

# REGISTER



## South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., June 3, 2013

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

**Department of Social Services: Division of Medical Services:** (May 29, 2013) intends to amend rules to remove outdated payment rate calculation information for in-state inpatient services and certain outpatient services; clarify that reimbursement for out-of-state hospital inpatient services and certain outpatient services is calculated at a percentage of charges as appropriated by the legislature, and specify that the dispensing fees for certain items dispensed by a pharmacy or public health service provider can be found on the department's website. The general authority for these rules, as cited by the department, is SDCL §§ 28-6-1 and 28-6-1.1.

A public hearing will be held in the Kneip Conference Room 2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on June 18, 2013, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by June 28, 2013, 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. 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) 773-3165 at least 48 hours before the hearing.

**Department of Health: Board of Pharmacy:** (May 30, 2013) intends to amend rules to establish the ability of pharmacies to retain health records, including prescription orders, in an electronic format. The general authority for these rules, as cited by the board is SDCL §§ 34-20B-41 and 36-11-11.

A public hearing will be held at the Capital Building, Room 413, Pierre, South Dakota, on July 12, 2013, at 1:00 p.m. CST. Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or sending comments to the South Dakota Board of Pharmacy, 3701 West 49<sup>th</sup> Street, Suite 204, Sioux Falls, South Dakota 57106. Copies of the proposed rules may be viewed at the board website [www.pharmacy.sd.gov](http://www.pharmacy.sd.gov) or obtained without charge from the Board's office. Material sent by mail must reach the Board of Pharmacy on or before July 11, 2013, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 362-2737 before the hearing.

### **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

#### **Executive Appointments:**

**Carla A. Bachand**, Pierre, was reappointed on May 29, 2013, to the **Visitation Grant Advisory Group**, effective immediately and shall continue until June 30, 2016.

**Roger G. Bowie**, Sioux Falls, was appointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, to replace Joshua Nankivel, effective July 1, 2013, and shall continue until June 30, 2016.

**Dale Clement**, Rapid City, was reappointed on May 29, 2013, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2017.

**JoAnne Cleveland**, Spearfish, was reappointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, effective immediately and shall continue until June 30, 2016.

**Gregory H. Dean**, Pierre, was reappointed on May 29, 2013, to the **Visitation Grant Advisory Group**, effective immediately and shall continue until June 30, 2016.

**Jeffery A. Erickson**, Sioux Falls, was reappointed on May 29, 2013, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2017.

**Cheryl B. Hanna**, Rapid City, was reappointed on May 29, 2013, to the **Commission on Equal Access to Our Courts**, effective immediately and shall continue until June 30, 2016.

**Paul S. Higbee**, Spearfish, was reappointed on May 29, 2013, to the **State Arts Council**, effective immediately and shall continue until June 30, 2016.

**Russell D. Johnson**, Beresford, was reappointed on May 29, 2013, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2016.

**Jackie A. Juhala**, Spearfish, was reappointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, effective immediately and shall continue until June 30, 2016.

**Michael J. Keller**, Vermillion, was reappointed on May 29, 2013, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2017.

**David A. Kennedy**, Spearfish, was reappointed on May 29, 2013, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2016.

**Deanna B. Lien**, Rapid City, was appointed on May 29, 2013, to the **State Arts Council**, to replace Justine Estes, effective July 1, 2013, and shall continue until June 30, 2016.

**Michael V. Luken**, Watertown, was reappointed on May 29, 2013, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2017.

**Lisa M. Merchen**, Spearfish, was reappointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, effective immediately and shall continue until June 30, 2016.

**Allen L. Nagel**, Aberdeen, was reappointed on May 29, 2013, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2016.

**Wendy S. Parent-Johnson**, Brandon, was appointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, to replace Judy Struck, effective immediately.

**James A. Speirs**, Sioux Falls, was reappointed on May 29, 2013, to the **State Arts Council**, effective July 1, 2013, and shall continue until June 30, 2016.

**Jody A. Sperlich**, Rapid City, was reappointed on May 29, 2013, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2017.

**Valere L. Beeck**, Alcester, was reappointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, effective

immediately and shall continue until June 30, 2016.

**Ronald L. Wagner**, Pierre, was appointed on May 29, 2013, to the **South Dakota Economic Development Finance Authority Board of Directors**, to replace Steve Hayes, effective July 1, 2013, and shall continue until June 30, 2017.

**Mark J. Way**, Winner, was reappointed on May 29, 2013, to the **Planning Council on Developmental Disabilities**, effective

immediately and shall continue until June 30, 2016.

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**

6-6-2013	Game, Fish and Parks	Amend rules to create a new rule section to establish requirements and restrictions for the operation of motor vehicles, golf carts, mopeds, and scooters on roads or parking areas located within the state park system; limit the scope of the current rule (ARSD 41:06:05:03) which prohibits possession of a firearm while archery hunting and create a new rule to address non-licensee armed accompaniment and place the responsibility for rule adherence upon the unlicensed hunter; establish the number and types of licenses available for the Fall Wild Turkey Hunting Season which include offering fewer one-tag licenses and more two-tag licenses for resident hunters on the East River Prairie Units, offering fewer one-tag licenses for resident hunters and fewer one-tag licenses for nonresident hunters for the Black Hills Unit, and repeal ARSD 41:06:14:04 which provides that in units adjoining the Cheyenne River or White River a license is valid in the adjacent unit within one mile of the common river boundary; modify the season dates for the Waterfowl Hunting Seasons to run from the first Saturday of August to August 31, increase the daily bag limit to 15, add those portions west of the Cheyenne River in Pennington County to the areas open to hunting, allow use of unplugged shotguns, and modify the shooting hours to end one-half hour after sunset; establish the
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	<p>number and types of resident and nonresident licenses available during the Black Hills Deer Hunting Season which will include offering residents and nonresidents fewer "antlerless whitetail deer" licenses than 2012; establish the number and types of resident and nonresident licenses available during the West River Prairie Deer Season; establish the number and types of licenses available for the East River Deer Hunting Season; provide that only unfilled "any antlerless deer" licenses are valid from January 1 to January 15, add Bon Homme, Charles Mix, Clay, Codington, Douglas, Grant, Hutchinson, Lincoln, Turner, Union, and Yankton counties to the area where "any antlerless deer" licenses are not valid, change all references to "Blood Run Nature Area" to "Good Earth State Park", reduce the number of "any antlerless deer" archery access permits for the Adams Homestead and Nature Preserve and Good Earth State Park, and increase the number of "any deer" archery access permits for the Adams Homestead and Nature Preserve; adjust the hunting start date for Unit RFD-SL1 within the National Wildlife Refuge Deer Hunting Season from the Saturday before the East River Deer Hunting Season to the second Saturday of November, adjust the start dates for all other Sand Lake Units accordingly, provide that only unfilled Sand Lake "antlerless deer" licenses are valid during the 9-day hunting season, and make allowance for optics that do not employ magnification during any Refuge Deer Hunting Seasons that are restricted to muzzleloaders; reduce the number of "any deer" licenses and increase the number of "antlerless whitetail deer" muzzleloader licenses in Custer State Park; add Bon Homme, Charles Mix, Clay, Douglas, Hutchinson, and Union counties to where only one Youth Deer hunting license is valid and remove the Youth Deer restriction for Sand Lake National Wildlife Refuge, Lacreek National Wildlife Refuge, Lake Andes National Wildlife Refuge, and Waubay National Wildlife Refuge; provide that during the General Muzzleloading Deer Hunting Season only unfilled "any antlerless deer"</p>
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		licenses are valid from January 1 to January 15; modify the West River Bobcat Trapping and Hunting Season from December 26 thru February 15 and modify the East River season from December 26 through the third Sunday of January; 39 SDR 191.
6-6-2013	Department of Agriculture: Agricultural Services	Adopt rules to require additional labeling and animal health requirements to dairy producers selling bottled raw milk direct to the consumer; 39 SDR 192.
6-18-2013	Department of Social Services: Division of Medical Services	Amend rules to remove outdated payment rate calculation information for in-state inpatient services and certain outpatient services; clarify that reimbursement for out-of-state hospital inpatient services and certain outpatient services is calculated at a percentage of charges as appropriated by the legislature, and specify that the dispensing fees for certain items dispensed by a pharmacy or public health service provider can be found on the department's website; 39 SDR 211.
6-27-2013	Environment and Natural Resources: Board of Water and Natural Resources	Amend Director Areas in Water Development Districts rules to redraw the director areas in the James River, East Dakota, and West Dakota Water Development District areas; amend Consolidated Water Facilities Construction Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, remove application restrictions that prohibit a project receiving more than one grant and one loan in a program year, that require applicants that are not funded resubmit an application in order to compete in a subsequent application cycle, and that require a minimum of 40 percent local share of a total project cost unless waived, repeal the section describing the distribution of uncommitted funds, require applicants to submit forms on an application provided by the department, revise the application review process to include eliminating the minimum rate requirement and the related waiver process, include televising and cleaning of sewer lines as an eligible expense, revise the factors for decision making, extend the time allowed to use funds from 3 years to 4 years, revise the provision that the department conduct an overall review

	<p>of the applicant's financial status, repeal the provision that the board may require an environmental statement, repeal the technical requirements regarding land surveys, plans and specification preparation, and the establishment of monitoring wells, and update or eliminate incorrect statute references and make other minor grammatical changes; amend State Water Pollution Control Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement for the preparation of plans and specifications, allow applicants to be awarded solid waste management funds in lieu of or in an addition to funds from State Revolving Pollution Control Revolving Fund program, allow all nonpoint source projects to receive principal forgiveness without meeting the minimum established rate, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, and update or correct references to the Clean Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; amend Solid Waste Management Program rules to repeal the provision that requires a minimum of 40 percent local share of a total project cost, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application process, discontinue using the price for recyclable materials as a criteria on which to base interest rates and begin using the current rate of alternate federal or state programs as a criteria, repeal the provision that requires the applicant to provide proof of certain permits prior to disbursement of funds, repeal the provision that the board may require an environmental statement, repeal the technical</p>
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		<p>requirements regarding land surveys and plans and specification preparation, revise the period for drawing funds from two years with a one-year extension with board approval to three years, repeal the section describing the distribution of uncommitted funds, eliminate the board's ability to waive the required debt coverage ratio due to financial hardship, require recipients to maintain proper accounting records, and update or correct statute references and make other minor grammatical changes; and amend Drinking Water State Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement regarding plans and specification preparation, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, make principal forgiveness available to disadvantaged communities, and update or correct references to the Drinking Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; 39 SDR 201.</p>
7-12-2013	Health: Board of Pharmacy	<p>Amend rules to establish the ability of pharmacies to retain health records, including prescription orders, in an electronic format; 39 SDR 211.</p>
8-15-2013	Environment and Natural Resources: Board of Minerals and Environment	<p>Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2010 through June 30, 2012. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, and making technical and typographical corrections to the federal rules; 39 SDR 201.</p>

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 4, 2013, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2013 interim: July 9, August 20, September 17, November 12, and December 17.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.