

July 8, 2020

Mark Elam, Board Chair  
SC Department of Health and Environmental Control  
2600 Bull Street, Columbia, SC 29201  
DHEC Board Service via: BoardClerk@dhec.sc.gov  
Dear Mr. Elam:

We are writing on behalf of the members of the many organizations in the SC Progressive Network who are committed to following your agency's recommended protocols for avoiding and preventing the spread of COVID-19.

Recognizing that the July 9 meeting of the DHEC Board has been rescheduled for August, we require your Board's urgent attention to your agency's statutory responsibilities and powers recognized in the existing State of Emergency declared by Gov. Henry McMaster in his Executive Order 2020-40 on June 11.

Section 6., Enforcement (pg. 17), of the governor's declaration of emergency explicitly orders your agency to "utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act (Title 44, Chapter 4 of the SC Code of Laws) that regulates your agency: **"During a state of public health emergency, DHEC must use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment."**

Further, SECTION 44-1-140 stipulates **"The Department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious and infectious diseases and other danger to the public life and health."**

Accordingly, our members seek an immediate Board order that the Center for Disease Control COVID-related guidelines promoted by the governor and DHEC be made mandatory for all citizens and, expressly, licensed businesses.

SECTION 44-4-530 E. of the State Code empowers DHEC to order that **"An employer may not fire, demote, or otherwise discriminate against an employee complying with an isolation or quarantine order issued pursuant to..." the Enforcement Codes regulating your agency.** Accordingly, your agency must suspend the license of any business that denies employees the right to follow your agency's guidelines. DHEC's order must prohibit businesses from firing workers for COVID-related issues that are governed by the agency's guidelines. DHEC must ensure that employees do not lose their unemployment insurance payments as a result of being fired for following your agency's guidelines.

SECTION 44-4-530 C. evidences your agency's enforcement power to close and quarantine a noncomplying business, stipulating that, **"Failure to comply with these rules and orders constitutes a felony and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both."**

**In short, please place before your Board our urgent request for:**

1. An immediate DHEC Board order requiring the mandatory adherence to the agency's COVID-related guidelines.
2. Clear stipulations that businesses shall not be allowed to operate without following DHEC's COVID-related guidelines.
3. Employees shall not be fired for following DHEC's COVID-related guidelines.
4. Employees shall not lose unemployment insurance payments if they are fired for following DHEC's COVID-related guidelines.

Please let us know if we may offer additional information regarding the threat posed to our members, and others similarly situated, by your agency's failure to "use every available means" to protect the public, as ordered by the governor and given the power to do so by statute.

Regards,

Brett Bursey, Executive Director, SC Progressive Network, Gilda Cobb-Hunter Executive Director, CASA Family Systems  
Brenda Murphy, President, SC NAACP, Charles Brave Jr., President, SC AFL-CIO,  
Kerry Taylor, President, Charleston Alliance for Fair Employment