

REGISTER

South Dakota Legislative Research Council



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Monday, 8:00 a.m., May 16, 2005

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

Department of Social Services: Office of Child Protection Services: (May 10, 2005) intends to amend rules to define terms; require either accreditation by the Council on Accreditation (COA) or the Joint Commission on Accreditation of Health Care Organizations (JACHO); establish the minimum services that an intensive residential treatment center must provide; specify which children may be eligible for placement into an Intensive Residential Treatment Center; establish requirements for the center's program director, direct care staff, case managers, and counselors and therapists; establish a caseload limit; require the center to establish a treatment team for each child in care and specify those individuals who must be included on a treatment team; require the treatment team to develop case service and discharge plans and establish the minimum requirements for the plans; require the center to provide living units for the children in care and establish requirements for the staff members supervising a living unit; establish the staff-child ratio; require a center to provide orientation and annual in-service training and establish the minimum requirements for the training; require a center to have written policy statements in certain, specified areas; establish nursing, psychiatric, and psychological service requirements; specify who is responsible for the administration of medications; require the center to periodically review the child's case service plan and provide updates to the placing agency; include an intensive residential treatment center in the definitions of "alternative care" and "facility"; require a center to provide written documentation of the need for services; allow

the Department to issue a provisional license to a center under certain circumstances; require a center to meet local zoning ordinances and be approved by fire and health authorities; require the center to provide for its funding, building, and equipment needs; require the center to maintain an accounting system and provide for an annual audit; require a center to have liability insurance; establish the minimum requirements for a center's playground area, sleeping areas, and toilet facilities; and require a center to comply with the applicable provisions of chapters 67:42:01 (Provisions and Scope of Services, 67:42:07 (Group Care Centers for Minors), and 67:42:11 (Environmental Health). The general authority for these rules, as cited by the department, is SDCL 26-6-16.

A public hearing will be held in Room 413 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota, on Friday, June 3, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by June 13, 2005, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3305 at least 48 hours before the

hearing.

Department of Game, Fish and Parks: (May 13, 2005) has filed rules to establish the number/types of nonresident and resident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Units; modify the hunting season dates for "antlerless deer" in applicable Units; permit hunting of "antlerless deer" during the reopened hunting season on private and public lands in applicable hunting Units; modify boundaries of certain hunting Units and merge certain hunting Units into consolidated hunting Units; close an area in the Black Hills (portions of the Spring Creek drainage in Pennington County) to beaver trapping; and make comprehensive modifications of rules and regulations relative to Park Concession Leases. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-21, 41-8-20, and 41-17-1.1.

A public hearing will be held at the Ramkota River Center in Pierre, South Dakota, on June 2, 2005, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to chuck.schlueter@state.sd.us. E-mail comments must include the commenter's name and address. 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) 773-3387 before the hearing.

Bureau of Personnel: (May 13, 2005) has filed rules that will allow for drug testing of certain primary care employees at the South Dakota Human Services Center, Developmental Hospital, and Veterans' Home and to make changes in the procedures for drug testing of state employees so as to comply with legislation adopted by the South Dakota Legislature in

2005. The general authority for these rules, as cited by the bureau, is SDCL 23-3-69.

A public hearing will be held in the Governor's Large Conference Room, 2nd floor, State Capitol, Pierre South Dakota, on June 21, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Personnel, State Capitol, 500 E. Capitol, Pierre, South Dakota 57501-1234. Written comments must be received by June 20, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the bureau can make arrangements are asked to call (605) 773-3148 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

Executive Appointments:

David Stafford, Rapid City, was appointed on May 6, 2005, to the **Board of Technical Professions**, to replace Mark Aspaas, effective July 1, 2005, and shall continue until April 14, 2008.

Kelly Wheeler, Pierre, was appointed on May 6, 2005, to the **Board of Water and Natural Resources**, to replace Gregg Greenfield, effective immediately and shall continue until July 1, 2007.

Joseph M. Dondelinger, Sioux Falls, was reappointed on May 9, 2005, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until July 1, 2008.

Patricia F. Harding, Pierre, was reappointed on May 9, 2005, to the **State Capitol Complex Restoration and Beautification Commission**, effective immediately and shall continue until July 1, 2009.

Gene Jones, Jr., Sioux Falls, was reappointed

on May 9, 2005, to the **Board of Water and Natural Resources**, effective immediately and shall continue until July 1, 2009.

Carla A. Sahr, Pierre, was reappointed on May 9, 2005, to the **State Capitol Complex Restoration and Beautification Commission**, effective immediately and shall continue until July 1, 2009.

Patricia Kenner, Rapid City, was reappointed on May 10, 2005, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until July 1, 2008.

MEMORANDUM OF UNDERSTANDING AGREEMENT ON FILE WITH THE LEGISLATIVE RESEARCH COUNCIL:

The South Dakota Driver Licensing Program

and the **Social Security Administration** have entered into a Memorandum of Understanding for Voter Registration Information Verification System Services. The memorandum is dated April 25, 2005, and will be used to outline the parties duties and obligations under the requirements of the Help America Vote Act of 2002.

A copy is on file with the Legislative Research Council and may be reviewed or copied during usual 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

5-19-2005	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.
5-27-2005	Revenue and Regulation: Property and Special Taxes	Amend rules that will allow taxpayers to submit an electronic application to file and pay taxes electronically; change the definition of commencement of a project; change the way tax is reported on bad debts; provide information required for Streamline Registration and permits, and explain the reporting periods for volunteer registrations; allow direct mail transactions to be sourced under either of the two methods in this rule; clarify who is responsible for collecting tax due from auction sales; add definitions related to computer services; update sourcing examples for attorneys; end the exemption for nutritional supplements; remove the requirements for a disclosure form for manufactured homes purchased; add and delete provisions from the definitions; make form and style changes; reduce the reporting requirements for transfers of stock in corporations holding alcohol licenses; clarify that this chapter applies to all alcoholic beverages, except malt beverages; authorize electronic filing of price schedules; repeal rules that are no longer necessary; repeal the requirement that all advertising specialties be submitted to the Department, and increase the value of advertising material wholesalers may supply to retailers; increase the maximum amount of a rebate authorized by a manufacturer and to require wholesalers to notify other wholesalers before moving their products; allow the Secretary to authorize special disposition of alcoholic beverages; add a provision from 64:75:07:02 to 64:75:07:01 which allows that rule to be repealed; increase the maximum value of items that wholesalers may supply to retailers, and repeal the special provisions for tap handles; add rules to the chapters dealing with malt beverages; and require all wholesale licensees to report any attempts to solicit unauthorized incentives; 31 SDR 177.
6-2-2005	Game, Fish and Parks	Amend rules to establish the number/types of nonresident and resident hunting licenses/tags

		available in the applicable modified, consolidated, and existing hunting Units; modify the hunting season dates of "antlerless deer" in applicable Units; permit hunting of "anterless deer" during the reopened hunting season on private and public lands in applicable hunting Units; and modify boundaries of certain hunting Units and merge certain hunting Units into consolidated hunting Units; close an area in the Black Hills (portions of the Spring Creek drainage in Pennington County) to beaver trapping; and make comprehensive modifications of rules and regulations relative to Park Concession Leases; 31 SDR 184.
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.
6-3-2005	Social Services: Child Protection Services	Amend rules to define terms; require either accreditation by the Council on Accreditation (COA) or the Joint Commission on Accreditation of Health Care Organizations (JACHO); establish the minimum services that an intensive residential treatment center must provide; specify which children may be eligible for placement into an Intensive Residential Treatment Center; establish requirements for the center's program director, direct care staff, case managers, and counselors and therapists; establish a caseload limit; require the center to establish a treatment team for each child in care and specify those individuals who must be included on a treatment team; require the treatment team to develop case service and discharge plans and establish the minimum requirements for the plans; require the center to provide living units for the children in care and establish requirements for the staff members supervising a living unit; establish the staff-child ratio;

		<p>require a center to provide orientation and annual in-service training and establish the minimum requirements for the training; require a center to have written policy statements in certain, specified areas; establish nursing, psychiatric, and psychological service requirements; specify who is responsible for the administration of medications; require the center to periodically review the child's case service plan and provide updates to the placing agency; include an intensive residential treatment center in the definitions of "alternative care" and "facility"; require a center to provide written documentation of the need for services; allow the Department to issue a provisional license to a center under certain circumstances; require a center to meet local zoning ordinances and be approved by fire and health authorities; require the center to provide for its funding, building, and equipment needs; require the center to maintain an accounting system and provide for an annual audit; require a center to have liability insurance; establish the minimum requirements for a center's playground area, sleeping areas, and toilet facilities; and require a center to comply with the applicable provisions of chapters 67:42:01 (Provisions and Scope of Services, 67:42:07 (Group Care Centers for Minors), and 67:42:11 (Environmental Health); 31 SDR 183.</p>
6-10-2005	Revenue and Regulation: Banking Commission	<p>Adopt rules that authorize banks to provide mobile banking services to their customers; establish an application fee related to banks entering into mobile banking services; and establish a late fee for filing a renewal application for a money lending license; 31 SDR 177.</p>
6-21-2005	Bureau of Personnel	<p>Amend rules that will allow for drug testing of certain primary care employees at the South Dakota Human Services Center, Developmental Hospital, and Veterans' Home and to make changes in the procedures for drug testing of state employees so as to comply with legislation adopted by the South Dakota Legislature in 2005; 31 SDR 184.</p>

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.

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