REGISTER

South Dakota Legislative Research Council

Volume 34 *Monday, 8:00 a.m., July 30, 2007*

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

Department of Health: (July 26, 2007) intends to amend the Children's Special Health Services (CSHS) program rules to include travel reimbursement as a coverable service; provide additional clarification on claims submission; and have consistency with due process procedures. The general authority for these rules, as cited by the department, is SDCL 34-1-21.

A public hearing will be held in the Hayes Building, Room 107, 600 East Capitol Avenue, Pierre, South Dakota, on August 22, 2007, at 9:00 a.m. to consider the adoption and amendment of proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website: http://www.doh.sd.gov/News. Material sent by mail must reach the department by September 1, 2007, 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) 773-3361 at least 48 hours before the hearing.

Department of Human Services: Board of Social Work Examiners: (July 27, 2007) is proposing to amend rules to increase fees for application for a biennial license of Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate from $70 to $90; increase fees for endorsement application for a license for Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate from $70 to $90; and increase fees for biennial renewal of a license for Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate from $70 to $90. The general authority for these rules, as cited by the board, is SDCL 36-26-19, 36-26-23, and 36-26-29.

A public hearing will be held at the Rushmore Plaza Holiday Inn in the Wyoming Room in Rapid City, South Dakota, on August 24, 2007, at 9:00 a.m. MDT. Copies of the proposed rules may be obtained from and written comments sent to S.D. Board of Social Work Examiners, 135 East Illinois, Suite 214, Spearfish, South Dakota 57783. Written comments must be received by August 24, 2007, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

Attorney General Appointment:

Andrew Knecht, Pierre, was appointed as an Assistant Attorney General effective July 16, 2007.

Executive Appointments:

Ginger L. Hanten, Goodwin, was reappointed on July 20, 2007, to the **American Dairy Association of South Dakota**, effective immediately and shall continue until June 30, 2010.

Jeff L. Nielsen, Sioux Falls, was appointed on July 20, 2007, to the **State Board of Pharmacy**, effective July 19, 2007, and shall continue until October 1, 2010.

Mark Pederson, Lake Norden, was reappointed on July 20, 2007, to the **American Dairy Association of South Dakota**, effective immediately and shall continue until June 30, 2009.

Stephen R. Statz, Sioux Falls, was reappointed on July 20, 2007, to the **State Board of Pharmacy**, effective October 1, 2007, and shall continue until October 1, 2010.

Kyle D. White, Rapid City, was reappointed on July 20, 2007, to the **South Dakota Energy Infrastructure Authority**, effective immediately and shall continue until June 30, 2013.

Lloyd Schipper, Pierre, was appointed on July 23, 2007, to the **Housing Development Authority**, to replace Karl Adam, effective July 23, 2007, and shall continue until June 30, 2012.

Executive Order:

The Governor has signed **Executive Order 2007-18** dated July 20, 2007, which declares that a state of emergency exists statewide, due to the extreme dry conditions, and authorizes such functions of state government as necessary to provide relief and assistance. The fire hazard incident period shall begin July 20, 2007.

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

8-2-2007	Public Utilities Commission	Amend telecommunications rules to add some requirements for applicants requesting a certificate of authority to provide interexchange services in South Dakota, including providing information to customers and the prevention of slamming and to delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information; clarify that any security filed by an interexchange company is only for the benefit of South Dakota customers; add requirements for alternative operator services regarding notification to customers prior to the customer incurring charges for a call and to delete the requirement to file tariffs; regarding applications for

		certificates of authority to provide local exchange services in South Dakota: add some additional requirements, including providing information to customers and delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information; require some form of security as a condition to receiving a certificate of authority; waive the provisioning of a requirement for local exchange service if it is not necessary based on the type of service being provided; require a petition for arbitration of an interconnection agreement to be accompanied by written testimony, exhibits, cost support, request for protective order, and proposed procedural schedule; require that responses to arbitrations must contain the information that is required for petitions for arbitration; require a petition for suspension or modification of an interconnection requirement to include written testimony and exhibits; add a rule which sets forth how a person who is not a party to an arbitration may participate; clarify that an eligible telecommunications carrier must continue to file improvement plans after the filing of the initial plan; require the annual life line report to be filed with the annual certification; require local exchange companies to notify customers in advance of all interruptions due to maintenance, if possible, instead of just for "extended" interruptions; set forth the requirements for notifying customers when a new telephone company acquires the subscriber base of another carrier and to require the acquiring carrier must provide to the subscriber the rates, terms and conditions of service as well as other information and give notice 30 days before the transfer which would allow the subscriber sufficient time to choose a new carrier; and change how customers are notified of changes in rates, terms and conditions of service; 34 SDR 11.
8-2-2007	Revenue and Regulation: Division of Insurance	Amend rules to revise the standards for long term care and long term care partnership coverage; 34 SDR 23.
8-2-2007	Attorney General: Law Enforcement Officers Standards and Training Commission	Amend rules to change the required license fee to $75 for polygraph examiner applicants currently licensed in another state; add a

		statutory citation to the general authority section of ARSD 2:01:11:01; and update the Certification of Canine Teams Student Handbook; 34 SDR 23.
8-3-2007	Labor: Board of Counselor Examiners	Amend rules to offer unlicensed practitioners an opportunity for licensure, offer a wider selection of qualified supervisors, and make updates and clarifications to assist the licensee; 34 SDR 23.
8-6-2007	Labor: Board of Examiners in Optometry	Amend rules to allow discretion where appropriate in the minimum office equipment requirements of an optometrist; to make uniform references to licensure by endorsement; to clarify and eliminate apparent conflict in time frames for meeting requirements of licensing; to repeal ambiguous and inconsistent requirements for continuing education and licensure of optometrists; and add codes to the Procedural Code List as approved by the Board of Optometry; 34 SDR 24.
8-9-2007	Game, Fish and Parks	Adopt a definition for “preference point;” amend Duck Hunting Season rules to establish season dates, daily bag and possession limits for duck, coot and merganser; change the opening dates for the Low Plains North and Middle Zones from September 22 (Saturday closest to September 24) to September 29 (last Saturday of September); and change the opening date for the Low Plains South Zone from October 6 (Saturday closest to October 8) to October 13 (second Saturday of October) (Note – the proposed season dates are subject to being modified following receipt of public comment at the hearing.); amend Goose Hunting Season rules to establish season dates, daily bag and possession limits for Canada geese, light geese and white-fronted geese; merge the eight-county Canada goose unit in northeastern South Dakota (formerly Unit 3) with Unit 1; set the Canada goose season in Unit 1 to run for 86 days beginning on September 29 (last Saturday of September); change the light goose and white-fronted goose season opening dates from September 22 (Saturday closest to September 24) to September 29 (last Saturday of September) and change the season length from 85 to 86 days;

		and remove the Canada goose bag limit reduction (3 to 2) for portions of Grant and Roberts counties that was scheduled to take effect on December 1 (Note – the proposed season dates are subject to being modified following receipt of public comment at the hearing.); amend Furbearer Seasons and License Forms and Fees rules to create a nonresident furbearer license and set the license fee at $250.00; establish season dates, requirements and restrictions, including prohibiting nonresidents from taking mink, weasel, muskrat, beaver and raccoon until the 1st Saturday of December, prohibiting nonresidents from taking bobcats until the 2nd Saturday of January, and prohibiting nonresidents from using dogs to aid in the taking of raccoons (Note – the proposed season dates are subject to being modified following receipt of public comment at the hearing.); and amend Falconry Regulations (Nonresident permits) to establish a nonresident raptor collecting permit which allows nonresident falconers to take wild raptors for falconry purposes in South Dakota and set the fee for the permit at $200.00. Resident and nonresident raptor collecting permittees would be allowed to take passage raptors (immature raptors in their first year plumage), adult American kestrels and adult great horned owls for falconry purposes with trapping of passage raptors permitted only between September 21 and January 31. Only resident general or master falconry permittees would be allowed to take eyas (young, flightless birds) from a nest or aerie but must leave at least one eyas in the nest or aerie. Eyas may be taken only between May 25 and July 10. Nonresidents taking passage gyrfalcons would be required to have the falcon banded in accordance with their home state's falconry regulations. (Note – the proposed season dates are subject to being modified following receipt of public comment at the hearing.); 34 SDR 32.
8-13-2007	Transportation	Repeal those provisions of ARSD 70:08:01:03, the enforcement of which was permanently enjoined in Dakota, Minn. & Eastern R.R. Corp. v. South Dakota, 236 F. Supp. 2d 989; to

		specify the information to be included in an application for authority to exercise eminent domain pursuant to SDCL 49-16A-75; and to provide for retroactive effect so as to apply to any administrative proceeding under SDCL 49-16A-75 commenced on or before the effective date of the rule as amended; and repeal those provisions of the ARSD 70:08:01:04, the enforcement of which was permanently enjoined in Dakota, Minn. & Eastern R.R. Corp. v. South Dakota, 236 F. Supp. 2d 989; to adopt a procedure for administering applications for authority to exercise the right of eminent domain pursuant to SDCL 49-16A-75; and to provide for retroactive effect so as to apply to any administrative proceeding under SDCL 49-16A-75 commenced and pending before the effective date of the rule as amended; 34 SDR 31.
8-22-2007	Health	Amend the Children's Special Health Services (CSHS) program rules to include travel reimbursement as a coverable service; provide additional clarification on claims submission; and have consistency with due process procedures; 34 SDR 41.
8-23-2007	Health: Funeral Services Board	Amend rules to accurately reflect the address at which the funeral board may be contacted; to raise the application fee for a funeral establishment license from $100 to $200; to raise the renewal fee for a funeral establishment license from $100 to $200; to change the application fee for a funeral service license from $50 to $100; and to raise the annual renewal fee for a funeral service license from $50 to $100; 34 SDR 31.
8-24-2007	Human Services: Board of Social Work Examiners	Amend rules to increase fees for application for a biennial license of Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate from $70 to $90; increase fees for endorsement application for a license for Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate

		from $70 to $90; and increase fees for biennial renewal of a license for Certified Social Worker/Private Independent Practice from $160 to $210, for Certified Social Worker from $130 to $170, for Social Worker from $100 to $130, and for Social Work associate from $70 to $90; 34 SDR 41.

RULES REVIEW COMMITTEE MEETINGS

The Interim Rules Review Committee has scheduled a special telephone conference call meeting to consider rules from the Department of Game, Fish and Parks. The special meeting will be held Thursday, August 2, 2007, in LCR 1 & 2, Third Floor of the State Capitol. This meeting is limited to the consideration of rules adopted by the Game, Fish and Parks Commission at their hearing July 12, 2007, relating to: East River Deer Hunting Season; Antelope Hunting Season; National Wildlife Refuge Deer Hunting Season; Youth Waterfowl Hunting Season; Early Fall Canada Goose Hunting Season; Private Shooting Preserves; and Docks.

The next regular meeting of the Interim Rules Review Committee will be held Tuesday, August 21, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: September 27, 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.

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