

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., September 17, 2007

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

Department of Health: Board of Pharmacy: (September 12, 2007) intends to amend and adopt rules to establish criteria to permit use of Board of Pharmacy registered technicians to operate a retail telepharmacy when connected to a licensed South Dakota central pharmacy using advanced technology, automation and design, and will establish criteria to permit a licensed South Dakota hospital pharmacy with 24-hour services to provide limited or part-time pharmacy services to small hospitals. The general authority for these rules, as cited by the board, is SDCL 36-11-11.

A public hearing will be held at the office of the South Dakota Board of Pharmacy, 4305 South Louise Ave., Suite 104, Sioux Falls, South Dakota, on Monday, October 15, 2007, at 2:30 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Pharmacy, 4305 South Louise Ave., Suite 104, Sioux Falls, South Dakota 57106. Material sent by mail must reach the Board of Pharmacy on or before October 12, 2007, 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.

Department of Social Services: Child Protection Services: (September 13, 2007) intends to amend rules relating to the operation of the central registry by the Division of Child Protection Services to specify that the term "central registry" refers to parents, guardians, and custodians who have abused or neglected

children; specify that when the Department receives a report of a suspected case of child abuse or neglect the Department will obtain evidence to assess the accuracy of the allegations contained in the report; allow documentation to be in electronic format; clarify that the identifying information placed into the central registry is collectively referred to as a record; expand the examples of crimes (to include child abuse or neglect; sex offenses; possession, solicitation, manufacture, or distribution of child pornography; or incest) that allow for placement of a record into the central registry if an individual is found guilty of such crime; after the Department investigates and substantiates a report and at least 30 days before a record is placed on the central registry, require the Department to send a written notice by certified mail to the individual informing the individual of the Department's intent to place the record into the central registry; specify that the 30-day period begins on the date the individual receives the notice or on the last day the post office attempts delivery; remove language from existing rules and repeal rules that refer to an informal review process; if a fair hearing results in finding for the individual, limit Department actions to either correcting the inaccurate information or removing the record; allow an individual to request removal of a record after five years if the record has been on the central registry for at least five years and placement into the central registry was the result of a substantiated report of child abuse or neglect, a court finding of child abuse or neglect, or because the individual was found guilty of a crime committed against a child; require the individual to prove by a preponderance of the evidence that the record should be removed; specify the types of

information the Department reviews when considering whether to remove a record from the central registry after a period of five years; provide notice to the individual informing the individual of the Department's decision to remove a record; allow an individual to request a hearing if the request is denied; if a request to remove a record is denied, require the individual to wait two years before making a subsequent request to have a record removed; and specify those individuals who are prohibited from requesting removal of a record from the central registry. The general authority for these rules, as cited by the department, is SDCL 26-8A-12.

A public hearing will be held in Conference Room #3, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 9, 2007, at 10:15 a.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 October 19, 2007, 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 Environment and Natural Resources: Water Management Board:

(September 13, 2007) intends to amend rules to Surface Water Quality Standards – add a definition for "Epilimnion"; update references to reflect the most current version of the Code of Federal Regulations; designate that the dissolved oxygen criteria applies only to the

epilimnion of a waterbody that has stratified, or to any location in an unstratified waterbody; change the pH criteria to reflect the intent of the Environmental Protection Agency's pH criteria document; and add beneficial uses to the low flow rates for low quality fishery waters; Uses assigned to lakes – in Day County, uses of certain lakes – Bitter Lake is recommended to be assigned the beneficial uses of warmwater permanent fish life propagation waters, immersion recreation water, limited contact waters, and fish and wildlife propagation, recreation and stock watering waters; Uses assigned to streams – Minnesota River's tributaries' uses – change the beneficial use of Florida Creek, also known as Cobb Creek, from a coldwater marginal fish life propagation waters to warmwater permanent fish life propagation waters; and James River and certain tributaries' uses – the warmwater marginal fish life propagation and limited contact waters beneficial uses are being recommended for Pony Creek in Hutchinson County. The general authority for these rules, as cited by the board, is SDCL 34A-2-11, 34A-2-33, 34A-2-34, 34A-2-93.

A public hearing will be held in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on October 3, 2007, at 8:45 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to Patrick Snyder, Surface Water Quality Program, Department of Environment and Natural Resources, 523 East Capitol, Pierre, South Dakota 57501-3182. Material sent by mail must reach the Surface Water Quality Program by 5:00 p.m., October 2, 2007, in order to be taken into consideration. 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) 773-3351 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE: (None)

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

9-19-2007	Environment and Natural Resources: Board of Minerals and Environment	Amend a rule to change the Underground Injection Control Class II Permits to allow injection at a pressure that may fracture the injection zone but not the confining zone; 34 SDR 55.
9-24-2007	Military and Veterans Affairs	Amend rules to allow residents of the Michael J. Fitzmaurice South Dakota Veterans Home to receive medications from the Veterans Home pharmacy while on furlough and increase a resident's fees for care in the nursing unit of the Michael J. Fitzmaurice South Dakota Veterans Home; 34 SDR 73.
9-24-2007	Education: Board of Education	Amend rules to allow school service specialists, i.e., counselors, speech language pathologists, library media specialists, school psychologists, school social workers, special education directors, and curriculum directors, to add a teaching program to their current certificate upon completion of a full degree, to require that non-public and tribal schools follow the same standards for accreditation, and that all schools submit a "plan of intent" for staff that are not properly certified or qualified to teach in all content areas; 34 SDR 77.
10-3-2007	Environment and Natural Resource: Water Management Board	Amend rules to Surface Water Quality Standards – add a definition for "Epilimnion"; update references to reflect the most current version of the Code of Federal Regulations; designate that the dissolved oxygen criteria applies only to the epilimnion of a waterbody that has stratified, or to any location in an unstratified waterbody; change the pH criteria to reflect the intent of the Environmental Protection Agency's pH criteria document; and add beneficial uses to the low flow rates for low quality fishery waters; Uses assigned to lakes – in Day County, uses of certain lakes –

		<p>Bitter Lake is recommended to be assigned the beneficial uses of warmwater permanent fish life propagation waters, immersion recreation water, limited contact waters, and fish and wildlife propagation, recreation and stock watering waters; Uses assigned to streams – Minnesota River's tributaries' uses – change the beneficial use of Florida Creek, also known as Cobb Creek, from a coldwater marginal fish life propagation waters to warmwater permanent fish life propagation waters; and James River and certain tributaries' uses – the warmwater marginal fish life propagation and limited contact waters beneficial uses are being recommended for Pony Creek in Hutchinson County; 34 SDR 82.</p>
<p>10-9-2007</p>	<p>Social Services: Child Protection Services</p>	<p>Amend rules relating to the operation of the central registry by the Division of Child Protection Services to specify that the term "central registry" refers to parents, guardians, and custodians who have abused or neglected children; specify that when the Department receives a report of a suspected case of child abuse or neglect the Department will obtain evidence to assess the accuracy of the allegations contained in the report; allow documentation to be in electronic format; clarify that the identifying information placed into the central registry is collectively referred to as a record; expand the examples of crimes (to include child abuse or neglect; sex offenses; possession, solicitation, manufacture, or distribution of child pornography; or incest) that allow for placement of a record into the central registry if an individual is found guilty of such crime; after the Department investigates and substantiates a report and at least 30 days before a record is placed on the central registry, require the Department to send a written notice by certified mail to the individual informing the individual of the Department's intent to place the record into the central registry; specify that the 30-day period begins on the date the individual receives the notice or on the last day the post office attempts delivery; remove language from existing rules and repeal rules that refer to an informal review process; if a fair hearing</p>

		<p>results in finding for the individual, limit Department actions to either correcting the inaccurate information or removing the record; allow an individual to request removal of a record after five years if the record has been on the central registry for at least five years and placement into the central registry was the result of a substantiated report of child abuse or neglect, a court finding of child abuse or neglect, or because the individual was found guilty of a crime committed against a child; require the individual to prove by a preponderance of the evidence that the record should be removed; specify the types of information the Department reviews when considering whether to remove a record from the central registry after a period of five years; provide notice to the individual informing the individual of the Department's decision to remove a record; allow an individual to request a hearing if the request is denied; if a request to remove a record is denied, require the individual to wait two years before making a subsequent request to have a record removed; and specify those individuals who are prohibited from requesting removal of a record from the central registry; 34 SDR 81.</p>
<p>10-15-2007</p>	<p>Health: Board of Pharmacy</p>	<p>Amend and adopt rules to establish criteria to permit use of Board of Pharmacy registered technicians to operate a retail telepharmacy when connected to a licensed South Dakota central pharmacy using advanced technology, automation and design, and will establish criteria to permit a licensed South Dakota hospital pharmacy with 24-hour services to provide limited or part-time pharmacy services to small hospitals; 34 SDR 81.</p>

RULES REVIEW COMMITTEE MEETINGS

The next regular meeting of the Interim Rules Review Committee will be held Thursday, September 27, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: December 4, and January 7, 2008.

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.

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 34 are \$25. 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.aspx>).