

# REGISTER



South Dakota Legislative Research Council

Volume 32

Monday, 8:00 a.m., August 15, 2005

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

***Department of Revenue and Regulation:***

***Division of Insurance:*** (August 8, 2005) intends to amend rules to change the permissible exclusions in life insurance policies; modify the open enrollment period for Medicare eligible individuals; and establish the effective date of producer appointments. The general authority for these rules, as cited by the board, is SDCL 58-4-1, 58-15-45, 58-17A-2, 58-30-117, and 58-30-195.

A public hearing will be held in Room #109 of the Anderson Building, 445 E. Capitol Avenue, Pierre, South Dakota, on September 2, 2005, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. The text of the proposed rules will be posted on the Division of Insurance's website at [www.state.sd.us/drr2/reg/insurance/legal/hearing.html](http://www.state.sd.us/drr2/reg/insurance/legal/hearing.html). The rules may also be obtained as a Microsoft Word attachment by emailing [Ellen.Blauert@state.sd.us](mailto:Ellen.Blauert@state.sd.us). Written comments must be received by September 1, 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) 773-3563 at least 48 hours before the hearing.

**FILINGS IN THE SECRETARY OF STATES OFFICE:**

**DEPARTMENT OF AGRICULTURE:**

12:79:01:01; 12:79:02:01, 12:79:02:02; 12:79:03:01 to 12:79:03:10, inclusive; 12:79:04:01, 12:79:04:02; 12:79:05:01, 12:79:05:02; 12:79:06:01 to 12:79:06:03, inclusive; 12:79:07:01 to 12:79:07:06, inclusive; 12:79:08:01 to 12:79:08:09, inclusive; and 12:79:09:01.

History-Notice: 31 SDR 219, June 27, 2005  
Hearing: July 12, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF GAME, FISH AND PARKS:** 41:06:20:01.01, 41:06:20:02; 41:08:01:07, and 41:08:01:08.

History-Notice: 31 SDR 184, May 16, 2005  
Hearing: June 2, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF GAME, FISH AND PARKS:** 41:03:01:16.02; 41:03:03:03, 41:03:03:06; 41:06:10:01; 41:06:21:01, 41:06:21:02, 41:06:21:02.01; 41:06:23:01, 41:06:23:02, 41:06:23:03; 41:06:50:02, 41:06:50:04; and 41:08:02:01.

History-Notice: 31 SDR 213, June 20, 2005  
Hearing: July 7, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF HUMAN SERVICES:  
BOARD OF COUNSELOR EXAMINERS:**

20:68:01:02; 20:68:04:01 to 20:68:04:03,  
inclusive; 20:71:05:03; 20:73:01:02,  
20:73:01:03; and 20:73:04:01 to 20:73:04:04,  
inclusive.

History-Notice: 31 SDR 198, May 31, 2005  
Hearing: June 24, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF HUMAN SERVICES:**

46:30:08:01 to 46:30:08:14, inclusive.

History-Notice: 31 SDR 219, June 27, 2005  
Hearing: July 19, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF LABOR:  
COSMETOLOGY COMMISSION:**

20:42:03:06; 20:42:04:04.02, 20:42:04:05.01;  
20:42:06:01.03, 20:42:06:09, 20:42:06:09.01,  
20:42:06:09.02, 20:42:06:12, 20:42:06:14, and  
20:42:06:17.

History-Notice: 32 SDR 1, July 5, 2005  
Hearing: July 25, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**DEPARTMENT OF REVENUE AND  
REGULATION: DIVISION OF  
INSURANCE: 20:06:13:43.**

History-Notice: 31 SDR 163, April 25, 2005  
Hearing: May 19, 2005  
Filed: August 9, 2005  
Effective: August 29, 2005

**BUREAU OF PERSONNEL: 55:05:01:01;**  
55:05:02:03; 55:05:04:01, 55:05:04:02,  
55:05:04:03; 55:05:05:01, 55:05:05:02,  
55:05:05:03, 55:05:05:04; 55:05:06:07,  
55:05:06:08, 55:05:06:17, 55:05:06:18; and  
55:05:07:03.

History-Notice: 31 SDR 184, May 16, 2005  
Hearing: June 21, 2005  
Filed: August 10, 2005  
Effective: August 30, 2005

**DEPARTMENT OF REVENUE AND  
REGULATION: COMMISSION ON**

**GAMING: 20:04:24:16; 20:04:28:01.01;**  
20:18:14.01:03; 20:18:20.01:05, and 20:18  
Appendix A.

History-Notice: 31 SDR 198, May 31, 2005  
Hearing: June 14, 2005  
Filed: August 10, 2005  
Effective: August 30, 2005

**DEPARTMENT OF REVENUE AND  
REGULATION: COMMISSION ON**

**GAMING: 20:04:29:13; 20:04:33:01 to**  
20:04:33:80, inclusive.

History-Notice: 32 SDR 1, July 5, 2005  
Hearing: July 26, 2005  
Filed: August 10, 2005  
Effective: August 30, 2005

**DEPARTMENT OF TRANSPORTATION:**

70:01:02:22.

History-Notice: 31 SDR 205, June 6, 2005  
Hearing: June 23, 2005  
Filed: August 10, 2005  
Effective: August 30, 2005

**DEPARTMENT OF TRANSPORTATION:**

70:10:01:01 to 70:10:01:13, inclusive; and  
70:10:02:01 to 70:10:02:04, inclusive.

History-Notice: 32 SDR 1, July 5, 2005  
Hearing: July 28, 2005  
Filed: August 10, 2005  
Effective: August 30, 2005

**DEPARTMENT OF HEALTH: BOARD OF  
CHIROPRACTIC EXAMINERS:**

20:41:05:04, 20:41:05:04.01, 20:41:05:05;  
20:41:10:02, 20:41:10:05.02; 20:41:12:01;  
20:41:13:06; and 20:41:14:07.

History-Notice: 31 SDR 171, May 2, 2005  
Hearing: June 3, 2005  
Filed: August 11, 2005  
Effective: August 31, 2005

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF CHILD PROTECTION  
SERVICES:** 67:42:01:01, 67:42:01:02,  
67:42:01:04.01, 67:42:01:14, 67:42:01:23,  
67:42:01:28, 67:42:01:33, 67:42:01:34,  
67:42:01:35; 67:42:11:01, 67:42:11:02,  
67:42:11:05, 67:42:11:06; and 67:42:15:01 to  
67:42:15:23, inclusive.

History-Notice: 31 SDR 183, May 16, 2005  
Hearing: June 3, 2005  
Filed: August 11, 2005  
Effective: August 31, 2005

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF ECONOMIC ASSISTANCE:**  
67:10:05:03, 57:10:05:04, 67:10:05:05.

History-Notice: 31 SDR 219, June 27, 2005  
Hearing: July 15, 2005  
Filed: August 11, 2005  
Effective: August 31, 2005

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF MEDICAL SERVICES AND  
OFFICE OF THE SECRETARIAT:**  
67:11:01:03; 67:16:01:25, and 67:16:01:26.

History-Notice: 31 SDR 220, June 27, 2005  
Hearing: July 15, 2005  
Filed: August 11, 2005  
Effective: August 31, 2005

**DEPARTMENT OF SOCIAL SERVICES:  
OFFICE OF MEDICAL SERVICES:**  
67:16:47:01 to 67:16:47:14, inclusive.

History-Notice: 31 SDR 220, June 27, 2005  
Hearing: July 15, 2005  
Filed: August 11, 2005  
Effective: August 31, 2005

### **Executive Appointments:**

**Lorin D. Pankratz**, Sioux Falls, was reappointed on July 25, 2005, to the **Board of Examiners of Psychologists**, effective immediately and shall continue until June 30, 2008.

**John Forman**, Pierre, was appointed on July 27, 2005, to the **State Emergency Response Commission**, to replace Mike Durick, effective July 8, 2005.

**Paul I. Engbrecht**, Marion, was reappointed on August 4, 2005, to the **South Dakota State Board for Nursing Facility Administrators**, effective immediately and shall continue until June 30, 2008.

**Daniel Green**, Spearfish, was appointed on August 4, 2005, to the **Board of Examiners of Psychologists**, effective immediately and shall continue until June 30, 2008.

**Chris Hipple**, Pierre, was reappointed on August 4, 2005, to the **South Dakota State Board for Nursing Facility Administrators**, effective immediately and shall continue until June 30, 2008.

**Wayne M. Muth**, Sioux Falls, was reappointed on August 4, 2005, to the **South Dakota State Board for Nursing Facility Administrators**, effective immediately and shall continue until June 30, 2008.

**John B. Miller**, Hot Springs, was appointed on August 5, 2005, to the **South Dakota State Board for Nursing Facility Administrators**, to replace David Simpson, effective immediately and shall continue until June 30, 2008.

**George W. Cook**, Clear Lake, was reappointed on August 9, 2005, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2009.

**Declaratory Ruling:**

The South Dakota Commission on Gaming has issued a declaratory ruling dated August 10, 2005. The ruling relates to the Star of the West Room in the Franklin Hotel. After a public hearing on the matter, the Commission determined that the structure known as the Star of the West Room constitutes a separate building for the purposes of determining the number of gaming devices that can be placed in the structure. According to state law and administrative rule, 30 gaming devices may be placed in the structure as long as all other gaming rules and requirements are met.

Copies of the declaratory ruling may be reviewed or copied at the office of the Legislative Research Council 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**

|           |  |   |
|-----------|--|---|
| 8-16-2005 | Agriculture: Veterinary Medical Examining Board<br><b>This hearing has been cancelled.</b> | Amend rules to provide for a single Exam Board member to conduct interviews of veterinary technician applicants for registration; to provide for the national exam to be the sole written examination for veterinary technician applicants; and to provide for waiving continuing education requirements for retired licensees when the Board determines the licensee is no longer practicing;<br>32 SDR 21.  |
| 8-25-2005 | Revenue and Regulation: Real Estate Commission   | Adopt and amend rules to clarify appointed agent procedures regarding disclosure and confidentiality, to repeal forms in appendices by establishing contents of forms prescribed by the Real Estate Commission, and to update materials incorporated by reference;<br>32 SDR 11.  |
| 8-26-2005 | Revenue and Regulation   | Amend rules to update the edition of the manuals used to value and assess property; to provide greater flexibility in how credits are counted for assessor school instructors; to revise the requirements for renewal of property assessor certificates; to update definitions that relate to the determination of agricultural income value; to revise the formula to determine agricultural land value when there are insufficient sales; to list the information a Director of Equalization must base adjustments; to require the department to review adjustments made to valuation and any |

|                  |  |   |
|------------------|--|---|
|                  |  | <p>evidence submitted in support of an adjustment; to tax a retail sale made by one florist, delivered by another florist, where the delivery is made, beginning January 1, 2006; to remove references to the special tax rate for farm machines, attachments and irrigation equipment; to include boats in the damage disclosure requirements and clarify what information is required in a damage disclosure statement; to change the circumstances that require a report from an alcohol licensee about a stock transfer and to specify how that report will be used; and to repeal a provision requiring employees to report any attempted solicitation of bribery, repeal a provision requiring employees to acknowledge their awareness of the requirements of the rule, and specify that the rule applies to all members of the distilled spirits industry; 32 SDR 27.</p>   |
| <p>8-30-2005</p> | <p>Revenue and Regulation: Gaming Commission</p>     | <p>Amend racing rules as follows: provide a new basis for summary suspension of licensure – when a licensee fails to pay a fine imposed by the deadline allowed, require permission of the Board of Stewards before payment of another licensee's fine is allowed, require a mandatory suspension of licensure for individuals who do not pay fines within established deadlines, eliminate reference to the Association of Racing Commission International in the reinstatement procedure rule and to recognize that there are more than one pari-mutuel associations for racing, and eliminate the reference to the Association of Racing Commissioners International from the rule regarding procedures for denied licenses, recognizing the expansion of pari-mutuel regulatory associations. Regarding the Deadwood Gambling rules, adopt a variation of play of the game of poker known as Heads Up Poker Challenge; 32 SDR 21.</p> |
| <p>9-2-2005</p>  | <p>Revenue and Regulation: Division of Insurance</p> | <p>Amend rules to change the permissible exclusions in life insurance policies; modify the open enrollment period for Medicare eligible individuals; and establish the effective date of producer appointments; 32 SDR 31.</p>  |

***Rules Review Committee Meetings***

The next meeting of the Interim Rules Review Committee will be held Monday, August 29, 2005, in Room 412 of the State Capitol. The meeting on August 29, 2005, will be conducted by teleconference and will be limited to rules for waterfowl hunting and mountain lion hunting. The committee chair has set the following tentative meeting schedule for the 2005 interim: 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 Legislative Web site.