

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT OF
SDCL 19-16-8.2

RULE 98-26

A hearing having been held on February 20, 1998, at Pierre, South Dakota, relating to the amendment of SDCL 19-16-8.2, and the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 19-16-8.2 be and it hereby amended to read in its entirety as follows:

19-16-8.2. Physician's written report - Affidavit - Notice - Objection. Physician's written report in lieu of deposition or in-court testimony. In personal injury and wrongful death cases if the prayer for relief does not exceed seventy-five thousand dollars and in worker's compensation proceedings, the written report of any practitioner of the healing arts as defined in chapter 36-2 may be used for all purposes in lieu of deposition or in-court testimony of such practitioner of the healing arts provided that the report so offered into evidence has attached to it an affidavit signed by the practitioner of the healing arts issuing such report which verifies that the report constitutes all of his report, and that if called upon to testify he would testify to the same facts, observations, conclusions, opinions and other matters as set forth in such report with reasonable medical probability. The affidavit shall include or incorporate an attached exhibit by reference the qualifications of the practitioner of the healing arts whose report is being offered.

The report is not admissible unless the party offering it gives notice to all other parties of his intention to offer such report at least thirty days in advance of trial. Such notice shall be given to all parties together with a copy of any reports which are intended to be offered.

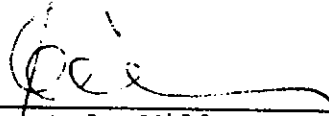
Any party may object to the receipt into evidence at trial of such report or any portion thereof on any legal ground other than hearsay. Nothing in this section

restricts any party from deposing the practitioner of the healing arts whose report is sought to be offered or otherwise conducting discovery or calling such practitioner as a witness at trial.

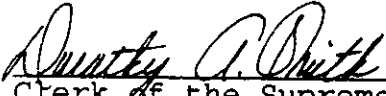
IT IS FURTHER ORDERED that this rule shall become effective July 1, 1998.

DATED at Pierre, South Dakota, this 10th day of March, 1998.

BY THE COURT:


Robert A. Miller, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 10 1998


Clerk