

## Agency-Wide

### Department of Health and Environmental Control

#### **Law Recommendation #1.2**

- (a) Law:  
S.C. Code § 44-1-130, “Department of Health and Environmental Control”
- (b) Summary of Current Statutory Requirement:  
Chapter 1 of Title 44 creates The Department of Health and Environmental Control (“DHEC” or the “Department”), and enumerates the Department’s responsibilities and powers. This section establishes Health Districts and District Advisory Boards.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- Eliminate any reference to “District Advisory Boards of Health,” as they no longer exist
  - Change all mention of “Districts” to “Regions,” as that is now the terminology used by DHEC
  - DHEC suggests the addition of language that the health “regions” shall be led by a Regional Health Director who reports, either directly or indirectly, to the DHEC Director
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency’s gap analysis

#### **Law Recommendation #2.1**

- (a) Law: S.C. Code Sections 44-1-60(E)(1) and (E)(2)
- (b) Summary of current statutory requirement:  
These provisions address notice of decisions issued by the Department and the time at which a staff decision becomes the Department’s final agency decision.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- In light of the upcoming launch of e-permitting systems and the general prevalence and efficiency of electronic mail, DHEC recommends clarification of the statute on the availability of email notice, as well as corresponding clarification regarding the time at which an emailed decision becomes the final agency decision of the Department
- (d) Other Agencies Impacted:
- None

## Agency-Wide

### Catawba Health District

#### **Law Recommendation #1.9**

- (a) Law: S.C. Code §§ 44-3-110 through -140, “Catawba Health District”
- (b) Summary of Current Statutory Requirement: The statutory sections listed above establish and organize the “Catawba Health District,” which includes Chester, Lancaster, and York Counties.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends deleting S.C. Code §§ 44-3-110 through -140
  - These statutory sections are no longer necessary due to the fact that the “Catawba Health District” no longer exists. The counties within the former “Catawba Health District” are now served by the Midlands Regional Office for Public Health
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency’s gap analysis

## Environmental Affairs

### Rabies Control Act

#### **Law Recommendation # 1.1**

(a) Law:

S.C. Code Section 47-5-10 through 210, “Rabies Control Act.”

(b) Summary of current statutory requirement:

DHEC implements and enforces the “Rabies Control Act,” which sets forth requirements and authorizes actions to control the spread of rabies in the state. Topics in the Act range from vaccinations, quarantine, examination and destruction of animals, reporting to and the investigation of animal bite cases, recommendations for post exposure prophylaxis, magistrate’s court penalties for failure to comply with the requirements of the Act.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

Federal animal welfare requirements have changed and national veterinarian practice standards have been updated to be more flexible than the Act allows. Also, based upon the Department’s experiences in enforcing the Act, definitions and other sections should be clarified and expanded to make the intent of the Act more clear and specific. The Department proposes an extensive rewrite to address and modernize all topics in the Act DHEC implements and enforces the “Rabies Control Act,” which sets forth requirements and authorizes actions to control the spread of rabies in the state. Topics in the Act range from vaccinations, quarantine, examination and destruction of animals, reporting to and the investigation of animal bite cases, recommendations for post exposure prophylaxis, magistrate’s court penalties for failure to comply with the requirements of the Act including the following:

- To remain more current with the best veterinarian scientific practices, including allowing for the use of the most recent Compendium of Animal Rabies Prevention and Control, produced by the National Association of State Public Health Veterinarians, Inc. for establishing quarantine and animal vaccination protocols;
- Allows for a veterinarian with consent of the owner to make vaccination decisions that are in the best interest of a pet that is health compromised;
- Clarify the language to address non-bite exposures that meet the definition of saliva or other potentially infectious material from a rabid animal being introduced into fresh, open cuts or mucous membranes as described in the CDC ACIP (Advisory Committee on Immunization Practices) recommendations;
- Incorporate a monetary penalty to simplify and incentivize compliance with the vaccination requirements of the Act;
- Allow the Department to designate other representatives such as animal control officers and veterinarians to issue quarantines and monitor animals during quarantine. This will prevent duplication of services in those cases where bite exposures are reported to these representatives or the animals are located at these facilities;

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- Adds a provision that clarifies the process for pet owners to self-quarantine pets that are current on rabies vaccination when the owner or family member is the exposed person;
- Address the safety of Department employees and Department-designated representatives by requiring restraint of animals when observation or examination is needed and have penalties for failure to restrain an animal;
- Remove unnecessary and outdated requirements related to tags and signage; and
- Re-organize the section related to quarantine, examination and destruction of biting or attacking animals to provide clear directives for each incident.

(d) Other Agencies Impacted:

- South Carolina Department of Natural Resources
- Clemson University Livestock Poultry Health
- Any other state or federal agencies engaged in similar efforts to combat diseases communicable from animal to man.
- Local animal control and law enforcement

(e) Notes:

Stakeholders: Two stakeholder meetings are proposed to be held in Columbia during the months of August and September. One would target animal care organizations and animal care providers, the other would be for law enforcement agencies, county officials and health care providers, including:

- SC Association of Veterinarians
- SC Association of Counties
- Animal Control organizations
- Animal Shelters and Humane organizations
- Law Enforcement agencies
- Health Care providers (Pediatricians/Emergency/Instant care clinics)

## Environmental Affairs

### Dam and Reservoir Safety Act

#### Law Recommendation #2.2

- (a) Law:  
S.C. Code Section 49-11-110, et seq.
  
- (b) Summary of current statutory requirement:  
Establishes Dam and Reservoir Safety Act, grants Department authority to inspect dams, issue orders and permits for maintenance and repair of dams, and defines owners' responsibilities for dams.
  
- (c) Recommendation and Rationale for Recommendation:  
In our PER Report, DHEC made recommendations to amend the Dams and Reservoirs Safety Act. The recommendations were provided and considered in development of H.3218 which amends the Dams and Reservoirs Safety Act. H.3218 received third reading in the House on February 2, 2017 and was introduced in the Senate on February 7, 2017. **Therefore, DHEC is removing these recommendations from its comprehensive list of law recommendations to the LOC.**

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### Solid Waste Policy and Management Act

#### **Law Recommendation #2.3**

(a) Law:

S.C. Code Section 44-96-10 et seq., The South Carolina Solid Waste Policy and Management Act

(b) Summary of current statutory requirement:

The Solid Waste Policy and Management Act establishes standards for the management of solid waste, and authorizes the Department to regulate and permit solid waste management facilities. The Act establishes goals for the State in waste reduction and recycling, and requires local and state solid waste management planning.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

The Solid Waste Policy and Management Act has not been revised substantially since it became effective in 1991, despite the evolution of industry standards and practices, and other factors that impact the program.

The program is proposing four (4) major changes to the Act in addition to minor edits and clarifications that have been identified since the original promulgation. The 4 major changes are summarized as follows:

#### **Solid Waste Emergency Fund**

The S.C. Inspector General identified as a weakness in the solid waste management program the fact that there are currently no funding mechanisms available to the Department to use for emergency actions to address environmental problems caused from the management or mismanagement of solid waste.

- The Department proposes taking 2.5% of the annual receipts from the lead-acid battery fees, the appliance fees, the waste tire fees and the motor oil fee to establish an emergency fund. Deposits would be made until the emergency fund reaches \$1.5 million.
- Based on current revenue projections, about \$195,000 would be diverted to the fund annually, and the account would be fully funded after slightly more than 7 ½ years.
- The 2.5% annual funding rate was proposed by the stakeholder workgroup to minimize the impact on available grant funding for local government recycling programs.
- The proposed change authorizes the Department to recover costs from responsible parties to replenish the fund.

#### **Construction and Demolition Debris**

Large nuisance sites have been created by sham recyclers of construction and demolition debris who claim they are exempt from permitting requirements because they are processing what they consider to be recovered material. By accepting mixed material construction and demolition debris, these sham recyclers are able to meet the recovered material processing requirement of recycling 75% by weight by processing mostly concrete while allowing other construction and demolition debris to accumulate. These accumulated materials cause risk to human health and the environment.

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The proposed changes to the Solid Waste Policy and Management Act would:

- Require a facility that processes construction and demolition debris to be registered with the Department and obtain a solid waste processing permit.
  - Only construction and demolition debris processing facilities that accept material that has been sorted by material type and recycle at least 75% of each separated material type would be exempt from obtaining a permit.

### **Zoning**

As interpreted by judicial ruling of The Supreme Court of South Carolina, the Department is charged with making zoning determinations with respect to city and county zoning ordinances during the process of issuing solid waste facility permits. Prior to the judicial ruling, the Department allowed local governments to issue letters of consistency in regards to whether facilities seeking a permit would be in compliance with local plans, zoning and land use ordinances. The Supreme Court ruling determined that this delegation of authority was impermissible and that the Department itself must determine if a solid waste facility would be consistent with zoning and land use ordinances of the affected local government.

- The proposed change to the statute removes the requirement that the Department perform a review of local zoning and land-use ordinances prior to issuing a solid waste management facility permit.
- By removing this language, a facility seeking a permit would provide to the department proof of compliance with local land use and zoning ordinances with its permit application.

### **Demonstration of Need (DON)**

The statute currently states that no permit to construct or expand any solid waste management facility may be issued until a demonstration of need (DON) is made. Therefore, DON applies to all permitted solid waste management facilities. In developing the current DON regulation, however, the Department addressed only commercial Class Two solid waste landfills, commercial Class Three solid waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

- The proposed change would clarify that “Need” be demonstrated as required by regulation only.
- The existing regulation would serve to identify those facilities which must demonstrate need: commercial Class Two solid waste landfills, commercial Class Three solid waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at Class Three solid waste landfills.

(d) Other agencies impacted:

- None

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### Solid Waste Policy and Management Act, continued

#### Law Recommendation #2.4

(a) Law:

S.C. Code Ann., Section 44-96-170. Waste Tires. The South Carolina Solid Waste Policy and Management Act

(b) Summary of current statutory requirement:

The Solid Waste Act establishes standards for the management of waste tires, including the collection and distribution of a \$2 advanced recycling fee. The Act authorizes the Department to promulgate regulations addressing the collection, transportation, processing, and disposal of waste tires.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

Despite the Solid Waste Act and regulations promulgated pursuant to the Act, the illegal dumping and accumulation of waste tires continues to be problematic. Therefore, changes to the Waste Tire statute are needed in order to address these issues.

Conceptually, issues for consideration include, but are not limited to:

- The distribution of the waste tire fee;
- Methods for encouraging a more robust waste tire recycling industry; and
- Language that will aid in the ceasing, prevention, or diminishment of illegal dumping and accumulation of waste tires.

(d) Other agencies impacted:

- South Carolina Department of Revenue

### S.C. Hazardous Waste Management Act

#### Law Recommendation #2.5

(a) Law:

S.C. Code Section 44-56-140 E of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Requires DHEC to report any violations of the Hazardous Waste Management Act to the governing body of the county or city where the violation occurred within 24 hours.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Delete – This reporting requirement is not implemented because it is difficult and impractical to notify local government of *any* violation of the Act within 24 hours.
  - Most violations are identified through inspections, reporting, or complaint investigations, and are alleged violations until they are enforced through the administrative enforcement process.



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- If the violation presents an imminent or substantial endangerment or triggers an emergency response action, the Department notifies and works with local officials. The regional offices also work closely with local officials.
- (d) Other Agencies Impacted:
- Local counties and municipalities, however local governments have not been receiving and do not currently receive these reports.
- (e) Notes:
- Identified in the agency's gap analysis

### **Law Recommendation #2.6**

- (a) Law:  
Article 9, S.C. Code Sections 44-56-810 through 840, of the S.C. Hazardous Waste Management Act
- (b) Summary of Current Statutory Requirement:  
Creates the Hazardous Waste Management Research Fund, funded by a portion of fees from generators disposing of hazardous waste at the Pinewood commercial hazardous waste land disposal facility; creates a Select Oversight Committee to oversee expenditures of the funds.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- Delete – The Pinewood commercial hazardous waste facility was closed in 2000 and no longer accepts hazardous waste for land disposal.
    - Therefore, fees are no longer generated by disposal activities at the Site and there is no funding source for the Hazardous Waste Management Research Fund.
    - The Select Oversight Committee was created to oversee expenditures from the funds, but has not been active.
- (d) Other Agencies Impacted:
- The South Carolina Universities Research and Education Foundation; however, the research program has not been active due to the lack of funding.
  - The Governor and General Assembly because they have appointments to the Hazardous Waste Select Oversight Committee; however, this Committee has not been active. This Committee is also directed under Section 44-56-180 to approve use of Contingency Fund monies for personnel and operating costs associated with DHEC response actions at uncontrolled and abandoned sites.

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### S.C. Hazardous Waste Management Act, continued

#### Law Recommendation #2.7

(a) Law:

S.C. Code Sections 44-56-160, 163, 164, 165, 170, 175, 180, 190, and 510 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

These sections collectively relate to fee provisions for in-state and out-of-state hazardous waste generators disposing of hazardous waste at the Pinewood commercial hazardous waste land disposal facility (the “Pinewood fees”), and the creation of various funds for use of the Pinewood fees for various purposes. The Pinewood facility was closed in 2000 and no longer accepts hazardous waste for disposal.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Section 44-56-160 should be revised as follows:
  - 160(A) should be kept as it creates the Hazardous Waste Contingency Fund;
  - 160(B) through (F) should be deleted as these provisions allocate percentages of the Pinewood fees to various Funds that are no longer active or funded; and
  - 160(G) should be kept as it allows interest to be credited to the Hazardous Waste Contingency Fund; a reference to Section 44-56-215 should be added to this section as the annual generator fee in Section 44-56-215 is also credited to the Hazardous Waste Contingency Fund.
- Sections 44-56-163, 44-56-164, and 44-56-165 should be deleted as the Funds and funding source are no longer active or available.
- Section 44-56-170 should be revised to:
  - Retain applicable reporting requirements for generators in (A) and (B);
  - Delete the in-state generator Pinewood fee in (C);
  - Retain the storage fee in (D);
  - Delete the out-of-state Pinewood fee in (E); and
  - Retain the incinerator fee in (F) and revise to update the language in (F) concerning the division of the fee.
- Delete Section 44-56-175 as the various Funds to which the Pinewood fees were directed to are no longer active due to the closure of Pinewood.
- Section 44-56-180 should be revised to delete the reference to the S.C. Hazardous Waste Management Select Oversight Committee.
- Section 44-56-190 should be deleted because the regulations are consistent with the statute.
- Section 44-56-510 should be deleted because this fee is no longer assessed and collected.

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(d) Other Agencies Impacted:

- Town of Pinewood
- The Governor and General Assembly since they had appointments to the Hazardous Waste Management Select Oversight Committee (even though this Committee is no longer active).

(e) Notes:

- Portions are identified in the agency's gap analysis

### **Law Recommendation #3.1**

(a) Law:

S.C. Code Section 44-56-59 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Findings and conclusions of the General Assembly related to existing land disposal facility capacity, preference to in-state hazardous waste generators, and restrictions on the importation of out-of-state hazardous waste.

(c) Recommendation and Rationale for Recommendation:

*Changes due to Recent Court Decisions*

Section 44-56-59 should be deleted to conform to a court's ruling.

- This section was struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
- The court ruled that this section was invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4<sup>th</sup> Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

## Environmental Affairs

### S.C. Hazardous Waste Management Act, continued

#### **Law Recommendation #3.2**

- (a) Law:  
S.C. Code Section 44-56-60(a)(1), (2), and (3) of the S.C. Hazardous Waste Management Act
- (b) Summary of Current Statutory Requirement:  
These sections were enacted at the same time as Section 44-56-59 above to: require annual reporting to the General Assembly to determine if landfill capacity should be reduced; restrict land disposal of hazardous waste; and limit the amount of land disposal of out-of-state hazardous waste.
- (c) Recommendation and Rationale for Recommendation:  
*Changes due to Recent Court Decisions*
- With the exception of the first sentence in Section 44-56-60(a)(2) which should be kept, the remainder of Section 44-56-60(a)(2), and all of Sections 44-56-60(a)(1) and (3) should be deleted.
    - These were struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
    - The court ruled that these sections were invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4<sup>th</sup> Cir. 1996).
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis

#### **Law Recommendation #3.3**

- (a) Law:  
S.C. Code Section 44-56-130 (4), (5), and (6) of the S.C. Hazardous Waste Management Act
- (b) Summary of Current Statutory Requirement:  
Makes it unlawful for a person who owns or operates a hazardous waste for treatment, storage, or disposal facility to accept hazardous waste from any jurisdiction that prohibits the treatment, storage, or disposal of such waste or that has not entered into an interstate or regional agreement under CERCLA.
- (c) Recommendation and Rationale for Recommendation:  
*Changes due to Recent Court Decisions*
- Delete Sections 44-56-130(4), (5), and (6)
    - These provisions were struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.

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- The court ruled that these sections were invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4<sup>th</sup> Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

### **Law Recommendation #3.4**

(a) Law:

S.C. Code Section 44-56-205 of the S.C. Hazardous Waste Management Act

(b) Summary of Current Statutory Requirement:

Provides that all hazardous waste treatment and disposal facilities shall give preference to in-state hazardous waste generators.

(c) Recommendation and Rationale for Recommendation:

*Changes due to Recent Court Decisions*

- Delete Section 44-56-205.
  - This section was struck down as a result of litigation challenging several laws, regulations, and executive orders attempting to limit the flow of out-of-state hazardous waste into South Carolina.
  - The court ruled that this section was invalid and permanently enjoined. See *Environmental Technologies Council v. State of S.C.*, 901 F.Supp. 1026 (D.C.S.C. 1995), *aff'd.*, *Environmental Technology Council v. Sierra Club*, 98 F.3d 774 (4<sup>th</sup> Cir. 1996).

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

## Environmental Affairs

### S.C. Mining Act

#### **Law Recommendation #2.8**

(a) Law:

S.C. Code Ann., Section 48-20-10 et seq., South Carolina Mining Act

(b) Summary of current statutory requirement:

This Act ensures that all land and water associated with mine activity receives a practical degree of protection and restoration. Also, the Act authorizes DHEC to issue permits for mine operations and ensure that mines comply with applicable laws and regulations.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

The S.C. Mining Act (Act) became effective in 1990 and was last revised in 1997; therefore, pertinent changes are warranted to keep pace with industry standards, practices, and developments.

The following changes are being considered and are critical to the mission of the program:

- Secure a stable funding source for Department activities which is adequate for the needs of the program;
- Make changes to distinguish mining activities from construction activities; and
- Clarify reclamation requirements and ensure funding is available for reclamation/closure.

Less significant changes have been identified to improve efficiencies or for clarity.

(d) Other Agencies Impacted:

- South Carolina Department of Natural Resources
- South Carolina State Historic Preservation Office
- South Carolina Department of Transportation
- South Carolina Ports Authority
- United States Army Corps of Engineers
- United States Fish and Wildlife Service
- United States Mine Safety and Health Administration
- United States Natural Resource Conservation Service

## Environmental Affairs

### Office of Coastal Resource Management (OCRM)

#### Law Recommendation #2.9

(a) Law:

Coastal Tidelands and Wetlands Act - S.C. Code Section 48-39-40 Coastal Zone Management Appellate Panel

(b) Summary of current statutory requirement:

Creates the Coastal Zone Management Appellate Panel, including terms and membership, which acts as an advisory council to DHEC to hear appeals of staff decisions on Coastal Division permits.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Delete the entirety of S.C. Code Ann. § 48-39-40 - Act 387 of 2006 amended the appeals process for the Department under S.C. Code Section 44-1-60 "to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."
- S.C. Code Section 48-39-40 conflicts with this uniform appeals procedure however, it was never reconciled. The General Assembly has passed a proviso annually to suspend the Coastal Zone Management Appellate Panel.

(d) Other Agencies Impacted:

- None

(e) Notes:

- Identified in the agency's gap analysis

## Environmental Affairs

### Agricultural Facility Setback Requirements

#### **Law Recommendation #2.10**

- (a) Law: S.C. Code Section 46-45-80
  
- (b) Summary of current statutory requirement:  
Establishes that agricultural facility setback requirements established by regulation are minimum siting requirements that may be increased on a case-by-case basis, and which also may be waived or reduced by written consent of adjoining landowners.
  
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
  - Establish a bright-line setback requirement, rather than a discretionary one, that is sufficiently protective of health and not subject to increases on a case-by-case basis (maintain ability for adjoining landowners to consent to reduction or waiver of setback).
  
- (d) Other Agencies Impacted:
  - None



## Health Regulation

### State Certification of Need and Health Facility Licensure Act

#### **Law Recommendation #1.4**

(a) Law:

S.C. Code Sections 44-7-110, *et seq.*, State Certification of Need and Health Facility Licensure Act, 44-7-170(B)(6)

(b) Summary of Current Statutory Requirement:

This Act requires a Certificate of Need (CON) in certain circumstances, and also requires licensure for certain types of health care facilities. Section 44-7-170 delineates institutions and transactions exempt from the article and certain institutions and transactions exempt from just the CON provisions of the article.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- The Department recommends modification to Section 44-7-170(B)(6) to clarify that kidney disease centers are exempt only from the CON provisions of the article, but are still subject to the licensure provisions of the article.
- DHEC currently regulates and licenses these facilities and the recommended clarification will remove any ambiguity with regard to the authority of DHEC to license kidney disease centers.

(d) Other Agencies Impacted:

- None

#### **Law Recommendation #2.15**

(a) Law:

S.C. Code Sections 44-7-110, *et seq.*, State Certification of Need and Health Facility Licensure Act

(b) Summary of Current Statutory Requirement:

This Act requires a Certificate of Need for certain entities and projects, and also requires licensure for certain health care entities. Sections 44-7-310 and -315 delineate requirements and prohibitions on disclosure of certain information obtained by the Department in the course of performing its licensure duties under the Act.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- DHEC recommends revisions to Section 44-7-310 and/or Section 44-7-315 to allow the Department greater ability to publish information on the web, to give the public easier access to information, and to provide greater transparency.
- Modify Sections 44-7-310 and -315 to clarify the requirements and prohibitions on disclosure of certain information. These two sections appear to contain inconsistencies between one another as to what information in Health Licensing's possession related to licensed entities may be released and what information must not be released.

(d) Other Agencies Impacted:

- None

# Health Regulation

## Hearing Aids

### **Law Recommendation #1.5**

(a) Law:

S.C. Code Sections 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Section 40-25-20(2) requires the Commission of Hearing Aid Specialists to prepare the examinations.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- Modify Section 40-25-50(2) to delete from the Commission's responsibilities the requirement that it formulate the examination.
- By removing the requirement that the Commission prepare the examination, the Department will have the discretion to formulate the examination itself or procure an appropriate examination from an outside source to be administered to the applicants.

(d) Other Agencies Impacted:

- None

### **Law Recommendation #1.6**

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- Modify Section 40-25-30(6) to provide the Department with the authority to impose monetary penalties for a violation of the statute or regulation, in addition to the Department's existing authority to suspend or revoke a license.

(d) Other Agencies Impacted:

- None

## Health Regulation

### Hearing Aids, continued

#### **Law Recommendation #2.19**

(a) Law:

S.C. Code Sections 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Sections 40-25-150(C)-(D) address continuing education compliance for licensees and specifically require the Commission of Hearing Aid Specialists to monitor continuing education compliance.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify Sections 40-25-150(C)-(D) to move responsibility for the process of continuing education compliance from the Commission of Hearing Aid Specialists to DHEC.

(d) Other Agencies Impacted:

- None

#### **Law Recommendation #2.20**

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute. Section 40-25-110 addresses qualifications of applicants for examinations and the conduct of examinations.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify Section 40-25-110 to authorize the Department to charge a fee for the examination of persons seeking to specialize in hearing aids in order to subsidize the cost of administering the examination.

(d) Other Agencies Impacted:

- None

## Health Regulation

### Hearing Aids, continued

#### Law Recommendation #2.21

(a) Law:

S.C. Code Section 40-25-10, *et seq.*, Practice of Specializing in Hearing Aids

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to license qualified persons to engage in the practice of specializing in hearing aids, oversee the examination of persons seeking licensure, conduct periodic inspections of persons, facilities, and equipment, and take enforcement action as authorized by statute.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify Section 40-25-30(2) to provide DHEC with the authority to facilitate the administration of the qualifying examinations.
- DHEC licenses primarily health facilities and services, so it does not administer examinations to any licensed entities except for the hearing aid specialist candidates.
- The Department should be given discretion to facilitate the administration of the examinations to allow examinations to be given directly by testing vendors.

(d) Other Agencies Impacted:

- None

## Health Regulation

### Body Piercing

#### Law Recommendation #1.7

(a) Law:

S.C. Code Sections 44-32-10, *et seq.*, Body Piercing

(b) Summary of Current Statutory Requirement:

This Act requires the Department to establish sterilization, sanitation, and safety standards for persons engaged in the business of body piercing and to issue permits to facilities to engage in body piercing and charge annual permitting fees. The Act also contains certain requirements related to body piercing technicians and certain prohibitions regarding body piercing of minors. The Act also authorizes the Department to suspend, revoke, or refuse to renew licenses for body piercing facilities. Section 44-32-80 specifically sets forth the enforcement mechanisms for the Department.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- Modify Section 44-32-80 to enable the Department to impose monetary penalties against licensed body piercing facilities and any other persons or entities that violate the provisions of the Act or regulation.

(d) Other Agencies Impacted:

- None

## Health Regulation

### Tattooing

#### Law Recommendation #1.8

(a) Law:

S.C. Code Sections 44-34-10, *et seq.*, Tattooing

(b) Summary of Current Statutory Requirement:

This Act requires the Department to establish sterilization, sanitation, and safety standards for persons engaged in the business of tattooing and to issue licenses to facilities to engage in tattooing and charge licensing fees and inspection fees. The Act also contains certain requirements related to tattoo artists and certain prohibitions regarding the tattooing of minors, and makes certain acts criminal in nature. The Act also authorizes the Department to suspend or revoke licenses, refuse to renew licenses, or impose monetary penalties against tattoo facilities for certain violations. Section 44-34-80 specifically sets forth the enforcement mechanisms for the Department.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- Modify Section 44-34-80 to enable the Department to impose monetary penalties against any person for violating the Tattoo Act, not just the licensees of the facilities. This would allow the Department to impose monetary penalties against persons operating unlicensed tattoo facilities.

(d) Other Agencies Impacted:

- None

# Health Regulation

## Midwives

### Law Recommendation #1.22

(a) Law:

S.C. Code Sections 44-89-60, *et seq.*, Birthing Center Licensure Act

(b) Summary of Current Statutory Requirement:

DHEC currently licenses lay midwives under its general public health powers under Section 44-1-140, and there is no statutory provision defining the requirements for licensing midwives. Section 44-89-30(5) states “Lay midwife means an individual so licensed by the department,” and Section 44-89-30(4) defines the “Department” as the “South Carolina Department of Health and Environmental Control.” In addition, Section 44-89-60(2) states “Birthing centers shall provide care by physicians, certified nurse-midwives, or licensed lay-midwives to childbearing women during pregnancy, birth, and puerperium.” The only other Code of Laws reference to DHEC’s responsibility with regard to lay midwives is in the Nurse Practice Act. Certified nurse-midwives are licensed by South Carolina Department of Labor, Licensing and Regulation.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- While DHEC has traditionally regulated lay midwives, DHEC’s expertise largely involves regulating health care facilities, not the actual provision of care. Therefore, DHEC recommends consideration of whether DHEC is the appropriate agency to license lay midwives.
- DHEC also recommends the law be amended to clarify the requirements for licensing lay-midwives. We believe this change will improve the program and help to better ensure the health and safety of mothers and infants.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation

## Health Regulation

### Emergency Medical Services Act

#### **Law Recommendation #2.16**

(a) Law:

S.C. Code Sections 44-61-10, *et seq.*, Emergency Medical Services Act of S.C.

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to develop standards for Emergency Medical Services in the state; license, certify, and permit ambulance services, EMTs, and ambulance vehicles in the state; and take certain enforcement actions. The Act also establishes an Investigative Review Committee and delineates the required composition thereof.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Change wording of Section 44-61-20(16) to clarify that the Department has discretion in determining whether to convene the Investigative Review Committee regarding an official investigation that may warrant suspension or revocation of a license or certification; and
- Further modify the definition of “Investigative Review Committee” in Section 44-61-20(16) to reflect that appointment to the Committee is made by the Chief of the Bureau of EMS and Trauma, rather than the Director of the Division of EMS and Trauma.

(d) Other Agencies Impacted:

- None

#### **Law Recommendation #2.17**

(a) Law:

S.C. Code Sections 44-61-10, *et seq.*, Emergency Medical Services Act of S.C.

(b) Summary of Current Statutory Requirement:

This Act authorizes the Department to develop standards for Emergency Medical Services in the state; license, certify, and permit ambulance services, EMTs, and ambulance vehicles in the state; and take certain enforcement actions.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial and/or Fee Structure)*

- Add new statutory provisions authorizing the Department to become a member of the EMS Compact with other EMS Compact states.
- Becoming a member of the EMS Compact would allow for cross-border practicing when the licensee meets South Carolina standards for licensure, facilitate the day-to-day movement of EMS personnel across state boundaries, and allow South Carolina to recognize and accept the EMS credentials from another Compact state. The Compact state status should help meet the demand for EMS personnel.

(d) Other Agencies Impacted:

- None



## Health Regulation

### Atomic Energy and Radiation Control Act

#### Law Recommendation #2.18

(a) Law:

S.C. Code Sections 13-7-10, *et seq.*, Atomic Energy and Radiation Control Act

(b) Summary of Current Statutory Requirement:

The Department is responsible for the control and regulation of radiation sources, including ionizing and nonionizing radiation. The Department is required to license or register radiation sources, devices or equipment using these sources, and persons possessing, using, or transferring radiation sources. The law states that the Department has “no duty to inspect a source of nonionizing radiation unless it has received credible information indicating a violation of applicable statutes or regulations.” The Department investigates and inspects upon receiving complaints regarding such matters and is authorized to take enforcement actions as necessary. Sources of nonionizing radiation includes tanning equipment. Section 13-7-45(A)(1) addresses registration fees and inspections of sources of ionizing radiation; Section 13-7-45(A)(2) and (3) address registration fees and inspections of nonionizing radiation.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify the language of Section 13-7-45(A)(3) to:
  - Provide that the Department has the authority to inspect all commercial establishments for the tanning of the human skin to ensure the public health and safety is protected from nonionizing radiation; and
  - Increase the amount of annual fees DHEC is authorized to retain for use in the administration of the tanning equipment program. This will allow DHEC to fully fund staff to perform all of the job duties associated with the tanning program.

(d) Other Agencies Impacted:

- None

## Health Regulation

### Narcotics and Controlled Substances Act

#### Law Recommendation #2.24

(a) Law:

S.C. Code § 44-53-110, et seq., “Narcotics and Controlled Substances”

(b) Summary of current statutory requirement:

This article sets forth the requirements for the scheduling and enforcement of controlled substances, and gives DHEC statutory authority to promulgate regulations and charge fees for licensing and controlling the manufacture, distribution, and dispensing of controlled substances.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

To help improve drug inspections and create efficiencies in the scheduling of controlled substances, DHEC has identified several specific provisions or areas of the article that should be considered for update or revision. Issues under consideration include:

- Eliminating the word “prescribe” in the definition of “dispense” and creating separate definition for prescribing to be consistent with the S.C. Pharmacy Practice Act.
- Amending the statute to allow an expedited and efficient process for DHEC to schedule a controlled substance or add/change/delete a scheduled controlled substance when that substance has been deemed an emergent threat to the health and safety of the public.
- Add a process to codify the approved controlled substances added to sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270, and update those sections to reflect the current schedules of approved controlled substances and adding entries which the department deems necessary.
- Eliminate the grace period for registration renewals and propose language in which registrations expire April 1/October 1 with no grace period. The penalty fee shall remain in effect.
- Eliminate the reference to the South Carolina Methadone Council and update the language to reflect current prescriptive authority for advanced practitioners.
- Amendment to allow the Department to consider all convictions related to controlled substances in granting a controlled substance registration.
- Amendment to not limit the civil fine amount and clarify that fines can be levied for each violation.
- Eliminate the schedule II transdermal patch exception for the maximum 31 day supply limitation, and require a government issued photo ID as basis for filling and selling a controlled substance prescription. Delete the ‘dispenser knows the recipient’ language.

## Health Regulation

- Clarify the statute as it relates to opium derivative controlled substances, as described in Section 44-53-190 or 44-53-210, as well as add language for schedule I and II narcotics.
- Repeal Section 44-53-480(c) because it was last updated in 1986 and this function is not utilized by the Department.
- Repeal Section 44-53-560 because it was last updated in 1971 and is no longer applicable.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation
- South Carolina Law Enforcement Division
- South Carolina Department of Mental Health
- South Carolina Attorney General's Office

## Health Regulation

### South Carolina Prescription Monitoring Act

#### Law Recommendation #2.25

(a) Law:

S.C. Code § 44-53-1610 et seq., “South Carolina Prescription Monitoring Act”

(b) Summary of current statutory requirement:

DHEC implements and maintains the “South Carolina Prescription Monitoring Act,” which sets forth requirements of a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by applicable licensed professionals.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

Issues under consideration include:

- Amend the Act to include schedule V controlled substances.
- DHEC recommends adding language to:
  - Include a civil fine in addition to criminal penalties; and
  - Clarify the term ‘good faith’ as used in this section to be based upon a valid patient-practitioner relationship.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation
- South Carolina Law Enforcement Division
- South Carolina Attorney General’s Office

(e) Notes:

DHEC had recommended amending the violations and penalties section of the Act to include violations for persons who are not authorized to have the prescription monitoring program (PMP) information, so that all persons improperly accessing the PMP database can be subject to penalties for violation of the Act. However, **this recommendation is addressed in the amended PMP law that became effective last month**. Previously, this section of the Act allowed only authorized persons to be prosecuted and there was no basis for penalizing any unauthorized persons.

## Health Regulation

### Medicaid Nursing Home Permits Act

#### Law Recommendation #5.1

(a) Law:

S.C. Code Sections 44-7-80, *et seq.*, Medicaid Nursing Home Permits

(b) Summary of Current Statutory Requirement:

Directs the Department to allocate Medicaid nursing home permit days, act on applications and issue permits for Medicaid nursing home patient days, and enforce penalties for noncompliance.

(c) Recommendation and Rationale for Recommendation:

*Miscellaneous Change*

Eliminate entirely:

- This law impedes the purpose of the Certificate of Need (CON) Program, which administers both the CON portions of the State Certification of Need and Health Facility Licensure Act (CON Act), S.C. Code Sections 44-7-110, *et seq.*, and the Medicaid Nursing Home Permits Act.
  - The Medicaid Nursing Home Permit Act places restrictions upon the number of nursing home days of care eligible for Medicaid reimbursement and the method by which the Department may allocate available Medicaid days of care to interested nursing homes.
  - Statewide need for new nursing home beds as calculated pursuant to the CON Program is not being met.
  - Some nursing homes have available nursing home beds in their facilities but are not able to admit new patients due to the limitations imposed by Medicaid Nursing Home Permits program.

(d) Other Agencies Impacted:

- South Carolina Department of Health and Human Services

# Public Health

## Vital Statistics

### **Law Recommendation #1.3**

- (a) Law:  
S.C. Code Sections 44-63-10 through 180 - Vital Statistics
- (b) Summary of current statutory requirement:  
Empowers the Department to establish a bureau of vital statistics and to provide an adequate system for the registration and certification of births, deaths, marriages, and divorces.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology and/or practices.*
- Updates, revisions, and clarifications are needed to:
    - Clarify terminology;
    - Recognize the transition to an electronic system;
    - Remove obsolete references;
    - Clarify treatment of sealed records and paternity acknowledgments; and
    - Reflect changes to DHEC's organization since the statute was written.
- (d) Other Agencies Impacted:
  - None
- (e) Notes:
  - Identified in the agency's gap analysis

### **Law Recommendation #2.11**

- (a) Law:  
S.C. Code Sections 44-63-74 (Electronic filing and transmission of death certificates), 44-63-161 (Unlawful acts; penalties.) - Vital Statistics
- (b) Summary of current statutory requirement: Department may assess administrative penalties in fixed amounts for late filing of death certificates. Other violations are subject only to criminal penalties.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- Modify language to allow DHEC discretion in assessing civil penalties and amounts.
  - Add civil enforcement powers in cases other than late filing of death certificates.
  - The ability to issue orders and assess civil penalties may facilitate enforcement of registration requirements; discretion in setting amounts may prevent accumulation of excessive penalties.
- (d) Other Agencies Impacted:
  - None
- (e) Notes:
  - Identified in the agency's gap analysis

## Public Health

### Vital Statistics, continued

#### **Law Recommendation #2.12**

- (a) Law:  
S.C. Code Section 44-63-100 (Delayed Certificate of Birth Established by Court Order) - Vital Statistics
- (b) Summary of current statutory requirement:  
Allows individual born in South Carolina who has no birth record to petition a court for establishment of a delayed birth certificate. Petitioner may file in state of residence, if not in South Carolina. Petitioner must give notice to State Registrar of the petition and hearing.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- Remove provision allowing petition for delayed birth certificate to be filed in state of petitioner's residence outside South Carolina. Courts of other states have no jurisdiction over the Department and defending or appearing in a case in another state is impractical for the Department.
  - Clarify DHEC must be a party to the action.
- (d) Other Agencies Impacted:
- None

#### **Law Recommendation #2.13**

- (a) Law:  
S.C. Code Sections 44-63-163 (Judicial paternity determinations), 44-63-165 (Paternity acknowledgments), 63-17-10 (Paternity actions) - Vital Statistics
- (b) Summary of current statutory requirement:  
States requirements for adding father's name to birth record as determined by a court or an administrative agency pursuant to Code Section 63-17-10 or as shown on a paternity acknowledgment in certain cases. If an action is brought under 63-17-10 prior to the birth of a child, proceedings must be stayed until after the birth of the child, except the service of a summons and discovery procedures.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- Remove references to administrative agency determinations of paternity and acknowledgments under Code Section 63-17-10; there is no administrative determination in Code Section 63-17-10 and no paternity acknowledgment without a court order in Code Section 63-17-10.
  - Clarify whether paternity determinations by out of state courts may be accepted as sufficient; parties will sometimes be residents of another state, which would have jurisdiction to make a paternity determination under its own laws, and DHEC does not need to be a party to the paternity action, even in South Carolina.

## Public Health

- Clarify whether pre-birth orders in surrogacy cases are effective to determine parentage for purposes of birth registration.

(d) Other Agencies Impacted:

- None

### **Law Recommendation #2.14**

(a) Law:

S.C. Code Sections 44-63-150 (Correction of mistakes in birth or death certificates), 62-1-302 (Probate court jurisdiction), 63-3-530 (Family court jurisdiction) - Vital Statistics

(b) Summary of current statutory requirement:

Provides for administrative correction of mistakes in birth certificates; specifies family courts have jurisdiction over actions to correct birth records; no court is given express jurisdiction over death certificate corrections.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial and/or Fee Structure)*

- Clarify parents cannot make changes to adult children's birth certificates unless the children are legally incompetent.
- Clarify family court has jurisdiction over amendments to birth certificates, as well as corrections; some amendments may not be appropriately characterized as "corrections," for example, name changes, addition of father's name after paternity findings, and certain other changes.
- Give probate court express jurisdiction over corrections to death certificates; no court currently is given express authority over corrections to death certificates, leading to confusion and uncertainty on the bench and bar and within DHEC.
- Clarify whether an out-of-state court order can serve as the basis for a correction or amendment.

(d) Other Agencies Impacted:

- None



## Public Health

### County, Township or Municipal Hospitals, or Tuberculosis Camps

#### **Law Recommendation #1.10**

- (a) Law:  
S.C. Code §§ 44-7-610 through -780, “County, Township or Municipal Hospitals, or Tuberculosis Camps”
- (b) Summary of Current Statutory Requirement:  
These sections comprise Article 5 of Title 44 – “County, Township or Municipal Hospitals, or Tuberculosis Camps.” These sections allow for the citizens of a county to petition for a public hospital or tuberculosis camp, as well as provide the manner in which such a facility must be administered.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology and/or practices.*
- The Department recommends deleting any reference to tuberculosis camps in these sections as the Department no longer treats or controls tuberculosis disease through the use of tuberculosis camps.
- (d) Other Agencies Impacted:
- None

## Public Health

### Community Oral Health Coordinator

#### **Law Recommendation #1.11**

(a) Law:

S.C. Code § 44-8-10 through -60, "Community Oral Health Coordinator"

(b) Summary of Current Statutory Requirement:

Chapter 8 of Title 44 is entitled, "Community Oral Health Coordinator." In three to five counties state-wide, targeted by need, the Department is required to implement a community dental health program for public school students at specified grade-levels, or upon a child's transfer into the South Carolina public school system, regardless of grade-level.

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology and/or practices.*

- DHEC recommends expansion of the community dental-health program to persons of any age in underserved and vulnerable populations in order to better align with the Dental Practice Act 2003, located at S.C. Code § 40-15-110. The current language requires the Community Oral Health Coordinator to serve only school-aged children in the designated counties.

(d) Other Agencies Impacted:

- South Carolina Department of Education
- Local School Districts

## Public Health

### Dentists, Dental Hygienists, and Dental Technicians

#### Law Recommendation #1.12

(a) Law:

S.C. Code § 40-15-110(E), “Dentists, Dental Hygienists, and Dental Technicians”

(b) Summary of Current Statutory Requirement:

This section is known as the “Dental Practices Act of 2003.” Chapter 15 pertains to Dentists, Dental Hygienists, and Dental Technicians. Section 110 provides a list of exemptions from the Chapter, including Subsection (E), which requires DHEC to target dental services in a public health setting to under-served populations

(c) Recommendation and Rationale for Recommendation:

*Recommended change for consistency with current science, terminology, and/or practices.*

- Because the Dental Practices Act places the responsibility on DHEC to target and facilitate dental services to under-served populations, this section would be more appropriately located with the majority of DHEC’s health-related responsibilities found in Title 44.
- To ensure that these services are being properly implemented, DHEC recommends adding to Title 44 a requirement that any dental provider operating in a public health setting must submit specific data to DHEC and use DHEC surveillance tools for the implementation of public health core functions.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation

## Public Health

### Contagious and Infectious Diseases

#### **Law Recommendation #1.13**

- (a) Law:  
S.C. Code § 44-29-10(A), “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement:  
This section enumerates the reporting requirements for certain health-care providers for all cases of known or suspected contagious or infectious diseases occurring within the state’s borders.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends that:
    - References to reporting to county health departments be eliminated; and
    - Reporting be made to DHEC by the attending physician within the timeframe and in the form and manner as the Department directs.
- (d) Other Agencies Impacted:
- None

#### **Law Recommendation #1.14**

- (a) Law:  
S.C. Code § 44-29-70, Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement:  
Requires the reporting of sexually transmitted diseases to the Department.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- Add the term “sexually transmitted infections” to the title and language of the section, to update the statute with current nomenclature in the field. This language is more inclusive and supports the Department’s duties to investigate and prevent the spread of certain infectious and contagious diseases.
- (d) Other Agencies Impacted:
- None

## Public Health

### Contagious and Infectious Diseases, continued

#### **Law Recommendation #1.15**

- (a) Law:  
S.C. Code § 44-29-80, “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement:  
Laboratories shall report positive tests and cooperate in preventing spread of sexually transmitted disease.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends adding the term “sexually transmitted infection” to the section title and the statutory language in order to bring the statute up to date with the current nomenclature in the field.
  - DHEC also recommends removing the reference to “local boards of health” in the body of the statute as the term is no longer applicable due to the fact that there are no local boards of health.
- (d) Other Agencies Impacted:
- None

#### **Law Recommendation #1.16**

- (a) Law:  
S.C. Code § 44-29-90, “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement: Addresses the examination, treatment, and isolation of persons infected with venereal disease.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- Bring the statute up to date with the current nomenclature in the field by:
    - Modifying the statutory title to replace the phrase “venereal disease” with the phrase “sexually transmitted disease and sexually transmitted infection.”
    - In the body of the statute, adding the phrase “sexually transmitted infection” in each instance the phrase “STD” is used alone.
- (d) Other Agencies Impacted:
- None

## Public Health

### Contagious and Infectious Diseases, continued

#### **Law Recommendation #1.17**

- (a) Law:  
S.C. Code § 44-29-100, “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement:  
Examination and treatment and isolation of prisoners for sexually transmitted disease.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- Modify the statute to reflect the fact that prisoners are no longer kept in custody after the completion of their sentences for treatment of sexually transmitted disease or sexually transmitted infection.
  - Add the term “sexually transmitted infection” to accompany any reference of “sexually transmitted disease” in order to bring the statute up to date with the current nomenclature in the field.
- (d) Other Agencies Impacted:
- South Carolina Department of Corrections
  - County Jails
- (e) Notes:
- Identified in the agency’s gap analysis

#### **Law Recommendation #1.18**

- (a) Law:  
S.C. Code § 44-29-136, “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement: Court orders for disclosure of records for law enforcement purposes; confidentiality safeguards.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends adding the term “sexually transmitted infection” to the statutory language in order to bring the statute up to date with the current nomenclature in the field.
  - Change the misspelled word “counselling” to “counseling.”
- (d) Other Agencies Impacted:
- None

## Public Health

### Contagious and Infectious Diseases, continued

#### **Law Recommendation #1.19**

- (a) Law:  
S.C. Code § 44-29-140, “Contagious and Infectious Diseases”
- (b) Summary of Current Statutory Requirement:  
Penalties pertaining to venereal disease.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends deleting references to “venereal disease” and adding the terms “sexually transmitted infection” and “sexually transmitted disease” to the statutory language in order to bring the statute up to date with the current nomenclature in the field.
- (d) Other Agencies Impacted:
- None

#### **Law Recommendation #1.20**

- (a) Law:  
S.C. Code § 44-29-135(f), “Contagious and Infectious Diseases”
- (b) Summary of Current Requirements:  
This section discusses confidentiality of sexually transmitted disease records, and this subsection specifically pertains to school notification when a minor is HIV positive.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- Repeal subsection (f). The medical literature today indicates that there is no risk of spreading HIV between children through casual, social contact and federal law prohibits children with HIV from being discriminated against.
- (d) Other Agencies Impacted:
- South Carolina Department of Education
  - Individual School Districts

## Public Health

### Contagious and Infectious Diseases, continued

#### Law Recommendation #4.2

- (a) Law:  
S.C. Code § 44-29-195, "Contagious and Infectious Disease"
- (b) Summary of Current Statutory Requirement:  
Prohibits children from attending school with head lice and establishes criteria for return. Requires DHEC to provide products for head lice treatment to families with children who receive Medicaid or free or reduced school meals.
- (c) Recommendation and Rationale for Recommendation:  
*Changes due to Insufficient Funding*
- Remove subsection (B) and the subsequent paragraph, requiring the Department to make products for treatment of head lice available to eligible families, and defining the eligibility requirements that would trigger the Department's involvement in a child's treatment for head lice.
    - These provisions are not currently funded. The Department has not dispensed these products, nor received requests for them, in many years.
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis



## Public Health

### Care of the Newly Born

#### **Law Recommendation #1.21**

- (a) Law:  
S.C. Code § 44-37-30, “Care of the Newly Born”
- (b) Summary of Current Statutory Requirement:  
This section provides for the neonatal testing of children for metabolic errors and hemoglobinopathies.
- (c) Recommendation and rationale for recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- DHEC recommends removing the requirement for indefinite retention of blood specimens, which is consistent with a long-standing proviso (2016-17 Budget Proviso 34.37). There is no clinical or scientific reason for DHEC to maintain long-term possession of these blood samples, nor does DHEC have the ability or capacity to store them in freezers indefinitely.
- (d) Other Agencies Impacted:
- Medical facilities and practitioners who perform testing

## Public Health

### Reports and Records of Tuberculosis Cases

#### **Law Recommendation #1.23**

- (a) Law:  
S.C. Code § 44-31-10, "Reports and Records of Tuberculosis Cases"
- (b) Summary of current statutory requirement:  
This section requires certain medical providers and entities to report cases of tuberculosis to DHEC.
- (c) Recommendation and Rationale for Recommendation:  
*Recommended change for consistency with current science, terminology, and/or practices.*
- The language should be updated to encompass current medical recommendations and reporting practices for providers in the state to notify the Department of cases of tuberculosis, including deleting any reference to a "chief administrative officer" as those individuals are no longer involved in disease reporting.
- (d) Other Agencies Impacted:
- None

#### **Law Recommendation #2.26**

- (a) Law:  
S.C. Code § 44-31-105, "The Emergency Detention and Commitment of Tuberculosis Patients"
- (b) Summary of current statutory requirement:  
This section provides DHEC the authority to issue and enforce emergency orders for the control and treatment of tuberculosis.
- (c) Recommendation and Rationale for Recommendation:  
*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*
- Amend the statute to clarify the county in which a petition must be filed in probate court for an individual being detained. The Department recommends that the petition be filed in the county where the individual is being detained.
- (d) Other Agencies Impacted:
- Probate Courts

## Public Health

### Emergency Health Powers Act

#### Law Recommendation #2.22

(a) Law:

S.C. Code Section 44-4-130(R), "Emergency Health Powers Act," Definitions.

(b) Summary of current statutory requirement:

The definition of a "public health emergency" is linked directly to the definition of a "qualifying health condition," which triggers the Governor's authority to declare a "public health emergency." The definition of a "qualifying health condition" should be amended to include "a nuclear attack or accident," "a chemical attack or release," "a man-made disaster widely affecting public health or the environment," and "an act of terrorism or bioterrorism affecting public health or the environment."

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify the "Emergency Health Powers Act," S.C. Code 44-4-100, et. seq. to add the following conditions in the definition of a "Qualifying health condition":
  - A man-made disaster widely affecting public health or the environment;
  - A nuclear attack or accident;
  - A chemical attack or release; and
  - An act of terrorism or bioterrorism affecting public health or the environment.
  
- This Act is extremely important to the State's ability to respond to public health emergencies and the Governor's authority to declare a public health emergency. These additions are necessary to ensure the State can respond fully to these events.

(d) Other Agencies Impacted:

- South Carolina Emergency Management Division

## Public Health

### South Carolina Health Care Professional Compliance Act

#### Law Recommendation #2.23

(a) Law:

S.C. Code §§ 44-30-10 through -90. "South Carolina Health Care Professional Compliance Act"

(b) Summary of Current Statutory Requirement:

The Health Care Professional Compliance Act provides for the creation of expert review panels whereby a health care worker who is either HIV or HBV positive can present his or her situation to the advisory panel and receive recommendations for participating in certain invasive procedures in the health care setting.

(c) Recommendation and Rationale for Recommendation:

*Changes to Improve Efficiency (Operational, Regulatory, Judicial, and/or Fee Structure)*

- Modify the following sections:
  - § 44-30-20(2): DHEC recommends that "CDC Recommendations" be redefined to include current CDC guidelines or equivalent guidelines from national expert bodies developed by the Department and approved by the CDC as well as any appropriate supplements or revisions thereto;
  - § 44-30-30(C): DHEC recommends that the section be revised to provide that the Department shall appoint at least one or approve an existing expert review panel if needed, consistent with the CDC recommendations in composition and function, whose recommendations must be considered requirements, and must be binding upon the affected health care professionals; and
  - § 44-30-80: DHEC recommends that the section be enforced to require educational institutions to provide current training in infection control practices for health care professionals participating in the institutions' education programs.

(d) Other Agencies Impacted:

- South Carolina Department of Labor, Licensing and Regulation – Professional licensing boards may be involved in oversight of HBV-infected professionals who perform certain exposure-prone procedures.

(e) Notes:

- Portions are identified in the agency's gap analysis

## Public Health

### Medical and Dental Loan Fund

#### Law Recommendation #4.1

- (a) Law:  
S.C. Code Sections 59-111-510 through -580 - South Carolina Medical and Dental Loan Fund
- (b) Summary of current statutory requirement:  
The Department is to administer a fund to be known as “The South Carolina Medical and Dental Loan Fund” with sums as may be appropriated by the General Assembly, to assist loan recipients with the costs of medical and dental education in return for commitments to practice in underserved areas of the State.
- (c) Recommendation and Rationale for Recommendation:  
*Changes due to Insufficient Funding*
- Repeal the statute. The General Assembly has not appropriated funds for many years.
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency’s gap analysis

## Public Health

### Osteoporosis Prevention and Treatment Education Act

#### Law Recommendation #4.3

- (a) Law:  
S.C. Code §§ 44-125-10 through -40, "Osteoporosis Prevention and Treatment Education Act"
- (b) Summary of Current Requirements:  
Osteoporosis Prevention and Treatment Education Act to establish an Osteoporosis Education Fund to promote public awareness, prevention, and treatment of osteoporosis.
- (c) Recommendation and Rationale for Recommendation:  
*Changes due to Insufficient Funding*
- Repeal these sections.
    - The Osteoporosis Education Fund has not been established nor have funds been allocated to the Department to carry out the stated purpose of promoting public awareness, prevention, and treatment of osteoporosis.
- (d) Other Agencies Impacted:
- None
- (e) Notes:
- Identified in the agency's gap analysis

## Public Health

### Infants and Toddlers with Disabilities Act

#### Law Recommendation #5.2

(a) Law:

S.C. Code §§ 44-7-2510 through -2610, "Infants and Toddlers with Disabilities Act"

(b) Summary of Current Statutory Requirement:

These sections comprise Article 21 of Title 44, the "Infants and Toddlers with Disabilities Act." Pursuant to a federal mandate codified in 20 USCA §§ 1451 et seq., the Act requires the provision of early-intervention services to infants and toddlers with disabilities.

(c) Recommendation and Rationale for Recommendation:

*Miscellaneous Changes*

- The Act provides the Governor with discretion to designate the lead agency for this program. Because the lead agency is subject to change, DHEC recommends moving the statutory sections within the Act from Title 44 to Title 63, also known as the "South Carolina Children's Code," which is a neutral and intuitive place to house the Act, regardless of which agency is designated the lead agency.

(d) Other Agencies Impacted:

- Leaving the Act intact, but moving it to another location, should not impact any other agency.