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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.

Department of Social Services: (April 18, 2023) intends to amend rules to repeal four chapters; add a new chapter covering the licensing requirements for family day care homes, licensed day care programs, and before and after school care; streamline and clarify rules related to group care centers, residential treatment centers, and intensive residential treatment centers; apply the 15:1 ratio for five-year-old children for a licensed program; increase by one the number of infants a family day care provider can care for; change the group size to align with the capacity of a room and for licensed programs serving twenty or less to have a ratio of 10:1 in a mixed age group with no more than four children under age two; expand the duties of a 14-year-old staff member when working at a before or after school program; remove the requirement for a family day care provider to have a physical examination; remove the limitation on the number of hours a substitute provider can be used; remove the requirement to have a staff training plan; remove the requirement for annual training for bus drivers or other staff who do not care for children; reduce the ongoing training requirements for family day care providers; and incorporate style and form edits. The general authority for these rules, as cited by the department, is SDCL 25-7A-56 and 26-6-16.

A public hearing will be held at the Department of Social Services Building, Prairie Conference Room, 811 East 10th Street, Sioux Falls, South Dakota, on May 12, 2023, at 11:00 a.m. (CT). Interested parties may also attend by calling (605) 679-7263 and using conference code 293 001 934#. Copies of the proposed rules may be obtained without charge from Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103. The rules are also available online at <http://rules.sd.gov>. Comments may be sent to Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103 or emailed to DSSAdminRules@state.sd.us. Material sent by mail must reach the department by May 22, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 367-5444, extension 1000309, at least 48 hours before the public hearing.

Board of Medical and Osteopathic Examiners (Department of Health): (April 18, 2023) intends to adopt rules to create educational requirements and training for the issuance of a critical care endorsement and amend a rule to update the educational standards of athletic trainers to the 2020 Commission on Accreditation of Athletic Training Education. The general authority for these rules, as cited by the board, is SDCL 36-4B-35 and 36-29-17.

A public hearing will be held at the First Dakota National Bank building, Room 306, 101 N. Main Avenue, Sioux Falls, South Dakota, on June 8, 2023, at 9:00 a.m. (CT). Interested parties may also participate via Microsoft Teams using Meeting ID 266 402 206 906 with passcode Vmxz5B. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the South Dakota Board of Medical and Osteopathic Examiners, 101 North Main Avenue, Suite 301, Sioux Falls, South Dakota 57104. Comments may also be sent by email to SDBMOE@state.sd.us. Material sent by mail or email must reach the board by June 7, 2023, to be considered. This hearing is being held in a

physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 367-7781 at least 48 hours before the public hearing.

Department of Health: (April 19, 2023) intends to amend a rule to add dental hygienists to the list of professions eligible to participate in the Rural Healthcare Facility Recruitment Assistance Program. The general authority for these rules, as cited by the department, is SDCL 34-12G-12.

A public hearing will be held at the Hayes Building Conference Room, 600 East Capitol Avenue, Pierre, South Dakota, on May 16, 2023, at 1:30 p.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules are also available online at <https://rules.sd.gov>. Material sent by mail must reach the department by May 26, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 773-3361 at least 48 hours before the public hearing.

Department of Social Services: (April 21, 2023) intends to amend rules to update the Temporary Assistance to Needy Families (TANF) payment standard amounts; update federal medical services eligibility standards that are reflected in rule; update the Medicaid eligibility categories to remove the Limited Coverage Pregnancy Group; extend the eligibility for the Post-Partum Group from 60 days to 12 months; and add the new Adult Group of individuals aged 19 or older and under age 65. The general authority for these rules, as cited by the department, is SDCL 28-6-1, 28-6-18, and 28-7A-3.

A public hearing will be held at the Department of Social Services Building, Prairie Conference Room, 811 East 10th Street, Sioux Falls, South Dakota, on May 19, 2023, at 10:00 a.m. (CT). Interested parties may also attend by calling (605) 679-7263 and using conference code 385 249 439#. Copies of the proposed rules may be obtained without charge from Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103. The rules are also available online at <http://rules.sd.gov>. Comments may be sent to Teresa Schulte, Administrative Rules, Department of Social Services, 811 East 10th Street, Sioux Falls, South Dakota 57103 or emailed to DSSAdminRules@state.sd.us. Material sent by mail must reach the department by May 29, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the department can make arrangements may call (605) 367-5444, extension 1000309, at least 48 hours before the public hearing.

Notice

The **Department of Social Services** intends to make changes to the South Dakota Medicaid State Plan regarding Nursing Facility reimbursement. The proposed State Plan Amendment (SPA) proposes to move South Dakota Medicaid from the Resource Utilization Group III (RUG III) reimbursement model to the Patient Driven Payment Model (PDPM) reimbursement model for Nursing Facility services. The reimbursement rates will also be updated to the provider fiscal year 2021 cost report period and PDPM case mix data. The SPA amends pages 1, 4, 5, 7, 9, 10, 11, 12, 13, 15, and 16 of Attachment 4.19-D of the Medicaid State Plan.

The department intends to make the SPA effective July 1, 2023 and estimates the fiscal impact will be \$6,750,303 in state funds and \$10,304,530 in federal funds, totaling \$17,054,833 in Federal Fiscal Year 2023, and \$9,000,404 in state funds and \$13,739,373 in federal funds, totaling \$22,739,777 in Federal Fiscal Year 2024.

The SPA is available to view on the department's website at <http://dss.sd.gov/medicaid/medicaidstateplan.aspx>. Copies of the proposed SPA pages are also available at the Department of Social Services, Division of Medical Services. 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, or emailed to MedicaidSPA@state.sd.us. The public comment period will start April 24, 2023, and end May 24, 2023.

SCHEDULED PUBLIC HEARINGS

4-24-2023	<u>Office of the Attorney General:</u> Adopt rules to provide information about the form to be used by law enforcement agencies to file a forfeiture report, the deadline to submit a forfeiture report, and the procedures necessary to submit the report; 49 SDR 76, March 6, 2023.
5-4-2023	<u>Department of Game, Fish and Parks:</u> Amend rules to modify the number of waterfowl licenses available to nonresidents; correct an erroneous unit description in the West River deer season; expand hunting opportunities in the West River season by modifying unit 49A; modify unit RFD-SL4 by restricting the type of weapon that can be used to take a deer; modify the open units on Lacreek Refuge for the deer hunting season; modify the time period for which hunting can only be done by archery equipment within Custer State Park; and modify the closed units for the apprentice hunter deer season and youth deer season by expanding opportunity on Fort Meade Bureau of Land Management units; 49 SDR 88, April 17, 2023.
5-11-2023	<u>Department of Agriculture and Natural Resources:</u> Amend rules to update pest control certification and training regulations in accordance with the department's signed certification and training plan with the Environmental Protection Agency, update pesticide recycling rules on types of containers, and waive the pre-registration requirement for waste pesticide disposal; 49 SDR 86, April 11, 2023.
5-12-2023	<u>Department of Social Services:</u> (April 18, 2023) intends to amend rules to repeal four chapters; add a new chapter covering the licensing requirements for family day care homes, licensed day care programs, and before and after school care; streamline and clarify rules related to group care centers, residential treatment centers, and intensive residential treatment centers; apply the 15:1 ratio for five-year-old children for a licensed program; increase by one the number of infants a family day care provider can care for; change the group size to align with the capacity of a room and for licensed programs serving twenty or less to have a ratio of 10:1 in a mixed age group with no more than four children under age two; expand the duties of a 14-year-old staff member when working at a before or after school program; remove the requirement for a family day care provider to have a physical examination; remove the limitation on the number of hours a substitute provider can be used; remove the requirement to have a staff training plan; remove the requirement for annual training for bus drivers or other staff who do not care for children; reduce the ongoing training requirements for family day care providers; and incorporate style and form edits; 49 SDR 91, April 17, 2023.
5-16-2023	<u>Department of Health:</u> Amend a rule to add dental hygienists to the list of professions eligible to participate in the Rural Healthcare Facility Recruitment Assistance Program; 49 SDR 92, April 24, 2023.
5-19-2023	<u>Department of Social Services:</u> Amend rules to update the Temporary Assistance to Needy Families (TANF) payment standard amounts; update federal medical services eligibility standards that are reflected in rule; update the Medicaid eligibility categories to remove the Limited Coverage Pregnancy Group; extend the eligibility for the Post-Partum Group from 60 days to 12 months; and add the new Adult Group of individuals aged 19 or older and under age 65; 49 SDR 92, April 24, 2023.
6-2-2023	<u>South Dakota State Board of Dentistry (Department of Health):</u> Amend rules to update regulations pertaining to clinical examinations and licensure; update advertising regulations; update specialty practice advertising regulations and account for legal case law developments; update supervision requirements for the administration of nitrous oxide sedation and analgesia by dental hygienists and registered dental assistants; update supervision requirements for the administration of local anesthesia by dental hygienists; and repeal the unnecessary reporting requirement for collaborative supervision; 49 SDR 88, April 17, 2023.
6-8-2023	<u>Board of Medical and Osteopathic Examiners (Department of Health):</u> Adopt rules to create educational requirements and training for the issuance of a critical care endorsement and amend a rule to update the educational standards of athletic trainers to the 2020 Commission on Accreditation of Athletic Training Education; 49 SDR 91, April 24, 2023.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee for the 2023 Interim is Tuesday, May 2, 2023, at 10:00 a.m. (CT) via electronic conference and in Room 414 of the Capitol. Future meetings for the 2023 Interim are scheduled for June 13, July 18, August 8, September 12, and November 7. Find notices of committee meetings 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 and is updated regularly to reflect changes in drafting styles and procedures.