

REGISTER



South Dakota Legislative Research Council

Volume 44

Monday, 8:00 a.m., August 21, 2017

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

Notice of Proposed Rules: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Revenue: South Dakota Commission on Gaming: (August 14, 2017) intends to amend rules to add outriders to the officials for a race meeting; set forth the duties of outrider officials; clarify workouts necessary for the eligibility of a horse; eliminate the requirement that deposits of money for multi-jurisdictional totalizator hubs be located in banks in South Dakota; adopt a new variation of the game of blackjack called TriLux Bonus Blackjack with Super 3; allow an option to play the game of Texas Hold'em twice; adopt a new variation of the game of poker called Cover All Bonus; and adopt a new variation of the game of craps called Sharp Shooter. The general authority for these rules, as cited by the commission, is SDCL §§ 42-7-56(13), 42-7-56(15), 42-7-56(16), and 42-7B-7.

A public hearing will be held in City Hall, 102 Sherman Street, Deadwood, South Dakota, on September 6, 2017, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 445 E. Capitol Avenue, Pierre, SD 57501 or by email to larry.eliason@state.sd.us. Copies of the proposed rules are also available at <http://rules.sd.gov>. Materials sent by mail must reach the South Dakota Commission on Gaming by September 4, 2017, to be considered. The Commission requests that all written comments be received by September 1, 2017, to allow for

adequate consideration prior to the meeting. This hearing is being held in a physically accessible place. Persons who have special needs for which the South Dakota Commission on Gaming can make arrangements are asked to call (605) 773-6050 or (605) 578-3074 at least 48 hours in advance of the hearing.

Department of Health: South Dakota Board of Nursing: (August 14, 2017) intends to amend rules to include a definition of registrant; add the requirements for the operation of the unlicensed assistive personnel registry by defining the application process for registration, the renewal and reactivation requirements, and the process for denial or removal from the registry; and amend the process for disciplinary action for licensed nurses and registrants. The general authority for these rules, as cited by the board, is SDCL § 36-9-21, 36-9-21(5), and 36-9-21(6).

A public hearing will be held at the University Center DDN Site, UC-FADM 145, 4801 North Career Avenue, Sioux Falls, South Dakota, on September 6, 2017, at 2:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201, Sioux Falls, SD 57106. Materials sent by mail must reach the South Dakota Board of Nursing by September 1, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the South Dakota Board of Nursing can make arrangements are asked to call (605) 362-2760 at least 48 hours in advance of the hearing.

***Department of Labor and Regulation:
South Dakota Real Estate Commission:***

(August 16, 2017) intends to adopt rules to update the disciplinary process for licensees to allow disciplinary actions against licensees to be resolved in a more timely and efficient manner. The general authority for these rules, as cited by the commission, is SDCL § 36-21A-89 and 36-21A-89(5).

A public hearing will be held at the Department of Labor and Regulation Office, 123 West Missouri Avenue, Pierre, South Dakota, on September 7, 2017, at 8:30 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Real Estate Commission, 221 W. Capitol Avenue, Suite 101, Pierre, SD 57501. Material sent by mail must be postmarked by September 1, 2017, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the South Dakota Real Estate Commission can make arrangements are asked to call (605) 773-3600 at least 48 hours in advance of the hearing.

Department of Health: South Dakota Board of Medical and Osteopathic Examiners:

(August 18, 2017) intends to adopt rules to clarify the timeframe for those individuals renewing their license through the interstate medical licensure compact; establish the different options the Board has when it considers mirroring physician discipline from another state; and establish continuing education as a requirement for physical therapy license renewal. The general authority for these rules, as cited by the board, is SDCL § 36-4-35 and 36-10-36.

A public hearing will be held at the First Dakota National Bank Building, 101 N. Main Ave., Room 215, Sioux Falls, South Dakota, on September 14, 2017,

at 10:00 a.m. The hearing will also be accessible via the Dakota Digital Network (DDN) at CAP A, 500 E. Capitol, Pierre, SD, and the Rapid City SDSM&T Public Room, 501 E. St. Joseph St., EEP Building Room 144, Rapid City, SD.

Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Medical and Osteopathic Examiners, 101 N. Main Ave., Suite 301, Sioux Falls, SD 57104 or by email to SDBMOE@state.sd.us. Copies of the proposed rules are also available at www.sdbmoe.gov and www.rules.sd.gov. Materials sent by mail must reach the Board by September 10, 2017, at 10:00 a.m. to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the Board can make arrangements are asked to call (605) 367-7781 at least 48 hours in advance of the hearing.

Executive Appointment:

Kari Karst, Dell Rapids, was appointed on August 11, 2017, to the **Unemployment Insurance Advisory Council**, effective immediately.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

8-24-2017	<p>Department of Revenue: South Dakota Lottery Commission Amend rules to increase the price of a Mega Millions' play from \$1 to \$2, raise the starting jackpot from \$15 million to \$40 million, reconstruct the game matrix, and allow the Just the Jackpot Promotion for the Mega Millions lotto game; and adopt rules to allow the sale of the Lotto America lotto game; 44 SDR 21, July 31, 2017.</p>
8-24-2017	<p>Department of Transportation Amend rules to change and extend a limited speed zone on State Trunk Highway 115 in and around Dell Rapids, reducing the speed limit from 65 miles per hour to 55 miles per hour on a 1.08 mile segment of State Trunk Highway 115 immediately southeast of the existing speed limit zone and proposing a 35 mile per hour zone for a 1.44 mile segment in Dell Rapids and then a 50 mile per hour speed zone for a 0.2 mile segment immediately west of the 35 mile per hour zone; extend a 35 mile per hour speed zone on U.S. Highway 14 east of the Interstate Highway 29 interchange in Brookings an additional 0.42 mile and then transition to 50 miles per hour for 0.20 mile; replace a 40 mile per hour speed zone on U.S. Highway 18 over Interstate Highway 29 at Exit 62 with a 55 mile per hour speed zone; and reduce the speed limits on U.S. Highway 18 in and around Mission and the Antelope Community in Todd County by extending a 35 mile per hour speed zone an additional 0.58 mile to the east of Mission and a 45 mile per hour speed zone to the east of the Antelope Community; 44 SDR 25, August 7, 2017.</p>
8-28-2017	<p>Department of Labor and Regulation: Board of Barber Examiners Amend rules to remove references to apprentice barbers, update and remove language, update reference to the Department of Labor and Regulation, and update laws implemented; 44 SDR 25, August 7, 2017.</p>
8-29-2017	<p>Department of Health: Division of Health Systems Development and Regulation Adopt rules to give the department authority to license and regulate community living homes in South Dakota; 44 SDR 17, July 24, 2017.</p>
8-30-2017	<p>Department of Human Services: Division of Developmental Disabilities Amend rules to revise the definition of a community support provider to align the rule with statute; change the definition of an organized health care delivery system to include community services provider; align the rule definition of community services provider with statutory definition, allowing a for profit entity to provide direct services; add a definition of home and community services; repeal duplicative rule; require similar enrollment documents for profit and not for profit entities; replace the phrase "CSP or SP" with provider; clarify the applicable ARSD chapters for the biennial review of providers; change the language from CSP to provider to make the process applicable to SP's; clarify that either a CSP or SP provider of direct HCB services establish and use a human rights committee for certain rights restrictions; clarify that either a CSP or SP must have policies and procedures for calculations of wages owing to participants in a vocational training and employment setting; extend the time frame for implementing ISP revisions; require providers of direct HCB services to meet certain standards in owned or leased buildings and meet certain fire extinguisher requirements and updates the DOH reference to linens and fire code; require any provider of direct HCB services to provide a medication administration system; extend fair hearing protections to a termination of waiver services by a SP; allow an individual employed by a SP to be a</p>

	<p>coordinator of family support waiver services; allow a SP to be an employer of record; allow a SP to provide home and community based services; allow a SP to be a provider and specifies the responsibilities of being a provider; correct references to ARSD; transfer a section regarding confidentiality; add SP to entities required to provide notice of a critical incident; add SP to those entities available to deliver services under the family support program; add SP to the agency of choice model of service delivery; allow an individual to use a SP to deliver services; allow a SP to provide family support coordination; clarify the services available through the agency with choice service model; add SP to the transfer of records process; add SP to the entities subject to biennial review and to a participant satisfaction survey; add SP to those entities subject to revocation of a provider agreement for failure to meet ARSD standards; require CSP's, SP's and qualified providers to recognize rights of participants, parents and guardians; expand definition of coordinator; remove definition of provider; specify that a local family support provider can be a SP; shorten and clarify rule by changing phrase to provider; and clarify that community training services must meet the service standards of Chapter 46: 11 :05. The primary effect of the rules will be to allow for profit entities to deliver community services to individuals with intellectual and developmental disabilities; 44 SDR 26, August 7, 2017.</p>
8-31-2017	<p>Department of Labor and Regulation: Division of Insurance Adopt the National Association of Insurance Commissioners' Own Risk and Solvency Assessment (ORSA) Guidance Manual, and update the credit for reinsurance rules for domestic insurance companies; 44 SDR 32, August 14, 2017.</p>
9-6-2017	<p>Department of Revenue: South Dakota Commission on Gaming Amend rules to add outriders to the officials for a race meeting; set forth the duties of outrider officials; clarify workouts necessary for the eligibility of a horse; eliminate the requirement that deposits of money for multi-jurisdictional totalizator hubs be located in banks in South Dakota; adopt a new variation of the game of blackjack called TriLux Bonus Blackjack with Super 3; allow an option to play the game of Texas Hold'em twice; adopt a new variation of the game of poker called Cover All Bonus; and adopt a new variation of the game of craps called Sharp Shooter; 44 SDR 35, August 21, 2017.</p>
9-6-2017	<p>Department of Health: South Dakota Board of Nursing Amend rules to include a definition of registrant; add the requirements for the operation of the unlicensed assistive personnel registry by defining the application process for registration, the renewal and reactivation requirements, and the process for denial or removal from the registry; and amend the process for disciplinary action for licensed nurses and registrants; 44 SDR 35, August 21, 2017.</p>
9-7-2017	<p>Department of Game, Fish and Parks Amend rules to create a "no boating zone" on the waters of Swan Lake in Clark County from October 20 to December 31, inclusive; and establish a process whereby an owner of private property underlying any nonmeandered lake listed in SDCL 41-23-8 may petition the Game, Fish and Parks Commission to allow the owner of private property to restrict recreational use of the water overlying the owner's private property; 44 SDR 31, August 14, 2017.</p>
9-7-2017	<p>Department of Labor and Regulation: South Dakota Real Estate Commission Adopt rules to update the disciplinary process for licensees to increase efficiency and decrease the time it takes to resolve complaints; 44 SDR 35, August 21, 2017.</p>

9-14-2017	Department of Health: South Dakota Board of Medical and Osteopathic Examiners Adopt rules to clarify the timeframe for those individuals renewing their license through the interstate medical licensure compact; establish the different options the Board has when it considers mirroring physician discipline from another state; and establish continuing education as a requirement for physical therapy license renewal. 44 SDR 36, August 21, 2017.
10-20-2017	Department of Health: State Board of Dentistry Amend rules to update the registration process for dental entities to bring it into compliance with SB 47 and repeal obsolete provisions; 44 SDR 21, July 31, 2017.
10-20-2017	Department of Labor and Regulation: South Dakota Athletic Commission Amend rules to clarify provisions of current rules including general definitions; safety requirements for events; responsibilities of event promoters; requirements for contestants in mixed martial arts contests; penalties for mixed martial artists who fail to make weight for a contracted bout; options for correcting a score entered in error; officials required to be in attendance at an event; the role of a cut man at an event; the authority of a ringside physician during a bout; allowable wraps for a mixed martial artist during a bout; requirements for a ring used for a contest; the process by which a contestant can request a review of a bout; and the adoption of unified rules of mixed martial arts; 44 SDR 31, August 14, 2017.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on August 22, 2017, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor of the State Capitol. The other DDN site will be: Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145. The committee chair has set the following meeting schedule for the 2017 interim: September 25, and November 14.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://www.sdlegislature.gov/Rules/RulesManual.aspx>.

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