

AGENDA

Interim Rules Review Committee



Senator Jean Hunhoff, Chair
Representative Jon Hansen, Vice Chair

Four hundred twenty-first meeting
Tuesday, November 7, 2023

Room 414 – State Capitol
Pierre, South Dakota

*Those wishing to testify must register by 12 p.m. (CT), November 2, 2023, by email to Kelly.Thompson@sdlegislature.gov.
Testifiers should provide their full names, whom they are representing, city of residence, which proposed rules they will be addressing, whether they are a proponent or opponent, and if they will be testifying remotely or in person.*

PLEASE NOTE: Breaks will be at the call of the Chair and will include a lunch break lasting up to one hour.

8:00 a.m. CT:

Call to order, roll call, and approval of minutes

Review of proposed rules

Senator Hunhoff

Department of Health: Adopt and amend rules to:

- Update and clarify definitions related to medical cannabis;
- Review allowable amounts of cannabis product and scale certification for scales used to weigh and measure cannabis product;
- Define additives and terpenes in the manufacturing process;
- Clarify that all sales of cannabis and cannabis products must be in a certified medical cannabis dispensary;
- Clarify the definition of final form of cannabis prior to retail sale;
- Remove the exemption of pre-roll cannabis from testing requirements;
- Add expiration dates and use by dates to packaged cannabis product;
- Clarify use of inventory tracking system plant tags;
- Increase the establishment certification fee to reflect the inflationary increase allowed by statute; and
- Repeal the petition process for debilitating conditions.

Department of Health: Adopt and amend rules to:

- Update and clarify the minimum regulations related to operation, physical environment, fire protection, management and administration, physician services, nursing and related care services, dietetic services, medication control, medical record services, hospital diagnostic services, hospital complimentary services, long-term care supportive services, construction standards, additional hospital standards, and swing bed patients' rights necessary for hospitals, specialized hospitals, critical access hospitals, and rural emergency hospitals to maintain the health and safety of patients receiving services in these facilities; and
- Add rural emergency hospitals to ARSD article [44:75](#), as authorized by [House Bill 1123](#) during the 2022 legislative session, to outline the minimum regulations necessary to operate a rural emergency hospital.

South Dakota Board of Nursing (Department of Health): Adopt and amend rules to:

- Revise and modernize the RN and LPN scope and standards of practice to be consistent with practice statutes in SDCL [36-9-3](#) and [36-9-4](#) and national standards of practice;

- Update definitions and terms used;
- Clarify supervision requirements of the LPN;
- Update and modernize the IV therapy tasks an LPN may perform, including the administration of blood components, after obtaining additional education and training; and
- Update tasks and IV medications an LPN may not perform or administer.

South Dakota Board of Nursing Facility Administrators (Department of Health): Adopt and amend rules to complete a fee update that was originally scheduled in 2020 and delayed due to the pandemic, and update statutory references.

South Dakota Board of Physical Therapy (Department of Health): Adopt and amend rules to:

- Update the application and license renewal fee to accommodate biennial licensure;
- Update the code of ethics for physical therapists;
- Adopt a code of ethics for physical therapist assistants;
- Update the hours of continuing education required for license renewal to accommodate biennial licensure; and
- Update references to the Board of Physical Therapy.

Department of Human Services: Adopt, amend, and repeal rules to:

- Add regulatory definitions for the terms "abuse," "exploitation," and "neglect;"
- Revise criteria for imposing probation on certain providers;
- Specify that providers must afford all participants their rights;
- Specify providers may not allow or condone abuse, neglect, or exploitation;
- Update appeal provisions when services are terminated by a provider;
- Update definitions concerning Family Support Waiver Services;
- Clarify hiring responsibilities under the agency with choice model;
- Add new language concerning the common-law employer model;
- Add specialized therapies as a service covered under the Family Support Waiver;
- Repeal review of a qualified provider;
- Update notice requirements for when an intermediate care facility terminates services; and
- Repeal certain registration requirements for interpreters and amend a cross-reference.

Representative Hansen

South Dakota State Board of Dentistry (Department of Health): Amend rules to update license, registration, and permit fees that have not been updated since 2012.

Department of Social Services: Amend and adopt rules to:

- Update citations;
- Update procedure codes that are reimbursed at a percent of the provider's usual and customary charge and included on the applicable fee schedule;
- Clarify coverage for the removal of implanted contraceptives;
- Clarify coverage for routine foot care services for those diagnosed with metabolic, neurologic, or peripheral vascular diseases;
- Update personal care assessment frequency and the information reviewed;
- Clarify reasons for discontinuation of personal care services;
- Remove the certificate of medical necessity requirement to align with Medicare;
- Increase the timeliness of access to breast pumps by updating billing provisions;
- Update treatment plan timing to coordinate with the mental health chapter and current practice;
- Clarify and detail the specialized therapy services that are covered under the Family Support 360 waiver program and update the applicable procedure codes for billing those services; and
- Remove repealed rule references.

Department of Social Services: Adopt and amend rules to replace the term "division" with "department" throughout most of ARSD articles 67:61 and 67:62 to coincide with the transition of the accreditation and licensing of providers or agencies to the newly formed Office of Licensing and Accreditation within the Department of Social Services.

Representative DeGroot

Department of Game, Fish and Parks: Adopt, amend, and repeal rules to:

- Restrict the number of applications a person may submit during certain draws for Prairie Spring Turkey, Fall Turkey, and Prairie Antelope;
- Consolidate in administrative rule the costs of resident hoop net, trap, and setline licenses with other license fees;
- Permit invasive carps and rough fish to be taken with dip nets;
- Clarify the term, resident, in a rule authorizing landowners to perform fisheries management activities;
- Establish a catch-and-release lake sturgeon season on Big Stone Lake;
- Modify the number of resident paddlefish tags on Lake Francis Case;
- Repeal a rule that establishes hoop net and trap license fees in order to move the fees into another administrative rule;
- Clarify the number of floatlines that may be fished under a setline license;
- Clarify what methods may be used to take bait species; and
- Specify the methods for harvesting bait.

Department of Game, Fish and Parks: Amend and repeal rules to:

- Consolidate all park entrance license exemptions into one rule;
- Modify park entrance license exemptions and repeal the rule in its entirety; and
- Adjust license allocations that are issued in the Hunt for Habitat drawing.

Department of Transportation: Amend a rule to change the speed limit on State Trunk Highway 50 in and around Yankton.

Senator Foster

State Board of Elections (Office of the Secretary of State): Adopt rules to:

- Define terms related to post-election audits;
- Prescribe the form to be used for the notice of appointment of post-election auditing boards;
- Require members of such boards to sign an oath of office;
- Require the county auditor to provide administrative support and staff for post-election auditing boards;
- Prescribe the form to be used for the board's receipt for the official ballots;
- Specify the process for a public vote count including the opening of ballot receptacles and containers, hand-counting ballots, and tallying the audit vote count;
- Prescribe the form to be used to certify the results of a post-election audit;
- Define the procedure for placing post-election audit voted ballots in a ballot receptacle or container;
- Prescribe the form to be used for the seal to be placed on a ballot receptacle or container; and
- Define the process for reimbursement of post-election audit costs.

State Board of Elections (Office of the Secretary of State): Amend and adopt rules to:

- Prescribe the form to be used for the acknowledgement notice for invalid or incomplete voter registration applications;
- Provide instructions for voters using optical scan ballots and those voting absentee;
- Define the process for absentee voting at a nursing facility, assisted living center, or hospital; and
- Clarify the procedure for securing ballot boxes.

South Dakota Board of Accountancy (Department of Labor and Regulation): Adopt and amend rules to update education measurements and accrediting agency names and expand the qualifying period to pass the Uniform CPA exam.

Representative Healy

South Dakota Board of Education Standards (Department of Education): Adopt a rule to require all school districts to uniformly transcribe postsecondary credits onto a student's high school transcript.

Professional Teachers Practices and Standards Commission (Department of Education): Amend rules to clarify references to educators and add a requirement to the code of ethics for the reporting of violations of the code.

Professional Administrators Practices and Standards Commission (Department of Education): Amend a rule to add a requirement to the code of ethics for the reporting of violations to the code.

Office of the Attorney General: Adopt and amend rules to:

- Update and clarify minimum standards, training, and employment regulations for law enforcement officers and 911 telecommunicators;
- Correct certain statutory references and definitions;
- Provide provisions for refusal of school sentinel applications; and
- Expand law enforcement employment eligibility in limited cases, permitting certain technical college students who complete a state-recognized law enforcement program to be potentially eligible for employment prior to reaching age 21.

Senator Mehlhaff

South Dakota Division of Insurance (Department of Labor and Regulation): Amend a rule to remove the \$25 filing fee paid by a consumer when seeking an external review of an adverse determination made by a health carrier.

Staff Report

- Note corrections of apparent errors made to the Administrative Rules of South Dakota by LRC staff in accordance with SDCL 1-26A-1.

Adjourn

PLEASE NOTE: The above times are approximate.

Written testimony must be received at least 48 hours prior to the meeting to be considered at the meeting.

Members: Senators Red Dawn Foster, Jean Hunhoff, and Jim Mehlhaff and **Representatives** Roger DeGroot, Jon Hansen, and Erin Healy

This meeting is being held in a physically accessible location. Any individual needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605-773-3251) in advance of the meeting to make further arrangements.

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