

## Session 118 - (2009-2010)

### **S\*0337 (Rat #0298, Act #0278 of 2010) General Bill, By Cleary, Peeler and Elliott**

AN ACT TO AMEND SECTION 44-1-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPEALS FROM DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL DECISIONS GIVING RISE TO CONTESTED CASES, SO AS TO REVISE AND CLARIFY PROCEDURES FOR REVIEW OF CERTIFICATE OF NEED DECISIONS AND CONTESTED CASE HEARINGS, INCLUDING NOTICE REQUIREMENTS, FILING FEES FOR REQUESTING A FINAL REVIEW, AND TIMES WITHIN WHICH A CONTESTED CASE HEARING MUST BE REQUESTED; TO AMEND SECTION 44-7-130, RELATING TO THE DEFINITION OF TERMS USED IN THE STATE CERTIFICATE OF NEED AND HEALTH FACILITY LICENSURE ACT, SO AS TO REVISE THE DEFINITIONS OF "HEALTH CARE FACILITY", "PERSON", "RESIDENTIAL TREATMENT FACILITY FOR CHILDREN AND ADOLESCENTS", AND "LIKE EQUIPMENT WITH SIMILAR CAPABILITIES", TO DELETE THE DEFINITION OF "CHIROPRACTIC INPATIENT FACILITY", AND TO DEFINE "BIRTHING CENTER" AND "FREESTANDING EMERGENCY SERVICE"; TO AMEND SECTION 44-7-150, RELATING TO DUTIES OF THE DEPARTMENT IN CARRYING OUT THE PURPOSES OF THE CERTIFICATE OF NEED PROGRAM, SO AS TO FURTHER SPECIFY THE ESTABLISHMENT AND COLLECTION OF FEES FOR THIS PROGRAM IN REGULATION, INCLUDING THE DEPARTMENT RETAINING FEES IN EXCESS OF SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR THE ADMINISTRATIVE COSTS OF THIS PROGRAM; TO AMEND SECTION 44-7-160, RELATING TO ACTIVITIES AND SERVICES REQUIRED TO OBTAIN A CERTIFICATE OF NEED, SO AS TO DELETE OBSOLETE PROVISIONS AND TO DELETE PROVISIONS RELATING TO ACQUISITION OR CHANGE IN OWNERSHIP OF A HEALTH CARE FACILITY, ACQUISITION OF A HEALTH CARE FACILITY BEFORE AN AGREEMENT TO ACQUIRE THE FACILITY IS REACHED, AND EXPENDITURES FOR PREPARING TO DEVELOP A PROJECT REQUIRING A CERTIFICATE OF NEED; TO AMEND SECTION 44-7-170, AS AMENDED, RELATING TO EXEMPTIONS FROM CERTIFICATE OF NEED, SO AS TO FURTHER SPECIFY EXEMPTION REQUIREMENTS FOR RESEARCH PURPOSES, TO PROVIDE THAT REPLACEMENT OF LIKE EQUIPMENT IS EXEMPT IF CERTAIN CONDITIONS ARE MET AND TO DELETE FROM EXEMPTION PURCHASES OF REAL ESTATE FOR DEVELOPMENT REQUIRING A CERTIFICATE OF NEED; TO AMEND SECTION 44-7-180, RELATING TO THE COMPOSITION OF THE HEALTH PLANNING COMMITTEE, SO AS TO INCLUDE AN ADMINISTRATOR OF A FOR-PROFIT NURSING HOME AMONG GROUPS THAT MUST BE REPRESENTED ON THE COMMITTEE AND TO PROVIDE FOR A CHAIRMAN AND VICE CHAIRMAN OF THE COMMITTEE; TO AMEND SECTION 44-7-190, RELATING TO PROJECT REVIEW CRITERIA USED IN THE CERTIFICATE OF NEED PROCESS, SO AS TO PRESCRIBE THE USE OF WEIGHTED CRITERIA; TO AMEND SECTION 44-7-200, RELATING TO THE APPLICATION PROCESS FOR A CERTIFICATE OF NEED, SO AS TO DELETE FEE PROVISIONS THAT ARE OTHERWISE PROVIDED FOR IN THIS ACT, TO CLARIFY CERTIFICATE OF NEED APPLICATION PROCEDURES AND COMMUNICATIONS, TO PROHIBIT STATE AND FEDERAL OFFICIALS FROM COMMUNICATING WITH THE DEPARTMENT ONCE A CERTIFICATE OF NEED APPLICATION HAS BEEN FILED AND TO PROVIDE AN EXCEPTION; TO AMEND SECTION 44-7-210, RELATING TO CERTIFICATE OF NEED REVIEW PROCEDURES, SO AS TO FURTHER SPECIFY THESE PROCEDURES, INCLUDING INITIATION OF THE REVIEW PERIOD, DURATION OF THE REVIEW PROCESS, AND TIME FRAMES FOR ISSUING DECISIONS AND RENDERING FINAL AGENCY DECISIONS, AND TO FURTHER SPECIFY REVIEW AND CONTESTED CASE PROCEDURES FOR CERTIFICATE OF NEED CASES, INCLUDING LIMITATIONS ON THE NUMBER OF WITNESSES THAT MAY BE CALLED AND THE NUMBER OF INTERROGATORIES AND REQUESTS FOR ADMISSIONS THAT MAY BE SERVED AND WHO MAY BE DEPOSED; TO AMEND SECTION 44-7-220, RELATING TO JUDICIAL REVIEW OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BOARD DECISIONS, SO AS TO CORRECT THAT CERTIFICATE OF NEED APPEALS ARE HEARD BY THE ADMINISTRATIVE LAW COURT RATHER THAN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BOARD AND TO FURTHER PROVIDE FOR JUDICIAL REVIEW OF ADMINISTRATIVE LAW COURT CERTIFICATE OF NEED DECISIONS; TO AMEND SECTION 44-7-230, RELATING TO VARIOUS REQUIREMENTS FOR AND LIMITATIONS OF A CERTIFICATE OF NEED, SO AS TO PROVIDE THAT A CERTIFICATE OF NEED IS VALID FOR ONE YEAR FROM ISSUANCE, RATHER THAN FOR SIX MONTHS, AND TO PROVIDE THAT EXTENSIONS MAY BE GRANTED FOR NINE MONTHS, RATHER THAN FOR SIX MONTHS; TO AMEND SECTION 44-7-260, AS AMENDED, RELATING TO CERTAIN FACILITIES AND SERVICES REQUIRED TO BE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO DELETE CHIROPRACTIC INPATIENT FACILITIES AND TO ADD BIRTHING CENTERS; TO AMEND SECTION 44-7-270, RELATING TO ANNUAL HEALTH FACILITY LICENSURE PROCEDURES, SO AS TO AUTHORIZE THE DEPARTMENT TO PRESCRIBE IN REGULATION PERIODS FOR LICENSURE AND RENEWAL AND TO AUTHORIZE IMPOSING A FEE FOR INSPECTIONS; TO AMEND SECTION 44-7-280, RELATING TO THE ISSUANCE OF HEALTH FACILITY LICENSES, SO AS TO AUTHORIZE THE DEPARTMENT TO PROVIDE IN REGULATION FOR PERIODS OF LICENSURE; TO AMEND

SECTION 44-7-315, AS AMENDED, RELATING TO THE DISCLOSURE OF INFORMATION OBTAINED BY THE DEPARTMENT THROUGH HEALTH LICENSING, SO AS TO INCLUDE LICENSING OF ACTIVITIES AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 44-7-320, RELATING TO GROUNDS FOR THE DENIAL, SUSPENSION, OR REVOCATION OF LICENSES AND THE IMPOSITION OF FINES, SO AS TO ALLOW BOTH SANCTIONS AGAINST A LICENSE AND THE IMPOSITION OF A FINE; BY ADDING SECTION 44-7-225 SO AS TO PROVIDE THAT THE ADMINISTRATIVE LAW COURT SHALL CONSIDER THE SOUTH CAROLINA HEALTH PLAN IN EFFECT WHEN A CERTIFICATE OF NEED APPLICATION WAS FILED AND MAY CONSIDER THE PLAN IN EFFECT WHEN MAKING A DECISION ON THE CERTIFICATE OF NEED; BY ADDING SECTION 44-7-285 SO AS TO REQUIRE HEALTH CARE FACILITIES TO NOTIFY THE DEPARTMENT OF A CHANGE IN FACILITY OWNERSHIP OR CONTROLLING INTEREST; BY ADDING SECTION 44-7-295 SO AS TO AUTHORIZE THE DEPARTMENT TO ENTER ALL LICENSED AND UNLICENSED HEALTH CARE FACILITIES TO INSPECT FOR COMPLIANCE WITH HEALTH LICENSURE AND CERTIFICATE OF NEED REQUIREMENTS; TO AMEND SECTION 1-23-600, AS AMENDED, RELATING TO ADMINISTRATIVE LAW COURT HEARINGS AND PROCEEDINGS, SO AS TO PROVIDE THAT IF AN ATTORNEY IS CALLED TO APPEAR IN ANOTHER COURT IN THIS STATE, THE ACTION IN THE ADMINISTRATIVE LAW COURT HAS PRIORITY AS APPROPRIATE; AND TO REPEAL SECTION 44-7-185 RELATING TO A TASK FORCE UNDER THE HEALTH CARE PLANNING AND OVERSIGHT COMMITTEE, TO STUDY HEART SURGERY AND THERAPEUTIC HEART CATHETERIZATIONS. - ratified title

**01/28/09 Senate Introduced and read first time SJ-8**  
**01/28/09 Senate Referred to Committee on Medical Affairs SJ-8**  
**03/05/09 Senate Committee report: Favorable with amendment Medical Affairs SJ-5**  
**03/06/09 Scrivener's error corrected**  
**03/24/09 Senate Special order, set for March 24, 2009 SJ-37**  
**03/25/09 Senate Committee Amendment Adopted SJ-93**  
**03/25/09 Senate Amended SJ-93**  
**03/25/09 Senate Read second time SJ-93**  
**03/26/09 Scrivener's error corrected**  
**03/26/09 Senate Read third time and sent to House SJ-27**  
**03/31/09 House Introduced and read first time HJ-24**  
**03/31/09 House Referred to Committee on Judiciary HJ-27**  
**04/01/09 House Recalled from Committee on Judiciary HJ-74**  
**04/01/09 House Referred to Committee on Medical, Military, Public and Municipal Affairs HJ-74**  
**03/25/10 House Committee report: Favorable with amendment Medical, Military, Public and Municipal Affairs HJ-14**  
**03/30/10 Scrivener's error corrected**  
**04/20/10 House Debate adjourned HJ-51**  
**04/20/10 House Requests for debate-Rep(s). Hiott, Loftis, Littlejohn Parker, Forrester, Kirsh, Millwood, GR Smith, JR Smith, Crawford, Toole, Frye, Huggins, Bedingfield, Hamilton, VS Moss, and AD Young HJ-94**  
**04/27/10 House Debate adjourned until Tuesday, May 4, 2010 HJ-123**  
**05/12/10 House Amended HJ-44**  
**05/12/10 House Read second time HJ-44**  
**05/12/10 House Roll call Yeas-96 Nays-0 HJ-44**  
**05/25/10 House Read third time and returned to Senate with amendments HJ-118**  
**05/27/10 Senate House amendment amended SJ-68**  
**05/27/10 Senate Returned to House with amendments SJ-68**  
**06/01/10 House Non-concurrence in Senate amendment HJ-21**  
**06/01/10 House Roll call Yeas-0 Nays-93 HJ-21**  
**06/01/10 Scrivener's error corrected**  
**06/01/10 Senate Senate insists upon amendment and conference committee appointed Peeler, Hutto, Cleary**  
**06/01/10 House Conference committee appointed Reps. Harvin, Harrison, and Ballentine HJ-108**  
**06/01/10 Senate Conference report received and adopted SJ-65**  
**06/02/10 House Conference report received and adopted HJ-28**  
**06/02/10 House Roll call Yeas-97 Nays-0 HJ-28**  
**06/02/10 House Ordered enrolled for ratification HJ-53**

<b>06/07/10</b>		<b>Ratified R 298</b>
<b>06/11/10</b>		<b>Vetoed by Governor</b>
<b>06/16/10</b>	<b>Senate</b>	<b>Veto overridden by originating body Yeas-29 Nays-9 SJ-17</b>
<b>06/16/10</b>	<b>House</b>	<b>Veto overridden Yeas-96 Nays-13 HJ-422</b>
<b>07/13/10</b>		<b>Effective date See Act for Effective Date</b>
<b>07/14/10</b>		<b>Act No. 278</b>