



SOUTH DAKOTA REGISTER

Published weekly by the Legislative Research Council

Volume 46

Monday, 8:00 a.m., September 30, 2019

FILINGS WITH THE LEGISLATIVE RESEARCH COUNCIL

Notice of Proposed Rules

Date in parentheses indicates when rules were filed with the Legislative Research Council.
Copies of proposed rules may be obtained for no charge at <https://rules.sd.gov> or from the agency directly.

[South Dakota Board of Pharmacy \(Department of Health\)](#): (September 23, 2019) intends to amend rules to remove outdated language in the Sterile Compounding section of the rules and adopt updated chapters of United States Pharmacopeia-National Formulary (USP-NF). The general authority for these rules, as cited by the board, is SDCL 36-11-2.2, 36-11-11, 36-11-41, 36-11-46.6, and 36-11-68.

A public hearing will be held at the Hamlet Professional Building, Suite 202, 4001 West Valhalla Boulevard, Sioux Falls, South Dakota, on October 17, 2019, at 2:00 p.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Pharmacy, 4001 West Valhalla Boulevard, Suite 106, Sioux Falls, South Dakota 57106. Comments may also be emailed to PharmacyBoard@state.sd.us. The comment period will close on October 14, 2019. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 362-2737 at least 48 hours before the public hearing.

[South Dakota Board of Barber Examiners \(Department of Labor and Regulation\)](#): (September 24, 2019) intends to amend rules to update language to current nationally recognized terminology; update safety and infection control requirements; add blood exposure procedures; and update rules that affect barber schools including instructor-to-student ratio, allow for substitute instructors, establish equipment requirements, change board approval of a school from accreditation to school license, and establish the number of hours barber students must spend in classrooms, demonstrations, and practice before performing service on a client. The general authority for these rules, as cited by the board, is SDCL 36-14-9.

A public hearing will be held via teleconference on October 21, 2019, at 10:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Board of Barber Examiners, 221 West Capitol Avenue, Suite 101, Pierre, South Dakota 57501. The comment period will close on October 16, 2019. Persons wanting to access the meeting can call 1-866-410-8397 and use conference code 5816742095 or attend in person at the board's office. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-6193 at least 48 hours before the public hearing.

[Civil Service Commission \(Bureau of Human Resources\)](#): (September 25, 2019) intends to amend a rule to change a written examination from a mandatory requirement to an optional criteria during the law enforcement employment selection process. The general authority for this rule, as cited by the commission, is SDCL 3-6D-7.

A public hearing will be held via teleconference in Room B20, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on October 17, 2019, at 10:00 a.m. CT. Copies of the proposed rule may be obtained without charge from and written comments sent to Bureau of Human Resources, Room 110, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501. The comment period will close on October 16, 2019. This hearing is being held in a physically accessible location.

Persons with special needs for which the commission can make arrangements may call (605) 773-5222 or email Mary Weischedel at mary.weischedel@state.sd.us at least 48 hours before the public hearing.

South Dakota Real Estate Commission (Department of Labor and Regulation): (September 26, 2019) intends to amend a rule to require team leaders to keep a current list of their team members, require the responsible broker to maintain the list, and make the list available upon request from the commission. The general authority for this rule, as cited by the commission, is SDCL 36-21A-89.

A public hearing will be held at the South Dakota Real Estate Commission Office, 221 West Capitol Avenue, Pierre, South Dakota, on October 23, 2019, at 1:00 p.m. CT. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Real Estate Commission, 221 West Capitol Avenue, Pierre, South Dakota 57501. The comment period will close on October 22, 2019. This hearing is being held in a physically accessible location. Persons with special needs for which the commission can make arrangements may call (605) 773-3600 at least 48 hours before the public hearing.

Declaratory Ruling

The **South Dakota Public Utilities Commission** has filed with the Legislative Research Council a **Declaratory Ruling** regarding whether telephone calls made by a business entity to an individual for the purpose of redeeming a service gifted to them by a third party constitute "telephone solicitation calls". After a hearing and consideration of SDCL 49-31-1(30), the Public Utilities Commission determined such calls to consumers fall under the definition of "telephone solicitation calls". The Declaratory Ruling is dated September 25, 2019.

Notice

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan regarding drug utilization review provisions that were included in Section 1004 of the SUPPORT for Patients and Communities Act. The proposed State Plan Amendment describes how the State currently complies with the requirement in Section 1004 of the Act and adds page 74d to section 4.26 of the South Dakota Medicaid State Plan. The department intends to make this Amendment effective October 1, 2019 and estimates there will be no fiscal impact in Federal Fiscal Years 2020 and 2021. The Amendment can be viewed on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Written requests for a copy of these changes, and corresponding comments, may be sent to Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Final Administrative Rules

DEPARTMENT OF SOCIAL SERVICES: 67:16:01:08, 67:16:01:25, 67:16:01:26, 67:16:01:27; 67:16:04:62; 67:16:07:04; 67:16:25:02; 67:16:26:07.02; 67:16:34:03, 67:16:34:05, 67:16:34:09; 67:16:37:05; 67:16:39:01, 67:16:39:02, 67:16:39:05, 67:16:39:06, 67:16:39:08, 67:16:39:10, 67:16:39:11, 67:16:39:13, 67:16:39:15; 67:16:41:04, 67:16:41:06, 67:16:41:08, 67:16:41:10, 67:16:41:12, 67:16:41:14; 67:16:44:01, 67:16:44:02, 67:16:44:03, 67:16:44:04, 67:16:44:05, 67:16:44:06, 67:16:44:07, 67:16:44:09, 67:16:44:11, 67:16:44:13; 67:16:48:02; 67:18:01:20.01; 67:46:04:08, 67:46:04:13; 67:46:05:09.03, 67:46:05:32.03; 67:47:01:03.02, 67:47:01:10.02; 67:47:02:21; 67:61:07:08; 67:61:17:08.

History/Notice: 46 SDR 14, July 22, 2019

Hearing: August 13, 2019

Filed: September 20, 2019

Effective: October 10, 2019

CORRECTION: The emergency rule filed by the Department of Public Safety on September 11, 2019 was incorrectly noted in the September 23, 2019 South Dakota Register as 20:15:06:11. The correct citation is 20:15:06:01.

SCHEDULED PUBLIC HEARINGS

<p>10-1-2019</p>	<p>Department of Revenue: Repeal rules with no legislative authority and no implementation purpose in the codified laws relating to the inheritance tax; 46 SDR 32, September 3, 2019.</p>
<p>10-3-2019</p>	<p>Department of Game, Fish and Parks: Amend or create rules to require all traps and snares to be checked within 24 hours from the time the trap was set; allow GFP personnel to grant extensions to the 24 hour time check and require them to keep records on such extensions; require trappers to check the weather report for the next 48 hours after a trap is set and record such data; allow GFP personnel or any person receiving permission from GFP personnel to release or euthanize an animal in a trap or snare longer than 24 hours; require all traps and snares to be checked prior to midnight of the third full calendar day following a previous check or when the trap was initially set; require all traps and snares fully submerged in water that remain set beneath ice to be checked prior to midnight of the fifth full calendar day following a previous check or when the trap was initially set; allow for telescopic sights utilizing magnification; establish a fee for nonresident licenses for the mountain lion hunting season; extend the mountain lion hunting season dates in the Black Hills Fire Protection District from December 26 through March 31 to December 26 through April 30 and increase the number of access permits in Custer State Park; allow the GFP Commission to extend the mountain lion hunting season beyond April 30 if necessary; create a limited number of mountain lion hunting licenses for nonresidents and expand the allowance for the use of dogs that originate on private land to cross over or culminate on any public lands where unleashed dogs are permitted; extend the Custer State Park coyote hunting season from December 26 through March 31 to December 26 through April 30 and remove the requirement to have a free access permit; add a definition of "setline" and "wire fish traps"; add the term "traps" to the title of Chapter 41:07:08; allow for the use of wire fish traps and require check and empty times by midnight of the day following when they were first set; align hoop net, trap, and setline gear restrictions on border waters to match those for inland waters; allow the use of hoop nets, traps, and setlines in the James, Vermillion, and Big Sioux River mainstems; allow the use of hoop nets and traps in the western Missouri River tributaries; create a process for the permitting of aeration systems on meandered waters or other waters to which the state has acquired a right, title or interest; allow for a single importation permit from an out-of-state source to cover an entire year from their last fish health inspection; specify which species of fish need to be tested for particular pathogens; add spiny waterflea, round goby, and specified perch to the aquatic invasive species list; add Lake Sharpe and Francis Case to the list of containment waters to help control the spread of aquatic invasive species; add and update specific authority to the current rules and correct language for style and form; update language for consistency purposes and to reduce redundancy of terms; repeal repetitive references and unnecessary rules; increase the park entrance license fees and increase the fee for having a vehicle in the park without a park entrance license; increase camping fees across the state; create a definition for a "tent only" campsite; increase the cost of firewood from \$5.00 to \$6.00 a cubic foot; identify the state's known chronic wasting disease (CWD) endemic areas at the hunting unit level for deer and elk; require hunters, wildlife processors, and taxidermists to dispose of out-of-state cervids, regardless of CWD status, and cervids harvested from a known South Dakota CWD endemic area through their waste management provider or a permitted landfill; and alter the days of the week that individuals could use a horse for training dogs on public lands; 46 SDR 40, September 16, 2019.</p>
<p>10-9-2019</p>	<p>Department of Agriculture: Amend a rule to increase the feed tonnage inspection fee from two cents per ton to 10 cents per ton; 46 SDR 45, September 23, 2019.</p>
<p>10-10-2019</p>	<p>Division of Developmental Disabilities (Department of Human Services): Amend rules to limit participants in shared living to individuals with IDD/DD age 22 and older; require training for disability awareness, the participants Individual Service Plan, and abuse, neglect, and exploitation for respite care providers and anyone over 18 years of age living in the home; allow a cell phone to be used instead of requiring a landline; prohibit a shared living provider from being a representative payee over a participant's money; specify the staff orientation requirements of providers of case management; clarify what Individual Service Plan expectations are for a participant's goals; eliminate</p>

	a rule concerning alternative day services; add new training requirements to include focusing on the participant's needs to achieve their good life; add new requirements to ISP development to include Charting the LifeCourse principles; modify coordination of required actions and timeframes; repeal a rule which is repetitive with DSS Medicaid rules; eliminate a rule stating that no services are provided if state funds are not available; change the name of Statewide Family Support to Strengthening Families Program; and update the age requirement from 2-1/2 to 3 years of age for incontinence supplies; 46 SDR 39, September 16, 2019.
10-10-2019	<u>Department of Revenue:</u> Amend rules to establish procedures and requirements for taxpayers required by the Secretary to file a consolidated report and provide a more efficient procedure for apportionment of bank franchise tax revenue to county governments; 46 SDR 45, September 23, 2019.
10-11-2019	<u>Division of Insurance (Department of Labor and Regulation):</u> Amend rules to update continuing education course requirements for insurance producers; 46 SDR 45, September 23, 2019.
10-15-2019	<u>Department of Health:</u> Amend rules to prescribe a form to be used by a physician to comply with the requirement of SDCL 34-23A-10.1(1); 46 SDR 40, September 16, 2019.
10-15-2019	<u>Department of Health:</u> Amend rules to reflect current practices; delete unnecessary rules; and increase flexibility in providing Assisted Living services; 46 SDR 41, September 16, 2019.
10-17-2019	<u>South Dakota Board of Examiners in Optometry (Department of Health):</u> Amend rules to clarify existing language for release of prescriptions; set out processes for reviewing license applications; establish and clarify processes for license renewal and late renewal fee; update and clean up continuing education requirements and documentation; revise requirements of notification of change in professional corporation membership; and add three CPT codes to clinical procedures approved for optometrists; 46 SDR 39, September 16, 2019.
10-17-2019	<u>South Dakota Board of Minerals and Environment (Department of Environment and Natural Resources):</u> Amend rules to update South Dakota's existing air quality rules by incorporating updated, codified federal regulations; incorporating by reference the revised federal National Ambient Air Quality Standards; and incorporating federal requirements for municipal solid waste landfills; 46 SDR 39, September 16, 2019.
10-17-2019	<u>South Dakota Board of Pharmacy (Department of Health):</u> Amend rules to remove outdated language in the Sterile Compounding section of the rules and adopt updated chapters of United States Pharmacopeia-National Formulary; 46 SDR 49, September 30, 2019.
10-17-2019	<u>Civil Service Commission (Bureau of Human Resources):</u> Amend a rule to change a written examination from a mandatory requirement to an optional criteria during the law enforcement employment selection process; 46 SDR 49, September 30, 2019.
10-18-2019	<u>South Dakota State Board of Dentistry (Department of Health):</u> Amend rules to incorporate the Integrated National Board Dental Examination; streamline and update requirements regarding clinical competency examinations; update supervision levels; update the duties and procedures performed by dental assistants and registered dental assistants; update registered dental assistant registration requirements and training program criteria; remove redundant regulations and obsolete provisions, and update references; update student exemption to registration; and update continuing education requirements applicable to registered dental assistants; 46 SDR 37, September 9, 2019.
10-21-2019	<u>South Dakota Board of Barber Examiners (Department of Labor and Regulation):</u> Amend rules to update language to current nationally recognized terminology; update safety and infection control requirements; add blood exposure procedures; and update rules that affect barber schools including instructor-to-student ratio, allow for substitute instructors, establish equipment requirements, change board approval of a school from accreditation to school license, and establish the number of hours barber students must spend in classrooms, demonstrations, and practice before performing service on a client; 46 SDR 49, September 30, 2019.
10-23-2019	<u>South Dakota Real Estate Commission (Department of Labor and Regulation):</u> Amend a rule to require team leaders to keep a current list of their team members, require the responsible broker to maintain the list, and make the list available upon request from the commission; 46 SDR 50, September 30, 2019.

RULES REVIEW COMMITTEE MEETINGS

The final meeting of the Interim Rules Review Committee for the 2019 interim is Monday, November 4, 2019, at 10:00 a.m. CT in Room 414 of the Capitol.

Notices of 2019 Rules Review Committee meetings will be provided in this publication, on the [LRC website](#), and at the Capitol.

The Drafting Manual for Administrative Rules in South Dakota is available on the [Administrative Rules Manual page](#) of the LRC website.