

REGISTER

South Dakota Legislative Research Council



Volume 35

Monday, 8:00 a.m., September 22, 2008

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

Department of Human Services: Division of Rehabilitation Services: (September 16, 2008) intends to amend Registration of Interpreters rules to add a notification procedure to the division and to the interpreter on any complaints received and an investigation procedure on those complaints; define the certification maintenance program and the certification maintenance cycle; repeal the rule regarding initial registration of South Dakota certified interpreter; add language to the EIPA certified interpreter initial registration regarding the length of time prior to registration that a rating was obtained; add language specifying the requirements that must be met to continue to be certified unless an extension is granted to the South Dakota or EIPA annual registration; add a rule allowing an extension on the certification maintenance cycle under certain circumstances; and increase the time period of when the hearing will be held from date of receipt of the request. The general authority for these rules, as cited by the department, is SDCL 1-36A-10.5, 1-36A-12, 28-9-44, and 28-10-21.

A public hearing will be held in the large Conference Room at the Department of Human Services, Hillview Plaza, 3800 E. Highway 34, Pierre, South Dakota, on October 21, 2008, at 1:30 p.m. (CDT). Copies of the proposed rules may be obtained without charge from and written comments sent to Velda Bartel, Administrative Rules Coordinator, Department of Human Services, Hillview Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed

rules may also be obtained at the Department's website www.dhs.sd.gov/drs/. 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. Materials sent by mail must reach the Department of Human Services by October 31, 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) 773-5990 or (605) 773-6412 TTY at least 48 hours before the hearing.

***Department of Revenue and Regulation:
Appraiser Certification Program:***

(September 17, 2008) intends to amend rules to establish the appraiser classifications that may supervise state-registered appraisers, establish the responsibilities of the state-registered and supervising appraiser, establish the requirements of a supervising appraiser, establish the application for and renewal process for supervisor approval, allow acceptance of case studies or practicum courses approved by state appraiser regulatory agencies, establish the educational requirements for state-registered, state-licensed and state-certified residential appraisers for upgrade to each higher classification, remove the time limit for education credit for state-registered appraisers, set up fees for supervisor approval application and renewal, institute disciplinary action authority for supervising appraisers failing to meet supervisory responsibilities, remove the requirement that a course must be approved in the state it is being offered in to receive acceptance by the secretary, and establish the requirement of a training course for supervisors and state-registered appraisers. The general

authority for these rules, as cited by the department, is SDCL 36-21B-3 and 36-21B-4.

A public hearing will be held in the Department of Revenue and Regulation First Floor Conference Room, Anderson Building, Pierre, South Dakota, on October 24, 2008, at 1:00 p.m. A copy of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the department by October 23, 2008, to be considered at the public hearing. The department will keep the comment period open until November 4, 2008, for written comments. 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) 773-4608 at least 48 hours before the hearing.

Department of Labor: South Dakota Board of Accountancy: (September 17, 2008) intends to amend rules to update references, amendments due to the computerization of the Uniform CPA Examination, clarification of lapsed license fees and late fees, and amendment to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009. The general authority for these rules, as cited by the board, is SDCL 36-20B-12, 36-20B-13, 36-20B-15, 36-20B-18, and 36-20B-66.

A public hearing will be held at the Department of Legislative Audit, 427 S. Chapelle, Pierre, South Dakota, on October 20, 2008, at 10:00 a.m. (CST). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Accountancy, 301 E. 14th Street, #200, Sioux Falls, South Dakota 57104 or by calling (605) 367-5770. Material sent by mail must reach the Board of Accountancy office on or before October 7, 2008, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for

which the board can make arrangements are asked to call (605) 367-5770 at least 48 hours before the hearing.

Department of Social Services: Economic Assistance: (September 18, 2008) intends to amend rules relating to the eligibility criteria for the Medical Services Program to specify what constitutes confidential information and establish the procedures to be followed when an individual or entity requests confidential information from the Department; when determining the value of a transferred asset, specify that the value of the transferred asset is the difference between the fair market value at the time of the transfer and the amount of compensation received, if any, unless the asset involved the purchase of a life estate or the purchase of stocks, notes, loans, or mortgages, in which case the Department applies the provisions of § 67:46:05:08.01 or 67:46:05:38, as applicable; clarify how the Department relates to the purchase of a life estate when the purchaser has lived in the home for a period of at least 12 consecutive months; specify those actions an individual (or someone acting on the individual's behalf) must take before the Department will consider waiving a period of ineligibility due to a transferred resource; when considering the value of life insurance policies, specify that the Department uses the face value of the policy and specify how the Department relates to dividends that revert to increase the policy death benefit and the cash surrender value; clarify that the Department treats an annuity as a resource first then, if the fair market value does not cause ineligibility, the purchase of the annuity is considered as a transfer of an asset; and require the Department to notify an individual of the right to request a waiver of the period of ineligibility when the individual is ineligible for long-term care assistance due to the value of home property. The general authority for these rules, as cited by the department, is SDCL 28-1-32, 28-6-1, and 28-6-3.1.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 15, 2008, at 8:30 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 27, 2008, 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.

NOTICE:

The **SOUTH DAKOTA LOTTERY** is ending instant ticket game numbers 305 – Dakota Hold Em Poker, 308 – Season's Greetings, and 310 – Stocking Stuffer. The last day that prizes will be paid for these games is March 11, 2009.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

On September 18, 2008, the **DEPARTMENT OF SOCIAL SERVICES** filed updates to the South Dakota Food Stamp Program Certification and Accountability Manual to increase the standard medical expense to \$200.

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

| | | |
|------------|--|---|
| 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. |
| 10-15-2008 | Social Services: Economic Assistance | Amend rules relating to the eligibility criteria for the Medical Services Program to specify what constitutes confidential information and establish the procedures to be followed when an individual or entity requests confidential |

| | | |
|------------|---|---|
| | | <p>information from the Department; when determining the value of a transferred asset, specify that the value of the transferred asset is the difference between the fair market value at the time of the transfer and the amount of compensation received, if any, unless the asset involved the purchase of a life estate or the purchase of stocks, notes, loans, or mortgages, in which case the Department applies the provisions of § 67:46:05:08.01 or 67:46:05:38, as applicable; clarify how the Department relates to the purchase of a life estate when the purchaser has lived in the home for a period of at least 12 consecutive months; specify those actions an individual (or someone acting on the individual's behalf) must take before the Department will consider waiving a period of ineligibility due to a transferred resource; when considering the value of life insurance policies, specify that the Department uses the face value of the policy and specify how the Department relates to dividends that revert to increase the policy death benefit and the cash surrender value; clarify that the Department treats an annuity as a resource first then, if the fair market value does not cause ineligibility, the purchase of the annuity is considered as a transfer of an asset; and require the Department to notify an individual of the right to request a waiver of the period of ineligibility when the individual is ineligible for long-term care assistance due to the value of home property; 35 SDR 72.</p> |
| 10-20-2008 | Labor: Board of Accountancy | <p>Amend rules to update references, amendments due to the computerization of the Uniform CPA Examination, clarification of lapsed license fees and late fees, and amendment to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009; 35 SDR 72.</p> |
| 10-21-2008 | Human Services: Division of Rehabilitation Services | <p>Amend Registration of Interpreters rules to add a notification procedure to the division and to the interpreter on any complaints received and an investigation procedure on those complaints; define the certification maintenance program and the certification maintenance cycle; repeal the rule regarding initial registration of South Dakota certified</p> |

| | | |
|------------|---|---|
| | | interpreter; add language to the EIPA certified interpreter initial registration regarding the length of time prior to registration that a rating was obtained; add language specifying the requirements that must be met to continue to be certified unless an extension is granted to the South Dakota or EIPA annual registration; add a rule allowing an extension on the certification maintenance cycle under certain circumstances; and increase the time period of when the hearing will be held from date of receipt of the request; 35 SDR 71. |
| 10-24-2008 | Revenue and Regulation: Appraiser Certification Program | Amend rules to establish the appraiser classifications that may supervise state-registered appraisers, establish the responsibilities of the state-registered and supervising appraiser, establish the requirements of a supervising appraiser, establish the application for and renewal process for supervisor approval, allow acceptance of case studies or practicum courses approved by state appraiser regulatory agencies, establish the educational requirements for state-registered, state-licensed and state-certified residential appraisers for upgrade to each higher classification, remove the time limit for education credit for state-registered appraisers, set up fees for supervisor approval application and renewal, institute disciplinary action authority for supervising appraisers failing to meet supervisory responsibilities, remove the requirement that a course must be approved in the state it is being offered in to receive acceptance by the secretary, and establish the requirement of a training course for supervisors and state-registered appraisers; 35 SDR 71 |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Thursday, October 2, 2008, in LCR 1 & 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>.

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 35 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>).