

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., March 24, 2008

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Human Services: Division of Alcohol and Drug Abuse: (March 17, 2008) intends to amend rules to define case management, case manager, division director, evidence based research, liaison activities, probation, and standardized treatment needs assessment and to delete definitions of ASAM, assessment, at risk individuals, catchment area, chemical health, controlled drugs, core service agency, DEA, INH, incapacitated by alcohol and other drugs, independent peer review process, intoxicated person, personal growth, prevention certification, qualified nursing personnel, SDCDCCB, Schedule II, III, or IV drugs, and treatment needs assessment. For rules pertaining to accreditation the effect of these rule changes will be to change pre-accreditation process to a provision process, increase the time allowed for the decision to notify an agency regarding renewal from 30 to 90 days, increases the accreditation period by one year for each level, adds timelines not previously provided in rule regarding notification to the agency, adds new rules regarding probation, suspension, revocation, or adding new clients if an agency is on a probationary or suspended status, appeal and time and place for hearing for an agency to appeal the division's decision. For rules pertaining to management the effect of these rule changes will be to clarify which type of agencies must be incorporated, updates the list of prohibited discrimination to include mental or physical illness, updates the fiscal practices to reflect current practices, updates the tuberculin infection control and screening requirements for employees to reflect current CDS guidelines,

adds a new rule on outcome measures requiring the collection of evidence based pre- and post-test data on clients receiving prevention services, and repeals several rules regarding personnel management. For rules pertaining to client rights the effect of these changes will be to add to the list of guaranteed rights of the client, update federal references to HIPAA to ensure privacy of protected health information, and update the discharge policy requirements to include clients leaving against medical or staff advice. For rules pertaining to programming the effect of these rule changes will be to update the process on quality care reviews changing it from three open to three closed files, update the purpose and scope of prevention programs, add a new rule on prevention classification and determining evidence based intervention, clarifies the description of services, clarifies continued service criteria, updates rules on staffing and hours of operation, adds rules on tuberculin screening for clients, patient placement criteria, adds or updates rules on drug and alcohol testing of clients, and updates all of the program titles. The general authority for these rules, as cited by the department, is SDCL 34-20A-27.

A public hearing will be held in Conference Room A at the Department of Human Services, Hillsvie Plaza, 3800 E. Highway 34, Pierre, South Dakota, on April 8, 2008, at 1 p.m. (CDT). Copies of the proposed rules may be obtained without charge from and written comments sent to Velda Bartel, Administrative Rules Coordinator, Department of Human Services, Hillsvie Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed rules may also be obtained at the Department's website

www.dhs.sd.gov/ada/. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Materials sent by mail must reach the Department of Human Services by April 18, 2008, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-5990 or (605) 773-6412 TTY at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF GAME, FISH AND PARKS: 41:10:02:01, 41:10:02:02, 41:10:02:04, 41:10:02:05, 41:10:02:07, and 41:10:02:08.

History-Notice: 34 SDR 142, Nov. 19, 2007
 Hearing: January 10, 2008
 Filed: March 17, 2008
 Effective: April 7, 2008

DEPARTMENT OF GAME, FISH AND PARKS: 41:06:53:04 and 41:09:17.

History-Notice: 34 SDR 189, Dec. 24, 2007
 Hearing: January 10, 2008
 Filed: March 17, 2008
 Effective: April 7, 2008

DEPARTMENT OF SOCIAL SERVICES: 67:16:14:06.11.

History-Notice: 34 SDR 229, March 10, 2008
 Hearing: N/A
 Filed: March 20, 2008
 Effective: March 20, 2008

Executive Appointments:

Diana Broom, Rapid City, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective

March 13, 2008, and shall continue until December 31, 2008.

Tim Dougherty, Sioux Falls, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective March 14, 2008, and shall continue until December 31, 2008.

Patricia Riepel, Sioux Falls, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective March 14, 2008, and shall continue until December 31, 2008.

Linda Lea Viken, Rapid City, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective March 13, 2008, and shall continue until December 31, 2008.

Richard Vincent, Aberdeen, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective March 13, 2008, and shall continue until December 31, 2008.

Terry Walter, Pierre, was appointed on March 14, 2008, to the **South Dakota Commission on Child Support**, effective March 14, 2008, and shall continue until December 31, 2008.

Note: A copy of the rules may be obtained directly from the above agencies. 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

3-26-2008	Health: Health and Medical Services	Amend a rule to ensure that Children's Special Health Services (CSHS) is using the current poverty guidelines in determining cost share eligibility as a part of financial assistance to eligible clients; 34 SDR 225.
3-27-2008	Revenue and Regulation: Division of Insurance	Amend rules to update the sources referenced in rule; 34 SDR 229.
3-28-2008	Social Services: Medical Services	Implement rules to establish the Medicaid Family Support Waiver Services provided through the Division of Developmental Disabilities for the Department of Human Services and covered under the Department of Social Services. These rules will define terms; specify those family support services covered and the requirements for coverage; establish eligibility criteria; establish service restrictions; require a physician's statement indicating the frequency of the service; require the service coordinator to coordinate the development of the individual's service plan; require providers to be certified by the Division of Developmental Disabilities and have a signed provider agreement with the Department of Social Services; specify that the Department of Human Services, Division of Developmental Disabilities will establish the rates of payment for service coordination and respite, personal and companion care services and specify that the remaining covered services will be paid based on the charges billed for the services provided; require that claims submitted for payment contain the applicable procedure codes for the covered services provided; specify the information that must be included on a claim submitted to the Department for reimbursement; establish record retention requirements; specify that a provider must allow state and federal agencies access to information maintained by the provider that relates to the services provided; reference additional program rules that apply; and provide for utilization review of the services and supplies provided; 34 SDR 229.
4-2-2008	Environment and Natural Resources: Operator Certification Program	Modify the continuing education requirements for a water/wastewater operator to renew his operating certificate(s) and to clarify which

		operators are allowed to run groundwater systems serving less than 500 people that do not treat the water; 34 SDR 205.
4-3-2008	Labor: South Dakota Retirement System	Amend rules to provide new administrative law in accord with legislation enacted in 2008 to create the Supplemental Pension Benefit; to repeal nonconforming administrative law, amend continuing administrative law and promulgate new administrative law in accord with legislation enacted in 2008 to shift responsibility with the South Dakota Retirement System's administrative review and appeals process; to clarify the status of a surviving spouse benefit when the member was retired or of retirement age; to amend continuing administrative law and repeal obsolete administrative law in accord with statute law providing for termination of disability benefits; and to amend continuing administrative law to bring it into conformity with federal law; 34 SDR 233.
4-3-2008	Game, Fish and Parks	Amend a License Forms and Fees rule to add an additional "anterless whitetail deer" license to the existing Custer State Park "any deer" license and an additional "anterless whitetail deer" license to the existing Custer State Park "any whitetail deer" license, essentially creating a double tag for the same price of \$150; amend a Pheasant Hunting Season rule to establish season dates, open areas, shooting hours, and daily bag and possession limits; add Gerken State Game Bird Refuge in Faulk County and White Lake State Game Bird Refuge in Marshall County to the late pheasant opening of Unit 2; and adjust the season ending date from the first Sunday of January to January 31; amend a Grouse Hunting Season rule to establish season dates, open areas, shooting hours, and daily bag and possession limits; and adjust the season ending date from the first Sunday of January to January 31; amend a Sage Grouse Hunting Season rule to establish season dates, open areas, shooting hours, and bag limit (1 sage grouse per year); and adjust the season dates to the last Wednesday and Thursday of September; amend a Quail Hunting Season rule to establish season dates, open areas, shooting

		<p>hours, and daily bag and possession limits; and adjust the season ending date from the first Sunday of January to January 31; amend a Partridge Hunting Season rule to establish season dates, open areas, shooting hours, and daily bag and possession limits; and adjust the season ending date from the first Sunday of January to January 31; amend a Black Hills Elk Hunting Season rule to establish season dates for "any elk" and "anterless elk" (first and second season) licenses, types and numbers of available licenses, open areas, and shooting hours; adjust the number of licenses available from 855 "any elk" and 1,220 "anterless elk" licenses (total of 2,075 licenses) to 755 "any elk" and 920 "anterless elk" licenses (total of 1,675 licenses); and adjust the unit boundary for Unit H1 and H7; amend a Custer State Park Elk Hunting Season (Any Elk) rule to establish season dates for the "any elk" licenses, number of available licenses, open areas, and shooting hours; and adjust the number of resident licenses available from 41 "any elk" licenses to 36 "any elk" licenses; amend Custer State Park Deer Hunting Season rules to establish season dates for the Custer State Park deer (Units 1, 2 and 3) licenses, types and number of available licenses, open areas, and shooting hours; would add an additional "anterless whitetail deer" license with the licenses already authorized for Units 1 and 2 to create a double tag for these units; adjust the number of 2-tag muzzleloader anterless white-tailed deer licenses available in Unit 3 from 25 licenses to 35 licenses; and establish a new Unit 4 – CSPD-ZZ1 in which no deer license will be issued but will enable an applicant for this unit to accrue a preference point; amend an Archery Elk Hunt Season rule to establish season dates for "any elk" and "anterless elk" (Black Hills Units and Unit 30A) licenses, types and numbers of available licenses open areas, and shooting hours; adjust the number of licenses available from 129 "any elk" and 108 "anterless elk" licenses (total of 237 licenses) to 124 "any elk" and 78 "anterless elk" licenses (total of 202 licenses); adjust the unit boundary for Unit H1 and H7;</p>
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		<p>and adjust the Unit 30A season dates to coincide with Nebraska season dates; amend a Special Custer State Park Anterless Elk Hunting Season rule to establish season dates for the special Custer State Park "anterless elk" (Units 1 and 2) licenses, number of available licenses, open areas, and shooting hours; adjust the number of licenses available from 60 licenses to 40 licenses; and limit hunting of "anterless elk" to the second unit (October 13-21, 2008); amend Youth Pheasant Hunting Season rules to establish eligibility requirements, season dates, open areas, shooting hours, and daily bag and possession limits; add two additional days to the season; increase the possession limit from 9 to 15 cock pheasants; and adjust the age eligibility from "no older than 15" to "no older than 17"; amend Black Hills Bighorn Sheep Hunting Season rules to establish eligibility requirements, season dates, open areas, shooting hours, and number of available licenses; extend the season through the month of November (October 4 – November 30); create a new unit (BHS-BH2-51) offering one "any bighorn sheep" (type 51) with the boundary unit to be described as "That portion of Custer County situated west of Highway 79, excluding the fenced portion of Custer State Park, Wind Cave National Park, and Jewel Cave National Park"; and increase the number of allocated licenses from 4 "any bighorn sheep" to 5 "any bighorn sheep"; and amend a Prairie Elk Hunting Season rule to establish season dates for "any elk" and anterless elk" (Units 11A, 11B, 15A and 30A) licenses, types and numbers of available licenses, open areas and shooting hours, and adjust Unit 30A season dates to coincide with Nebraska season dates; 34 SDR 234.</p>
4-8-2008	Labor: Division of Labor and Management	Update the Workers' Compensation Fee Schedule and revise the application requirements for Case Management rules; 34 SDR 234.
4-8-2008	Human Services: Division of Alcohol and Drug Abuse	Amend rules to define case management, case manager, division director, evidence based research, liaison activities, probation, and standardized treatment needs assessment and

		<p>to delete definitions of ASAM, assessment, at risk individuals, catchment area, chemical health, controlled drugs, core service agency, DEA, INH, incapacitated by alcohol and other drugs, independent peer review process, intoxicated person, personal growth, prevention certification, qualified nursing personnel, SDCDCCB, Schedule II, III, or IV drugs, and treatment needs assessment. For rules pertaining to accreditation the effect of these rule changes will be to change pre-accreditation process to a provision process, increase the time allowed for the decision to notify an agency regarding renewal from 30 to 90 days, increases the accreditation period by one year for each level, adds timelines not previously provided in rule regarding notification to the agency, adds new rules regarding probation, suspension, revocation, or adding new clients if an agency is on a probationary or suspended status, appeal and time and place for hearing for an agency to appeal the division's decision. For rules pertaining to management the effect of these rule changes will be to clarify which type of agencies must be incorporated, updates the list of prohibited discrimination to include mental or physical illness, updates the fiscal practices to reflect current practices, updates the tuberculin infection control and screening requirements for employees to reflect current CDS guidelines, adds a new rule on outcome measures requiring the collection of evidence based pre- and post-test data on clients receiving prevention services, and repeals several rules regarding personnel management. For rules pertaining to client rights the effect of these changes will be to add to the list of guaranteed rights of the client, update federal references to HIPAA to ensure privacy of protected health information, and update the discharge policy requirements to include clients leaving against medical or staff advice. For rules pertaining to programming the effect of these rule changes will be to update the process on quality care reviews changing it from three open to three closed files, update the purpose and scope of prevention programs,</p>
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		add a new rule on prevention classification and determining evidence based intervention, clarifies the description of services, clarifies continued service criteria, updates rules on staffing and hours of operation, adds rules on tuberculin screening for clients, patient placement criteria, adds or updates rules on drug and alcohol testing of clients, and updates all of the program titles; 34 SDR 241.
4-16-2008	Revenue and Regulation: Division of Insurance	Amend rules to require all life insurance companies and fraternal benefit societies to submit an actuarial opinion, based on an asset adequacy analysis, and a regulatory asset adequacy issues summary with their annual statement; 34 SDR 233.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 15, 2008, via Digital Dakota Network at the following locations: State Capitol Building, CAP A, Pierre, South Dakota; South Dakota State University, 101 Pugsley Center, Room 203, Brookings, South Dakota; Sioux Falls University Center, 2205 Career Place, University Center Building, Room 282, Sioux Falls, South Dakota; and Rapid City Regional Hospital, 353 Fairmount Blvd., Education Services Department, Rapid City, South Dakota; at 8:00 a.m. CDT (7:00 a.m. MDT). The committee chair has set the following tentative meeting schedule for the 2008 interim: May 13, June 10, August 19, September 23, December 2, and January 12, 2009.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.