

REGISTER



South Dakota Legislative Research Council

Volume 30

Monday, 8:00 a.m., June 7, 2004

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 Medical Services: (June 3, 2004) intends to amend rules to define "over-the-counter (OTC)" drugs and "pharmaceutical and therapeutics (P&T) committee"; allow payment of OTC items recommended for coverage by the P&T committee and approved for coverage by the department; specify what constitutes a provider's usual and customary charge when determining the rate of payment for items dispensed by a pharmacy; limit payment for certain items dispensed by a public health service (PHS) provider to the cost of the item plus \$4.75 or three percent, whichever is greater; specify the criteria that must be met before an OTC item is eligible for reimbursement under Medicaid; specify those areas that must be reviewed by the P&T committee before the committee can recommend coverage of an OTC item by the department; and specify that the final determination of whether or not an OTC item is covered is made by the department and is based on the recommendations of the P&T committee. The general authority for these rules, as cited by the department, is SDCL 28-6-1, 21 USC 801, 812.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Monday, June 28, 2004, at 2:00 p.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 July 8, 2004, 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 Health: Board of Nursing: (June 4, 2004) intends to amend rules to update the approval of nursing education programs with a major revision of accepting national nursing accreditation in lieu of the every four year on-site visit by the Board of Nursing for the purpose of maintaining on-going approval; add a rule for the regulation of distance education programs in nursing; amend the time period for calculation of the 75% pass rate requirement for first time writers on the licensing exam; and amend rules related to retaking the licensing examination. The general authority for these rules, as cited by the board, is SDCL 36-9-21.

A public hearing will be held at the South Dakota Board of Nursing office located at 4305 South Louise Avenue, Suite 201, Sioux Falls, South Dakota, on Thursday, July 15, 2004, at 1:00 p.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Board of Nursing, 4305 South Louise Avenue, Suite 201, Sioux Falls, South Dakota 57106, or by calling (605) 362-2760. Written comments must be received

by July 14, 2004, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 362-2760 before the hearing.

Department of Transportation: (June 4, 2004) has filed rules to extend a 35 mph and a 45 mph speed zone in Hughes County along US Highway 14/83 to reduce speeds through the City of Pierre near the junction with SD Highway 1804 and entering the city; extend a 35 mph speed zone in Hughes County along the US Highway 14/83 Bypass in Pierre in an area of increased commercial development near Fourth Street; extend a 35 mph and a 45 mph speed zone in Hughes County along SD Highway 34 in Pierre near the junction with the US Highway 14/83 Bypass where traffic signals will be installed; add a 25 mph speed zone in Meade County to reduce speeds through an area with heavy vehicular and pedestrian cross traffic in the City of Faith and extend an existing 35 mph and 45 mph speed zone entering this new speed zone; amend a 50 mph speed zone in Perkins County to clarify the rule to better reflect the conditions along the highway, reduced speed limits along other segments of this highway currently covered by this rule are being eliminated due to recent reconstruction, and other sections of this rule are being eliminated and made into new rules for better clarity; adding a speed zone in Perkins County on SD Highway 20 through Bison as a clarification and amending an existing speed rule for this segment of highway to eliminate this portion of the highway from the rule; adding a speed zone in Perkins County on SD Highway 20 through Meadow for clarification and amending an existing speed rule for this segment of highway to eliminate this portion of the highway from the rule; and regarding the movement of oversize or overweight vehicles increase the permit fees for single trip permits from \$20 to \$25 and extended period permits from \$50 to \$60. The general authority for these rules, as cited by the department, is 32-22-39, 32-22-42, and 32-25-7.

A public hearing will be held in the commission

room of the Becker-Hansen Building, 700 E. Broadway Avenue in Pierre, South Dakota, on June 24, 2004, at 9:05 a.m. CDST. Copies of the proposed rule may be obtained without charge from and written comments sent to the Secretary of Transportation, Room 202, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the Department by June 23, 2004, 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) 773-3265 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF HEALTH: 44:06:01:00, 44:06:01:01, 44:06:01:02, 44:06:01:04, 44:06:01:05, 44:06:01:08, 44:06:01:09; 44:06:02:02, 44:06:02:04, 44:06:02:05; 44:06:03:01, 44:06:03:02, 44:06:03:04; 44:06:04:01, 44:06:04:02; 44:06:05:01, 44:06:05:03; 44:06:06:01, 44:06:06:03, 44:06:06:04, and 44:06:06:07.

History-Notice: 30 SDR 152, March 29, 2004
 Hearing: April 21, 2004
 Filed: June 3, 2004
 Effective: June 23, 2004

DEPARTMENT OF CORRECTIONS: BOARD OF PARDONS AND PAROLES:

17:50:13:08, 17:50:13:09; 17:60:01:00, 17:60:01:01, 17:60:01:02, 17:60:01:03, 17:60:01:04; 17:60:02:09; 17:60:03:01, 17:60:03:02, 17:60:03:03, 17:60:03:04, 17:60:03:05, 17:60:03:09, 17:60:03:10, 17:60:03:13; 17:60:04:02, 17:06:04:04; 17:60:08:01; 17:60:09:02, 17:60:09:06; 17:60:10:01; 17:60:11:01, 17:60:11:03, 17:60:11:04, 17:60:11:07, 17:60:11:09, 17:60:11:10, 17:60:11:13; 17:61:01:01, 17:61:01:04, 17:61:01:12, 17:61:01:13; 17:61:02:03, 17:61:02:08 to 17:61:02:10, inclusive, 17:61:02:12, 17:61:02:15, and

17:61:02:17 to 17:61:02:19, inclusive.

History-Notice: 30 SDR 158, April 5, 2004

Hearing: May 3, 2004

Filed: June 3, 2004

Effective: June 23, 2004

Executive Appointments:

James W. Abbott, Vermillion, was appointed on May 28, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

Mark Barnett, Pierre, was appointed on May 28, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

Donald Dahlin, Vermillion, was appointed on May 28, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

Robert A. Miller, Pierre, was appointed on May 28, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

Brent A. Wilbur, Pierre, was appointed on May 28, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

Bill Abernathy, Pierre, was appointed on June 1, 2004, to the **Law Enforcement Civil Service Commission**, to replace Jerry May, effective June 15, 2004, and shall continue until June 1, 2008.

Ginger Johnson, Sturgis, was appointed on June 1, 2004, to the **Board of Social Work Examiners**, to replace Judy Sues, effective immediately and shall continue until July 1, 2006.

Michelle Powers, Pierre, was appointed on June 1, 2004, to the **Mental Health Planning**

and Coordination Advisory Council, to replace Deborah Barnett, effective immediately and shall continue at the pleasure of the Governor.

Michelle Powers, Pierre, was appointed on June 1, 2004, to the **Planning Council on Developmental Disabilities**, to replace Deborah Barnett, effective immediately and shall continue at the pleasure of the Governor.

Matt Adamski, Sioux Falls, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Brenda Barger, Watertown, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Robert V. Burns, Brookings, was appointed on June 2, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

David R. DeJabet, Pierre, was appointed on June 2, 2004, to the **South Dakota Crime Victims' Compensation Commission**, to replace Fred Eisenbraun, effective immediately and shall continue until July 1, 2007.

Jason Dilges, Pierre, was appointed on June 2, 2004, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until July 1, 2006.

Sean J. Flynn, Mitchell, was appointed on June 2, 2004, to the **Constitutional Revision Commission**, effective July 1, 2004, and shall continue until December 31, 2005.

James Hagen, Pierre, was appointed on June 2, 2004, to the **2010 Research and Commercialization Council**, effective

immediately and shall continue until July 1, 2006.

Tom Helland, Chamberlain, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Lyle Hendrickson, Rapid City, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Linda Lillibridge, Burke, was reappointed on June 2, 2004, to the **Board of Social Work Examiners**, effective July 1, 2004, and shall continue until July 1, 2007.

Patty McGee, Onida, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Tad Perry, Pierre, was appointed on June 2, 2004, to the **2010 Research and Commercialization Council**, effective immediately and shall continue until July 1, 2006.

Jim Shaw, Rapid City, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1,

2004, and shall continue until December 31, 2005.

Sam Tidball, Ft. Pierre, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Julie Williams, Chamberlain, was reappointed on June 2, 2004, to the **Animal Industry Board**, effective July 1, 2004, and shall continue until July 1, 2008.

James Zweep, Sioux Falls, was appointed on June 2, 2004, to the **State and Local Government Task Force**, effective July 1, 2004, and shall continue until December 31, 2005.

Tonnis H. Venhuizen, Armour, was reappointed on June 3, 2004, to the **State Board of Regents**, effective immediately and shall continue until July 1, 2006.

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

6-14-2004	Public Safety: Office of Emergency Medical Services	Adopt rules to establish cardiopulmonary directives for ambulance personnel; 30 SDR 185.
6-17-2004	Environment and Natural Resources: Board of Minerals and Environment	Amend rules to update existing hazardous waste rules by incorporating the federal rules by reference. This includes changes that have been made to the federal hazardous waste rules from July 1, 2002, to June 30, 2003. Changes to the rules include: establishing criteria for the use of certain materials in the production of zinc fertilizers, the establishment of treatment

		standards prior to disposing of certain metal-containing wastes, and the correction of technical errors in previously promulgated rules; 30 SDR 169.
6-24-2004	Transportation	Amend speed zones in Hughes, Meade, and Perkins Counties and increase the permit fees for oversize or overweight vehicles; 30 SDR 198.
6-28-2004	Social Services: Office of Medical Services	Amend rules to define terms, establish a system for reviewing and approving OTC items for coverage by the department, and amend the payment provisions for items dispensed by a pharmacy or PHS provider; 30 SDR 197.
7-7-2004	Environment and Natural Resources: Board of Water Management	Repeal two existing chapters of the state drinking water rules and update them by incorporating by reference the most recent published version of the Code of Federal Regulations for drinking water; 30 SDR 193.
7-15-2004	Health: Board of Nursing	Amend rules to update the approval of nursing education programs with a major revision of accepting national nursing accreditation in lieu of the every four year on-site visit by the Board of Nursing for the purpose of maintaining on-going approval; add a rule for the regulation of distance education programs in nursing; amend the time period for calculation of the 75% pass rate requirement for first time writers on the licensing exam; and amend rules related to retaking the licensing examination; 30 SDR 197.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 3, 2004, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2004 interim: October 15.

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.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 30 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at MyLRC (<http://legis.state.sd.us/mylrc/index.cfm>).