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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

**Executive Orders** are actions issued and taken by the Governor.

## **2009 PUBLICATION SCHEDULE**

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

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

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

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## ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

## EMERGENCY REGULATIONS

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

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

## EFFECTIVE DATE OF REGULATIONS

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

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

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# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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

| DOC NO. | RAT NO. | FINAL ISSUE | SUBJECT  | EXP. DATE | AGENCY   |
|---------|---------|-------------|--|-----------|--|
| 3184    | SR33-2  |             | Restructuring ATF Regulations - Pyrotechnic Safety   | 2/10/09   | LLR - Board of Pyrotechnic Safety                                |
| 3202    | SR33-2  |             | Requirements for Licensure as a Physical Therapist   | 2/11/09   | LLR - Board of Physical Therapy Examiners                        |
| 3201    | SR33-2  |             | Mobile Dental Facilities and Portable Dental Operations  | 2/12/09   | LLR - Board of Dentistry   |
| 3196    |         |             | S.C. National Guard College Assistance Program   | 3/03/09   | Commission on Higher Education                                   |
| 3206    |         |             | Application, Renewal and Continuing Education  | 3/11/09   | LLR - Board of Chiropractic Examiners                            |
| 3207    |         |             | Board of Veterinary Medical Examiners Chapter Revision   | 3/11/09   | LLR - Bd of Veterinary Medical Examiners                         |
| 3204    |         |             | Licensing Standards for Continuing Care Retirement Communities   | 3/12/09   | Department of Consumer Affairs                                   |
| 3199    |         |             | South Carolina Trauma Care Systems   | 3/14/09   | Department of Health and Envir Control                           |
| 3209    |         |             | Operation of Public Pupil Transportation Services  | 4/07/09   | State Board of Education   |
| 3214    |         |             | Fire Prevention and Life Safety  | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3215    |         |             | Fire Prevention and Life Safety for Special Occupancies  | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3216    |         |             | Explosives   | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3217    |         |             | Portable Fire Extinguishers and Fixed Fire Extinguishing Systems   | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3218    |         |             | Liquefied Petroleum (LP) Gas   | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3219    |         |             | Fireworks and Pyrotechnics   | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3220    |         |             | Fire Prevention and Life Safety in Local Detention Facilities  | 4/22/09   | LLR - Office of State Fire Marshal                               |
| 3213    |         |             | Annual Audited Financial Reporting Regulation  | 4/30/09   | Department of Insurance  |
| 3208    |         |             | Contact Information from Traffic Stops   | 5/13/09   | Department of Public Safety                                      |
| 3205    |         |             | Tax Credits for Fortification Measures   | 5/13/09   | Department of Insurance  |
| 3197    |         |             | Annual Reporting Requirements for Designated Eligible Telecommunications Carriers                                      | 5/13/09   | Public Service Commission  |
| 3203    |         |             | Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds                                       | 5/13/09   | Public Service Commission  |
| 3210    |         |             | Licensing of Onsite Wastewater System Master Contractor  | 5/13/09   | Department of Health and Envir Control                           |
| 3198    |         |             | Solid Waste Management: Demonstration-of-Need  | 5/13/09   | Department of Health and Envir Control                           |
| 4004    |         |             | Federal Government Construction Contracts  | 5/13/09   | Department of Revenue  |
| 4003    |         |             | Donors and Goods Given Away for Advertising Purposes   | 5/13/09   | Department of Revenue  |
| 3225    |         |             | Hazardous Waste Management   | 5/13/09   | Department of Health and Envir Control                           |
| 3222    |         |             | Interruption of Service, Computation of Time, Emergency Procedures, and Service Between Parties of Record              | 5/13/09   | Public Service Commission  |
| 4005    |         |             | Deed Recording Fee   | 5/13/09   | Department of Revenue  |
| 3223    |         |             | Adjustment of Bills and Representation   | 5/13/09   | Public Service Commission  |
| 4020    |         |             | PC&N (Stretcher Vans)  | 5/13/09   | Public Service Commission  |
| 3226    |         |             | X-rays (Title B)   | 5/13/09   | Department of Health and Envir Control                           |
| 4036    |         |             | Replacement of Life Insurance and Annuities  | 5/13/09   | Department of Insurance  |
| 4035    |         |             | Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values                  | 5/13/09   | Department of Insurance  |
| 4026    |         |             | Procedures and Standards for Review of Charter School Applications   | 5/13/09   | State Board of Education   |
| 4028    |         |             | Charter School Appeals   | 5/13/09   | State Board of Education   |
| 4029    |         |             | Assessment Program   | 5/13/09   | State Board of Education   |
| 4027    |         |             | Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)                                       | 5/13/09   | State Board of Education   |
| 4019    |         |             | Occupational Safety and Health Act   | 5/16/09   | LLR-Occupational Safety and Health                               |
| 4041    |         |             | Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties | 5/16/09   | LLR-Commissioners of Pilotage                                    |
| 4018    |         |             | Board of Registration for Professional Engineers and Surveyors   | 5/16/09   | LLR- Bd of Registration for Professional Engineers and Surveyors |
| 4014    |         |             | Environmental Protection Fees  | 5/16/09   | Department of Health and Envir Control                           |
| 4016    |         |             | Environmental Health Inspections and Fees  | 5/16/09   | Department of Health and Envir Control                           |
| 4039    |         |             | Designation of Asian Citrus psyllid as Plant Pest and Quarantine   | 5/20/09   | Clemson University-State Crop Pest Comm.                         |
| 4001    |         |             | Plum Pox Virus Quarantine  | 5/20/09   | Clemson University-State Crop Pest Comm.                         |
| 4013    |         |             | Standards for Licensing Nursing Homes  | 5/20/09   | Department of Health and Envir Control                           |
| 4015    |         |             | Environmental Protection Fees  | 5/21/09   | Department of Health and Envir Control                           |
| 4040    |         |             | Consumer Credit Counseling Requirements  | 5/21/09   | Department of Consumer Affairs                                   |
| 4031    |         |             | LIFE Scholarship & LIFE Scholarship Enhancement  | 5/22/09   | Commission on Higher Education                                   |
| 4032    |         |             | Need-based Grants Program  | 5/22/09   | Commission on Higher Education                                   |
| 4033    |         |             | Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement  | 5/22/09   | Commission on Higher Education                                   |
| 4034    |         |             | Determination of Rates of Tuition and Fees   | 5/22/09   | Commission on Higher Education                                   |
| 4030    |         |             | Public Swimming Pools  | 5/22/09   | Department of Health and Envir Control                           |

## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

|                               |   |         |  |
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| 4017                          | Milk and Milk Products  | 5/27/09 | Department of Health and Envir Control |
| 3221                          | Statewide Criminal Gang Database  | 5/29/09 | State Law Enforcement Division         |
| 4042                          | Seasons, Bag Limits, Methods of Take and Special Use<br>Restrictions on Wildlife Management Areas | 6/04/09 | Department of Natural Resources        |
| <b>Permanently Withdrawn:</b> |   |         |  |
| 3166                          | SCDOT Chief Internal Auditor  |         | Department of Transportation           |

## COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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

| DOC No.                       | SUBJECT  | HOUSE COMMITTEE                      | SENATE COMMITTEE                  |
|-------------------------------|--|--------------------------------------|-----------------------------------|
| 3184                          | Restructuring ATF Regulations - Pyrotechnic Safety   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3202                          | Requirements for Licensure as a Physical Therapist   | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 3201                          | Mobile Dental Facilities and Portable Dental Operations  | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 3196                          | S.C. National Guard College Assistance Program   | Education and Public Works           | Education                         |
| 3206                          | Application, Renewal and Continuing Education  | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 3207                          | Board of Veterinary Medical Examiners Chapter Revision   | Agriculture and Natural Resources    | Labor, Commerce and Industry      |
| 3204                          | Licensing Standards for Continuing Care Retirement Communities   | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 3199                          | South Carolina Trauma Care Systems   | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 3209                          | Operation of Public Pupil Transportation Services  | Education and Public Works           | Education                         |
| 3214                          | Fire Prevention and Life Safety  | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3215                          | Fire Prevention and Life Safety for Special Occupancies  | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3216                          | Explosives   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3217                          | Portable Fire Extinguishers and Fixed Fire Extinguishing Systems   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3218                          | Liquefied Petroleum (LP) Gas   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3219                          | Fireworks and Pyrotechnics   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3220                          | Fire Prevention and Life Safety in Local Detention Facilities  | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 3213                          | Annual Audited Financial Reporting Regulation  | Labor, Commerce and Industry         | Banking and Insurance             |
| 3208                          | Contact Information from Traffic Stops   | Education and Public Works           | Transportation                    |
| 3205                          | Tax Credits for Fortification Measures   | Ways and Means                       | Banking and Insurance             |
| 3197                          | Annual Reporting Requirements for Designated Eligible Telecommunications Carriers                                      | Labor, Commerce and Industry         | Judiciary                         |
| 3203                          | Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds                                       | Labor, Commerce and Industry         | Judiciary                         |
| 3210                          | Licensing of Onsite Wastewater System Master Contractors   | Agriculture and Natural Resources    | Medical Affairs                   |
| 3198                          | Solid Waste Management: Demonstration-of-Need  | Agriculture and Natural Resources    | Medical Affairs                   |
| 4004                          | Federal Government Construction Contracts  | Ways and Means                       | Finance                           |
| 4003                          | Donors and Goods Given Away for Advertising Purposes   | Ways and Means                       | Finance                           |
| 3225                          | Hazardous Waste Management   | Agriculture and Natural Resources    | Medical Affairs                   |
| 3222                          | Interruption of Service, Computation of Time, Emergency Procedures, and Service Between Parties of Record              | Labor, Commerce and Industry         | Judiciary                         |
| 4005                          | Deed Recording Fee   | Judiciary                            | Finance                           |
| 3223                          | Adjustment of Bills and Representation   | Labor, Commerce and Industry         | Judiciary                         |
| 4020                          | PC&N (Stretcher Vans)  | Labor, Commerce and Industry         | Judiciary                         |
| 3226                          | X-rays (Title B)   | Medical, Military, Pub & Mun Affairs | Labor, Commerce and Industry      |
| 4036                          | Replacement of Life Insurance and Annuities  | Labor, Commerce and Industry         | Banking and Insurance             |
| 4035                          | Prereed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values                  | Labor, Commerce and Industry         | Banking and Insurance             |
| 4026                          | Procedures and Standards for Review of Charter School Applications   | Education and Public Works           | Education                         |
| 4028                          | Charter School Appeals   | Education and Public Works           | Education                         |
| 4029                          | Assessment Program   | Education and Public Works           | Education                         |
| 4027                          | Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)                                       | Education and Public Works           | Education                         |
| 4019                          | Occupational Safety and Health Act   | Labor, Commerce and Industry         | Medical Affairs                   |
| 4041                          | Pilot and Apprentice Age Limitations; Short Branch Qualifications; Pilot Functions and Responsibilities; and Penalties | Labor, Commerce and Industry         | Transportation                    |
| 4018                          | Board of Registration for Professional Engineers and Surveyors   | Labor, Commerce and Industry         | Labor, Commerce and Industry      |
| 4014                          | Environmental Protection Fees  | Agriculture and Natural Resources    | Medical Affairs                   |
| 4016                          | Environmental Health Inspections and Fees  | Agriculture and Natural Resources    | Medical Affairs                   |
| 4039                          | Designation of Asian Citrus psyllid as Plant Pest and Quarantine   | Agriculture and Natural Resources    | Agriculture and Natural Resources |
| 4001                          | Plum Pox Virus Quarantine  | Agriculture and Natural Resources    | Agriculture and Natural Resources |
| 4013                          | Standards for Licensing Nursing Homes  | Medical, Military, Pub & Mun Affairs | Medical Affairs                   |
| 4015                          | Environmental Protection Fees  | Agriculture and Natural Resources    | Medical Affairs                   |
| 4040                          | Consumer Credit Counseling Requirements  | Labor, Commerce and Industry         | Banking and Insurance             |
| 4031                          | LIFE Scholarship & LIFE Scholarship Enhancement  | Ways and Means                       | Education                         |
| 4032                          | Need-based Grants Program  | Ways and Means                       | Education                         |
| 4033                          | Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement  | Ways and Means                       | Education                         |
| 4034                          | Determination of Rates of Tuition and Fees   | Ways and Means                       | Education                         |
| 4030                          | Public Swimming Pools  | Agriculture and Natural Resources    | Medical Affairs                   |
| 4017                          | Milk and Milk Products   | Agriculture and Natural Resources    | Medical Affairs                   |
| 3221                          | Statewide Criminal Gang Database   | Judiciary                            | Judiciary                         |
| 4042                          | Seasons, Bag Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas                         | Agriculture and Natural Resources    | Fish, Game and Forestry           |
| <b>Permanently Withdrawn:</b> |  |                                      |                                   |
| 3166                          | SCDOT Chief Internal Auditor   | Education and Public Works           | Transportation                    |

#### **4 EXECUTIVE ORDERS**

##### **Executive Order No. 2009-01**

**WHEREAS**, on January 19, 2009, the National Weather Service issued a Winter Storm Warning for the state with the potential to receive up to six inches of snow in some areas;

**WHEREAS**, temperatures were forecast to drop below freezing and continue through the following morning making the road conditions hazardous; and

**WHEREAS**, these conditions posed a threat to the safety of the state's citizens, State offices in the counties of Chesterfield, Dillon, Lancaster, Marlboro, and York were closed all day on January 20, 2009; State offices in Chester and Union counties were delayed in opening until 1:00 p.m. on January 20, 2009; State offices in the counties of Cherokee, Darlington, Fairfield, Florence, Greenwood, Kershaw, Laurens, Lee, Lexington, Marion, Newberry, Richland, Saluda, Spartanburg, and Sumter were delayed in opening until 10:00 a.m. on January 20, 2009; and, due to the continuing threat posed by hazardous roadways, the opening of State offices in Chesterfield and Lancaster counties were delayed until 10:00 a.m. on January 21, 2009.

**NOW, THEREFORE**, pursuant to S.C. Code 8-11-57, all State employees absent from work as directed on January 20, 2009 and January 21, 2009 due to the closing of State offices caused by hazardous weather conditions are hereby granted leave with pay. This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 21st DAY OF JANUARY, 2009.**

**MARK SANFORD  
Governor**

**BUDGET AND CONTROL BOARD  
BOARD OF ECONOMIC ADVISORS****NOTICE**

January 16, 2009

Frank Fusco  
Executive Director  
South Carolina Budget and Control Board  
Office of the Executive Director  
612 Wade Hampton Building  
Columbia, SC 29211

Dear Frank,

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2008, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 10.5% from a value of 190.3 in December 2004 to 210.228 in December 2008. Therefore, the limit not to exceed \$350,000 would increase to \$386,650 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,159,950 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the State Register pursuant to Section 1-23-40(2).

If I can be of any further assistance, please let me know.

Sincerely,

WCG/rwm

William C. Gillespie, Ph.D.  
Chief Economist

## 6 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication February 27, 2009, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Anderson County

Construction of new space and renovation of existing space for the addition of five (5) inpatient rehabilitation beds and additional support space for ten (10) new patient rooms; the five (5) beds being requested in this application are in addition to the three (3) beds previously requested in a separate CON application  
AnMed Rehabilitation Hospital  
Anderson, South Carolina  
Project Cost: \$3,509,525.00

#### Affecting Charleston County

Renovation for the addition of twenty-six (26) nursing home beds for a total of one hundred twenty-five (125) nursing home beds  
Heartland of West Ashley Rehabilitation and Nursing Center  
Charleston, South Carolina  
Project Cost: \$3,915,182

Construction of an outpatient cancer center to co-locate outpatient cancer services, consisting of radiation therapy, infusion therapy, and diagnostic imaging, in a freestanding medical office building; installation of a third (3<sup>rd</sup>) conventional linear accelerator; and relocation of the existing PET/CT scanner from Roper Hospital, Inc.. The facility will be located on Bon Secours St. Francis Xavier Hospital's campus at 2085 Henry Tecklenburg Drive, Suite 100, Charleston, South Carolina  
Roper St. Francis West Ashley Cancer Center  
Charleston, South Carolina  
Project Cost: \$19,012,501

#### Affecting Greenville County

Development of a Medical Office Building (MOB) to be located within the millennium campus, adjacent to the proposed millennium campus hospital on Laurens Road and Innovation Way, Greenville, South Carolina  
St. Francis millennium  
Greenville, South Carolina  
Project Cost: \$14,329,789

#### Affecting Lexington County

Upfit of shelled space on the eighth (8<sup>th</sup>) floor of the North Tower for the addition of thirty (30) inpatient beds for a total licensed bed capacity of four hundred fourteen (414) acute care beds; renovation to the Oncology floor in the South Tower  
Lexington Medical Center  
West Columbia, South Carolina  
Project Cost: \$12,182,659

Affecting York County

Construction and renovation for the addition of six (6) rehabilitation beds for a total of forty-six (46) rehabilitation beds

HealthSouth Rehabilitation Hospital of Rock Hill

Rock Hill, South Carolina

Project Cost: \$2,279,347

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning February 27, 2009. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Construction of a freestanding imaging center wholly owned by Aiken Regional Medical Centers providing Computed Tomography (CT) and Magnetic Resonance Imaging (MRI) services to be located at 430 Society Hill Drive, Aiken, SC

Southside Imaging Center, LLC

Aiken, South Carolina

Project Cost: \$7,397,412

Affecting Beaufort County

Acquisition of a da Vinci Surgical System for the purpose of providing robotic surgery services in an existing operating suite at Beaufort Memorial Hospital

Beaufort Memorial Hospital

Beaufort, South Carolina

Project Cost: \$1,571,100

Affecting Berkeley County

Construction to establish a fifty (50) bed acute care hospital through the transfer of 50 acute care beds from the bed need generated by Trident Medical Center to include a Magnetic Resonance Imaging (MRI) unit and a Computed Tomography (CT) scanner; the facility will be located adjacent to the current site of the Moncks Corner Medical Center at the intersection of Martin Luther King Drive and Highway 17A; conversion of the existing Moncks Corner Medical Center into a medical office building housing physician offices and clinics

Berkeley Medical Center

Moncks Corner, South Carolina

Project Cost: \$115,000,000

Affecting Chesterfield County

Addition of three (3) nursing home beds that will not participate in the Medicaid (Title XIX) program for a total of one hundred twenty (120) nursing home beds

Cheraw Healthcare, Inc.

Cheraw, South Carolina

Project Cost: \$6,750

## 8 NOTICES

### Affecting Georgetown County

Addition of one (1) Open Heart Surgery Suite and one (1) Comprehensive Cardiac Catheterization Lab to the Surgery Department to be constructed within the proposed replacement Georgetown Memorial Hospital  
Georgetown Memorial Hospital

Georgetown, South Carolina

Project Cost: \$5,567,215

### Affecting Greenville County

Renovation for the replacement of an existing 1.0T Magnetic Resonance Imaging (MRI) unit with a leased 3.0T MRI unit to be located on the first floor of Greenville Memorial Hospital within the existing MRI suite; initiation of temporary use of mobile MRI services at the rear of the Memorial Medical Office Building to be terminated upon installation of the new 3.0T MRI unit

Greenville Memorial Hospital

Greenville, South Carolina

Project Cost: \$3,200,000

Construction to establish a fifty-two (52) bed acute care hospital through the transfer of fifty (50) acute care beds from the bed need generated by ST. FRANCIS downtown and the relocation of two existing beds from ST. FRANCIS downtown; the project includes one (1) Magnetic Resonance Imaging (MRI) unit and one (1) Computed Tomography (CT) scanner to be located within the millennium campus on Laurens Road and Innovation Way, Greenville, SC

St. Francis millennium

Greenville, South Carolina

Project Cost: \$151,054,596

### Affecting Horry County

Renovation for the relocation of the existing endoscopy and bronchoscopy suites including the upfit of shelled space on the first floor of the new inpatient tower previously approved in SC-06-04 to accommodate the expansion of endoscopy and bronchoscopy services by adding two (2) additional endoscopy suites and one (1) bronchoscopy suite for a total of four (4) endoscopy suites and two (2) bronchoscopy suites; the vacated endoscopy and bronchoscopy suite space will be renovated for the expansion of offices and other prep/holding areas

Conway Medical Center

Conway, South Carolina

Project Cost: \$4,797,752

Construction and renovation for the addition of fifteen (15) psychiatric beds and six (6) inpatient treatment substance abuse beds for a total of fifty-nine (59) psychiatric beds and fifteen (15) inpatient treatment substance abuse beds.

Lighthouse Care Center of Conway

Conway, South Carolina

Project Cost: \$7,790,177



## Affecting Lexington County

Renovation for the relocation and addition of one (1) diagnostic cardiac catheterization laboratory for a total of two (2) diagnostic cardiac catheterization laboratory and the provision of emergency (primary) percutaneous coronary intervention (PCI) services

Lexington Medical Center  
West Columbia, South Carolina  
Project Cost: \$4,060,282

## Affecting Richland County

Addition of a 1.5T Magnetic Resonance Imaging (MRI) unit in collaboration with Pitts Radiology to be located within One Richland Medical Park

Palmetto Health Richland  
Columbia, South Carolina  
Project Cost: \$2,201,532

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL****NOTICE OF GENERAL PUBLIC INTEREST**

Public Notice #09-534-GP-N

February 27, 2009

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously opened for a 30 day public comment period on June 9, 2006, with final issuance on July 10, 2006. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," the following source(s) are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Any facility operating under this permit seeks to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to: Ms. Elizabeth J. Basil, Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

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LANCASTER COUNTY

J&S Inc Plant #2  
5554 Charlotte Hwy  
Lancaster SC

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than March 30, 2009 to:

Contractor Certification Program  
South Carolina Department of Health and Environmental Control  
Bureau of Land and Waste Management - Underground Storage Tank Program  
Attn: Michelle Dennison  
2600 Bull Street  
Columbia, SC 29201

The following companies and/or individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

#### Class I

Crawford Environmental Services  
Attn: Dee O'Brien  
810 Dutch Square Blvd, Ste 210  
Columbia, SC 29210

Ayres Associates, Inc.  
Attn: David K. Kemp, PE  
5220 Shad Rd, Ste 200-3  
Jacksonville, FL 32257

#### Class II.

## DEPARTMENT OF REVENUE

## CHAPTER 117

Statutory Authority: 1976 Code Sections 12-4-320 and 61-2-60

**Notice of Drafting:**

The South Carolina Department of Revenue is considering promulgating SC Regulation 7-202 to revise the definition of “premises” for purposes of licenses for beer, wine and liquor issued pursuant to Title 61, Chapters 4 and 6. The Department of Revenue is also considering repealing SC Regulations 7-404.1 and 7-700, which contain the current definitions of “premises”; however, SC Regulation 7-404.1 will be designated as “Reserved.”

Proposed SC Regulation 7-202, which includes four subsections, will provide a unified definition of premises, with general guidelines appropriate for all license holders. The regulation will also provide specific guidelines appropriate for specific types of premises, i.e., the premises of retail liquor dealers and the premises of nonprofit organizations licensed to sell alcoholic liquor by the drink. These general and specific guidelines are consistent with other regulations or longstanding Department of Revenue policy, or both. In addition, a subsection addressing certain facilities that may constitute the premises for a license to sell liquor by the drink, including golf courses, fishing piers and resort complexes, will incorporate and make public longstanding Department of Revenue policy as modified in accordance with recent amendments to S.C. Code Ann. Sections 61-6-20(2) and 61-6-1610.

The proposed regulation is available for viewing via the Department’s website, [www.sctax.org](http://www.sctax.org). Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P. O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on March 30, 2009.

**Synopsis:**

The South Carolina Department of Revenue is considering promulgating SC Regulation 7-202 to revise the definition of “premises” for purposes of licenses for beer, wine and liquor issued pursuant to Title 61, Chapters 4 and 6. The Department of Revenue is also considering repealing SC Regulations 7-404.1 and 7-700, which contain the current definitions of “premises”; however, SC Regulation 7-404.1 will be designated as “Reserved.”

Legislative review of these amendments will be required.

## 12 DRAFTING

### SECRETARY OF STATE'S OFFICE

#### CHAPTER 113

Statutory Authority: 1976 Code Sections 30-6-10 et seq.

#### **Notice of Drafting:**

The Secretary of State's Office proposes to draft regulations to set forth the standards for the receipt, recording, and retrieval of electronic documents maintained in the land records offices throughout the state by the register of deeds, register of mense conveyances, or clerk of court charged with the recording and indexing duties in Chapter 5 of Title 30.

Interested persons may submit comments to Melissa Dunlap, Chief of Staff and General Counsel, Post Office Box 11350, Columbia, SC 29211. To be considered, comments must be received no later than 5:00 p.m. on March 27, 2009, the close of the drafting comment period.

#### **Synopsis:**

The General Assembly passed Act No. 210 (South Carolina Code Section 30-6-10 et seq.) entitled The Uniform Real Property Recording Act. The Act applies to the recording of documents in the lands records office maintained by the clerk of court, register of mense conveyances, or register of deeds. It applies both to the filing of and the searching for, documents in the recorder's office by whatever term or terms those functions and offices are known locally.

The Act provides that the Secretary of State's Office shall promulgate regulations to set forth the standards required for compliance with Act 210. More specifically, the proposed regulations will address standards for the filing of and searching for documents maintained in the recorder's offices.

Legislative review of these proposals will be required.

Document No. 4062  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27  
 Statutory Authority: 1976 Code Section 46-9-40

27-78. *Phytophthora ramorum* (*P. ramorum*) Quarantine

**Preamble:**

The State Crop Pest Commission proposes to impose certain requirements on the importation of plant material which is a host for *Phytophthora ramorum* (*P. ramorum*) into the state. *P. ramorum* manifests itself in a disease known as Sudden Oak Death but also as a second disease known as ramorum blight. Certain areas of certain states are already under state and/or federal quarantine for this pathogen. The proposed actions will focus on the most effective method of preventing the introduction of the pathogen into the State by giving greater effect to state and federal quarantines at point of origin.

The Notice of Drafting was published in the State Register on September 26, 2008. No comments were received.

Section-by-Section Discussion

27-78. *Phytophthora ramorum* (*P. ramorum*) Quarantine

1. This designates the regulated plant pest, specifically *Phytophthora ramorum*.
2. This section defines the regulated areas subject to phytosanitary certificate requirements.
3. This section identifies the host plant material which are hosts for *Phytophthora ramorum*.
4. This section specifies the requirements for movement of regulated articles from regulated areas for introduction in the State.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed changes to the regulation at a public hearing scheduled to be held in Conference Room 1, Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC 29670 on Thursday April 2, 2009 at 10:30 AM. Should such hearing not be requested pursuant to Section 1-23-110(a)(3) on or before close of business on March 30, 2009, such hearing will be canceled without further notice.

Interested parties are also invited to submit written comments to the proposed amendments by writing to Christopher Ray, Ph. D., Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670. To be considered comments must be received no later than close of business on March 30, 2009.

**Preliminary Fiscal Impact Statement:**

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

## 14 PROPOSED REGULATIONS

### Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 27-78. *P. ramorum* Quarantine

Purpose: Regulation 27-78 is a new regulation to provide for the quarantine of an important plant pest, harmful to a wide variety of plant material including oak trees (*Quercus*).

Legal Authority: The legal authority for Regulation 27-78 is Section 46-9-40, South Carolina Code of Laws.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing copies to the regulated community and media notices to the general public.

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

The proposed regulation will provide a greater degree of protection to the agricultural community by focusing efforts at preventing the further introduction of *P. ramorum* into the State.

DETERMINATION OF COSTS AND BENEFITS:

Agriculture will benefit if *P. ramorum* is not brought into South Carolina, and if the regulated articles exported from quarantined areas are properly treated prior to movement.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation should allow a greater probability that *P. ramorum* will not be introduced into or spread within this State.

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

If this regulation is not adopted, there is the possibility that *P. ramorum* will be introduced this State and adversely affect the export of plant materials or the quality of existing plant material.

### Statement of Rationale:

This regulation is necessary to enhance the ability of the Commission to prevent the introduction of *P. Ramorum* into the State and to minimize administrative burdens on nursery operators.

### Text:

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

.Document No. 4063  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103  
 Statutory Authority: 1976 Code Section 58-3-140

103-181. Workers' Compensation Insurance  
 103-220(d). Use of Leased Vehicles

**Preamble:**

The Public Service Commission of South Carolina (Commission) proposes to amend its regulations regarding workers' compensation insurance in its transportation regulations and the responsibility of lessees in the use of leased vehicles. The Notice of Drafting regarding these regulations was published on December 26, 2008, in the State Register.

Section-by-Section Discussion

103-181. Workers' Compensation Insurance. This regulation is being deleted as South Carolina workers' compensation laws are governed by Title 42 of the South Carolina Code.

103-220(d). Use of Leased Vehicles. This regulation is being amended to state the responsibility of lessees regarding the use of leased vehicles and the lessee's complete assumption of public responsibility, including the procurement of insurance. The proposed amendments also require that the arrangement regarding the leased vehicle must state that the lessee has exclusive possession, control and use of the power unit.

**Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2008-442-T. To be considered, comments must be received no later than 4:45 p.m. on April 1, 2009. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on April 22, 2009, at 10:30 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION:

26 S.C. Code Ann. Regs. 103-181. Workers' Compensation Insurance.  
 26 S.C. Code Ann. Regs. 103-220(d). Use of Leased Vehicles.

Purpose: The purpose of deleting Regulation 103-181 is Title 42 of the South Carolina Code governs workers' compensation laws. Thus, Regulation 103-181 is unnecessary. The proposed changes to Regulation 103-220(d) clarify that the lessee of a leased vehicle has the exclusive possession, control, and use of leased

## 16 PROPOSED REGULATIONS

vehicles and that the lessee is responsible for procuring insurance for the duration of the contract, lease, or other arrangement. Additionally, the proposed changes provide that the contract, lease, or other approved arrangement shall specify that the lessee has exclusive possession, control and use of the power unit and that the lessee must procure insurance for the leased vehicle for the duration of said agreement.

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

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

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

The deletion of Regulation 103-181 eliminates an unnecessary regulation as Title 42 provides sufficient detail regarding South Carolina workers' compensation laws. The amendments to Regulation 103-220(d) outline the lessees' responsibilities regarding leased vehicles and eliminate confusion regarding the lessees' responsibilities.

### DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to Regulations 103-181 and 103-220(d) are minimal, the benefits include the deletion of an unnecessary regulation and the clarification of duties of lessees in a necessary regulation.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

### Statement of Rationale:

The purpose of deleting Regulation 103-181 is Title 42 governs workers' compensation laws in South Carolina. Also, the purpose of the proposed amendments to Regulation 103-220(d) is to clarify the responsibilities of lessees in the use of leased vehicles. There was no scientific or technical basis relied upon in the development of this regulation.

### Text:

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



Document No. 4050  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-10-310

43-168. Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Foods

**Synopsis:**

The State Board of Education proposes to amend Regulation 43-168 (I)(B)(1), Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Foods. The amendments will allow the school meal program to receive USDA subsidies; school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

The proposed regulation will not require legislative review.

A Notice of Drafting for the proposed regulation was published in the South Carolina *State Register* on October 24, 2008.

Section by Section

Section 1(B) The amendments to 43-168 (I)(B)(1) are being made to change milk choice from “three” to “two” and delete 2 percent fat. These amendments are needed in order for school districts to apply for a federal grant.

**Instructions:**

The following section of Regulation 43-168(I)(B)(1) is modified as provided below. All other items and sections remain unchanged.

**Text:**

43-168(I)(B)(1). Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Foods.

I. School Meals

Federal law—specifically, the National School Lunch Act (42 U.S.C. § 1758(f), the National School Lunch Program (7 C.F.R. § 210.10), and the School Breakfast Program (7 C.F.R. § 220.8)—regulates the nutritional quality of foods served in the nation’s school meal programs. For a school meal program to receive USDA subsidies, school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

A. School food service meals should be made attractive to students by appealing to their taste preferences and meeting their cultural needs. Therefore, school districts must:

1. Offer a choice of entrées at lunch—a minimum of two in elementary (K–5) schools (one choice may be an entrée salad).

2. Encourage input regarding the selection of food items in elementary (K–5) schools to be offered in the school meal programs by promoting and encouraging student and parent participation in taste-testing events, in menu-review panels, and in online recipe reviewing.

## 18 FINAL REGULATIONS

3. Require that school cafeteria managers meet with student advisory committees in grades four through five a minimum of twice each year.

4. Allow students to purchase at à la carte prices additional servings of any food item that is part of a reimbursable school meal (serving sizes should be comparable to those of the meal components).

B. School food service meals should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students, including their learning to eat a variety of foods. Therefore, school districts must:

1. Offer a minimum of two milk choices (1 percent fat and nonfat milk) for all grade levels at breakfast and lunch. Whole milk is no longer required by USDA regulations.

2. Offer a low-fat meal choice (30 percent or less of calories from fat) at every meal.

3. Provide low-fat and nonfat salad dressings.

4. Provide information on calories, percentages of fat, and serving sizes of school meal items to help children select appropriate portions of food.

5. Offer a minimum of four choices of fruits and vegetables daily, including fresh fruits and vegetables in season, in elementary (K–5) schools (salad bars or prepackaged salads may be included). Students can take two to four servings based on the school district’s discretion.

6. Offer whole-grain foods in all programs in elementary (K–5) schools, whenever possible, to meet bread and cereal requirements.

7. Encourage preschool, kindergarten, and elementary students to try a variety of foods by serving the full reimbursable meal.

### II. Other Foods and Beverages (Competitive Foods)

A. All foods sold at any K–5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Ensure that one serving of snacks, sweets, and side dishes has no more than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no more than 1 percent of calories from trans fatty acids, and no more than 35 percent of added sugar by weight. (Note: Nuts, seeds, and some cheeses are exceptions. Although more than 30 percent of their calories come from fat, these foods can be considered appropriate and nutritious snacks when served in small portions.)

2. Limit single-serving food items sold to students to the following maximum portion sizes: 1.25 ounces for snacks (includes baked chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruits, jerky); 2 ounces for cookies or cereal bars; 3 ounces for other bakery items (sweet rolls, muffins, etc.); 4 ounces for frozen desserts, including ice cream; 8 ounces for yogurt (not frozen); and ½ cup for fried potatoes or other fried vegetables.

3. Ensure that single servings of entrée items and side dishes are no larger than the portions of those foods served by school food services.

B. All beverages sold or otherwise made available to students at any K–5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Make the following beverages available to all students: nonfat and 1 percent milk, water, and 100 percent juices that do not contain added sugars or sweeteners.

2. Not sell or serve the following beverages to students until after the last regularly scheduled class: soda, soft drinks, sports drinks, punches, iced teas and coffees, and fruit-based drinks that contain less than 100 percent real fruit juice or that contain added sweeteners.

3. Not sell beverages—except water or nonfat, low fat, or reduced-fat milk—in portions larger than 12 ounces.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

Revisions to the Nutrition Standards for Elementary (K–5) School Food Service Meals and Competitive Food regulation amendments will allow the school meal program to receive USDA subsidies; school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

Document No. 3201  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF DENTISTRY**  
CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-40, 40-1-70, 40-15-40 and 40-15-172

39-18. Mobile Dental Facilities and Portable Dental Operations

**Synopsis:**

The Board of Dentistry is adding new Regulation 39-18 to implement Section 40-15-172 of the 1976 Code of Laws of South Carolina, regarding requirements of mobile dental facilities and portable dental operations by defining terms and providing for the issuance and renewal of registration.

**Instructions:**

Add Regulation 39-18. Mobile Dental Facilities and Portable Dental Operations as printed below.

**Text:**

39-18. Mobile Dental Facilities and Portable Dental Operations.

A. Applicability.

This regulation applies to an organization or dental practice utilizing a licensed dentist or dental hygienist to operate a mobile dental facility or portable dental operation who:

- (1) provides dental or dental hygiene services; and
- (2) does not have a physically stationary office at the location where the services are provided.

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### B. Exceptions.

(1) Federal, state, and local governmental agencies as well as Federally Qualified Health Centers (FQHCs) are exempt from the requirements of this regulation.

(2) Dentists licensed to practice in South Carolina who have not registered with the Board to operate a mobile dental facility or a portable dental operation may provide dental services through the use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

### C. Definitions.

As used in this regulation unless the context indicates otherwise:

(1) "Mobile dental facility" means any self-contained facility in which dentistry or dental hygiene will be practiced, which may be moved, towed, or transported from one location to another.

(2) "Portable dental operation" means dental equipment utilized in the practice of dentistry or dental hygiene that is transported to and utilized on a temporary basis at an out-of-office location, including, but not limited to:

- (a) other dentists' offices;
- (b) patients' homes;
- (c) schools;
- (d) nursing homes; or
- (e) other institutions or locations.

(3) "Operator" means the organization or dental practice engaged in providing dental or dental hygiene services directly or through persons authorized by law to provide the services.

(4) "Organization or dental practice" means persons or entities that provide dental or dental hygiene services to others.

### D. Registration.

(1) In order to operate a mobile dental facility or portable dental operation, the operator shall first register with the Board.

(2) For registration purposes, each mobile dental facility or portable dental operation must be registered. Such registration may not be issued until the mobile dental facility or portable dental operation has passed an inspection as provided in this regulation.

(3) The applicant shall complete an application in the form and manner required by the Board.

(4) The applicant shall pay the initial registration fee of \$150.00 at the time of application or as set by the Board in accordance with Section 40-1-50.

(5) The applicant shall provide the Board with evidence of compliance with the requirements of this regulation.

(6) The applicant shall submit proof of any applicable radiographic equipment inspection with the application for registration.

### E. Inspection.

(1) An initial inspection of each mobile dental facility or portable dental operation shall be conducted by a representative of the Department/Board at a time and place to be designated by staff. Inspections may be scheduled throughout the year. Upon satisfactory inspection, the registrant will be issued a sticker, with the current year indicated, to be affixed to the mobile dental facility or portable dental operation in a place designated by the Board.

(2) Mobile dental facilities shall be inspected annually upon renewal of registration.

(3) Portable dental operations shall be inspected upon initial registration. Thereafter, the registration may be renewed annually without inspection, unless there has been a substantial repair, replacement, or modification made that requires inspection in the interest of patient safety before use on patients.

F. Official business or mailing address.

(1) The operator of a mobile dental facility or portable dental operation shall maintain an official business address of record, which shall not be a post office box and which shall be filed with the Board. A mailing address, if different than the business address and used on an official basis, shall be provided as well.

(2) The operator of a mobile dental facility or portable dental operation shall maintain an official telephone number of record, which shall be filed with the Board.

(3) The Board shall be notified within thirty (30) days of any change in the address or telephone number of record.

(4) All written or printed documents available from or issued by the mobile dental facility or portable dental operation shall contain an official address and telephone number of record for the mobile dental facility or portable dental operation.

(5) All dental and official records shall be maintained and available for inspection and copying upon request by the representatives of the Board.

G. Written procedures; communication facilities; conformity with requirements.

The operator of a mobile dental facility or portable dental operation shall ensure the following:

(1) There is a written procedure for emergency or follow-up care for patients treated in the mobile dental facility or portable dental operation and that such procedure includes prior arrangements for emergency or follow-up treatment in a medical or dental facility, as may be appropriate, that is located in the area where services are being provided.

(2) The mobile dental facility has communication devices to enable immediate contact with appropriate persons in the event of a medical or dental emergency. The communications devices must enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

(3) The mobile dental facility complies with all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, infectious waste management, universal precautions, OSHA guidelines, access by persons with disabilities as required by state and federal law, and federal Centers for Disease Control Guidelines, and the applicant possesses all applicable county and city licenses or permits, including business licenses, to operate the unit at the location where services are being provided.

(4) The mobile dental facility has carbon monoxide detection devices installed and in proper working order.

(5) No services are performed on minors without a signed consent form from the parent or guardian.

(6) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient, or patient's parent or guardian if the patient is a minor, is provided with an information sheet and that if the patient has provided consent to an institutional facility to assist in the patient's dental health records, the institution is provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school, and that the information sheet includes the following:

(a) pertinent contact information as provided by this section;

(b) the name of the dentist and other dental staff who provided services and their license numbers, if applicable;

(c) a description of the treatment rendered, including billed service codes and, in the instance of fee for service patients, fees associated with treatment and tooth numbers when appropriate;

(d) a description of any dental needs either observed during a hygienist's screening or diagnosed during a dentist's evaluation;

(e) a recommendation that the patient see another dentist if the mobile dental facility or the portable dental operation is unable to provide the follow-up treatment described in subitem (d).

H. Follow-up treatment services.

A mobile dental facility that accepts a patient and provides preventive treatment, including prophylaxis, radiographs, and fluoride, but does not follow-up with treatment or follow-up on referral for treatment when such treatment is clearly indicated, is considered to be abandoning the patient. Appropriate and accessible

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(within the patient's geographic area) arrangements must be made for treatment services on a follow up basis. Reasonable attempts to have follow up treatment in an instance where a patient does not re-appear for treatment or does not meet a scheduled appointment is not abandonment.

### I. Physical requirements for mobile dental facility.

The operator shall ensure that the mobile dental facility or portable dental operation has the following:

- (1) ready access to a ramp or lift if services are provided to disabled persons;
- (2) a properly functioning sterilization system;
- (3) ready access to an adequate supply of potable water, including hot water;
- (4) ready access to toilet facilities;
- (5) a covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.

### J. Identification of personnel; notification of changes in written procedures; display of licenses.

(1) The operator shall identify and advise the Board in writing within thirty (30) days of any personnel change relative to all licensed dentists and licensed dental hygienists associated with the mobile dental facility or portable dental operation by providing the full name, address, telephone numbers, and license numbers where applicable.

(2) The operator shall advise the Board in writing within thirty (30) days of any change in the written procedure for emergency follow-up care for patients treated in the mobile dental facility, including arrangements for treatment in a dental facility, which is permanently established in the area. The permanent dental facility shall be identified in the written procedure.

(3) Each dentist and dental hygienist providing dental services in the mobile dental facility or portable dental operation shall prominently display his or her authorization to practice in this State in plain view of patients.

### K. Identification of location of services.

(1) Each operator of a mobile dental facility or portable dental operation shall maintain a confidential written or electronic record detailing for each location where services are provided, including:

- (a) the street address of the service location;
- (b) the dates and times of each session;
- (c) the number of patients served; and
- (d) the types of dental services provided to each patient by name and quantity of each service provided.

(2) The confidential written or electronic record shall be made available to the Board within ten (10) days of a request by the Board. Costs for such records shall be borne by the mobile dental facility or portable dental operation.

### L. Licensed dentist in charge.

A mobile dental facility or portable dental operation shall at all times be in the charge of a dentist licensed to practice dentistry in this State, who is responsible for services provided at the mobile dental facility or portable dental operation.

### M. Prohibited operations.

The operator of a mobile dental facility or portable dental operation is prohibited from hiring, employing, allowing to be employed, or permitting to work in or about a mobile dental facility or portable dental operation, any person who performs or practices any occupation or profession regulated under Title 40 who is not duly authorized in accordance with state law.

### N. Information for patients.

(1) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient shall be provided with an information sheet. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a

copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school.

(2) An information sheet shall include the following:

- (a) pertinent contact information as required by this regulation;
- (b) the name of the dentist and other dental staff who provided services and their license numbers, if applicable;
- (c) a description of the treatment rendered, including billed service codes and, in the instance of fee for service patients, fees associated with treatment, and tooth numbers when appropriate;
- (d) a description of any dental needs either observed during a dental hygienist's screening or diagnosed during a dentist's evaluation;
- (e) if necessary, referral information to another dentist.

#### O. Cessation of operations.

(1) Upon cessation of operation by the mobile dental facility or portable dental operation, the operator shall notify the Board within thirty (30) days of the last day of operations in writing of the final disposition of patient records and charts.

(2) If the mobile dental facility or portable dental operation is sold, a new registration application must be filed with the Board.

(3) Upon choosing to discontinue practice or services in a community, the operator of a mobile dental facility or portable dental operation shall:

- (a) notify all of the operator's active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that the operator intends to discontinue the mobile dental facility's or portable dental operation's practice in the community; and
- (b) encourage the patients to seek the services of another dentist.

(4) The operator shall make reasonable arrangements with the active patients of the mobile dental facility or portable dental operation for the transfer of the patient's records, including radiographs or copies thereof, to the succeeding practitioner or, at the written request of the patient, to the patient.

(5) As used in this section, "active patient" applies and refers to a person whom the mobile dental facility or portable dental operation has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to discontinuation of practice, or moving from or leaving the community.

#### P. Renewal of registration.

(1) The registration of mobile dental facilities and portable dental operations shall be renewed in accordance with a schedule set by the Department of Labor, Licensing and Regulation and the forms approved by the Board on the dates in the form and manner provided by the Board.

(2) The registrant shall pay the registration renewal fee in an amount set by the Department of Labor, Licensing and Regulation.

#### Q. Failure to comply.

Failure to comply with state statutes or regulations regulating the practice of dentistry, dental hygiene, and the operation of mobile dental facilities or portable dental operations may subject the operator and all practitioners providing services through a mobile dental facility or portable dental operation to disciplinary action.

#### **Fiscal Impact Statement:**

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

#### **Statement of Rationale:**

This regulation includes requirements for mobile dental facilities and portable dental operations to implement Section 40-15-172 (2006 Act 378).

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Document No. 3202  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF PHYSICAL THERAPY EXAMINERS**  
CHAPTER 101  
Statutory Authority: 1976 Code Sections 40-1-70 and 40-45-10 et seq.

101-01 et seq. Board of Physical Therapy Examiners

### **Synopsis:**

The Board of Physical Therapy Examiners is amending regulations to delete repetitious language that is in the statute, establish fees, establish guidelines for continuing education, and to establish requirements for licensure as a physical therapist and physical therapist assistant.

### **Instructions:**

Replace 101-01 through 101-15 as printed below

### **Text:**

#### 101-01. Definitions.

Definitions found in Section 40-45-20 apply to this chapter.

(1) "Continuing education" means an organized educational program designed to expand a licensee's knowledge base beyond the basic entry level educational requirements for physical therapists and physical therapist assistants. Course content must relate to patient care in physical therapy whether the subject is research, treatment, documentation, education, or management.

(2) "CEU" or "continuing education unit" means ten (10) contact hours of participation in an organized continuing experience.

(3) "Contact hour" means a minimum of fifty (50) minutes of instruction.

(4) "Academic semester credit hour" means fifteen (15) contact hours.

(5) "Academic quarter credit hour" means ten (10) contact hours.

#### 101-02. Officers of Board.

At the first meeting of each calendar year, the Board shall elect from among its members a chairman, vice-chairman, and other officers as the Board determines necessary.

#### 101-03. Meetings.

(1) The Board shall meet at least two (2) times a year and at other times upon the call of the chairman or a majority of the Board members.

(2) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(3) Board members are required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240.

#### 101-04. General Licensing Provisions for Physical Therapists.

An applicant for licensure as a physical therapist must:

(1) be a graduate of a physical therapy educational program approved by the Board; or, if foreign educated, must have a credentials evaluation by a Board approved credentialing evaluation agency that determines the applicant's education is substantially equivalent to the education of physical therapists educated in an accredited entry level program as determined by the Board. To determine substantial equivalency, the approved credentialing evaluation agency shall use the appropriate Course Work Tool ("CWT") adopted by



the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist graduated from their physical therapy program;

- (2) submit an application on a form approved by the Board, along with the required fee;
- (3) pass an examination approved by the Board; and
- (4) submit proof of not less than one thousand (1000) clinical practice hours under the on-site supervision of a licensed physical therapist on a form approved by the Board if the applicant is not a graduate of an approved school.

#### 101-05. General Licensing Provisions for Physical Therapist Assistants.

An applicant for initial licensure as a physical therapist assistant must:

- (1) be a graduate of a physical therapist assistant program approved by the Board;
- (2) submit an application on a form approved by the Board, along with the required fee; and
- (3) pass an examination approved by the Board.

#### 101-06. Reactivation of Inactive or Lapsed Licenses for individuals who do not meet the statutory criteria for active licensure in another state.

(1) A physical therapist (PT) or physical therapist assistant (PTA) whose license has lapsed for more than three (3) years may be granted a provisional license to obtain the appropriate supervised clinical practice hours and must demonstrate one thousand (1000) hours of qualified supervised practice before the license can be reactivated.

(2) A PT or PTA whose license has lapsed for more than five (5) years must also demonstrate successful completion of seventy-five (75) hours of continuing education in organized programs of learning (to include a workshop or symposium) which contribute directly to the professional competency of the licensee and meet the criteria of Regulation 101-07(3).

(3) A PT or PTA whose license has lapsed for more than ten (10) years must also successfully pass an examination approved by the Board.

#### 101-07. Continuing Education.

Continuing education requirements become effective upon approval by the Governor and must first be reported beginning in 2002 and thereafter.

(1) Every licensed physical therapist and physical therapist assistant shall earn 3.0 CEUs or thirty (30) hours of acceptable continuing education credit per biennium year.

(2) Physical therapists and physical therapist assistants licensed in South Carolina will not have a CEU requirement for the first biennium renewal period in which they are initially licensed. Graduates of a Board approved educational program and initially licensed are said to have met the CEU requirement for the first biennium renewal year.

(3) Standards for approval of continuing education. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit:

(a) it constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee;

(b) it pertains to common subjects or other subject matters which integrally relate to the practice of physical therapy;

(c) it is conducted by individuals who have a special education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the program and is accompanied by a paper, manual, or outline which substantively pertains to the subject matter of the program and reflects program schedule, including:

(1) fulfilling stated program goals or objectives, or both;

(2) providing proof of attendance to include original certificate with participant's name, date, place, course title, presenter(s), and number of program contact hours; and

(d) the Board will not grant prior approval but each licensee will be responsible for ensuring that each course submitted for continuing education credit meets these standards.

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- (4) The following courses are automatically approved for required contact hours:
- (a) APTA (American Physical Therapy Association) and SCAPTA (South Carolina American Physical Therapy Association) sponsored courses, APTA home study courses, and courses sponsored by other state professional physical therapy associations;
  - (b) college course work which is judged germane to the practice of physical therapy and is conducted or sponsored by accredited institutions of higher education;
  - (c) AMA (American Medical Association) continuing education courses that involve physical therapy;
  - (d) in-service hours totaling 0.4 CEUs maximum per biennium;
  - (e) CPR of 0.4 CEUs per biennium;
  - (f) any appropriate physical therapy continued competency tools developed by the Federation of State Boards of Physical Therapy (FSBPT) and/or the American Physical Therapy Association; the Board will assign contact hour credit to each appropriate tool on a case by case basis;
  - (g) achievement or renewal of any Clinical Specialist Certification through the American Physical Therapy Association will be considered as meeting the education requirement for the entire licensure biennium in which the certification or renewal is received; and
  - (h) such other providers as approved by the Board.
- (5) Unacceptable activities for continuing education include, but are not limited to:
- (a) presenting at professional meetings, conferences, or conventions;
  - (b) teaching or supervision;
  - (c) participation in or attending case conferences, grand rounds, informal presentations, etc.;
  - (d) non-educational, entertainment, or recreational meetings or activities;
  - (e) committee meetings, holding of office, serving as an organizational delegate, or fulfilling editorial responsibilities (publications);
  - (f) meetings for purposes of policy-making;
  - (g) visiting exhibits or poster presentations;
  - (h) informal self study, e.g. self selected reading, participation in a journal club, listening to audio tapes;
- and
- (i) published research.
- (6) Report Requirements:
- (a) reports shall be submitted on forms available from the Board. The Board shall routinely distribute its continuing education report forms with the biennial renewal notice. By signing the biennial report of continuing education, the licensee signifies that the report is true and accurate; and
  - (b) licensees shall retain original corroborating documentation of their continuing education courses and official transcripts of college course work with passing grade of C or better for no less than three (3) years from the beginning date of the licensure period.
- (7) Audit of continuing competency:
- (a) each licensee shall be responsible for maintaining sufficient records in a format determined by the Board;
  - (b) these records shall be subject to a random audit by the Board to assure compliance with this section; and
  - (c) the Board may audit a percentage of the continuing education reports.
- (8) In the event of denial, in whole or part, of credit for continuing education activity, the licensee shall have the right to request a hearing in accordance with the Administrative Procedures Act.

### 101-08. Fees.

#### (A) Fees are as follows:

- |                                  |          |
|----------------------------------|----------|
| (1) Application fee              | \$120.00 |
| (2) Biennial license renewal     |          |
| (a) physical therapist           | \$100.00 |
| (b) physical therapist assistant | \$ 90.00 |
| (3) Late Renewal Processing Fee  | \$150.00 |

- |                                       |                           |
|---------------------------------------|---------------------------|
| (4) Deactivation                      | \$ 50.00                  |
| (5) Reactivation (inactive to active) | \$150.00 plus renewal fee |
| (6) Reinstatement (lapsed to active)  | \$300.00 plus renewal fee |

(B) A check which is presented to the Board as payment for a fee which the Board is permitted to charge under this chapter and which is returned unpaid may be cause for denial of a license or for imposing a sanction authorized under this chapter or Section 40-1-50(G).

(C) The Board may direct applicants to pay an examination fee directly to a third party who has contracted to administer the examination.

(D) Fees are nonrefundable and may be prorated in order to comply with a biennial schedule.

#### 101-09. Supervision Guidelines.

It is recommended that a physical therapist should not concurrently supervise more than three (3) full-time equivalent physical therapist assistant positions. The Board, in its discretion, may permit supervision of more than three (3) full-time equivalent physical therapist assistant positions, for a short, defined period of time, if a situation arises in a physical therapy treatment setting that makes compliance impossible. Relief from this supervision ratio is allowable if there is no immediate risk to public health or safety as determined by the Board.

#### 101-10. Use of Aides in the Practice of Physical Therapy.

Aides are non-licensed personnel who assist the physical therapist or physical therapist assistant but whose duties do not require an understanding of physical therapy or formal training in anatomical, biological, or physical sciences. Education or training of the physical therapy aide shall not exceed the scope of activities described in Section 40-45-290. Aides are not to be assigned duties that may be performed only by a licensed physical therapist or licensed physical therapist assistant. When aides are utilized in the treatment of patients, the following guidelines shall apply:

(1) when applying hydrotherapy, heat or cold treatments, a physical therapist or physical therapist assistant may allow an aide to assist patients in dressing and undressing, drape and position the patient in preparation for treatment, clean and fill the whirlpool, attend the patient during treatment, wrap the patient's extremities after a paraffin bath, and place the hot packs on the patient;

(2) when applying electrotherapy, a physical therapist or physical therapist assistant may allow an aide to prepare the area to be treated and to prepare equipment and apply electrodes as specified by the physical therapist and physical therapist assistant;

(3) when applying traction, a physical therapist or physical therapist assistant may allow an aide to prepare the patient for treatment, position the patient, and apply the cervical or pelvic harness;

(4) when applying therapeutic exercise, a physical therapist or physical therapist assistant may allow an aide to set up the patient exercise equipment, prepare the equipment, and give the patient established amount of weights for resistive exercise; and

(5) when applying gait training, a physical therapist or physical therapist assistant may allow an aide to prepare equipment such as crutches, walkers, parallel bars, and braces and to assist the physical therapist or physical therapist assistant in gait training of the patient.

#### 101-11. Referral.

A physical therapist may not continue treatment after the initial thirty (30) days has expired unless the physical therapist receives a referral orally or in writing by a licensed medical doctor or dentist.

#### 101-12. Practice of Physical Therapy.

The practice of physical therapy will be considered to occur in the licensing jurisdiction where the patient is physically located at the time that the services are rendered.

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### 101-13. Code of Ethics for Physical Therapists.

Principle 1: Physical Therapists respect the rights and dignity of all individuals.

Principle 2: Physical Therapists comply with the laws and regulations governing the practice of physical therapy.

Principle 3: Physical Therapists accept responsibility for the exercise of sound judgment.

Principle 4: Physical Therapists maintain and promote high standards for physical therapy practice, education, and research.

Principle 5: Physical Therapists seek remuneration for their services that is deserved and responsible.

Principle 6: Physical Therapists provide accurate information to the consumer about the profession and about those services they provide.

Principle 7: Physical Therapists accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

Principle 8: Physical Therapists participate in efforts to address the health needs of the public.

### 101-14. Code of Ethics for Physical Therapist Assistants.

Standard 1: Physical Therapist Assistants provide services under the supervision of a physical therapist.

Standard 2: Physical Therapist Assistants respect the rights and dignity of all individuals.

Standard 3: Physical Therapist Assistants maintain and promote high standards in the provision of services, giving the welfare of patients their highest regard.

Standard 4: Physical Therapist Assistants provide services within the limits of the law.

Standard 5: Physical Therapist Assistants make those judgments that are commensurate with their qualifications as physical therapist assistants.

Standard 6: Physical Therapist Assistants accept the responsibility to protect the public and the profession from unethical, incompetent, or illegal acts.

### 101-15. Sexual Misconduct.

Engaging in sexual misconduct constitutes grounds for disciplinary action. Sexual misconduct for the purposes of this section includes the following:

(1) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient relationship exists.

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients.

(3) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient evaluation or treatment under current practice standards.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The purpose of the regulations is to conform to the statutory provisions and establish fees, guidelines for continuing education, and requirements for licensure.

Document No. 3184  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF PYROTECHNIC SAFETY**  
 CHAPTER 71

Statutory Authority: 1976 Code Sections 40-56-20 and 40-1-70

71-7405. through 71-7405.8. Pyrotechnic Safety

**Synopsis:**

The Department of Labor, Licensing and Regulation, Board of Pyrotechnic Safety is amending its regulations to update and remove potential conflicts with the Federal ATF regulations and current building and maintenance codes. The Board also is repealing existing Regulations 19-405 through 19-405.9 and replacing with Regulations 71-7405 through 71-7405.8 so they are accessible through the Department of Labor, Licensing and Regulation codification rather than through the codification of the Budget and Control Board, which has not administered this regulatory program since 1994.

**Instructions:**

19-405.1 through 19-405.9 repealed in their entirety.  
 Replace with Article 7 as printed below.

**Text:**

Article 7  
 Pyrotechnic Safety

71-7405. Pyrotechnic Safety.

71-7405.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and licensees from the manufacture, storage, sale and possession of fireworks in South Carolina.

B. This regulation shall apply to:

1. The manufacture, sale, storage, and possession of fireworks.
2. The licensing of persons or entities manufacturing, selling or storing fireworks.

C. This regulation shall not apply to:

1. The handling, use, and transportation of pyrotechnics and fireworks regulated by the Office of State Fire Marshal pursuant to SCRR 71-8300, et seq..
2. The transportation, handling, and/or use of fireworks by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities.
3. Fireworks when regulated by the U.S. Department of Transportation.
4. Weapons used in enactments, when there is no projectile.
5. The outdoor use of model rockets within the scope of NFPA 1122.

D. Definitions

1. "Board" means The State Board of Pyrotechnic Safety.
2. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing

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components, which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These fireworks were formerly known as “Class C Fireworks.”

3. “Department” means The South Carolina Department of Labor, Licensing and Regulation.

4. “Display Fireworks” means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as “Consumer Fireworks.” Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components, which together exceed 50 mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These fireworks were formerly known as “Class B Fireworks.”

5. “Fireworks” means any composition or device designed to produce a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of “consumer fireworks” or “display fireworks” as defined by this section.

6. “Jobber” means a person or entity that only purchases consumer fireworks from a wholesale distributor licensed to do business in South Carolina and only sells consumer fireworks to retailers licensed to do business in South Carolina.

7. “Manufacturer” means a person or entity licensed to manufacture consumer or display fireworks in South Carolina.

8. “NFPA” means the National Fire Protection Association.

9. “Pyrotechnics” means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

10. “Retailer” means a person or entity that only purchases consumer fireworks from a wholesale distributor or jobber licensed to do business in South Carolina and only sells consumer fireworks to the general public.

11. “Temporary Retail Permit” is a Retail Permit valid for up to ninety (90) days.

12. “Wholesale Distributor” means a person or entity that may buy foreign or domestic fireworks, store fireworks, supply or sell fireworks to any person or entity holding the proper South Carolina license.

#### 71-7405.2. Codes and Standards.

A. The requirements of NFPA 1124, 2006 Edition, including Annex A, B, C, and D, shall constitute the minimum standards for manufacture, storage, and retail sales of all fireworks and pyrotechnic articles used in South Carolina, except as modified by these regulations.

#### 71-7405.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses or permitting.

B. License or permit applications without inspections reports are due in the Department fifteen (15) business days before the start of operations. Applications submitted less than fifteen (15) business days before the start of operations will be subject to a \$200 special processing fee.

C. License or permit applications, with inspections reports, are due in the Department two (2) business days before the start of operation. Applications submitted less than two (2) business days before the start of operation will be subject to a \$200 special processing fee.

D. Fees for licenses and permits are:

|   |         |
|---|---------|
| 1. Manufacturer License                     | \$2,000 |
| 2. Wholesaler License                       | \$1,250 |
| 3. Jobber License                           | \$500   |
| 4. Retailer Permit (per location)           | \$200   |
| 5. Temporary Retailer Permit (per location) | \$100   |
| 6. Display Magazine Permit                  | \$100   |

E. When licensing inspections are performed by personnel of the Department, the fees stated are for one permit inspection. Any return inspection resulting from the owner’s failure to comply will be charged at a rate of \$75 per hour (including travel time) in addition to the annual fee.

F. Wholesaler License Fees includes up to five (5) Display Magazine Permits.

71-7405.4. Licensing and Permitting Requirements.

- A. Licenses are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.
- B. Permits are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.
- C. Temporary Retailer Permits expire when the underlying insurance expires or after ninety (90) days, whichever occurs first.
- D. Before a license or permit may be issued, the facility must be inspected following the procedures set forth by the Board.
- E. All facilities must be inspected by a county, city or state inspector on a form approved by the Board before the issuance of the license.

71-7405.5. Supplemental Provisions for Sale of Pyrotechnics.

- A. Each temporary structure shall be located in such a manner as to make it immobile and to prevent it from shifting or blowing over. Tie down devices may be affixed to prevent shifting or blowing over, and wheels shall be removed.
- B. These general provisions do not exempt retail fireworks establishments from other rules and regulations where applicable.
- C. The operator's, salesman's or handler's conduct or condition shall be as such as not to imperil the public safety.
- D. The operator, salesman, or handler at a location selling retail fireworks shall be capable of reading, writing, speaking and understanding the English language at a level sufficient to read and explain all notices applicable to fireworks.
- E. No person under the age of sixteen (16) shall be sold permissible fireworks.
- F. All disputes arising as a result of these Rules and Regulations shall be referred to the Board.
  - 1. Any party involved in a dispute arising under these Rules and Regulations may within fifteen (15) days of the occurrence giving rise to such dispute petition the Board, in writing via certified or registered mail, for an appearance before the Board. The petition shall plainly and substantially set forth the details of the occurrence, including its time, location and date, and state petitioner's reasoning for request to appear before the Board.
  - 2. The Board shall, within twenty (20) days of receipt of a written request for appearance, make a determination as to the necessity of the appearance and notify the petitioner, in writing via certified or registered mail, of its decision to grant or deny the appearance, and the reasons therefore.
- G. No fireworks shall be permitted to be sold from vehicles such as vans, buses, automobiles, or any other motor driven vehicle.
- H. The Board shall prohibit the retail sale of consumer fireworks from tents, canopies and membrane structures.

71-7405.6. Wholesale Distributors and Jobbers.

- A. All Wholesalers and Jobbers shall store permissible fireworks in their original packaging and in unopened cases or cartons, so as to take advantage of the insulation provided by such packaging, provided. However, unopened fireworks packages that have been returned by retailers for repackaging or resale may be temporarily retained in bins.
- B. No person under the age of eighteen (18) shall be employed or allowed to participate as a handler of fireworks.
- C. The salesman's or handler's conduct or condition of sobriety shall be such as not to imperil the public safety, and this individual shall be capable of reading, speaking and understanding the English language.
- D. All disputes arising as a result of these rules and regulations shall be referred to the Board.

## **32 FINAL REGULATIONS**

71-7405.7. Storage of Display Fireworks.

A. Storage of all display fireworks must comply with:

1. NFPA 1124.

2. The requirements in 18 United States Code, Chapter 40 and 27 Code of Federal Regulations Part 55 as enforced by the Bureau of Alcohol, Tobacco and Firearms.

71-7405.8. Sale of Display Fireworks.

A. Display fireworks may only be sold to persons that have been licensed by the proper state and federal agencies.

B. Each distributor of display fireworks shall provide to the purchaser necessary permit forms for fireworks displays in South Carolina, and all sales records shall be kept opened for inspection by the authorities for no less than twenty-four (24) months.

C. No one under the age of eighteen (18) shall be employed as a salesman or handler of display fireworks.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The purpose of the amendment of these regulations is to update them and remove potential conflicts to agree with the Federal ATF regulations and current building and maintenance codes. The proposed change in certification regulations reflects the restructuring of State government and will assure that they are more accessible to the regulated public.