

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., April 7, 2008

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

Department of Health: Board of Examiners in Optometry: (March 31, 2008) intends to amend a rule so the fee for licensure by endorsement will be provided by rule instead of by statute. The general authority for this rule, as cited by the board, is SDCL 36-7-13, 36-7-15, 36-7-15.1, 36-7-15.2, 36-7-15.3, and 36-7-31.

A public hearing will be held at the Tieszen Law Office, LLC, 306 East Capitol, Suite 300, Pierre, South Dakota, on May 1, 2008, at 11:30 a.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Board of Examiners in Optometry, Executive Secretary, Box 628, Sturgis, South Dakota 57785. Written comments must be received by April 28, 2008, 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 Tieszen Law Office, LLC, telephone (605) 224-1500 before the hearing.

Department of Revenue and Regulation: Division of Insurance: (March 31, 2008) intends to amend an Advertisement of Health and Life Insurance rule to remove unnecessary requirements that are inconsistent with codified law and amend Employer Plans rules to prohibit discretionary clauses in health insurance policies. The general authority for these rules, as cited by the division, is SDCL 58-17-87, 58-18-79, and 58-33A-7.

A public hearing will be held in the Main Floor

Conference Room, Anderson Building, Pierre, South Dakota, on April 25, 2008, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by April 23, 2008, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing Melissa.Kusser@state.sd.us. 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) 773-3563 at least 48 hours before the hearing.

Department of Transportation: (April 2, 2008) is proposing to amend the following: repeal a speed zone in Minnehaha County on State Trunk Highway 264 because the segment of highway referenced in the current rule has been removed from the state highway system; amend a speed zone in Hughes County on SD Highway 1804 north of the city of Pierre to increase the allowable speed limit to 65 MPH for a portion of this highway north of the Oahe Dam; amend a 45 MPH speed zone along U.S. Highway 18 in Shannon County to reflect the true location of the limits of the reduced speed zone; amend a traffic safety rule in Pennington County to correct the official highway identification which prohibits parking along the south side of State Trunk Highway 44 (remove reference to State Trunk Highway 79 which has been relocated);

and adopt a new traffic safety rule to prohibit parking along both sides of U.S. Highway 14A in Lawrence County along the shoulder of the road near Chop House south of Spearfish. The general authority for these rules, as cited by the department, is SDCL 32-25-7 and 32-30-2.4.

A public hearing will be held at the Visitor Center on the Capitol Grounds in Pierre, South Dakota, on April 24, 2008, at 9:05 a.m. CDST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by April 23, 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) 773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

NOTICE:

The **Medicaid Pharmaceutical and Therapeutics Committee** is meeting Friday, May 2, 2008, at 1:00 p.m. in the Fontanelle I room at the Sheraton Sioux Falls. A copy of the agenda is available at: <http://www.hidsdmedicaid.com/>. For additional information contact the Department of Social

Services, Division of Medical Services at (605) 773-3495.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Attorney General Appointment:

Joan Boos Schueller was appointed Special Assistant Attorney General, to represent the Department of Health, effective March 20, 2008.

Executive Appointment:

Terry Sabers, Mitchell, was appointed on March 27, 2008, to the **South Dakota Board of Education**, to replace Roger Porch, effective March 27, 2008, and shall continue until December 31, 2011.

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

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 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,

		<p>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</p>
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		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.
4-24-2008	Transportation	Repeal a speed zone in Minnehaha County on State Trunk Highway 264 because the segment of highway referenced in the current rule has been removed from the state highway system; amend a speed zone in Hughes County on SD Highway 1804 north of the city of Pierre to increase the allowable speed limit to 65 MPH for a portion of this highway north of the Oahe Dam; amend a 45 MPH speed zone along U.S. Highway 18 in Shannon County to reflect the true location of the limits of the reduced speed zone; amend a traffic safety rule in Pennington County to correct the official highway identification which prohibits parking along the south side of State Trunk Highway 44 (remove reference to State Trunk Highway 79 which has been relocated); and adopt a new traffic safety rule to prohibit parking along both sides of U.S. Highway 14A in Lawrence County along the shoulder of the road near Chop House south of Spearfish; 34 SDR 257.
4-25-2008	Labor: Electrical Commission	Adopt the 2008 National Electrical Code; 34 SDR 249.
4-25-2008	Revenue and Regulation: Division of Insurance	Amend an Advertisement of Health and Life Insurance rule to remove unnecessary requirements that are inconsistent with codified law and amend Employer Plans rules to prohibit discretionary clauses in health insurance policies; 34 SDR 257.
4-29-2008	Agriculture: Weed and Pest Commission	Amend a rule that will add Phragmites to the local noxious weed list and to add scientific names for all local noxious weeds and declared pests; 34 SDR 249.
5-1-2008	Health: Board of Optometry Examiners	Amend a rule so the fee for licensure by endorsement will be provided by rule instead of by statute; 34 SDR 257.
5-8-2008	Revenue and Regulation: Real Estate Commission	Adopt rules to establish fees for a certificate of licensure, additional license, change of

		business address, change of association, duplicate license, and late renewal fees; 34 SDR 249.
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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.

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