



SOUTH DAKOTA REGISTER

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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.

Bureau of Administration: (April 24, 2023) intends to amend rules to increase the rate for legal publications. The general authority for these rules, as cited by the bureau, is SDCL 17-2-19.

A public hearing will be held in Room 412 of the State Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on May 15, 2023, at 10:00 a.m. (CT). Interested parties may also participate via Microsoft Teams using meeting ID 251 393 819 577 and passcode 8wCP9z, or by conference call to (605) 679-7263 using conference ID 473 620 522#. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, South Dakota Bureau of Administration, 320 North Nicollet Avenue, Pierre, South Dakota 57501. Copies of the rules are also available online at <https://boa.sd.gov/> and comments may be emailed to rick.augusztin@state.sd.us. Information submitted in writing must be received on or before 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) 773-3688 at least 48 hours prior to the hearing.

South Dakota Division of Insurance (Department of Labor and Regulation): (April 26, 2023) intends to amend a rule to incorporate the 2023 Medicare Supplement coverage amounts set by the federal government. The general authority for these rules, as cited by the division, is SDCL 58-17A-2 and 58-17A-5.

A public hearing will be held in the Oahe Conference Room, 124 South Euclid Avenue, 1st Floor, Pierre, South Dakota, on May 23, 2023, at 10:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, South Dakota Division of Insurance, Administrative Rules, 124 South Euclid Avenue, 2nd Floor, Pierre, South Dakota 57501. Comments may also be emailed to lisa.harmon@state.sd.us. Copies of the proposed rules are also available at http://dlr.sd.gov/insurance/admin_rules/public_hearings.aspx or by email request to lisa.harmon@state.sd.us. Information submitted in writing must be received on or before June 2, 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) 773-3563 at least 48 hours before the public hearing.

South Dakota Board of Education Standards (Department of Education): (April 27, 2023) intends to adopt a rule to require all school districts to uniformly transcribe postsecondary credits onto a student's high school transcript. The general authority for these rules, as cited by the board, is SDCL 13-1-12.1 and 13-28-37.

A public hearing will be held at the MacKay Building, First Floor, Library Commons, 800 Governors Drive, Pierre, South Dakota, on May 22, 2023, at 9:00 a.m. (CT). Copies of the proposed rules may be obtained without charge from South Dakota Department of Education, Attn: Ferne Haddock, 800 Governors Drive, Pierre, South Dakota 57501. Written comments may be sent to South Dakota Department of Education, Attn: Laura Scheibe, 800 Governors Drive, Pierre, South Dakota 57501; emailed to Laura.Scheibe@state.sd.us; or submitted at <https://rules.sd.gov>. Material sent by mail or email

must reach the department by May 19, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-5669 at least 48 hours before the public hearing.

South Dakota Board of Massage Therapy (Department of Health): (April 28, 2023) intends to repeal a rule that requires fees to be remitted to the Board of Massage Therapy in the form of a personal check, cashier's check, certified check, or money order. The general authority for these rules, as cited by the board, is SDCL 36-35-17 and 36-35-24.

A public hearing will be held via Zoom on May 24, 2023, at 9:30 a.m. (CT). Interested parties may participate via [Zoom](#) using meeting ID 992 7530 9188 and passcode 578946, or dialing by their location + 1 669 444 9171 US. Copies of the proposed rules may be obtained without charge from, and written comments may be sent to, the South Dakota Board of Massage Therapy, 217 West Missouri Avenue, Pierre, South Dakota 57501 or at <https://rules.sd.gov>. Material sent by mail must reach the board by May 22, 2023, to be considered. This hearing is being held in a physically accessible location. Persons with special needs for which the board can make arrangements may call (605) 773-3440 at least 48 hours before the public hearing.

Notices

The **Department of Human Services** has proposed an amendment to the HOPE Waiver which is operated by the **Division of Long Term Services and Supports**. The purpose of the HOPE Waiver is to provide home and community-based services to South Dakotans aged 65 and older as well as individuals 18 years of age and older who have a qualifying disability to allow them to remain at home or in the least restrictive environment available. Services are based on an assessed need and may include, but are not limited to, homemaker, personal care, in-home nursing, medical equipment and supplies, assisted living, structured family caregiving, and emergency response systems. The HOPE Waiver amendment application and a summary of proposed changes are available at <https://dhs.sd.gov/ltss/titlexix.aspx> or a printed copy can be requested by contacting the Division of Long Term Services and Supports at (605) 773-3656.

The proposed HOPE Waiver amendment, which has an anticipated effective date of November 27, 2023, will be open for public comment for 30 days beginning May 1, 2023. Comments may be emailed to hcbs@state.sd.us, submitted by phone to (605) 773-3656, or mailed to Caitlin Clarey, HCBS Program Manager, Division of Long Term Services and Supports, Department of Human Services, 2908 West 11th Street, Sioux Falls, South Dakota 57104.

FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE

Final Administrative Rules

WATER MANAGEMENT BOARD (DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES): 74:51:01:01, 74:51:01:53, 74:51:01 Appendix B; 74:51:02:04; 74:51:03:05, 74:51:03:07.

History/Notice: 49 SDR 42, October 17, 2022

Hearing: December 7, 2022

Filed: April 24, 2023

Effective: May 14, 2023

Executive Order

Governor Noem has signed [Executive Order 2023-05](#), dated April 24, 2023, requiring executive branch agencies under the control of the Governor to consider other work or life experience during the hiring process when a postsecondary degree is not necessary for the performance of job duties. The Order offers examples of work or life experience, to include workforce expertise, registered apprenticeship programs, career and technical college certificates or degrees, military service, or any other valid qualification to determine if an applicant is likely to be sufficiently prepared to perform the job duties. Under the Order, the Commissioner of the Bureau of Human Resources, in cooperation with all individuals

responsible for hiring for executive branch agency positions, shall review any current or future job posting for an executive branch agency position requiring an undergraduate or graduate degree, and consider whether the position necessitates the degree to perform the job duties. If it is determined the degree is not necessary to perform the job duties, the job posting shall state that no degree is required to fill the position and may further state preferred career experience and education that an applicant may have to prepare the applicant to perform the job duties. The Order does not contain an end date and shall continue in effect until amended, modified, terminated, or rescinded by the Governor.

Executive Appointments

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeding</u>	<u>Effective/End Date</u>
Game, Fish and Parks Commission			
Travis Bies Fairburn	Governor	Reappointed	4/19/2023 – 1/10/2027
David B. Cul Yankton	Governor	Russell Olson	4/19/2023 – 1/10/2024
South Dakota Board of Technical Education			
Dennis Law Wall	Governor	Scott Peterson	4/14/2023 – 10/30/2025
Brian Sandvig Milbank	Governor	Reappointed	4/19/2023 – 10/31/2025

SCHEDULED PUBLIC HEARINGS

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> 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.
5-15-2023	<u>Bureau of Administration:</u> Amend rules to increase the rate for legal publications; 49 SDR 95, May 1, 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.
5-22-2023 *Note date change from 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.
5-22-2023	<u>South Dakota Board of Education Standards (Department of Education):</u> Adopt a rule to require all school districts to uniformly transcribe postsecondary credits onto a student's high school transcript; 49 SDR 95, May 1, 2023.
5-23-2023	<u>South Dakota Division of Insurance (Department of Labor and Regulation):</u> Amend a rule to incorporate the 2023 Medicare Supplement coverage amounts set by the federal government; 49 SDR 95, May 1, 2023.
5-24-2023	<u>South Dakota Board of Massage Therapy (Department of Health):</u> Repeal a rule that requires fees to be remitted to the Board of Massage Therapy in the form of a personal check, cashier's check, certified check, or money order; 49 SDR 96, May 1, 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.