

MINUTES

Rules Review Committee



Representative Jean Hunhoff, Chair
Senator Alan Solano, Vice Chair

Three hundred sixty-fifth meeting
Monday
June 5, 2017

Room 414
State Capitol
Pierre, South Dakota

The three hundred sixty-fifth meeting of the Rules Review Committee was called to order by Representative Jean Hunhoff, (Chair) at 10:07 a.m., CDT, on June 5, 2017, in Room 414 at the State Capitol, Pierre, South Dakota and via the Digital Dakota Network (DDN) at the following location: University Center, 4801 N. Career Ave., Room FADM 145, Sioux Falls, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Craig Kennedy, Lance Russell, and Alan Solano (Vice Chair) and Representatives Julie Bartling, Steven Haugaard, and Jean Hunhoff (Chair). Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary/Business Manager.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For continuity, these minutes are not necessarily in chronological order. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://sdlegislature.gov> under "Interim."

Approval of Minutes

Senator Russell moved, seconded by Representative Bartling, that the minutes of the May 1, 2017, meeting be approved. Motion prevailed on a unanimous voice vote.

Rules Reviewed

Department of Health: Board of Massage Therapy – Amend rules relating to applications, temporary permits and inactive licenses, clarify the educational requirements for licensure or a temporary permit, increase the fees for an initial license, renewed license, inactive license and temporary permit, clarify the time period of a continuing education cycle and a licensee's continuing education requirements and recordkeeping requirements, repeal unnecessary rules regarding the board's complaint process, clarify the malpractice insurance requirements of a licensee or temporary permit holder and recordkeeping requirements, clarify the requirements for requesting an inactive license, and updating the list of facilities recognized by the board to provide the education necessary to meet the requirements for licensure.

Ms. Jennifer Stalley, former Executive Secretary of the Board of Massage Therapy, reviewed the proposed rules.

Public Testimony

Ms. Valerie Rowen, Pierre, Government Relations Chair for the South Dakota Chapter of the American Massage Therapy Association and a Massage Therapist, spoke in support of the proposed rules.

Ms. Veronika Ludewig, Brandon, a Massage Therapist, spoke in opposition to the proposed rules regarding the handling of complaints.

Ms. Rhanda Heller, Sioux Falls, a Massage Therapist, spoke in opposition to the proposed rules.

Ms. Bridget Myers, Sioux Falls, a Massage Therapist and a member of the Board of Massage Therapy, spoke on behalf of herself, in opposition to the proposed rules.

Ms. Sophie Griffith, Sioux Falls, a Massage Therapist, spoke in opposition to the proposed rules.

Ms. Olawa Rae-Bruhjell, Mitchell, a Massage Therapist, spoke in opposition to the proposed rules.

Ms. Deb Calmus, Volga, a Massage Therapist, spoke in opposition to the proposed rules.

Ms. Barb Trevett, Sioux Falls, a Massage Therapist and Registered Nurse, spoke in opposition to the fee increase and changing the time that records must be kept.

Ms. Maria Calmus, Volga, a Massage Therapist, spoke in opposition to the complaint process.

Mr. Ross Calmus, Volga, a Massage Therapist, spoke in opposition to the proposed rules regarding the fee increases and the complaint process.

Mr. Gene Heller, Sioux Falls, spoke in support of the opponent testimony to the proposed rules.

Following a brief discussion of the renewal process, fee schedules, temporary licenses, record keeping, and the repealing of the complaint process rules, it was noted that the supporting documentation regarding the fee increases had not been submitted as required by SDCL § 1-26-4.8.

Senator Solano moved, seconded by Representative Bartling, that the review of the rules proposed by the Department of Health: Board of Massage Therapy is complete except for ARSD 20:76:02:02 and 20:76:04:01 to 20:76:04:10, inclusive, which are reverted to a prior step in the rules promulgation process for further consideration of the fees and complaint procedure. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.

Department of Human Services: Division of Rehabilitation Services – Amend rules to bring the interpreter certification level required for criminal proceedings or serious medical procedures corresponding to the certification currently being granted by the Registry of Interpreters for the Deaf (RID).

Ms. Carole Boos and **Mr. Eric Weiss** reviewed the proposed rules.

Senator Solano moved, seconded by Senator Russell, that the review of the rules proposed by the Department of Human Services: Division of Rehabilitation Services is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.

Department of Education: Board of Education – Amend rules to include the National Guard Tuition Benefit funds as a set aside in the technical institute budget and set out in rule the PTI per student allocation as set for fiscal year 2018, clarify the distribution and application of technical institute instructor salary support funds for fiscal year 2018, clarify when non attending students are removed from state aid calculations, suspend calculation of the School Performance Index for the 2016-2017 school year and hold over classifications from the 2014-15 school year, create local flexibility in decisions regarding the incorporation of assessments and student growth ratings in implementation of teacher evaluation systems.

Ms. Holly Farris, Ms. Tiffany Sanderson, and Ms. Laura Scheibe reviewed the proposed rules. It was noted that Article 24:58 (Principal Performance Standards and Evaluations) rules were originally proposed but had been withdrawn.

Representative Hunhoff moved, seconded by Representative Bartling, that the review of the rules proposed by the Department of Education: Board of Education is complete. Motion prevailed on a roll call vote with 5 ayes, 1 nay. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, and Solano. Member voting nay: Russell.

Department of Labor and Regulation: South Dakota Electrical Commission – Amend rules to adopt the 2017 National Electrical Code (the "2017 NEC") and update the reference to the 2015 International Building Code (the "2015 IBC"); update definitions; document the requirement to hold a license to gain experience; clarify that a federal employee is considered licensed; clarify a statutory reference regarding units of time for experience; change the expiration of maintenance licenses to occur in two years on the date of issuance; document notice requirements, document the available options an inspector may utilize at the stages of rough in, final, and the completion of corrections including, final void, issue a report or order a disconnect; clarify the minimum fee for an inspection man hour or fraction thereof; document the utilization of the term electrical equipment and the designation of machinery; update references to the National Electrical Code; require in use covers and a receptacle within 25 feet of the heating and ac equipment in residential housing units moved to new locations; and clarify the fee, notification and payment requirements and the inspection process for carnivals and celebrations.

Mr. JJ Linn, Executive Director of the South Dakota Electrical Commission, and **Mr. Graham Oey** reviewed the proposed rules.

Representative Bartling moved, seconded by Senator Kennedy, that the review of the rules proposed by the Department of Labor and Regulation: South Dakota Electrical Commission is complete. Motion prevailed on a roll call vote with 5 ayes, 1 nay. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, and Russel. Member voting nay: Solano.

Department of Labor and Regulation: Division of Insurance – Amend rules to update sources referenced in rule; incorporate the 2017 Medicare coverage amounts; and require continuing education courses to renew their approval with the Division every five years.

Ms. Mallori Barnett and **Ms. Melissa Klemann** reviewed the proposed rules.

Representative Hunhoff moved, seconded by Senator Solano, that the review of the rules proposed by the Department of Labor and Regulation: Division of Insurance is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.

Department of Labor and Regulation: Division of Labor and Management – Amend rules to revise the procedure for employee representative elections and revise the workers' compensation fee schedule.

Mr. James Marsh reviewed the proposed rules. It was noted the proposed rules to revise the procedure for employee representative elections had been withdrawn.

Representative Bartling moved, seconded by Senator Solano, that the review of the rules proposed by the Department of Labor and Regulation: Division of Labor and Management is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.

Department of Labor and Regulation: South Dakota Cosmetology Commission – Amend rules to update and clarify rules, define new terms, more clearly list prohibited equipment and procedures, update and specify safety and infection control procedures, add new certification requirement, update rules relating to instructors, and remove outdated rule.

Mr. Oey and **Ms. Kate Boyd**, Executive Director for the South Dakota Cosmetology Commission, reviewed the proposed rules.

Senator Solano moved, seconded by Representative Bartling, that the review of the rules proposed by the Department of Labor and Regulation: South Dakota Cosmetology Commission is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bartling, Haugaard, Hunhoff, Kennedy, Russell, and Solano.

Next Meeting Date

The next meeting of the Interim Rules Review Committee will be held on Monday, July 17, 2017.

Adjournment

Senator Solano moved, seconded by Representative Bartling, that the meeting be adjourned. Motion prevailed unanimously on a voice vote.

Chair Hunhoff adjourned the meeting at 12:47 p.m.