

REGISTER



South Dakota Legislative Research Council

Volume 31

Monday, 8:00 a.m., May 2, 2005

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

Department of Health: (April 26, 2005) has filed rules that will expand the availability of healthcare services for South Dakota residents, increase the number of sub specialist physicians practicing in South Dakota, and allow additional areas in South Dakota to partake of the J-1 Visa Waiver Program. The general authority for these rules, as cited by the department, is SDCL 36-2-22.

A public hearing will be held in the Health Building, Room 107, 600 East Capitol Avenue, Pierre, South Dakota, on May 25, 2005, at 9:00 a.m. to consider the adoption and amendment of proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, Attn: Colleen Kozel, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website:

<http://www.state.sd.us/doh/News/index.htm>.

Material sent by mail must reach the department by June 4, 2005, 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) 773-3361 at least 48 hours before the hearing.

Department of Health: Board of Chiropractic Examiners: (April 28, 2005) intends to amend rules to update the licensing procedure to provide for a nonrefundable \$100 as part of the initial license fee and further to provide for the criminal background investigation for

applicants, to clarify the reciprocity provisions, to incorporate into approved continuing education courses a recognized approval organizations listings, to clarify preceptor selection, and to remove the term "gross" from professional conduct and to delete redundant and outdated rules. The general authority for these rules, as cited by the board, is SDCL 36-5-4, 36-5-10, 36-5-11, 36-5-12, 36-5-13, 36-5-14.2, 36-5-15.2, 36-5-15.3, 36-5-16, 36-5-19, and 36-5-20.

A public hearing will be held at the Ortman Clinic in Canistota, South Dakota, on June 3, 2005, at 7:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Board of Chiropractic Examiners, 2603 Ella Lane, Yankton, South Dakota 57078. Written comments must be received by May 27, 2005, 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) 668-9017 at least forty-eight hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT:

74:27:22:04.

History-Notice: 31 SDR 121, Feb. 14, 2005
Hearing: March 17, 2005
Filed: April 27, 2005
Effective: May 17, 2005

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT: BOARD OF ECONOMIC DEVELOPMENT: 68:02:05:01 to 68:02:05:15, inclusive.

History-Notice: 31 SDR 133, March 14, 2005
 Hearing: April 5, 2005
 Filed: April 28, 2005
 Effective: May 18, 2005

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT: BOARD OF ECONOMIC DEVELOPMENT: 68:02:06:01 to 68:02:06:19, inclusive.

History-Notice: 31 SDR 133, March 14, 2005
 Hearing: April 5, 2005
 Filed: April 28, 2005
 Effective: May 18, 2005

Executive Appointments:

John Kranz, Mitchell, was appointed on April 21, 2005, to the **Transportation Commission**, to replace George Shanard, effective May 27, 2005, and shall continue until April 18, 2006.

James C. Spies, Watertown, was appointed on April 21, 2005, to the **Transportation Commission**, to replace Jim Mahowald, effective April 29, 2005, and shall continue until April 18, 2009.

Victor Erlacher, Lemmon, was appointed on April 28, 2005, to the **Council of Juvenile Services**, to replace Michael Dacy, effective immediately and shall continue until June 30, 2005.

Eric Hales, Pierre, was appointed on April 28, 2005, to the **South Dakota Risk Pool Governing Board**, to replace Larry Kucker, effective immediately.

Leonard Neugebauer, Sioux Falls, was appointed on April 28, 2005, to the **Board of Technical Professions**, to replace Wallace Larsen, effective immediately and shall continue until April 14, 2009.

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

The Attorney General's office has filed a copy of the FFY05 State of South Dakota Statewide Strategy and application for funding under the Edward J. Bryne Memorial Justice Assistance Grant (JAG) Program. This grant is available to South Dakota under the JAG State Solicitation of the Anti-Drug Abuse Act of 1988, Public Law 100-690 through the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice.

A copy of the above information is on file with the Legislative Research Council and may be copied or reviewed during normal business hours.

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

5-5-2005	Attorney General: Law Enforcement Officers Standards Commission	Adopt rules regarding police canine team certification; 31 SDR 157.
5-5-2005	Game, Fish and Parks	Amend the exceptions on the restrictions on use of firearms and bows at Adams Homestead and Nature Preserve, at La Framboise Island, and at Farm Island Recreation Area, and prohibit deer hunting in state parks and

		<p>recreation and nature areas during January-1-31; amend the special Custer State Park Antlerless Elk season; amend the National Wildlife Refuge Deer seasons; modify the Youth Deer Hunting season; amend the Black Hills Deer Hunting season; amend the Fall Wild Turkey Hunting season and establish new hunting units in Hutchinson and Turner County; amend the Special Canada Goose Hunting season by repealing the special hunting units in Fall River, Custer, and Minnehaha County and include the property within Unit 1, modify the season dates in Unit 11B (Bennett County), modify license type in Unit 11A to be 3 tag license, and establish (lower) the number of licenses available in Unit 11B; amend the Nonresident Waterfowl licenses by modifying the numbering system for the applicable units, provide that certain Bennett County nonresident licenses are valid for the January Canada goose season, and modify the number of 3 day temporary nonresident waterfowl licenses available in the hunting units comprised of the counties of Potter, Stanley, Sully, Hughes, and Lyman by transferring a number of them to the unit comprised of the counties of Brown, Marshall, Roberts, Day, Grant, Clark, Codington, Deuel, and Hamlin; amend Tundra Swan hunting season by modifying the number of licenses available to residents and nonresidents; amend Hunting Requirements and Prohibited Methods by modifying conditions, restrictions, and prohibitions relating to "accompaniment" of a big game firearm licensee by a person not similarly licensed to hunt in the same area and at the same time of year and provide exemptions therefrom; amend Archery Restrictions by modifying conditions, restrictions, and prohibitions relating to "accompaniment" of a person licensed to hunt only by archery by a person not similarly licensed to hunt in the same area and at the same time of year and provide exemptions therefrom; and amend Public Water Zoning by designating the waters within Wilmarth Lake in Aurora County as a "no wake" zone; 31 SDR 157.</p>
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5-10-2005	Labor: Division of Labor and Management	Update the Workers' Compensation Fee Schedule; 31 SDR 153.
5-11-2005	Social Services: Medical Services	Amend rules relating specifically to prescription drugs, the effects of these changes will be to: remove the coverage limits and prior authorization requirements for Clozaril therapy; no longer require that certain lab tests be conducted as a condition of continued Clozaril therapy; no longer require the treating psychiatrist to notify the department if Clozaril therapy is being discontinued; remove the Clozaril enrollment information form; begin covering items prescribed for weight control and appetite depressants; supply the federal website address from which an individual can obtain a current list of drugs that the federal government has determined to be less than effective; delete a reference to the Health Care Financing Administration and reference instead the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services; change a reference to the brand name drug "Clozaril" to the generic name "Clozapine"; remove the coverage limits for Azidothymidine, brand name Retrovir; allow a pharmacy claim to be submitted electronically; require that a claim for a prescription drug include the provider's National Council of Prescription Drug Providers' (NCPDP) number and the prescribing physician's Drug Enforcement Agency (DEA) number; no longer require a referral from the recipient's primary care physician for prescriptions written by a physician who was not the recipient's primary care provider; no longer print a code on the recipient's medical identification card if a third-party payment source exists and instead notify providers through either the Department's Medical Eligibility Verification System or the Audio Response System; if a third-party payment source exists and the provider submits an electronic claim to the department for payment, require the provider to maintain and submit to the department, on request, evidence of payment or payment rejection from the third-party payment source; 31 SDR 163.

5-13-2005	Secretary of State: Board of Elections	Amend rules to bring the petition to increase or decrease the number of county commissioners, confirmation mailing notice, voter registration form and instructions into compliance with statutory changes, set up guidelines for statutory change on acceptance of facsimile absentee ballot applications from UOCAVA voters, set up criteria for approving electronic ballot marking systems, set up parameters for voter registration verification with social security administration records, provide additional information on the provisional ballot envelope, provide agencies with a larger size voter registration, declination and instruction form to use; 31 SDR 151.
5-19-2005	Revenue and Regulation: Division of Insurance	Amend rules to change the permissible exclusions in life insurance policies and clarify how certain notice requirements can be made; update Medicare supplement insurance policies and related requirements, clarify overinsurance, clarify the allowance of agent compensation, specify acceptable rating methodologies and update references and the Division's address; define premium; adopt notice requirements to those in long-term care facilities, define overinsurance; allow companies to implement a minimum premium for purposes of returning unearned premiums; clarify how certain notice requirements can be made; and implement definitions for discount plans; 31 SDR 163.
5-19-2005	Revenue and Regulation: Risk Pool Board	Amend rules to implement definitions and clarify the tolling of the 63-day timeframe; 31 SDR 164.
5-25-2005	Health	Amend and adopt rules that will expand the availability of healthcare services for South Dakota residents, increase the number of sub specialist physicians practicing in South Dakota, and allow additional areas in South Dakota to partake of the J-1 Visa Waiver Program; 31 SDR 170.
6-3-2005	Health: Board of Chiropractic Examiners	Amend rules to update the licensing procedure to provide for a nonrefundable \$100 as part of the initial license fee and further to provide for the criminal background investigation for applicants, to clarify the reciprocity provisions, to incorporate into approved continuing education courses a recognized approval

		organizations listings, to clarify preceptor selection, and to remove the term "gross" from professional conduct and to delete redundant and outdated rules; 31 SDR 170.
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Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 17, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: June 14, August 9, September 20, October 18, December 6, and January 9, 2006.

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