

# REGISTER



South Dakota Legislative Research Council

Volume 35

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

**NOTICES OF PROPOSED RULES:** (None)

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF TRANSPORTATION:**  
70:01:02:18.

History-Notice: 34 SDR 291, May 12, 2008  
Hearing: June 26, 2008  
Filed: September 2, 2008  
Effective: September 22, 2008

**DEPARTMENT OF TRANSPORTATION:**  
70:01:02:49.

History-Notice: 34 SDR 315, June 9, 2008  
Hearing: June 26, 2008  
Filed: September 2, 2008  
Effective: September 22, 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

9-10-2008	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.
9-10-2008	Social Services: Medical Services	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

	<p>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 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</p>
--	--

		<p>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 program," "intensive inpatient treatment program," "local group counseling," "local individual counseling," "low intensity residential treatment program," "outpatient services program," "recognized tribal program," "rural group counseling," "rural individual counseling," "short-term relapse treatment program," "standardized treatment needs assessment," and "unit"; establish lists of covered and non-covered chemical</p>
--	--	--

		dependency and substance abuse treatment services; establish the eligibility criteria for the treatment of chemical dependency and substance abuse of adolescents and pregnant women; require prior authorization if care is expected to exceed the established service limit; establish the procedure codes and service limits for the covered services; allow a provider to submit an electronic claim; allow a tribal program to be a participating provider under certain circumstances; and require participating providers to meet the provisions of chapter 67:16:01 – General provisions, Chapter 67:16:26 – Third party liability, Chapter 67:16:33 – Provider requirements, Chapter 67:16:34 – Records, and Chapter 67:16:35 – Claims; 35 SDR 45.
9-15-2008	Education: Board of Education	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.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	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; 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>.

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>).