

South Carolina Code of Laws Unannotated

Title 44 - HEALTH

CHAPTER 1 Department of Public Health

Editor's Note

2023 Act No. 60, SECTIONS 1, 2, 3.F, 13, 14, and 17, provide as follows:

"SECTION 1. On July 1, 2024:

"(1) There is created the Department of Public Health to be headed by a director who is appointed by the Governor pursuant to Section 1-30-10, with the advice and consent of the Senate; provided, however, until the Governor appoints the initial director after creation of the Department of Public Health, the Director of the Department of Health and Environmental Control shall serve as the Director of the Department of Public Health.

"(2) There is created the Department of Environmental Services to be headed by a director who is appointed by the Governor pursuant to Section 1-30-10, with the advice and consent of the Senate; provided, however, until the Governor appoints the initial director after creation of the Department of Environmental Services, the Director of Environmental Affairs of the Department of Health and Environmental Control shall serve as the Director of the Department of Environmental Services.

"(3) The South Carolina Department of Health and Environmental Control and the South Carolina Board of Health and Environmental Control are abolished.

"(4) The food safety program in the Division of Food and Lead Risk Assessment and the Milk and Dairy Lab of the Department of Health and Environmental Control shall become a division of the Department of Agriculture with the director of that department being deemed the head of the division unless otherwise specified, and all relevant powers and duties assigned to the Department of Health and Environmental Control being transferred to and devolved upon the Department of Agriculture.

"(5) The authority to establish, manage, and operate veterans homes shall be transferred to the Department of Veterans' Affairs, and all powers and duties assigned to the Department of Mental Health regarding veterans homes being transferred to and devolved upon the Department of Veterans' Affairs. To the extent, the Department of Mental Health owns the grounds upon which these veterans homes are located, title shall be transferred to the Department of Veterans' Affairs.

"(6) The hydrology and aquatic nuisance species programs of the Land, Water and Conservation Division of the Department of Natural Resources shall become a division of the Department of Environmental Services, and all relevant powers and duties assigned to the Department of Natural Resources being transferred to and devolved upon the Department of Environmental Services.

"SECTION 2. (A) It is the intent of the General Assembly to restructure and transfer the programs, services, duties, and authority of the Department of Health and Environmental Control into the Department of Public Health or the Department of Environmental Services. Accordingly, the Department of Administration immediately shall commence the process of analyzing the circumstances and determining the best manner to efficiently and effectively restructure and transfer all programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Public Health or the Department of Environmental Services, consistent with the provisions of this act. The Department of Health and Environmental Control shall cooperate with the Department of Administration and assign such personnel as requested by the Executive Director of the Department of Administration to assist the department and enable it to complete its duties under this SECTION. To complete its duties under this SECTION the Department of Administration shall consult with the existing Director of the Department of Health and Environmental Control and the existing Director of Environmental Affairs of the Department of Health and Environmental Control.

"(B) The Department of Administration's analysis required by this SECTION must include the submission of a report to the General Assembly no later than December 31, 2023, with specific recommendations of statutory changes needed throughout the South Carolina Code of Laws to reflect the restructuring and transfer of the health-related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Public Health and to reflect the restructuring and transfer of the environmental related programs, services, duties, and authority of the Department of Health and Environmental Control to the Department of Environmental Services. The Department of Health and Environmental Control shall assign such legal, programmatic and administrative personnel as requested by the Executive Director of Department of Administration to assist the department in identifying statutory provisions requiring change and in suggesting appropriate language to effectuate required changes. The Code Commissioner shall be available to consult with and assist the Department of Administration in making the recommendations required by this SECTION.

"(C) The Department of Administration may procure such supplies, services, information technology, and experts, including attorneys, as are necessary to perform the requirements of this SECTION. Such procurements are exempt from the purchasing procedures of the South Carolina Consolidated Procurement Code but must be made with as much competition as is practicable. Additionally, if determined necessary, the State Fiscal Accountability Authority shall assign such personnel as requested by the Executive Director of Department of Administration to assist the department in any required procurements. The Department of Health and Environmental Control shall pay the costs of any supplies, services, information technology, and experts, including attorneys, procured pursuant to this subsection."

"[SECTION 3.]F. Chapter 1, Title 44 of the S.C. Code is renamed 'Department of Public Health'."

"SECTION 13. (A) This SECTION is effective upon approval by the Governor.

"(B) The Department of Administration shall identify, select, retain, and procure the services of independent, third-party experts, consultants, or advisors to analyze the missions and delivery models of all state agencies concerned with the overall public health of the State, as well as certain specific populations including, but not limited to, children and adolescents, newborns, pregnant women, the elderly, disabled, mentally ill, special needs individuals, those with chemical dependencies, the chronically ill, economically disadvantaged, and veterans. This analysis will include, but not be limited to, the Department of Health and Environmental Control and its successor entities, the Department of Mental Health, the Department of Alcohol and Other Drug Abuse Services, the Department of Disabilities and Special Needs, and the Department on Aging. Any agencies identified by the Department of Administration as being subject to this analysis shall provide the department with any and all information requested and shall fully participate as requested and required.

"(C) The analysis procured by the Department of Administration shall consider whether structural changes are necessary to improve health services delivery in the State, recognize operational efficiencies, and maximize resource utilization. Structural changes to be analyzed include reorganizations or mergers of existing health agencies, or divisions or components thereof, as well as the establishment of any new health agencies or the privatization of services currently provided by existing health agencies.

"(D) The third-party experts, consultants, or advisors must make appropriate recommendations based on the analysis required pursuant to this section and the benefits of each recommendation.

"(E) The Department of Administration shall prepare a final report summarizing the aforementioned analysis and recommendations and shall submit the final report to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Medical Affairs Committee, the Chairman of the Medical, Military and Municipal Affairs Committee, the Chairman of the Finance Committee, the Chairman of the Ways and Means Committee, and the Governor by April 1, 2024, and shall submit interim

reports on October 1, 2023, and January 1, 2024. Procurements by the Department of Administration of all experts, consultants, and advisors pursuant to and required by this SECTION are exempt from the purchasing procedures of the South Carolina Consolidated Procurement Code in Chapter 35, Title 11 of the S.C. Code. If requested by the Executive Director of the Department of Administration, staff from the State Fiscal Accountability Authority's Procurement Services Division shall assist in procuring the necessary services.

"(F) The Department of Health and Human Services shall give support to the Department of Administration in fulfilling the purposes of this SECTION.

"SECTION 14. (A) When the provisions of this act transfer particular state agencies, departments, boards, commissions, committees, or entities, or sections, divisions, or portions thereof (transferring departments), to another state agency, department, division, or entity or make them a part of another department or division (receiving departments), the employees, authorized appropriations, bonded indebtedness, if applicable, real and personal property, assets, and liabilities of the transferring department also are transferred to and become part of the receiving department or division unless otherwise specifically provided. All classified or unclassified personnel of the affected agency, department, board, commission, committee, entity, section, division, or position employed by these transferring departments on the effective date of this act, either by contract or by employment at will, shall become employees of the receiving department or division, with the same compensation, classification, and grade level, as applicable. The Department of Administration shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies 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.

"(B) 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.

"(C) 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.

"(D) 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 17. This act takes effect on July 1, 2024, except that the provisions of SECTION 2 and SECTION 13, relating to the Department of Administration's duties, take effect upon approval by the Governor."

SECTION 44-1-20. Department of Public Health.

There is created the South Carolina Department of Public Health.

HISTORY: 1962 Code SECTION 32-0.1; 1973 (58) 685; 1993 Act No. 181, SECTION 1030; 2012 Act No. 222, SECTION 11, eff June 7, 2012; 2023 Act No. 60 (S.399), SECTION 3.A, eff July 1, 2024.

Editor's Note

2012 Act No. 222, SECTION 15, provides as follows:

"SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires."

Effect of Amendment

2023 Act No. 60, SECTION 3.A, rewrote the section.

SECTION 44-1-30. Meetings of Board; compensation of members.

The Board shall meet at least quarterly and the members shall receive such compensation for their services as is provided by law for members of boards and commissions.

HISTORY: 1962 Code SECTION 32-0.2; 1973 (58) 685.

SECTION 44-1-40. Selection, term, and salary of director.

The board shall select a director for the department who shall serve a four-year term and who shall have such authority and perform such duties as may be directed by the board. The salary of the director shall be fixed by the board, upon approval of the State Fiscal Accountability Authority. For any vacancy occurring in the office of director on or after February 1, 1995, the board, after consultation with and approval by the Governor, must submit the name of its appointee to the Senate for the Senate's advice and consent. On or after February 1, 1995, the board may remove a director only after consultation with and approval by the Governor.

HISTORY: 1962 Code SECTION 32-0.3; 1973 (58) 685; 1993 Act No. 181, SECTION 1031.

SECTION 44-1-50. Administrative reviews; power to organize department.

The board may conduct such administrative reviews as may be required by law, as considered necessary by the board 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 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 may appoint such advisory boards as it 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.

HISTORY: 1962 Code SECTION 32-0.4; 1973 (58) 685; 1993 Act No. 181, SECTION 1032; 2006 Act No. 387, SECTION 47, eff July 1, 2006.

Editor's Note

2006 Act No. 387, SECTION 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, SECTION 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

SECTION 44-1-60. Appeals from department decisions giving rise to contested case; procedures.

(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) 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 decision is made, the department shall issue a department 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 materials are specifically referred to in the department decision. The department decision need not be issued for routine permits for which no adverse public comments have been received.

(E)(1) Notice of a department decision must be sent by certified mail, returned receipt requested to the applicant, permittee, licensee, 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) must be provided by mail, delivery, or other appropriate means to the applicant, permittee, licensee, 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) 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.

(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) 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.

HISTORY: 2006 Act No. 387, SECTION 48, eff July 1, 2006; 2010 Act No. 278, SECTION 1, eff July 1, 2010; 2018 Act No. 139 (H.3929), SECTION 2, eff March 12, 2018; 2018 Act No. 173 (H.4683), SECTION 2, eff May 3, 2018; 2023 Act No. 60 (S.399), SECTION 3.B, eff July 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments to (A) made by 2018 Act No. 139 and 2018 Act No. 173 were read together.

Editor's Note

2006 Act No. 387, SECTION 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, SECTION 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

2010 Act 278, SECTION 26, provides as follows:

"This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

2018 Act No. 139, SECTION 4, provides as follows:

"SECTION 4. Nothing in this act shall be construed as affecting or applying to confined swine feeding operations."

2018 Act No. 173, SECTIONS 1 and 8, provide as follows:

"SECTION 1. This act must be known and may be cited as the 'Beachfront Management Reform Act'."

"SECTION 8. The Department of Health and Environmental Control must promulgate regulations to implement the provisions of this act, including regulations that the department will use to locate a primary oceanfront sand dune as defined by Section 48-39-10, by January 14, 2020."

Effect of Amendment

2018 Act No. 139, SECTION 2, in (A), in the first sentence, substituted "must be made" for "shall be made", and added the second sentence.

2018 Act No. 173, SECTION 2, in (A), inserted ", except a decision to establish a baseline or setback line," following "contested case".

2023 Act No. 60, SECTION 3.B, in (A), deleted ", except a decision to establish a baseline or setback line," following "contested case", and deleted the second sentence, which related to a department decision relating to a poultry or another animal facility needing to comply with the provisions of Section 44-1-65.

SECTION 44-1-65. Repealed.

HISTORY: Former Section, titled Appeals of department permitting decisions for animal facilities; procedures, had the following history: 2018 Act No. 139 (H.3929), SECTION 1, eff March 12, 2018. Repealed by 2023 Act No. 60, SECTION 3.E, eff July 1, 2024.

SECTION 44-1-70. Rules and regulations of board must be approved by General Assembly.

All rules and regulations promulgated by the Board 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.

HISTORY: 1962 Code SECTION 32-0.6; 1973 (58) 685.

SECTION 44-1-80. Duties and powers of board as to communicable or epidemic diseases.

(A) The Board of 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 of 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 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 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 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.

HISTORY: 1962 Code SECTION 32-36; 1952 Code SECTION 32-36; 1942 Code SECTION 5011; 1932 Code SECTION 5054; Civ. C. '22 SECTION 2362; Civ. C. '12 SECTION 1614; 1908 (25) 998; 2002 Act No. 339, SECTION 22, eff July 2, 2002.

SECTION 44-1-90. Board shall advise municipal and county authorities.

The State Board of 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, (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.

HISTORY: 1962 Code SECTION 32-39; 1952 Code SECTION 32-39; 1942 Code SECTION 5013; 1932 Code SECTION 5056; Civ. C. '22 SECTION 2364; Civ. C. '12 SECTION 1617; 1908 (25) 998; 1972 (57) 2687.

SECTION 44-1-100. Assistance from peace and health officers.

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 Health and Environmental Control and must carry out and obey his orders, or those of the Department of 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.

HISTORY: 1962 Code SECTION 32-37; 1952 Code SECTION 32-37; 1942 Code SECTION 5011; 1932 Code SECTION 5054; Civ. C. '22 SECTION 2362; Civ. C. '12 SECTION 1614; 1908 (25) 998; 1993 Act No. 181, SECTION 1033; 2002 Act No. 339, SECTION 23, eff July 2, 2002.

SECTION 44-1-110. Duties of department in regard to public health, in general.

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.

It 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, scavenging, 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.

HISTORY: 1962 Code SECTION 32-2; 1952 Code SECTION 32-2; 1942 Code SECTION 4998; 1932 Code SECTION 4998; Civ. C. '22 SECTION 2309; Civ. C. '12 SECTION 1570; Civ. C. '02 SECTION 1085; G. S. 912; R. S. 957; 1878 (16) 729; 1892 (21) 19; 1916 (29) 958; 1972 (57) 2495; 1988 Act No. 336, SECTION 1.

SECTION 44-1-130. Department may establish health districts and district advisory boards of health.

The Department of 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 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. 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.

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.

HISTORY: 1962 Code SECTION 32-7; 1952 Code SECTION 32-7; 1942 Code SECTIONS 5000, 5024; 1932 Code SECTIONS 5000, 5039; Civ. C. '22 SECTIONS 2311, 2349; Civ. C. '12 SECTIONS 1572, 1605; Civ. C. '02 SECTIONS 1087, 1108; G. S. 914; R. S. 959, 961; 1878 (16) 729; 1883 (18) 291, 292; 1885 (19) 319; 1892 (21) 20; 1970 (56) 2561.

SECTION 44-1-140. Department may promulgate and enforce rules and regulations for public health.

(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 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;
- (3) the safety and sanitation in the harvesting, storing, processing, handling and transportation of mollusks, fin fish, and crustaceans;
- (4) the safety, safe operation and sanitation of public swimming pools and other public bathing places, construction, tourist and trailer camps, and fairs;
- (5) the care, segregation, and isolation of persons having or suspected of having any communicable, contagious, or infectious disease; and
- (6) 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.

HISTORY: 1962 Code SECTION 32-8; 1952 Code SECTION 32-8; 1942 Code SECTION 5002; 1932 Code SECTION 5002; Civ. C. '22 SECTION 2313; 1912 (27) 744; 1926 (34) 1015; 1947 (45) 115; 1968 (55) 3042; 1972 (57) 2687; 1973 (58) 297; 1977 Act No. 153 SECTIONS 1, 2; 2023 Act No. 60 (S.399), SECTION 3.C, eff July 1, 2024.

Effect of Amendment

2023 Act No. 60, SECTION 3.C, rewrote the section.

SECTION 44-1-143. Requirements for home-based food production operations.

(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

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;
- (3) the ingredients used to make the product in descending order of predominance by weight; and
- (4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may 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.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than fifteen hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

(H) [Deleted]

(I) The provisions of this section apply in the absence of a local ordinance to the contrary.

HISTORY: 2012 Act No. 190, SECTION 1, eff June 7, 2012; 2018 Act. No. 231 (H.5063), SECTION 1, eff. May 18, 2018; 2022 Act No. 208 (S.506), SECTION 1, eff May 23, 2022.

Effect of Amendment

2018 Act No. 231, SECTION 1, deleted (H), which had provided that a home-based food production operation could apply for an exemption from inspection and label review by the South Carolina Department of Agriculture.

2022 Act No. 208, SECTION 1, in (A), in (1), in the first sentence, added ", including online and by mail order, or to retail stores, including grocery stores" at the end, and added the second sentence, and in (2), substituted "foods that are not potentially hazardous" for "candy and baked goods that are not potentially hazardous foods"; in (D), in (1), added the second sentence, in (4), deleted "NOT FOR RESALE—" following "that reads: "; rewrote (E); in (G), substituted "fifteen hundred dollars" for "five hundred dollars"; and added (I).

SECTION 44-1-145. Minimum cooking temperature for ground beef; exceptions.

(A) Notwithstanding any other provision of law, ground beef or any food containing ground beef prepared by a food service provider for public consumption must be cooked to heat all parts of the food to at least one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), unless otherwise ordered by the immediate consumer.

(B) The food service provider, its business or its employees or agents, are not liable for any adverse affects to the purchaser or anyone else for providing a ground beef product cooked at an internal temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), if providing the product is at the request of the purchaser and if the food service provider has notified the purchaser in advance that a possible health risk may exist by eating the product. The notice must state that a

possible health risk may exist in eating undercooked ground beef at an internal temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), and be given to the purchaser:

- (1) in writing;
- (2) as stated on the menu; or
- (3) by visible sign warning.

(C) In order for an immediate consumer or purchaser, as used in this section, to request or order ground beef to be cooked to a temperature less than one hundred fifty-five degrees Fahrenheit (sixty-eight degrees Celsius), the individual must be eighteen years of age or older.

HISTORY: 2006 Act No. 338, SECTION 1, eff June 8, 2006.

SECTION 44-1-148. Resale for human consumption prohibited for fresh meat or fresh meat products if returned by a consumer.

Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer.

HISTORY: 2012 Act No. 173, SECTION 1, eff May 25, 2012.

SECTION 44-1-150. Penalty for violating rules of department.

(A) Except as provided in Section 44-1-151, 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.

HISTORY: 1962 Code SECTION 32-17; 1952 Code SECTION 32-17; 1942 Code SECTION 5002-1; 1932 Code SECTION 5003; Civ. C. '22 SECTION 2314; Cr. C. '22 SECTION 395; 1912 (27) 744; 1977 Act No. 148 SECTION 1; 1983 Act No. 144 SECTION 1; 2006 Act No. 364, SECTION 1, eff June 9, 2006; 2023 Act No. 60 (S.399), SECTION 3.D, eff July 1, 2024.

Effect of Amendment

2023 Act No. 60, SECTION 3.D, in (A), substituted "Department of Public Health" for "Department of Health and Environmental Control"; and reserved (E), which had provided that this section did not apply to fines levied under Section 44-1-140(8) or any other areas regulated by the South Carolina Occupational Health and Safety Act.

SECTION 44-1-151. Penalties for violations involving shellfish.

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, 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.

HISTORY: 1983 Act No. 144 SECTION 2.

SECTION 44-1-152. Disposition of revenues from fines and forfeitures for violation of shellfish laws.

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 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 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 monthly by each sheriff.

HISTORY: 1983 Act No. 144 SECTION 3; 2000 Act No. 245, SECTION 15.

SECTION 44-1-155. Release on bail of person apprehended by shellfish patrolman upon charge of violating health and sanitary aspects of shellfish, crab, and shrimp laws or regulations.

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.

HISTORY: 1962 Code SECTION 32-17.1; 1977 Act No. 148 SECTION 2.

SECTION 44-1-160. Prosecution of nuisance not affected by rule-making power of department.

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.

HISTORY: 1962 Code SECTION 32-10; 1952 Code SECTION 32-10; 1942 Code SECTION 5002; 1932 Code SECTION 5002; Civ. C. '22 SECTION 2313; 1912 (27) 744; 1926 (34) 1015.

SECTION 44-1-165. Expedited Review Program established; promulgation of regulations; pilot programs; Expedited Review Fund.

(A) There is established within the Department of Health and Environmental Control 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 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).

HISTORY: 2006 Act No. 307, SECTION 1, eff May 24, 2006.

SECTION 44-1-170. Department shall supervise local boards of health.

The Department of 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.

HISTORY: 1962 Code SECTION 32-12; 1952 Code SECTION 32-12; 1942 Code SECTION 5006; 1932 Code SECTION 5015; Civ. C. '22 SECTION 2326; Civ. C. '12 SECTION 1585; Civ. C. '02 SECTION 1001; 1901 (23) 733.

SECTION 44-1-180. Department may establish charges for health care.

The Department of 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 and by personnel of the 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.

HISTORY: 1962 Code SECTION 32-18; 1969 (56) 773; 1970 (56) 2410.

SECTION 44-1-190. Department may investigate ability to pay and determine amount of charges; contracts for care and treatment.

The Department of 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. The 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 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 should be made freely available in order to protect and promote the public health.

HISTORY: 1962 Code SECTION 32-19; 1969 (56) 773.

SECTION 44-1-200. Department may provide home health services.

The Department of 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 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.

HISTORY: 1962 Code SECTION 32-20; 1969 (56) 773.

SECTION 44-1-210. Disposition of moneys collected.

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.

HISTORY: 1962 Code SECTION 32-21; 1969 (56) 773; 1970 (56) 2410.

SECTION 44-1-215. Retaining certain funds.

Notwithstanding Section 13-7-85, the Department of Health and Environmental Control 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.

HISTORY: 2007 Act No. 49, SECTION 4, eff June 5, 2007; Reenacted by 2008 Act No. 353, SECTION 2, Pt 5.A.1, eff July 1, 2008.

SECTION 44-1-220. Skilled and intermediate care nursing facilities licensed by department shall furnish itemized statements of charges for services.

All skilled and intermediate care nursing facilities licensed by the Department of 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.

HISTORY: 1975 (59) 279.

SECTION 44-1-230. Consideration to be given to benefits available to individuals to meet costs of medical or health services.

The Department of 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 benefits shall be utilized insofar as possible; provided, however, the availability of such 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.

HISTORY: 1977 Act No. 115.

SECTION 44-1-260. Early periodic screening, diagnosis, and treatment screening; referral for assistive technology evaluation; definitions.

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.

HISTORY: 1997 Act No. 78, SECTION 1.

SECTION 44-1-280. Coordination with First Steps to School Readiness initiative.

The Board and Department of 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.

HISTORY: 1999 Act No. 99, SECTION 6.

Editor's Note

2016 Act No. 284, SECTION 117.128, provides as follows:

"117.128. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, as amended by Act 287 of 2014 is reauthorized for the duration of Fiscal Year 2016-17."

2017 Act No. 97, SECTION 117.119, provides:

"117.119. (GP: First Steps Reauthorization) Act 99 of 1999, the South Carolina First Steps to School Readiness Act, as amended by Act 287 of 2014 is reauthorized for the duration of Fiscal Year 2017-18."

2018 Act No. 152, SECTION 8, provides as follows:

"SECTION 8. Section 20B. of Act 287 of 2014 [reauthorizing the South Carolina First Steps to School Readiness Act until July 1, 2016] is repealed. Act 99 of 1999, South Carolina First Steps to School Readiness Act, as amended by this act, is reauthorized until June 30, 2025."

SECTION 44-1-290. Supplier of effluent for irrigation as public utility.

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 or other regulatory agency.

HISTORY: 2007 Act No. 106, SECTION 2, eff January 1, 2008.

SECTION 44-1-300. Exemption from enforcement of regulation that would prohibit churches and charitable organizations from serving food to public.

The department 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.

HISTORY: 2008 Act No. 353, SECTION 2, Pt 5C, eff July 1, 2009.

SECTION 44-1-310. Maternal Morbidity and Mortality Review Committee.

(A) The Department of 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 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.

HISTORY: 2016 Act No. 142 (H.3251), SECTION 2, eff March 14, 2016; 2019 Act No. 42 (S.21), SECTION 3, eff May 16, 2019.

Effect of Amendment

2019 Act No. 42, SECTION 3, rewrote the section, changing the operation of the committee by assigning certain responsibilities to the staff of the Department of Health and Environmental Control and providing funding contingencies.

SECTION 44-1-315. Environmental permits and permittees; boundary clarification.

(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 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, 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.

HISTORY: 2016 Act No. 270 (S.667), SECTION 18, eff January 1, 2017.