

Legislative News

South Carolina Department of Mental Health

2005-2006

This publication is prepared by the South Carolina Department of Mental Health's Office of Public and Legislative Affairs.

March 14, 2005

The Legislative News is published bi-weekly to keep you informed of bills that are introduced in the General Assembly which may affect DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR by visiting www.scstatehouse.net.

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills/budgets or other legislative issues, you can call the Office of Public and Legislative Affairs at 898-8585, or e-mail us at acm83@scdmh.org.

Budget Update

The House Ways and Means Committee adopted its version of the FY2005-2006 Appropriations Bill on Thursday, Feb. 24. The Committee adopted \$1,444,173 for crisis stabilization; \$5,800,873 for operating expenses; \$1,000,000 for the Campbell Veterans Nursing Home; and \$3,000,000 in nonrecurring funds for the Colleton County Veterans Home. The bill also recommends cuts to the Department's recurring state funds totaling \$2,233,008. The bill also requires the Department to pay \$3,197,772 to ISCEDC, a program for emotionally disturbed children. The bill includes a 4 percent pay raise for state employees.

The House of Representatives is expected to begin its debate of the FY2005-2006 budget beginning Monday, March 14, at 11 a.m. and is expected to conclude Thursday, March 17.

DMH presented its budget request to the Senate Finance Committee on Thursday, Feb. 24. After the Senate Finance Committee adopts a bill, the debate moves to the full Senate and from there on to conference committee (a committee to

resolve differences between the House and Senate versions of a bill). Finally, the Governor gets an opportunity to veto line items, and the General Assembly may choose to override any veto by a 2/3 vote of both chambers.

Note: Changes were made last week to the following bills: H3412, S49, S80, S174, S305

House Bills

H 3009 South Carolina Restructuring Act of 2005, by Wilkins, Harrell, W.D. Smith, Harrison, G. R. Smith, Davenport, Barfield, Young, Kirsh, Leach, E. H. Pitts, Battle, Viers, Clyburn, Littlejohn, Taylor, Brady, Hinson, Clark, Walker, Simrill, Toole, Chalk, Duncan and Bailey
A bill to enact the "South Carolina Restructuring Act of 2005." A provision of this bill makes the Lieutenant Governor's Office, Division on Aging, not the SCDMH, responsible for oversight of the Veterans' Administration Nursing Homes. This bill also includes provisions relating to the agencies of the executive branch of state government.

[view full text](#)

Referred to Committee on Ways and Means

H 3013 Medical Malpractice and Patient Safety Reform Act, by W. D. Smith, Wilkins, Harrison, G. R. Smith, Vaughn, Davenport, Sandifer, Barfield, Young, Owens, Kirsh, Leach, Battle, Viers, Littlejohn, Taylor, Rice, Hinson, Clark, Walker, Bales, Mahaffey, Toole and Brady
A bill to enact the "medical malpractice and patient safety reform act," to establish the medical claims review office within the Department of Insurance to review claims for damages allegedly resulting from medical malpractice and to establish the powers, duties, and procedures of this office.

[view full text](#)

Referred to Committee on Judiciary

H 3022 Establishing the South Carolina Sunset Commission, by Rice, Taylor, Vaughn, Harrison,

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Davenport, Young, Owens, Leach, Clyburn, Littlejohn, Mahaffey, Duncan and M.A. Pitts

Similar ([s 0099](#), [h 3150](#))

A bill to amend title 1, code of laws of South Carolina, 1976, relating to the administration of government to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

[view full text](#)

Referred to Committee on Ways and Means

H 3033 Criminal Sexual Conduct Penalties, by Huggins, Vaughn, Leach, E. H. Pitts, Viers, Clark, Simrill, Haley and Toole

A bill to amend section 16-3-652, code of laws of South Carolina, 1976, relating to criminal sexual conduct and the penalties imposed.

[view full text](#)

Referred to Committee on Judiciary

H 3035 TERI Program and Unused Annual Leave Lump Sum Payment, by Kirsh, Littlejohn, Hinson, Walker and Mahaffey

A bill to amend section 8-11-620, as amended, code of laws of South Carolina, 1976, that a TERI participant is not eligible to receive a lump-sum payment for unused annual leave earned while participating in the TERI program.

[view full text](#)

Referred to Committee on Ways and Means

H 3036 Terminating the TERI Program to New Participants, by Kirsh, Witherspoon, Mahaffey, M. A. Pitts and Duncan

Similar ([s 0059](#))

A bill to close the teacher and employee retention incentive (TERI) program to new participants effective July 1, 2005, and to repeal effective July 1, 2010, article 17, chapter 1, title 9, code of laws of South Carolina, 1976, relating to the establishment of the TERI program.

[view full text](#)

Referred to Committee on Ways and Means

H 3052 Sex Offender Registry, by Harrison, Vaughn, Leach, E. H. Pitts, Hinson, Mahaffey and Toole

A bill to amend section 23-3-430, as amended, code of laws of South Carolina, 1976, relating to persons who must be referred to as sex offenders, to provide that a sex offender whose name is contained on the sex offender registry, and who has been granted a pardon, must remain on the registry and must register annually.

[view full text](#)

Referred to Committee on Judiciary

H 3059 Training Program for Patient Assistants in Nursing Homes, by Kirsh

A bill to amend the code of laws of South Carolina, 1976, by adding section 44-7-67 to authorize a patient assistant to provide feeding and hydration services to patients in nursing

homes under the onsite supervision of a licensed healthcare professional if the assistant has successfully completed a training program and competency evaluation conducted by the nursing home.

[view full text](#)

Referred to Committee on Medical, Military, Public and Municipal Affairs

H 3089 Definition of Governmental Health Care Facility, by White and Sandifer

A bill to amend section 15-78-30, as amended, code of laws of South Carolina, 1976, relating to definitions of terms in the tort claims act, to include in the definition of "governmental health care facility" a nursing home that provides services through Medicaid, Medicare, or by contract with the veterans administration and those services constitute at least twenty-five percent of the gross revenue.

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Referred to Committee on Medical, Military, Public and Municipal Affairs

H 3090, Civil Lawsuit Protection for Those Who Prescribe FDA Approved Drugs, by White, Davenport and Sandifer

A bill to amend the code of laws of South Carolina, 1976, by adding section 15-5-47 to provide civil lawsuit protection for physicians, optometrists, nurse practitioners, and physician assistants who prescribe FDA approved drugs.

[view full text](#)

Referred to Committee on Judiciary

H 3099 To Include Magistrate's Court in Determination of Capacity to Stand Trial, by Kirsh

A bill to amend section 44-23-410, as amended, code of laws of South Carolina, 1976, relating to the determination of capacity to stand trial of persons charged with a crime or civil contempt, so as to provide that this provision applies to magistrates' court.

[view full text](#)

Referred to Committee on Judiciary

H 3121 Review of Medicaid Reimbursement Rates by Department of Health and Human Services, by J. Brown

A bill to amend the code of laws of South Carolina, 1976, by adding section 44-6-110 to require the Department of Health and Human Services to review Medicaid reimbursement rates annually and adjust these rates to equal at least ninety percent of Medicare reimbursement rates for like services.

[view full text](#)

Referred to Committee on Ways and Means

H 3135 State of Emergency Absences by State Employees, by Cobb-Hunter

A bill to amend the code of laws of South Carolina, 1976, by adding section 8-11-665 to provide that an absence from work by a state employee solely due to a workplace closing or staffing reduction ordered by the Governor in the declaration

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of a state of emergency is not considered an absence for purposes of annual or other categories of leave allowed state employees.

[view full text](#)

Referred to Committee on Ways and Means

H 3150 South Carolina Sunset Commission, by Rice, Clyburn, Littlejohn, E. H. Pitts, Simrill, Loftis, Chellis, Martin, Herbkersman, J. R. Smith, Taylor, G. R. Smith, Vaughn, Harrison, Davenport, Young, Owens, Kirsh, Leach, Brady, Walker, Haley, Toole, Duncan and Mahaffey

similar (s 0099, h 3022)

A bill to amend title 1, code of laws of South Carolina, 1976, relating to the administration of government, by adding chapter 24 so as to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

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Senate Judiciary

H 3194 Increase Cigarette Tax, by Rice and E. H. Pitts

A bill to amend the code of laws of South Carolina, 1976, by adding section 12-21-625 so as to impose an additional license tax on each cigarette subject to the license tax on cigarettes in an amount equal to 1.5 cents on each cigarette, to establish the health care and prevention fund to receive the revenue of this tax and provide for the use of this fund for public health purposes, designating certain agencies and programs as recipients, including the Medicaid expansion fund to receive funding to replace hospital tax, and to provide for the collection and enforcement of this additional tax.

[view full text](#)

Referred to Committee on Ways and Means

H 3214 Establishing the Joint Legislative Oversight Committee on Medicaid and Health Care, by Davenport, Rice, Hinson, G. R. Smith and Toole

A bill to amend the code of laws of South Carolina, 1976, by adding chapter 64, title 2 so as to establish the joint legislative oversight Committee on Medicaid and Health Care and to review the state Medicaid plan.

[view full text](#)

Referred to Committee on Ways and Means

H 3218 Establishing the State Office of Medicaid and Health Care Audits, by Davenport, Rice and G. R. Smith

A bill to amend the code of laws of South Carolina, 1976, by adding article 8, chapter 6, title 44 to establish the state Office of Medicaid and Health Care audits for the Department of Health and Human Services.

[view full text](#)

Referred to Committee on Ways and Means

H 3219 Establishing the Department of Information Technology for Health and Human Services Agencies,

including SCDMH, by Davenport and Rice

A bill to amend the code of law of South Carolina, 1976, by adding article 5, chapter 30, title 1 to establish the Department of Information Technology for Health and Human Services.

[view full text](#)

Referred to Committee on Ways and Means

H 3287 Enacting the Medicaid Accountability and Improvement Act, by Wilkins, Kirsh, Edge, Rice, Davenport, Barfield, Taylor, Young and Clyburn

A bill to enact the "Medicaid accountability and improvement act" to add section 44-6-110 so as to specify Medicaid eligibility determination criteria that the department must develop and to further provide certain procedures for administration of the Medicaid program.

[view full text](#)

Referred to Committee on Ways and Means

H 3412 Emergency Admissions to Mental Health Facilities, by Harrison, Bales, Cotty, Brady, Whipper, Vaughn, Branham, Toole and Taylor.

A bill to amend the code of laws of South Carolina, 1976, relating to emergency admissions to mental health facilities, to provide that if a patient does not require involuntary treatment, the court, upon proper notice, shall dismiss the petition for commitment; to amend section 44-17-430, relating to taking persons who are believed to be a danger to themselves or others into custody, so as to provide that an order authorizing such custody is valid only for seventy-two hours; to add section 44-13-05 so as to establish procedures for a law enforcement officer to take a person who the officer believes to be mentally ill into protective custody and to provide immunity from liability; to amend section 44-17-580, relating to procedures for judicial commitment to a mental health facility, so as to clarify these procedures and to authorize the court to order out-patient treatment following in-patient commitment; to amend section 44-24-150, relating to the authority of the family court to commit certain children for psychiatric evaluation, so as to provide that the court may order that such an evaluation be conducted by a community mental health center and that if an in-patient evaluation is recommended, the court may commit the child to a designated hospital for up to fifteen years for such an evaluation; and to amend section 44-52-50, relating to procedures for emergency admissions for alcohol and drug treatment, so as to clarify that if a court issues an order to take a person in need of such treatment into protective custody, the order is valid only for seventy-two hours.

[view full text](#)

Read third time Medical, Military, Public and Municipal Affairs, passed the House and sent to Senate Medical Affairs. The bill was amended to exclude DUI cases and include crisis stabilization facilities.

H 3642 by Lucas, Cobb-Hunter, Leach, Barfield, Cato, G.M. Smith, Chalk, Toole, Allen, Bales, Brady, Clemmons, Dantzer, Delleney, Hamilton, Harrell, Herbkersman, J.

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Hines, M. Hines, Hosey, Martin, McGee, J.H. Neal, J.M. Neal, Phillips, Rutherford, Sandifer, Sinclair, Skelton, D.C. Smith, F.N. Smith, G.R. Smith, J.R. Smith, Taylor, Thompson and Witherspoon

Similar ([§ 0049](#))

A bill to amend the code of laws of South Carolina, by adding section 38-71-290 so as to require health insurance plans to provide coverage for treatment of mental illness or alcohol or substance abuse, to allow a plan that does not provide for management of care or the same degree of management of care for all health conditions to provide coverage for such treatment through a managed care organization, to establish treatment conditions to qualify for coverage, and to require the Department of Insurance to report to the General Assembly on the fiscal impact.

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Referred to committee on Labor, Commerce and Industry

[view full text](#)

Referred to Committee on Judiciary

S 49 Health Insurance Plans to Provide Coverage for Treatment of Mental Illness or Alcohol or Substance Abuse, by Hayes, Elliott, Hutto, Leventis, Rankin, Patterson, Land, Short, Richardson, Lourie, Courson and McConnell

A bill to amend the code of laws of South Carolina, 1976, by adding section 38-71-290 to require health insurance plans to provide coverage for treatment of mental illness or alcohol or substance abuse. **The wording of this bill has been amended to exclude alcohol and drug coverage and to include nine specific mental illnesses.**

[view full text](#)

Referred to Committee on Banking and Insurance. Read 2nd time. Pending on the Senate Calendar.

Senate Bills

S 14 Punishment for Sexual Contact with Patients , by McConnell, Moore, Campsen, Bryant, Elliott, Fair and Grooms

A bill to amend the code of laws of South Carolina, 1976, to punish psychotherapists, alcohol and drug abuse counselors, and other confidants who have sexual contact with a patient.

[view full text](#)

Referred to Committee on Judiciary

S 15 Victim Notification to DMH and DDSN, by McConnell, Elliott, Ritchie, Fair, Ford and Leventis

A bill to amend the code of laws of South Carolina, 1976, relating to victim notification, so as to require the victim to provide his name and other pertinent information to the Department of Mental Health and the Department of Disabilities and Special Needs for notification purposes.

Impact on DMH: DMH anticipates a cost to the General Fund of the state with the passage of the proposed legislation. It is expected that the extra duties involved in notifying victims would create a full workload for at least two administrative coordinators at a minimum salary of \$26,378 per coordinator. Fringe benefits for each coordinator are estimated at \$9,153. Total cost for two additional coordinators is estimated at \$71,062. It is unlikely that there would be any significant increase in other operating expenses based on the work generated.

[view full text](#)

Read third time and sent to House Judiciary

S 47 Criminal Sexual Conduct Penalties, by Cromer, Elliott, Fair and Ford

A bill to amend section 16-3-652, code of laws of South Carolina, 1976, relating to criminal sexual conduct in the first degree, to provide that a conviction of criminal sexual conduct in the first degree carries a minimum term of imprisonment of ten years.

S 59 Termination of TERI Plan to New Participants, by Ryberg, Thomas, Gregory, Fair, Mescher, Richardson, Ritchie and Bryant

Similar ([h 3036](#))

A bill to close the Teacher and Employee Retention Incentive (TERI) program to new participants effective July 1, 2005.

[view full text](#)

Referred to Committee on Finance

S 80 Restructuring Bill of 2005, by McConnell, Moore, Campsen, Ryberg, Verdin, Alexander, Gregory, Grooms and Richardson

A bill to amend 2-13-240, code of laws of South Carolina, 1976, to provide that the power to organize and reorganize a department into divisions lies with the General Assembly; to establish the Department of Behavioral Health Services and to establish within this department the divisions of Alcohol and Other Drug Abuse Services, Continuum of Care, and Mental Health by transferring to the Department of Behavioral Health Services the operations of the Department of Alcohol and Other Drug Abuse Services, the operations of the Continuum of Care for Emotionally Disturbed Children from the Governor's office, and the operations of the Department of Mental Health.

[view full text](#)

Referred to Committee on Judiciary. Majority favorable with amendment, minority unfavorable.

S 85 Central Registry for Child Abuse and Neglect, by McConnell, Moore, Elliott, Alexander, Fair, Richardson, Ford and Campsen

A bill to amend section 20-7-650, code of laws of South Carolina, 1976, relating to the central registry for child abuse and neglect to provide that a court must order a person's name to be entered in the central registry if there is a finding by a preponderance of evidence that the person abused or neglected a child.

[view full text](#)

Referred to Committee on Judiciary

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S 93 Stalking and Harassment, by McConnell, Moore, Knotts, Fair and Richardson

A bill to amend article 17, chapter 3 of title 16, code of laws of South Carolina, 1976, relating to stalking and harassment, to redefine stalking and harassment; to clarify penalties for stalking and harassment; to require that a mental evaluation must be made before bail is set on a stalking or harassment.

[view full text](#)

Referred to Committee on Judiciary

S 99 Establishing the South Carolina Sunset Commission and Sunset Review Division of the Legislative Audit Council, by Richardson, Knotts and Gregory Similar (h 3022, h 3150)

A bill to amend title 1, code of laws of South Carolina, 1976, relating to the administration of government, by adding chapter 24 to establish the South Carolina Sunset Commission and a Sunset Review Division of the Legislative Audit Council.

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Referred to Committee on Judiciary

S 174 Purchase of Retirement Service Credit for Eligible Employees, by Leventis and Ford

A bill to amend the code of laws of South Carolina, 1976, by adding section 9-1-1520 to require agencies to purchase retirement service credit of up to three years for employees that would have been eligible, under normal circumstances, to retire within three years after being terminated as a result of an agency reduction in force caused by a mandated reduction in the agency budget and to provide that employees terminated as a result of a mandated reduction in the agency budget are eligible for state health and dental insurance and require that the employee and employer share of state health and dental insurance be provided to terminated employees for up to one year, to require that terminated employees returning to service within a two-year period have their benefits calculated as if there had been no break in service, and to permit these employees to purchase back retirement and leave benefits.

[view full text](#)

Referred to Committee on Finance

S 305 Medicaid Modernization Act, by Peeler, J.V. Smith, Short, Alexander, Hayes, Moore, Lourie and Knotts

A bill to amend the code of laws of South Carolina, 1976, to enact the "South Carolina Medicaid Modernization Act" including provisions to add article 8, chapter 6, title 44 so as to provide that the Department of Health and Human Services shall implement effective and efficient Medicaid care management, including administering care management programs for routine care and implementing care management programs for chronic disease care; to provide for effective Medicaid pharmacy benefit management, including the establishment of the Pharmacy and Therapeutics Committee,

which shall recommend classes of drugs that should be included on a preferred drug list and criteria for implementation of a preferred drug list program.

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Committee report: favorable with amendment Medical Affairs. Read second time and unanimous consent for third reading on next legislative day.

S 344 DSS and Education Department and ISCEDC, by J.V. Smith

A bill to amend sections the code of laws of South Carolina, 1976, both relating to the Interagency System for Caring for Emotionally Disturbed Children, so as to specify that the Department of Education and the Department of Juvenile Justice are among the agencies responsible for developing this system, to specify that the goal of the system is to support children who are at risk for placement in an out-of-home treatment setting, and to further clarify the responsibilities of the system; and to amend section 20-7-5730, as amended, relating to the services fund for emotionally disturbed children, so as to clarify the payment method for the Department of Education's share of costs for children in the system.

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Referred to Committee on Judiciary

S 357 General Bill, By Ryberg, Mescher, Bryant, Fair, Verdin, Campsen, Richardson, Ritchie, O'Dell and Gregory

A bill to amend the code of laws of South Carolina, 1976, relating to retirement and early retirement, calculation of retirement benefits, survivors' annuities, death benefits, and service purchase for purposes of the South Carolina retirement system to increase from twenty-eight to thirty years the service credit required for a member of that system to retire at any age without a reduction in benefits and to make the appropriate conforming amendments.

[view full text](#)

Referred to Committee on Finance

S 467 Catawba Community Mental Health Center, Joint Resolution, by Hayes and Peeler

A joint resolution to provide that upon execution of an appropriate contract the South Carolina Department of Mental Health is authorized to transfer a certain sum of money from an account designated for the purchase or construction of a child and adolescent facility at the Catawba Community Mental Health Center to the Friends of the Family Center, a nonprofit organization, for the purpose of raising additional funding to purchase a suitable building to serve as a child and adolescent mental health facility to be named the Catawba Family Center.

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Referred to Committee on Ways and Means

DMH Proposed Technical Changes

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and Amendments

There are a number of DMH proposed technical changes for 2005. These changes merely update language and delete antiquated provisions.

Summary of proposed 2005 amendment to §44-17-900 (Clarifying types of persons covered by release decision immunity)

This proposed amendment would clarify that the civil and criminal immunity currently afforded to “any other person” participating in the decision to release or discharge a patient includes those persons in the community who have authority under the law to detain a patient for a community evaluation, including the authority to release the patient when the evaluation indicates the individual is not in need of emergency hospitalization.

“Patient” is currently defined in another section of the Code [§44-23-10 (3)] as including “any person for whom hospitalization or treatment is sought.” Therefore, the immunity afforded to persons participating in the “release” of a “patient” by current §44-17-900 encompasses law enforcement officers, emergency room and other community physicians, mental health center personnel and other officials in the community whose jobs require them to detain, evaluate or participate in decisions about the possible involuntary hospitalization of a patient.

This proposed change should be of assistance in the Department’s efforts to increase the use of crisis stabilization/diversion programs by making it clear that community physicians and other community officials involved in responding to persons in a behavioral crisis are included in the grant of statutory immunity. By clarifying the scope of the immunity afforded by §44-17-900, it is anticipated that emergency room physicians and other community physicians will be more willing to refer patients to such programs as an alternative to involuntary emergency hospitalization, when such programs are available and appear appropriate for the patient.

Summary of Proposed 2005 Amendment to §44-23-410 through §44-23-430

The proposed amendments would principally modify the time frames specified for several of the stages of completing capacity to stand trial evaluations to reflect time frames which are necessary for completing accurate and reliable reports.

The time frame for outpatient evaluations would be increased from 15 to 60 days in recognition that in addition to the time required for an actual face-to-face evaluation, adequate time is needed prior to the face-to-face evaluation to gather relevant records pertaining to the defendant from law enforcement and prior treatment providers, conduct necessary medical or

psychological testing, as well as to gather past educational records and interview family or acquaintances of the defendant. The time frame for completing and sending the written evaluation report would be increased from 5 to 10 days following the evaluation, owing to both the increased volume of court ordered evaluations and the increased volume of information which is summarized in the written reports. The time frame for initiating civil commitment proceedings for defendants found to lack the capacity to stand trial and to be unlikely to regain such capacity is shortened from 60 days to 14 days, in recognition of the fact that 14 days is adequate and will result in a timelier disposition.

It should also be noted that the Departments of Mental Health and Disabilities and Special Needs have been working closely with the Judicial Department to improve the efficiency of the process for ordering, conducting and reporting the results from capacity to stand trial evaluations of criminal defendants. One goal of this effort is to ensure that all statutory time frames are generally met by the agencies. Therefore it is important that the statutory time frames be amended to permit sufficient time for the agencies to provide the courts with accurate and reliable reports.

Summary of Proposed 2005 Amendment to §44-7-260

The proposed amendment to health licensing law (§44-7-260) would permit DMH Homeshare Enhanced Respite providers to temporarily house up to two (2) persons without requiring health licensure of the home by DHEC. [Current law requires any such residence to seek licensure as a Community Residential Care Facility (CRCF).] DHEC licensing staff has no objections to the proposed amendment.