

REGISTER



South Dakota Legislative Research Council

Volume 44

Wednesday, 8:00 a.m., July 5, 2017

FILINGS IN THE LEGISLATIVE RESEARCH COUNCIL'S OFFICE:

Notice of Proposed Rules: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Health: Division of Health Systems Development and Regulation:

(June 29, 2017) intends to adopt rules to give the department authority to license and regulate community living homes in South Dakota. The general authority for these rules, as cited by the department, is SDCL §§ 34-12-7 and 34-12-13.

A public hearing will be held at the Hayes Building, Robert Hayes Conference Room 107, 600 E. Capitol, Pierre, South Dakota, on July 25, 2017, at 2:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Health, Hayes Building, 600 E. Capitol Ave., Pierre, SD 57501. Material sent by mail must reach the department by August 4, 2017, 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 Human Services: Division of Developmental Disabilities:

(June 29, 2017) intends to amend rules to revise the definition of a community support provider to align the rule with statute; change the definition of an organized health care delivery system to include community services provider; align the rule definition of community services provider with statutory definition, allowing a for profit entity

to provide direct services; add a definition of home and community services; repeal duplicative rule; require similar enrollment documents for profit and not for profit entities; replace the phrase "CSP or SP" with provider; clarify the applicable ARSD chapters for the biennial review of providers; change the language from CSP to provider to make the process applicable to SP's; clarify that either a CSP or SP provider of direct HCB services establish and use a human rights committee for certain rights restrictions; clarify that either a CSP or SP must have policies and procedures for calculations of wages owing to participants in a vocational training and employment setting; extend the time frame for implementing ISP revisions; require providers of direct HCB services to meet certain standards in owned or leased buildings and meet certain fire extinguisher requirements and updates the DOH reference to linens and fire code; require any provider of direct HCB services to provide a medication administration system; extend fair hearing protections to a termination of waiver services by a SP; allow an individual employed by a SP to be a coordinator of family support waiver services; allow a SP to be an employer of record; allow a SP to provide home and community based services; allow a SP to be a provider and specifies the responsibilities of being a provider; correct references to ARSD; transfer a section regarding confidentiality; add SP to entities required to provide notice of a critical incident; add SP to those entities available to deliver services under the family support program; add SP to the agency of choice model of service delivery; allow an individual to use a SP to deliver services; allow a SP to provide family support coordination; clarify the services available through the agency with

choice service model; add SP to the transfer of records process; add SP to the entities subject to biennial review and to a participant satisfaction survey; add SP to those entities subject to revocation of a provider agreement for failure to meet ARSD standards; require CSP's, SP's and qualified providers to recognize rights of participants, parents and guardians; expand definition of coordinator; remove definition of provider; specify that a local family support provider can be a SP; shorten and clarify rule by changing phrase to provider; and clarify that community training services must meet the service standards of Chapter 46: 11 :05. The primary effect of the rules will be to allow for profit entities to deliver community services to individuals with intellectual and developmental disabilities. The general authority for these rules, as cited by the department, is SDCL §§ 27B-2-25, 27B-2-26, and 36-9-28.

A public hearing will be held in the Large Conference Room, Hillsview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on July 28, 2017, at 10:00 a.m. to 12:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to Department of Human Services, Hillsview Properties Plaza, E3800 E. Hwy. 34, c/o 500 East Capitol, Pierre, SD 57501-5070. Copies of the proposed rules may be obtained at the department's website at <http://dhs.sd.gov/> or by emailing Katherine.Osterloh@state.sd.us. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Material sent by mail must reach the Department of Human Services by August 11, 2017, 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) 773-5990 within 48 hours of the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Doug Fuerst, Mitchell, was appointed on June 19, 2017, to the **State Electrical Commission**, to replace Steven Arne, effective immediately and shall continue until April 14, 2020.

Laurie Gill, Pierre, was appointed on June 19, 2017, to the **South Dakota Retirement System Board of Trustees**, to replace Jason Dilges, effective immediately.

Scott Bollinger, Pierre, was appointed on June 20, 2017, as **Commissioner of the Bureau of Administration**, effective March 1, 2017, and shall continue at the pleasure of the Governor.

Natalie Damgaard, Minnehaha County, was appointed on June 20, 2017, as **Judge of the Second Judicial Circuit Court of South Dakota**, filling a vacancy, effective July 18, 2016 upon taking the oath of office and shall continue until December 31, 2024.

Scott Erickson, Sioux Falls, was appointed on June 21, 2017, to the **Housing Development Authority**, to replace Lloyd Schipper, effective July 1, 2017, and shall continue until June 30, 2022.

Darlene Farabee, Vermillion, was appointed on June 21, 2017, to the **South Dakota Humanities Council**, to replace Matthew Moen, effective immediately and shall continue until December 31, 2018.

David S. Pummel, Belle Fourche, was reappointed on June 21, 2017, to the **Housing Development Authority**, effective July 1, 2017, and shall continue until June 30, 2022.

Kristi Eisenbraun, Sioux Falls, was appointed on June 22, 2017, to the **Board of Vocational**

Rehabilitation, to replace Thore Jenshus, effective July 1, 2017, and shall continue until June 30, 2020.

Kendra Gottsleben, Sioux Falls, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Kimberly Holberg, Aberdeen, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Brad Konechne, was appointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, to replace Darla McGuire, effective July 1, 2017, and shall continue until June 30, 2020.

Bill McEntaffer, Pierre, was appointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, to replace Chad Maxon, effective July 1, 2017, and shall continue until June 30, 2020.

Colleen Moran, Hartford, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Lisa Sanderson, Sioux Falls, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Cole Uecker, Pierre, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Joe Vetch, Summerset, was reappointed on June 22, 2017, to the **Board of Vocational Rehabilitation**, effective July 1, 2017, and shall continue until June 30, 2020.

Vivian B. Asmussen, Pierre, was reappointed on June 23, 2017, to the **Commission on**

Human Rights, effective July 1, 2017, and shall continue until June 30, 2021.

Darci Bible, Pierre, was reappointed on June 23, 2017, to the **Family Support Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Dave M. Giovannini, Aberdeen, was reappointed on June 23, 2017, to the **South Dakota Workforce Development Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Marlene Haines, Mitchell, was reappointed on June 23, 2017, to the **South Dakota 911 Coordination Board**, effective July 1, 2017, and shall continue until June 30, 2020.

Lynn Hammerstrom, Belle Fourche, was reappointed on June 23, 2017, to the **Commission on Equal Access to Our Courts**, effective July 1, 2017, and shall continue until June 30, 2020.

Steven G. Harding, Pierre, was reappointed on June 23, 2017, to the **South Dakota 911 Coordination Board**, effective July 1, 2017, and shall continue until June 30, 2020.

Shirley J. Hauge, Rapid City, was reappointed on June 23, 2017, to the **Board of Examiners for Speech-Language Pathology**, effective August 1, 2017, and shall continue until July 30, 2020.

Bruce Hintz, Lead, was reappointed on June 23, 2017, to the **South Dakota Snowmobile Advisory Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Bill Lynch, Pierre, was reappointed on June 23, 2017, to the **South Dakota Health and Educational Facilities Authority**, effective July 1, 2017, and shall continue until June 30, 2022.

Patricia Norin, Brandon, was reappointed on June 23, 2017, to the **Family Support Council**, effective November 1, 2017, and shall continue until October 30, 2020.

Jane Rasmussen, Sisseton, was reappointed on June 23, 2017, to the **State Arts Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Don Reinesch, Kimball, was reappointed on June 23, 2017, to the **South Dakota 911 Coordination Board**, effective July 1, 2017, and shall continue until June 30, 2020.

Crystal G. Reuter, Sioux Falls, was reappointed on June 23, 2017, to the **Planning Council on Developmental Disabilities**, effective July 1, 2017, and shall continue until June 30, 2020.

Dave Scherer, Sturgis, was reappointed on June 23, 2017, to the **Independent Living Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Connie Sullivan, Pierre, was reappointed on June 23, 2017, to the **Board of Service to the Blind and Visually Impaired**, effective July 1, 2017, and shall continue until June 30, 2020.

Connie Tucker, Rapid City, was reappointed on June 23, 2017, to the **Board of Examiners for Speech-Language Pathology**, effective August 1, 2017, and shall continue until July 30, 2020.

Cole Uecker, Pierre, was reappointed on June 23, 2017, to the **Board of Service to the Blind and Visually Impaired**, effective July 1, 2017, and shall continue until June 30, 2020.

David L. Volk, Sioux Falls, was reappointed on June 23, 2017, to the **Commission on Human Rights**, effective July 1, 2017, and shall continue until June 30, 2021.

James L. Walker, Bath, was reappointed on June 23, 2017, to the **State Arts Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Todd Wilkinson, De Smet, was reappointed on June 23, 2017, to the **South Dakota Snowmobile Advisory Council**, effective July 1, 2017, and shall continue until June 30, 2020.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. 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

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| <p>7-11-2017</p> | <p>Department of Agriculture: Animal Industry Board Amend rules to include composting as a carcass disposal option for livestock producers, change and update current language of reference material, allow for individuals in South Dakota to possess non-domestic swine (family Suidae) under permit from the board, eliminate the grandfather type of captive non-domestic possession permit, and repeal rules that are no longer applicable; 43 SDR 175, June 19, 2017.</p> |
| <p>7-13-2017</p> | <p>Department of Game, Fish and Parks Amend a Custer State Park Restrictions rule to amend the 200 yard hunting restriction near roads and buildings within Custer State Park presently applicable to big game</p> |

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| | species to include coyotes; amend a Sage Grouse Hunting Season rule to close the season; amend an Antelope Hunting Season rule to adjust the number of hunting licenses; amend a Custer State Park Antelope Hunting Season rule to close the season; and amend Custer State Park Coyote Hunting Season rules to reopen the coyote hunting season, adjust the season dates from the second Monday in December to December 31, inclusive, to December 26 to March 31, inclusive, allow any resident possessing a valid resident predator/varmint license, resident furbearer license, or any resident hunting license to hunt coyotes in the Custer State Park hunting unit (Unit CUC-CU1), and require a hunter to obtain and possess a free access permit issued by the department in order to hunt coyotes in Custer State Park; 43 SDR 179, June 26, 2017. |
| 7-14-2017 | Department of Education: State Historical Society Amend rules to update reference materials; set standard fees for services provided; revise the museum rental fees; eliminate the fee for purchasing a USGS map; and correct a SDCL reference; 43 SDR 159, May 30, 2017. |
| 7-17-2017 | Department of Education: Board of Education Amend Principal Performance Standards & Evaluations rules to create local flexibility in decisions regarding implementation of principal evaluation systems; 43 SDR 175, June 19, 2017. |
| 6-20-2017 Changed to 7-18-2017 | Department of Public Safety Amend rules to adopt the 2015 edition of the National School Transportation Specifications and Procedures, adopt the 2017 Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria", revise the requirements for motorcycle safety education courses, remove the requirement of providing a social security number when transferring a compliant out of state driver's license to South Dakota, and updating the federal adoption to match statute; 43 SDR 153, May 22, 2017. |
| 7-20-2017 | Department of Environment and Natural Resources: Board of Minerals and Environment Update the state's existing hazardous waste rules by incorporating updated, codified federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2012 through June 30, 2016. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, management standards for solvent-contaminated wipes, establishing a framework for the use of electronic manifests, revisions to requirements involving imports and exports of hazardous wastes, and incorporating technical and typographical corrections to the federal rules; 43 SDR 159, May 30, 2017. |
| 7-20-2017 | Department of Environment and Natural Resources: Board of Minerals and Environment Amend air quality rules by incorporating updated, codified regulations by reference and clarifying when air quality modeling is required. The proposed amendments primarily reflect changes made to the federal air quality regulations as of June 30, 2016; 43 SDR 169, June 12, 2017. |
| 7-25-2017 | Department of Health: Division of Health Systems Development and Regulation Adopt rules to give the department authority to license and regulate community living homes in South Dakota; 44 SDR 1, July 5, 2017. |
| 7-25-2017 | Department of Human Services: Board of Social Work Examiners Amend rules to update the Code of Ethics to the most recent version, repeal temporary license fees, repeal the rules related to social work by equivalency, and establish rules for licensing Behavior Analysts; 43 SDR 179, June 26, 2017. |

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| 7-27-2017 | <p>Department of Social Services: Division of Child Care Services Amend rules to update the definition of full-time student, align language with current practice and federal requirements, correct a citation, and move the co-payment rates for child care assistance to the department's website and modifies the sliding fee scale; 43 SDR 180, June 26, 2017.</p> |
| 7-28-2017 | <p>Department of Human Services: Division of Developmental Disabilities Amend rules to revise the definition of a community support provider to align the rule with statute; change the definition of an organized health care delivery system to include community services provider; align the rule definition of community services provider with statutory definition, allowing a for profit entity to provide direct services; add a definition of home and community services; repeal duplicative rule; require similar enrollment documents for profit and not for profit entities; replace the phrase "CSP or SP" with provider; clarify the applicable ARSD chapters for the biennial review of providers; change the language from CSP to provider to make the process applicable to SP's; clarify that either a CSP or SP provider of direct HCB services establish and use a human rights committee for certain rights restrictions; clarify that either a CSP or SP must have policies and procedures for calculations of wages owing to participants in a vocational training and employment setting; extend the time frame for implementing ISP revisions; require providers of direct HCB services to meet certain standards in owned or leased buildings and meet certain fire extinguisher requirements and updates the DOH reference to linens and fire code; require any provider of direct HCB services to provide a medication administration system; extend fair hearing protections to a termination of waiver services by a SP; allow an individual employed by a SP to be a coordinator of family support waiver services; allow a SP to be an employer of record; allow a SP to provide home and community based services; allow a SP to be a provider and specifies the responsibilities of being a provider; correct references to ARSD; transfer a section regarding confidentiality; add SP to entities required to provide notice of a critical incident; add SP to those entities available to deliver services under the family support program; add SP to the agency of choice model of service delivery; allow an individual to use a SP to deliver services; allow a SP to provide family support coordination; clarify the services available through the agency with choice service model; add SP to the transfer of records process; add SP to the entities subject to biennial review and to a participant satisfaction survey; add SP to those entities subject to revocation of a provider agreement for failure to meet ARSD standards; require CSP's, SP's and qualified providers to recognize rights of participants, parents and guardians; expand definition of coordinator; remove definition of provider; specify that a local family support provider can be a SP; shorten and clarify rule by changing phrase to provider; and clarify that community training services must meet the service standards of Chapter 46: 11 :05. The primary effect of the rules will be to allow for profit entities to deliver community services to individuals with intellectual and developmental disabilities; 44 SDR 1, July 5, 2017.</p> |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on Monday, July 17, 2017, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor of the State Capitol. The other DDN site will be: Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145. The committee chair has set the following meeting schedule for the 2017 interim: August 22, September 25, and November 14.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://www.sdlegislature.gov/Rules/RulesManual.aspx>.

