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South Dakota Legislative Research Council

Volume 35

Tuesday, 8:00 a.m., September 2, 2008

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

Department of Education: Board of Education: (August 26, 2008) intends to amend Birth to Three Program rules to provide clarity, revise the eligibility criteria, and post changes in rates on the department's website and amend an Accreditation and School Improvement rule to allow school districts to rethink how best to define that students have earned a unit of credit beyond 146 hours by using an end of course assessment or the demonstration of competency by the student. The general authority for these rules, as cited by the board, is 13-1-12.1, 13-37-1.1, and 13-3-47.

A public hearing will be held in Conference Room 509 of the Technical Education Center at Lake Area Technical Institute, 1225 Arrow Avenue, Watertown, South Dakota, on September 15, 2008, at 1:00 p.m. CST. Copies of the proposed rules may be obtained without charge from the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501-2291 or on the Internet at <http://doe.sd.gov/secretary/adminrules/index.asp> Written comments may be sent to the board at the address above and must be received by September 2, 2008, 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) 773-3426 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF REVENUE AND REGULATION: COMMISSION ON GAMING: 20:18:15:30.08.

History-Notice: 34 SDR 291, May 12, 2008
Hearing: June 4, 2008
Filed: August 19, 2008
Effective: September 8, 2008

Executive Appointments:

Arne Brown, Brookings, was appointed on August 22, 2008, to the **South Dakota Commission on Health Care**, to replace Dr. William Taylor, effective August 21, 2008, and shall continue until June 30, 2010.

Josia Fuerst's appointment to the **Independent Living Council** was terminated effective August 22, 2008.

George Lund, Sioux Falls, was reappointed on August 22, 2008, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2012.

Terry G. Nelson, Black Hawk, was reappointed on August 22, 2008, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective immediately and shall continue until June 30, 2012.

Debra K. Farver, Yankton, was appointed on August 26, 2008, to the **South Dakota Medicaid Pharmaceutical and Therapeutics Committee**, effective August 22, 2008.

Timothy Soudy, Sioux Falls, was appointed on August 26, 2008, to the **South Dakota Medicaid Pharmaceutical and Therapeutics Committee**, effective August 25, 2008.

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

9-3-2008	Labor: South Dakota Retirement System	Amend rules to clarify the due dates for employer contribution reports; to establish the contents of an expiration period for contracts to purchase credited service; to clarify a rule regarding qualified domestic relations orders; to provide for declaratory rulings pursuant to the Administrative Procedures Act; to establish the basis for computation of Supplemental Pension Benefits and to clarify participants' expectations related thereto; to allow contributions to the Supplemental Retirement Plan by employers and the System; to provide for operation of the Automatic Enrollment feature within the Supplemental Retirement Plan; and to amend continuing administrative law to bring it into conformity with federal law; 35 SDR 31.
9-4-2008	Revenue and Regulation: Property and Special Taxes	Amend rules to update manuals to current version and to create a new section for Mobile Home Registration; 35 SDR 41.
9-5-2008	Tourism and State Development: State Historical Society	Amend rules to set standard fees for photocopying, microfilm, digitization services, and electronic document delivery services; increase fees for private use of the museum facility; and clarify that applicants for the State Property Tax Moratorium are required to submit a new application each year they undertake rehabilitation work; 35 SDR 35.
9-10-2008	Revenue and Regulation: Gaming Commission	Amend Deadwood Gambling rules to allow the casino, after two cards have been dealt to blackjack players, to decide whether additional cards are to be dealt face upward or face downward, and allow the licensed operator and route operator to determine whether to use reviewed or audited financial statements for submission to the Commission; 35 SDR 41.

<p>9-10-2008</p>	<p>Social Services: Medical Services</p>	<p>Amend rules relating generally to services provided to children, the effects of these rules will be to: no longer require cost sharing for any children under the age of 21; clarify that limits established for covered medical services or supplies do not apply to children if the service or supply is medically necessary and not experimental; for purposes of covered dental services, amend the term "contractor"; move the list of covered dental services and the associated procedure codes and rates of payment to the Department's website; for recipients age 21 and older, set a \$3 co-pay for each dental procedure provided; establish a mechanism under which a provider may request a Department review of a particular reimbursement rate for possible adjustment or request the inclusion or exclusion of a particular code from the list; and specify that an organ transplant for a child under the age of 21 is subject to prior approval, must be medically necessary, and may not be experimental. For rules relating specifically to Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services, the effects of these changes will be to: delete the definitions of "clinical record," "community mental health center," "contractor," "core service agency," "diagnostic assessment," "equipment," "home-based therapy services," "mental health clinician," "multi-agency interdisciplinary committee," "qualified mental health professional," and "treatment plan"; repeal provisions relating to dental services, vision services, hearing services, organ transplants, psychological services, prescription drugs, physician services, home-based therapy services, home health services, psychiatric hospital services, and medical equipment; limit EPSDT services to screening services, orthodontic services, private duty nursing services; extended home health aide services, nutritional therapy, and immunizations; specify that nutritional items and supplies will continue to be covered under the provisions of chapter 67:16:42; transfer rules relating to the treatment of chemical dependency to chapter 67:54:08; for orthodontic treatment, require the</p>
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	<p>treating dentist or orthodontist to complete and submit an orthodontic evaluation and assessment for purposes of prior approving the orthodontic service; delete language that related to partial screening services; incorporate by reference the periodicity schedule for preventive pediatric healthcare established by the American Association of Pediatrics; incorporate by reference the immunization recommendations established by the United States Department of Health and Human Services, Center for Disease Control; specify that a child should have a dental screening by a dentist when the child is one year old and thereafter, the dental screening should follow the preventive pediatric healthcare schedule adopted by the American Association of Pediatrics; require a screening provider to refer a child to an appropriate specialist for a thorough dental, vision, or hearing exam when medically necessary; move the rates of payment for EPSDT services to the Department's website and establish a mechanism under which a provider may request a Department review of a particular reimbursement rate for possible adjustment or request the inclusion or exclusion of a particular code from the list; deny payment for vaccine that is available through the South Dakota Department of Health's Vaccine for Children Program; reduce from 60 to 30 the number of days a provider has to furnish documentation to the Department that future costs of in-home services will decline and be within the threshold to allow continued eligibility for services; establish requirements for claims submitted for nutrition services, immunizations, and orthodontia services; and allow providers to submit claims in an electronic format. For rules relating specifically to the treatment of chemical dependency and substance abuse, the effects of these changes will be to: define the terms "accredited prevention or treatment facility," "adolescent," "chemical dependency counselor," "crisis intervention services," "day treatment program," "department," "division," "home station," "intensive outpatient treatment</p>
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<p>9-15-2008</p>	<p>Education: Board of Education</p>	<p>Amend Birth to Three Program rules to provide clarity, revise the eligibility criteria, and post changes in rates on the department's website and amend an Accreditation and School Improvement rule to allow school districts to rethink how best to define that students have earned a unit of credit beyond 146 hours by using an end of course assessment or the demonstration of competency by the student; 35 SDR 55.</p>
<p>9-18-2008</p>	<p>Environment and Natural Resources: Board of Minerals and Environment</p>	<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, 2006 through June 30, 2007. Changes include establishing a standardized permit for hazardous waste storage facilities; and a variety of corrections that encompass printing omissions, typographical errors, misspellings and erroneous or missing citations and references throughout the rules;</p>

		34 SDR 278.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	Amend asbestos training and certification requirements and state approval rules to allow a longer timeframe for certified asbestos workers to renew required certification; to clarify notification and documentation requirements for asbestos training providers that seek accreditation for the training services; and to require annual training to take place in South Dakota and an annual approval for accredited asbestos training providers; 35 SDR 16.
10-2-2008	Environment and Natural Resources: Water Management Board	Amend Ground Quality rules to require secondary containment and leak monitoring for new and replacement underground storage tank systems located within 1,000 feet of an existing community water system or any potable drinking water well, require department approved training for owners and operators of regulated underground storage tank systems and make it illegal for non-compliant underground storage tank systems to receive delivery of regulated substances; 35 SDR 46.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, September 9, 2008, in LCR 2, Third Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2008 interim: December 2, and January 12, 2009.

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>.