissioner~~ director of the department, with an odd total number of members. The members shall include at least one representative from each of the following organizations, upon the recommendation of the director of the respective organization:
(1) American Academy of Pediatrics, South Carolina Chapter, a board- certified physician in neonatal-perinatal medicine;

(2) American College of Obstetrics and Gynecology, South Carolina Chapter, a board-certified physician in maternal fetal medicine;
(3) Greenwood Genetic Center;
(4) University of South Carolina School of Medicine, a board-certified genetics professional who must be a physician or genetics counselor;
(5) Medical University of South Carolina, a board-certified physician in pediatric cardiology or a board-certified genetics professional;
(6) March of Dimes, South Carolina Chapter;
(7) South Carolina Perinatal Association;
(8) ~~South Carolina~~ Department of Intellectual and Related Disabilities ~~and Special Needs~~;
(9) ~~South Carolina~~ Department of Health ~~and Human Services~~Financing;
(10) Parent of a child with a birth defect, recommended by a South Carolina family advocacy or disability organization;
(11) An adult who was born with a birth defect, recommended by a South Carolina family advocacy or disability organization;
(12) South Carolina Hospital;
(13) South Carolina Medical Association, a licensed physician specializing in genetics.

SECTION 63. A. Section 44-53-280 of the S.C. Code is amended to read:

Section 44-53-280. (A) The department may promulgate regulations and may charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.
(B) No person engaged in a profession or occupation for which a license is required by law may be registered under this article unless the person holds a valid license of that profession or occupation.
(C) A class 20-28 registration, as provided for by the ~~board~~ department in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.
(D) All registrations other than class 20-28, as provided for by the ~~board~~ department in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.
(E) Refusal by the department to reinstate a canceled registration after payment of the renewal fee

and penalty and presentation of an explanation constitutes a refusal to renew and the procedures under Section 44-53-320 apply.
(F) For class 20-28 registrants, initial registrations issued before July first expire October first of that same year, and initial registrations issued on or after July first expire October first of the following year. For classes other than class 20-28, initial registrations issued before January first expire April first of the following year, and initial registrations issued on or after January first expire April first of the following year.

B. Section 44-53-290(i) of the S.C. Code is amended to read:

(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The ~~board~~ department shall register an applicant to dispense but not prescribe narcotic drugs to individuals for
maintenance treatment or detoxification treatment, or both:
(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;
(2) if the ~~board~~ department determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44-53-340 and the rules issued by the board on such drugs; and
(3) if the ~~board~~ department determines that the applicant will comply with standards established by the board respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

C. Section 44-53-310(a) of the S.C. Code is amended to read:

(a) An application for a registration or a registration granted pursuant to Section 44-53-300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the ~~Board~~ department upon a finding that the registrant has:
(1) ~~Has~~ materially falsified any application filed pursuant to this article;
(2) ~~Has~~ been convicted of a felony or misdemeanor under any State or Federal law relating to any controlled substance;
(3) ~~Has~~ had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or
(4) ~~Has~~ failed to comply with any standard referred to in Section 44-53-290(i).

D. Section 44-53-310(b) of the S.C. Code is amended to read:

(b) The department may place a registrant who violates this article on probation or levy a civil fine of not more than two thousand five hundred dollars, or both. Fines generated pursuant to this section must be remitted to the State Treasurer for deposit to the benefit of the Department of ~~Mental~~ Behavioral Health to be used exclusively for the treatment and rehabilitation of ~~drug addicts~~people with substance use disorder within the department's ~~addiction~~substance use disorder center facilities.

E.Section 44-53-320(b) of the S.C. Code is amended to read:

(b) The Department, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 44-53-310, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 44-53-290(i) may be treated under this
subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the ~~Board~~ department or dissolved by a court of competent jurisdiction.

F. Section 44-53-360(c) of the S.C. Code is amended to read:

(c) No controlled substances included in any schedule may be distributed or dispensed for other than a medical purpose. No practitioner may dispense a Schedule II narcotic controlled substance for the purpose of maintaining the addiction of a narcotic dependent person outside of a facility or program approved by the Department of Public Health ~~and Environmental Control~~. No practitioner may dispense
a controlled substance outside of a bona fide practitioner-patient relationship.

G.Section 44-53-360(g) of the S.C. Code is amended to read:

(g) The ~~Board~~ department shall, by rules and regulations, specify the manner by which prescriptions are filed.

H. Section 44-53-430 of the S.C. Code is amended to read:

Section 44-53-430. Any person may appeal from any order of the ~~Department~~ department pursuant to Section 44-1-60 and applicable law. ~~within thirty days after the filing of the order, to the court of common pleas of the county in which the aggrieved party resides or in which his place of business is located. The Department shall thereupon certify to the court the record in the hearing. The court shall~~

~~review the record and the regularity and the justification for the order, on the merits, and render judgment thereon as in ordinary appeals in equity. The court may order or permit further testimony on the merits of the case, in its discretion such testimony to be given either before the judge or referee by him appointed. From such judgment of the court an appeal may be taken as in other civil actions.~~

I. Section 44-53-480 of the S.C. Code is amended to read:

Section 44-53-480. (a)(1) The South Carolina Law Enforcement Division shall establish within its Division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department of Narcotics and Dangerous Drugs, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the ~~abuse~~ use of controlled substances, shall enforce the State plan formulated in cooperation with the
Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances.

(2)As part of its duties the Department of Narcotics and Dangerous Drugs shall:

~~(1)~~(A) Assist the ~~Commission on Alcohol and Drug Abuse~~Department of Behavioral Health in the exchange of information between itself and governmental and local law-enforcement officials concerning illicit traffic in and use ~~and abuse~~ of controlled substances.

~~(2)~~(B) Assist the commission in planning and coordinating training programs on law enforcement for controlled substances at the local and state level.

~~(3)~~(C) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for federal, state and local law enforcement purposes.

~~(4)~~(D) Have the authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses.

(b) The Department of Public Health ~~and Environmental Control~~ shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any individuals or institutions authorized to have possession of such substances and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the Department of Public Health ~~and Environmental Control~~ by the General Assembly. Drug inspectors and special agents of the Department of Public Health ~~and Environmental Control~~ as provided for in Section 44-53-490, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence.

J.Section 44-53-490 of the S.C. Code is amended to read:

Section 44-53-490. (A) The Department of Public Health ~~and Environmental Control~~ shall designate persons holding a degree in pharmacy to serve as drug inspectors. Such inspectors shall, from time to time, but no less than once every three years, inspect all practitioners and registrants who manufacture,
dispense, or distribute controlled substances, including those persons exempt from registration but who are otherwise permitted to keep controlled substances for specific purposes. The drug inspector shall submit an annual report by the first day of each year to the ~~Department~~ department and a copy to the ~~Commission on Alcohol and Drug Abuse~~Department of Behavioral Health specifying the name of the practitioner or the registrant or such exempt persons inspected, the date of inspection and any other violations of this article.

(B) The ~~Department~~ department may employ other persons as agents and assistant inspectors to aid in the enforcement of those duties delegated to the Department by this article.

K.Section 44-53-500(b) of the S.C. Code is amended to read:

(b) The Department of Public Health and Environmental Control is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under this article are required to keep records, and

(b) Places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to this section an officer or employee designated by the ~~Commission on Alcohol and Drug Abuse~~Department of Behavioral Health upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the ~~Department~~ department may:

(a) ~~Inspect~~ inspect and copy records required by this article to be kept;

(b) ~~Inspect~~inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (b)(5) of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(c) ~~Inventory~~ inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:

(a) ~~With~~ with the consent of the owner, operator or agent in charge of the controlled premises;

(b) ~~In~~ in situations presenting imminent danger to health or safety;

(c) ~~In~~ in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) ~~In~~ in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(e) ~~In~~ in all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

(a) ~~Financial~~ financial data;

(b) ~~Sales~~ sales data other than shipment data;

(c) ~~Pricing~~ pricing data;

(d) ~~Personnel~~ personnel data; or

(e) ~~Research~~ research data.

L. Section 44-53-740 of the S.C. Code is amended to read:

Section 44-53-740. The ~~Board of~~ the Department of Public Health ~~and Environmental Control~~ shall promulgate regulations necessary to carry out the provisions of this article.

M.Section 44-53-930 of the S.C. Code is amended to read:

Section 44-53-930. Sales at retail of hypodermic needles or syringes shall be made only by a registered pharmacist or registered assistant pharmacist through a permitted pharmacy as authorized by Section 40-43-370, except that syringes and hypodermic needles may be sold by persons lawfully

selling veterinary medicines as authorized by item (8) of Section 40-69~~-220~~-270(A) if they register annually with the Department of Public Health ~~and Environmental Control~~ and pay such registration fee as may be required by the ~~Department~~ department and they shall be subject to the provisions of Section 44-53-920.

SECTION 64. Article (1), Chapter 55, Title 44 of the S.C. Code is amended to read:

Article 1

State Safe Drinking Water Act

Section 44-55-10. This article may be cited as the State Safe Drinking Water Act.

Section 44-55-20. As used in this article:

~~(1) "Board" means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Safe Drinking Water Act.~~

~~(2) "Commissioner" means the commissioner of the department or his authorized agent.~~

~~(3)~~(1) "Community water systems" means a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents. This may include, but is not limited to, subdivisions, municipalities, mobile home parks, and apartments.

~~(4)~~(2) "Construction permit" means a permit issued by the department authorizing the construction of a new public water system or the expansion or modification of an existing public water system.

~~(5)~~(3) "Contamination" means the adulteration or alteration of the quality of the water of a public water system by the addition or deletion of any substance, matter, or constituent except as authorized pursuant to this article.

~~(6)~~(4) "Cross-connection" means any actual or potential connection or structural arrangement between a public water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

~~(7)~~(5) "Department" means the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services, including personnel authorized and empowered to act on behalf of the department ~~or board~~.

(6) "Director" means the Director of the Department of Environmental Services or his authorized

agent.

~~(8)~~(7) "Human consumption" means water used for drinking, bathing, cooking, dish washing, and maintaining oral hygiene or other similar uses.

~~(9)~~(8) "Noncommunity water system" means a public water system which serves at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year and does not meet the definition of a community water system.

~~(10)~~(9) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least twenty-five of the same persons over six months per year.

~~(11)~~(10) "Operating permit" means a permit issued by the department that outlines the requirements and conditions under which a person must operate a public water system.

~~(12)~~(11) "Person" means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, government agency, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

~~(13)~~(12) "Public water system" means:

(a) any publicly or privately owned waterworks system which provides water, whether bottled, piped, or delivered through some other constructed conveyance for human consumption, including the source of supply whether the source of supply is of surface or subsurface origin;

(b) all structures and appurtenances used for the collection, treatment, storage, or distribution of water delivered to point of meter of consumer or owner connection;

(c) any part or portion of the system, including any water treatment facility, which in any way alters the physical, chemical, radiological, or bacteriological characteristics of the water; however, a public water system does not include a water system serving a single private residence or dwelling. A separately owned system with its source of supply from another waterworks system must be a separate public water system. A connection to a system that delivers water by a constructed conveyance other than a pipe must not be considered a connection if:

(i) the water is used exclusively for purposes other than residential uses consisting of drinking, bathing, and cooking or other similar uses;

(ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable State Primary Drinking Water Regulations is provided for residential or similar uses for drinking and cooking; or

(iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable State Primary Drinking Water Regulations.

~~(14)~~(13) "State water system" means any water system that serves less than fifteen service

connections or regularly serves an average of less than twenty-five individuals daily.

~~(15)~~(14) "Transient noncommunity water system" means a noncommunity water system that does not regularly serve at least twenty-five of the same persons over six months a year.

~~(16)~~(15) "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension, from which water is extracted or injected. This includes, but is not limited to, wells used for water supply for irrigation, industrial and manufacturing processes, or drinking water, wells used for underground injection of waste for disposal, storage, or drainage disposal, wells used in mineral or geothermal recovery, and any other special process wells.

~~(17)~~(16) "Well driller" means an individual, corporation, partnership, association, political subdivision, or public agency of this State who is licensed with the South Carolina Department of Labor, Licensing and Regulation for constructing wells and is in immediate supervision of and responsible for the construction, development, drilling, testing, maintenance, repair, or abandonment of any well as defined by this chapter. This term does include owners constructing or abandoning wells on their own property for their own personal use only, except that these owners are not required to be licensed by the Department of Labor, Licensing and Regulation for construction wells.

Section 44-55-30. In general, the design and construction of any public water system must be in accord with modern engineering practices for these installations. The ~~board~~ department shall establish regulations, procedures, or standards as may be necessary to protect the health of the public and to ensure proper operation and function of public water systems. These regulations may prescribe minimum design criteria, the requirements for the issuance of construction and operation permits, operation and maintenance standards, and bacteriological, chemical, radiological, and physical standards for public water systems, and other appropriate regulations.

Section 44-55-40. (A) Before the construction, expansion, or modification of any public water system, application for a permit to construct must be made to, and a permit to construct obtained from, the department.

(B) All applications for a permit to construct shall include such engineering, chemical, physical, radiological, or bacteriological data as may be required by the department and must be accompanied by engineering plans, drawings, and specifications prepared by or under the direct supervision of a person properly qualified to perform engineering work as provided in Chapter 22, Title 40 and must be signed or certified by a professional engineer as defined in Chapter 22, Title 40.

(C) Upon the completion of construction, modification, or extension to a public water system, arrangements must be made for a final inspection and approval before operation as prescribed by regulation. No new facility may be operated prior to approval by the department.

(D) Any public water system must be adequately protected and maintained so as to continuously

provide safe and potable water in sufficient quantity and pressure and free from potential hazards to the health of the consumers. No person may install, permit to be installed, or maintain any unprotected cross-connection between a public water system and any other water system, sewer, or waste line or any piping system or container containing polluting substances. To facilitate the prevention and control of cross-connections, the department shall certify qualified individuals who are capable of testing cross-connection control devices to ensure their proper operation.

(E) Hand dug and bored wells constructed with casing materials of rock, concrete, or ceramic must not be used as a source of water for a public water system.

(F) In exercising its responsibility under this article, the department is authorized to investigate the public water system as often as the department considers necessary. Records of operation of public water systems must be kept on forms approved or furnished by the department, and this data must be submitted at such times and intervals as the department considers necessary. Samples of water must be collected and analyzed by the systems as required.

(G) The department may authorize variances or exemptions from the regulations issued pursuant to this section under conditions and in such manner as the ~~board~~ department considers necessary and desirable; however, these variances or exemptions must be permitted under conditions and in a manner which is not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal Safe Drinking Water Act.

(H) The department or its authorized representative has the authority to enter upon the premises of any public water system at any time for the purpose of carrying out the provisions of this article.

(I) The department may issue, modify, or revoke any order to prevent any violation of this article after adequate notice and proper hearing as required by the Administrative Procedures Act.

(J) The department may hold public hearings and compel the attendance of witnesses; conduct studies, investigations, surveillance of laboratories, including certification programs, and research with respect to the operation and maintenance of any public water system; adopt and implement plans for the provision of drinking water under emergency circumstances; and issue, deny, revoke, suspend, or modify permits under such conditions as it may prescribe for the operation of any public water system; however, no permit may be revoked without first providing an opportunity for a hearing.

(K) The ~~Commissioner~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~ Services shall classify all public water system treatment facilities giving due regard to the size, type, complexity, physical condition, source of supply, and treatment process employed by the public water system treatment facility and the skill, knowledge, and experience necessary for the operation of these facilities. Each treatment facility must be classified at the highest applicable level of the following classification system, with Group VII Treatment being the highest classification level:

Group I Treatment. A facility which provides disinfection treatment using a sodium hypochlorite or calcium hypochlorite solution as the disinfectant.

Group II Treatment. A facility which provides disinfection treatment using gaseous chlorine or chloramine disinfection or includes sequestering, fluoridation, or corrosion control treatment.

Group III Treatment. A facility treating a groundwater source which is not under the direct influence of surface water, utilizing aeration, coagulation, sedimentation, lime softening, filtration, chlorine dioxide, ozone, ultra-violet light disinfection, powdered activated carbon addition, granular activated carbon filtration or ion exchange, or membrane technology or that includes sludge storage or a sludge dewatering process.

Group IV Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing aeration, coagulation, clarification with a minimum detention time of two hours in the clarification unit, lime softening, rapid rate gravity filtration (up to four gallons per minute per square foot), slow sand filtration, chlorine dioxide, powdered activated carbon addition, or granular activated carbon filtration or ion exchange or that includes sludge storage or a sludge dewatering process. This classification also includes any treatment facility which does not provide filtration for a surface water source or a groundwater source which is under the direct influence of surface water.

Group V Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing high rate gravity filtration (greater than four gallons per minute per square foot), clarification with a detention time of less than two hours in the clarification unit, diatomaceous earth filtration, or ultraviolet light disinfection.

Group VI Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing direct filtration, membrane technology, or ozone.

Group VII Treatment. Drinking water dispensing stations and vending machines which utilize water from an approved public water system or bottled water plants which treat water from the distribution system of a public water system or from a groundwater source which is not under the direct influence of surface water.

(L) The ~~Commissioner~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~ Services shall classify all public water distribution systems giving due regard to the size, type, and complexity of the public water distribution system and the skill, knowledge, and experience necessary for the operation of these systems. The classification must be based on:

Group I Distribution. Distribution systems associated with state and transient noncommunity water systems.

Group II Distribution. Distribution systems associated with community and nontransient noncommunity public water systems which have a reliable production capacity not greater than six hundred thousand gallons a day and which do not provide fire protection.

Group III Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than six hundred

thousand gallons a day but not greater than six million gallons a day (MGD) or have a reliable production capacity not greater than six hundred thousand gallons a day and provide fire protection.

Group IV Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity than six MGD, but not greater than twenty MGD.

Group V Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than twenty MGD.

(M) It is unlawful for a person to operate a public water treatment facility or distribution system classified in subsection (K) or (L) unless the operator-in-charge holds a valid certificate of registration issued by the South Carolina Environmental Certification Board in a grade corresponding to the classification of the public water treatment facility or distribution system supervised by the operator in charge. All public water treatment facilities classified in Group IV Treatment through Group VI
Treatment of subsection (K) must have an operator of the appropriate grade certified by the South Carolina Environmental Certification Board on duty while the facility is in operation.

(N) ~~Effective July 1, 1983, it~~It is unlawful for a person to engage in the business of well drilling or represent himself or herself to the public as a well driller without obtaining certification from the South Carolina Environmental Certification Board or employing well drillers which are certified by the South Carolina Environmental Certification Board. Persons constructing or abandoning wells on their own property for their own personal use only are not required to be licensed by the Department of Labor, Licensing and Regulation.

(O) The ~~board~~director, to ensure that underground sources of drinking water are not contaminated by improper well construction and operation, may promulgate regulations as developed by the Advisory Committee established pursuant to Section 44-55-45, setting standards for the construction, maintenance, operation, and abandonment of any well except for wells where well construction, maintenance, and abandonment are regulated by the Groundwater Use Act of 1969, Sections 49-5-10 et seq.; the Oil and Gas Exploration, Drilling, Transportation, and Production Act, Sections 48-43-10 et seq.; or the Water Use Reporting and Coordination Act, Section 49-4-10 et seq. For these excepted wells, the board may promulgate regulations. The board shall further ensure that all wells are constructed in accordance with the standards. The board shall make available educational training on the standards to well drillers who desire this training.

(P) The owner of a public water system must possess a valid operating permit to operate a public water system in this State.

Section 44-55-45. (A) An advisory committee to the ~~board~~ director must be appointed for the purpose of advising the ~~board~~ director during development or subsequent amendment of regulatory standards for the construction, maintenance, operation, and abandonment of wells subject to the

jurisdiction of the board. The Advisory Committee is composed of eight members appointed by the ~~board~~director. Five members must be active well drillers; one member must be a registered professional engineer with experience in well design and construction; one member must be a consulting hydrogeologist with experience in well design and construction; and one member must be engaged in farming and shall represent the public at large. Three ex officio members shall also serve on the Advisory Committee, one of whom must be an employee of the Department of ~~Health and~~ Environmental ~~Control~~Services~~, and~~ appointed by the ~~commissioner~~director; and two of whom must be employees of the ~~South Carolina~~ Department of Natural Resources ~~and~~ appointed by the ~~director~~Director of the Department of Natural Resources.

(B) The term of office of members of the Advisory Committee is for four years and until their successors are appointed and qualify. No member may serve more than two consecutive terms. The initial terms of office must be staggered and any member may be removed for cause after proper
notification and an opportunity to be heard.

Section 44-55-50. (A) In establishing regulations, procedures, and standards under Section 44-55-30 and in exercising supervisory powers under Section 44-55-40 the ~~board or~~ department must not prohibit or fail to include provisions for recreational activities including boating, water skiing, fishing, and swimming in any reservoir without first making and publishing specific findings that these recreational activities would be injurious to the public health and assigning with particularity the factual basis and reasons for these decisions.

(B) If the ~~board or~~ department determines that these recreational activities would be injurious to the public health it shall cause to have published at least once a week for six consecutive weeks in a newspaper of general circulation in the county or area affected a summary of its findings. Any citizen
of this State who objects to the findings of the ~~board or~~ department is entitled to request a public hearing, which the ~~board or~~ department shall conduct within thirty days after the request. The public hearing must be a formal evidentiary hearing where testimony must be recorded. After the hearing the ~~board or~~ department shall review its initial findings and shall within thirty days after the hearing affirm or reevaluate its findings in writing and give notice to known interested parties. The findings of the ~~board or~~ department may be appealed ~~to the circuit court~~pursuant to Section 48-6-30 and the Administrative Procedures Act to the Administrative Law Court, which is empowered to modify or overrule the findings if the court determines the findings to be arbitrary or unsupported by the evidence. Notice of intention to appeal must be served on the ~~board or~~ department during the time period provided for in Section 48-6-30 and the Administrative Procedures Act. ~~within fifteen days after it has affirmed or reevaluated its initial findings and copies also~~Copies of the appeal must be served on known interested parties.

(C) A public water system utilizing a fully owned and protected watershed as its water supply is

exempt from this section.

Section 44-55-60. (A) An imminent hazard is considered to exist when in the judgment of the ~~commissioner~~ director there is a condition which may result in a serious immediate risk to public health in a public water system.

(B) In order to eliminate an imminent hazard, the ~~commissioner~~ director may, without notice or hearing, issue an emergency order requiring the water system to immediately take such action as is required under the circumstances to protect the public health. A copy of the emergency order must be served by certified mail or other appropriate means. An emergency order issued by the ~~commissioner~~ director must be effected immediately and binding until the order is reviewed and ~~modified by the board or~~ modified or rescinded by a court of competent jurisdiction.

Section 44-55-70. (A)A public water system shall, as soon as practicable, give public notice if it:
(1) is not in compliance with the State Primary Drinking Water Regulations;
(2) fails to perform required monitoring;
(3) is granted a variance for an inability to meet a maximum contaminant level requirement;
(4) is granted an exemption; or
(5) fails to comply with the requirements prescribed by a variance or exemption.

(B) The ~~board~~ department shall prescribe procedures for the public notice, including procedures for notification by publication in a newspaper of general circulation, notification to be given in the water bills of the systems, as long as a condition of violation exists, and other notification as is considered appropriate by the ~~board~~department.

Section 44-55-80. (A) It is unlawful for a person to fail to comply with:
(1) the provisions of this article or the regulations promulgated pursuant to this article;
(2) the conditions of any permit issued under this article; or
(3) any order of the department.

(B) It is unlawful for a person to render a public water system, or part or portion of a public water system, inoperable or unusable by means of contamination, vandalism, sabotage, or assault upon or detention of employees of the system or to misrepresent any fact related to the operation of a public water system.

Section 44-55-90. (A) Any person wilfully violating the provisions of Section 44-55-80 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars a day per violation or imprisoned for not more than one year, or both.

(B)(1) A violation of Section 44-55-80 by a person renders the violator liable to the State for a civil

penalty of not more than five thousand dollars a day per violation.

(2) The department may administer penalties as otherwise provided for violations of this article, including any order, permit, regulation, or standard or may request the Attorney General to commence an action under this subsection in an appropriate court of the State to secure this penalty.

(C) The department may cause to be instituted a civil action in any court of applicable jurisdiction for injunctive relief to prevent violation of this article or any order issued pursuant to Sections 44-55-40, 44-55-60, and 44-55-70.

Section 44-55-100. To carry out the provisions and purposes of this article, the department may:

(1) enter into agreements, contracts, or cooperative arrangements, under the terms and conditions as it considers appropriate, with other state, federal, or interstate agencies, municipalities, educational institutions, local health departments, or other organizations or individuals;

(2) receive financial and technical assistance from the federal government and other public or private agencies;

(3) participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations and collect and file such reports, surveys, inventories, data, and information which may be required by the federal Safe Drinking Water Act;

(4) establish and collect fees for collecting samples and conducting laboratory analyses as may be necessary.

Section 44-55-120. (A) In order to comply with the federal Safe Drinking Water Act, in addition to other fees authorized under this article, the department is authorized to collect an annual fee from each public water system. The schedule for the annual fee, established pursuant to this article, may not be
increased except in accordance with the Administrative Procedures Act. Upon appropriation of additional state funds for this specific purpose or state funds not otherwise allocated for specific purposes to implement the provisions of the federal Safe Drinking Water Act, the department shall adjust the fee schedule by an equivalent amount.

(B) There is established in the treasurer's office an account entitled the Drinking Water Trust Fund which is separate and distinct from the Environmental Protection Fund established pursuant to Chapter 2, Title 48. The fees collected from the public water systems pursuant to this section must be deposited into the Drinking Water Trust Fund and must be provided to the department solely for purposes of implementing this chapter and the federal Safe Drinking Water Act. The fees must be established in accordance with fees which fund the Environmental Protection Fund pursuant to Chapter 2, Title 48.

(C) There is established a Safe Drinking Water Advisory Committee for the purpose of advising and providing an annual review to the department and General Assembly on the fee schedule and the use of revenues deposited in the Drinking Water Trust Fund. The Governor shall appoint the advisory

committee which must be composed of one member representing water systems with fifty thousand or more service connections, one member representing water systems with at least twenty-five thousand but fewer than fifty thousand service connections, one member representing water systems with at least ten thousand but fewer than twenty-five thousand water service connections, one member representing water systems with at least one thousand but fewer than ten thousand service connections, one member representing water systems with fewer than one thousand service connections, and the Executive Director of the Office of Regulatory Staff and the ~~Commissioner~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~Services, or a designee.

(D) The department may deny a construction permit to any new system which is unable to demonstrate viability to comply with the Safe Drinking Water Act or where connection to an existing, viable water system is feasible. The department also may revoke or deny renewal of an operating permit to any existing water system which is unable to demonstrate its ability to continue compliance with this act.

(E) A water system may increase water rates to each service connection by an amount necessary to recover the cost of the safe drinking water fee without seeking approval of the public service commission. The total funds generated from rate increases to service connections for the purpose of paying the safe drinking water fee may not exceed the amount of the fee established pursuant to subsection (B).

SECTION 65. Article (3), Chapter 55, Title 44 of the S.C. Code is amended to read:

Article 3

Privies

Section 44-55-210. The term "privy" as used in this article shall be understood to include any and all buildings which are not connected with a system of sewage or with septic tanks of such construction and maintenance as are approved by the ~~State~~ Department of ~~Health and~~ Environmental ~~Control~~ Services and which are used for affording privacy in acts of urination or defecation. For the purpose of this article the term "watershed" shall include the entire watershed of all streams, creeks and rivers that have a daily average flow of less than ten million gallons, but for watersheds of streams, creeks or rivers that have a daily average flow of more than ten million gallons, the watershed shall include only such drainage areas as lie within fifteen miles of the waterworks intake.

Section 44-55-220. The provisions of this article shall apply to all residences, institutions and establishments and all privies, without regard to their distance from the homes of persons, which are

located on the watershed of a public surface water supply.

Section 44-55-230. Every privy, located on property occupied by the owner or a tenant or by any person employed by the owner, shall be maintained in a sanitary manner and in accordance with rules and regulations prescribed by the Department of ~~Health and~~ Environmental ~~Control~~ Services and posted in a suitable form inside of the privy by an officer of the ~~Department~~department.

Section 44-55-240. The person in charge of a dwelling, office building, establishment or institution shall be responsible for the sanitary maintenance of any privy which is used by his household, guests, customers, pupils, passengers, occupants, employees, workers or other persons.

Section 44-55-250. The Department of ~~Health and~~ Environmental ~~Control~~Services, through its officers and inspectors, shall exercise such supervision over the sanitary construction and maintenance of privies as may be necessary to enforce the provisions of this article.

Section 44-55-260. Duly authorized agents of the Department of ~~Health and~~ Environmental ~~Control~~ Services may enter upon any premises and into any buildings or institutions for the purposes of inspection as provided for or required by State laws or regulations of the ~~Department~~ department pursuant to such laws, but the privacy of no person shall be violated. Any person who wilfully interferes with or obstructs the officers of the ~~Department~~ department in the discharge of any of their duties under this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

Section 44-55-270. If an officer or an inspector of the Department of ~~Health and~~ Environmental ~~Control~~ Services shall find a privy which is not constructed in accordance with the provisions of this article or not being maintained in a sanitary manner and in accordance with the rules and regulations of the ~~Department~~ department he shall securely fasten on the privy a notice reading, "Unsanitary, Unlawful To Use."

Section 44-55-275. On the effective date of this section any provision of law or regulation relating to outdoor toilet facilities or privies which would require the destruction or discontinued use of such facilities shall not apply to facilities at campgrounds or parks used exclusively for religious purposes.

Section 44-55-280. No person shall remove or deface an official notice fastened on or in a privy by an officer of the Department of ~~Health and~~ Environmental ~~Control~~Services.

Section 44-55-290. The Department of ~~Health and~~ Environmental ~~Control~~ Services shall designate ~~as its~~ agents ~~local health inspectors of incorporated towns or cities~~ for the enforcement of the terms of this article and the rules and regulations issued pursuant thereto within one mile outside the corporate limits of such town or city. ~~Such local health inspectors~~The agents shall enforce such rules and regulations as may be issued by the ~~Department~~ department under the terms of this article. ~~In counties having health units it shall be the duty of such health units to enforce the rules and regulations of the Department in the territory of such counties lying beyond the distance of one mile from the corporate limits of towns or cities having local health inspectors. Provided, that nothing herein shall affect the Richland County board of health from having concurrent jurisdiction with the designated local health inspectors to implement the rules and regulations within one mile of the boundary of a city or town.~~

Section 44-55-300. Any person who violates any of the provisions of this article, other than Section 44-55-260, and any person who is responsible for the sanitary maintenance of a privy and who permits such privy, after an official notice reading, "Unsanitary, Unlawful To Use," has been fastened on it, to be used shall be guilty of a misdemeanor and fined not less than five dollars nor more than fifty dollars or imprisoned not exceeding thirty days.

SECTION 66. Section 44-55-825(C) of the S.C. Code is amended to read:

(C) Onsite wastewater systems must be installed pursuant to construction and operation permits issued by the department pursuant to regulation. Deviation from the installation design and conditions in onsite wastewater permits may be considered by the department to be a violation. Violation of an onsite wastewater system permit installation must be enforced in accordance with the following:

(1) First offense violations may be enforced under Section ~~44-1-150~~48-6-70 or by suspension of the installer's license by a period not to exceed one year.

(2) Second offense violations may be enforced under Section ~~44-1-150~~48-6-70 or by suspension of the installer's license by a period not to exceed three years.

(3) Third offense violations may be enforced under Section ~~44-1-150~~48-6-70 or by permanent revocation of the installer's license.

SECTION 67. Section 44-55-827(C) of the S.C. Code is amended to read:

(C) Nothing in this chapter or regulations promulgated pursuant to this chapter affect the department's authority, under Section ~~44-1-140~~48-6-60 and regulation, to issue permits for the installation and construction of individual onsite wastewater systems.

SECTION 68. Section 44-55-1360 of the S.C. Code is amended to read:

Section 44-55-1360. A violation of a provision of this chapter is punishable in accordance with Sections 44-1-150, 48-1-320, 48-1-330, ~~and~~ 48-1-340, and 48-6-70, as applicable.

SECTION 69. A. Section 44-55-2320 of the S.C. Code is amended to read:

Section 44-55-2320. As used in this article:

~~(1) "Board" means the Board of Health and Environmental Control.~~

~~(2)~~(1) "Director" means the director of the department or his authorized agent.

~~(3)~~(2) "Department" means the Department of ~~Health and~~ Environmental ~~Control~~Services.

~~(4)~~(3) "Person" means an individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate, or any other legal entity. "Person" does not mean a church, synagogue, or religious organization.

~~(5)~~(4) "Public swimming pool" means an artificial structure used to impound water to provide for such recreational uses as bathing, swimming, diving, wading, spraying, sliding, floating, rafting, or other similar usage which is not built in connection with a single family residence and the use of which is not confined to the family of the residence and its private guests, or which is not owned, constructed, operated, or maintained by a church, synagogue, or religious organization.

B. Section 44-55-2360 of the S.C. Code is amended to read:

Section 44-55-2360. It is unlawful for a person to fail to comply with the requirements of this article and regulations promulgated by the department including a permit or order issued by the ~~board, director or~~ department.

SECTION 70. A. Section 44-56-20 of the S.C. Code is amended to read:

Section 44-56-20. Definitions as used in this chapter:

~~(1) "Board" means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Hazardous Waste Management Act.~~

~~(2)~~(1) "Director" means the director of the department or his authorized agent.

~~(3)~~(2) "Department" means the Department of ~~Health and~~ Environmental ~~Control~~Services, including personnel thereof authorized by the board to act on behalf of the department ~~or board~~ which is charged with the responsibility for implementation of the Hazardous Waste Management Act.

~~(4)~~(3) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of

any hazardous waste into or on any land or water so that such substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

~~(5)~~(4) "Generation" means the act or process of producing waste materials.

~~(6)~~(5) "Hazardous waste" means any waste, or combination of wastes, of a solid, liquid, contained gaseous, or semisolid form which because of its quantity, concentration, or physical, chemical, or infectious characteristics may in the judgment of the department:

a. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

b. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Such wastes may include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, persistent in nature, assimilated, or concentrated in tissue, or which generate pressure through decomposition, heat, or other means. The term does not include solid or dissolved materials in domestic sewage, or solid dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act or the Pollution Control Act of South Carolina or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954.

~~(7)~~(6) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

~~(8)~~(7) "Manifest" means the form used for identifying the quantity, composition, or origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

~~(9)~~(8) "Permit" means the process by which the department can ensure cognizance of, as well as control over the management of hazardous wastes.

~~(10)~~(9) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous wastes.

~~(11)~~(10) "Transport" means the movement of hazardous wastes from the point of generation to any intermediate points and finally to the point of ultimate treatment, storage or disposal.

~~(12)~~(11) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, reduced in volume, or suitable for final disposal.

~~(13)~~(12)(a) "Uncontrolled hazardous waste site" means any site where hazardous wastes or other hazardous substances have been released, abandoned, or otherwise improperly managed so that governmental response action is deemed necessary to remedy actual or potential damages to public health, the public welfare, or the environment.

(b) For the purpose of this item the term "hazardous waste" does not include petroleum, including crude oil or fraction thereof; natural gas; natural gas liquids; liquified natural gas; synthetic gas usable for fuel; or mixtures of natural gas and such synthetic gas.

~~(14)~~(13) "Response action" is any cleanup, containment, inspection, or closure of a site ordered by the director as necessary to remedy actual or potential damages to public health, the public welfare, or the environment.

B. Section 44-56-30 of the S.C. Code is amended to read:

Section 44-56-30. The ~~board~~ department shall promulgate such regulations, procedures or standards as may be necessary to protect the health and safety of the public, the health of living organisms and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes. Such regulations may prescribe contingency plans; the criteria for the determination of whether any waste or combination of wastes is hazardous; the requirements for the issuance of permits required by this chapter; standards for the transportation, containerization, and labeling of hazardous wastes consistent with those issued by the United States Department of Transportation; operation and maintenance standards; reporting and record keeping requirements; and other appropriate regulations.

C. Section 44-56-100 of the S.C. Code is amended to read:

Section 44-56-100. The ~~board~~ department may issue, modify or revoke any order to prevent any violation of this chapter.

D. Section 44-56-130(3) of the S.C. Code is amended to read:

(3) It shall be unlawful for any person to fail to comply with this chapter and rules and regulations promulgated pursuant to this chapter; to fail to comply with any permit issued under this chapter; or to fail to comply with any order issued by the ~~board, director, or~~ department.

E. Section 44-56-420(B) of the S.C. Code is amended to read:

(B) The ~~board of the~~ Department of ~~Health and~~ Environmental ~~Control~~ Services shall establish a moratorium on administrative and judicial actions by the department concerning drycleaning facilities and wholesale supply facilities resulting from the release of drycleaning solvent to soil or waters of the State. This moratorium applies only to those sites deemed eligible as defined in Section 44-56-470. The ~~board~~ department may review and determine the appropriateness of the moratorium as needed. The

review by the ~~board~~ department must include, but is not limited to, consideration of these factors:

(1) the solvency of the fund as described in this article;

(2) prioritization of the sites;

(3) public health concerns related to the sites;

(4) eligibility of the sites; and

(5) corrective action plans submitted to the department. After review, the ~~board~~ department may suspend all or a portion of the moratorium if necessary.

F.Section 44-56-495(C) of the S.C. Code is amended to read:

(C) Members enumerated in subsections (B)(1) through (B)(3) are appointed by the ~~board~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~ Services and shall serve terms of two years and until their successors are appointed. The chairman of the council is elected by the members of the council at the first meeting of each new term.

SECTION 71. Section 44-59-30 of the S.C. Code is amended to read:

Section 44-59-30. (A) The North Carolina Department of Environmental and Natural Resources and the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services shall provide staff support and facilities to each commission within the existing programs of the respective agencies.

(B) All agencies of the State of North Carolina and the State of South Carolina shall cooperate with the commissions and, upon request, shall assist each commission in fulfilling its responsibilities. The North Carolina Secretary of Environmental and Natural Resources and the ~~Commissioner~~ Director of the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services or their designees shall each serve as the liaison between their respective state agencies and each commission.

SECTION 72. A. Section 44-61-20 of the S.C. Code is amended to read:

Section 44-61-20. As used in this article, and unless otherwise specified, the term:

(1) "Ambulance" means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(2) "Attendant" means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.

(3) "Attendant-driver" means a person who is qualified as an attendant and a driver.

(4) "Authorized agent" means any individual designated to represent the department.

~~(5) "Board" means the governing body of the Department of Health and Environmental Control or its designated representative.~~

~~(6)~~(5) "Certificate" means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.

~~(7)~~(6) "Condition requiring an emergency response" means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

(a) serious illness or disability;

(b) impairment of a bodily function;

(c) dysfunction of the body; or

(d) prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

~~(8)~~(7) "Department" means the administrative agency known as the Department of Public Health~~ and Environmental Control~~.

~~(9)~~(8) "Driver" means an individual who drives or otherwise operates an ambulance.

~~(10)~~(9) "Emergency medical responder agency" means a licensed agency providing medical care at the EMT level or above, as a nontransporting emergency medical responder.

~~(11)~~(10) "Emergency medical service system" means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.

~~(12)~~(11) "Emergency medical technician" (EMT) when used in general terms for emergency medical personnel, means an individual possessing a valid EMT, advanced EMT (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

~~(13)~~(12) "Emergency transport" means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:

(a) placing the patient's health in serious jeopardy;

(b) causing serious impairment to bodily functions;

(c) causing serious dysfunction of bodily organ or part; or

(d) a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

~~(14)~~(13) "Immediate family" means a person's spouse. In the event there is no spouse, "immediate family" means a person's parents and children.

~~(15)~~(14) "In-service training" means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.

~~(16)~~(15) "Investigative Review Committee" means a professional peer review committee that may be convened by the department in its discretion when the findings of an official investigation against an entity or an individual regulated by the department may warrant suspension or revocation of a license or certification. This committee consists of the State Medical Control Physician, three regional EMS office representatives, at least one paramedic, and at least one emergency room physician who is also a medical control physician. Appointment is made to this committee by the Chief of the Bureau of EMS and Trauma.

~~(17)~~(16) "Legal guardian" means a person who is lawfully invested with the power, and charged with the obligation of, taking care of and managing the property and rights of a person who, because of age, understanding, or self-control, is considered incapable of administering his or her own affairs.

~~(18)~~(17) "Legal representative" of a person is his personal representative, general guardian, or conservator of his property or estate, or the person to whom power of attorney has been granted.

~~(19)~~(18) "License" means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical services in the State.

~~(20)~~(19) "Licensee" means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.

~~(21)~~(20) "Moral turpitude" means behavior that is not in conformity with and is considered deviant by societal standards.

~~(22)~~(21) "National Registry of Emergency Medical Technicians Registration" is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.

~~(23)~~(22) "Nonemergency ambulance transport" means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.

~~(24)~~(23) "Nonemergency ambulance transport service" means an ambulance service that provides for routine transportation of patients that require medical monitoring in a nonemergency setting including, but not limited to, prearranged transports.

~~(25)~~(24) "Operator" means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

~~(26)~~(25) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

~~(27)~~(26) "Permit" means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.

~~(28)~~(27) "Revocation" means that the department has permanently voided a license or certificate and the holder no longer may perform the function associated with the license, or certificate. The department will not reissue the license or certificate for a period of two years for a license or permit and four years for a certificate. At the end of this period the holder may petition for reinstatement.

~~(29)~~(28) "Standards" means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.

~~(30)~~(29) "State Medical Control Physician" means a physician who shall be contracted with the department to oversee all medical aspects of the EMS Program. The contracted physician must both reside and be licensed to practice in this State. Duties of the State Medical Control Physician shall include, but not be limited to, the following:

(a) protocol development;

(b) establishment of the scope of practice for EMTs at all levels;

(c) provide recommendations for disciplinary actions in cases involving inappropriate patient care; and

(d) serve as Chairman of the State Medical Control Committee and the State Emergency Medical Services Advisory Council.

~~(31)~~(30) "Suspension" means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.

B. Section 44-61-30(A) of the S.C. Code is amended to read:

(A) The Department of Public Health~~ and Environmental Control~~, with the advice of the Emergency Medical Services Advisory Council and the State Medical Control Physician, shall develop standards and promulgate regulations for the improvement of emergency medical services (hereinafter referred to as EMS) in the State. All administrative responsibility for this program is vested in the department.

C. Section 44-61-30(C) of the S.C. Code is amended to read:

(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Public Health~~ and Environmental Control~~, the South Carolina Medical Association, the South Carolina Trauma Advisory Council, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor's Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the board. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems. The advisory council shall serve without compensation, mileage, per diem, or subsistence.

D. Section 44-61-40 of the S.C. Code is amended to read:

Section 44-61-40. (A) A person, firm, corporation, association, county, district, municipality, or metropolitan government or agency, either as owner, agent, or otherwise, may not furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service, or both, without obtaining a license and ambulance permit issued by the department. Failure to furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service without the proper license or permit, or both, from the department results in a Class I civil penalty, as defined in Regulation 61-7(304).

(B) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the ~~board~~ department and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to Article 3, Chapter 23, Title 1.

(C) An applicant shall retain a medical control physician to maintain quality control of the patient care provided by the applicant's service. No medical control physician acting in good faith who participates in the review or evaluation of the services provided by the applicant to help improve the quality of patient care is liable for any civil damages as a result of any act or omission by the physician in the course of a review or evaluation.

(D) Applicants shall renew licenses and permits every two years.

E.Section 44-61-50 of the S.C. Code is amended to read:

Section 44-61-50. A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations promulgated by the ~~board~~department. Absent revocation or suspension, permits issued for ambulances are valid for a period not to exceed two years.

F.Section 44-61-60 of the S.C. Code is amended to read:

Section 44-61-60. (A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the ~~board~~ department and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the board.

(B) The transportation of patients and the provision of emergency medical services shall conform to standards promulgated by the ~~board~~department.

G. Section 44-61-70 of the S.C. Code is amended to read:

Section 44-61-70. (A) The department may enforce rules, regulations, and standards promulgated pursuant to this article. An enforcement action taken by the department may be appealed pursuant to Article 3, Chapter 23, Title 1.

(B) Grounds for an enforcement action against an authorization, license, or permit exist for violation of a regulation promulgated pursuant to this article. The department may suspend a license pending an investigation of an alleged violation or complaint. The department may impose a civil monetary penalty up to five hundred dollars per offense per day to a maximum of ten thousand dollars and revoke or suspend the provider's license or permit if the department finds that a service has:

(1) allowed uncertified personnel to perform patient care;

(2) falsified required forms or paperwork as required by the department;

(3) failed to maintain required equipment as evidenced by past compliance history;

(4) failed to maintain a medical control physician;

(5) failed to maintain equipment in working order; or

(6) failed to respond to a call within the response area of the service without providing for response by an alternate service.

(C) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while

in the performance of his duties or violates a provision of this article or regulation of the ~~board~~ department promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.

(D) If a permitted ambulance or licensed emergency medical responder service fails inspection or loses points upon initial inspection, a civil monetary penalty must not be levied. Instead, a copy of the inspection report will be given to the service indicating deficiencies found and a request for a letter of compliance and a time period by which to correct the deficiencies will be issued. Upon reinspection, any deficiencies found will be assigned a point value and fine schedule or the permit will be revoked, or both. The fine schedule is found in Regulation 61-7.

H. Section 44-61-80(G) of the S.C. Code is amended to read:

(G) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the ~~board~~department; and all such training courses shall be supervised by certified instructors.

I.Section 44-61-130 of the S.C. Code is amended to read:

Section 44-61-130. A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the ~~board~~ department may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Public Health ~~and Environmental Control~~ certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the Department of Public Health ~~and Environmental Control~~ for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.

J.Section 44-61-310. As used in this article:

(1) "Advanced life support" means an advanced level of prehospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the department pursuant to regulations.

(2) "Basic life support" means a basic level of prehospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the department pursuant to regulations.

~~(3) "Board" means the governing body of the Department of Health and Environmental Control or its designated representative.~~

~~(4)~~(3) "Department" means the Division of Emergency Medical Services and Trauma within the Department of Public Health ~~and Environmental Control~~.

~~(5)~~(4) "Director" means the Director of the Department of Public Health ~~and Environmental Control~~ or his designated representative.

~~(6)~~(5) "EMSC Program" means the Emergency Medical Services for Children Program established pursuant to this article and other relevant programmatic activities conducted by the department in support of appropriate treatment, transport, and triage of ill or injured children.

~~(7)~~(6) "Emergency medical services personnel" means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support prehospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

~~(8)~~(7) "Emergency medical technician" or "EMT" means, when used in general terms for emergency medical personnel, an individual possessing a valid, emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

~~(9)~~(8) "Manager" means the person coordinating the EMSC Program within the Department of Public Health ~~and Environmental Control~~.

~~(10)~~(9) "Prehospital care" means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

K. Section 44-61-340(C) of the S.C. Code is amended to read:

(C) Except as otherwise authorized in this section, patient information must not be released except to:

(1) appropriate staff of the Division of Emergency Medical Services and Trauma within the Department of Public Health and Environmental Control, South Carolina Data Oversight Council, and Revenue and Fiscal Affairs Office;

(2) submitting hospitals or their designees;

(3) a person engaged in an approved research project, except that no information identifying a

subject of a report or a reporter may be made available to a researcher unless consent is obtained pursuant to this section.

L.Section 44-61-350(B) of the S.C. Code is amended to read:

(B) Committee members must be appointed by the ~~board~~director.

SECTION 73. Section 44-61-530(A) of the S.C. Code is amended to read:

(A) There is established the Trauma Advisory Council composed of, but not limited to, the following members to be appointed by the director of the department for terms of three years and members may be reappointed:

(1) a surgeon who oversees trauma care at each designated level, upon the recommendation of the South Carolina Chapter of the American College of Surgeons;

(2) a hospital administrator from each designated level, upon the recommendation of the South Carolina Hospital Association;

(3) a hospital administrator from a nondesignated facility, upon the recommendation of the South Carolina Hospital Association;

(4) an emergency physician representative from each designated level, upon the recommendation of the South Carolina Chapter of the College of Emergency Physicians;

(5) a trauma nurse coordinator from each designated level, upon the recommendation of the Trauma Association of South Carolina;

(6) the chairman of the ~~South Carolina~~ Department of Public Health's ~~Health and Environmental Control's~~ Medical Control Committee;

(7) one public and one private field emergency medical services provider, upon the recommendation of the Emergency Medical Services Association;

(8) a physician, upon the recommendation of the South Carolina Medical Association;

(9) the chairman of the Committee on Trauma of the South Carolina Chapter of the American College of Surgeons;

(10) a rehabilitation center administrator, upon the recommendation of the South Carolina Hospital Association;

(11) the chairman of the Emergency Medical Services Advisory Council of the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~;

(12) a representative from the South Carolina State Office of Rural Health;

(13) a third party payor representative, upon the recommendation of the Insurance Commissioner;

(14) a consumer representative appointed by the director;

(15) a representative from the South Carolina Department of Disabilities and Special Needs;

(16) a representative from the South Carolina Department of Health and Human Services;

(17) an orthopedic physician representative, upon the recommendation of the South Carolina Orthopedic Association; and

(18) a pediatric physician representative, upon the recommendation of the South Carolina Chapter of the American Academy of Pediatrics.

SECTION 74. Section 44-61-630 of the S.C. Code is amended to read:

Section 44-61-630. As used in this article:

(1) "Department" means the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~.

(2) "Director" means the Director of the ~~South Carolina~~ Department of Public Health ~~and Environmental Control~~.

(3) "Joint Commission" means the Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations, a not-for-profit organization that accredits hospitals and other health care organizations.

SECTION 75. Section 44-63-110 of the S.C. Code is amended to read:

Section 44-63-110. For making, furnishing, or certifying any card, certificate, or certified copy of the record, for filing a record amendment according to the provisions of Section 44-63-60, 44-63-80, 44-63-90 or 44-63-100, or for searching the record, when no card, certificate, or certified copy is made, a fee in an amount as determined by the ~~Board of the~~ Department of Public Health ~~and Environmental Control~~ must be paid by the applicant, except that the Department of Social Services or its designee is not required to pay a fee when the information is needed for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation. The amount of the fee established by the board may not exceed the cost of the services performed and to the extent possible must be charged on a uniform basis throughout the State. When verification of the facts contained in these records is needed for Veterans Administration purposes in connection with a claim, it must be furnished without charge to the Veterans' Affairs Department of the Governor's Office or to a county veterans affairs officer upon request and upon the furnishing of satisfactory evidence that the request is for the purpose authorized in this chapter.

SECTION 76. A. Section 44-69-20 of the S.C. Code is amended to read:

Section 44-69-20. As used in this chapter:

~~(1) "Board" shall mean the South Carolina Board of Health and Environmental Control.~~

~~(2)~~(1) "Branch office" shall mean a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and

~~(2)~~(1) "Branch office" shall mean a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

~~(3)~~(2) "Department" shall mean ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~.

~~(4)~~(3) "Home health agency" shall mean public, nonprofit, or proprietary organization, whether owned or operated by one or more persons or legal entities, which furnishes or offers to furnish home health services.

~~(5)~~(4) "Home health services" shall mean those items and services furnished to an individual by a home health agency, or by others under arrangement with the home health agency, on a visiting basis, and except for subsection "e" below, in a place of temporary or permanent residence used as the individual's home as follows:

(a) Part-time or intermittent skilled nursing care as ordered by a physician, an APRN pursuant to Section 40-33-34(D)(2)(h), or a PA pursuant to Section 40-47-935(B)(8) and as provided by or under the supervision of a registered nurse and at least one other service listed below;

(b) Physical, occupational or speech therapy;

(c) Medical social services, home health aide services and other therapeutic services;

(d) Medical supplies and the use of medical appliances;

(e) Any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home health agency with a hospital, nursing care facility, or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot be readily made available to the individual in his home, or which are furnished at such facility while the patient is there to receive such items or service, but not including transportation of the individual in connection with any such items or services.

~~(6)~~(5) "License" shall mean a license issued by the Department.

~~(7)~~(6) "Licensee" shall mean the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the home health agency.

~~(8)~~(7) "Parent Home Health Agency" shall mean the agency that develops and maintains administrative controls of subunits or branch offices.

~~(9)~~(8) "Physician" shall mean an individual currently licensed to practice medicine, surgery, or osteopathy in this State.

~~(10)~~(9) "Registered Nurse" shall mean an individual who is currently licensed as such in this State.

~~(11)~~(10) "Subunit" shall mean a semiautonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the parent agency is judged incapable of sharing administration, supervision, and services on a daily basis with the parent agency and must, therefore, independently meet the conditions of participation for home health agencies.

B. Section 44-69-50 of the S.C. Code is amended to read:

Section 44-69-50. Reasonable fees shall be established by the ~~Board~~department. Such fees shall be paid into the State Treasury or refunded to the applicant if the license is denied. Governmental home health agencies are exempt from payment of license fees.

SECTION 77. A. Section 44-71-20 of the S.C. Code is amended to read:

Section 44-71-20. As used in this chapter:

~~(1) "Board" means the South Carolina Board of Health and Environmental Control.~~

~~(2)~~(1) "Department" means the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~.

~~(3)~~(2)(a) "Hospice" means a centrally administered, interdisciplinary health care program, which provides a continuum of medically supervised palliative and supportive care for the terminally ill patient and the family including, but not limited to, outpatient and inpatient services provided directly or through written agreement. Inpatient services include, but are not limited to, services provided by a hospice in a licensed hospice facility.

(b) Admission to a hospice program of care is based on the voluntary request of the hospice patient alone or in conjunction with designated family members.

~~(4)~~(3) "Hospice facility" means an institution, place, or building in which a licensed hospice provides room, board, and appropriate hospice services on a twenty-four hour basis to individuals requiring hospice care pursuant to the orders of a physician.

~~(5)~~(4) "Licensee" means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the hospice or hospice facility.

~~(6)~~(5) "Multiple location" means a properly registered additional site, other than the licensed primary office, from which a parent hospice organization provides hospice services. "Multiple location" does not mean a "work station" as defined in item (9).

~~(7)~~(6) "Parent hospice" means a properly licensed hospice that, in addition to its primary office, also provides hospice services from a multiple location as defined in item (6).

~~(8)~~(7) "Primary office" means the main office of a hospice program from which a parent hospice

provides hospice services to patients and their families and from which a parent hospice performs oversight, administrative, and coordination of care duties for any multiple location.

~~(9)~~(8) "Work station" means a site operated within the licensed service area of a hospice solely for the convenience of the staff where they may conduct activities including, but not limited to, completing paperwork, checking messages, or storing equipment. These work stations must not have signage with an address or operating hours, must not be advertised, and must not be open to the public for any reason, such as to distribute supplies or to receive referrals.

B. Section 44-71-70 of the S.C. Code is amended to read:

Section 44-71-70. (A) The department is authorized to issue, deny, suspend, or revoke licenses in accordance with regulations promulgated pursuant to this section. ~~Such regulations must include hearing procedures related to denial, suspension, or revocation of licenses.~~

(B) The department is authorized to deny, suspend, or revoke approvals of multiple locations in accordance with regulations promulgated pursuant to this section when there is evidence or reason to believe that any of the following requirements and conditions are not being met:

(1) the parent hospice is properly licensed, operating in accordance with all South Carolina laws and regulations;

(2) the multiple location will provide the full scope of hospice services in all geographical areas listed on the license;

(3) the multiple location will share administration, supervision, and services with the parent hospice; and

(4) the multiple location will be included in the quality improvement activities of the parent hospice.

(C) The department shall approve a request to expand the service area of a parent hospice to include additional counties only when the additional counties are requested in a properly filed application as required by Section 44-71-40(C).

(D) ~~Regulations pertaining to the denial, suspension, or revocation of approvals must include hearing procedures related to denial, suspension, or revocation of licenses.~~ A department decision denying, suspending, or revoking a license or approval made pursuant to this section may be appealed pursuant to Section 44-1-60 and applicable law.

SECTION 78. Section 44-74-60(B) of the S.C. Code is amended to read:

(B) The board must be composed of thirteen members from the below listed trade associations as follows: one member shall be a representative from the South Carolina Society of Medical Assistants,

Incorporated, who is also a certified limited practice radiographer and a certified medical assistant; one member shall be a consumer from the South Carolina Radiation Standards Association; two members shall be radiologic technologists from the South Carolina Society of Radiologic Technologists (SCSRT), one of whom is employed by a hospital and from the South Carolina Health Care Alliance; one member shall be a radiologic technologist educator from the SCSRT; one member shall be a radiologic technologist of nuclear medicine from the South Carolina Society of Nuclear Medicine; one member shall be a radiation therapist from the SCSRT; three members shall be medical doctors, one doctor shall be a licensed family physician from the South Carolina Academy of Family Physicians, one doctor shall be a licensed radiologist from the South Carolina Radiological Society, and one doctor shall be a medical doctor of another specialty from the South Carolina Medical Association; one member shall be a chiropractor from the South Carolina Chiropractic Association; one member shall be a podiatrist from the South Carolina Podiatric Medical Association; and one member shall be a nonvoting representative from the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services, ex officio~~, and from the Radiological Health Branch~~.

SECTION 79. A. Section 44-89-30 of the S.C. Code is amended to read:

Section 44-89-30. As used in this chapter:

(1) "Birthing center" means a facility or other place where human births are planned to occur. This does not include the usual residence of the mother or any facility which is licensed as a hospital.

~~(2) "Board" means the South Carolina Board of Health and Environmental Control.~~

~~(3)~~(2) "Certified Nurse-Midwife (CNM)" means a person educated in the discipline of nursing and midwifery, certified by examination by the American College of Nurse-Midwives, and licensed by the State Board of Nursing as a Registered Nurse.

~~(4)~~(3) "Department" means the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~.

~~(5)~~(4) "Lay midwife" means an individual so licensed by the department.

~~(6)~~(5) "Low risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

~~(7)~~(6) "Midwifery" means the application of scientific principles in the care of "with woman" care during uncomplicated pregnancy, birth, and puerperium including care of the newborn, support of the family unit, and gynecologic health care.

~~(8)~~(7) "Person" means a natural individual, private or public organization, political subdivision, or other governmental agency.

~~(9)~~(8) "Physician" means a doctor of medicine or osteopathy with training in obstetrics or midwifery and licensed by the South Carolina State Board of Medical Examiners to practice medicine.

B. Section 44-89-90 of the S.C. Code is amended to read:

Section 44-89-90. Any applicant or licensee who is aggrieved with a final decision of the department ~~as a result of the hearing provided for by~~issued pursuant to Section ~~44-85-80~~44-89-80 may appeal ~~to the appropriate court for judicial review pursuant to the Administrative Procedures Act~~pursuant to Section 44-1-60 and applicable law.

SECTION 80. A. Section 44-93-20 of the S.C. Code is amended to read:

Section 44-93-20. (A) "Infectious waste" or "waste" means:
(1) sharps;
(2) cultures and stocks of infectious agents and associated biologicals;
(3) human blood and blood products;
(4) pathological waste;
(5) contaminated animal carcasses, body parts, and bedding of animals intentionally exposed to pathogens; and
(6) isolation waste pursuant to the "Guidelines for Isolation Precautions in Hospitals", Centers for Disease Control.
Nothing in this chapter prohibits a generator of infectious wastes from designating and managing wastes in addition to those listed above as infectious wastes.
(B) "Infectious waste management" means the systematic control of the collection, source separation, storage, transportation, treatment, and disposal of infectious wastes.
~~(C) "Board" means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Infectious Waste Management Act.~~
~~(D)~~(C) "Director" means the director of the department or his authorized agent.
~~(E)~~(D) "Containment" means the packaging of infectious waste or the containers in which infectious waste is placed.
~~(F)~~(E) "Department" means the Department of ~~Health and~~ Environmental ~~Control~~Services, including personnel of the department authorized ~~by the board~~ to act on behalf of the department~~ or board~~. The department is charged with the responsibility for implementation of the Infectious Waste Management Act.
~~(G)~~(F) "Dispose" means to discharge, deposit, inject, dump, spill, leak, or place any infectious waste into or on any land or water including groundwater so that the substance may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

~~(H)~~(G) "Facility" means a location or site within which infectious waste is treated, stored, or disposed of.
~~(I)~~(H) "Generator" means the person producing infectious waste except waste produced in a private residence.
~~(J)~~(I) "Generator facility" means a facility that treats infectious waste that is owned or operated by a combination or association of generators, a nonprofit professional association representing generators or a nonprofit corporation controlled by generators, nonprofit foundation of hospitals, or nonprofit corporations wholly owned by hospitals, if the waste is generated in this State and treatment is provided on a nonprofit basis.
~~(K)~~(J) "Person" means an individual, partnership, co-partnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the State, county, or local government, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.
~~(L)~~(K) "Storage" means the actual or intended holding of infectious wastes, either on a temporary basis or for a period of time, in the manner as not to constitute disposing of the wastes.
~~(M)~~(L) "Transport" means the movement of infectious waste from the generation site to a facility or site for intermediate storage.
~~(N)~~(M) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of infectious waste so as to sufficiently reduce or eliminate the infectious nature of the waste.
~~(O)~~(N) "Expand" means an increase in the capacity of the facility or an increase in the quantity of infectious waste received by a facility that exceeds a permit condition.

Section 44-96-40 of the S.C. Code is amended to read:

Section 44-96-40. As used in this chapter:
(1) "Beverage" means beer or malt beverages, mineral water, soda water, and similar carbonated soft drinks in liquid form, and all other liquids intended for human consumption, except for liquids marketed for and intended for consumption for medicinal purposes.
(2) "Beverage container" means the individual, separate, and sealed glass, aluminum or other metal, or plastic bottle, can, jar, or carton containing beverage intended for human consumption.
(3) "Collection" means the act of picking up solid waste materials from homes, businesses, governmental agencies, institutions, or industrial sites.
(4) "Compost" means the humus-like product of the process of composting waste.
(5) "Composting facility" means any facility used to provide aerobic, thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus-like material.
(6) "Construction and demolition debris" means discarded solid wastes resulting from construction,

remodeling, repair and demolition of structures, road building, and land clearing. The wastes include, but are not limited to, bricks, concrete, and other masonry materials, soil, rock, lumber, road spoils, paving material, and tree and brush stumps, but does not include solid waste from agricultural or silvicultural operations.
(7) "County solid waste management plan" means a solid waste management plan prepared, approved, and submitted by a single county pursuant to Section 44-96-80.
(8) "Degradable", with respect to any material, means that the material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances after exposure to bacteria, light, or outdoor elements.
(9) "Department" means the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services.
(10) "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.
(11) "Disposal" means the discharge, deposition, injection, dumping, spilling or placing of any solid waste into or on any land or water, so that the substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
(12) "Energy recovery" means the beneficial use, reuse, recycling, or reclamation of solid waste through the use of the waste to recover energy therefrom.
(13) "Facility" means all contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination thereof.
(14) "For hire motor carrier" means a company operating a fleet of vehicles used exclusively in the transportation of freight for compensation.
(15) "Generation" means the act or process of producing solid waste.
(16) "Groundwater" means water beneath the land surface in the saturated zone.
(17) "Hazardous waste" has the meaning provided in Section 44-56-20 of the South Carolina Hazardous Waste Management Act.
(18) "Incineration" means the use of controlled flame combustion to thermally break down solid, liquid, or gaseous combustible wastes, producing residue that contains little or no combustible materials.
(19) "Industrial waste" means solid waste that results from industrial processes including, but not limited to, factories and treatment plants.
(20) "Infectious waste" has the meaning given in Section 44-93-20 of the South Carolina Infectious Waste Management Act.
(21) "Land-clearing debris" means solid waste which is generated solely from land-clearing

activities, but does not include solid waste from agricultural or silvicultural operations.
(22) "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment, or an injection well.
(23) "Lead-acid battery" means any battery that consists of lead and sulfuric acid, is used as a power source, and has a capacity of six volts or more, except that this term shall not include a small sealed lead-acid battery which means a lead-acid battery weighing twenty-five pounds or less, used in non-vehicular, non-SLI (start lighting ignition) applications.
(24) "Lead-acid battery collection facility" means a facility authorized by the Department of ~~Health and~~ Environmental ~~Control~~ Services to accept lead-acid batteries from the public for temporary storage prior to recycling.
(25) "Local government" means a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.
(26) "Materials Recovery Facility" means a solid waste management facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.
(27) "Motor oil" and "similar lubricants" mean the fraction of crude oil or synthetic oil that is classified for use in the crankcase, transmission, gearbox, or differential of an internal combustion engine, including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial machinery, and other mechanical devices that derive their power from internal combustion engines. The terms include re-refined oil but do not include heavy greases and specialty industrial or machine oils, such as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents which are not sold at retail in this State.
(28) "Municipal solid waste landfill" means any sanitary landfill or landfill unit, publicly or privately owned, that receives household waste. The landfill may also receive other types of solid waste, such as commercial waste, nonhazardous sludge, and industrial solid waste.
(29) "Office" means the Office of Solid Waste Reduction and Recycling established within the Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section 44-96-110.
(30) "Owner/operator" means the person who owns the land on which a solid waste management facility is located or the person who is responsible for the overall operation of the facility, or both.
(31) "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
(32) "Plastic bottle" means a plastic container intended for single use, which has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of sixteen fluid ounces or more, but less than five gallons.
(33) "Plastic container" means any container having a wall thickness of not less than one one-hundredth of an inch used to contain beverages, foods, or nonfood products and composed of synthetic polymeric materials.

(34) "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. At least seventy-five percent by weight of the materials received during the previous calendar year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to qualify as a recovered material.

(35) "Recovered Materials Processing Facility" means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste processing facility; however, solid waste generated by a recovered material processing facility is
subject to all applicable laws and regulations relating to the solid waste. The term does not include facilities which thermally treat solid waste principally for volume reduction or for reduction of contaminants. Records must be kept documenting the amount by weight of materials that are received at the facility and used, reused, or recycled or transferred to another site for use, reuse, or recycling. Records must also be kept which clearly document the location of final disposition of the materials. Records must be made available for inspection by department personnel upon request.

(36) "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

(37) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products (including composting).

(38) "Region" means a group of counties in South Carolina which is planning to or has prepared, approved, and submitted a regional solid waste management plan to the department pursuant to Section 44-96-80.

(39) "Regional solid waste management plan" means a solid waste management plan prepared, approved, and submitted by a group of counties in South Carolina pursuant to Section 44-96-80.

(40) "Resource recovery" means the process of obtaining material or energy resources from solid waste which no longer has any useful life in its present form and preparing the waste for recycling.

(41) "Resource recovery facility" means a combination of structures, machinery, or devices utilized to separate, process, modify, convert, treat, or prepare collected solid waste so that component materials or substances or recoverable resources may be used as a raw material or energy source.

(42) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(43) "Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape

or form with a capacity of eight ounces or more, but less than five gallons.

(44) "Sanitary landfill" means a land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards and meets the design and operation requirements of this chapter.

(45) "Secondary lead smelter" means a facility which produces metallic lead from various forms of lead scrap, including used lead-acid batteries.

(46) "Solid waste" means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or
industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment. For the purposes of this chapter, this term excludes steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

(47) "Solid waste disposal facility" means any solid waste management facility or part of a facility
at which solid waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(48) "Solid waste management" means the systematic control of the generation, collection, source separation, storage, transportation, treatment, recovery, and disposal of solid waste.

(49) "Solid waste management facility" means any solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination thereof, of solid waste. The term does not include a recovered materials processing facility or facilities which use or ship recovered materials, except that portion of the facilities which is managing solid waste.

(50) "Solid Waste Management Grant Program" means the grant program established and administered by the Office of Solid Waste Reduction and Recycling pursuant to Section 44-96-130.

(51) "Solid Waste Management Trust Fund" means the trust fund established within the Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section 44-96-120.

(52) "Source reduction" means the reduction of solid waste before it enters the solid waste stream by methods such as product redesign or reduced packaging.

(53) "Source separation" means the act or process of removing a particular type of recyclable material from other waste at the point of generation or under control of the generator for the purposes of collection, disposition, and recycling.

(54) "Specific wastes" means solid waste which requires separate management provisions, including plastics, used oil, waste tires, lead-acid batteries, yard trash, compost, and white goods.

(55) "State solid waste management plan" means the plan which the Department of ~~Health and~~ Environmental ~~Control~~ Services is required to submit to the General Assembly and to the Governor pursuant to Section 44-96-60.

(56) "Storage" means the containment of solid waste, either on a temporary basis or for a period of
years, in such manner as not to constitute disposal of such solid waste; provided, however, that storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, if the solid waste in such containers is collected at least once a week, shall not constitute "storage" for purposes of this chapter. The term does not apply to containers provided by or under the authority of a county for the collection and temporary storage of solid waste prior to disposal.

(57) "Surface water" means lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within territorial limits, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private.

(58) "Tire" means the continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle, trailer, or motorcycle as defined in Section 56-3-20(2), (4), and (13). It does not include an industrial press-on tire, with a metal or solid compound rim, which may be retooled.

(59) "Tire retailing business" means the retail sale of tires in any quantity for any use or purpose by the purchaser other than for resale.

(60) "Transport" means the movement of solid waste from the point of generation to any intermediate point and finally to the point of ultimate processing, treatment, storage, or disposal.

(61) "Transporter" means a person engaged in the off-site transportation of solid waste by air, rail, highway, or water.

(62) "Treatment" means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to storage, recovery, or recycling, safe for disposal, or reduced in volume or concentration.

(63) "Used oil" means oil that has been refined from crude oil or synthetic oil and that has been used and, as a result of that use, is contaminated by physical or chemical impurities.

(64) "Used oil collection center" means a facility which, in the course of business, accepts used oil for subsequent disposal or recycling.

(65) "Used oil energy recovery facility" means a facility that burns more than six thousand gallons

of used oil annually for energy recovery.

(66) "Used oil recycling facility" means a facility that recycles more than six thousand gallons of used oil annually.

(67) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(68)(a) "Waste tire collection facility" means a permitted facility used for the storage of waste tires or processed tires before recycling, processing, or disposal.

(b) "Waste tire disposal facility" means a permitted facility where processed waste tires are placed on the land in a manner which constitutes disposal.

(c) "Waste tire processing facility" means a permitted facility where equipment is used to cut, shred, burn for volume reduction, or to otherwise alter whole waste tires. The term includes mobile
waste tire processing equipment.

(d) "Waste tire recycling facility" means a permitted facility where waste tires are used as a fuel source or returned to use in the form of products or raw materials.

(69) "Waste tire hauler" means a person engaged in the picking up or transporting of waste tires for the purpose of storage, processing, or disposal.

(70) "Waste tire site" means an establishment, site, or place of business, without a collector or processor permit, that is maintained, operated, used, or allowed to be used for the disposal, storing, or depositing of unprocessed used tires, but does not include a truck service facility which meets the following requirements:

(a) all vehicles serviced are owned or leased by the owner or operator of the service facility;

(b) no more than two hundred waste tires are accumulated for a period of not more than thirty days at a time;

(c) the facility does not accept any tires from sources other than its own; and

(d) all waste tires are stored under a covered structure.

(71) "Waste tire treatment site" means a permitted site used to produce or manufacture usable materials, including fuel, from waste tires.

(72) "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

(73) "White goods" include refrigerators, ranges, water heaters, freezers, dishwashers, trash compactors, washers, dryers, air conditioners, and commercial large appliances.

(74) "Yard trash" means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

(75) "Advanced recycling" means manufacturing processes that convert post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, waxes, lubricants, and other products through processes that include pyrolysis, gasification, depolymerization, solvolysis, catalytic cracking, reforming, hydrogenation, and other similar technologies. The recycled products produced from advanced recycling include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling is not incineration, combustion, energy recovery, material recovery, or treatment. For the purpose of advanced recycling:

(a) "Depolymerization" means a manufacturing process at an advanced recycling facility where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, crude
oil, naphtha, liquid transportation fuels, waxes, lubricants, coatings, and other basic hydrocarbons.

(b) "Gasification" means a manufacturing process at an advanced recycling facility through which recovered feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere and the mixture is converted to crude oil, diesel, gasoline, home heating oil or other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other raw materials or intermediate or final products that are returned to the economic mainstream in the form of raw materials, products, or fuels.

(c) "Pyrolysis" means a manufacturing process at an advanced recycling facility through which post-use polymers or recovered feedstock are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted to crude oil, diesel, gasoline, home heating oil or other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other raw materials or intermediate or final products that are returned to the economic mainstream in the form of raw materials, products, or fuels.

(d) "Solvolysis" means a manufacturing process at an advanced recycling facility through which post-use plastics are reacted with the aid of solvents while heated at low temperatures or pressurized to make useful products, while allowing additives and contaminants to be separated. The products of solvolysis include, but are not limited to, monomers, intermediates, and valuable raw materials. The process includes, but is not limited to, hydrolysis, aminolysis, ammonoloysis, methanolysis, ethanolysis, and glycolysis.

(76) "Advanced recycling facility" means a manufacturing facility that receives, separates, stores, and converts the post-use polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling facility is not a solid waste processing facility, solid waste management facility, materials recovery facility, waste-to-energy facility, or incinerator, but the facility is subject to department inspections to ensure compliance. Solid waste generated by an advanced recycling facility is subject to all applicable laws and regulations for manufacturers relating to storage and disposal of

solid waste. Post-use polymers and recovered feedstock may not be mixed with solid waste or hazardous waste on-site or during processing at an advanced recycling facility. At least seventy-five percent of the weight or volume of recovered feedstocks or post-use polymers received during the previous calendar year must be processed at an advanced recycling facility or transferred to a different site for processing in order for a facility to qualify as an advanced recycling facility. If an advanced recycling facility does not comply with the requirements of this definition, then it is not an advanced recycling facility and is subject to all applicable solid waste laws and regulations as determined by the department. Within sixty days of the termination of operations at an advanced recycling facility, all unused pre-converted and post-converted post-use polymers or recovered feedstock must be sold or disposed of by the advanced recycling facility in compliance with applicable laws.

(77) "Post-use polymer" means a plastic polymer that is not solid waste when the following apply:

(a) it is derived from any industrial, commercial, agricultural, or domestic activities;

(b) its use or intended use is to manufacture crude oil, fuels, feedstocks, blendstocks, raw materials, or other intermediate products or final products using advanced recycling;

(c) it may contain incidental contaminants or impurities, such as paper labels or metal rings; and

(d) it is processed at an advanced recycling facility or held at an advanced recycling facility prior to processing.

(78)(a) "Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(i) post-use polymers;

(ii) materials for which the United States Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. 241.3(c); or

(iii) materials that the United States Environmental Protection Agency has otherwise

determined are feedstocks and not solid waste.

(b) Recovered feedstock does not include unprocessed municipal solid waste.

B. Section 44-96-100(A) of the S.C. Code is amended to read:

(A) Whenever the department determines that a person is in violation of a regulation promulgated pursuant to this article regarding Sections 44-96-160(X) (Used Oil), 44-96-170(H) (Waste Tires), or 44-96-190(A) (Yard trash, compost), the department may issue an order requiring the person to comply with the regulation or the department may bring civil action for injunctive relief in the appropriate court or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties not to exceed ten thousand dollars, for each day of violation, for violations of the regulations promulgated pursuant to this article regarding Sections 44-96-160(X), 44-96-170(H), or 44-96-190(A). After exhaustion of

administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department ~~or board of the court of common pleas, pursuant to the Administrative Procedures Act~~pursuant to Section 48-6-30 and applicable law.

C. Section 44-96-440(C) of the S.C. Code is amended to read:

(C) It shall be unlawful for any person to fail to comply with this article and any regulations promulgated pursuant to this article, or to fail to comply with any permit issued under this article, or to fail to comply with any order issued by the~~ board, commissioner, or~~ department.

D. Section 44-96-450(A) of the S.C. Code is amended to read:

(A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this article, the department may issue an order requiring the person to comply with the permit, regulation, standard, or requirement, or the department may bring civil action for injunctive relief in the appropriate court, or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties established by regulation, not to exceed ten thousand dollars for each day of violation, for violations of the provisions of this article, including any order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department ~~or board to the court of common pleas~~pursuant to Section 48-6-30 and applicable law.

SECTION 81. Section 44-128-50 of the S.C. Code is amended to read:

Section 44-128-50. (A) There is established the South Carolina Youth Smoking Prevention Advisory Commission to advise the department in the development, implementation, and evaluation of the State Youth Smoking Plan.

(B) Notwithstanding the provisions of Section 8-13-770, the membership of the advisory commission is as follows:

(1) two members appointed by the Speaker of the House of Representatives from the membership of the House of Representatives;

(2) two members appointed by the President of the Senate from the membership of the Senate; and

(3) eleven members appointed by the Governor as follows:

(a) one representative of the Department of Public Health~~ and Environmental Control~~;

(b) one representative of the Department of ~~Alcohol and Other Drug~~Behavioral Health Abuse Services;

(c) three health professionals;

(d) two youths between the ages of twelve and eighteen; and

(e) five citizens of the State with knowledge, competence, experience, or interest in youth smoking prevention, or other relevant background including, but not limited to, youth education, public health, social science, and business expertise.

SECTION 82. Section 44-130-70(C) of the S.C. Code is amended to read:

(C)(1) A community distributor acting in good faith may distribute an opioid antidote:

(a) obtained pursuant to a written prescription or standing order issued in accordance with this section; and

(b) pursuant to a written joint protocol issued by the Board of Medical Examiners and the Board of Pharmacy.

(2) Not later than six months after passage of this act, the Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a community distributor to distribute an opioid antidote without a patient-specific written order or prescription to a person at risk of experiencing an opioid-related overdose or to a caregiver of such a person, and without the requirement for a pharmacist to dispense the opioid antidote.

(3) The Board of Medical Examiners and the Board of Pharmacy must appoint an advisory committee to advise and assist in the development of the joint protocol for their consideration. The membership of the committee must include, but not be limited to, a representative of the Department

of Public Health~~ and Environmental Control~~, a representative of the Department of ~~Alcohol and Other Drug~~Behavioral Health~~ Abuse~~ Services, and health care professionals licensed in the State.

(4) For purposes of this subsection, "caregiver" means a person who is not at risk of an opioid overdose but who, in the judgment of the community distributor, may be in a position to assist another individual during an overdose.

SECTION 83. Section 45-4-30(B) of the S.C. Code is amended to read:

(B) Regulations promulgated by the Department of Public Health~~ and Environmental Control~~ pursuant to Section 44-1-140(2), regulations promulgated by the Department of Agriculture pursuant to 46-57-50(1), or other provision of law regarding food service do not apply to a bed and breakfast providing only the food service identified in subsection (A) of this section. Instead of those regulations, a bed and breakfast must comply with the provisions of Section 45-4-40.

SECTION 84. Section 46-45-80 of the S.C. Code is amended to read:

Section 46-45-80. Any setback distances given in R. 61-43, Standards for Permitting of Agricultural Animal Facilities, are minimum siting requirements as established by the Department of ~~Health and~~ Environmental ~~Control~~Services. As long as the established setbacks are achieved, the department may not require additional setback distances. Such distances from property lines or residences may be waived or reduced by written consent of the adjoining property owners. All animal facilities affected by these setback provisions must have an evergreen buffer between the facility and the affected residence as established by ~~DHEC~~ the Department of Environmental Services unless otherwise agreed to in writing by the adjoining landowners.

SECTION 85. Section 46-49-60 of the S.C. Code is amended to read:

Section 46-49-60. (A) A distributor shall not engage, either directly or indirectly, in doing business in any market until he has applied for and obtained a license from the department. A store is not required to make application for a license but is considered to be a de facto licensee as required in this chapter. The department may classify licensees and may issue licenses to distributors to produce, receive, process, manufacture, or sell any of the products covered by this chapter in any particular market.

(B) The department may decline to grant a license or may suspend or revoke a license already granted upon due notice and after a hearing before the department whenever the applicant or licensee has violated the department's regulations ~~issued by the Department of Health and Environmental Control,~~ or any provisions of this chapter.

(C) The department may, in lieu of license suspensions, invoke a penalty of not less than fifty dollars nor more than five thousand dollars. All receipts from the penalties must be paid by the department to the State Treasurer.

SECTION 86. Section 47-4-150 of the S.C. Code is amended to read:

Section 47-4-150. The commission by regulation may establish advisory committees which fairly reflect the particular portion of the industry being regulated as well as other concerned groups or agencies. The members of these committees serve at the pleasure of the commission. In nominating the members of the advisory committees the director shall consult with officials of representative trade associations, the Administrator of the South Carolina Department of Consumer Affairs, the Commissioner of Agriculture, and the ~~Commissioner~~ Director of the ~~South Carolina~~ Department of

~~Health and~~ Environmental ~~Control~~Services. The committee members serve at no cost to the State.

SECTION 87. Section 47-17-140(c) of the S.C. Code is amended to read:

(c) The provisions of this article shall be applied in such a manner as to maintain the support and cooperation of all State and local agencies dealing with animals, animal diseases and human diseases, and in no way shall this article restrict the authority given to the Department of Public Health ~~and Environmental Control~~, the State Department of Agriculture or any other agency under the General Statutes of South Carolina.

SECTION 88. Section 48-1-85 of the S.C. Code is amended to read:

Section 48-1-85. (A) It is unlawful for a person to operate or float a houseboat on the waters of this State unless it has a marine toilet that discharges only into a holding tank.

(B) As used in this section:

(1) "Holding tank" means a container designed to receive and hold sewage and other wastes discharged from a marine toilet and constructed and installed in a manner so that it may be emptied only by pumping out its contents.

(2) "Houseboat" means watercraft primarily used as habitation and not used primarily as a means of transportation.

(3) "Marine toilet" includes equipment for installation on board a houseboat designed to receive, retain, treat, or discharge sewage. A marine toilet must be equipped with a holding tank.

(C) When an owner of a houseboat having a marine toilet applies to the Department of Natural Resources for a certificate of title pursuant to Section 50-23-20, he shall certify in the application that the toilet discharges only into a holding tank.

(D) Houseboat holding tanks may be emptied only by a pump-out system permitted by the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services.

(E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars for each day's violation or imprisoned not more than thirty days, or both.

SECTION 89. Section 48-2-60 of the S.C. Code is amended to read:

Section 48-2-60. A person required to pay the fees set forth in this article who disagrees with the calculation or applicability of the fee may ~~petition the department for a hearing by submitting a petition setting forth the fee which is challenged, the grounds on which relief is sought, and the total amount of~~

~~the fee due~~ request a contested case hearing before the Administrative Law Court pursuant to Section 48-6-30 and the Administrative Procedures Act. The ~~petition and the fee~~request must be received by the ~~department~~ Administrative Law Court no later than thirty days after the ~~due date~~mailing of the fee decision. ~~The hearing must be conducted in accordance with contested case provisions set forth in the Administrative Procedures Act and department regulations.~~ If it is finally determined that the amount in dispute was improperly assessed, the department shall return the amount determined to be improperly assessed with interest not to exceed the statutory rate.

SECTION 90. Section 48-2-80 of the S.C. Code is amended to read:

Section 48-2-80. Fees collected pursuant to Section 48-2-50 do not supplant or reduce in any way the general fund appropriation to the department from the state or federal program; and the total amount of fees authorized by this article collected in any fiscal year, may not exceed thirty-three and one-third percent of the "Total Funds" appropriated to the ~~Office of Environmental Quality Control~~Department of Environmental Services in the annual appropriations act.

SECTION 91. A. Section 48-2-320 of the S.C. Code is amended to read:

Section 48-2-320. As used in this article:

(1) ~~"Commissioner"~~ "Director" means the ~~Commissioner~~ Director of the Department of ~~Health and~~ Environmental ~~Control~~Services.

(2) "Department" means the Department of ~~Health and~~ Environmental ~~Control~~Services.

(3) "Environmental Emergency" means a situation, to be determined by the ~~commissioner~~director, that constitutes an immediate threat to the environment or public health, or both, and providing immediate, but temporary relief to the situation may require the expenditure of funds to effect a solution, provide temporary relief, or retain the services of appropriate technical personnel or contractors.

(4) "Fund" means the "Environmental Emergency Fund" established pursuant to this article.

(5) "Responsible party" means a person determined to be legally responsible for any environmental pollution or threat to public health which requires expenditures from the fund.

B. Section 48-2-340(A) of the S.C. Code is amended to read:

(A) The department, through the ~~commissioner~~ director or the ~~commissioner's~~ director's designee, shall certify that funding for a specific emergency was necessary to protect the environment or public health, or both. Annually, the department shall prepare an independent accounting of all revenue in the

fund. The report ~~must be submitted to the chairman of the Board of the Department of Health and Environmental Control and~~ must be made available to the public upon request.

SECTION 92. A. Section 48-6-50 of the S.C. Code is amended to read:

Section 48-6-50. All rules and regulations promulgated by the department ~~shall be null and void unless approved by a concurrent resolution of the General Assembly at the session of the General Assembly following their promulgation~~must be promulgated pursuant to the Administrative Procedures Act.

B. Section 48-6-60(A) of the S.C. Code is amended to read:

(A) The Department of Environmental Services may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the classification of waters;

~~(2) the control of disease-bearing insects, including the impounding of waters;~~

~~(3)~~(2) the control of industrial plants, including the protection of workers from fumes, gases, and dust, whether obnoxious or toxic;

~~(4)~~(3) the use of water in air humidifiers;

~~(5)~~(4) the regulation of the methods of disposition of garbage or sewage and any like refuse matter in or near any village, town, or city of the State, incorporated or unincorporated, and to abate obnoxious and offensive odors caused or produced by septic tank toilets by prosecution, injunction, or otherwise; ~~and~~

~~(6)~~(5) the alteration of safety glazing material standards and the defining of additional structural locations as hazardous areas, and for notice and hearing procedures by which to effect these changes~~.~~;

(7) safety and sanitation regarding harvesting, storing, processing, handling, and transportation of mollusks, fin fish, and crustaceans; and

(8) safety, safe operation and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs.

SECTION 93. Chapter 6, Title 48 of the S.C. Code is amended by adding:

Section 48-6-65. The department shall investigate and advise as to all matters related to water supply, sewerage, drainage, ventilation, heating, lighting, or other measures connected with public sanitation or safety.

SECTION 94. Section 48-18-20 of the S.C. Code is amended to read:

Section 48-18-20. As used in this chapter:

(1) "Erosion" means the wearing away of the ground surface by the action of wind, water, gravity, or any combination thereof.

(2) "Sediment" means soil or other earth-like material that has been moved by the forces of water, wind, gravity, or any combination of them.

(3) "Sedimentation" means the process or action of depositing sediment.

(4) "Land disturbing activity" means any land change which may result in excessive erosion and sedimentation.

(5) "Stormwater" means the direct runoff of water and associated material resulting from precipitation in any form.

(6) "Local government" means any county or municipality.

(7) "Soil and water conservation district" or "conservation district" means a governmental subdivision of the State created pursuant to Chapter 9 of Title 48; and "conservation district board" means the governing body of a soil and water conservation district.

(8) "Department" means the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services.

(9) "Privately owned land" means all land not owned by the State, a state agency, quasi-state agency, subdivision of the State, or a federal governmental agency.

(10) "Quasi-state agency" means any entity other than a state agency but having some attributes of a state agency by virtue of the fact that the State has some authority to make rules and regulations by which it is governed. For the purpose of this chapter, the South Carolina Public Service Authority is a quasi-state agency; county and municipal governments and special purpose districts are not quasi-state agencies.

~~(11) "Board" means the board of the department.~~

SECTION 95. A. Section 48-39-10 of the S.C. Code is amended to read:

Section 48-39-10. As used in this chapter:

(A) "Applicant" means any person who files an application for a permit under the provisions of this chapter.

(B) "Coastal zone" means all coastal waters and submerged lands seaward to the state's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown.

(C) "Division" means the ~~Coastal~~ Division of Coastal Management of the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services.

(D) ~~"CDPS"~~ "DCMPS" means ~~Coastal~~ Division of Coastal Management Permitting Staff.

(E) "Saline waters" means those waters which contain a measurable quantity of sea water, at least one part chloride ion per thousand.

(F) "Coastal waters" means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark. Provided, however, that the department may designate boundaries which approximate the mean extent of saline waters until such time as the mean extent of saline waters can be determined scientifically.

(G) "Tidelands" means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the department shall have the authority to designate its approximate geographic extent.

(H) "Beaches" means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

(I) "Primary oceanfront sand dune" means the dune or dunes that constitute the front row of dunes adjacent to the Atlantic Ocean.

(J) "Critical area" means any of the following:

(1) coastal waters;

(2) tidelands;

(3) beaches;

(4) beach/dune system which is the area from the mean high-water mark to the setback line as determined in Section 48-39-280.

(K) "Person" means any individual, organization, association, partnership, business trust, estate trust, corporation, public or municipal corporation, county, local government unit, public or private authority and shall include the State of South Carolina, its political subdivisions and all its departments, boards, bureaus or other agencies, unless specifically exempted by this chapter.

(L) "Estuarine sanctuary" means a research area designated as an estuarine sanctuary by the Secretary of Commerce.

(M) "Marine sanctuary" means any water and wetland areas designated as a marine sanctuary by the Secretary of Commerce.

(N) "Minor development activities" means the construction, maintenance, repair, or alteration of any private piers or erosion control structure, the construction of which does not involve dredge activities.

(O) "Dredging" means the removal or displacement by any means of soil, sand, gravel, shells, or other material, whether of intrinsic value or not, from any critical area.

(P) "Filling" means either the displacement of saline waters by the depositing into critical areas of soil, sand, gravel, shells, or other material or the artificial alteration of water levels or water currents by physical structure, drainage ditches, or otherwise.

(Q) "Submerged lands" means those river, creek, and ocean bottoms lying below mean low-water mark.

(R) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of specific gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

(S) "Gas" means all natural gas and all other fluid hydrocarbons not hereinabove defined as oil, including condensate because it originally was in the gaseous phase in the reservoir.

(T) "Fuel" means gas and oil.

(U) "Emergency" means any unusual incident resulting from natural or unnatural causes which endanger the health, safety, or resources of the residents of the State, including damages or erosion to any beach or shore resulting from a hurricane, storm, or other such violent disturbance.

(V) "Department" means the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services.

(W) ~~"Board"~~ "Director" means the ~~board~~ director of the department.

(X) "Maintenance dredging" means excavation to restore the depth of underwater lands or restore channels, basins, canals, or similar waterway accesses to depths and dimensions that support and maintain prior or existing levels of use that previously have been dredged pursuant to a license issued by the department or an exemption as provided in Section 48-39-130(D)(10) as added by Act 41 of 2011.

(Y) "Storm surge" means an abnormal rise of water generated by a storm over and above the predicted astronomical tide.

B. Section 48-39-35 of the S.C. Code is amended to read:

Section 48-39-35. The Coastal Division of the Department of Health and Environmental Control ~~is~~ was created July 1, 1994. The Coastal Division of the Department of Health and Environmental Control is renamed the Division of Coastal Management and is transferred to the Department of Environmental Services effective July 1, 2024.

C. Section 48-39-45 of the S.C. Code is amended to read:

Section 48-39-45. (A)(1) ~~On July 1, 2010, there~~There is created the Coastal Zone Management Advisory Council that consists of fifteen members, which shall act as an advisory council to the department's ~~Office of Ocean and~~Division of Coastal ~~Resources~~ Management.

(2) The members of the council must be constituted as follows:

(a) eight members, one from each coastal zone county, to be elected by a majority vote of the members of the House of Representatives and a majority vote of the Senate members representing the county from three nominees submitted by the governing body of each coastal zone county, each House or Senate member to have one vote; and

(b) seven members, one from each of the congressional districts of the State, to be elected by a majority vote of the members of the House of Representatives and the Senate representing the counties in that district, each House or Senate member to have one vote.

(3) The council shall elect a chairman, vice chairman, and other officers it considers necessary.

(B) Terms of all members are for four years and until successors are appointed and qualified. A vacancy must be filled in the original manner of selection for the remainder of the unexpired term.

(C) Members of the council may not be compensated for their services and are not entitled to mileage, subsistence, or per diem as provided by law for members of state boards, committees, and commissions and are not entitled to reimbursement for actual and necessary expenses incurred in connection with and as a result of their service on the council.

(D)(1) The council shall provide advice and counsel to the staff of the ~~Office of Ocean and~~Division of Coastal ~~Resources~~ Management in implementing the provisions of the South Carolina Coastal Zone Management Act. The department and the public may bring a matter concerning implementation of the provisions of this act by operation of its permitting and certification process, including the promulgation of regulations, to the council's attention.

(2) The council shall meet at the call of the chairman.

(3) Advice and counsel of the council is not binding on the department.

D. Section 48-39-50 of the S.C. Code is amended to read:

Section 48-39-50. The ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~ Services shall have the following powers and duties:

(A) To employ the ~~CDPS~~ DCMPS consisting of, but not limited to, the following professional members: An administrator and other staff members to include those having expertise in biology, civil and hydrological engineering, planning, environmental engineering and environmental law.

(B) To apply for, accept and expend financial assistance from public and private sources in support of activities undertaken pursuant to this chapter and the Federal Coastal zone Management Act of 1972.

(C) To undertake the related programs necessary to develop and recommend to the Governor and the General Assembly a comprehensive program designed to promote the policies set forth in this chapter.

(D) To hold public hearings and related community forums and afford participation in the development of management programs to all interested citizens, local governments and relevant state and federal agencies, port authorities and other interested parties.

(E) To promulgate necessary rules and regulations to carry out the provisions of this chapter.

(F) To administer the provisions of this chapter and all rules, regulations and orders promulgated under it.

(G) To examine, modify, approve or deny applications for permits for activities covered by the provisions of this chapter.

(H) To revoke and suspend permits of persons who fail or refuse to carry out or comply with the terms and conditions of the permit.

(I) To enforce the provisions of this chapter and all rules and regulations promulgated by the department and institute or cause to be instituted in courts of competent jurisdiction of legal proceedings to compel compliance with the provisions of this chapter.

(J) To manage estuarine and marine sanctuaries and regulate all activities therein, including the regulation of the use of the coastal waters located within the boundary of such sanctuary.

(K) To establish, control and administer pipeline corridors and locations of pipelines used for the transportation of any fuel on or in the critical areas.

(L) To direct and coordinate the beach and coastal shore erosion control activities among the various state and local governments.

(M) To implement the state policies declared by this chapter.

(N) To encourage and promote the cooperation and assistance of state agencies, coastal regional councils of government, local governments, federal agencies and other interested parties.

(O) To exercise all incidental powers necessary to carry out the provisions of this chapter.

(P) To coordinate the efforts of all public and private agencies and organizations engaged in the making of tidal surveys of the coastal zone of this State with the object of avoiding unnecessary duplication and overlapping.

(Q) To serve as a coordinating state agency for any program of tidal surveying conducted by the federal government.

(R) To develop and enforce uniform specifications and regulations for tidal surveying.

(S) To monitor, in coordination with the South Carolina Department of Natural Resources, the waters of the State for oil spills. If such Department observes an oil spill in such waters it shall immediately report such spill to the South Carolina Department of ~~Health and~~ Environmental ~~Control~~Services, the United States Coast Guard and Environmental Protection Agency. This in no way negates the

responsibility of the spiller to report a spill.

(T) To direct, as the designated state agency to provide liaison to the regional response team, pursuant to Section 1510.23 of the National Contingency Plan, state supervised removal operations of oil discharged into the waters within the territorial jurisdiction of this State and entering such waters after being discharged elsewhere within the State, and to seek reimbursement from the National Contingency Fund for removal operations cost expended by it and all other agencies and political subdivisions including county, municipal and regional governmental entities in removing such oil as provided for in Section 311(C)(2) of the Federal Water Pollution Control Act.

(U) To act as advocate, where the department deems such action appropriate, on behalf of any person who is granted a permit for a specific development by the department but is denied a permit by a federal agency for the same specific development.

(V) To delegate any of its powers and duties to the ~~CDPS~~DCMPS.

E.Section 48-39-250(4) of the S.C. Code is amended to read:

(4) Chapter 39 of Title 48, Coastal Tidelands and Wetlands, prior to 1988, did not provide adequate jurisdiction to the ~~South Carolina~~ Division of Coastal ~~Council~~ Management to enable it to effectively protect the integrity of the beach/dune system. Consequently, without adequate controls, development unwisely has been sited too close to the system. This type of development has jeopardized the stability of the beach/dune system, accelerated erosion, and endangered adjacent property. It is in both the public and private interests to protect the system from this unwise development.

F.Section 48-39-280(F) of the S.C. Code is amended to read:

(F)(1) A landowner claiming ownership of property adversely affected by the establishment of a baseline or setback line, upon submittal of substantiating evidence, must be granted a review of the baseline or setback line. Alternatively, the municipality or county in which the property is situated, acting on behalf of the landowner with his written authorization, or an organization acting on behalf of the landowner with his written authorization, upon submittal of substantiating evidence, must be granted a review of the baseline and setback line. A review is initiated by filing a request ~~for a review conference~~ with the ~~department board~~Division of Coastal Management via certified mail within one year of the establishment of the baseline or setback line and must include a one hundred-dollar-review fee per property.

~~(2) The initial decision to establish a baseline or setback line must be a department staff decision.~~

~~(3) No later than sixty calendar days after the receipt of a request for review, the board must:~~

~~(a) decline to schedule a review conference in writing; or~~

~~(b) conduct a review conference in accordance with the provisions of item (4).~~

~~(4) A review conference may be conducted by the board, its designee, or a committee of three members of the board appointed by the chair. The board shall set the place, date, and time for the conference; give twenty calendar days' written notice of the conference; and advise the landowner or the county, municipality, or organization acting on behalf of the landowner that evidence may be presented at the conference. The review conference must be held as follows:~~

~~(a) Review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the landowner or the county, municipality, or organization acting on behalf of the landowner. During the course of the review conference, the staff must explain the staff decision and the materials relied upon to support its decision. The landowner or the county,~~

~~municipality, or organization acting on behalf of the landowner shall state the reasons for contesting the staff decision and may provide evidence to support amending the staff decision. The staff may rebut information and arguments presented by the landowner or the county, municipality, or organization acting on behalf of the landowner, and the landowner or the county, municipality, or organization acting on behalf of the landowner may rebut information and arguments presented by the staff. Any review conference officer may request additional information and may question the landowner or the county, municipality, or organization acting on behalf of the landowner and the staff.~~

~~(b) After the review conference, the board, its designee, or a committee of three members of the board appointed by the chair shall issue, based upon the evidence presented, a written decision to the landowner or the county, municipality, or organization acting on behalf of the landowner via certified mail no later than thirty calendar days after the date of the review conference. The written decision must explain the basis for the decision and inform the landowner or the county, municipality, or organization acting on behalf of the landowner of the right to request a contested case hearing before the Administrative Law Court.~~

~~(5)~~(2) The landowner or the county, municipality, or organization acting on behalf of the landowner may file a request with the Administrative Law Court, in accordance with Chapter 23, Title 1, for a contested case hearing within thirty calendar days after~~:~~ the Division of Coastal Management issues the final agency decision resulting from the review.

~~(a) written notice is received by the landowner or the county, municipality, or organization acting on behalf of the landowner that the board declines to hold a review conference;~~

~~(b) the sixty-calendar-day deadline to hold the review conference has lapsed and no conference has been held; or~~

~~(c) the final agency decision resulting from the review conference is received by the landowner or the county, municipality, or organization acting on behalf of the landowner."~~

G. Section 48-39-290(D) of the S.C. Code is amended to read:

(D) Special permits:

(1) If an applicant requests a permit to build or rebuild a structure other than an erosion control structure or device seaward of the baseline that is not allowed otherwise pursuant to Sections 48-39-250 through 48-39-360, the department may issue a special permit to the applicant authorizing the construction or reconstruction if the structure is not constructed or reconstructed on a primary oceanfront sand dune or on the active beach and, if the beach erodes to the extent the permitted structure becomes situated on the active beach, the permittee agrees to remove the structure from the active beach if the department orders the removal. However, the use of the property authorized under this provision, in the determination of the department, must not be detrimental to the public health, safety, or welfare.

(2) The department's ~~Permitting Committee~~Division of Coastal ~~Division~~ Management shall consider applications for special permits.

(3) In granting a special permit, the ~~committee~~ division may impose reasonable additional conditions and safeguards as, in its judgment, will fulfill the purposes of Sections 48-39-250 through 48-39-360.

(4) A party aggrieved by the decision to grant or deny a special permit application may appeal pursuant to Section 48-39-150(D).

H. Section 48-39-320(C) of the S.C. Code is amended to read:

(C) Notwithstanding any other provision of law contained in this chapter, the board, or the ~~Office of Ocean and~~ Division of Coastal ~~Resource~~ Management, may allow the use in a pilot project of any technology, methodology, or structure, whether or not referenced in this chapter, if it is reasonably anticipated that the use will be successful in addressing an erosional issue in a beach or dune area. If success is demonstrated, the board, or the ~~Office of Ocean and~~ Division of Coastal ~~Resource~~ Management, may allow the continued use of the technology, methodology, or structure used in the pilot project location and additional locations.

I. Section 48-39-345 of the S.C. Code is amended to read:

Section 48-39-345. Any funds reimbursed to nonfederal project sponsors under the terms of a Local Cooperative Agreement (LCA) with the Army Corps of Engineers for a federally cost-shared beach renourishment project, where the reimbursement is for credit to the nonfederal sponsor for federally approved effort and expenditures toward the nonfederal project sponsor obligations detailed in the LCA and where the State has provided funding to the nonfederal sponsor to meet the financial cost-sharing

responsibilities under the LCA, must be refunded by the nonfederal sponsor to the State with the State and the nonfederal sponsor sharing in this reimbursement in the same ratio as each contributed to the total nonfederal match specified in the LCA. The Division of Coastal ~~Division~~ Management of the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~ Services shall administer these funds and make these funds available to other beach renourishment projects.

SECTION 96. A. Section 48-40-20(2) of the S.C. Code is amended to read:

(2) ~~"Office"~~ "Division" means the ~~Office of Ocean and~~Division of Coastal ~~Resource~~ Management of the Department ~~of Health and~~ Environment ~~Control~~Services.

B. Section 48-40-40(B) of the S.C. Code is amended to read:

(B) The trust fund must be administered by the ~~Office~~ Division of ~~Ocean and~~ Coastal ~~Resource~~ Management of the Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to this chapter and its regulations governing application, review, ranking, and approval procedures for grants.

C. Section 48-40-50(E) of the S.C. Code is amended to read:

(E) An application for trust fund monies for a public beach restoration or maintenance project or project to improve and enhance public beach access may be accepted by the ~~office~~ division only from a municipal or county government with a Local Beach Management Plan approved by the office.

D. Section 48-40-50(F) of the S.C. Code is amended to read:

(F) An application pursuant to this section for matching funds for a public beach renourishment project may be accepted and ranked by the ~~office~~ division only if the project first has been fully permitted and approved as otherwise provided by law.

E.Section 48-40-50(G) of the S.C. Code is amended to read:

(G) Allocations of trust fund monies may be made to approved public beach restoration or maintenance projects or projects for improvement and enhancement of public beach access only through properly executed written agreements between the ~~office~~ division and all the municipal and county project sponsors. All the trust fund monies and the nonstate matching funds required for financing the projects must be deposited in an escrow account within five business days of the execution

of the agreement and receipt of the monies from the trust fund. The ~~office~~ division must be given quarterly financial status reports of this account and annual and final audit reports throughout the project's duration and at completion.

F.Section 48-40-60(B) of the S.C. Code is amended to read:

(B) This emergency reserve fund must be administered by the ~~office~~ division in consultation with the State Emergency Management Division and impacted municipal, county, and federal officials.

G. Section 48-40-70 of the S.C. Code is amended to read:

Section 48-40-70. (A) The accumulated data from annual monitoring and evaluation of erosion rates and hazard areas for all beach areas as required of the ~~office~~ division in Sections 48-39-280, 48-39-320, and 48-39-330 must be analyzed and used in the determination of priorities of need for storm damage reduction, property protection, recreational beach restoration, and public notification of erosion and hazardous conditions.

(B) The annual analysis must be funded by the trust fund, in an annual amount not to exceed two hundred fifty thousand dollars to provide for comprehensive beach profile monitoring of all beach areas to establish annual erosion rates and to identify sand loss or accretion.

(C) In seriously eroding areas or after storms, surveys must be conducted twice annually, or more frequently as needed.

(D) The monitoring data produced pursuant to this section must be made available to the public.

(E) The ~~office~~ division and local governments must use the annual analysis to document beach restoration needs and for restoration project design.

SECTION 97. A. Section 48-43-30(B)(5) and (6) of the S.C. Code is amended to read:

(5) To promulgate, after hearing and notice as hereinafter provided, such rules and regulations, and issue such orders reasonably necessary to prevent waste and oil discharges from drilling and production platforms, pipelines, gathering systems, processing facilities, storage facilities, refineries, port facilities, tankers and other facilities and vessels that may be a source of oil spills and to protect correlative rights, to govern the practice and procedure before the ~~board~~ department and to fulfill its duties and the purposes of this chapter.

(6) To regulate the exploration, drilling, production, and transportation of methane gas in and related to sanitary landfills. The department is authorized to exercise discretion in regulating such activities and may impose any requirement of this chapter as is necessary, in the opinion of the

department, to prevent waste of oil and gas, to protect correlative rights and to prevent pollution of the water, air, and land by oil and gas. The department is further authorized to require any person applying for a drilling permit or otherwise producing methane gas in a sanitary landfill to comply with one of the following requirements for financial responsibility in an amount deemed sufficient by the department in its discretion in order to achieve the purpose specified in Section 48-43-30(A)(1):

(i) furnish a bond consistent with the requirements of Section 48-43-30(B)(1)(e); or

(ii) furnish proof of insurance with the State of South Carolina as beneficiary. Before the issuance of drilling permits for methane gas recovery from sanitary landfills, the department must certify that the proposed activity is consistent with the Department of ~~Health and~~ Environmental ~~Control~~ Services regulations governing the operation, monitoring, and maintenance of the landfills and applicable permit conditions.

B. Section 48-43-50 of the S.C. Code is amended to read:

Section 48-43-50. (A) The ~~board~~department or an Administrative Law Judge shall have the power to conduct hearings, to summon witnesses, to administer oaths and to require the production of records, books and documents for examination at any hearing or investigation.

(B) Upon failure or refusal on the part of any person to comply with a subpoena issued by the ~~board~~ department pursuant to this section, or upon the refusal of any witness to testify as to any matter regarding which he may be interrogated and which is pertinent to the hearing or investigation, any circuit court in the State, upon the application of the board, may issue an order to compel such person to comply with such subpoena, and to attend before the ~~board~~ department and produce such records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

C. Section 48-43-60 of the S.C. Code is amended to read:

Section 48-43-60. Any person, who is aggrieved and has a direct interest in the subject matter of any final order issued by the ~~board~~department, may appeal such order pursuant to ~~the circuit court~~Section 48-6-30 and applicable law.

SECTION 98. Section 48-46-30 of the S.C. Code is amended to read:

Section 48-46-30. As used in this chapter, unless the context clearly requires a different construction:

(1) "Allowable costs" means costs to a disposal site operator of operating a regional disposal facility. These costs are limited to costs determined by standard accounting practices and regulatory findings to be associated with facility operations.

(2) "Atlantic Compact" means the Northeast Interstate Low-Level Radioactive Waste Management Compact as defined in the "Omnibus Low-Level Radioactive Waste Compact Consent Act of 1985", Public Law 99-240, Title II. Use of the term "Atlantic Compact" does not change in any way the substance of and is to be considered identical to the Northeast Interstate Low-Level Radioactive Waste Management Compact.

(3) "Atlantic Compact Commission" or "compact commission" means the governing body of the Atlantic Compact, consisting of voting members appointed by the governors of Connecticut, New Jersey, and South Carolina.

(4) "Decommissioning trust fund" means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem-Nuclear Systems, Inc. (grantor), the State Fiscal Accountability Authority (beneficiary as the successor in interest to the South Carolina Budget and Control Board), and the South Carolina State Treasurer (trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose.

(5) "Office" means the Office of Regulatory Staff.

(6) "Disposal rates" means the price paid by customers of a regional disposal facility for disposal of waste, including any price schedule or breakdown of the price into discrete elements or cost components.

(7) "Extended care maintenance fund" means the "escrow fund for perpetual care" that is used for custodial, surveillance, and maintenance costs during the period of institutional control and any post-closure observation period specified by the Department of ~~Health and~~ Environmental ~~Control~~ Services and for activities associated with closure of the site as provided for in Section 13-7-30(4).

(8) "Facility operator" means a public or private organization, corporation, or agency that operates a regional disposal facility in South Carolina.

(9) "Generator" means a person, organization, institution, private corporation, and government agency that produces Class A, B, or C radioactive waste.

(10) "Maintenance" means active maintenance activities as specified by the Department of ~~Health and~~ Environmental ~~Control~~Services, including pumping and treatment of groundwater and the repair and replacement of disposal unit covers.

(11) "Nonregional generator" means a waste generator who produces waste within a state that is not a member of the Atlantic Compact, whether or not this waste is sent to facilities located within the Atlantic Compact region for purposes of consolidation, treatment, or processing for disposal.

(12) "Nonregional waste" means waste produced by a nonregional generator.

(13) "Person" means an individual, corporation, business enterprise, or other legal entity, either

public or private, and expressly includes states.

(14) "Price schedule" means disposal rates.

(15) "PSC" means the South Carolina Public Service Commission.

(16) "Receipts" means the total amount of money collected by the site operator for waste disposal over a given period of time.

(17) "Regional disposal facility" means a disposal facility that has been designated or accepted by the Atlantic Compact Commission as a regional disposal facility.

(18) "Regional generator" means a waste generator who produces waste within the Atlantic Compact, whether or not this waste is sent to facilities outside the Atlantic Compact region for purposes of consolidation, treatment, or processing for disposal.

(19) "Regional waste" means waste generated within a member state of the Atlantic Compact.

Consistent with the regulatory position of the Department of Health and Environmental Control, Bureau of Radiological Health, dated May 1, 1986, some waste byproducts shipped for disposal that are derived from wastes generated within the Atlantic Compact region, such as residues from recycling, processing, compacting, incineration, collection, and brokering facilities located outside the Atlantic Compact region may also be considered regional waste.

(20) "Site operator" means a facility operator.

(21) "South Carolina generator" means a waste generator that produces waste within the boundaries of the State of South Carolina, whether or not this waste is sent to facilities outside South Carolina for purposes of consolidation, treatment, or processing for disposal.

(22) "Waste" means Class A, B, or C low-level radioactive waste, as defined in Title I of Public Law 99-240 and Department of ~~Health and~~ Environmental ~~Control~~ Services Regulation 61-63, 7.2.22, that is eligible for acceptance for disposal at a regional disposal facility.

SECTION 99. Section 48-52-810(10) of the S.C. Code is amended to read:

(10)(a) "Major facility project" means:

(i) a state-funded new construction building project in which the building to be constructed is larger than ten thousand gross square feet;

(ii) a state-funded renovation project in which the project involves more than fifty percent of the replacement value of the facility or a change in occupancy; or

(iii) a state-funded commercial interior tenant fit-out project that is larger than seven thousand five hundred square feet of leasable area.

(b) "Major facility project" does not mean:

(i) a building, regardless of size, that does not have conditioned space as defined by Standard 90.1 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

(ii) a public kindergarten, elementary school, middle school, secondary school, junior high school, or high school, all as defined in Section 59-1-150;

(iii) a correctional facility constructed for the Department of Corrections, Department of ~~Mental~~ Behavioral Health, or Department of Juvenile Justice;

(iv) a building project funded by the State Ports Authority, the Coordinating Council for Economic Development, or the State Infrastructure Bank; or

(v) a building project funded by the Department of ~~Health and~~ Environmental ~~Control~~ Services in which the primary purpose of the building project is for the storage of archived documents.

SECTION 100. Section 48-55-10(A) of the S.C. Code is amended to read:

(A) The South Carolina Environmental Awareness Award must be presented annually by a committee of two members appointed from each of the following:

(1) South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services by its ~~commissioner~~director;

(2) State Commission of Forestry by its chairman;

(3) South Carolina Sea Grant Consortium by its executive director;

(4) Water Resources Division of the Department of ~~Natural Resources~~Environmental Services by the department's director;

(5) Wildlife and Freshwater Fish Division of the Department of Natural Resources by the department's director;

(6) Land Resources and Conservation Districts Division of the Department of Natural Resources by the department's director; and

(7) Division of Coastal ~~Division~~ Management of the Department of ~~Health and~~ Environmental ~~Control~~ Services by the department's director;

(8) Marine Resources Division of the Department of Natural Resources by the department's director.

SECTION 101. Section 49-1-18 of the S.C. Code is amended to read:

Section 49-1-18. The General Assembly, pursuant to Section 7, Article I of the South Carolina Constitution, suspends the authority of the South Carolina Department of Health and Environmental Control and its successor agency, the Department of Environmental Services, hereinafter the department, for all decisions subsequent to 2007 related to all matters pertaining to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels, in particular the

approval by the department of the application of the United States Army Corps of Engineers for a Construction in Navigable Waters Permit for the dredging of the South Carolina portion of the Savannah River, because the authority of the Savannah River Maritime Commission, hereinafter the Maritime Commission, superseded the responsibilities of the department for such approval, as established by Act 56 of 2007, and the approval by the department could present imminent and irreversible public health and environmental concerns for the South Carolina portion of the Savannah River. The Department of ~~Health and~~ Environmental ~~Control~~ Services retains authority for all matters pertaining to the Savannah River unrelated to the navigability, depth, dredging, wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels.

SECTION 102. A. Section 49-4-80 of the S.C. Code is amended to read:

Section 49-4-80. (A) An application for a surface water withdrawal permit must contain the following information:

(1) the name and address of the applicant;

(2) the location of the applicant's intake facilities;

(3) the place and nature of the proposed use of the surface water withdrawn;

(4) the quantity of surface water requested and for the applicant's proposed use; and

(5) the estimated ratio between water withdrawn and consumptive use of water withdrawn.

(B) To determine whether an applicant's proposed use is reasonable, the department must consider the following criteria:

(1) the minimum instream flow or minimum water level and the safe yield for the surface water source at the location of the proposed surface water withdrawal;

(2) the anticipated effect of the applicant's proposed use on existing users of the same surface water source including, but not limited to, present agricultural, municipal, industrial, electrical generation, and instream users;

(3) the reasonably foreseeable future need for the surface water including, but not limited to, reasonably foreseeable agricultural, municipal, industrial, electrical generation, and instream uses;

(4) whether it is reasonably foreseeable that the applicant's proposed withdrawals would result in a significant, detrimental impact on navigation, fish and wildlife habitat, or recreation;

(5) the applicant's reasonably foreseeable future water needs from that surface water;

(6) the beneficial impact on the State and its political subdivisions from a proposed withdrawal;

(7) the impact of applicable industry standards on the efficient use of water, if followed by the applicant;

(8) the anticipated effect of the applicant's proposed use on the following if the permit is granted:

(a) interstate and intrastate water use;

(b) public health and welfare;

(c) economic development and the economy of the State; and

(d) applicable federal laws and interstate agreements and compacts; and

(9) any other reasonable criteria that the department promulgates by regulation that it considers necessary to make a final determination.

(C) The department shall determine the safe yield of the surface water source and the volume of supplemental water supply, if needed, necessary to sustain the applicant's proposed water use. In making the safe yield determination, the department~~, in consultation with the Department of Natural Resources,~~ may perform stream flow modeling.

(D) The department must determine the minimum instream flow requirement for the surface water body at the point of the proposed withdrawal.

(E) The department must ~~consult with the Department of Natural Resources to~~ determine which, if any, existing stream flow measuring devices should be utilized to quantify the stream flow at the point of the proposed withdrawal. If no existing measuring device is suitable, the ~~Department of Natural Resources~~department will recommend the location of a new measuring device.

(F) The department must ~~consult with the Department of Natural Resources to~~ quantify the stream flow measured at the specified measuring device that will require a reduction in the applicant's water withdrawal because of inadequate stream flow at the point of withdrawal.

(G) The department shall develop a mechanism for notifying the applicant that its withdrawal must be reduced because of inadequate stream flow at the point of the proposed withdrawal.

(H) The department must share all findings of subsections (C) through (G) with the applicant.

(I) If the department determines that a supplemental water supply is required, the applicant must demonstrate that the supplemental water supply will be comprised of sources other than the surface water source from which the surface water withdrawals are made during nonlow flow conditions. This section does not prevent a licensee from replenishing his supplemental water supply from the source of the surface water withdrawal during appropriate flows.

(J) Upon a determination by the department that, based upon its examination of the criteria in subsection (B), the applicant's use is reasonable, the department shall issue a permit to the applicant.

(K)(1) Except as provided in Section 49-4-90, upon receipt of a new surface water withdrawal permit application or an application to significantly increase the amount of water that may be withdrawn under an existing permit and the appropriate filing fee, the department must, within thirty days, provide the public with notice of the application. In addition to the department's usual public notice procedures, the department must publish notice of the application in a newspaper of statewide circulation and in the local newspaper with the greatest general circulation in the affected area and on the department's website. The public notice must contain the location and amount of the proposed withdrawal, the use

for which the water will be withdrawn, and the process for requesting a public hearing concerning the application. If within thirty days of the publication of the public notice the department receives a request to hold a public hearing from at least twenty citizens or residents of the affected area, the department must conduct a hearing. The hearing must be held within ninety days at an appropriate time and in an appropriate location near the specific site from which surface water withdrawals are proposed to be made.

(2) The department shall by regulation delineate and designate river basins to be used when determining the affected area for a particular surface water withdrawal application. In undertaking this task, the department shall initially establish fifteen river basins, including the watershed of each of the following fifteen rivers or river systems:

(a) Upper Savannah;

(b) Lower Savannah;
(c) Saluda;
(d) Broad;
(e) Congaree;
(f) Catawba-Wateree;
(g) Lynches;
(h) Pee Dee;
(i) Little Pee Dee;
(j) Black;
(k) Waccamaw;
(l) Lower Santee;
(m) Edisto;
(n) Ashley-Cooper; and
(o) Combahee-Coosawhatchie.

(L) If the department determines that a new surface water withdrawal permit application or an application to significantly increase the amount of water that may be withdrawn under an existing permit must be denied because there is not enough water in the safe yield, the department may meet with the other permitted withdrawers in the affected stream segment or basin, as appropriate, to determine whether the other permitted withdrawers can reach mutually agreed upon permit reductions to accommodate the applicant.

B. Section 49-4-170(B)(1) of the S.C. Code is amended to read:

(B)(1) The department may~~, in consultation with the Department of Natural Resources,~~ negotiate agreements, accords, or compacts on behalf of and in the name of the State with other states or the

United States, or both, with any agency, department, or commission of either, or both, relating to transfers of water that impact waters of this State, or are connected to or flowing into waters of this State. Any agreements, accords, or compacts made by the ~~board~~ department pursuant to this section must be approved by concurrent resolution of the General Assembly prior to being implemented. The department also may represent the State in connection with water withdrawals, diversions, or transfers occurring in other states which may affect this State. The provisions in this section do not apply to the Office of Attorney General or any pending or future criminal or civil actions, lawsuits, or causes in which the State is a party or interested.

SECTION 103. A. Section 49-5-30 of the S.C. Code is amended to read:

Section 49-5-30. Unless the context otherwise requires, as used in this chapter:
(1) "Aquifer" means a geologic formation, group of these formations, or part of a formation that is water bearing.
(2) "Aquifer storage and recovery" or "ASR" means a process by which water is injected into an aquifer for storage and then subsequently withdrawn from the same aquifer from the same well or other nearby wells.
~~(3) "Board" means the Board of the Department of Health and Environmental Control.~~
~~(4)~~(3) "Coastal Plain" means:
(a) all of Aiken, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg counties; and
(b) those portions of Chesterfield, Edgefield, Kershaw, Lexington, Richland, and Saluda counties
east or southeast of the fall line as identified on the best available geologic map.
~~(5)~~(4) "Department" means the Department of ~~Health and~~ Environmental ~~Control~~Services.
~~(6)~~(5) "Dewatering operation" means an operation that is withdrawing groundwater from an aquifer for the purpose of draining an excavation or preventing or retarding groundwater flow into an excavation. This operation includes, but is not limited to, mining, water and sewer line construction, and excavating for a building foundation.
~~(7)~~(6) "Emergency withdrawal" means the withdrawal of groundwater, for a period not exceeding thirty calendar days, for the purpose of fire fighting, hazardous substance or waste spill response, or both, or other emergency withdrawal of groundwater as determined by the department.
~~(8)~~(7) "Existing groundwater withdrawer" means a groundwater withdrawer withdrawing groundwater or a proposed groundwater user with its wells under construction before January 1, 2000.
~~(9)~~(8) "Flowing well" means a well releasing groundwater under such pressure that pumping is not necessary to bring it above the ground surface.

~~(10)~~(9) "Groundwater" means water in the void spaces of geologic materials within the zone of saturation.
~~(11)~~(10) "Groundwater withdrawal permit" means a permit issued by the department to groundwater withdrawers in a designated capacity use area for the withdrawal of groundwater.
~~(12)~~(11) "Groundwater withdrawer" means a person withdrawing groundwater in excess of three million gallons during any one month from a single well or from multiple wells under common ownership within a one-mile radius from any one existing or proposed well.
~~(13)~~(12) "New groundwater withdrawer" means a person who becomes a groundwater withdrawer after December 31, 1999, except for a proposed groundwater withdrawer with its wells under construction before January 1, 2000.
~~(14)~~(13) "Nonconsumptive use" means the use of water from an aquifer that is returned to the aquifer
from which it was withdrawn, at or near the point from which it was withdrawn, without diminishing the quantity any more than three million gallons in any one month or without substantial impairment in quality.
~~(15)~~(14) "Permit to construct" means a permit issued by the department after consideration of proposed well location, depth, rated capacity, and withdrawal rate.
~~(16)~~(15) "Permittee" means a person having obtained a permit to construct or a groundwater withdrawal permit issued in accordance with Sections 49-5-60 and 49-5-110.
~~(17)~~(16) "Person" means an individual, firm, partnership, association, public or private institution, municipality or political subdivision, governmental agency, public water system, or a private or public corporation organized under the laws of this State or any other state or county.
~~(18)~~(17) "Public water system" means a water system as defined in Section 44-55-20 of the State Safe Drinking Water Act.
~~(19)~~(18) "Rated capacity" means the amount, in gallons per minute (gpm), of groundwater that is capable of being withdrawn from the completed well with the pump installed.
~~(20)~~(19) "Surface water" means all water which is open to the atmosphere and subject to surface runoff which includes lakes, streams, ponds, and reservoirs.
~~(21)~~(20) "Type I well" means a well constructed with an open hole in a bedrock aquifer.
~~(22)~~(21) "Well" means an excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed for the purpose of locating, testing, or withdrawing groundwater or for evaluating, testing, developing, draining, or recharging a groundwater reservoir or aquifer or that may control, divert, or otherwise cause the movement of groundwater from or into an aquifer.

B. Section 49-5-60 of the S.C. Code is amended to read:

Section 49-5-60. (A) In the State where excessive groundwater withdrawal presents potential adverse

effects to the natural resources or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source, including salt water intrusion, the ~~board~~department, after notice and public hearing, in accordance with the Administrative Procedures Act, shall designate a capacity use area. The department, local government authorities, other government agencies, or groundwater withdrawers may initiate the capacity use area designation process. The notice and public hearing must be conducted such that local government authorities, groundwater withdrawers, or the general public may provide comments concerning the capacity use area designation process. A capacity use area must be designated by the ~~board~~ department based on scientific studies and evaluation of groundwater resources and may or may not conform to political boundaries.
(B) After notice and public hearing, the department shall coordinate the affected governing bodies
and groundwater withdrawers to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. In those areas where the affected governing bodies and withdrawers are unable to develop a plan, the department shall take action to develop the plan. The plan must be approved by the ~~board~~ department before the department may issue groundwater withdrawal permits for the area.
(C) Once the ~~board~~ department approves the groundwater management plan for a designated capacity use area, each groundwater withdrawer shall make application for a groundwater withdrawal permit. The department shall issue groundwater withdrawal permits in accordance with the approved plan.
(D) A person or entity affected may appeal a decision of the ~~board~~ department on a capacity use area designation within thirty days after the filing of the decision to the court of common pleas of any county which is included in whole or in part within the disputed capacity use area. The department shall certify to the court the record in the hearing. The court shall review the record and the regularity and the
justification for the decision. The court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
(1) in violation of constitutional or statutory provisions;
(2) in excess of the statutory authority of the agency;
(3) made upon unlawful procedure;
(4) affected by other error of law;
(5) clearly erroneous in view of the reliable, probative, and substantial evidence on the record; or
(6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

SECTION 104. A. Section 49-6-10 of the S.C. Code is amended to read:

Section 49-6-10. (A) There is hereby created the South Carolina Aquatic Plant Management Program for the purpose of preventing, identifying, investigating, managing, and monitoring aquatic plant problems in public waters of South Carolina. The program will coordinate the receipt and distribution of available federal, state, and local funds for aquatic plant management activities and research in public waters.

(B) The Department of ~~Natural Resources (department)~~Environmental Services is designated as the state agency to administer the Aquatic Plant Management Program and to apply for and receive grants and loans from the federal government or such other public and private sources as may be available for the Aquatic Plant Management Program and to coordinate the expenditure of such funds.

B. Section 49-6-30 of the S.C. Code is amended to read:

Section 49-6-30. There is hereby established the South Carolina Aquatic Plant Management Council, hereinafter referred to as the council, which shall be composed of ten members as follows:

1. The council shall include one representative from each of the following agencies, to be appointed by the chief executive officer of each agency:
   (a) Water Resources Division of the Department of ~~Natural Resources,~~Environmental Services;
   (b) ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~Services;
   (c) Wildlife and Freshwater Fish Division of the Department of Natural Resources;
   (d) South Carolina Department of Agriculture;
   (e) ~~Coastal~~ Division of Coastal Management of the Department of ~~Health and~~ Environmental ~~Control~~Services;
   (f) South Carolina Public Service Authority;
   (g) Land Resources and Conservation Districts Division of the Department of Natural Resources;
   (h) South Carolina Department of Parks, Recreation and Tourism;
   (i) Clemson University, Department of Fertilizer and Pesticide Control.
2. The council shall include one representative from the Governor's Office, to be appointed by the Governor.
3. The representative of the Water Resources Division of the Department of ~~Natural Resources~~Environmental Services shall serve as chairman of the council and shall be a voting member of the council.

The council shall provide interagency coordination and serve as the principal advisory body to the department on all aspects of aquatic plant management and research. The council shall establish management policies, approve all management plans, and advise the department on research priorities.

SECTION 105. A. Section 49-11-170(E) of the S.C. Code is amended to read:

(E) The owner of a dam or reservoir determined through a preliminary inspection not to be maintained in good repair or operating condition or to be unsafe and a danger to life or property may request a hearing before the Administrative Law Court pursuant to Section 48-6-30 and the Administrative Procedures Act ~~board of the department~~ within thirty days after notice of the findings are ~~delivered~~mailed. ~~The owner may submit written or present oral evidence which must be considered by the board of the department in the issuance of the order.~~

B. Section 49-11-260 of the S.C. Code is amended to read:

Section 49-11-260. (A) A person violating this article is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred nor more than five hundred dollars. Each day the violation continues after notice to take corrective action is a separate offense.

(B) The department may assess an administrative fine of not less than one hundred nor more than one thousand dollars against a person who violates this article or an order issued or regulation promulgated pursuant to it. In determining the amount of the fine the department shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Fines assessed under this subsection may be appealed to the ~~department who~~Administrative Law Court pursuant to Section 48-6-30 and the Administrative Procedures Act. The Administrative Law Court may reduce ~~them~~ the fines based on information presented at the appeal hearing.

(C) Upon a violation of this article or related regulations the department may institute legal action to obtain injunctive relief in the name of the department.

(D) A person against whom a final order or decision has been made, except for emergencies specified in Section 49-11-190, may appeal to the ~~board under~~Administrative Law Court pursuant to Section 48-6-30 and the Administrative Procedures Act. The burden of proof is on the party attacking an order or a decision of the department to show that the order is unlawful or unreasonable.

(E) Civil fines collected under this article must be deposited in a special account of the department to fund educational activities relating to dams and reservoirs safety, including, but not limited to, workshops, seminars, manuals, and brochures.

SECTION 106. A. Section 50-5-360(C) of the S.C. Code is amended to read:

(C) A person or entity required to obtain a wholesale seafood dealer license who receives molluscan shellfish must first be licensed for molluscan shellfish. The fee for a resident to acquire a molluscan shellfish license is an additional ten dollars, and the fee for a nonresident is an additional fifty dollars. Prior to obtaining a molluscan shellfish license, a person or entity must complete any shellfish training required by regulations promulgated by the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section ~~44-1-140~~48-6-60.

B. Section 50-5-965(B) of the S.C. Code is amended to read:

(B) In order to obtain an individual harvesting permit, a person must be a licensed commercial saltwater fisherman, hold all other appropriate valid commercial licenses, and complete any shellfish training required by regulations promulgated by the South Carolina Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section ~~44-1-140~~48-6-60.

C. Section 50-5-997 of the S.C. Code is amended to read:

Section 50-5-997. (A) The department may issue an out-of-season harvest permit to a Shellfish Mariculture permittee for the privilege of harvesting or selling maricultured shellfish out of season. The department may consider a permittee's past compliance with the provisions of this chapter in making its determination to issue an out-of-season harvest permit.

(B) In order to obtain an out-of-season harvest permit, a mariculture permittee must provide the following to the department:
   (1) a shellfish operations plan that meets requirements established by regulations promulgated by the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section ~~44-1-140~~48-6-60; and
   (2) a list of authorized harvesters and wholesale dealers that will possess the permittee's out-of-season shellfish.

(C) Out-of-season harvest permits issued pursuant to this section may include conditions related to:
   (1) harvest times and harvest areas;
   (2) species;
   (3) testing;
   (4) reporting, record keeping, and inspection requirements;
   (5) genetic strains including ploidy;
   (6) tagging;
   (7) authorized harvesters; and
   (8) protection of the natural resources of this State.

(D) An authorized harvester acting under the provisions of a permittee's out-of-season harvest permit must first complete any shellfish training required by regulations promulgated by the ~~South Carolina~~ Department of ~~Health and~~ Environmental ~~Control~~ Services pursuant to Section ~~44-1-140~~48-6-60. A Mariculture permittee must ensure that an authorized harvester acting under the permittee's out-of-season harvest permit abides by the conditions of the permit, receives proper training, and holds all required permits and licenses.

(E) The department may suspend or revoke a mariculture permittee's out-of-season harvest permit for a violation of a permit condition by the permittee or by an authorized harvester of the permittee. The filing of a judicial appeal does not act as an automatic stay of enforcement of the out-of-season permit suspension or revocation.

SECTION 107. Section 50-11-90 of the S.C. Code is amended to read:

Section 50-11-90. The department may obtain and utilize Schedule III nonnarcotics and Schedule IV controlled substances for the capture and immobilization of wildlife. The department must apply for a Controlled Substance Registration Certificate from the federal Drug Enforcement and Administration (DEA) and a State Controlled Substances Registration from the Department of Public Health ~~and Environmental Control (DHEC)~~(DPH). The administration of tranquilizing agents must be done only by department employees trained and certified for this purpose. Department applicants issued a certificate by the DEA and a registration by ~~DHEC~~ DPH are responsible for maintaining their respective records regarding the inventory, storage, and administration of controlled substances and are subject to inspection and audit by ~~DHEC~~ DPH and the DEA.

SECTION 108. Section 50-19-1935 of the S.C. Code is amended to read:

Section 50-19-1935. The Department of ~~Health and~~ Environmental ~~Control~~Services, in conjunction with the Department of Natural Resources shall, from the funds appropriated in the General Appropriations Act, monitor the striped bass fishery in the Wateree-Santee riverine system.

Both departments shall have oversight responsibility for any studies which may be required as a condition of a ~~DHEC~~ DES permit.

SECTION 109. Section 54-6-10(B) of the S.C. Code is amended to read:

(B) The commission shall be composed of twelve members as follows:
(1) the Governor or his designee;
(2) the Speaker of the House of Representatives or his designee;
(3) the President of the Senate or his designee;
(4) the Attorney General of South Carolina or his designee;

(5) the ~~Chairman of the Board~~Director of the Department of ~~Health and~~ Environmental ~~Control~~ Services to serve ex officio or his designee;
(6) the Chairman of the Board of Natural Resources to serve ex officio or his designee;
(7) the Chairman of the State Ports Authority to serve ex officio or his designee;
(8) the Chairman of the Senate Finance Committee or his designee;
(9) the Chairman of the Senate Transportation Committee or his designee;
(10) the Chairman of the House Ways and Means Committee or his designee;
(11) the Chairman of the House Education and Public Works Committee or his designee; and
(12) one resident of Jasper County appointed by the Jasper County Council to serve at the pleasure of the council.
The Governor or his designee shall serve as chairman of the commission.

SECTION 110. Section 56-1-221(A) of the S.C. Code is amended to read:

(A) There is created an advisory board composed of thirteen members. One member must be selected by the ~~Commissioner~~ Director of the Department of Public Health ~~and Environmental Control~~ from his staff, ten members must be appointed by the South Carolina Medical Association, and two members must be appointed by the South Carolina Optometric Association. The member selected by the ~~Commissioner~~ Director of the Department of Public Health ~~and Environmental Control~~ must be the administrative officer of the advisory board. To the maximum extent possible, the members of the board appointed by the South Carolina Medical Association and the South Carolina Optometric Association must be representative of the disciplines of the medical and optometric community treating the mental or physical disabilities that may affect the safe operation of motor vehicles. The identity of physicians and optometrists serving on the board, other than the administrative officer, may not be disclosed except as necessary in proceedings under Sections 56-1-370 or 56-1-410. The members of the board may receive no compensation.

SECTION 111. Section 56-5-170(A) of the S.C. Code is amended to read:

(A) Authorized emergency vehicles for purposes of this section include the following:
(1) fire department vehicles;
(2) police vehicles;
(3) ambulances and rescue squad vehicles which are publicly owned;
(4) vehicles of coroners and deputy coroners of the forty-six counties as designated by the coroners;
(5) emergency vehicles designated by the fire department or the chief of police of a municipality;

(6) county government litter enforcement vehicles used by certified law enforcement Class 3 litter control officers;
(7) Department of Natural Resources vehicles, federal natural resources vehicles, and forestry commission vehicles when being used in the performance of law enforcement duties;
(8) public and private vehicles while transporting individuals actually engaged in emergency activities because one or more occupants belong to a fire department, volunteer fire department, police department, sheriff's office, authorized county government litter enforcement office, rescue squad, or volunteer rescue squad;
(9) county or municipal government jail or corrections vehicles used by certified jail or corrections officers, and emergency vehicles designated by the Director of the South Carolina Department of Corrections;
(10) vehicles designated by the ~~Commissioner~~ Director of the Department of Public Health and the Director of the Department of Environmental ~~Control~~ Services when being used in the performance of law enforcement or emergency response duties.
(11) federal law enforcement, military, and emergency vehicles; and
(12) organ procurement organization vehicles, which means vehicles operated by organizations that perform or coordinate the procurement, preservation, and transport of organs and maintain systems for locating prospective recipients for available organs.

SECTION 112. Section 59-47-10 of the S.C. Code is amended to read:

Section 59-47-10. The Board of Commissioners of the South Carolina School for the Deaf and the Blind shall consist of eleven members appointed by the Governor for terms of six years and until their successors are appointed and qualify. Each congressional district must be represented by one board member, who must be a resident of that district, and four members must be appointed at large from the State. Of the members appointed at large, one must be deaf, one must be blind, one must represent the interests of persons with multiple handicaps, and one shall represent the general public. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired term. The State Superintendent of Education and the ~~Executive Officer~~Director of the Department of Public Health ~~and Environmental Control~~ are ex officio members of the board.

SECTION 113. Section 59-123-125 of the S.C. Code is amended to read:

Section 59-123-125. The funds appropriated to the Medical University of South Carolina for the "Rural Physician Program" shall be administered by the South Carolina Area Health Education Consortium physician recruitment office. The Medical University of South Carolina shall be

responsible for the fiscal management of funds to ensure that state policies and guidelines are adhered to. A board is hereby created to manage and allocate these funds in the best interests of the citizens of South Carolina. The board shall be composed of the following: the Executive Director, or his designee, of the South Carolina Primary Care Association; the Dean, or his designee, of the University of South Carolina School of Medicine; the Executive Director, or his designee, of the South Carolina Medical Association; two representatives from rural health care settings, one to be appointed by the Chairman of the Senate Medical Affairs Committee and one to be appointed by the Chairman of the House Medical, Military, Public and Municipal Affairs Committee; the ~~Commissioner~~Director, or his designee, of the Department of Public Health ~~and Environmental Control~~; the Commissioner, or his designee, of the South Carolina Hospital Association; the Commissioner, or his designee, of the Commission on Higher Education; and the Director, or his designee, of the Department of Health ~~and Human Services~~Financing. The Chairman, with the concurrence of the board, shall appoint three at-large members with two representing nursing and one representing allied health services in South Carolina.

SECTION 114. Section 59-152-60(C) of the S.C. Code is amended to read:

(C) In accordance with the bylaws established by the board of trustees, appointed members shall comprise a voting majority of the board.
(1) No more than four may be elected to sit on a First Steps Partnership Board.
(2) Each county legislative delegation shall appoint six members to a local partnership board. In multicounty partnerships, the legislative delegations shall modify their appointments based on the plan approved by the South Carolina First Steps to School Readiness Board of Trustees pursuant to Section 59-152-70(E).
(3) Each of the following entities located within a particular First Steps Partnership coverage area shall recommend one member to the legislative delegation for appointment by the delegation to serve as a member of the local First Steps Partnership Board:
(a) Department of Social Services;
(b) Department of Public Health ~~and Environmental Control~~; and
(c) Head Start or early Head Start.
(4) The county public library system staff located within a particular First Steps Partnership coverage area shall recommend one employee of the system for appointment by its county council to serve as a member of the partnership, and the council either shall make the appointment or reject the appointment and ask the library staff to make another recommendation.
(5) Each public school district board located within a particular First Steps Partnership coverage area shall appoint one of its employees to serve as a member of the local First Steps Partnership.

(6) The legislative delegation may by resolution delegate some or all of its appointments to county council.

SECTION 115. Section 62-1-302(a) of the S.C. Code is amended to read:

(a) To the full extent permitted by the Constitution, and except as otherwise specifically provided, the probate court has exclusive original jurisdiction over all subject matter related to:
(1) estates of decedents, including the contest of wills, construction of wills, determination of property in which the estate of a decedent or a protected person has an interest, and determination of heirs and successors of decedents and estates of protected persons, except that the circuit court also has jurisdiction to determine heirs and successors as necessary to resolve real estate matters, including partition, quiet title, and other actions pending in the circuit court;
(2) subject to Part 7, Article 5:
(i) protective proceedings and guardianship proceedings under Article 5;
(ii) gifts made pursuant to the South Carolina Uniform Transfers to Minors Act under Article 6, Chapter 5, Title 63;

(iii) matters involving the establishment, administration, or termination of a special needs trust for disabled individuals;

(3) trusts, inter vivos or testamentary, including the appointment of successor trustees;

(4) the issuance of marriage licenses, in form as provided by the Bureau of Vital Statistics of the Department of Public Health~~ and Environmental Control~~; record, index, and dispose of copies of marriage certificates; and issue certified copies of the licenses and certificates;

(5) the performance of the duties of the clerk of the circuit and family courts of the county in which the probate court is held when there is a vacancy in the office of clerk of court and in proceedings in eminent domain for the acquisition of rights of way by railway companies, canal companies, governmental entities, or public utilities when the clerk is disqualified by reason of ownership of or interest in lands over which it is sought to obtain the rights of way; and

(6) the involuntary commitment of persons suffering from mental illness, intellectual disability, ~~alcoholism, drug addiction,~~substance or alcohol use disorder, and active pulmonary tuberculosis.

SECTION 116. Section 63-7-1210(D) of the S.C. Code is amended to read:

(D) The Department of Social Services must investigate an allegation of abuse or neglect of a child where the child is in the custody of or a resident of a residential treatment facility or intermediate care facility for persons with intellectual disability licensed by the Department of Public Health~~ and Environmental Control~~ or operated by the Department of ~~Mental~~ Behavioral Health.

SECTION 117. Section 63-11-1930(A) of the S.C. Code is amended to read:

(A) There is created a State Child Fatality Advisory Committee composed of:

(1) the Director of the ~~South Carolina~~ Department of Social Services;

(2) the Director of the ~~South Carolina~~ Department of Public Health~~ and Environmental Control~~;

(3) the State Superintendent of Education;

(4) the Executive Director of the South Carolina Criminal Justice Academy;

(5) the Chief of the State Law Enforcement Division;

~~(6) the Director of the Department of Alcohol and Other Drug Abuse Services;~~

~~(7)~~(6) the Director of the ~~State~~ Department of ~~Mental~~ Behavioral Health;

~~(8)~~(7) the Director of the Department of Intellectual and Related Disabilities~~ and Special Needs~~;

~~(9)~~(8) the Director of the Department of Juvenile Justice;

~~(10)~~(9) the Chief Executive Officer of the Children's Trust of South Carolina;

~~(11)~~(10) one senator to be appointed by the President of the Senate;

~~(12)~~(11) one representative to be appointed by the Speaker of the House of Representatives;

~~(13)~~(12) an attorney with experience in prosecuting crimes against children;

~~(14)~~(13) a county coroner or medical examiner;

~~(15)~~(14) a board certified or eligible for board certification child abuse pediatrician, appointed from recommendations submitted by the State Chapter of the American Academy of Pediatrics;

~~(16)~~(15) a solicitor;

~~(17)~~(16) a forensic pathologist;

~~(18)~~(17) two members of the public at large, one of whom shall represent a private nonprofit organization that advocates children services; and

~~(19)~~(18) the State Child Advocate.

SECTION 118. Section 63-11-2240(A) of the S.C. Code is amended to read:

(A) The State Child Advocate is responsible for ensuring that children receive adequate protection and care from services or programs offered by the Department of Social Services, the Department of ~~Mental~~ Behavioral Health, the Department of Health ~~and Human~~Financing ~~Services~~, the Department of Juvenile Justice, the Department of Public Health~~ and Environmental Control~~, the Department of Intellectual and Related Disabilities~~ and Special Needs~~, the John de la Howe School, the Wil Lou Gray Opportunity School, and the School for the Deaf and the Blind.

SECTION 119. Section 63-11-2290 of the S.C. Code is amended to read:

Section 63-11-2290. (A) The Department of Children's Advocacy shall establish a toll-free public telephone number and an electronic complaint submission form on the department's website for the purpose of receiving complaints relative to the provision of services to children by a state agency. The department shall transfer a complainant to the appropriate agency if the complainant's submission is related to abuse, neglect, or an open matter within another agency.

(B) The following agencies must post the toll-free public telephone number and the web address of the department's electronic complaint submission form prominently in clear view of all employees and the public and in a conspicuous location on the agency's website:

(1) Department of Social Services;

(2) Department of ~~Mental~~ Behavioral Health;

(3) Department of Juvenile Justice;

(4) Department of Public Health~~ and Environmental Control~~;

(5) Department of Health ~~and Human Services~~Financing;

(6) Department of Intellectual and Related Disabilities~~ and Special Needs~~;

(7) John de la Howe School;

(8) School for the Deaf and the Blind; and

(9) Wil Lou Gray Opportunity School.

SECTION 120. A. Section 44-52-10 of the S.C. Code is amended to read:

Section 44-52-10. (1) "Chemical dependency" means a chronic disorder manifested by repeated use of alcohol or other drugs to an extent that it interferes with a person's health, social, or economic functioning; some degree of habituation, dependence, or addiction may be implied.

(2) "Chemically dependent person in need of emergency commitment" means a person who is suffering from chemical dependency and, as a result of this condition, poses a substantial risk of physical harm to himself or others if not immediately provided with emergency care and treatment.

(3) "Patient" means a person who is under the care and treatment of a treatment facility as a chemically dependent person.

(4) "Treatment facility" means any facility licensed or approved by the Department of Public Health~~ and Environmental Control~~ equipped to provide for the care and treatment of chemically dependent persons including the Division of Alcohol and Drug Addiction Services of the South Carolina Department of ~~Mental~~ Behavioral Health, and any other treatment facility approved by the Director of the Department of ~~Mental~~ Behavioral Health.

(5) "Licensed physician" means an individual licensed under the laws of this State to practice medicine or a medical officer of the Government of the United States while in this State in the performance of his official duties.

(6) "Head of a treatment facility" means the individual in charge of a treatment facility or his designee.

(7) "Treatment" means the broad range of emergency, outpatient, inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, or social service care, rehabilitation, and counseling which may be extended to a chemically dependent person.

(8) "Individualized treatment plan" means a plan developed during a patient's period of treatment in a treatment facility and which is specifically tailored to the individual patient's needs. Each plan shall clearly state:

(a) treatment goals and objectives based upon and related to a proper evaluation, which may be reasonably achieved within a designated time interval;

(b) treatment methods and procedures to be used to obtain these goals;

(c) identification of the types of professional personnel who shall carry out these procedures; and

(d) documentation of patient involvement.

(9) "Division" means the Division of Alcohol and Drug Addiction Services of the ~~South Carolina~~ Department of ~~Mental~~ Behavioral Health.

(10) "Court" means the Probate Court.

(11) "Chemically dependent person in need of involuntary commitment" means a person who is suffering from chemical dependency as demonstrated by:

(a) recent overt acts or recent expressed acts of violence;

(b) episodes of recent serious physical problems related to the habitual and excessive use of drugs or alcohol, or both;

(c) incapacitation by drugs or alcohol, or both, on a habitual and excessive basis as evidenced by numerous appearances before the court within the preceding twelve months, repeated incidences involving law enforcement, multiple prior treatment episodes, or testimony by family or by members of the community known to the person relating to a lifestyle adversely affected by alcohol or drugs, or both.

B. Section 44-52-165 of the S.C. Code is amended to read:

Section 44-52-165. (A) It is unlawful for a patient receiving inpatient services in a program under the jurisdiction of the division in a treatment facility operated by the ~~South Carolina~~ Department of ~~Mental~~ Behavioral Health to possess alcoholic beverages, firearms, dangerous weapons, or controlled substances as defined by Section 44-53-110. A patient who violates the provisions of this section while in a treatment facility is guilty, in the case of:

(1) alcoholic beverages, of a misdemeanor and, upon conviction, must be fined not less than one

hundred nor more than two hundred dollars or imprisoned for not more than thirty days;

(2) controlled substances, of a misdemeanor and, upon conviction, must be punished in accordance with Section 44-53-370;

(3) firearms or dangerous weapons, of a felony and, upon conviction, must be fined not less than one thousand nor more than ten thousand dollars or imprisoned for not less than one year nor more than ten years, or both.

(B) A person who intentionally or negligently allows a patient, as defined in subsection (A), access to or possession of items in violation of that subsection or who attempts to furnish:

(1) alcoholic beverages or controlled substances, is guilty of a felony and, upon conviction, must be fined not less than one hundred nor more than ten thousand dollars or imprisoned not more than ten years, or both;

(2) firearms or dangerous weapons, is guilty of a felony and, upon conviction, must be fined not less than one thousand nor more than ten thousand dollars or imprisoned not less than one nor more than ten years, or both.

C. Section 44-52-200 of the S.C. Code is amended to read:

Section 44-52-200. The ~~State~~ Department of ~~Mental~~ Behavioral Health may prescribe the form of applications, reports, records, and medical certificates provided for under this chapter, and the information required to be contained; require reports from the head of any treatment facility relating to the admission, examination, diagnosis, release, or discharge of any patient; visit each facility regularly; review the admission procedures of all new patients admitted between visits; provide care and treatment for involuntary admissions of chemically dependent persons; investigate by personal
visit complaints made by any patient or by any person on behalf of a patient; and adopt regulations not inconsistent with the provisions of this chapter which it finds to be reasonably necessary for proper and efficient hospitalization and care of chemically dependent persons.

D.Section 44-52-210 of the S.C. Code is amended to read:

Section 44-52-210. (A) The ~~Division~~ division shall establish a comprehensive and coordinated program of treatment for chemically dependent persons utilizing, to the extent financial resources allow, services of other state agencies, local facilities, and private treatment facilities. The program may include:

(1) emergency treatment provided by a physician affiliated with or part of the medical service of a general hospital;

(2) inpatient treatment; and

(3) outpatient treatment and follow-up treatment, or all of them.

(B) The ~~Division~~ division may contract for the use of any public or private facility as an approved treatment facility if the ~~Division~~division, subject to the approval of the Department of ~~Mental~~ Behavioral Health, considers this to be an effective and economical course to follow.

SECTION 121. Section 11-37-200(A) of the S.C. Code is amended to read:

(A) There is established by this section the Water Resources Coordinating Council which shall establish the priorities for all sewer, wastewater treatment, and water supply facility projects addressed in this chapter~~, except as otherwise established by Section 48-6-40~~. The council shall consist of a representative of the Governor, the Director of the Department of ~~Health and~~ Environmental
~~Control~~Services, the Director of the South Carolina Department of Natural Resources, the Director of the Rural Infrastructure Authority, the Secretary of Commerce, the Chairman of the Jobs Economic Development Authority, and the Chairman of the Joint Bond Review Committee. These representatives may designate a person to serve in their place on the council, and the Governor shall appoint the chairman from among the membership of the council for a one-year term. The council shall establish criteria for the review of applications for projects. Not less often than annually, the council shall determine its priorities for projects. The council after evaluating applications shall notify the authority of the priority projects. The South Carolina Jobs Economic Development Authority shall provide the staff to receive, research, investigate, and process applications for projects made to the coordinating council and assist in the formulating of priorities. Upon notification by the council, the authority shall proceed under the provisions of this chapter. The authority may consider applications for projects based upon the existence of a documented emergency consistent with regulations that may be promulgated by the authority. In determining which local governments are to receive grants, the local governments shall provide not less than a fifty percent match for any project. The authority may provide financing for the local matching funds on terms and conditions determined by the authority.

SECTION 122. Section 40-61-20 of the S.C. Code is amended to read:

Section 40-61-20. (A) There is created the South Carolina State Board of Examiners for Registered Environmental Sanitarians composed of six members appointed by the Governor, one of whom is the ~~executive officer~~director of the Department of ~~Health and~~ Environmental ~~Control~~ Services or his designee, three environmental sanitarians who are qualified by education and experience to be registered environmental sanitarians, and two public members who are not environmental sanitarians or do not have any pecuniary interests in any entity engaged in the business of environmental sanitarians. All members of the board must be residents of the State and serve for terms of four years

and until their successors are appointed and qualify. Members of the board are eligible for reappointment but cannot serve more than two consecutive terms.

(B) The board is responsible for examining applicants for registered environmental sanitarians, investigating complaints, and investigating and prosecuting violations of this chapter.

(C) The board may promulgate regulations to carry out the provisions of this chapter.

(D) The Governor may remove any member of the board who has been guilty of continued neglect of his duties or who is found to be incompetent, unprofessional, or dishonorable. No member must be removed without first giving him an opportunity to refute the charges filed against him. He must be given a copy of the charges at the time they are filed.

(E) Vacancies on the board are filled in the same manner as the original appointment for the unexpired portion of the term.

SECTION 123. Section 44-55-410 of the S.C. Code is amended to read:

Section 44-55-410. In order to protect the public health and environment, all persons engaged in manufacturing in this State and furnishing, by renting and otherwise, directly or indirectly, houses to their employees shall furnish to their employees occupying such houses sewage closets with necessary sewage connections for them.

SECTION 124. Section 44-55-610 of the S.C. Code is amended to read:

Section 44-55-610. In each county in this State containing a city having a population of more than seventy thousand according to the official United States census, the construction, installation and use
of septic tanks shall be regulated by the provisions of this article and specifications and rules and regulations adopted by the ~~county board of health~~Department of Environmental Services and shall be approved by the ~~county board of health~~department, whose certificate of approval shall be accepted by all agencies and the courts of this State as evidence of such approval and of installation in compliance with the provisions of this article and of such specifications, rules and regulations.

SECTION 125. Section 44-55-620 of the S.C. Code is amended to read:

Section 44-55-620. The ~~county board of health of any such county~~Department of Environmental Services may promulgate specifications, rules and regulations governing septic tanks and their installation which shall accord with approved engineering standards in general and shall contain the following standards and requirements in particular:

(1) ~~No~~ no septic tank shall be installed which has a net liquid capacity of less than five hundred

gallons;

(2) ~~The~~ the length of each tank shall be at least two but not more than three times the width;

(3) ~~The~~ the uniform liquid depth of each tank shall be not less than two feet six inches; and

(4) ~~The~~ the theoretical detention period of each tank shall be not less than twenty-four hours based upon the average daily flow.

SECTION 126. Section 44-55-630 of the S.C. Code is amended to read:

Section 44-55-630. The plans for each septic tank having a capacity of one thousand gallons or more shall have the approval of the ~~county health officer~~Department of Environmental Services before the tank is installed. Each such tank shall have a second or effluent compartment not longer than one third
the total length of the tank nor shorter than three feet and shall be equipped with a dosing chamber and siphon if a tile field or filter is used for secondary treatment of the tank effluent.

SECTION 127. Section 44-55-640 of the S.C. Code is amended to read:

Section 44-55-640. Each septic tank shall be installed so as to receive the approval of the ~~county board of health~~Department of Environmental Services through a duly authorized agent.

SECTION 128. Section 44-55-640 of the S.C. Code is amended to read:

Section 44-55-640. Each septic tank shall be installed so as to receive the approval of the ~~county board of health~~Department of Environmental Services through a duly authorized agent.

SECTION 129. Section 44-55-670 of the S.C. Code is amended to read:

Section 44-55-670. All septic tanks shall have a minimum of one hundred feet of distribution pipe laid and installed in the manner required by the specifications, rules and regulations promulgated by the ~~county board of health~~Department of Environmental Services.

SECTION 130. Section 44-55-680 of the S.C. Code is amended to read:

Section 44-55-680. No septic tank effluent shall be discharged into any stream without special approval of the ~~county board of health~~Department of Environmental Services through a duly authorized agent.

SECTION 131. Section 44-55-690 of the S.C. Code is amended to read:

Section 44-55-690. The ~~county board of health~~Department of Environmental Services may permit and approve the installation of temporary septic tanks in the case of unusual, temporary or emergency conditions. ~~Such~~ A temporary septic tank shall be constructed and installed in accordance with the specifications, rules and regulations promulgated by the ~~county board of health~~department relating to the use of ~~such~~ temporary tanks, and the ~~board~~ department may determine the period of time for which ~~such~~ a temporary septic tank may be used.

SECTION 132. Section 44-55-700 of the S.C. Code is amended to read:

Section 44-55-700. The use, construction, or installation of any septic tank in any ~~such~~ county without the prior approval of the ~~county board of health~~Department of Environmental Services as herein provided for shall be deemed a misdemeanor, punishable by a fine of not less than ten dollars nor more than fifty dollars or imprisonment of not less than five days nor more than twenty days, and each day during which such violation shall continue shall constitute a separate offense.

SECTION 133. Section 44-55-820 of the S.C. Code is amended to read:

Section 44-55-820. No private or public utility, municipality, or electric cooperative supplying power shall connect temporary or permanent power to a new site of any mobile, modular or permanently constructed building or facility until such time as the power supplier is presented with a certificate, license, or permit by the county or municipality when the proposed connection is to be made within the corporate limits thereof authorizing such connection. No such certificate, license, or permit shall be issued by the county or municipality without a permit from the ~~county health department~~Department of Environmental Services approving the method of sewage disposal; nor shall such permit, certificate or license be issued until evidence is presented that all other appropriate safety and health regulations, permits, codes and ordinances have been complied with. Such permits, certificates or licenses shall state the location of the approved site. The governing body of each county or municipality shall provide one office to issue evidence that all such requirements have been met by the applicant.

SECTION 134. Section 44-55-830 of the S.C. Code is amended to read:

Section 44-55-830. The purchaser or owner shall obtain the permit and provide to any person who sells a mobile home a copy of the certificate of ~~health department~~the Department of Environmental Services' approval required by Section 44-55-820 before placing such mobile home upon the new site for occupancy.

SECTION 135. Section 44-55-860 of the S.C. Code is amended to read:

Section 44-55-860. Whenever any lot or parcel of land without improvement thereon upon which an owner intends to construct a building or place a mobile home is not accessible to a sewer line for a tap-on and the ~~county board of health~~Department of Environmental Services or other appropriate agency in which the lot or parcel of land is situated certifies that ~~such~~ the lot or land is not suitable to accommodate a septic tank or other individual sewage disposal system, the ~~board~~ department or agency shall state in writing to the owner within thirty days following inspection of the property the reason ~~such~~ that a septic tank or system cannot be used. At the same time the ~~board~~ department or agency shall inform the owner of the property in detail of any corrective measures that may be taken to remedy the sewage problem.

SECTION 136. Section 46-9-120 of the S.C. Code is amended to read:

Section 46-9-120. Every farmer, agriculturalist, county extension agent, agricultural products processor, crop advisor, or other person working in agriculture, or person having responsibility for agricultural production or processing must report agricultural products having or suspected of having any disease or infection from any crop pest whatsoever that may be caused by chemical terrorism, bioterrorism, radiological terrorism, epidemic or pandemic disease, or novel and highly infectious agents and which might cause serious agricultural threat to the State. The report must be made by telephone, in writing, or by compatible electronic format within twenty-four hours to the Director, Regulatory and Public Service Programs, Clemson University, and must include as much of the following information as is available: the geographic location of the agricultural product and/or its origin; the name and address of any known owner, the name and address of any known shipper; the name and address of the owner of the point of origin; and the name and address of the reporting individual. The director must report to the Department of Public Health ~~and Environmental Control~~ any incidents which affect public health, or which create a public health emergency, as defined in Section 44-4-130. The director must report to the Director of the Department of Public Health any incidents related to radiological terrorism. For purposes of this section, the terms chemical terrorism, bioterrorism, and radiological terrorism have the same meanings as provided in Section 44-4-130.

SECTION 137. Section 46-57-50 of the S.C. Code is amended to read:

Section 46-57-50. Section effective July 1, 2024.

The Department of Agriculture may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, all other places or establishments providing eating or drinking facilities~~, and all other places known as private nursing homes or places of similar nature,~~ operated for gain or profit, except that this shall not apply to food services provided at health care facilities or other facilities regulated by the Department of Public Health pursuant to the State Health Facility Licensure Act unless the services are provided to the general public; and

(2) the production, storing, labeling, transportation, and selling of milk and milk products, filled milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic milk products, milk derivatives, and any other products made in semblance for milk or milk products; and

(3) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other businesses, and bottling plants; and

~~(4) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other business, and bottling plants.~~

SECTION 138. Section 44-7-1590 of the S.C. Code is amended to read:

Section 44-7-1590. (A) No bonds may be issued pursuant to the provisions of this article until the proposal of the county board to issue the bonds receives the approval of the authority. Whenever a county board proposes to issue bonds pursuant to the provisions of this article, it shall file its petition with the authority setting forth:

(1) a brief description of the hospital facilities proposed to be undertaken and the refinancing or refunding proposed;

(2) a statement setting forth the action taken by the Department of Health and Environmental Control in connection with the hospital facilities;

(3) a reasonable estimate of the cost of hospital facilities;

(4) a general summary of the terms and conditions of the proposed loan agreement; and

(5) such other information as the authority requires.

(B) Upon the filing of the petition the authority, as soon as practicable, shall conduct the review as it considers advisable, and if it finds that the proposal of the governing board is intended to promote the purposes of this article, it is authorized to approve the proposal. At any time following the approval, the county board may proceed with the issuance of the bonds in accordance with the proposal as approved by the authority. Notice of the approval of the proposal by the authority must be published at least once by the authority in a newspaper having general circulation in the county where the hospital facilities are or are to be located. The notice must set forth the action taken by the county board pursuant to Section 44-7-1480 and the action taken by the Department of Health and Environmental Control pursuant to Section 44-7-1490.

(C) Any interested party, within twenty days after the date of the publication of the notice, but not afterwards, may challenge the action so taken by the authority~~,~~ or the county board~~, or the Department of Health and Environmental Control, by action de novo in the court of common pleas in any county where the hospital facilities are to be located~~.

SECTION 139. Section 44-7-1690 of the S.C. Code is amended to read:

Section 44-7-1690. (A) Notice of the approval by a county board of any intergovernmental loan agreement or subsidiary loan agreement must be published at least once in a newspaper having general circulation in each county by the respective county board prior to the execution of such agreements. With respect to a subsidiary loan agreement, the notice must set forth the action taken by the county board and the South Carolina Department of Public Health~~ and Environmental Control~~ pursuant to Section 44-7-1660. The intergovernmental loan agreement and subsidiary loan agreement must be filed with the clerk of court of the authorizing issuer and the clerk of court of the project county prior to the issuance of the bonds authorized thereby.

(B) Any interested party may, within twenty days after the date of the publication of the notice, challenge the action taken by the county board of the authorizing issuer or the project county in approving the intergovernmental loan agreement by action de novo in the court of common pleas of the project county or the authorizing issuer.

(C) Any interested party may, within twenty days after the date of the publication of the notice, challenge the action taken by the county board in approving the subsidiary loan agreement~~ or the Department of Health and Environmental Control with respect to the hospital facilities~~ by action de novo in the court of common pleas in any county where the hospital facilities are to be located.

SECTION 140. Chapter 3, Title 49 of the S.C. Code is amended by adding:

Section 49-3-55. (A) For purposes of this section, "return flow" means water that is discharged directly or indirectly to a reservoir from a water reclamation facility.

(B) Notwithstanding another provision of law, an entity that has contracted for the right to store water in a reservoir owned by the United State Army Corps of Engineers has exclusive rights to any return flows generated directly or indirectly to that reservoir by the entity. The rights conferred by this subsection must be subject to any regulatory requirements imposed by the South Carolina Department of Environmental Control Services and to the availability to the entity of unused storage capacity within the reservoir to store such return flows.

SECTION 141. Section 23-3-810(B) of the S.C. Code is amended to read:

(B) In accordance with Article 1, Chapter 35, Title 43, the unit shall receive and coordinate the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of Mental Health, the Department of Veterans' Affairs, or the Department of Disabilities and Special Needs. The unit shall establish a toll-free number, which must be operated twenty-four hours a day, seven days a week, to receive the reports.

SECTION 142. Section 23-3-810(F) of the S.C. Code is amended to read:

(F) The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this article precludes the Department of Mental Health, the Department of Veterans' Affairs, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

SECTION 143. Section 43-35-10 of the S.C. Code is amended to read:

Section 43-35-10. As used in this chapter:

(1) "Abuse" means physical abuse or psychological abuse.

(2) "Caregiver" means a person who provides care to a vulnerable adult, with or without compensation, on a temporary or permanent or full or part-time basis and includes, but is not limited to, a relative, household member, day care personnel, adult foster home sponsor, and personnel of a public or private institution or facility.

(3) "Exploitation" means:

(a) causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult. Exploitation does not include requiring a vulnerable adult to participate in an activity or labor which is a part of a written plan of care or which is prescribed or authorized by a licensed physician attending the patient;

(b) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that

person or another person; or

(c) causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.

(4) "Facility" means a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health or the Department of Intellectual and Related Disabilities ~~and Special Needs~~.

(5) "Investigative entity" means the Long Term Care Ombudsman Program, the Adult Protective Services Program in the Department of Social Services, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, or the Medicaid Fraud Control Unit of the Office of the
Attorney General.

(6) "Neglect" means the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services and the failure or omission has caused, or presents a substantial risk of causing, physical or mental injury to the vulnerable adult. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death.

(7) "Occupational licensing board" means a health professional licensing board which is a state agency that licenses and regulates health care providers and includes, but is not limited to, the Board of Long Term Health Care Administrators, State Board of Nursing for South Carolina, State Board of Medical Examiners, State Board of Social Work Examiners, and the State Board of Dentistry.

(8) "Physical abuse" means intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in Section 16-3-651, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults.

(9) "Protective services" means those services whose objective is to protect a vulnerable adult from harm caused by the vulnerable adult or another. These services include, but are not limited to,

evaluating the need for protective services, securing and coordinating existing services, arranging for living quarters, obtaining financial benefits to which a vulnerable adult is entitled, and securing medical services, supplies, and legal services.

(10) "Psychological abuse" means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

(11) "Vulnerable adult" means a person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a
vulnerable adult.

(12) "Operated facility" means those facilities directly operated by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, or the Department of Intellectual and Related Disabilities ~~and Special Needs~~.

(13) "Contracted facility" means those public and private facilities contracted for operation by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, or the Department of Intellectual and Related Disabilities ~~and Special Needs~~.

SECTION 144. Section 43-35-15 of the S.C. Code is amended to read:

Section 43-35-15. (A) The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall receive and coordinate the referral of all reports of alleged abuse, neglect,
or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, or the Department of Intellectual and Related Disabilities ~~and Special Needs~~. The unit shall establish a toll free number, which must be operated twenty-four hours a day, seven days a week, to receive the reports. The unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit also shall investigate vulnerable adult fatalities as provided for in Article 5, Chapter 35, Title 43. The unit shall refer those reports in which there is no reasonable suspicion of criminal conduct to the appropriate investigative entity for investigation. Upon conclusion of a criminal investigation of abuse, neglect, or exploitation of a vulnerable adult, the unit or other law enforcement shall refer the case to the appropriate prosecutor when further action is necessary. The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged

abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, the Department of Intellectual and Related Disabilities ~~and Special Needs~~, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

(B) Except as otherwise provided in subsection (D), the Long Term Care Ombudsman Program shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in facilities. The Long Term Care Ombudsman Program may develop policies, procedures, and memoranda of agreement to be used in reporting these incidents and in furthering its investigations. The Long Term Care Ombudsman Program must not delegate its responsibility to investigate noncriminal reports of alleged abuse, neglect, and exploitation to the
facilities or to the entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Veterans' Affairs, the Department of Intellectual and Related Disabilities ~~and Special Needs~~, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements. The Long Term Care Ombudsman Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(C) The Adult Protective Services Program in the Department of Social Services shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to this section. The Adult Protective Services Program may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used in reporting these incidents, in furthering its investigations, and in providing protective services. The Adult Protective Services Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(D) Notwithstanding another provision of law, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall refer reports of abuse, neglect, and exploitation involving residents committed to the Department of ~~Mental~~ Behavioral Health pursuant to Chapter 48, Title 44 in which there is no reasonable suspicion of criminal conduct to the Department of ~~Mental~~ Behavioral Health's Client Advocacy Program for investigation.

SECTION 145. Section 43-35-25(D) of the S.C. Code is amended to read:

(D) A person required to report under this section must report the incident within twenty-four hours

or the next working day. A report must be made in writing or orally by telephone or otherwise to:

(1) the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for incidents occurring in facilities operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, or the Department of Intellectual and Related Disabilities ~~and Special Needs~~;

(2) the Long Term Care Ombudsman Program for incidents occurring in facilities, except those facilities provided for in item (1); and

(3) the Adult Protective Services Program for incidents occurring in all other settings.

SECTION 146. Section 43-35-35(B) of the S.C. Code is amended to read:

(B) All deaths involving a vulnerable adult in a facility operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, the Department of Intellectual and Related Disabilities ~~and Special Needs~~, or their contractors must be referred to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for investigation pursuant to Section 43-35-520.

SECTION 147. Section 43-35-220(B) of the S.C. Code is amended to read:

(B) The assessment conducted by the guardian ad litem pursuant to subsection (A) must include, but is not limited to:

(1) obtaining and reviewing relevant documents including, but not limited to, the vulnerable adult's medical records; records from the place of residence if the vulnerable adult is living in a facility or other institution; records related to assets and debts of the vulnerable adult in cases of alleged exploitation; and records from the Department of Social Services, Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, Department of Intellectual and Related Disabilities~~ and Special Needs~~, or other public entities providing services to the vulnerable adult;

(2) meeting with and observing the vulnerable adult on at least one occasion;

(3) visiting the home setting if appropriate;

(4) interviewing family, caregivers, medical providers, law enforcement, and others with knowledge relevant to the case;

(5) exploring available resources within the family and community to meet the needs of the vulnerable adult;

(6) obtaining the criminal history of a party if determined necessary; and

(7) determining the wishes of the vulnerable adult and informing the court of these wishes.

SECTION 148. Section 43-35-520 of the S.C. Code is amended to read:

Section 43-35-520. The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, created pursuant to Section 23-3-810, shall, in addition to its investigation responsibilities under that section or Article 1, investigate cases of vulnerable adult fatalities in facilities operated or contracted for operation by the Department of ~~Mental~~ Behavioral Health, the Department of Veterans' Affairs, or the Department of Intellectual and Related Disabilities~~ and Special Needs~~. Provided, that in a nursing home, as defined in Section 44-7-130, contracted for operation by the Department of ~~Mental~~ Behavioral Health or the Department of Veterans' Affairs, the Vulnerable Adults Investigations Unit shall investigate those fatalities for which there is suspicion that the vulnerable adult died as a result of abuse or neglect, the death is suspicious in nature, or the death is referred by a coroner or medical examiner as provided in Section 43-35-35(A). In the event that a coroner rules that the death of an individual in a veterans' nursing home under the authority of the Department of ~~Mental Health~~Veterans' Affairs results from natural causes, the State Law Enforcement Division is not required to conduct an investigation regarding the individual's death.

SECTION 149. Section 46-57-20(E) of the S.C. Code is amended to read:

(E) ~~Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61-25.~~Home based food operations may only sell, or offer to sell, food items directly to a person, including online and by mail order, or to retail stores, including grocery stores. Food produced from a home-based food production operation shall be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25. Any retail stores, including grocery stores, that sell or offer to sell home-based food products must post clearly visible signage indicating that home-based food products are not subject to commercial food regulations.

SECTION 150. Section 46-57-20(G) of the S.C. Code is amended to read:

(G) The provisions of this section do not apply to an operation with net earnings of less than ~~five hundred~~one thousand five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

SECTION 151. Article 1, Chapter 6, Title 44 of the S.C. Code is amended by adding:

Section 44-6-75. The department must monitor and undertake evaluations at least twice a year of third-party transportation-related contracts including, but not limited to, consideration of necessary rate changes due to inflation of fuel or other expenses.

SECTION 152. Section 46-57-20 of the S.C. Code is amended by adding:

(H) The provisions of this section apply in the absence of a local ordinance to the contrary.

SECTION 153. The Code Commissioner is directed to change the references in the following sections of the S.C. Code from "Department of Health and Environmental Control" or "DHEC" to "Department of Public Health" or "DPH" as appropriate: 1-25-60(A)(1)(b), 7-5-186(B), 7-5-310(B)(2), 11-11-170(B)(1)(d) and (e), 11-11-230(A), 11-58-70(B)(4), 11-58-80(F), 12-23-810(A), 12-23-815, 14-1-201(2), 14-23-1150(b), 16-3-740, 16-3-2050(B), 16-17-500(F) and (J), 16-17-650(E), 16-25-320(A), 20-1-240(1), 20-1-320, 20-1-340, 20-1-350, 20-1-720, 20-3-230, 20-3-235, 23-1-230(A), 23-3-535(C), 25-11-70(A), 25-11-75(B), 30-2-30(4), 30-2-320(4), 32-8-305(17), 37-11-20(2), 37-11-50(B), 38-7-20(B), 38-70-60, 38-71-46, 38-71-1520(3), 39-23-20(a), 39-23-30(b), 39-23-40, 39-23-50, 39-23-60, 39-23-70, 39-23-100, 39-23-110, 39-23-120, 39-23-130, 40-7-60, 40-7-230, 40-13-60, 40-13-110(A), 40-15-85(6), 40-15-102, 40-15-110, 40-25-20(1), 40-29-170, 40-33-30(D) and (E), 40-35-20, 40-43-72(A), 40-43-83, 40-43-86(C), 40-43-86(FF), 40-43-190, 40-43-195(B) and (F), 40-43-200(A), 40-45-300(B), 40-47-31(A) and (E), 40-47-32(E), 40-47-34(A), 40-69-255, 40-71-10(B), 40-71-20(B) and (C), 40-81-20(13), 40-84-120(2), 41-27-80, 43-5-24, 43-5-910(1), 43-5-1185, 43-25-30(7), 44-3-10, 44-3-110, 44-3-130, 44-3-150, 44-4-300 through 44-4-340, 44-4-500 through 44-4-570, 44-5-20(1), 44-6-5(10), 44-6-150(A), 44-6-170(B) and (I), 44-7-77, 44-7-80(6), 44-7-90, 44-8-10, 44-8-20(5), 44-8-60, 44-29-10, 44-29-15(A), 44-29-20, 44-29-40(A), 44-29-50, 44-29-60, 44-29-70, 44-29-80, 44-29-90, 44-29-100, 44-29-110, 44-29-115, 44-29-120, 44-29-130, 44-29-135, 44-29-140, 44-29-180, 44-29-185(A), 44-29-230(B), 44-29-240, 44-29-250, 44-31-10, 44-31-20, 44-31-30, 44-31-110(A), 44-31-610, 44-30-20(3), 44-30-90, 44-32-10(2), 44-32-20(A), 44-32-120(G), 44-33-10, 44-33-310, 44-34-10(1), 44-34-20(A), 44-34-100(G), 44-35-10, 44-35-20(A), 44-35-30(A), 44-35-40, 44-35-70, 44-35-80, 44-35-90, 44-35-100, 44-36-20(A), 44-36-30(B), 44-36-50, 44-36-320(10), 44-36-520, 44-37-20, 44-37-30(A), 44-37-50, 44-40-30, 44-40-60, 44-41-10, 44-41-60, 44-41-340, 44-44-20, 44-44-30(A), 44-53-10, 44-53-50, 44-53-110, , 44-53-362(B), 44-53-375(E), 44-53-620, 44-53-630, 44-53-710, 44-53-720, 44-53-750, 44-53-1320, 44-53-1630, 44-53-1640(A), 44-61-320, 46-61-510(1), 46-61-520(A), 44-61-540(B), 44-61-650(A), 44-63-10, 44-63-20, 44-63-30, 44-63-80(C), 44-63-86, 44-63-161(A), 44-63-163, 44-69-30, 44-70-20, 48-18-15, 44-78-65, 44-80-10, 44-81-30, 44-99-10(3), 44-99-30, 44-99-50(A), 44-113-20, 44-115-80(A), 44-115-130, 44-117-50, 44-122-50, 44-125-20(A), 44-128-20(A), 44-130-20, 44-139-40(A), 44-139-50(B), 46-1-130, 46-3-240, 46-7-100, 46-9-120, 47-1-80, 47-3-420, 47-5-20, 48-1-280, 50-16-30, 55-1-100(B), 56-3-9800, 59-1-380(D), 59-1-450, 59-31-330, 59-32-10, 59-32-30(A), 59-36-20(A), 59-63-75, 59-63-95, 63-1-50(A), 63-9-730(B), 63-9-910(C), 63-11-1720(C), 63-13-80(A), 63-13-180(A), and 63-17-70(C).

SECTION 154. The Code Commissioner is directed to change the references in the following sections of the S.C. Code from the "Department of Health and Environmental Control" or "DHEC" to "Department of Environmental Services" or "DES" as appropriate: 1-11-20(D), 3-5-40, 3-5-50, 3-5-60, 3-5-80, 3-5-100, 3-5-120, 3-5-150, 3-5-160, 3-5-190, 3-5-320, 3-5-330, 3-5-340, 3-5-360, 4-12-30(B)(3), 4-29-67(B)(3), 5-31-2010, 6-1-150(A)(1)(a)(ii), 6-11-290, 6-11-1210, 6-11-1230(4), 6-11-1430, 6-15-30, 6-19-35(2), 6-19-40(A), 6-21-400, 10-9-10, 10-9-30, 10-9-40, 10-9-110, 10-9-200, 10-9-260, 10-9-320, 11-37-200(A), 12-6-3370(D), 12-6-3420(C)(2), 12-6-3350(C) through (H), 12-28-2355(B), 12-37-220(A)(8), 12-37-220(B)(44), 12-44-30(14), 13-1-380(E), 13-7-10(8), (11), and (12), 13-7-20(3), 13-7-30(4), 13-7-40(A), 13-7-45(A)(1), 13-7-60, 13-7-70(1), 13-7-90, 13-7-120(B), 13-7-160(B), 14-7-1610(F), 14-7-1630(A)(12), 27-16-90(G), 27-31-100(f), 33-36-1315(A), 38-71-145(E), 38-78-10(B), 40-10-230, 40-23-20(20), 40-23-110(A), 40-23-280(C), 40-23-300(A), 40-23-305, 40-23-310(A), 40-43-87(B), 44-2-20, 44-2-40(A), 44-2-60(C), 44-55-420, 44-55-430, 44-55-440, 44-55-460, 44-55-822(A) and (B), 44-55-1310(2), 44-55-2390(B) and (D), 44-56-60(a), 44-56-160(A), 44-56-200, 44-56-210, 44-56-405, 44-56-410(2), 44-56-840(A), 44-59-10, 44-74-50(A), 44-87-10, 44-93-160(B), 44-96-60(C), 44-96-85(A), 44-96-120(C), 44-96-165, 44-96-170(N), (P), and (Q), 44-96-250, 45-4-70, 46-1-140, 46-7-110(A) and (B), 46-13-110, 46-13-150, 46-45-10, 46-45-60, 46-51-20, 47-9-60, 47-20-165(A), 48-1-10, 48-1-20, 48-1-55, 48-1-95, 48-1-100, 48-1-110(b), 48-2-20, 48-2-70, 48-2-330, 48-3-10, 48-3-140(A), 48-5-20, 48-18-50, 48-20-30, 48-20-40, 48-20-70(3), 48-21-20, 48-34-40(B), 48-39-270(3), 48-43-10(B) and (W), 48-43-40(D), 48-43-100, 48-43-390(A), 48-43-510, 48-43-520, 48-43-570, 48-46-40(B), 48-46-50(A), 48-46-80, 48-46-90, 48-52-865(A), 48-56-20(3), 48-57-20(1), 48-60-20(11), 48-62-30, 49-1-15, 49-1-16, 49-4-20, 49-11-120(3), 49-23-60(A), 50-5-35(B), 50-5-360(A), 50-5-910(C), 50-5-955(B), 50-15-430(B), 50-21-30(C), 54-6-10(F), 56-5-2720, 56-35-50(B), 56-35-60, 56-35-80, 58-27-255, 58-33-140(1), and 59-111-720(A).

SECTION 155. The Code Commissioner is directed to change the references in Chapter 4, Title 44, related to Emergency Health Powers, from "DHEC" to "DPH". The Code Commissioner is directed to change the references in Chapter 4, Title 44, related to Emergency Health Powers, from "commissioner" to "director".

SECTION 156. The Code Commissioner is directed to change the references in the following sections of the S.C. Code from the "Department of Health and Environmental Control" or "DHEC" to "Department of Agriculture": 47-17-40(b), 47-17-120(D), 47-17-130, 47-17-140(b), 47-17-320, 47-19-35(D), 61-4-220, 61-4-1515(B), 61-4-1750, 61-6-1610(H), and 61-6-2410.

SECTION 157. The Code Commissioner is directed to change the following headings in the S.C. Code:

(1) Article 1, Chapter 6, Title 44 shall be styled as "Department of Health Financing";

(2) Chapter 1, Title 44 shall be styled as "Department of Public Health";

(3) Chapter 20, Title 44 shall be styled as "Department of Intellectual and Related Disabilities"; and

(4) Chapter 9, Title 44 shall be styled as "Department of Behavioral Health".

SECTION 158. Chapter 49, Title 44 of the S.C. Code is repealed.

SECTION 159. Section 44-7-180 of the S.C. Code is repealed.

SECTION 160. Section 48-43-10(X) and Section 48-43-510(13) of the S.C. Code are repealed.

SECTION 161. When an agency, department, entity, or official is transferred to or consolidated with another agency, department, division, entity, or official, regulations promulgated by that transferred agency, department, entity, or official under the authority of former provisions of law pertaining to it are continued and are considered to be promulgated under the authority of present provisions of law pertaining to it. When powers and duties of an agency, department, entity, or official are transferred to and devolved upon another department, agency, or subdivision thereof, the power and duty to promulgate regulations is also transferred to and devolved upon that department, agency, or subdivision
thereof.

References to the names of agencies, departments, entities, or public officials changed by this act, to their duties or functions herein devolved upon other agencies, departments, entities, or officials, or to provisions of law consolidated with or transferred to other parts of the S.C. Code are considered to be and must be construed to mean appropriate references.

Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must continue to be used and expended for those purposes provided prior to the effective date of this act. If a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit, or expense of personnel transferred, these funds must continue to be used for these purposes.

SECTION 162. (A) Upon the effective date of this act, the Directors of the Departments of Public Health and Aging shall serve as the interim department directors of their respective departments within

the Executive Office of Health and Policy, unless otherwise removed by the Secretary of Health and Policy, until such time as a successor is appointed and assumes the position following confirmation by the Senate. The Director of the Department of Health and Human Services shall serve as the interim Director of the Department of Health Financing, unless otherwise removed by the Secretary of Health and Policy, until such time as a successor is appointed and assumes the position following confirmation by the Senate. The Director of the Department of Disabilities and Special Needs shall serve as the interim Director of the Department of Intellectual and Related Disabilities, unless otherwise removed by the Secretary of Health and Policy, until such time as a successor is appointed and assumes the position following confirmation by the Senate. In the case of a vacancy in the director's position in one or more of the departments on or after the effective date of this act and prior to the appointment and confirmation of a successor, the Secretary of Health and Policy may assign an employee of the department or the Executive Office of Health and Policy to perform the duties required of the vacant position in the interim.

(B) Upon the effective date of this act, the Director of the Department of Mental Health shall serve as the interim director of the Department of Behavioral Health, unless otherwise removed by the Secretary of Health and Policy, until such time as a successor is appointed and assumes his or her
duties. In the case of a vacancy in the director's position at the Department of Behavioral Health on or after the effective date of this act and prior to the appointment and confirmation of a successor, the Secretary of Health and Policy may assign an employee of the department or the Executive Office of Health and Policy to perform the duties required of the vacant position in the interim.

(C) Upon the effective date of this act, the Director of the Department of Alcohol and Other Drug Abuse Services shall serve as the interim director of the Division on Alcohol and Drug Addiction of the Department of Behavioral Health until such time as a replacement is appointed by the director of
the Department of Behavioral Health. Prior to the appointment and confirmation of the director of the Department of Behavioral Health, the Secretary of Health and Policy has the discretion to remove the division director. In the case of a vacancy in the director's position at the Department of Alcohol and Drug Addiction or the Division on Alcohol and Drug Addiction on or after the effective date of this act and prior to the appointment of a successor by the director of the Department of Behavioral Health, the Secretary of Health and Policy may assign an employee of the department or the Executive Office of Health and Policy to perform the duties required of the vacant position in the interim.

(D) Nothing in this act prevents the Secretary of Health and Policy from reappointing the directors of their respective departments serving in those roles as of the effective date of this act.

(E) The Governor's initial appointee as Secretary of Health and Policy shall serve in an interim capacity with the powers and duties assigned to the Secretary through this act until such time as the Senate provides advise and consent regarding the appointment. Should the Senate not advise and consent to the initial appointee prior to sine die adjournment of the 2025 regular session, the office

shall be vacant, and the interim appointee shall not serve in hold over status.

SECTION 163. (A) Except for personnel and funds transferred pursuant to subsection (B) of this section, the Departments of Health Financing, Public Health, Aging, and Intellectual and Related Disabilities shall operate as component departments of the Executive Office of Health and Policy in the 2024-25 fiscal year using the authority and funds appropriated to the Departments of Health and Human Services, Public Health, Aging, and Disabilities and Special Needs as standalone agencies in the appropriations act of 2024. Except for personnel and funds transferred pursuant to subsection (B) of this section, the Department of Behavioral Health shall operate as a component department of the Executive Office of Health and Policy in the 2024-25 fiscal year using the authority and funds appropriated to the Departments of Mental Health and Alcohol and Other Drug Abuse Services as standalone agencies in the appropriations act of 2024.

(B) Upon appointment and confirmation, the Secretary of Health and Policy may cause the transfer to the Executive Office of Health and Policy such: (1) personnel and attendant funding included in the administrative areas of the 2024 appropriations act and (2) operating expenses included in the administrative areas of the 2024 appropriations act of one or more of the component departments of
the office as, in the determination of the secretary, is necessary to carry out the duties of the office. The Department of Administration shall cause all necessary actions to be taken to accomplish any such transfer and shall in consultation with the secretary prescribe the manner in which the transfer provided for in this section shall be accomplished. The Department of Administration's action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(C) Except for those positions transferred pursuant to this section or otherwise specifically referenced
in this act, employees of the Departments of Health and Human Services, Public Health, Aging, Disabilities and Special Needs, Mental Health, or Alcohol and Other Drug Abuse Services shall maintain their same status with the appropriate component department of the Executive Office of Health and Policy. Employees of the Departments of Public Health and Aging shall become employees of their respective departments within the Executive Office of Health and Policy. Employees of the Department of Health and Human Services shall become employees of the Department of Health Financing within the Executive Office of Health and Policy. Employees of the Departments of Mental Health and Alcohol and Other Drug Abuse Services shall become employees of the Department of Behavioral Health within the Executive Office of Health and Policy.

(D) Nothing in this act affects bonded indebtedness, if applicable, real and personal property, assets, liabilities, contracts, regulations, or policies of the Departments of Health and Human Services, Public Health, Aging, Disabilities and Special Needs, Mental Health, or Alcohol and Other Drug Abuse Services existing on the effective date. All applicable bonded indebtedness, real and personal property,

assets, liabilities, contracts, regulations, or policies shall continue in effect in the name of the Executive Office of Health and Policy or the appropriate component division.

SECTION 164. Section 44-53-160(C) of the S.C. Code is amended to read:

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department's director shall~~, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control~~ within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the
Chairman of the Medical, Military, Public and Municipal Affairs Committee, the Chairman of the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

SECTION 165. Article 7, Chapter 111, Title 59 of the S.C. Code, relating to Medical and Dental Loans, is repealed.

SECTION 166. Section 44-3-110 through 44-3-140 of the S.C. Code, relating to the Catawba Health District, are repealed. These provisions are no longer necessary because the Catawba Health District no longer exists. The counties within the former Catawba Health District are now served by the Midlands Region Office for Public Health.

SECTION 167. Section 44-7-310 of the S.C. Code is repealed.

SECTION 168. Section 49-3-60 of the S.C. Code, as amended by Act 60 of 2023, is repealed.

SECTION 169. Section 44-11-30 and Section 44-11-40 of the S.C. Code are repealed.

SECTION 170. (A) The addition of Section 48-6-30 by Act 60 of 2023 and the amendment to Section

44-1-60 by Act 60 of 2023 and any further amendments to those sections in this act are intended to provide a uniform procedure for contested cases and appeals from the Department of Environmental Services and the Department of Public Health, as the case may be. To the extent that Section 48-6-30 or Section 44-1-60 conflict with another statute, the provisions of Section 48-6-30 or Section 44-1-60 are controlling. This provision does not apply to decisions under the South Carolina Mining Act, Section 48-20-10, et seq. of the S.C. Code.

(B) The Code Commissioner is directed to change or correct remaining references in the S.C. Code to the former Department of Health and Environmental Control, its board, or other agencies referenced in Act 60 of 2023 to reflect the transfer to the Department of Public Health, the Department of Environmental Services, or other agencies referenced in Act 60. References to the names of the relevant agencies and offices in the S.C. Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(C) Nothing contained in Act 60 of 2023 or in this act shall modify decisions of the former Department of Health and Environmental Control or its board that occurred prior to July 1, 2024. After July 1, 2024, all decisions including, but not limited to, orders, permits, licenses, registrations, and certifications issued by the Department of Health and Environmental Control or its board will remain
in full force and effect under the same terms and conditions.

SECTION 171. This act takes effect July 1, 2024.

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