CHAPTER 21

Department and Advisory Council on Aging

**SECTION 43‑21‑10.** Department on Aging created; Advisory Council on Aging; membership, qualifications; appointment; election of chair; compensation and meetings of council; rules and procedures.

There is created the Department on Aging. The department must be supported by an Advisory Council on Aging consisting of one member from each of the ten planning and service areas and five members from the State at large. The director of the department shall provide statewide notice that nominations may be submitted to the director from which the Governor shall appoint the members of the council. The members must be citizens of the State who have an interest in and a knowledge of the problems of an aging population. In making appointments to the council, consideration must be given to assure that the council is composed of appointees who are diverse in age, who are able and disabled, and who are active leaders in organizations and institutions that represent different concerns of older citizens and their families. The chair must be elected by the members of the advisory council from its members for a term of two years and until a successor is elected. Members of the council shall serve without compensation but shall receive mileage and subsistence authorized by law for members of boards, commissions, and committees. The advisory council shall meet at least once each quarter and special meetings may be called at the discretion of the director of the department. Rules and procedures must be adopted by the council for the governance of its operations and activities.

HISTORY: 1962 Code Section 71‑300.21; 1971 (57) 385; 1986 Act No. 428, Section 1, eff July 1, 1986; 1993 Act No. 181, Section 1016, eff July 1, 1993; 1995 Act No. 30, Section 1, eff April 10, 1995; 2008 Act No. 273, Section 7, eff June 4, 2008; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 6, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 6, in the first sentence, substituted "the Department on Aging" for "in the Office of the Lieutenant Governor, the Division on Aging"; in the second sentence, substituted "The department" for "The division" and deleted "under the Division on Aging" following "planning and service areas"; in the third sentence, substituted "The director of the department" for "The director of the division" and substituted "Governor" for "Lieutenant Governor" following "to the director from which the"; and in the eighth sentence, substituted "department" for "division" at the end.

**SECTION 43‑21‑20.** Terms of members; vacancies; termination of appointments.

The members of the advisory council shall serve for terms of four years and until their successors are appointed and qualify. The terms of the members expire on June thirtieth and all vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member may serve more than two consecutive terms.

The Governor may terminate a member of the council for any reason pursuant to the provisions of Section 1‑3‑240, and the reason for the termination must be communicated to each member of the council.

HISTORY: 1962 Code Section 71‑300.22; 1971 (57) 385; 1986 Act No. 428, Section 2, eff July 1, 1986; 1993 Act No. 181, Section 1017, eff July 1, 1993; 1995 Act No. 30, Section 2; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 7, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 7, in the second undesignated paragraph, substituted "The Governor" for "The Lieutenant Governor".

**SECTION 43‑21‑30.** Reserved.

Editor's Note

2008 Act No. 353, Section 2 Pt 25. C, effective July 1, 2009, designated this section as "Reserved."

Former Section 43‑21‑30, repealed by 1993 Act No. 181, Section 1617(A), was entitled "Meeting; quorum; vice‑chairman and other officers; bylaws", was derived from 1986 Act No. 428, Section 3, and pertained to the Commission on Aging.

**SECTION 43‑21‑40.** Department shall be State agency to implement and administer aging programs of Federal Government; powers and duties generally.

The department shall be the designated state agency to implement and administer all programs of the federal government relating to the aging, requiring acts within the State which are not the specific responsibility of another state agency under the provisions of federal or state law. The department may accept and disburse any funds available or which might become available pursuant to the purposes of this chapter.

The department shall study, investigate, plan, promote, and execute a program to meet the present and future needs of aging citizens of the State, and it shall receive the cooperation of other state departments and agencies in carrying out a coordinated program.

It shall also be the duty of the department to encourage and assist in the development of programs for the aging in the counties and municipalities of this State. It shall consult and cooperate with public and voluntary groups, with county and municipal officers and agencies, and with any federal or state agency or officer for the purpose of promoting cooperation between state and local plans and programs, and between state and interstate plans and programs for the aging.

Without limiting the foregoing, the department is specifically authorized to:

(a) initiate requests for the investigation of potential resources and problems of the aging people of the State, encourage research programs, initiate pilot projects to demonstrate new services, and promote the training of personnel for work in the field of aging;

(b) promote community education in the problems of older people through institutes, publications, radio, television, and the press;

(c) cooperate with, encourage, and assist local groups, both public and voluntary, which are concerned with the problems of the aging;

(d) encourage the cooperation of agencies in dealing with problems of the aging and offer assistance to voluntary groups in the fulfillment of their responsibility for the aging;

(e) serve as a clearinghouse for information in the field of aging;

(f) appoint such committees as it deems necessary for carrying out the purposes of this chapter, such committee members to serve without compensation;

(g) engage in any other activity deemed necessary by the department to promote the health and well‑being of the aging citizens of this State, not inconsistent with the purposes of this chapter or the public policies of the State;

(h) certify homemakers and home health aides pursuant to the Federal Omnibus Budget Reconciliation Act of 1987 and subsequent amendments to that act and through regulations promulgated in accordance with the Administrative Procedures Act establish and collect fees for the administration of this certification program. Fees collected must be placed on deposit with the State Treasurer. Accounting records must be maintained in accordance with the Comptroller General's policies and procedures. Unused fees may be carried forward to the next fiscal year for the same purpose;

(i) award grants and contracts to public and private organizations for the purpose of planning, coordinating, administering, developing, and delivering aging programs and services;

(j) designate area agencies on aging as required by the Older Americans Act;

(k) administer the Senior Citizens Center Permanent Improvement Fund established pursuant to Section 12‑21‑3441 and community services programs in accordance with Section 12‑21‑3590.

HISTORY: 1962 Code Section 71‑300.24; 1971 (57) 385; 1992 Act No. 359, Section 1, eff May 4, 1992; 1993 Act No. 181, Section 1018, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑45.** Area agencies on aging; focal points; duties of focal points.

The Department on Aging shall designate area agencies on aging, and area agencies on aging shall designate focal points. Focal points shall provide leadership on aging issues in their respective communities and shall carry out a comprehensive service system for older adults or shall coordinate with a comprehensive service system in providing services for older adults. The area agencies on aging represent the regional level of the state aging network and the focal points represent the local level of the state aging network.

HISTORY: 1994 Act No. 336, Section 1, eff April 20, 1994; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 8, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 8, in the first sentence, substituted "The Department on Aging shall" for "The Office of the Lieutenant Governor, Division on Aging, shall", and made a nonsubstantive change.

**SECTION 43‑21‑50.** Receipt of grants‑in‑aid, gifts or the like; title to property received.

The department may receive on behalf of the State any grant or grant‑in‑aid from government sources, or any grant, gift, bequest, or devise from any other source. Title to all funds and other property received pursuant to this section shall vest in the State unless otherwise specified by the grantor.

HISTORY: 1962 Code Section 71‑300.25; 1971 (57) 385; 1993 Act No. 181, Section 1019, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑60.** Submission and contents of annual report.

The Department on Aging shall submit an annual report to the Governor and to the General Assembly on or before January first of each year. The report shall deal with the present and future needs of the elderly and with the work of the department during the year.

HISTORY: 1962 Code Section 71‑300.26; 1971 (57) 385; 1986 Act No. 428, Section 4, eff July 1, 1986; 1993 Act No. 181, Section 1020, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 9, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 9, in the first sentence, substituted "The Department on Aging" for "The division" and "Governor" for "Lieutenant Governor", and in the second sentence, substituted "department" for "division".

**SECTION 43‑21‑70.** Employment of director.

The Governor shall appoint with the advice and consent of the Senate a director to be the administrative officer of the Department on Aging who shall serve at the Governor's pleasure and who is subject to removal pursuant to the provisions of Section 1‑3‑240.

HISTORY: 1962 Code Section 71‑300.27; 1971 (57) 385; 1986 Act No. 428, Section 5, eff July 1, 1986; 1993 Act No. 181, Section 1021, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 10, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 10, rewrote the section.

**SECTION 43‑21‑80.** Appointment and compensation of personnel and consultants.

The director shall appoint any other personnel and consultants considered necessary for the efficient performance of the duties prescribed by this chapter and shall fix the compensation therefore in accordance with the Human Resource Management Division of the State Department of Administration and Merit System requirements.

HISTORY: 1962 Code Section 71‑300.28; 1971 (57) 385; 1986 Act No. 428, Section 6, eff July 1, 1986; 1993 Act No. 181, Section 1022, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 43‑21‑100.** Preparation and approval of budget.

The Department on Aging shall prepare the budget for its operation which must be submitted to the Governor and to the General Assembly for approval.

HISTORY: 1962 Code Section 71‑300.29; 1971 (57) 385; 1986 Act No. 428, Section 7, eff July 1, 1986; 1993 Act No. 181, Section 1023, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 11, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 11, substituted "The Department on Aging" for "The division" and "Governor" and "Lieutenant Governor".

**SECTION 43‑21‑110.** Annual appropriation.

The General Assembly shall provide an annual appropriation to carry out the work of the commission.

HISTORY: 1962 Code Section 71‑300.30; 1971 (57) 385; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

**SECTION 43‑21‑120.** Coordinating council.

There is created the Coordinating Council to the Department on Aging to work with the department on the coordination of programs related to the field of aging, and to advise and make pertinent recommendations, composed of the following: the Director of the Department of Health and Environmental Control, the State Director of Social Services, the Director of the Department of Mental Health, the Superintendent of Education, the Director of the State Department of Labor, Licensing and Regulation, the Executive Director of the South Carolina State Department of Employment and Workforce, the Secretary of Commerce, the Commissioner of the State Department of Vocational Rehabilitation, the Director of the Clemson University Extension Service, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Director of the South Carolina Retirement System, the Executive Director of the South Carolina Municipal Association, the Executive Director of the State Office of Economic Opportunity, the Executive Director of the South Carolina Association of Counties, the Commissioner of the Commission for the Blind, the Director of the Department of Health and Human Services, the Director of the Department of Alcohol and Other Drug Abuse Services, and the Chairperson of the Commission on Women.

The council shall meet at least once each six months and special meetings may be called at the discretion of the chairman or upon request of a majority of the members.

The chairman of the advisory commission and the director of the Department on Aging, who shall serve as secretary to the council, shall attend the meetings of the council.

The director of each agency or department making up the council shall serve as chairman of the council for a term of one year. The office of chairman is held in the order in which the membership of the council is listed in this section.

HISTORY: 1962 Code Section 71‑300.31; 1971 (57) 385; 1972 (57) 2382; 1986 Act No. 428, Section 8, eff July 1, 1986; 1993 Act No. 181, Section 1024, eff July 1, 1993; 1994 Act No. 361, Section 8, eff May 3, 1994; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑130.** Long Term Care Council; membership; meetings; reports.

(A) There is created the Long Term Care Council (council) composed of the following voting members:

(1) the Governor or his designee;

(2) the Director of the Department of Social Services;

(3) the Director of the Department of Health and Environmental Control;

(4) the Director of the Department of Mental Health;

(5) the Director of the Department of Disabilities and Special Needs;

(6) the Director of the Division on Aging;

(7) the Director of the Department of Health and Human Services;

(8) the Chairman of the Joint Legislative Health Care Planning and Oversight Committee, or his designee;

(9) the Chairman of the Joint Legislative Committee on Aging, or his designee;

(10) one representative of each of the following groups appointed by the Lieutenant Governor annually:

(a) long term care providers;

(b) long term care consumers;

(c) persons in the insurance industry developing or marketing a long term care product.

(B) Each director serving as a council member may authorize in writing a designee to vote on his behalf at two meetings a year. Members appointed by the Lieutenant Governor to represent private groups serve without compensation.

(C) The council shall meet at least quarterly, provide for its own officers, and make an annual report to the General Assembly before January second each year. This report must include new council recommendations.

HISTORY: 1987 Act No. 174 Section 1, eff June 30, 1987; 1991 Act No. 37, Section 1, eff April 24, 1991; 1993 Act No. 181, Section 1025, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 12, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 12, in (A)(1), substituted "the Governor" for "the Lieutenant Governor".

**SECTION 43‑21‑140.** Purpose and duties of council.

The council has no authority to direct or require any implementing action from any member agency. The council shall identify future policy issues in long term care and may conduct research and demonstration activities related to these issues. Through close coordination of each member agency's planning efforts, the council shall develop recommendations for a statewide service delivery system for all health‑impaired elderly or disabled persons, regardless of the persons' resources or source of payment. These recommendations must be updated annually as needed. The service delivery system must provide for:

(1) charges based on ability to pay for persons not eligible for Medicaid;

(2) coordination of community services;

(3) access to and receipt of an appropriate mix of long term care services for all health‑impaired elderly or disabled persons;

(4) case management; and

(5) discharge planning and services.

The council, through its member agencies, shall study and make recommendations concerning the costs and benefits of: adult day care centers, in‑home and institutional respite care, adult foster homes, incentives for families to provide in‑home care, such as cash assistance, tax credits or deductions, and home‑delivered services to aid families caring for chronically impaired elderly relatives.

HISTORY: 1987 Act No. 174 Section 1, eff June 30, 1987; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

**SECTION 43‑21‑150.** Educational and informational program.

The Department on Aging, with the cooperation of the Long Term Care Council and the Department of Insurance, shall develop and implement a program to educate citizens concerning:

(a) the availability of long term care services;

(b) the lifetime risk of spending some time in a nursing home;

(c) the coverage available for long term care services through Medicare, Medicaid, and private insurance policies, and the limitations of this coverage; and

(d) the availability of home equity conversion alternatives, such as reverse annuity mortgages and sale‑leaseback arrangements, in this State and the risks and benefits of these alternatives.

This program must be made a part of the Preretirement Education Program of the South Carolina Retirement Systems.

HISTORY: 1987 Act No. 165 Section 1, eff June 10, 1987; 1993 Act No. 181, Section 1026, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑160.** Eldercare Trust Fund created; funding; purpose; administration.

(A) There is created the Eldercare Trust Fund of South Carolina to be administered by the South Carolina Department on Aging.

(B) All monies received from the voluntary contribution system established in Section 12‑7‑2419 or any other contribution, gift, or bequest must be placed on deposit with the State Treasurer in an interest‑bearing account.

(C) These funds must be used to award grants to public and private nonprofit agencies and organizations to establish and administer innovative programs and services that assist older persons to remain in their homes and communities with maximum independence and dignity.

(D) The Eldercare Trust Fund shall supplement and augment programs and services provided by or through state agencies but may not take the place of these programs and services.

(E) The South Carolina Department on Aging shall carry out all activities necessary to administer the fund.

HISTORY: 1992 Act No. 501, Part II Section 62B, eff July 1, 1992; 1993 Act No. 181, Section 1027, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑170.** Administration of Eldercare Trust Fund; powers of department.

In administering the Eldercare Trust Fund, the department may, but is not limited to:

(1) assess the critical needs of the frail elderly and establish priorities for meeting these needs;

(2) receive gifts, bequests, and devises for deposit and investment into the trust fund for awarding grants to public and private nonprofit organizations;

(3) solicit proposals for programs that are aimed at meeting identified service needs;

(4) provide technical assistance to public and private nonprofit organizations, when requested, in preparing proposals for submission;

(5) establish criteria for awarding grants; and

(6) enter into contracts for the awarding of grants to public and private nonprofit organizations.

HISTORY: 1992 Act No. 501, Part II Section 62B, eff July 1, 1992; 1993 Act No. 181, Section 1028, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑180.** Portion of fund available for disbursement.

Funds deposited in the trust fund and all earnings from the investment of these funds, after allowances for operating expenses, are available for disbursement upon authorization of the department. However, in any year in which more than two hundred thousand dollars is deposited in the trust fund, twenty‑five percent of the amount over two hundred thousand dollars and earnings from the investment of these funds must be placed in a separate account. When the assets of this separate account exceed five million dollars, no further deposits are required to be made to the separate account and all future earnings from the investment of the monies in this separate account also are available for distribution upon authorization of the department.

HISTORY: 1992 Act No. 501, Part II Section 62B, eff July 1, 1992; 1993 Act No. 181, Section 1029, eff July 1, 1993; 1995 Act No. 10, Section 1, eff March 7, 1995; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.

**SECTION 43‑21‑190.** Model legislature on aging issues.

There is created a model legislature on aging issues to be administered by the South Carolina Silver Haired Legislature, Inc. This model legislature shall:

(1) identify issues, concerns, and possible solutions for problems facing the aging population in South Carolina;

(2) make recommendations to the Governor and members of the General Assembly and to the Joint Legislative Committee on Aging;

(3) arrange educational forums to explore issues related to older South Carolinians;

(4) promote good government for all South Carolinians.

The participants must be sixty years of age or older and must be selected pursuant to procedures adopted by the South Carolina Silver Haired Legislature, Inc. in coordination with the state's network of aging programs.

The nonpartisan model legislature shall conduct its general assembly annually.

HISTORY: 1999 Act No. 84, Section 1, eff June 11, 1999; 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009; 2018 Act No. 261 (S.107), Pt I, Section 13, eff January 1, 2019.

Effect of Amendment

2018 Act No. 261, Section 13, in (2), substituted "the Governor" for "the Lieutenant Governor".

**SECTION 43‑21‑200.** Physicians trained in geriatrics or geropsychiatry; student loan repayment program; Physician Advisory Board created to review applicants.

(A) There is established within the Department of Aging the State Loan Repayment Program to reimburse student loan payments of a physician licensed or certified to practice in this State, who has completed a fellowship training program in geriatrics or geropsychiatry accredited by the Accreditation Council for Graduate Medical Education, is accepted into the program, and contracts with the department as provided in subsection (C) of this section.

(B)(1) To assist the department in selecting program participants, there is established the Physician Advisory Board to review applicants for the repayment reimbursement program. The board consists of five members, one each appointed by the department to represent:

(a) the South Carolina Medical Association;

(b) the South Carolina Commission on Higher Education;

(c) the Medical University of South Carolina;

(d) the School of Medicine of the University of South Carolina; and

(e) a fellow in geriatrics or geropsychiatry.

Board members serve at the pleasure of the department and without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of boards, committees, and commissions, to be paid from approved accounts of the department.

(2) The board shall meet as necessary to review program applications and from among these applications recommend program candidates to the department. No physician may participate in the program who has not been recommended by the board. In considering applications, the board shall consider demonstrable need and make every effort to select those who intend to continue to practice in this State after completing the program. In order of priority in considering applicants for the program, the board shall consider first South Carolina natives completing fellowship programs in this State, then out‑of‑state applicants completing fellowships in this State, then South Carolina natives completing out‑of‑state fellowship programs, and finally out‑of‑state applicants completing out‑of‑state fellowships.

(C)(1) A physician accepted for the program shall execute a contract with the department in which the physician agrees:

(a) to practice in this State for no fewer than five consecutive years immediately following completion of his or her fellowship;

(b) to accept Medicare and Medicaid patients;

(c) to accept reimbursement or contractual binding rates; and

(d) not to discriminate against patients based on the ability to pay.

(2) Upon execution of the contract, the department shall reimburse student loan payments made by the physician during the last completed calendar quarter. No more than four physicians a year may participate in the program unless sufficient funding is available to reimburse, in accordance with this section, more than four physicians a year. The total amount that may be reimbursed to one physician is thirty‑five thousand dollars multiplied by the number of years of the fellowship completed, prorated for periods less than one year.

(D) If the department determines that the physician is not in compliance with the contract, it shall refer this matter to the Physicians Advisory Board, which shall recommend an appropriate penalty which may be imposed by the department for noncompliance, which must be an amount not to exceed three times the total of reimbursement received plus interest at the prime rate plus ten percent calculated from the date noncompliance was determined.

(E) The department shall prescribe the form of applications and the procedures for reimbursement and may require such information and documentation as it determines appropriate for these applications and reimbursements.

(F) The General Assembly, in the annual general appropriations act, shall appropriate the funds necessary for the operation of the State Loan Repayment Program.

HISTORY: 2005 Act No. 165, Section 1, eff upon approval (became law without the Governor's signature on June 14, 2005); 2008 Act No. 353, Section 2, Pt 25C, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Department on Aging" and "department" were substituted for "Division on Aging" and "division" to comply with amendments made by 2018 Act No. 261.