

ARTICLE 44:04

MEDICAL FACILITIES

Chapter

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CHAPTER 44:04:01

RULES OF GENERAL APPLICABILITY

(Transferred to Chapter 44:73:01)

Section

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~~44:04:01:01. Definitions.~~ Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

~~(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:~~

~~_____ (a) A criminal conviction against a person for mistreatment toward an individual; or~~
~~_____ (b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:~~

~~_____ (i) Misappropriation of a patient's or resident's property or funds;~~
~~_____ (ii) An attempt to commit a crime against a patient or resident;~~
~~_____ (iii) Physical harm or injury against a patient or resident; or~~
~~_____ (iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;~~

~~_____ (2) "Activities coordinator," a person who is a therapeutic recreation specialist or activity professional eligible for certification from the National Certification Council of Activity Professionals, who has two years of experience in a social or recreational program within the last five years, one year of which was full-time in a patient activities program in a health care setting, or who is a qualified occupational therapist or occupational therapy assistant under SDCL chapter 36-31 or who has completed a training program;~~

~~_____ (3) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, and eating performed routinely by a person to maintain physical functioning and personal care;~~

~~_____ (4) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;~~

~~_____ (5) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for managing the facility and who maintains an office on the premises of the facility;~~

~~_____ (6) "Adult day care," a nonresident program in a licensed facility that provides health, social, and related support services;~~

~~_____ (7) "Anesthesiologist," a physician whose specialized training and certification qualify the person to administer anesthetic agents and to monitor the patient under the influence of these agents;~~

~~_____ (8) "Anesthetist," a physician eligible for certification as an anesthesiologist or a certified registered nurse anesthetist who meets the requirements of SDCL chapter 36-9;~~

~~_____ (9) "Client advocates," agencies responsible for the protection and advocacy of patients and residents, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;~~

~~_____ (10) "Cognitively impaired," a patient or resident with mental deficiencies which result in a diminished ability to solve problems, to exercise good judgment in the context of a value system, to remember, and to be aware of and respond to safety hazards;~~

~~_____ (11) "Department," the South Dakota Department of Health;~~

~~_____ (12) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-3 or a disability which:~~

~~_____ (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;~~
~~_____ (b) Is manifested before the person attains age 22;~~
~~_____ (c) Is likely to continue indefinitely;~~

~~_____ (d) Results in substantial functional limitations in three or more of the following areas of major life activity:~~

- ~~_____ (i) Self care;~~
- ~~_____ (ii) Receptive and expressive language;~~
- ~~_____ (iii) Learning;~~
- ~~_____ (iv) Mobility;~~
- ~~_____ (v) Self direction;~~
- ~~_____ (vi) Capacity for independent living; and~~
- ~~_____ (vii) Economic self sufficiency; and~~

~~_____ (e) Requires a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are individually planned and coordinated;~~

~~_____ (13) "Dietary manager," a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides 120 or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the National Certifying Board of Dietary Managers and who functions with consultation from a dietitian;~~

~~_____ (14) "Dietitian," a person who is registered with the Commission on Dietetic Registration of the American Dietetic Association and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;~~

~~_____ (15) "Dining assistant," a person who has successfully completed a dining assistant program approved pursuant to § 44:04:07:17;~~

~~_____ (16) "Direct contact," any activity that requires physically touching a patient or resident;~~

~~_____ (17) "Distinct part," an identifiable unit, such as an entire ward or contiguous wards, wing, floor, or building, which is licensed at a specific level. It consists of all beds and related facilities in the unit;~~

~~_____ (18) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;~~

~~_____ (19) "Endorsement," the process of formally recognizing for the purpose of employment in a licensed health care facility in South Dakota the qualifications of a person trained and evaluated in another state as a nurse aide;~~

~~_____ (20) "Equivalency," training of another or different type that is determined by the department to be equal to department approved training;~~

~~_____ (21) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;~~

~~_____ (22) "Facility," the place of business used to provide health care for patients or residents;~~

~~_____ (23) "General hospital," a hospital that provides at least medical, surgical, obstetrical, and emergency services;~~

~~_____ (24) "Governing body," an organized body of persons that is ultimately responsible for the quality of care in a health care facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policy;~~

- ~~—— (25) "Health supervision," activity by an adult foster care provider that ensures a resident carries out the health plan of the resident's physician and observes good health practices;~~
- ~~—— (26) "Healthcare worker," any paid person working in a health care setting;~~
- ~~—— (27) "Hospice services," a coordinated interdisciplinary program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;~~
- ~~—— (28) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a patient or resident;~~
- ~~—— (29) "Instrumental activities of daily living," tasks performed routinely by a person, utilizing physical and social environmental features, to manage life situations, including meal preparation, self-administration of medications, telephone use, housekeeping, laundry, handling finances, shopping, and use of transportation;~~
- ~~—— (30) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";~~
- ~~—— (31) "Licensed health professional," a physician; physician's assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;~~
- ~~—— (32) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients and residents in a health care facility;~~
- ~~—— (33) "Mental disease," a mental condition that causes a person to lack sufficient understanding or capacity to make the responsible decisions to meet the ordinary demands of life, as evidenced by the person's behavior, or that causes a person to be a danger to self or others;~~
- ~~—— (34) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;~~
- ~~—— (35) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;~~
- ~~—— (36) "Nurse aide," an individual providing nursing or nursing related services who is not a licensed health professional, or someone who volunteers to provide such services without pay;~~
- ~~—— (37) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and orderlies;~~
- ~~—— (38) "Nursing unit," a patient unit that is limited to one floor of a health care facility and has all patient room entrances and exits within sight or control of nursing personnel;~~

~~—— (39) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, critical access hospital, swingbed, ambulatory surgery center, or chemical dependency treatment facility;~~

~~—— (40) "Personal care," assistance given by an adult foster care home owner in those areas of daily living when a resident has difficulty functioning because of a physical, mental, or emotional condition;~~

~~—— (41) "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;~~

~~—— (42) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;~~

~~—— (43) "Physician's extender," a person who is an assistant to a physician as authorized under SDCL chapter 36-4A; a nurse practitioner as authorized under SDCL chapter 36-9A; or a nurse midwife as authorized under SDCL chapter 36-9A;~~

~~—— (44) "Practitioner," one of the following:~~

~~—— (a) A person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;~~

~~—— (b) A person who is licensed to practice dentistry pursuant to SDCL chapter 36-6;~~

~~—— (c) A person who is licensed to practice podiatry pursuant to SDCL chapter 36-8;~~

~~—— (d) A person who is licensed to practice optometry pursuant to SDCL chapter 36-7;~~

~~—— (e) A person who is licensed to practice chiropractic pursuant to SDCL chapter 36-5;~~

~~—— (f) A person who is licensed to practice pharmacy pursuant to SDCL chapter 36-11;~~

~~—— (g) A person who is licensed to practice physical therapy pursuant to SDCL chapter 36-10; or~~

~~—— (h) A person who is licensed to practice occupational therapy pursuant to SDCL chapter 36-31;~~

~~—— (45) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 1990, Pub. L. No. 101-496 (October 30, 1990), codified at 42 U.S.C. § 6042, and the Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991, Pub. L. No. 102-173 (November 27, 1991), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;~~

~~—— (46) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;~~

~~—— (47) "Referral hospital," a general hospital with medical personnel qualified to receive emergency and nonemergency patient transfers from a critical access hospital, which has sufficient resources to provide consultation to a critical access hospital in the areas of clinical protocols, quality assurance, utilization review, staff inservice, and business consultation;~~

~~—— (48) "Registry," a computerized record of all nurse aides who have completed the minimum nurse aide training and competency evaluation requirements in chapter 44:04:18 to obtain registry status as a nurse aide;~~

~~—— (49) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;~~

~~—— (50) "Rehabilitation services," services which include physical therapy, occupational therapy, respiratory therapy, and speech therapy;~~

- ~~—— (51) "Resident," a person not in need of acute care with a valid order by a practitioner for services in a nursing facility;~~
- ~~—— (52) "Residential living center," the residence, facility, or place of business required to be registered pursuant to SDCL 34-12-32;~~
- ~~—— (53) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one patient or resident;~~
- ~~—— (54) "Restorative nursing," a part of nursing directed toward assisting a patient to achieve and maintain an optimal level of self care and independence and which offers assistance to patients in learning or relearning of skills needed in everyday activities;~~
- ~~—— (55) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or resident or the movement or normal function of a portion of the patient's or resident's body, excluding devices used for specific medical and surgical treatment;~~
- ~~—— (56) "Secured unit," a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined unique population, which is staffed by persons with training to meet the needs of patients or residents admitted to the unit;~~
- ~~—— (57) "Self administration of medications," the removal of the correct dosage from the pharmaceutical container and self injecting, ingesting, or applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;~~
- ~~—— (58) "Self directed care," care provided at the instruction and direction of an individual with the ability to provide the instruction and understand the consequences of the provision of that care;~~
- ~~—— (59) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;~~
- ~~—— (60) "Social service designee," a person who has a degree in a behavioral science field, two years of previous supervised experience in a behavioral science field, is a licensed nurse, or has similar qualifications;~~
- ~~—— (61) "Specialized hospital," a hospital that provides only one service or a combination of services but does not provide all of the services required to qualify as a general hospital;~~
- ~~—— (62) "Stand alone assisted living center," an assisted living center not physically attached to a nursing facility or hospital;~~
- ~~—— (63) "Swing bed," a licensed hospital bed which has been approved by the department pursuant to § 44-04:11:10 to also provide short term nursing care;~~
- ~~—— (64) "Supervised practical training," training in a laboratory or other setting in which the nurse aide performs health related tasks on a patient or resident while under the direct supervision of a licensed nurse;~~
- ~~—— (65) "Supplemental personnel," individuals who assist the primary instructor in the training of nurse aides;~~
- ~~—— (66) "Terminal illness," a medical prognosis that the individual's life expectancy is six months or less if the illness runs its normal course;~~

~~—— (67) "Therapeutic activity," any purposeful activity outside of activities of daily living that fosters social, emotional, physical, cognitive, and mental well-being;~~

~~—— (68) "Therapeutic diet," any diet other than a regular diet that is ordered by a physician as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency;~~

~~—— (69) "Transfer or discharge," the movement of a patient or resident to a bed outside the distinct part or outside the facility;~~

~~—— (70) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and~~

~~—— (71) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a patient or resident as delegated by the nurse and authorized by chapter 20:48:04.01.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 17 SDR 122, effective February 24, 1991; 19 SDR 95, effective January 7, 1993; 21 SDR 118, effective January 2, 1995; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13, 34-12-32.~~

~~—— **Note:** National Certification Council of Activity Professionals, 520 Stewart, Park Ridge, IL 60068. Phone (708) 698-4263.~~

~~—— **44:04:01:02. Licensure of facilities by classification.** Applications for licensure of a health care facility must set out the classification being applied for. Any license issued shall denote the classification and the facility address on the face of the license. The license shall include each facility address at which services licensed under this chapter are provided. A critical access hospital must first receive notice of eligibility for licensure from the secretary of health. A facility must comply only with those chapters in this article that apply to the classification of license issued. The most current license issued by the department must be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department. Facility classifications in addition to those defined in SDCL 34-12-1.1 are as follows:~~

~~—— (1) General hospital;~~

~~—— (2) Specialized hospital; and~~

~~—— (3) Hospice facility.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-7, 34-12-13.~~

~~—— **44:04:01:02.01. Annual license fees for health care facilities.** Repealed.~~

~~Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; repealed, 35 SDR 305, effective July 1, 2009.~~

~~44:04:01:02.02. License amendment application fee. Repealed.~~

~~Source: 26 SDR 96, effective January 23, 2000; repealed, 35 SDR 305, effective July 1, 2009.~~

~~44:04:01:03. Name of facility. Each facility must be designated by a pertinent and distinctive name that must be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-7, 34-12-13.~~

~~44:04:01:04. Bed capacity. The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The patient or resident census must not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of change of purpose or construction must be approved by the department before any changes are made. A critical access hospital (CAH) may license no more than 25 beds. A CAH may establish a distinct part unit (e.g., psychiatric or rehabilitation) that meets requirements for such beds as established for a short-term, general hospital. Those beds may not count toward the CAH bed limit, and the total number in each distinct part unit may not exceed ten.~~

~~Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-7, 34-12-13.~~

~~44:04:01:05. Restrictions on acceptance of patients or residents. A facility shall accept patients or residents in accordance with the following restrictions:~~

~~(1) A patient or resident accepted for care by a licensed facility must be housed within the facility covered by the license;~~

~~(2) A licensed facility may not accept or retain patients or residents who require care in excess of the classification for which it is licensed;~~

~~(3) Nursing and personal care, personnel essential to maintaining adequate staff may not leave a licensed facility during their tour of duty in the facility to provide services to persons who are not patients or residents of the facility with the exception of providing emergency care on premises contiguous to the facility's property;~~

~~(4) Hospitals which accept or retain patients for other than short term acute care shall provide the facilities, equipment, programs, and care needed by such patients;~~

~~—— (5) All licensed facilities that accept or retain patients or residents suffering from developmental disabilities or mental diseases shall provide facilities and programs consistent with the needs of such patients or residents;~~

~~—— (6) If persons other than inpatients or residents are accepted for care or to participate in any programs, services, or activities for the inpatients or residents, their numbers must be included in the evaluation of central use, activity, and dining spaces; staffing of nursing, dietary, and activity programs; and the provision of an infection control program. Services provided such individuals may not infringe upon the needs of the inpatients or residents;~~

~~—— (7) A critical access hospital may provide inpatient acute care up to an annual average length of stay of 96 hours; and~~

~~—— (8) A licensed hospice facility may admit and retain only patients certified by a physician as terminally ill.~~

~~—— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:01:06. Joint occupancy.** The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the patients or residents. The area must be open to inspection by the department.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:01:07. Reports.** Each licensed facility, when requested by the department, shall submit to the department the pertinent data necessary to comply with the requirements of SDCL chapter 34-12 and this article.~~

~~—— Each nursing facility shall report to the department within 24 hours and any other licensed facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents, abuse, negligence, or suicide; any missing patient or resident; and any allegation of abuse or neglect of any patient or resident by any person.~~

~~—— Each facility shall report the results of the investigation within five working days after the event.~~

~~—— Each facility shall also report to the department as soon as possible any fire with structural damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.~~

~~—— Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-5, 34-12-13, 34-12-17.~~

~~**44:04:01:07.01. Plans of correction.** Within 15 days of the receipt of the statement of deficiencies, each licensed facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.~~

~~Source: 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:01:08. Modifications.** Modifications to standards provided in this article may be approved by the department for an adult foster care home if the health and safety of the residents are not jeopardized.~~

~~Modifications to the staffing requirements provided in § 44:04:03:02 or 44:04:06:08 may be approved by the department for licensed facilities which are physically combined and jointly operated if:~~

~~(1) A hospital or critical access hospital and nursing facility are co-located and the nursing facility has a licensed bed capacity of 16 or less or the hospital has an acute care patient daily census of less than five;~~

~~(2) A hospital or a critical access hospital and assisted living center are co-located; or~~

~~(3) A nursing facility and assisted living center are co-located.~~

~~The health and safety of the patients or residents in either facility must not be jeopardized.~~

~~Modifications to the staffing requirements in this article may be approved by the department for a critical access hospital if there are no acute care or swing bed patients present.~~

~~Modifications specified by this section may be requested by the health care facility. Any modifications must be approved in writing by the department. The approval letter must specify the modifications permitted and any limitations pertaining to the modifications.~~

~~Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-7, 34-12-13(1).~~

~~Law Implemented: SDCL 34-12-7, 34-12-13(1).~~

~~**44:04:01:09. Transferred to § 44:04:09:12.**~~

~~**44:04:01:10. Rural primary care hospital required to describe services.** Repealed.~~

~~Source: 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

~~44:04:01:11. Scope of article.~~ Nothing in article 44:04 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

~~Source:~~ 31 SDR 62, effective November 7, 2004.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-7, 34-12-13.

CHAPTER 44:04:02

PHYSICAL ENVIRONMENT

(Transferred to Chapter 44:73:02)

Section

- ~~44:04:02:01 Repealed.~~
- ~~44:04:02:02 Sanitation.~~
- ~~44:04:02:02.01 Pets.~~
- ~~44:04:02:03 Cleaning methods and facilities.~~
- ~~44:04:02:03.01 Chemicals used to sanitize, disinfect, or sterilize.~~
- ~~44:04:02:04 Sterilization.~~
- ~~44:04:02:05 Housekeeping cleaning methods and equipment.~~
- ~~44:04:02:06 Food service.~~
- ~~44:04:02:07 Handwashing facilities.~~
- ~~44:04:02:08 Linen.~~
- ~~44:04:02:09 Infection control.~~
- ~~44:04:02:10 Plumbing.~~
- ~~44:04:02:11 Water supply.~~
- ~~44:04:02:12 Ventilation.~~
- ~~44:04:02:13 Lighting.~~
- ~~44:04:02:14 Refuse and waste disposal.~~
- ~~44:04:02:15 Insect and rodent control.~~
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- ~~44:04:02:17 Occupant protection.~~
- ~~44:04:02:18 Area requirements for currently licensed patient and resident rooms.~~
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- ~~44:04:02:20 Location.~~
- ~~44:04:02:21 Heating and cooling.~~
- ~~44:04:02:22 Seclusion rooms in hospitals.~~

~~44:04:02:01. Interpretations.~~ Repealed.

~~Source:~~ SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.

~~44:04:02:02. Sanitation.~~ The facility must be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases to residents, patients, personnel, visitors, and the community at large. This requirement shall be accomplished by providing the physical resources, personnel, and technical expertise necessary to ensure good public health practices for institutional sanitation.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:02:02.01. Pets.** Any pet kept in a nursing facility or adult foster care home may not negatively affect the well-being of residents. The facility or home shall develop policies and procedures regarding the care and training of pets following the recommendations of a local veterinarian. The primary responsibility of care or the supervision of care for any pet shall be assigned to a staff member.

—— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(1).

—— **Law Implemented:** SDCL 34-12-13(1).

—— **Cross-Reference:** Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

—— **44:04:02:03. Cleaning methods and facilities.** The facility must have equipment, work areas, and complete written procedures for cleaning, sanitizing, disinfecting, or sterilizing all work areas, equipment, utensils, dressings, medical devices, and solutions used for residents' or patients' care. Common use equipment shall be disinfected or sterilized after each use. Hospitals and nursing facilities must have separate clean and soiled utility rooms.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:02:03.01. Chemicals used to sanitize, disinfect, or sterilize.** The label of chemicals used to sanitize, disinfect, or sterilize must indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:02:04. Sterilization.** Instruments, supplies, utensils and equipment which are not single service must be decontaminated before sterilization in a manner that will make them safe for handling by personnel. Supplies and equipment commercially prepared and sterilized to retain sterility indefinitely are acceptable in lieu of sterilization in the facility. Autoclaves used for steam sterilization must be bacteriologically monitored at least weekly. Supplies and equipment sterilized and packaged in the facility must have the processing date on the package and must be reprocessed in accordance with any specific manufacturer's recommendation for the packaging.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:02:05. Housekeeping cleaning methods and equipment.** The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and copies made available to all housekeeping personnel. All parts of the facility shall be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for patient or resident use shall be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in medical facilities, except adult foster care homes, shall be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. Cleaning shall include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms except medical equipment, supplies, or devices that are the responsibility of other services or departments of the facility.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-13(2).~~

~~Law Implemented: SDCL 34-12-13(2).~~

~~**44:04:02:06. Food service.** Food service must be provided by a licensed facility or food service establishment that is inspected by a local, state, or federal agency. The facility must meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. In addition, a mechanical dishwasher must be provided in all facilities of 20 beds or more. The facility must have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation if any part of the food service is provided by the facility.~~

~~Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**Note:** Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30.~~

~~**44:04:02:07. Handwashing facilities.** Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands free controls, a towel dispenser with single service towels or a hand drying device, and hand cleanser must be located in dietary areas, utility rooms, nurses' stations, pharmacies, laboratories, nurseries, surgical suites, delivery suites, physical therapy rooms, restorative therapy rooms, examination and treatment rooms, emergency rooms, laundry, and all toilet rooms not directly connected to patient rooms. A handwashing facility must be provided in each patient or resident room or in a bath or toilet room connected directly to the room. If existing faucets and controls are replaced or changed, they must be replaced with mixing faucets controlled with blade handles or other hands free controls.~~

~~Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~———— **Cross-Reference:** Plumbing fixtures, § 44:04:13:33.~~

~~———— **44:04:02:08. Linen.** The supply of bed linen and towels shall equal three times the licensed capacity. The facility shall have written procedures for the storage and handling of soiled and clean linens. The facility shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Commingled patients' or residents' personal clothing, common use linen, such as towels, washcloths, gowns, bibs, protective briefs, and bedding, any isolation clothing, and housekeeping items shall be processed by methods that assure disinfection. If hot water is used for disinfection, minimum water temperatures supplied for laundry purposes shall be 160 degrees Fahrenheit (71 degrees centigrade). If chlorine bleach is added to the laundry process to provide 100 parts per million or more of free chlorine, the minimum hot water temperatures supplied for laundry purposes may be reduced to 140 degrees Fahrenheit (60 degrees centigrade). The facility may choose to wash commingled patients' or residents' personal clothing, common use linen, and any isolation clothing in water temperatures less than 140° F. if the following conditions are met:~~

~~———— (1) The process is effective at removing *Staphylococcus aureus*, *Klebsiella pneumoniae*. For hospitals the process is effective at also removing *Pseudomonas aeruginosa*;~~

~~———— (2) The water temperature is maintained at a temperature of at least 70° F. for the chemicals used in low temperature washing to be effective in hard water;~~

~~———— (3) The supplier of the chemical specifies low temperature wash formulas in writing for the machines used in the facility;~~

~~———— (4) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff;~~

~~———— (5) The facility ensures that laundry staff receives in service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations; and~~

~~———— (6) The facility ensures that staff monitors chemical usage and wash water temperatures at least monthly to ensure conformance with the chemical supplier's instructions.~~

~~———— Any resident's personal clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in quantity as recommended by the garment or detergent manufacturer. The facility shall have distinct areas for the storage and handling of clean and soiled linens. Those areas used for the storage and handling of soiled linens shall be negatively pressurized. The facility shall establish special procedures for the handling and processing of contaminated linens. Soiled linen shall be placed in closed containers prior to transportation. To safeguard clean linens from cross contamination, the linens shall be transported in containers used exclusively for clean linens, shall be kept covered with dust covers at all times while in transit or in hallways, and shall be stored in areas designated exclusively for this purpose. A written request for any modification of the requirements of this section shall be received and approved by the department before any changes are made.~~

~~———— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012.~~

~~———— **General Authority:** SDCL 34-12-13(1) and (4).~~

~~———— **Law Implemented:** SDCL 34-12-13(1) and (4).~~

~~———— **44:04:02:09. Infection control.** The infection control program must utilize the concept of standard precautions as the basis for infection control pursuant to chapter 44:20:04. Bloodborne pathogen control must include a written exposure control plan, approved by the facility's medical director or physician responsible for infection control, that addresses the requirements contained in 29 C.F.R. 1910.1030, December 6, 1991. The facility must designate an employee to be responsible for the implementation of the infection control program including surveillance and reporting activities. There must be written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each facility shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). There must be a method of control used in relation to the sterilization of supplies and a written policy requiring sterile supplies to be reprocessed. The facility must provide orientation and continuing education to all personnel on the facility's staff on the cause, effect, transmission, prevention, and elimination of infections. A written policy must be developed for evaluation and reporting of any employee with a reportable infectious disease.~~

~~———— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004.~~

~~———— **General Authority:** SDCL 34-12-13, 34-22-9.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:02:10. Plumbing.** Facility plumbing systems must be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing must be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility. Plumbing may not constitute a source of contamination of food equipment or utensils or create an unsanitary condition or nuisance.~~

~~———— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~———— **General Authority:** SDCL 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:02:11. Water supply.** The facility's water supply must be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Private water supplies must have a water sample bacteriologically tested at least monthly. The volume of water must be sufficient for the needs of the facility, including fire fighting requirements. The hot water system must be capable of supplying the work and patient or resident areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by patients and residents may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for patient and resident use must be at least 100 degrees Fahrenheit (38 degrees centigrade).~~

~~———— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001.~~

~~———— **General Authority:** SDCL 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **Cross-References:** Standards adopted for plumbing — Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.~~

~~—— **44:04:02:12. Ventilation.** Electrically powered exhaust ventilation must be provided in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air handling system.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:02:13. Lighting.** Spaces occupied by people, machinery, and equipment within buildings and their approaches and parking lots must have artificial lighting at a level for general safety. Patient or resident bedrooms must have general lighting and night lighting. A reading light must be provided for each patient or resident who can benefit from one. Required exits must be equipped with continuous emergency lighting. Emergency power must be provided if the main source of power fails.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:02:14. Refuse and waste disposal.** Garbage, refuse, and waste must be handled and disposed of in a safe and sanitary manner. Medical waste that is categorized as regulated in article 74:35 must be disposed of as specified in that article. Final disposal of all refuse and waste must comply with articles 74:27 and 74:28. Putrescible garbage must be removed at a frequency to contain or prevent odors, insects, and vermin.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:02:15. Insect and rodent control.** The facility must take effective measures to protect against the entrance into the facility and the breeding or presence on the premises of rodents, flies, roaches, and other vermin. The facility may use chemical substances of a poisonous nature in accordance with the requirements of this section to control or eliminate various types of vermin. The substances must be properly colored and labeled to identify them as poisons, must be used and stored in a safe manner, and may not be stored with food or drugs used for human consumption. Extreme care must be taken to prevent any poisons from contaminating food or food products.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:02:16. Sewage disposal.** Sewage must be disposed of in a public sewage works system or, in its absence, in a manner approved by the department in accordance with SDCL chapter 34A-2.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:02:17. Occupant protection.** Each licensed health care facility covered by this article must be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the patients and residents admitted to the facility. The facility must take at least the following precautions:~~

- ~~(1) Develop and implement a written and scheduled preventive maintenance program;~~
- ~~(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by patients or residents;~~
- ~~(3) Provide a call system for each patient or resident bed and in all toilet rooms and bathing facilities routinely used by patients or residents. The call system must be capable of being easily activated by the patient or resident and must register at a station serving the unit. A wireless call system may be used;~~
- ~~(4) Provide handrails firmly attached to the walls on both sides of all resident corridors in nursing facilities;~~
- ~~(5) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters must be provided in wet areas and for outlets within six feet of sinks;~~
- ~~(6) Install an electrically activated audible alarm on all unattended exit doors in nursing facilities. Other exterior doors must be locked or alarmed. The alarm must be audible at a designated nurses' station and may not automatically silence when the door is closed;~~
- ~~(7) Portable space heaters and portable halogen lamps may not be used in a facility;~~
- ~~(8) Household-type electric blankets or heating pads may not be used in a facility;~~
- ~~(9) Any light fixture located over a patient or resident bed, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area must be equipped with a lens cover or a shatterproof lamp; and~~
- ~~(10) Any clothes dryer must have a galvanized metal vent pipe for exhaust.~~

~~**Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006.~~

~~**General Authority:** SDCL 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

~~**44:04:02:18. Area requirements for currently licensed patient and resident rooms.** Each currently licensed patient or resident room shall have at least 75 square feet (6.98 square meters) of floor space per bed, with at least three feet (0.91 meters) between beds in a multi-bed room exclusive of closets and wardrobes; and 95 square feet (8.83 square meters) in a single room, exclusive of closets and wardrobes. Each patient or resident shall have for individual use in the assigned room a bed, a bedside stand, and a chair appropriate to the needs and comfort of the patient or resident. Each hospital shall have~~

20 square feet (1.86 square meters) of general storage for each bed. Each nursing facility shall have 10 square feet (0.93 square meters) of general storage for each bed. A total of 37.5 square feet (3.48 square meters) of recreational, activity, dining, and occupational therapy area for each bed and each day care patient shall be provided in a nursing facility. Each facility shall be constructed, equipped, and operated to maintain the privacy and dignity of all patients or residents. In a multi-bed room, each bed shall be able to be separated from the other beds by privacy curtains.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(1) and (3).

—— **Law Implemented:** SDCL 34-12-13(1) and (3).

—— **Cross-Reference:** Area requirements for new construction or renovations, § 44-04-13-02(2).

—— **44-04-02:18.01. Room required for isolation techniques.** When a physician determines isolation is required, a private room with necessary equipment, including handwashing facilities, to carry out isolation techniques must be provided. Isolation of a patient or resident with suspected or confirmed tuberculosis in a communicable form requires the room to have a negative air pressure with regard to the corridor and connecting rooms and a minimum of six air exchanges an hour exhausted to the outside air.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13, 34-22-9.

—— **Law Implemented:** SDCL 34-12-13.

—— **44-04-02:18.02. Office required for social services activities.** An office which is large enough to accommodate private consultation and record keeping and which is easily accessible to patients or residents must be provided for social services activities.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44-04-02:19. Physical plant changes.** A facility must submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change must have the approval of the department before it is made.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44-04-02:20. Location.** The location of facilities must promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. Facilities must be served by good, passable roads. Easy accessibility for employees, visitors, and fire-fighting services must be maintained.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44-04-02:21. Heating and cooling.** The temperature in any occupied space in the facility must be maintained between 68 and 80 degrees Fahrenheit during waking hours and not lower than 64 degrees

Fahrenheit during sleeping hours. Individual resident space may be maintained outside the required range when desired by the occupant.

—— ~~Source:~~ 29 SDR 81, effective December 11, 2002.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:02:22. Seclusion rooms in hospitals.~~ Each seclusion room must be arranged for the safety of the patient and to prevent patient hiding, escape, injury, or suicide. The room must be without sharp corners. The room door must swing out of the patient room, but not into a general traffic corridor. Each room door must permit staff observation of the patient while still providing for patient privacy. Each finish fastener and hardware must be tamper resistant. Security fixtures must be provided for lighting. Nine foot ceiling heights must be provided. An anteroom at the seclusion room entrance should be provided to allow staff controlled access to the seclusion room toilet facility. Any lock on a seclusion room must be controlled by staff at the door location and must unlock when released by the staff person. A locking device may be manual or automatic in nature.

—— ~~Source:~~ 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

CHAPTER 44:04:03

FIRE PROTECTION

(Transferred to Chapter 44:73:03)

Section

44:04:03:01 — ~~Fire safety code requirements.~~

44:04:03:02 — ~~General fire safety.~~

44:04:03:02:01 — ~~Transferred.~~

44:04:03:03 — ~~Repealed.~~

—— ~~44:04:03:01. Fire safety code requirements.~~ Each facility, except an adult foster care home, must meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

—— ~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~Reference:~~ **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$53.50.

—— ~~44:04:03:02. General fire safety.~~ Each licensed health care facility covered under this article shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. A minimum of two staff members shall be on duty at all times. In a multilevel facility, at least one staff member shall be on duty on each floor containing occupied beds. Compliance with this section

does not eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(3).

—— **Law Implemented:** SDCL 34-12-13(3).

—— **Cross Reference:** Fire safety code requirements, § 44:04:03:01.

—— **44:04:03:02.01.** Transferred to § 44:70:03:02.01.

—— **44:04:03:03. Modifications.** Repealed.

—— **Source:** SL 1975, ch 16, § 1; repealed, 4 SDR 14, effective September 14, 1977.

CHAPTER 44:04:04

MANAGEMENT AND ADMINISTRATION

(Transferred to Chapter 44:73:04)

Section

44:04:04:01	Administrative management.
44:04:04:02	Governing body.
44:04:04:02.01	Hospital medical staff.
44:04:04:03	Administrator.
44:04:04:04	Personnel.
44:04:04:05	Personnel training.
44:04:04:06	Employee health program.
44:04:04:06.01	Repealed.
44:04:04:07	Admissions of patients or residents.
44:04:04:07.01	Admission to nursing facilities of residents with communicable diseases or antibiotic resistant organisms.
44:04:04:07.02	Repealed.
44:04:04:07.03	Prevention and control of influenza.
44:04:04:07.04	Prevention and control of pneumonia.
44:04:04:08	Disease prevention.
44:04:04:08.01	Tuberculin screening requirements.
44:04:04:09 and 44:04:04:10	Repealed.
44:04:04:11	Care policies.
44:04:04:11.01	Secured units.
44:04:04:11.02	Restraints.
44:04:04:12 to 44:04:04:14	Transferred.
44:04:04:15	Transfer agreement.
44:04:04:16	Quality assessment.
44:04:04:17	Discharge planning.
Appendix A	Minimum Data Set Plus for Nursing Facility Resident Assessment and Care Screening (MDS+), repealed April 1, 1991.
Appendix B	Minimum Data Set Plus for Nursing Home Resident Assessment and Care Screening (MDS+) Background Information at Intake/Admission, repealed, 22 SDR 70, effective November 19, 1995.

~~—— **44:04:04:01. Administrative management.** Each facility must comply with §§ 44:04:04:02 to 44:04:04:08.01, inclusive.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:04:02. Governing body.** Each facility operated by limited liability partnership, a corporation, or political subdivision must have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility. The governing body of a hospital shall determine which categories of practitioners are eligible candidates for appointment to the medical staff and shall credential and grant admitting or patient care privileges to appointees to the medical staff. The governing body may appoint members to the medical staff only after considering the recommendations of the existing members of the medical staff.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross Reference:** Hospital medical staff, § 44:04:04:02.01.~~

~~—— **44:04:04:02.01. Hospital medical staff.** A hospital must have a medical staff organized under bylaws and rules approved by the governing body and responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members. The medical staff must include physicians, but it may also include other practitioners appointed by the governing body. If the medical staff has an executive committee, a majority of the members of the committee must be physicians. The responsibility for the conduct of medical staff affairs must be assigned to an individual physician. The medical staff must establish a credentials committee to review the qualifications of practitioners applying for admitting or patient care privileges and recommend to the governing body practitioners eligible for appointment to the medical staff by the governing body. The review shall include recommendations regarding delineation of admitting and patient care privileges. The medical staff must conduct appraisals of its members at least every two years.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; transferred from § 44:04:05:04, 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross Reference:** Governing body, § 44:04:04:02.~~

~~—— **44:04:04:03. Administrator.** The governing body shall designate a qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator. The administrator of a nursing facility shall be licensed pursuant to article 20:49.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-13(5).~~

~~Law Implemented: SDCL 34-12-13(5).~~

~~44:04:04:04. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. Staff members on duty shall be awake at all times. Any supervisor shall be 18 years of age or older. Written job descriptions and personnel policies and procedures shall be made available to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility shall establish and follow policies regarding special duty or staff members on contract.~~

~~Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-13(5).~~

~~Law Implemented: SDCL 34-12-13(5).~~

~~44:04:04:05. Personnel training. The facility must have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs must cover the required subjects annually. These programs must include the following subjects:~~

~~(1) Fire prevention and response. The facility must conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, monthly fire drills must be conducted to provide training for all staff;~~

~~(2) Emergency procedures and preparedness;~~

~~(3) Infection control and prevention;~~

~~(4) Accident prevention and safety procedures;~~

~~(5) Proper use of restraints;~~

~~(6) Patient and resident rights;~~

~~(7) Confidentiality of patient or resident information;~~

~~(8) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;~~

~~(9) Care of patients or residents with unique needs; and~~

~~(10) Dining assistance, nutritional risks, and hydration needs of patients or residents.~~

~~Personnel whom the facility determines will have no contact with patients or residents are exempt from training required by subdivisions (5), (9), and (10) of this section.~~

~~Additional personnel education shall be based on facility identified needs.~~

~~Current professional and technical reference books and periodicals must be made available for personnel.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~—— **44:04:04:06. Employee health program.** The facility must have an employee health program for the protection of the patients or residents. All personnel must be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties or within 14 days after employment including an assessment of previous vaccinations and tuberculin skin tests. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Personnel absent from duty because of a reportable communicable disease which may endanger the health of patients, residents, and fellow employees may not return to duty until they are determined by a physician or the physician's designee to no longer have the disease in a communicable stage.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross Reference:** Reportable diseases, ch 44:20:01.~~

~~—— **44:04:04:06.01. Tuberculin testing requirements for employees, consultants, and caregivers.** Repealed.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; repealed, 28 SDR 83, effective December 16, 2001.~~

~~—— **44:04:04:07. Admissions of patients or residents.** The governing body of the facility shall establish and maintain admission, transfer, and discharge policies, with written evidence to assure the patients or residents admitted to and retained in the facility are within the licensure classification of the facility or its distinct part. The facility may admit and retain, on the orders of a practitioner, only those patients or residents for whom it can provide care safely and effectively. A nursing facility may admit and retain patients or residents only on the orders of a physician.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; transfer agreement transferred to § 44:04:04:15, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(5).~~

~~—— **Law Implemented:** SDCL 34-12-13(5).~~

~~—— **44:04:04:07.01. Admission to nursing facilities of residents with communicable diseases or antibiotic resistant organisms.** A resident who is infected with a communicable disease which is reportable to the department, pursuant to SDCL 34-22-12, may be admitted to a nursing facility if the appropriate infection control measures can be provided by the facility to prevent the spread of the communicable disease. The following specific diseases do not preclude a patient from being admitted to a nursing facility: acquired immune deficiency syndrome (AIDS), human immunodeficiency virus positive (HIV+), viral hepatitis, herpes (genital), leprosy, malaria, syphilis (late latent only), infection with antibiotic resistant organisms, and tuberculosis (noninfectious). If the nursing facility chooses to admit residents with these diseases or antibiotic resistant organisms, the following conditions must be met:~~

~~—— (1) Nursing facility staff must complete a training program in infection control applicable to the diseases listed in this section or antibiotic resistant organisms;~~

~~—— (2) The nursing facility must have written procedures and protocols for staff to follow to avoid exposure to blood or body fluids of the affected residents; and~~

~~—— (3) The nursing facility must have written infection control procedures in place and practiced that prevent the spread of antibiotic-resistant organisms.~~

~~—— If, after admission, a resident is suspected of having a communicable disease that endangers the health and welfare of employees or other residents, the nursing facility must contact a physician and assure that measures are taken in behalf of the resident with the communicable disease and the other residents to prevent transmission of the disease Transferred to § 44:73:04:07.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13, 34-22-9.~~

~~—— **44:04:04:07.02. Tuberculin testing requirements for residents of nursing facility or assisted living center.** Repealed.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; repealed, 28 SDR 83, effective December 16, 2001.~~

~~—— **44:04:04:07.03. Prevention and control of influenza.** Each nursing facility shall arrange for influenza vaccination to be completed annually for all residents. Any resident admitted after completion of the vaccination program and before April 1 shall be offered influenza vaccine when admitted. An influenza vaccination may be waived for a resident because of religious beliefs, medical contraindication, or refusal by the resident. Documentation of vaccination or its waiver shall be recorded in the resident's medical or care record.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(5), 34-22-9(8).~~

~~—— **Law Implemented:** SDCL 34-12-13(5).~~

~~—— **44:04:04:07.04. Prevention and control of pneumonia.** Each nursing facility shall arrange for immunization for pneumococcal disease. If immunization is lacking and the resident's physician recommends immunization, the nursing facility shall arrange for an immunization for pneumococcal pneumonia within 14 days of admission. A pneumococcal vaccination may be waived for a resident because of religious beliefs, medical contraindication, or refusal by the resident. Documentation of the vaccination or its waiver shall be recorded in the resident's medical or care record.~~

~~—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(5), 34-22-9(8).~~

~~—— **Law Implemented:** SDCL 34-12-13(5), 34-22-9(8).~~

~~—— **44:04:04:08. Disease prevention.** Each facility shall provide an organized infection control program for preventing, investigating and controlling infection. The facility must establish written policies regarding visitation in the various services and departments of the facility. Visitors who have an infectious disease, who have recently recovered from such a disease, or who have recently had contact with such a disease must be discouraged from entering the facility.~~

—— ~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:04:08.01. Tuberculin screening requirements.~~ Each facility shall develop criteria to screen healthcare workers, patients, or residents for *Mycobacterium tuberculosis* based on the guidelines issued by Centers for Disease Control and Prevention. Policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment shall be established and should include the key components of responsibility, surveillance, containment, and education. The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

—— Tuberculin screening requirements for healthcare workers or residents are as follows:

—— (1) Each new healthcare worker or resident shall receive the two-step method of Mantoux skin test to establish a baseline within 14 days of employment or admission to a facility. Any two documented Mantoux skin tests completed within a 12-month period prior to the date of admission or employment shall be considered a two-step. Skin testing is not necessary if documentation is provided of a previous positive reaction of ten mm induration or greater. Any new healthcare worker or resident who has a newly recognized positive reaction to the skin test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

—— (2) A new healthcare worker or resident who provides documentation of a positive reaction to the Mantoux skin test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

—— (3) Each healthcare worker or resident with a history of a positive reaction to the Mantoux skin test shall be evaluated annually by a physician or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*.

—— ~~Source:~~ 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006.

—— ~~General Authority:~~ SDCL 34-12-13, 34-22-9.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~Reference: Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 1994, reprinted March 1998. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," October 28, 1994, 43 (RR13).~~

—— ~~44:04:04:09. Patient and resident rights in nursing homes and supervised personal care facilities.~~ Repealed.

—— ~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 19 SDR 95, effective January 7, 1993.

—— ~~44:04:04:10. Licensed administrator for skilled nursing facilities and intermediate care facilities.~~ Repealed.

—— ~~Source:~~ SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

—— ~~44:04:04:11. Care policies.~~ Each facility must establish and maintain policies, procedures, and practices to govern care, and related medical or other services necessary to meet the patients' or residents'

needs. Policies and procedures for the management of adult day care clients and respite care patients or residents in the facilities offering those services shall be established and maintained.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:04:11.01. Secured units.** Each facility with secured units must comply with the following provisions:

—— (1) A physician's order for confinement that includes medical symptoms that warrant seclusion or placement must be documented in the patient's or resident's chart and must be reviewed periodically by the physician;

—— (2) Therapeutic programming must be provided and must be documented in the overall plan of care;

—— (3) Confinement may not be used as a punishment or for the convenience of the staff;

—— (4) Confinement and its necessity must be based on a comprehensive assessment of the patient's or resident's physical and cognitive and psychosocial needs, and the risks and benefits of this confinement must be communicated to the patient's or resident's family;

—— (5) Locked doors must conform to Sections: 18.2.2.2.4 and 19.2.2.2.4 of **NFPA 101 Life Safety Code**, 2000 edition; and

—— (6) Staff assigned to the secured unit must have specific training regarding the unique needs of patients or residents in that unit. At least one caregiver must be on duty on the secured unit at all times.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **Reference:** **NFPA 101 Life Safety Code**, 2000 edition, Sections: 18.2.2.2.4 and 19.2.2.2.4 National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$53.50.

—— **44:04:04:11.02. Restraints.** There must be written policies and procedures for all restraint use, including emergency restraints, bedrails, and locked doors. The use of restraints must be based on a comprehensive assessment of the patient's or resident's physical and cognitive abilities, evaluation and effectiveness of less restrictive alternatives, and an involvement of the patient or resident in weighing the benefits and consequences. Restraint use requires a physician's order including specific time frames. Continued use of the restraint and reorders may be given only on review of the patient's or resident's condition by the physician and the interdisciplinary team. Restraints must be checked every 30 minutes by nursing personnel. Patients or residents under restraint must be given the opportunity for motion and exercise for not less than 10 minutes at intervals as necessary based on the patient's or resident's condition, but at least every two hours. Restraints must not be used to limit mobility, for convenience of staff, for punishment, or as a substitute for supervision. Restraints must not hinder evacuation of the patient or resident during fire or cause injury to the resident.

—— **Source:** 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— ~~44:04:04:12. Transferred to § 44:70:04:13.~~

—— ~~44:04:04:12.01. Transferred to 44:70:04:14.~~

—— ~~44:04:04:13. Transferred to § 44:04:06:15.~~

—— ~~44:04:04:14. Transferred to § 44:04:06:16.~~

—— ~~44:04:04:15. Transfer agreements.~~ Each nursing facility must have in effect a transfer agreement with one or more hospitals sufficiently close to provide prompt inpatient hospital care to the facility's residents when needed. The agreement must provide for an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities.

—— Each specialized hospital and critical access hospital must have in effect a transfer agreement with one or more hospitals to provide services not available on site. The agreement must provide for an interchange of medical and other necessary information; and

—— Each ambulatory surgery center must have in effect a transfer agreement with a hospital sufficiently close to accept emergency transfer of patients.

—— **Source:** Transferred from § 44:04:04:07, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— ~~44:04:04:16. Quality assessment.~~ Each licensed facility shall provide for on-going evaluation of the quality of services provided to patients or residents. Components of the quality assessment evaluation must include establishment of facility standards; interdisciplinary review of patient or resident services to identify deviations from the standards and actions taken to correct deviations; patient or resident satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— ~~44:04:04:17. Discharge planning.~~ A facility shall have policies and procedures for discharge planning including the person responsible, members of the discharge planning team, a list of all area agencies and resources, and a description of the process. Outside caregivers may be included in discharge planning conferences.

—— Within 24 hours after admission, a hospital shall determine each patient's potential need for continuing care following discharge and within 48 hours a nursing facility shall determine each resident's potential for discharge. The facility shall initiate planning with applicable agencies to meet identified needs, and patients and residents shall be offered assistance to obtain needed services upon discharge. Information

necessary for coordination and continuity of care shall be made available to whomever the patient or resident is discharged and to referral agencies as required by the discharge plan.

—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(5).

—— **Law Implemented:** SDCL 34-12-13(5).

CHAPTER 44:04:05

PHYSICIAN SERVICES

(Transferred to Chapter 44:73:05)

Section

44:04:05:01	Admissions to hospitals.
44:04:05:01.01	Admissions to nursing facilities.
44:04:05:02	Medical orders in hospitals and nursing facilities.
44:04:05:03	Emergency physician coverage for hospitals and nursing facilities.
44:04:05:04 and 44:04:05:05	Transferred.
44:04:05:05	Physician services for assisted living center.
44:04:05:06	Physician extenders.
44:04:05:07	Medical director required.
44:04:05:08	Physician services for hospice facilities.

—— **44:04:05:01. Admissions to hospitals.** Each patient admitted to a hospital may be admitted only on the order of a practitioner and the patient's health care shall continue under the supervision of a physician who is a member of the medical staff. Before or on admission of a patient, the patient's physician must provide the staff of the facility with documented information regarding current medical findings, admitting diagnoses, and written orders for the immediate care of the individual.

—— The patient's history and physical examination must be completed no more than seven days prior to admission or 48 hours after admission; or within thirty days prior to admission with documentation of an update of the patient's current medical status completed within seven days prior to admission or 48 hours after admission. The patient's history and physical examination must be completed prior to surgery except in emergency situations.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 32 SDR 128, effective January 30, 2006.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:05:01.01. Admissions to nursing facilities.** Each resident admitted to a nursing facility may be admitted only on the order of a physician. Prior to or upon admission of a resident, the attending physician must provide the staff of the facility with documented information regarding current medical findings and with written orders for the immediate care of the individual. This information must include a medical evaluation, diagnosis, and rehabilitation potential. The information on the resident must be based on a physical examination done within 48 hours after admission unless the examination was performed within the five days prior to admission. The resident's health care shall continue under the supervision of a physician. If a resident transfers from one nursing facility to another while retaining the same physician, the

~~requirement for the physical examination shall be waived; however, the schedule for physician visits shall continue.~~

~~—— The resident must be seen by the attending physician at least once every 30 days for the first 90 days following admission. Subsequent to the 90th day following admission, the physician shall visit the resident whenever necessary; but the time between visits may not exceed 60 days. A physician extender may conduct every other visit with the resident's permission.~~

~~—— The resident's total care program including medications and treatments must be reviewed during the physician's visits.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:05:02. Medical orders in hospitals and nursing facilities.** All medical orders must be in writing and signed by the physician or the physician extender. Telephone orders may be taken only when there is an urgent need to initiate or change a medical order. The physician or physician extender shall sign or initial the orders for nursing facility residents on the next visit to the facility. The physician or physician extender shall sign or initial the orders for all hospital patients as soon as possible. Each patient's or resident's physician is responsible for documenting written orders and progress notes on each patient's or resident's clinical record.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:05:03. Emergency physician coverage for hospitals and nursing facilities.** A patient's or resident's physician shall arrange for the care of the patient or resident by an alternate physician during the physician's unavailability. A hospital must have one or more physicians on duty or call at all times and available to the hospital on-site or by telephone within 20 minutes to give necessary orders or medical care to patients in case of emergency.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:05:04. Transferred to § 44:04:04:02.01.**~~

~~—— **44:04:05:05. Transferred to § 44:70:04:17.**~~

~~—— **44:04:05:06. Physician extenders.** If the services of a physician extender are utilized, the facility must develop written policies regarding the extender's role in the care of the patient or resident.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~44:04:05:07. Medical director required.~~ A critical access hospital and a nursing facility must appoint a physician licensed in South Dakota to serve as a medical director. The medical director shall assure physician services are provided only by qualified caregivers.

~~Source:~~ 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:05:08. Physician services for hospice facilities.~~ A hospice facility must provide or arrange for physician services, including emergencies. Each resident must designate an attending physician upon admission.

~~Source:~~ 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

CHAPTER 44:04:06

NURSING AND RELATED CARE SERVICES

(Transferred to Chapter 44:73:06)

Section

44:04:06:01 Nursing service for hospitals and nursing facilities.

44:04:06:02 Organized nursing service.

44:04:06:03 Director of nursing service.

44:04:06:04 Nursing policies and procedures.

44:04:06:05 Patient or resident care plans and programs.

44:04:06:06 and 44:04:06:07 Repealed.

44:04:06:08 Nursing service staffing for hospitals.

44:04:06:09 Nursing service staffing for nursing facilities.

44:04:06:10 Repealed.

44:04:06:11 Transferred.

44:04:06:11.01 Intermittent nursing care.

44:04:06:12 Transferred.

44:04:06:13 Hospice services.

44:04:06:14 Repealed.

44:04:06:15 Resident assessments Transferred.

44:04:06:16 Resident assessment reviews.

44:04:06:17 Nursing service staffing for hospice facilities.

~~44:04:06:01. Nursing service for hospitals and nursing facilities.~~ All hospitals and nursing facilities must comply with §§ 44:04:06:02 to 44:04:06:05, inclusive.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:06:02. Organized nursing service.~~ There shall be an organized nursing service with a written organizational plan that delineates its functional structure.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:06:03. Director of nursing service.** There must be a full-time registered nurse designated as the director of nursing service who is responsible for the organization of the total nursing service and who serves during the day shift. The director may not serve in a dual role as the administrator of the facility and the director of nursing.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, February 24, 1991; 22 SDR 70, effective November 22, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:06:04. Nursing policies and procedures.** Policies and procedures that provide the nursing staff with methods of meeting its administrative and technical responsibilities in providing care to patients or residents must be established and maintained. The policies must include at least the following:

- (1) The noting of diagnostic and therapeutic orders;
- (2) Assigning the nursing care of patients or residents;
- (3) Administration and control of medications;
- (4) Charting by nursing personnel;
- (5) Infection control;
- (6) Patient or resident safety; and
- (7) Delineation of orders from nonphysician practitioners.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:06:05. Patient or resident care plans and programs.** The nursing service of a health care facility must provide safe and effective care from the day of admission through the ongoing development and implementation of written care plans for each patient or resident. The care plan must address medical, physical, mental, and emotional needs of the patient or resident. The health care facility must establish and implement procedures for assessment and management of symptoms including pain:

—— The care plan for nursing facility residents must be based on the resident assessments required in §§ 44:04:06:15 and 44:04:06:16 and must be developed and approved by the resident's physician; the resident, the resident's family, or the resident's legal representative; the interdisciplinary team consisting of at least a licensed nurse, the facility's social worker or social service designee, the dietary manager or dietitian, the activities coordinator, and other staff in disciplines determined by the resident's needs. The care plan shall describe the services necessary to meet the resident's medical, physical, mental or cognitive, nursing, and psychosocial needs and shall contain objectives and timetables to attain and maintain the highest level of functioning of the resident. The care plan must be completed within seven days after the completion of each resident assessment required in §§ 44:04:06:15 and 44:04:06:16.

—— Each nursing facility must provide restorative care services to meet resident needs.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, effective February 24, 1991; 22 SDR 70,

~~effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross-Reference:** Record content, § 44:04:09:05(4).~~

~~—— **44:04:06:06. Nursing care quality assurance.** Repealed.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, effective February 24, 1991; repealed, 22 SDR 70, effective November 19, 1995.~~

~~—— **44:04:06:06.01. Nursing home quality assessment and assurance committee.** Repealed.~~

~~—— **Source:** 17 SDR 122, effective February 24, 1991; repealed, 22 SDR 70, effective November 19, 1995.~~

~~—— **44:04:06:07. Special duty nurses.** Repealed.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.~~

~~—— **44:04:06:08. Nursing service staffing for hospitals.** All hospitals must maintain a sufficient number of registered nurses and other qualified nursing personnel on duty at all times to provide supervision of and nursing care for all patients. A registered nurse must be designated as charge nurse for each nursing care unit at all times except that a critical access hospital is required to staff with a registered nurse only when there are acute care patients present. A critical access hospital is required to staff with a licensed nurse when there are only swing bed patients present. Written staffing patterns must be developed for each patient care unit, including surgical and obstetrical suites, emergency services, special care units, and other services. Registered nurses must be in charge of the operating room, function as supervisory nurse in the operating room, be in attendance at all deliveries of obstetrical patients, supervise obstetrical nursing service, and supervise the nursing care of newborn infants.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:06:09. Nursing service staffing for nursing facilities.** Each nursing facility must maintain a licensed nurse in charge of nursing activities during each tour of duty. The director of nursing may not serve as charge nurse in a nursing facility with an average daily occupancy of 60 or more residents. Adequate staff must be provided to meet the resident's total care needs at all times. The ratio of registered and licensed practical nurses to aides and orderlies must be sufficient to assure professional guidance and supervision in the nursing care of the patients.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:06:10. Nursing service staffing for intermediate care facilities.** Repealed.~~

—— ~~Source:~~ SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 20 SDR 70, effective November 19, 1995.

—— ~~44:04:06:11. Transferred to § 44:70:05:03.~~

—— ~~44:04:06:11.01. Intermittent nursing care.~~ The service providing the care shall specify a planned completion date based on the assessments conducted. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any nonemployed, noncontracted skilled nursing and therapy providers pursuant to SDCL chapters 36-9, 36-10, and 36-31.

—— ~~Source:~~ 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012.

—— ~~General Authority:~~ SDCL 34-12-13(7).

—— ~~Law Implemented:~~ SDCL 34-12-13(7).

—— ~~44:04:06:12. Transferred to § 44:04:12:05.~~

—— ~~44:04:06:13. Hospice services.~~ Each facility offering hospice services must provide services to terminally ill individuals or arrange for such services by a hospice program under a written plan established and periodically reviewed by the individual's attending physician. The hospice agency must provide for care and services in the licensed facility, the individual's home, on an outpatient basis, or on a short-term inpatient basis. Personnel providing hospice care must include at least one physician, one registered nurse, and one social worker. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any hospice providers pursuant to SDCL chapter 36-9.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:06:14. Distinct part staff.~~ Repealed.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; repealed, 22 SDR 70, effective November 19, 1995.

—— ~~44:04:06:15. Resident assessments.~~ Each nursing facility must make a comprehensive assessment of the functional, medical, mental, nursing, and psychosocial needs of each resident within 14 calendar days after the date of admission.

—— ~~The facility must use the resident assessment instrument described in the Long Term Care Resident Assessment Instrument User's Manual or an instrument substantially equivalent as determined by the department.~~

—— ~~The resident assessment must be completed with participation of the interdisciplinary team, the resident, and the resident's family or legal representative.~~

—— ~~A registered nurse must conduct or coordinate the completion of the resident assessment process. The registered nurse must receive resident assessment instrument training provided or approved by the department and the Department of Social Services.~~

—— ~~The facility must ensure that staff who participate in the assessment process are trained to complete an accurate and comprehensive assessment. Each individual who completes a portion of the resident~~

assessment instrument must sign that portion of the assessment and certify to its accuracy. Transferred to § 44:73:06:08.

—— **Source:** 17 SDR 122, effective February 24, 1991, and April 1, 1991; transferred from § 44:04:04:13, 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **Reference:** ~~Long Term Care Resident Assessment Instrument User's Manual~~, Version 2.0, October 1995. Copies may be obtained from Briggs Corporation. Phone: 1-800-247-2243. Cost: \$29.95.

—— **44:04:06:16. Resident assessment reviews.** A nursing facility must periodically reassess each resident by conducting a resident assessment review that meets the requirements in § 44:04:06:15. Resident assessment reviews must be completed on the following schedule:

—— (1) Every 90 days after the date of admission or significant change;

—— (2) Within 14 days after the determination of a significant change by the interdisciplinary team. A significant change determination may be considered if there is a deterioration in physical functioning; in cognition, behavior, mood, or relationships; or other deterioration in health indicating an interdisciplinary review and revision of the care plan is necessary; and

—— (3) Within 14 days after a marked or sudden improvement in the resident's health. Transferred to § 44:73:06:09.

—— **Source:** 17 SDR 122, effective February 24, 1991; transferred from § 44:04:04:14, 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:06:17. Nursing service staffing for hospice facilities.** All licensed hospice facilities must maintain a sufficient number of registered nurses and other qualified personnel, directly or by contract, to provide supervision of care for all residents. A registered nurse must be designated as charge nurse and responsible for the overall care of the residents. Written staffing patterns must be developed including instructions for contacting support service personnel. All hospice staff must have been specifically trained to provide care for the terminally ill.

—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

CHAPTER 44:04:07

DIETETIC SERVICES

(Transferred to Chapter 44:73:07)

Section

44:04:07:01 — Dietetic standards for all facilities.

44:04:07:02 — Dietetic services.

~~44:04:07:02.01—Food safety.~~
~~44:04:07:02.02—Nutritional adequacy.~~
~~44:04:07:02.03—Food substitutions.~~
~~44:04:07:02.04—Food supply.~~
~~44:04:07:02.05—Therapeutic diets.~~
~~44:04:07:02.06—Social needs.~~
~~44:04:07:03—Written dietetic policies.~~
~~44:04:07:04—Written menus.~~
~~44:04:07:05—Preparation of food.~~
~~44:04:07:06—Additional dietetic standards for hospitals and nursing facilities.~~
~~44:04:07:07—Director of dietetic services.~~
~~44:04:07:07.01—Hospitals without in-house dietary departments.~~
~~44:04:07:08—Transferred.~~
~~44:04:07:09—Diet manual.~~
~~44:04:07:10—Repealed.~~
~~44:04:07:11—Frequency of meals.~~
~~44:04:07:12—Dining arrangements.~~
~~44:04:07:13—Transferred.~~
~~44:04:07:14—Nutritional assessments.~~
~~44:04:07:15—Transferred.~~
~~44:04:07:16—Required dietary inservice training.~~
~~44:04:07:17—Nursing facility nutrition and hydration assistance program.~~

~~—— **44:04:07:01. Dietetic standards for all facilities.** All facilities must comply with §§ 44:04:07:02 to 44:04:07:05, inclusive.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:02. Dietetic services.** There must be an organized dietetic service that meets the daily nutritional needs of patients or residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with § 44:04:02:06.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:02.01. Food safety.** The dietetic service must ensure that food is prepared and served in a manner that is safe and palatable. Hot food must be held at or above 140 degrees Fahrenheit (60 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods must be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device. Milk and milk products must be from a source approved by the state Department of Agriculture. Fluid milk must be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.~~

~~—— **Source:** 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Cross-Reference: Permit required to produce or process milk and milk products, § 12:05:03:01.~~

~~Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 E. Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30.~~

~~44:04:07:02.02. Nutritional adequacy. The dietetic service must ensure that food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the Food Guide Pyramid, 1996 or 2005, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.~~

~~Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Reference: Food Guide Pyramid, 1996 or 2005, Center for Nutrition Policy and Promotion, United States Department of Agriculture, 1120 20th Street, NW, Suite 200, North Lobby, Washington DC 20036-3475. Phone: 1-202-606-8000. Recommended Dietary Allowances, Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington DC 20055. Cost: \$19.95. Phone: 1-800-624-6242.~~

~~44:04:07:02.03. Food substitutions. Reasonable substitutions of equal nutritional value shall be offered to patients or residents who refuse or are unable to eat the food served.~~

~~Source: 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:07:02.04. Food supply. An on-site supply of nonperishable foods adequate to meet the requirements of planned menus for three days must be maintained.~~

~~Source: 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:07:02.05. Therapeutic diets. In each licensed facility the dietetic service shall provide for the needs of those patients or residents requiring therapeutic diets.~~

~~Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-13(8).~~

~~Law Implemented: SDCL 34-12-13(8).~~

~~44:04:07:02.06. Social needs. In each nursing facility the dietetic service, in cooperation with other departments or services, shall meet the social needs of the residents in the dining setting. Social needs~~

~~include mutually compatible seating arrangements, pleasant dining atmosphere, encouragement of interactions between residents, and food service to all residents at a table at approximately the same time.~~

~~—— **Source:** 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(8).~~

~~—— **Law Implemented:** SDCL 34-12-13(8).~~

~~—— **44:04:07:03. Written dietetic policies.** There must be written policies and procedures that govern all dietetic activities. Policies must include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. Policies and procedures must be reviewed yearly and revised as necessary.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Reference: Article 44:02, Lodging and Food Service,** Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30 and **Food Code,** U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for \$45.~~

~~—— **44:04:07:04. Written menus.** Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, shall be written, prepared, and served as prescribed by each patient's or resident's physician. Each menu shall be written at least one week in advance. Each planned menu shall be approved, signed, and dated by the dietitian for each facility. Any menu changes from month to month shall be reviewed by the dietitian and each menu shall be reviewed and approved by the dietitian at least annually if applicable. Each menu as served shall meet the nutritional needs of the patients or residents in accordance with the physician's orders and the Recommended Dietary Allowances of the National Research Council, Tenth Edition, 1989. A record of each menu as served shall be filed and retained for 30 days.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:08, 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(8).~~

~~—— **Law Implemented:** SDCL 34-12-13(8).~~

~~—— **Reference: Recommended Dietary Allowances,** Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington, DC 20055. Cost: \$19.95. Phone: 1-800-624-6242.~~

~~—— **44:04:07:05. Preparation of food.** Food must be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and must be attractively served at the temperature applicable to the particular food in a form to meet the individual patient's or resident's needs.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~44:04:07:06. Additional dietetic standards for hospitals and nursing facilities.~~ In addition to §§ 44:04:07:02 to 44:04:07:05, inclusive, hospitals and nursing facilities must comply with §§ 44:04:07:07 to 44:04:07:09, inclusive. Nursing facilities must also comply with §§ 44:04:07:11, 44:04:07:12, 44:04:07:14, 44:04:07:16, and 44:04:07:17.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:07:07. Director of dietetic services.~~ A full time dietary manager who is responsible to the administrator shall direct the dietetic services. Any dietary manager that has not completed a Dietary Manager's course, approved by the Dietary Managers Association, must enroll in a course within 90 days of the hire date and complete the course within 18 months. The dietary manager and at least one cook must successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the Dietary Managers Association, or successfully completed equivalent training as determined by the Health Department. The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each patient or resident are met. If the dietary manager is not a dietitian, the facility shall schedule dietitian consultations onsite at least monthly. The dietitian must approve all menus, assess the nutritional status of patients or residents with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits. Adequate staff whose working hours are scheduled to meet the dietetic needs of the patients or residents must be on duty daily over a period of 12 or more hours in nursing facilities or 10 or more hours in hospitals.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:07:07.01. Hospitals without in-house dietary departments.~~ Each hospital without an in-house dietary department must develop and maintain a written contract or agreement for dietary services for the patients. The facility must have a person responsible to the administrator who monitors the receiving, storage, and service of the food to patients in accordance with § 44:04:07:02. The facility must have at least one full time person who has completed the ServSafe Food Protection Program and possesses a current certificate.

~~Each hospital without an in house dietary department must employ or contract a qualified dietitian and schedule a minimum of monthly on-site consultations. The facility's dietitian shall review the facility's food contract agreement and make recommendations. The facility's dietitian shall review, sign, and approve menus annually. The facility's dietitian shall review menus served monthly, oversee the operation of the dietetic services, assess the nutritional status and needs of patients, and review and revise the dietetic service policies and procedures.~~

~~Source:~~ 30 SDR 84, effective December 4, 2003.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:07:08. Transferred to § 44:04:07:04.~~

~~—— **44:04:07:09. Diet manual.** A current therapeutic diet manual with description of all diets served in the facility must be readily available in the facility to food service personnel, nursing service personnel, and practitioners.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:10. Additional dietetic standards for assisted living centers.** Repealed.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; repealed, 38 SDR 115, effective January 9, 2012.~~

~~—— **44:04:07:11. Frequency of meals.** At least three meals must be served daily at regular times with not more than a 14-hour span between a substantial evening meal and breakfast.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:12. Dining arrangements.** The facility must provide environmental and social accommodations for each patient or resident to encourage eating in the common dining area. Assistance must be provided for patients or residents in need of help in eating.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:13. Transferred to § 44:70:06:12.**~~

~~—— **44:04:07:14. Nutritional assessments.** A registered dietitian shall ensure a nutritional assessment is completed on each new resident upon admission; any resident having a significant change in diet, eating ability, or nutritional status; monthly for any resident receiving tube feedings; and on any resident with a disease or condition that puts the resident at significant nutritional risk. A monthly tube feeding assessment must include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each resident.~~

~~—— **Source:** 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:07:15. Transferred to § 44:70:06:16.**~~

~~—— **44:04:07:16. Required dietary inservice training.** The dietary manager or the dietitian in any hospital and any nursing facility shall provide ongoing inservice training for all dietary and food handling employees. The person in charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing inservice training for all dietary and food handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques,~~

food borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

—— **Source:** 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(8).

—— **Law Implemented:** SDCL 34-12-13(8).

—— **44:04:07:17. Nursing facility nutrition and hydration assistance program.** A nursing facility may develop a program to train nutrition and hydration assistants. The program must be approved by the department. To be approved by the department, the program must include instruction from a speech therapist and registered dietitian and consist of ten hours of training and clinical experience. Transferred to § 44:73:07:17.

—— **Source:** 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

CHAPTER 44:04:08

MEDICATION CONTROL

(Transferred to Chapter 44:73:08)

Section

44:04:08:01	Medication control in hospitals and nursing facilities.
44:04:08:02	Policies and procedures.
44:04:08:03	Written orders for medication required.
44:04:08:03.01	Drug therapy reviewed monthly.
44:04:08:04	Storage and labeling of medications and drugs.
44:04:08:04.01	Control and accountability of medications and drugs.
44:04:08:04.02	Documentation of drug disposal.
44:04:08:05	Administration of medications and drugs.
44:04:08:06	Administration of hospital or nursing facility pharmacy.
44:04:08:07	Stock of legend drugs prohibited in nursing facilities — Exception.
44:04:08:07.01	Controlled drugs kept for emergency use.
44:04:08:08 to 44:04:08:16	Repealed.

—— **44:04:08:01. Medication control in hospitals and nursing facilities.** Hospitals and nursing facilities must comply with §§ 44:04:08:02 to 44:04:08:05, inclusive, in regard to medication control.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:08:02. Policies and procedures.** Methods and written policies and procedures must be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in each hospital or nursing facility. If any patient or resident is permitted to self-administer medications, the facility's policies and procedures related to self-administered drugs must include a description of the responsibilities of the patient or resident, the patient's or resident's family members, and the facility staff. The facility must provide written educational material explaining to the

patient or resident and the patient's or resident's family the patient's or resident's rights and responsibilities associated with self administration. Each nursing facility must keep a list of the following in the drug storage area for reference:

- (1) Generic and trade names for drugs substituted within the facility;
- (2) Drugs with unique requirements for administration, used within the facility, including enteric coatings, sublingual, buccal, and sustained release dosage forms; and
- (3) Drugs controlled under SDCL 34-20B that are used within the facility.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:08:03. Written orders for medication required.** All medications or drugs administered to patients or residents must be ordered in writing and signed by the prescribing practitioner. Telephone orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse in both hospitals and nursing facilities. The practitioner shall sign or initial the orders for nursing facility residents on the next visit to the facility. The practitioner shall sign or initial the orders for hospital patients as soon as possible. In hospitals a policy on stop orders for antibiotics, anticoagulants, and controlled drugs must be established based on recommendations of the medical staff. In nursing facilities, a policy on stop orders for anticoagulants, antibiotics, narcotics, sedatives, hypnotics, and central nervous system stimulants must be established.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:08:03.01. Drug therapy reviewed monthly.** The pharmaceutical service shall be under the supervision of a licensed pharmacist who is responsible to the administrator for developing, coordinating, and supervising medication control. The pharmacist shall review the drug regimen of each nursing facility resident or swing bed patient at least monthly. The pharmacist shall report potential drug therapy irregularities and make recommendations for improving the drug therapy of the residents or patients to the attending physician and the administrator. The pharmacist shall document the review by preparing a monthly report of the potential irregularities and recommendations. The administrator shall retain the report in the nursing facility or hospital.

—— **Source:** 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(9).

—— **Law Implemented:** SDCL 34-12-13(9).

—— **44:04:08:04. Storage and labeling of medications and drugs.** All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to patients, residents, or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to patients or residents.

~~— In a hospital, locked storage does not apply to drugs and medications needed for emergency use in intensive care, emergency room, neonatal intensive care, pediatric intensive care, or coronary care units. Drugs and medications utilized in these care units shall be in a storage area that is readily available to the professional staff but inaccessible to patients or visitors.~~

~~— The medications or drugs of each patient or resident for whom medications are facility administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the patient's or resident's name, practitioner's name, drug name and strength, directions for use, and prescription date. Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet. A nursing facility, a co-located nursing facility and assisted living center, a co-located hospital and assisted living center may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by qualified personnel.~~

~~— If a stock bottle system is used in a hospital or a nursing facility with a licensed pharmacy, the container shall be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:04:08:04.02. A licensed pharmacist shall be responsible for the labeling, relabeling, or altering of labels on medication containers.~~

~~— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 5 SDR 29, effective October 22, 1978; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012.~~

~~— **General Authority:** SDCL 34-12-13(9).~~

~~— **Law Implemented:** SDCL 34-12-13(9).~~

~~— **44:04:08:04.01. Control and accountability of medications and drugs.** Medications brought from home may be used if ordered by the attending physician and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one patient or resident may not be administered to another. Patients or residents in licensed health care facilities may not keep medications on their person or in their room without a physician's order allowing self administration. Written authorization by the attending physician must be secured for the release of any medication to a patient or resident upon discharge, transfer, or temporary leave from the facility. The release of medication must be documented in the patient's or resident's record, indicating quantity, drug name, and strength.~~

~~— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001.~~

~~— **General Authority:** SDCL 34-12-13.~~

~~— **Law Implemented:** SDCL 34-12-13.~~

~~— **44:04:08:04.02. Documentation of drug disposal.** If a hospital or nursing facility has a licensed pharmacy, outdated or discontinued medications must be returned to the pharmacy for disposition. In the absence of a licensed pharmacy, the method of disposition of outdated or discontinued medications must be handled and recorded in the patient's or resident's medical record as follows:~~

~~—— (1) Legend drugs not controlled under SDCL 34-20B must be destroyed by a professional nurse and another witness;~~

~~—— (2) Medications controlled under SDCL 34-20B must be destroyed in the facility by a pharmacist and a registered nurse; and~~

~~—— (3) Medications, excluding controlled substances listed in SDCL chapter 34-20B, in unit dose packaging which meets packaging standards in § 20:51:13:02.01 may be returned to the pharmacy pursuant to § 20:51:13:02.01.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:08:05. Administration of medications and drugs.** Medication administration records shall be used and regularly checked against the physician's orders. Except in a hospital having an admixtures program, a person may not administer medications that have been prepared by another person. A nursing facility shall obtain solid dosage forms of medications from a pharmacist in the specific dosage needed by the residents of the facility.~~

~~—— Each medication administered shall be recorded in the patient's or resident's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the patient's or resident's physician and an entry made in the patient's or resident's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. In each hospital and nursing facility all medications shall be administered to patients by personnel acting under delegation of a licensed nurse, or licensed to administer medications.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(9).~~

~~—— **Law Implemented:** SDCL 34-12-13(9).~~

~~—— **44:04:08:06. Administration of hospital or nursing facility pharmacy.** The pharmaceutical service of each hospital or nursing facility with a licensed full or part time pharmacy must be directed by a licensed pharmacist accountable to the administration of the hospital or nursing facility. Only prepackaged drugs or a single dose unit may be removed from the pharmacy when the pharmacist is not available. These drugs may be removed only by a designated registered nurse or physician in amounts sufficient only for immediate therapeutic needs. A record of such withdrawals must be made by the designated nurse or the physician making the withdrawal.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:08:07. Stock of legend drugs prohibited in nursing facilities -- Exception.** Legend drugs or medications may not be stocked in bulk form in nursing facilities except in nursing facilities which employ a licensed pharmacist full or part time to supervise, within the facility, the procurement, storage, and~~

dispensing of such drugs and medications. Nursing facilities without a pharmacy shall use the emergency drug box kept on the premises pursuant to ~~§ 44:04:08:07.01~~ or obtain emergency medications from a pharmacy licensed to distribute to outpatients. ~~Transferred to § 44:73:08:07.~~

—— ~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:08:07.01. Controlled drugs kept for emergency use.~~ In nursing facilities, controlled drugs may be kept for emergency use under the following circumstances:

—— (1) The pharmacist supplying the controlled drugs maintains ownership and responsibility for the drugs, including a monthly physical inventory;

—— (2) The controlled drugs are stored in a manner that allows only those individuals authorized to administer the drugs access to them;

—— (3) The controlled drugs are stored in a sealed emergency box or in a separate locked cabinet, with a complete and accurate record kept of the drugs in the box or cabinet and of their disposition;

—— (4) The facility notifies the pharmacist within 36 hours after the withdrawal of a Schedule II drug and within 72 hours after the withdrawal of Schedule III and IV drugs and the pharmacist replaces the drugs within 72 hours after notification; and

—— (5) No more than 5 different controlled drugs are stored in the emergency box, which may contain no more than 6 doses of any Schedule II controlled drug, no more than 6 doses of any Schedule III or IV injectable controlled drug, and no more than 12 doses of any oral Schedule III or IV controlled drug.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:08:08. Assisted living center medication control.~~ Repealed.

—— ~~Source:~~ SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; repealed, 38 SDR 115, effective January 9, 2012.

—— ~~44:04:08:09. Qualifications of medication aide.~~ Repealed.

—— ~~Source:~~ 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.

—— ~~44:04:08:10. Length of medication aide training.~~ Repealed.

—— ~~Source:~~ 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.

~~———— **44:04:08:11. Course content for medication aides.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

~~———— **44:04:08:12. Restrictions in course content.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

~~———— **44:04:08:13. Medication aide proficiency review.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

~~———— **44:04:08:14. Authority and responsibility.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

~~———— **44:04:08:15. Continuing education.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

~~———— **44:04:08:16. Transfer between facilities.** Repealed.~~

~~———— **Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.~~

CHAPTER 44:04:09

MEDICAL RECORD SERVICES

(Transferred to Chapter 44:73:09)

Section

~~44:04:09:01 — Record services for hospitals and nursing facilities.~~

~~44:04:09:02 — Medical record department.~~

~~44:04:09:03 — Medical record department staff.~~

~~44:04:09:04 — Written policies and confidentiality of records.~~

~~44:04:09:05 — Record content.~~

~~44:04:09:06 — Transferred.~~

~~44:04:09:07 — Authentication.~~

~~44:04:09:08 — Retention of medical or care records.~~

~~44:04:09:09 — Storage of medical or care records.~~

~~44:04:09:10 — Destruction of medical or care records.~~

44:04:09:11 — Disposition of medical or care records on closure of facility or transfer of ownership.
44:04:09:12 — Repealed.

~~44:04:09:01. Record services for hospitals and nursing facilities.~~ All hospitals and nursing facilities must comply with §§ 44:04:09:02 to 44:04:09:05, inclusive.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:09:02. Medical record department.~~ There must be an organized medical record system. A medical record must be maintained for each level of care for each patient or resident admitted to the facility.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:09:03. Medical record department staff.~~ The medical record functions must be performed by persons trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service must have knowledge and training in the field of medical records.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:09:04. Written policies and confidentiality of records.~~ There must be written policies and procedures to govern the administration and activities of the medical record service. They must include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a patient's or resident's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:09:05. Record content.~~ Each medical record must show the condition of the patient or resident from the time of admission until discharge and must include the following:

- ~~(1) Identification data;~~
- ~~(2) Consent forms, except when unobtainable;~~
- ~~(3) History of the patient or resident;~~
- ~~(4) A current overall plan of care;~~
- ~~(5) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;~~
- ~~(6) Diagnostic and therapeutic orders;~~
- ~~(7) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech pathology;~~
- ~~(8) Laboratory and radiology reports;~~

- ~~—— (9) Description of treatments, diet, and services provided and medications administered;~~
- ~~—— (10) All indications of an illness or an injury, including the date, the time, and the action taken regarding each;~~
- ~~—— (11) A final diagnosis; and~~
- ~~—— (12) A discharge summary, including all discharge instructions for home care.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 172, effective May 19, 1993; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:09:06. Transferred to § 44:70:08:01.**~~

~~—— **44:04:09:07. Authentication.** A health care facility must ensure entries to the medical or care record are signed or electronically authenticated. If the facility permits any portion of the medical or care record to be generated by electronic or optical means, policies and procedures must exist to prohibit the use of authentication by unauthorized users.~~

~~—— **Source:** 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:09:08. Retention of medical or care records.** A health care facility must retain medical or care records for a minimum of ten years from the actual visit date of service or resident care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors must be retained until the minor reaches the age of majority plus an additional two years, but no less than ten years from the actual visit date of service or resident care. Initial, annual, and significant change resident assessment records, as required in §§ 44:04:06:15 and 44:04:06:16, must be retained for ten years from the actual visit date of resident care. The retention of the record for ten years is not affected by additional and future visit dates.~~

~~—— **Source:** 19 SDR 172, effective May 19, 1993; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross-Reference:** Storage of medical or care records, § 44:04:09:09.~~

~~—— **44:04:09:09. Storage of medical or care records.** A health care facility must provide for filing, safe storage, and easy accessibility of medical or care records. The medical or care records must be preserved as original records or in other readily retrievable and reproducible form. Medical or care records must be protected against access by unauthorized individuals. All medical or care records must be retained by the health care facility upon change of ownership.~~

~~—— **Source:** 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross-Reference:** Disposition of medical or care records on closure of facility or transfer of ownership, § 44:04:09:11.~~

~~44:04:09:10. Destruction of medical or care records.~~ After the minimum retention period of ten years from the actual visit date of care outlined in § 44:04:09:08, the medical or care record may be destroyed at the discretion of the health care facility. Before the destruction of the medical or care record, the health care facility must prepare and retain a patient or resident index or abstract. The patient or resident index or abstract must include:

- ~~—— (1) Name;~~
- ~~—— (2) Medical record number;~~
- ~~—— (3) Date of birth;~~
- ~~—— (4) Summary of visit dates;~~
- ~~—— (5) Attending or admitting physician; and~~
- ~~—— (5) Diagnosis or diagnosis code.~~

~~—— The health care facility must destroy the medical or care record in a way that maintains confidentiality.~~

~~—— Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 31 SDR 62, effective November 7, 2004.~~

~~—— General Authority: SDCL 34-12-13.~~

~~—— Law Implemented: SDCL 34-12-13.~~

~~44:04:09:11. Disposition of medical or care records on closure of facility or transfer of ownership.~~ If a health care facility ceases operation, the facility must provide for safe storage and prompt retrieval of medical or care records and the patient or resident indexes specified in § 44:04:09:10. The health care facility may arrange storage of medical or care records with another health care facility of the same licensure classification, transfer medical or care records to another health care provider at the request of the patient or resident, relinquish medical records to the patient or resident or the patient's or resident's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the health care facility must notify the department in writing indicating the provisions for the safe preservation of medical or care records and their location and publish in a local newspaper the location and disposition arrangements of the medical or care records.

~~—— If ownership of the health care facility is transferred, the new owner shall maintain the medical or care records as if there was not a change in ownership.~~

~~—— Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000.~~

~~—— General Authority: SDCL 34-12-13.~~

~~—— Law Implemented: SDCL 34-12-13.~~

~~—— Cross-Reference: Storage of medical or care records, § 44:04:09:09.~~

~~44:04:09:12. Resident assessment records -- Submission to Department of Social Services -- Retention.~~ Repealed.

~~—— Source: 17 SDR 122, effective February 24, 1991, and April 1, 1991; transferred from § 44:04:01:09, 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

CHAPTER 44:04:10

HOSPITAL DIAGNOSTIC SERVICES

(Transferred to Chapter 44:75:10)

Section

- 44:04:10:01 — Clinical laboratory services.
- 44:04:10:02 — Clinical pathology services.
- 44:04:10:03 — Technical laboratory operations.
- 44:04:10:04 — Blood transfusion services.
- 44:04:10:05 — Diagnostic x ray services.
- 44:04:10:06 — Radiological service policies and manuals required.
- 44:04:10:07 — Radiological department personnel.
- 44:04:10:08 — Radiological reports.

~~—— **44:04:10:01. Clinical laboratory services.** Each hospital must provide for emergency laboratory services which are available 24 hours a day, 7 days a week, including holidays. The laboratory must hold a valid Clinical Laboratory Improvement Amendment (CLIA) certificate. Laboratory examinations necessary for diagnosis and treatment of the patient must be performed in the hospital or by arrangement. Laboratory examinations required on hospital admissions are determined by the medical staff and bylaws. The original laboratory report must be made a part of the patient's medical record. Fire and safety precautions must be enforced to protect against physical, chemical, and biological hazards peculiar to the laboratory.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Note:** CLIA applications are obtained from the South Dakota Department of Health, Office of Licensure and Certification, 615 East 4th Street, Pierre, SD 57501. Telephone (605) 773-3356, Division of Laboratory Standards and Performance, Health Standards and Quality Bureau, Centers for Medicare/Medicaid Services, 7500 Security Boulevard S-2-11-07, Baltimore, MD 21244-1850. Telephone (410) 786-3531, or online at www.phppo.cdc.gov/clia/default.asp.~~

~~—— **44:04:10:02. Clinical pathology services.** Each hospital laboratory must have the services of a pathologist available within the facility or by arrangement. The pathologist or a representative must provide technical oversight at least quarterly. The pathologist must examine tissues removed from hospital patients as outlined in hospital policy. Pathology services by arrangement must be governed by written policies and procedures establishing guidelines for the prompt transportation of specimens and submission of reports.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:10:03. Technical laboratory operations.** Each hospital laboratory must have a policy and procedural manual for each phase of operation. There must be a quality control program to insure the reliability of laboratory test data. Each item of diagnostic test equipment must be routinely checked and must be precise in terms of calibration as shown by records maintained in the laboratory.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:10:04. Blood transfusion services.** Each general hospital and specialized hospital providing transfusion services must provide facilities and equipment for the procurement, storage, and administration of whole blood and blood products. The transfusion service must be under the supervision of a qualified director. The medical staff or an equivalent committee which includes a pathologist must review all transfusions and transfusion reactions and make recommendations concerning policies and procedures governing such practices.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:10:05. Diagnostic x-ray services.** Each hospital must provide for emergency diagnostic x-ray services which are available 24 hours a day, 7 days a week, including holidays, except for specialized hospitals which can document to the satisfaction of the department that this service is not essential to the specialty being served. Safety and sanitation procedures as required by the department for the radiological service which will protect the patient and the radiological worker shall be established and enforced. There must be a quality control program with records maintained in the facility.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross-Reference:** Radiation safety, art 44:03.~~

~~—— **44:04:10:06. Radiological service policies and manuals required.** There must be a policy and procedural manual for all phases of the radiological services. If radioactive isotopes are to be used within the facility, policies which are approved by the medical staff must be established.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:10:07. Radiological department personnel.** There shall be trained personnel to provide the scope of services offered by the facility. If therapeutic radiological services are provided, the services must be under the direct supervision of a radiologist.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:10:08. Radiological reports.** Complete signed reports of the interpretations of all radiological examinations made by practitioners shall be made a part of the patient's clinical record. The radiological department must have a policy that requires any record to be retained for at least ten years and any film to be retained for at least five years.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

CHAPTER 44:04:11

HOSPITAL COMPLEMENTARY SERVICES

(Transferred to Chapter 44:75:11)

Section

- ~~44:04:11:01 — Surgical services.~~
- ~~44:04:11:02 — Surgical records.~~
- ~~44:04:11:03 — Obstetric and newborn services.~~
- ~~44:04:11:04 — Emergency services.~~
- ~~44:04:11:05 — Anesthesia services.~~
- ~~44:04:11:06 — Rehabilitation services.~~
- ~~44:04:11:07 — Outpatient rehabilitation services.~~
- ~~44:04:11:08 — Social services.~~
- ~~44:04:11:09 — Repealed.~~
- ~~44:04:11:10 — Swing bed services.~~
- ~~44:04:11:11 — Eligibility to offer swing bed services.~~
- ~~44:04:11:11.01 — Application for approval to offer swing bed services.~~
- ~~44:04:11:11.02 — Suspension of approval to offer swing bed services.~~
- ~~44:04:11:12 — Patient care requirements for swing bed services.~~
- ~~44:04:11:13 — Repealed.~~

~~**44:04:11:01. Surgical services.** Each hospital in which surgery is performed must maintain an operating suite with appropriate equipment, including an X ray view box or film illuminator. The suite must be supervised by a registered nurse with training and experience in operating room services. There must be written policies for surgical services which govern surgical staff privileges, supportive services of other professional and paramedical personnel, and operating suite procedures. Policies and procedures pertaining to safety controls shall be developed and implemented. Safety controls shall be posted. A roster of surgical staff members which delineates the surgical privileges of each member shall be maintained on file in the operating suite.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~**44:04:11:02. Surgical records.** When surgery is performed, the following record requirements apply:~~

~~—— (1) An operating room register must be maintained;~~

~~—— (2) The patient's medical record, including at least a medical history, a copy of the physician's examination, copies of laboratory tests, a signed consent for the surgical procedure to be performed, and a preoperative diagnosis, must be made available in the surgical suite at the time of surgery; and~~

~~—— (3) An accurate and complete description of the operative procedure must be recorded by the operating surgeon within 48 hours following completion of surgery.~~

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:11:03. Obstetric and newborn services.** Each hospital offering obstetric and newborn services must maintain facilities, equipment, and supplies appropriate to the service. The hospital must establish, implement, and maintain written policies and procedures and have techniques and methods that will provide safe intrapartum and postpartum care on the nursing unit for obstetric patients, immediate delivery room care, recovery period care, and continuing nursery care for the newborn infants. A medical record for each obstetrical patient and newborn infant, and a delivery room register must be maintained. Safe formula must be supplied.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:11:04. Emergency services.** Each hospital offering emergency services must have a written plan and procedural manual for the provision of 24-hour-a-day emergency care which, as a minimum, provides for assessment and either treatment or referral to an appropriate facility. All referring hospitals must initiate essential life-saving measures and provide emergency procedures that will minimize aggravation of a patient's condition during transportation. An area of the facility with appropriate staff, equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs for ill or injured persons must be reserved exclusively for the patients requiring emergency care. A medical record must be maintained for each patient receiving emergency service.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:11:05. Anesthesia services.** Each hospital must provide anesthesia services organized, directed, and integrated with other related services of the hospital commensurate with the scope and needs of patients. The delivery of anesthesia care to patients must be provided by qualified persons according to written policies relating to anesthesia procedures approved by the medical staff. Safety and sanitation controls must be established. All anesthetizing locations which are not protected against potential explosive hazards must have a legible sign posted prohibiting the use of flammable gas as anesthetics.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:11:06. Rehabilitation services.** A hospital offering physical therapy, occupational therapy, or speech pathology must maintain facilities, equipment, and supplies appropriate for services provided. There must be written policies and procedures for the organization and function of the services. If physical therapy is offered, services must be provided under the supervision of a licensed physical therapist. If occupational therapy is offered, services must be provided under the supervision of a registered occupational therapist. If speech pathology is offered, services must be provided under the supervision of a speech pathologist with a certificate of clinical competence from the American Speech and Hearing Association. Physical therapy, occupational therapy, or speech pathology services must be given in accordance with a practitioner's orders and documented in the patient's medical record.

~~Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Cross-References: Physical therapists, SDCL 36-10; Occupational therapists, SDCL 36-31.~~

~~**44:04:11:07. Outpatient rehabilitation services.** A hospital offering outpatient rehabilitation services must maintain written policies and procedures relating to staff, functions of services, and outpatient medical records and must provide facilities. The outpatient rehabilitation department must have space and equipment to meet the needs of the patient, staff, and visitors; and must maintain cooperative arrangements and communications with treatment-related community agencies. A physician must be responsible for the professional services. A physician or administrator must be responsible for administrative services.~~

~~Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:11:08. Social services.** A hospital offering social services must maintain written policies and procedures relating to staffing requirements and functions of services and must provide social services facilities as required by § 44:04:02:18.02. If social services are offered, services must be provided under the supervision of a social worker or the facility must have a written agreement with a social worker for regularly scheduled consultation and assistance. The social services staff shall participate in discharge planning to assist patients to access inpatient, outpatient, extended care, and home health services in the community. Social services summaries must be entered in the patient's medical record.~~

~~Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Cross-Reference: Social workers, SDCL 36-26, art 20:59.~~

~~**44:04:11:09. Hospice services.** Repealed.~~

~~Source: 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.~~

~~**44:04:11:10. Swing-bed services.** In addition to other requirements of article 44:04, hospitals offering swing bed services must comply with §§ 44:04:11:11 and 44:04:11:12.~~

~~Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:11:11. Eligibility to offer swing-bed services.** A hospital with less than 100 staffed beds may offer swing bed services after obtaining approval from the department pursuant to § 44:04:11:11.01. A hospital with less than 50 staffed beds may not designate more than one-half of its staffed beds as swing beds, but a hospital with less than 50 licensed beds may designate up to one-half of its licensed beds as swing beds. A critical access hospital may have no more than 15 swing beds. A hospital with 50 to 99 staffed beds, inclusive, may not designate more than 10 beds as swing beds. A hospital which subsequently~~

~~exceeds 99 staffed beds may not offer swing bed services. For purposes of this section and § 44:04:11:11.01, staffed beds are inpatient beds utilized and staffed for by the hospital, exclusive of beds for newborn, obstetrical delivery, intensive care, coronary care, and any psychiatric or rehabilitation unit excluded from the Medicare prospective payment system, except during a catastrophe, such as a disaster or epidemic, to which the hospital responds.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:11:11.01. Application for approval to offer swing bed services.** A hospital may not offer swing bed services without first applying in writing to the department for approval. The application must contain the following:~~

~~—— (1) The effective date the swing bed services will begin;~~

~~—— (2) Designation of the bed category for which the hospital is requesting approval to offer swing bed services, either a critical access hospital, not more than 49 staffed beds, or greater than 49 staffed beds and fewer than 100 staffed beds;~~

~~—— (3) The number of staffed beds which will be designated as swing beds;~~

~~—— (4) Evidence of the hospital's ability to comply with the provisions of § 44:04:11:12; and~~

~~—— (5) Written assurance that the hospital will operate within the bed category it has designated and will not operate more than the number of swing beds designated on the face of the license.~~

~~—— The department shall denote the number of designated swing beds on the face of the license. A hospital may not change the number of designated swing beds or the designated bed category without first applying to the department for approval in accordance with this section.~~

~~—— **Source:** 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000~~

~~—— **General Authority:** SDCL 34-12-5, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-5, 34-12-13.~~

~~—— **44:04:11:11.02. Suspension of approval to offer swing bed services.** Pursuant to the contested case provisions of SDCL 1-26, the department may prohibit a hospital from admitting new swing bed patients for not more than 3 months if the department has determined by inspections that the hospital has substantially failed to comply with the provisions of § 44:04:11:12 on at least 2 occasions in any 12 consecutive months. A hospital which has been prohibited from admitting new swing bed patients must reapply to the department for approval to offer swing bed services to new admissions in accordance with § 44:04:11:11.01.~~

~~—— **Source:** 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-12-13, 34-12-19.~~

~~—— **Law Implemented:** SDCL 34-12-13, 34-12-21.~~

~~44:04:11:12. Patient care requirements for swing-bed services.~~ Hospital and critical access hospital swing bed services must provide nursing and related care services to meet patients' care needs at all times. Patient care services must include at least the following:

~~(1) Patient rights as stated in §§ 44:04:17:02(1),(5),(6),(7),(8), 44:04:17:03(1), 44:04:17:07, 44:04:17:08(1),(2),(7),(9), 44:04:17:09(3),(4),(5), 44:04:17:12, and 44:04:17:14;~~

~~(2) Specialized rehabilitative services needed by patients to improve and maintain functioning. Specialized rehabilitative services may include physical therapy, speech pathology and audiology, and occupational therapy; and the services must be provided by the hospital or arranged for by written agreement with qualified personnel;~~

~~(3) Dental services for routine and emergency dental care;~~

~~(4) Social services as stated in § 44:04:12:05;~~

~~(5) Patient activities as stated in § 44:04:12:02;~~

~~(6) Discharge planning services to ensure that patients have a planned program of continuing care which meets post discharge needs. The hospital must have written policies for the discharge planning process and must comply with § 44:04:04:17; and~~

~~(7) Comprehensive assessment to assist with the development of a comprehensive care plan.~~

~~Source: 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:11:13. Maximum length of stay of swing-bed patients. Repealed.~~

~~Source: 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; repealed, 30 SDR 84, effective December 4, 2003.~~

CHAPTER 44:04:12

LONG-TERM CARE SUPPORTIVE SERVICES

(Transferred to Chapter 44:73:10)

Section

~~44:04:12:01 Supportive services.~~

~~44:04:12:02 Activities program.~~

~~44:04:12:03 Transferred.~~

~~44:04:12:04 Spiritual needs.~~

~~44:04:12:05 Provision of social services by nursing facilities.~~

~~44:04:12:06 Rehabilitation services in nursing facilities.~~

~~44:04:12:01. Supportive services.~~ Each nursing facility, hospital accepting long term care patients, and hospital and critical access hospital with swing beds shall provide supportive services that comply with §§ 44:04:12:02 to 44:04:12:05, inclusive.

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012.~~

~~General Authority: SDCL 34-12-13(13).~~

~~Law Implemented: SDCL 34-12-13(13).~~

~~**44:04:12:02. Activities program.** A planned activities program must be provided with therapeutic activities designed to meet the needs and interests of individual patients or residents. An activities coordinator must be in charge of the activities program in nursing facilities and hospitals which admit swing bed patients. Supplies and equipment must be provided for activities to satisfy the individual interests of patients or residents.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:12:03. Transferred to § 44:04:17:02.**~~

~~**44:04:12:04. Spiritual needs.** The facility must provide for the spiritual needs of the patients or residents. Patient or resident requests to see a clergyman must be honored. No specific religious beliefs or practices may be imposed on any patient or resident contrary to the patient's or resident's choice.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:12:05. Provision of social services by nursing facilities.** A nursing facility must provide or make arrangements to provide social services for each resident as needed. A staff social worker or social service designee must be designated as responsible to facilitate the provision of social services. If the staff member is not a social worker, the facility must have a written agreement with a social worker for consultation and assistance to be provided on a regularly scheduled basis but at least quarterly.~~

~~Source: 14 SDR 81, effective December 10, 1987; transferred from § 44:04:06:12, 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:12:06. Rehabilitation services in nursing facilities.** A nursing facility must provide rehabilitation services based on the needs of residents as identified in the comprehensive resident assessment specified in §§ 44:04:06:15 and 44:04:06:16.~~

~~Source: 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

CHAPTER 44:04:13

CONSTRUCTION STANDARDS

(Transferred to Chapter 44:75:12)

Section

44:04:13:01	Application of chapter.
44:04:13:02	Patient or resident rooms.
44:04:13:03	Service area in care units.
44:04:13:03.01	Social services office.
44:04:13:03.02	Repealed.
44:04:13:04	Dietary department.
44:04:13:05	Food preparation services and equipment.
44:04:13:06	Laundry.
44:04:13:07	Employee facilities.
44:04:13:08	Engineering service and equipment areas.
44:04:13:09	Corridor restrictions.
44:04:13:10	Doors.
44:04:13:11 and 44:04:13:12	Repealed.
44:04:13:13	X ray protection.
44:04:13:14	Ceiling heights.
44:04:13:15	Insulation.
44:04:13:16	Fire extinguisher equipment.
44:04:13:17	Floor surface finish.
44:04:13:18	Wall and ceiling finish.
44:04:13:19	Elevators.
44:04:13:20 to 44:04:13:23	Repealed.
44:04:13:24	Incinerators.
44:04:13:25	Steam and hot water systems.
44:04:13:26	Ventilating systems.
44:04:13:27	Filters.
44:04:13:28	Ducts.
44:04:13:29	Food service ventilation.
44:04:13:30 and 44:04:13:31	Repealed.
44:04:13:32	Recirculated air systems.
44:04:13:33	Plumbing fixtures.
44:04:13:34	Water supply systems.
44:04:13:35	Vacuum breakers.
44:04:13:36	Hot water systems.
44:04:13:37	Drainage systems.
44:04:13:38 and 44:04:13:39	Repealed.
44:04:13:40	Electrical distribution system.
44:04:13:41	Lighting.
44:04:13:42	Receptacles or convenience outlets.
44:04:13:43	Repealed.
44:04:13:44	Nurses call system.
44:04:13:45	Fire alarm systems.
44:04:13:46	Repealed.
44:04:13:47	Submittal of plans and specifications.
44:04:13:48	Pipe requirements.
44:04:13:49	Detached structures.
44:04:13:50	Repealed.

—— **44:04:13:01. Application of chapter.** This chapter applies to all new facilities and to renovations, additions, and changes in space use of currently approved existing facilities. Accessible and usable accommodations must be available to the public, staff, and patients or residents with disabilities. Minimum

requirements, except as noted in this chapter, are those in "ADA Accessibility Guidelines for Buildings and Facilities," 28 C.F.R. Part 36, Appendix A, as published in 56 Fed. Reg. 35605 to 35690, inclusive (July 26, 1991), <http://www.usdoj.gov/crt/ada/req3a.html#Anchor-Appendix-52467>.

—— Facilities must comply with **NFPA 101 Life Safety Code**, 2000 edition. Facilities must also comply with the building construction standards of the **International Building Code**, 2000 edition.

—— Facilities providing off site services must comply with "Business Occupancy standards or other occupancies standards as applicable for the use of the facility from" **NFPA 101 Life Safety Code**, 2000 edition, and construction standards of the **International Building Code**, 2000 edition for the buildings where these services are offered.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **References:** Federal Register of July 26, 1991, 28 C.F.R. Part 36, Appendix A, "ADA Accessibility Guidelines For Buildings and Facilities." Copies may be obtained from the Rocky Mountain Disability and Business Technical Assistance Center, 3630 Sinton Road, Suite 103, Colorado Springs, Colorado 80907. Phone: 1-800-949-4232. Cost \$5.

—— **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$53.50.

—— **International Building Code**, 2000 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone (562) 699-0541. Cost: \$69.55.

—— **44:04:13:02. Patient or resident rooms.** A patient or resident room shall meet the following requirements:

—— (1) A maximum room capacity not exceeding two patients or residents;

—— (2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of 120 square feet (10.8 square meters) in a one-bed room and 200 square feet (18.58 square meters) in a two-bed room. Each sleeping room designed as part of a suite of rooms shall have a minimum area of 100 square feet in a one-bed room and 180 square feet in a two-bed room;

—— (3) Each bed in a two-bed room shall have cubicle curtains or equivalent built-in devices for full visual privacy that allow access to the toilet room and corridor without entering the roommates space;

—— (4) Have a window whose sill is not higher than three feet (0.91 meters) above the floor. The floor shall be above grade;

—— (5) Have a call button at each bed for nurses' calling stations;

—— (6) Have a toilet room and lavatory. Each patient or resident toilet room shall be directly accessible for each patient or resident without going through the general corridor. In a remodeling project, a one toilet room with handsink in a patient or resident room may serve two patient or resident rooms, but not more

~~than four beds. For new construction, a toilet room may not be shared between patient or resident rooms. The lavatory may be omitted from the toilet room if one is provided in each patient or resident room. The minimum dimensions of any room containing only a water closet are three feet by six feet (0.91 meters by 1.83 meters). All new construction of toilet rooms shall meet accessibility standards required in § 44:04:13:01;~~

~~—— (7) Have a locker or closet for each patient or resident; and~~

~~—— (8) Have each patient or resident room door located not more than 150 feet (45.72 meters) from the nurse's station.~~

~~—— Modification of the requirements listed in subdivisions (1) to (8), inclusive, of this section may be approved for any special care room by the department after receipt of a written request.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(3).~~

~~—— **Law Implemented:** SDCL 34-12-13(3).~~

~~—— **44:04:13:03. Service area in care units.** Each care unit must contain a service area which includes the following, except when the service is not required for licensure category:~~

~~—— (1) Nurses' station with convenient access to handwashing facilities;~~

~~—— (2) Nurses' charting;~~

~~—— (3) Doctors' charting;~~

~~—— (4) Communications;~~

~~—— (5) Storage for supplies and nurses' personal effects;~~

~~—— (6) Nurses' toilet room;~~

~~—— (7) Nurses' office;~~

~~—— (8) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;~~

~~—— (9) Soiled workroom which contains a work counter with a two-compartment sink with drainboards on each side, handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;~~

~~—— (10) Medicine room adjacent to the nurses' station with a sink, refrigerator, locked storage, and facilities for preparation and administration of medication;~~

~~—— (11) Clean linen storage area in an enclosed storage space;~~

~~—— (12) Nourishment station containing refrigerated storage, self-dispensing ice machine, and a sink for serving between meal nourishments;~~

~~—— (13) Equipment storage room on each patient or resident wing or floor for storage of patient or resident care equipment such as intravenous stands, inhalators, air mattresses, walkers, wheelchairs, and similar bulky equipment;~~

~~—— (14) Patient or resident bathing facilities containing one shower, bathtub, or whirlpool for each 15 beds not individually served. Whirlpool units with lifts may serve 30 beds;~~

~~—— (15) Janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink. The janitor's closet space and equipment may be incorporated into the soiled utility room;~~

~~—— (16) Isolation facilities for the use of those prone to infections as well as those suffering from infections. One isolation room must be provided for each 30 acute care beds. The entry into the isolation room must be through an anteroom which is equipped with handwashing, gowning space and supplies, and space to handle clean and soiled supplies for the room or rooms served. Toilet, bathing, and handwashing facilities must be available for the isolation room patient without entry into the anteroom or general corridor. A nursing unit is not required to maintain an isolation facility if such facilities are provided elsewhere in the institution;~~

~~—— (17) Playroom facilities for pediatric patients; and~~

~~—— (18) Multipurpose rooms for staff, patients or residents, and patients' or residents' families for conferences, reports, education, training sessions, and consultation.~~

~~—— If outpatient therapy services are offered, the therapy unit must provide access without traversing inpatient areas, locked records storage, handsinks located convenient to treatment areas, private room with handsink for speech language pathology, cubicle curtains for privacy at treatment areas, and the therapy unit must be sized and equipped to accommodate the therapy modalities offered.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:13:03.01. Social services office.** In hospitals and nursing facilities, a social services office which is in accordance with § 44:04:02:18.02 must be provided.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:13:03.02. Secured units.** Repealed.~~

~~—— **Source:** 27 SDR 59, effective December 17, 2000; repealed, 28 SDR 83, effective December 16, 2001.~~

~~—— **44:04:13:04. Dietary department.** Construction, equipment, and installation of the dietary department must comply with or exceed the minimum standards in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The installation must comply with § 44:04:13:05 unless a commercially prepared dietary service, meals, or disposables are used. If a commercial service is used, dietary areas and equipment must meet the requirements for sanitary storage, processing, and handling.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30.~~

~~**44:04:13:05. Food preparation services and equipment.** The dietary area must be completely cleanable by conventional methods. The location and design of the dietary area must enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided must include the following:~~

~~(1) In dietary areas serving 20 beds or more, a dishwashing area including a commercial dishwasher supplied with 180 degree Fahrenheit (82 degrees centigrade) rinse water or a chemical sanitizing cycle, a soiled dish table with at least 7 feet (2.13 meters) of work space, a garbage disposal, a garbage can, a clean dish table with room for at least 3 dish racks, and handwashing facilities. If commercial undercounter dishwasher is used, the unit must be raised above the floor so that the rack height is level with the adjacent dish tables;~~

~~(2) A dry food storage area with at least 1.5 linear feet (0.46 meters) of shelving 20 inches (0.51 meters) wide for each patient or resident bed and a functional aisle;~~

~~(3) Refrigerated storage space providing at least 1.5 cubic feet (0.042 cubic meters) of refrigerated space and 0.5 cubic feet (0.014 cubic meters) of freezer space per patient or resident bed with sufficient refrigerated storage space located within the food production area for convenient food preparation;~~

~~(4) Aisles within the dietary area not less than 3 feet (0.91 meters) wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic must be at least 4 feet (1.22 meters) wide;~~

~~(5) Pot and pan washing facilities, including a three-compartment sink with 18-inch drainboards on both sides and drying and storage facilities for pots and pans;~~

~~(6) A vegetable preparation area with a two-compartment sink with drainboards on both sides;~~

~~(7) Cart cleaning facilities;~~

~~(8) Cart storage areas;~~

~~(9) Waste disposal facilities;~~

~~(10) Waste can washing facilities;~~

~~(11) Employee dining facilities;~~

~~(12) Dietary manager's office or desk;~~

~~(13) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink;~~

~~—— (14) Food production equipment sized and designed to prepare a complete meal for the total bed complement and for personnel, guests, day care patients, or other catering services;~~

~~—— (15) Food holding and transportation equipment capable of protecting food from contamination and of maintaining cold food at 41 degrees Fahrenheit (5 degrees centigrade) or below and hot food at 140 degrees Fahrenheit (60 degrees centigrade) or above during the total serving period;~~

~~—— (16) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;~~

~~—— (17) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single service towels or hand drying device and hand cleanser;~~

~~—— (18) In dietary areas serving 20 beds or more, a staff toilet facility; and~~

~~—— (19) In dietary areas serving 20 beds or more, a dispensing ice maker. A built in dispensing ice maker in a refrigerator may be used in any facility with a capacity of less than 20 beds.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:13:06. Laundry.** The laundry shall include the following:~~

~~—— (1) Soiled linen holding room with a storage capacity of 1.75 square feet (0.1626 square meters) of floor area for each bed, to be used for storage, sorting, and weighing of soiled linen;~~

~~—— (2) Linen cart storage;~~

~~—— (3) Janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry;~~

~~—— (4) Storage for laundry supplies;~~

~~—— (5) Lavatories conveniently accessible to soiled, clean, and processing rooms; and~~

~~—— (6) Laundry processing room with separate soiled and clean work areas with commercial equipment. Each clothes dryer shall have a galvanized metal vent pipe for exhaust.~~

~~—— The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The laundry department shall be capable of processing ten pounds (4.54 kilograms) of soiled linen for each bed during a normal work day. Any modification to the standard may be made if the services are contracted to an outside organization. A modification shall be requested in writing by the facility and approved by the department.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(3).~~

~~—— **Law Implemented:** SDCL 34-12-13(3).~~

~~44:04:13:07. Employee facilities.~~ The locker room for employees must have lockers and a separate toilet room.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:13:08. Engineering service and equipment areas.~~ The requirements for engineering service and equipment areas for each facility are as follows:

- ~~(1) A boiler room with two remote doors to the exit or exit access;~~
- ~~(2) An engineer's office which may be combined with a maintenance shop;~~
- ~~(3) Mechanical and electrical equipment rooms;~~
- ~~(4) A maintenance shop with at least one room;~~
- ~~(5) A storage room for building maintenance supplies;~~
- ~~(6) A refuse room for trash storage which is conveniently located to the service entrance; and~~
- ~~(7) A yard equipment storage room.~~

~~The boiler room and other rooms containing storage of combustible materials may not contain ventilation equipment or unprotected ventilation ducts serving other areas, the main electrical switchboard, or emergency electrical equipment.~~

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:13:09. Corridor restrictions.~~ Drinking fountains, telephone booths, fire extinguisher cabinets, and vending machines must be located so that they do not project into the required width of exit corridors. Handrails installed in corridors must return to the wall at the ends. Handrails must be installed with the top 34 to 38 inches, inclusive, from the floor. Handrails must be installed with 1½ inch spacing between the wall and the handrail.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:13:10. Doors.~~ Any door to a patient or resident room toilet or bathroom must be equipped with hardware which will permit access in any emergency. A pocket or sliding door may not be installed except on a clothes closet in a patient or resident room. Any door opening onto a corridor, except an elevator door, must be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Thresholds and expansion joint covers, if used, must be flush with the floor. Any cross-corridor door must be provided with vision panels.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~—— **44:04:13:11. Handwashing accessories.** Repealed.~~

~~—— **Source:** SL 1975, ch 16, § 1; repealed, 4 SDR 14, effective September 14, 1977.~~

~~—— **44:04:13:12. Chutes.** Repealed.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

~~—— **44:04:13:13. X ray protection.** Protection of X ray and gamma ray installations must conform to requirements in "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV—Equipment Design and Use," NCRP Report No. 102, 1989, and in "Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, 1976.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **References:** "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV—Equipment Design and Use," NCRP Report No. 102, National Council on Radiation Protection and Measurements, June 30, 1989. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 800, Bethesda, MD 20814. Cost: \$35.~~

~~—— "Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, National Council on Radiation Protection and Measurements, September 15, 1976. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 800, Bethesda, MD 20814. Cost: \$30.~~

~~—— **44:04:13:14. Ceiling heights.** Boiler room ceilings may not be less than 2 feet 6 inches (0.76 meters) above the main boiler header and connecting piping, with a minimum height of 9 feet (2.74 meters). The ceilings of corridors, storage rooms, patient toilet rooms, and other minor rooms may not be less than 7 feet, 8 inches (2.34 meters). The ceilings of all other rooms may not be less than 7 feet, 10 inches (2.39 meters).~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:13:15. Insulation.** Boiler rooms, food preparation centers, and laundries must be insulated and ventilated to prevent any floor surface above them from exceeding a temperature of 85 degrees Fahrenheit (29.4 degrees centigrade). All combustible insulation within the building must be covered with a fire resistive material giving fire protection equivalent to 0.5 inch (0.01 meters) gypsum board, unless tested and acceptable by **International Building Code**, 2000 edition, 2603.4 for use without a thermal barrier as installed.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **Reference:** International Building Code, 2000 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$69.55.~~

~~———— **44:04:13:16. Fire extinguisher equipment.** Fire extinguisher equipment must be installed and maintained by the following minimum standards:~~

~~———— (1) Portable fire extinguishers must have a minimum rating of 2-A:10-B:C;~~

~~———— (2) Fire extinguisher equipment must be inspected monthly and maintained yearly;~~

~~———— (3) Approved fire extinguisher cabinets must be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls must be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire extinguisher cabinets must be wire glass or other safety glazing material. Fire extinguisher cabinets must be identified with a sign mounted perpendicular to the wall surface above the cabinet; and~~

~~———— (4) Halon chemical extinguishers may be installed and used only in those remote areas that do not present a hazard to staff, patients, or residents.~~

~~———— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~———— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:13:17. Floor surface finish.** Floors must be easily cleanable and must have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces must be water-resistant. In all areas where floors are subject to wetting, they must have a nonslip finish. Adjacent dissimilar floor materials must be flush with each other to provide a level floor surface.~~

~~———— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~———— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:13:18. Wall and ceiling finish.** Walls must be washable, and in the immediate area of plumbing fixtures the finish must be protected from water damage. Wall bases in dietary areas must be free of spaces that can harbor insects. Wall bases in any areas used for surgical and obstetrical procedures must be integral with either the wall or the floor surface material and must be without voids that can harbor harmful bacteria. All surgical, obstetrical, emergency, nursery, X-ray film processing rooms, and dietary ceilings must be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops, and similar spaces. A ceiling in any surgical, central sterilization, isolation, and x-ray film processing room must be a gypsum board surface.~~

~~———— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006.~~

~~———— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~44:04:13:19. Elevators.~~ All facilities where either patients' or residents' beds or a critical service, such as operating, delivery, diagnostic, recreation, patient or resident dining, dietary, laundry, central storage, or therapy rooms, is located, other than on the first floor, must have electrical or electrohydraulic elevators. Elevator cars and platforms must be constructed of noncombustible material, except that material treated with fire retardant may be used if all exterior surfaces of the car are covered with metal. Cars of hospital-type elevators must have inside dimensions that will accommodate a patient's bed and attendants and must be at least 5 feet (1.52 meters) wide by 7 feet 6 inches (2.29 meters) deep. The car door must have a clear opening of not less than 3 feet 8 inches (1.12 meters). Elevators must have automatic two-way leveling with accuracy within plus or minus 0.5 inch (0.01 meters). Elevators, except freight elevators, must be equipped with a two-way special service switch to permit cars to bypass all landing button calls and to be dispatched directly to any floor.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:13:20. Foundations.~~ Repealed.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.

~~44:04:13:21. One-story buildings.~~ Repealed.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.

~~44:04:13:22. Multistory buildings.~~ Repealed.

~~Source:~~ SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.

~~44:04:13:23. Carpets.~~ Repealed.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 23 SDR 195, effective May 26, 1997.

~~44:04:13:24. Incinerators.~~ Incinerators must be gas, electric, or oil fired and must be capable of, but need not be limited to, the complete destruction of pathological wastes. Design and construction of incinerators must be in accordance with requirements of article 74:35.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:13:25. Steam and hot water systems.~~ Boilers must have the capacity to supply the normal requirements of all systems and equipment. Supply and return mains and risers of space heating and process steam systems must be valved to isolate the various sections of each system. Each piece of equipment must be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping must be insulated with insulation having a flame spread of 25 or less and a smoke emission rating of 50 or less using NFPA 255, 2000 edition,

~~"Standard Method of Test for Surface Burning Characteristics of Building Materials" or equivalent test procedures.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Reference:** NFPA 255, 2000 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$22.25.~~

~~—— **44:04:13:26. Ventilating systems.** The ventilating systems must maintain temperatures, minimum air changes of outdoor air an hour, minimum total air changes, and relative humidities as follows:~~

~~—— (1) Operating rooms — 68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 45 to 60 percent humidity;~~

~~—— (2) Delivery rooms — 68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 30 to 60 percent humidity;~~

~~—— (3) Recovery rooms — at least 70 degrees Fahrenheit (21.1 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity;~~

~~—— (4) Nursery rooms — at least 75 degrees Fahrenheit (23.9 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity; and~~

~~—— (5) Intensive care rooms — 70 to 75 degrees Fahrenheit (21.1 to 23.9 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity.~~

~~—— For all other occupied areas, the facility must be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems must be mechanically operated. All fans serving exhaust systems must be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, must be located as far away as practicable but not less than 25 feet (7.62 meters) from plumbing vent stacks and the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems must be located as high as possible but not less than 6 feet (1.83 meters) above the ground level or, if installed through the roof, 3 feet (0.91 meters) above roof level. The mechanical ventilation systems must be designed and balanced to provide make up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. Room supply air inlets, recirculation, and exhaust air outlets must be located with the grill or diffuser opening not less than 3 inches (0.08 meters) above the floor. Corridors may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation must be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.~~

~~—— Indirect fuel fired ventilation units may be used only when safety equipment is provided, the fuel is lighter than air, and the unit is separated from the building by one-hour fire resistive construction when the unit is mounted on the roof.~~

~~—— Laboratories must be ventilated at a rate of six total air changes an hour. All ventilation air from the laboratory must be directly exhausted to the outside. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional air must be provided. A filter with 90 percent efficiency must be installed in the air supply system at its entrance to the media transfer room. Hoods in which highly radioactive materials are processed must have a face velocity of 150 feet a minute (0.76 meters a second), have a high efficiency (99.97%) filter, and each hood must have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials must have a face velocity of 75 feet a minute (0.38 meters a second).~~

~~—— Cooking appliances, other than microwave ovens, must be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture. Cooking appliances installed in resident rooms must be equipped with a recirculating fan and charcoal filter or may be exhausted to the exterior to remove cooking odors, heat, and moisture.~~

~~—— Vehicle parking garages must be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. Signs must be posted at the front of parking spaces advising the driver to shut off the engine.~~

~~—— Crawl spaces must be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.~~

~~—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Reference:** **International Building Code**, 2000 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$69.55.~~

~~—— **44:04:13:27. Filters.** A ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Each supply air unit shall have a minimum of 30 percent effective filters. Each central ventilation system shall have a minimum of 80 percent effective filters. Each common use area, i.e., dining, lounge, and corridor, shall have 80 percent effective filters on an air supply system. Each air supply system serving solely an administrative area shall have a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.1, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter frame shall be durable and carefully dimensioned and must provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work shall be gasketed or sealed to provide a positive seal against air leakage. A manometer shall be installed across each filter bed serving a central air system.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012.~~

~~—— **General Authority:** SDCL 34-12-13(3).~~

~~—— **Law Implemented:** SDCL 34-12-13(3).~~

—— ~~**Reference:** ASHRAE 52.1, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.~~

—— ~~**44:04:13:28. Ducts.** Ducts must be constructed of iron, steel, aluminum, or other approved metal or materials as defined in **NFPA 101 Life Safety Code** 2000 edition. Duct linings, coverings, vapor barriers, and the adhesives used for applying them must have a flame spread classification of not more than 25 and a smoke developed rating of not more than 50 using **NFPA 255**, 2000 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." A fire and smoke damper must be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. Ducts which pass through a required smoke barrier must be provided with smoke dampers. Access for maintenance must be provided at all dampers. Duct systems serving hoods must be constructed of corrosion-resistant material. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used must be constructed of stainless steel for a minimum distance of 10 feet (3.05 meters) from the hood and must be equipped with washdown facilities. Cold air ducts must be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**References:** **NFPA 255**, 2000 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$22.25.~~

—— ~~**NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone 1-800-344-3555. Cost: \$53.50.~~

—— ~~**44:04:13:29. Food service ventilation.** The air from dining areas may be used to ventilate the food preparation areas only after it has been passed through a filter with 80 percent efficiency. Exhaust hoods in food preparation centers must have a minimum exhaust rate of 50 cubic feet a minute for each square foot (0.25 cubic meters a second for each square meter) of hood face area. All hoods over cooking ranges must be equipped with fire extinguishing systems interconnected to shut off the fuel source. Cleanout openings must be provided every 20 feet (6.10 meters) in horizontal exhaust duct systems serving hoods.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**44:04:13:30. Anesthesia storage ventilation.** Repealed.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

—— ~~**44:04:13:31. Boiler room ventilation.** Repealed.~~

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.

—— **44:04:13:32. Recirculated air systems.** All recirculated air systems serving more than one room must be equipped with automatic shutdown and smoke dampers activated by a smoke detector and the building fire alarm system.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:13:33. Plumbing fixtures.** The material used for plumbing fixtures must be of nonabsorptive acid-resistant material. Lavatories and sinks required in patient or resident care areas must have the water supply spout mounted so that the discharge is a minimum of 5 inches (0.13 meters) above the rim of the fixture. Handwashing facilities used by medical and care staff, patients, residents, and food handlers must be equipped with hands-free controls. Single-lever devices may be used. If blade handles are used, they may not exceed 4.5 inches (0.11 meters) in length, except that handles on scrub sinks and clinical sinks may not be less than 6 inches (0.15 meters) long. Clinical sinks must have an integral trap in which the upper portion of a visible trap seal provides a water surface. If blade handles are used, proper clearance must be maintained for operation. Aerators are not approved for use on faucet spouts. Paper towel dispensers or hand-drying devices must be provided at all lavatories and sinks used for handwashing. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the laboratory, nursery, clean utility, central sterilizing, dietary, or other critical areas where grooming could potentially cause contamination.

—— Water closets must be an elongated bowl type and be equipped with an open-front seat.

—— Any shower stall that is not required to be accessible must have curb heights not more than five inches above the finished floor. The shower floor elevation and bathroom finished floor elevation must be level where possible but the difference in elevation cannot exceed three inches.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:13:34. Water supply systems.** Water supply systems must supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures must be valved. Stop valves must be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur must be insulated. Insulation of cold and chilled water lines must include an exterior vapor barrier.

—— Water supply systems in a health care facility must maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility must document water temperatures to verify the hot water temperature is being maintained within the acceptable range. The chlorine testing must be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. When testing demonstrates that consistent chlorine

levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:13:35. Vacuum breakers.** Antisiphon devices or backflow preventers must be installed on hose bibs and on all fixtures to which hoses or tubing can be attached such as laboratory and janitors' sinks, bedpan flushing attachments, handheld showers, and autopsy tables. Antisiphon devices or backflow preventers must be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:13:36. Hot water systems.** Hot water distribution systems over 50 feet (15.24 meters) long must recirculate to provide hot water at each fixture at all times. The hot water heating equipment must have sufficient capacity to supply water at the temperature and amounts indicated in the following:

—— (1) Three gallons an hour (0.0033 liters a second) for each bed at a temperature range of 122-125 degrees Fahrenheit (50-52 degrees centigrade);

—— (2) Two gallons an hour (0.0020 liters a second) for each bed for dietary use at a temperature of 140 degrees Fahrenheit (60 degrees centigrade); and

—— (3) Two gallons an hour (0.0020 liters a second) per bed for laundry at a temperature of 160 degrees Fahrenheit (71 degrees centigrade).

—— Storage tanks provided must be fabricated of noncorrosive metal or lined with noncorrosive material.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:13:37. Drainage systems.** Drain lines from sinks in which acid wastes may be poured must be fabricated from an acid-resistant material. Piping over operating and delivery rooms, nurseries, food preparation centers, food serving facilities, food storage areas, and other critical areas must be kept to a minimum and may not be exposed. Special precautions must be taken to protect these areas from possible leakage of necessary overhead piping systems. Floor drains may not be installed in operating and delivery rooms. Building sewers must discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

—— Water from roof systems must be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks must be provided for pitched roof systems. Provisions must be made to avoid having water accumulated on sidewalks and parking areas around the building.

~~—The building sewer system must have a cleanout located outside the perimeter of the building foundation.~~

~~—Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006.~~

~~—General Authority: SDCL 34-1-17, 34-12-13.~~

~~—Law Implemented: SDCL 34-12-13.~~

~~—Cross Reference: Individual and small on-site wastewater systems, ch 74:53:01.~~

~~—44:04:13:38. Fire extinguishing systems. Repealed.~~

~~—Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.~~

~~—44:04:13:39. Nonflammable medical gas systems. Repealed.~~

~~—Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

~~—44:04:13:40. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices must be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials must be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. Fixed and mobile X-ray units must be connected by means of independent feeders or circuits. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and distribution panel boards must be enclosed or guarded to provide a dead front type of assembly. The main switchboard must be located in a separate enclosure accessible only to authorized persons. The switchboard must be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Overload protective devices must be designed for operating in the ambient temperature conditions. Lighting and appliance panel boards must be provided for the circuits on each floor. This section does not apply to emergency system circuits.~~

~~—Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—General Authority: SDCL 34-1-17, 34-12-13.~~

~~—Law Implemented: SDCL 34-12-13.~~

~~—44:04:13:41. Lighting. Any space occupied by people, machinery, and equipment within buildings, the approaches to the buildings, and parking lots shall have artificial lighting approved by the department. Each patient or resident bedroom shall have general lighting of at least ten footcandles (0.929 lumens per square meter) and night lighting. If task illumination is required, a light with an intensity of at least 30 footcandles (2.79 lumens per square meter) at the work surface shall be provided for each patient or resident. At least one luminaire for night lighting shall be switched at the entrance to each patient or resident room. Any patient's or resident's reading light and other fixed light not switched at the door shall have a switch control convenient for use at the luminaire. Each switch for control of lighting in a patient or resident area shall be of the quiet operating type. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 50 footcandles (4.65 lumens per square meter) shall be provided at the activity room work tables. Illumination of at least 30 footcandles (2.79 lumens per square meter) shall be provided in each dining area, physical and restorative therapy area, and at any bathing facility.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012.~~

—— ~~**General Authority:** SDCL 34-12-13(3).~~

—— ~~**Law Implemented:** SDCL 34-12-13(3).~~

—— ~~**44:04:13:42. Receptacles or convenience outlets.** Each operating, delivery, and emergency room must have at least three receptacles. In locations where mobile X ray is used, an additional receptacle, distinctively marked for X ray use, must be provided. Each patient or resident bedroom must have duplex receptacles as follows: one on each side of the head of each bed; receptacles for luminaires and motorized beds, if used; and one receptacle on another wall. Single polarized receptacles marked for use of X ray only must be located in corridors of patient or resident areas so that mobile equipment may be used in any location within a patient or resident room. If the same mobile X ray unit is used in operating rooms and in nursing areas, all receptacles for X ray use must be the same. Where capacitive discharge or battery-powered mobile X ray units are used, polarized receptacles are not required. Duplex receptacles for general use must be installed approximately 50 feet apart in all corridors and within 25 feet of ends of corridors. Receptacles in patient rooms of pediatric units must be of the safety type. Receptacles in corridors of pediatric units must be of a safety type or must be controlled by switches located at a nurses' station or another supervised location.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**44:04:13:43. Electrical equipment installation in special areas.** Repealed.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.~~

—— ~~**44:04:13:44. Nurses call system.** A nurses call system must be provided for patient or resident use at each bed that will register a call from the patient or resident both visually and audibly at the nurses' call station and actuate a visual signal at the patient or resident room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals must be installed at corridor intersections. Nurses call systems which provide two-way voice communication must be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. An emergency calling station convenient for patient or resident use must be provided at each patient or resident toilet, bath, or shower and at toilets serving patients or residents in laboratory, physical therapy, emergency, and X ray departments. An emergency nurses calling station must be provided for nurses' use in each operating, delivery, recovery, emergency, and intensive nursing care room and in nurseries, supervised wards for mental patients, and rooms for children.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**44:04:13:45. Fire alarm systems.** A manually operated, electrically supervised fire alarm system must be installed in each facility.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**44:04:13:46. Modifications.** Repealed.~~

—— ~~**Source:** SL 1975, ch 16, § 1; repealed, 4 SDR 14, effective September 14, 1977.~~

—— ~~**44:04:13:47. Submittal of plans and specifications.** Plans and specifications for new construction must be submitted to the department for evaluation of function and fire protection including concealed spaces. The department's approval must be obtained before beginning construction. Modification during construction must be submitted to the department for review and must be approved prior to the modification.~~

—— ~~**Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**44:04:13:48. Pipe requirements.** All piping systems for potable water must be installed to eliminate any dead-end runs of piping. Before placing potable water systems in service, the piping system must be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification must be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.~~

—— ~~Pipe covering, vapor barriers, and adhesives used for applying them must have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, 2000 edition.~~

—— ~~**Source:** 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**Reference:** **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$53.50.~~

—— ~~**44:04:13:49. Detached structures.** A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a health care facility must either be separated from the facility by a minimum distance of 20 feet or provided with two-hour fire-rated separation.~~

—— ~~**Source:** 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995.~~

—— ~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

—— ~~**Law Implemented:** SDCL 34-12-13.~~

—— ~~**Cross-Reference:** Fire safety code requirements, § 44:04:03:01.~~

—— ~~**44:04:13:50. Soil treatment for termite control.** Repealed.~~

~~Source: 30 SDR 84, effective December 4, 2003; repealed, 32 SDR 128, effective January 30, 2006.~~

CHAPTER 44:04:14

ADDITIONAL HOSPITAL STANDARDS

(Transferred to Chapter 44:75:14)

Section

- 44:04:14:01 — Application of standards.
- 44:04:14:02 — Newborn nursery unit.
- 44:04:14:03 — Repealed.
- 44:04:14:04 — Psychiatric unit.
- 44:04:14:05 — Surgical suites.
- 44:04:14:06 — Service areas in surgical suite.
- 44:04:14:07 — Obstetrical suite.
- 44:04:14:08 — Service areas in obstetrical suite.
- 44:04:14:09 — Emergency and outpatient care areas of the facility.
- 44:04:14:10 — Diagnostic imaging suite.
- 44:04:14:11 — Laboratory suite.
- 44:04:14:12 — Pharmacy or drug room.
- 44:04:14:13 — Administration department.
- 44:04:14:14 — Medical records unit.
- 44:04:14:15 — Central medical and surgical supply department.
- 44:04:14:16 — Central stores.
- 44:04:14:17 — Details and finishes.
- 44:04:14:18 — Ventilation.
- 44:04:14:19 — Air filters.
- 44:04:14:20 — Ducts.
- 44:04:14:21 — Plumbing fixture devices.
- 44:04:14:22 — Operating and delivery room lighting.
- 44:04:14:23 — Equipment installation in special areas.
- 44:04:14:24 — Emergency electric supply.
- 44:04:14:25 — Emergency electrical circuit connections.
- 44:04:14:26 — Emergency power for electrical heating.
- 44:04:14:27 — Emergency electrical system details.

~~**44:04:14:01. Application of standards.** The construction standards in this chapter apply to all new hospital facilities and to alterations, additions, and changes in space use to currently approved existing hospital facilities. In hospitals with a capacity of 50 beds or less, some functions allotted separate spaces or rooms in these standards may be combined if the resulting plan does not compromise safety or medical practice.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:02. Newborn nursery unit.** Each nursery must provide a lavatory, emergency nurses call, oxygen, and facilities for viewing the babies. Each full-term nursery room must contain not more than 12 bassinets with a minimum area of 24 square feet (2.23 square meters) per bassinet. An examination and~~

workroom with lavatory must be provided and may serve up to 24 bassinets. A janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink must be provided.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

44:04:14:03. Formula room. Repealed.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; repealed, 26 SDR 96, effective January 23, 2000.

—— **44:04:14:04. Psychiatric unit.** If a psychiatric unit is included as a separate nursing unit, it must be designed as other nursing units with extra care taken to provide close supervision for patients. Service areas must be provided.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **Cross-Reference:** Requirements for service areas in each nursing unit, § 44:04:13:03.

—— **44:04:14:05. Surgical suites.** Hospitals with 50 beds or less that accept surgical patients must provide one operating room. The number of operating rooms for hospitals over 50 beds shall be based on the expected surgical workload. The surgical suite must be located to prevent through traffic. A recovery room with charting space, medication storage and preparation space, and a clinical sink is required.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:14:06. Service areas in surgical suite.** The size of the service areas in each surgical suite depends on the surgical workload. Each surgical suite must include the following service areas:

- (1) A surgical supervisor station;
- (2) Sterilizing facilities near the operating room with high speed autoclave;
- (3) Facilities for storage and preparation of medication;
- (4) Scrub up facilities located adjacent to operating rooms;
- (5) Soiled workroom containing a counter with two compartment sink with drainboards on each side, clinical sink, hand sink, waste receptacle, and soiled linen receptacles;
- (6) Storage for sterile and unsterile supplies, which may be in a clean workroom;
- (7) Storage room or cabinet for anesthetic agents;
- (8) Nitrous oxide and oxygen facilities with storage room if these services are not piped in;
- (9) Clean work area for storage and assembly of supplies containing counter and sink;
- (10) Equipment storage area for surgical and monitoring equipment;
- (11) Floor receptor or service sink and storage for housekeeping supplies and equipment;
- (12) Clothing change areas, lockers, and toilet rooms for doctors, nurses, orderlies, and other personnel;
- (13) Holding area for patients in facilities with two or more operating rooms; and
- (14) Stretcher alcove.

—— **Source:** SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:14:07. Obstetrical suite.** The obstetrical suite must be located to prevent through traffic. The number of delivery rooms and labor rooms required shall be based on the estimated annual birthrate. A patients' toilet room must be provided adjoining each labor room or must be conveniently accessible within the obstetrical suite. Bathing facilities must be conveniently available.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:14:08. Service areas in obstetrical suite.** The size of the service areas in each obstetrical suite depends on the obstetrical workload. Each obstetrical suite must include the following service areas:

- (1) A supervisor's station;
- (2) Sterilizing facilities with high speed autoclave convenient to delivery rooms;
- (3) Facilities for storage and preparation of medication;
- (4) Scrub-up facilities adjacent to delivery rooms;
- (5) A soiled workroom containing a counter with a two-compartment sink with drainboards on each side, clinical sink, hand sink, waste receptacle, and soiled linen receptacles;
- (6) Storage for sterile and unsterile supplies, which may be in clean workroom;
- (7) Storage room or cabinet for anesthetic agents;
- (8) Nitrous oxide and oxygen facilities with storage room if these services are not piped in;
- (9) Clean work area for storage and assembly of supplies, containing counter and sink;
- (10) Equipment storage area for surgical and monitoring equipment;
- (11) Floor receptor or service sink and storage for housekeeping supplies and equipment;
- (12) Clothing change areas, lockers, and toilet rooms for doctors, nurses, orderlies, and other personnel; and
- (13) Stretcher alcove.

—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-1-17, 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:14:09. Emergency and outpatient care areas of the facility.** The size of emergency and outpatient care areas shall be based on admissions and must be located to prevent outpatients from traversing inpatient areas. Emergency and outpatient care areas must include:

- (1) A well marked and sheltered entry with nearby emergency parking and convenient access for ambulances;
- (2) Admission and patient records area;
- (3) Examination and treatment room with lavatory;
- (4) Clinical sink;
- (5) Storage for sterile supplies;
- (6) Wheelchair and stretcher alcove;
- (7) Floor receptor or service sink and storage for housekeeping supplies and equipment; and
- (8) A secure area for storage and preparation of medications.

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:14:10. Diagnostic imaging suite. The diagnostic imaging suite must contain:~~

- ~~(1) One or more radiographic rooms with necessary radiation protection;~~
- ~~(2) A film processing room;~~
- ~~(3) A film filing room;~~
- ~~(4) Toilet room adjoining each fluoroscopy and ultrasound room;~~
- ~~(5) Dressing area for ambulatory patients;~~
- ~~(6) Holding area for stretcher patients;~~
- ~~(7) Waiting space; and~~
- ~~(8) An office with film viewing facilities.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:14:11. Laboratory suite. Clinical laboratory facilities and equipment consistent with the needs of the patients must be provided. Handwashing fixtures must be provided and equipped with valves which can be operated without the use of hands. If blade handles are used for this purpose, the blade handles may not exceed 4.5 inches (0.11 meters) in length.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:14:12. Pharmacy or drug room. The pharmacy or drug room must be well ventilated and have a locking door. The pharmacy or drug room must be sized for the distribution system used and must have a work counter with sink, a separate locked and fastened compartment or room for the storage of controlled substances, refrigerated and frozen storage spaces, and other approved storage for drugs. If additive injectables are prepared, a sterile products area must be provided. The work space must be well illuminated. Emergency power must be provided for essential services. Heating, ventilation, and air conditioning services must be provided to maintain the temperature of the room between 59 degrees Fahrenheit (15 degrees centigrade) and 86 degrees Fahrenheit (30 degrees centigrade).~~

~~Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:14:13. Administration department. The administration department must include a business office, information center, administrator's office, admitting office, staff lounge, medical library, lobby, and public and staff toilet rooms. There must be an office for the director of nurses, space for inservice training, and a housekeeper's office.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:14. Medical records unit.** The medical records unit must include an active record storage area; record review and dictating area; work area for sorting, recording, or microfilming; and an inactive record storage area which may be omitted if microfilming is used.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:15. Central medical and surgical supply department.** The clean and soiled areas of the central medical and surgical supply department must be separated from each other. Space for cleaning equipment and disposing or processing of unclean articles must be provided in the decontamination area and the plumbing fixtures must be at least those provided for the soiled utility room. The clean workroom must be divided into work space, clean storage area, sterilizing facilities, and storage area for sterile supplies. Pathological waste sterilization may not be done in this area. An unsterile supply storage area must be provided, but it may be located in an area outside this department. Handwashing fixtures must be provided between the clean and soiled work areas. If blade handles are used, they may not exceed four and one-half inches (0.11 meters) in length.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:16. Central stores.** General central storage rooms must have a total area of not less than 20 square feet (1.86 square meters) for each bed. General storage should be concentrated in one area on-site, but up to 50 percent of the general storage space may be provided off-site.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:17. Details and finishes.** Ceiling heights of operating rooms, delivery rooms, cystoscopic rooms, radiographic rooms, and rooms with ceiling-mounted surgical light fixtures must be at least nine feet (2.74 meters).~~

~~The ceilings in isolation rooms, X-ray film processing rooms, central sterilization rooms, and operating rooms must be an epoxy painted gypsum board membrane or an equivalent material for ease of cleaning and for improved maintenance of clean surfaces below the ceilings.~~

~~Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002.~~

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:14:18. Ventilation.** All air supply and air exhaust systems must be mechanically operated. All fans serving exhaust systems must be located at the discharge end of the system. All air supplied to sensitive areas such as operating rooms, delivery rooms, and nurseries must be delivered at or near the~~

ceiling of the area served. All air exhausted from the area must be removed near floor level. At least two exhaust outlets must be used in all operating and delivery rooms. Exhaust wall outlets must be located not less than three inches (0.076 meters) above the floor.

~~—— A ventilation system in operating, delivery, emergency, isolation, central sterilization, or nursery room must be a ducted system. A ventilation system using the building concealed space (return air plenum) from a clean room is not acceptable.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:14:19. Air filters.** The ventilation systems serving sensitive areas such as operating rooms, delivery rooms, nurseries, isolation rooms, laboratory sterile rooms, and the recirculated central air systems serving other hospital areas must be equipped with a minimum of two filter beds. Filter bed number one must be located upstream of the conditioning equipment and must have a minimum efficiency of 30 percent. Filter bed number two must be located downstream of the conditioning equipment and must have a minimum efficiency of 90 percent. Central systems using 100 percent outdoor air and serving other than sensitive areas must be provided with filters rated at 80 percent efficiency. These filter efficiencies must be warranted by the manufacturer and must be based on the ASHRAE 52.1, 1992 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. The exhausts from all laboratory hoods in which infectious or radioactive materials are processed must be equipped with filters with a 99 percent efficiency. Filter frames must be durable and must provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork must have positive seal against air leakage.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Reference:** "ASHRAE 52.1," 1992 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta GA 30329. Phone: 404-636-8400. Cost: \$19.~~

~~—— **44:04:14:20. Ducts.** Ducts which penetrate construction intended for X ray or other ray protection must not impair the effectiveness of the protection. Porous duct lining materials may not be used in the interior of duct systems serving sensitive areas such as operating and delivery rooms, nurseries, and isolation rooms.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:14:21. Plumbing fixture devices.** Flush valves installed on plumbing fixtures must be of a quiet operating type equipped with silencers. Bedpan flushing devices must be provided in each patient toilet room and in the soiled workrooms.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~44:04:14:22. Operating and delivery room lighting.~~ Operating and delivery rooms must have general lighting for the room in addition to special lighting units at the surgical and obstetrical tables. Each special lighting unit for local lighting at tables must be connected to an independent circuit.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:14:23. Equipment installation in special areas.~~ X ray stationary installations and mobile equipment must conform to rules of the state electrical commission.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~Cross Reference:~~ Electrical installations, ch 20:44:05.

~~44:04:14:24. Emergency electric supply.~~ Each facility must have an emergency source of electric supply to provide electricity during an interruption of the normal electric supply. The source of emergency electric supply must be an automatic emergency generating set when the normal service is supplied by one or more central station transmission lines, or an automatic generating set or a central station transmission line when the normal electric supply is generated on the premises. The required emergency generating set, including the prime mover and generator, must be located on the premises. The emergency generator set must be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system.

~~Source:~~ SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:14:25. Emergency electrical circuit connections.~~ Emergency electrical service must be furnished to circuits as follows:

~~(1) Lighting of exit ways and all necessary ways of approach to them, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;~~

~~(2) Surgical, obstetrical, and emergency room operating lights;~~

~~(3) Lighting for nursery, laboratory, recovery room, intensive care areas, nursing stations, medication preparation areas, and labor rooms;~~

~~(4) Lighting for the generator set location, the switch gear location, and the boiler room;~~

~~(5) Equipment essential to life safety and for protection of important equipment or vital materials;~~

~~(6) Nurses calling system;~~

~~(7) Alarm system, including fire alarms actuated at manual stations;~~

~~(8) Water flow alarm devices of sprinkler system if electrically operated;~~

~~(9) Fire detecting and smoke detecting systems;~~

~~(10) Paging or speaker systems if intended for issuing instructions during emergency conditions;~~

~~(11) Alarms required for nonflammable medical gas systems, if installed;~~

~~(12) Receptacles for incubators for infants;~~

~~(13) Pump for central suction system;~~

~~(14) Sewage or sump lift pump, if installed;~~

- ~~—— (15) Receptacles for blood bank refrigerator;~~
- ~~—— (16) At least two duplex receptacles for the laboratory;~~
- ~~—— (17) Receptacles in operating, recovery, intensive care, and delivery rooms except those for X ray;~~
- ~~—— (18) At least one duplex receptacle in each nursery;~~
- ~~—— (19) Duplex receptacles in patient corridors; and~~
- ~~—— (20) Equipment, such as burners and pumps, necessary for operation of one or more boilers required for heating and sterilization and their necessary auxiliaries and controls.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:14:26. Emergency power for electrical heating.** If electricity is the only source of power normally used for space heating, the emergency service must provide for heating of operating, delivery, labor, recovery, intensive care, nurseries, and patient rooms. Emergency heating of patient rooms is not required if the hospital is supplied by at least two utility service feeders, each supplied by separate generating sources, or a network distribution system fed by two or more generators, with the facility feeders routed, connected, and protected so that a fault any place between the generators and the facility will not be likely to cause an interruption of more than one of the facility service feeders.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:14:27. Emergency electrical system details.** The emergency electrical system must be so controlled that after interruption of the normal electric power supply the generator is brought to full voltage and frequency and connected within ten seconds through one or more primary automatic transfer switches to all emergency lighting; all alarms; blood banks; nurses' call; equipment necessary for maintaining telephone service; pump for central suction system; and receptacles in operating and delivery rooms, patient corridors, recovery rooms, intensive care nursing areas, and nurseries. All other lighting and equipment required to be connected to the emergency system must either be connected through the primary automatic transfer switching or must be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system must be distinctively marked for identification. Storage-battery powered lights, provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, may not be used as a substitute for the required generator. If fuel is normally stored on the site, the storage capacity must be sufficient for 24 hour operation. If fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site are not required.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

CHAPTER 44:04:15

LONG-TERM CARE ADDITIONAL STANDARDS

(Transferred to Chapter 44:73:12)

Section

- 44:04:15:01 — Application of chapter.
- 44:04:15:02 — Administration department.
- 44:04:15:03 — Medical records unit.
- 44:04:15:04 — Storage rooms.
- 44:04:15:05 — Patient or resident dining and recreation area.
- 44:04:15:06 — Emergency electrical service.
- 44:04:15:07 — Outside area.
- 44:04:15:08 — Secured unit locations.

44:04:15:01. Application of chapter. This chapter applies to all new facilities and to renovations, additions, and changes in space use in any existing nursing facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:04:15:02. Administration department. The administration department must include a business office, administrator's office, lobby, public and staff toilet rooms, office for the director of nurses, social service office, dietary service office, and housekeeper's office.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:15:03. Medical records unit. The medical records unit must include active and closed record storage and a work area.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:15:04. Storage rooms. There must be at least 10 square feet (0.929 square meters) of central storage provided for each bed. General storage must be concentrated in one area in the facility, but up to 50 percent of the general storage space may be provided on the premises. Each resident must be provided with an individual closet with an area of at least 5 square feet (0.465 square meters) which is directly connected to the resident room.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:15:05. Patient or resident dining and recreation area. The total areas set aside for patient or resident dining, recreation, and other central use areas may not be less than 40 square feet (3.71 square meters) for each bed and each day-care patient. The resident dining space shall be at least 25 square feet (2.32 square meters) for each bed in the nursing facility. Additional space shall be provided for day-care

patients or residents if they participate in a day care program. Storage shall be provided for recreational equipment and supplies.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:04:15:06. Emergency electrical service. Automatic emergency lighting for any exit way, nurses' station, and the boiler room and power for the fire alarm system shall be provided in nursing facilities. Emergency electrical service must be provided from an automatic generator set and automatic transfer switches serving emergency panels in nursing facilities.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:04:15:07. Outside area. Each secure unit shall have for the residents access to an outdoor area that is enclosed by a fence. The fence must extend to a minimum of six feet above grade level and be designed to be safe for resident contact. Hard surface walking paths must be provided in the outside area. If the access to the outside area is through a required building exit, the area must be large enough to allow movement away from the building structure a distance of 50 feet and have a gate to exit the outside area and allow access for maintenance.

Source: 29 SDR 81, effective December 11, 2002.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:15:08. Secured unit locations. Any secured unit must be located at grade level and have direct access to an outside area.

Source: 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

CHAPTER 44:04:16

AMBULATORY SURGERY CENTER STANDARDS

(Repealed)

Section

- 44:04:16:01 — Application of chapter.
- 44:04:16:02 — Physical environment.
- 44:04:16:03 — Construction standards.
- 44:04:16:04 — Fire safety standards.
- 44:04:16:05 — General fire safety.
- 44:04:16:06 — Governing body.
- 44:04:16:07 — Medical staff.
- 44:04:16:08 — Employee health program.
- 44:04:16:09 — Repealed.
- 44:04:16:10 — Scope of surgical services.

44:04:16:11 — Nursing services.
44:04:16:12 — Anesthesia services.
44:04:16:13 — Pharmaceutical services.
44:04:16:14 — Laboratory services.
44:04:16:15 — Radiological services.
44:04:16:16 — Surgical services equipment.
44:04:16:17 — Medical records.

—— ~~44:04:16:01. Application of chapter.~~ An ambulatory surgery center may provide only those services for which it is qualified and licensed. Any limitation must be noted on the face of the license.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-7, 34-12-13.

—— ~~44:04:16:02. Physical environment.~~ Ambulatory surgery centers must comply with all applicable physical environment standards in chapter 44:04:02. No system of water supply, plumbing, sewage, and garbage or refuse disposal for ambulatory surgery centers may be installed nor may any existing system be materially altered or extended until complete plans and specifications for the installation, alteration, or extension, together with information as the department may require, have been submitted to and approved by the department.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:03. Construction standards.~~ Ambulatory surgery centers must comply with all applicable construction standards in chapters 44:04:13 and 44:04:14. No construction may begin until plans and specifications covering the construction of new buildings and additions or material alterations to existing buildings are approved by the department. A written narrative describing the intended use of the proposed construction must accompany the plans and specifications.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:04. Fire safety standards.~~ Ambulatory surgery centers must comply with fire safety standards in § 44:04:03:01.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:05. General fire safety.~~ An ambulatory surgery center must be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. Compliance with this section does not eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:16:06. Governing body.** An ambulatory surgery center must have an organized governing body which complies with the provisions of §§ 44:04:04:02 to 44:04:04:04, inclusive. In addition, the governing body must do the following:~~

~~———— (1) Appoint the medical staff and grant privileges in accordance with the bylaws of the medical staff and governing body;~~

~~———— (2) Maintain personnel records on each employee, including job application, professional licensing information, and health information;~~

~~———— (3) Establish procedures for transfer to a hospital of patients requiring immediate medical care beyond the capacity of the ambulatory surgery center;~~

~~———— (4) Assure that all patients admitted to the ambulatory surgery center are under the care of a physician who is a member of the medical staff;~~

~~———— (5) Assure the provision of equipment in good repair within the ambulatory surgery center to provide efficient services and protection to the patients and staff;~~

~~———— (6) Provide for the patient all essential medical information, including diagnosis, if a patient is transferred to another health care facility; and~~

~~———— (7) Provide a written plan for the evacuation of patients, visitors, and personnel in the event of fire or other disaster within the ambulatory surgery center and an alarm system to notify personnel. Personnel must be acquainted with the evacuation plan.~~

~~———— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~———— **General Authority:** SDCL 34-12-13.~~

~~———— **Law Implemented:** SDCL 34-12-13.~~

~~———— **44:04:16:07. Medical staff.** An ambulatory surgery center must have a medical staff organized under bylaws and rules approved by the governing body and responsible to the governing body for the quality of all medical care provided patients in the ambulatory surgery center and for the ethical and professional practices of its members. The medical staff must establish a credentials committee to review the qualifications of practitioners applying for membership to the medical staff and recommend to the governing body practitioners eligible for appointment to the medical staff by the governing body. The review must include recommendations regarding delineation of privileges. In addition, the medical staff must do the following:~~

~~———— (1) Hold at least quarterly meetings for which records of attendance and minutes are kept;~~

~~———— (2) At least biennially review and analyze the clinical experience of its members and the medical records of patients on sampling or another basis. All techniques and procedures involving diagnosis and treatment of patients must be reviewed annually and must be subject to change by the medical staff;~~

~~———— (3) Assure that all persons admitted to the ambulatory surgery center are under the care of a physician; and~~

~~———— (4) Assure that all medical orders are given by a practitioner and recorded in accordance with the medical staff bylaws and rules. All orders must be signed or countersigned by the attending physician.~~

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:08. Employee health program.~~ Ambulatory surgery center employees must comply with the provisions of § 44:04:04:06.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:09. Evaluation of quality care.~~ Repealed.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; repealed, 22 SDR 70, effective November 19, 1995.

—— ~~44:04:16:10. Scope of surgical services.~~ The ambulatory surgery center services are limited to those surgical and other medical procedures that may be safely performed in a dedicated operating room or suite and which may require a postoperative recovery room or short term, not overnight, convalescent room. An ambulatory surgery center may not retain patients overnight. Surgical procedures which may not be performed in an ambulatory surgery center includes those that:

—— (1) Generally result in extensive blood loss;

—— (2) Require major or prolonged invasion of body cavities;

—— (3) Directly involve major blood vessels;

—— (4) Are generally emergent or life-threatening in nature; or

—— (5) Require admission to a hospital on an inpatient basis in order to have the procedure performed or to recover from the procedure.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:16:11. Nursing services.~~ Each ambulatory surgery center must have an organized nursing service under the direction of a registered nurse. At least one registered nurse must be on duty in the ambulatory surgery center at all times when a patient is in the facility. Written policies and procedures consistent with the standards of nursing practices must be developed for the direction and guidance of nursing personnel. All licensed practical nurses and other nursing personnel involved in patient care must be under the direct supervision of a registered nurse. When general anesthetics are used, at least one registered nurse other than the individual administering anesthesia must be available in each operating room during surgical procedures. Nursing personnel must be familiar with the location and trained in the operation and use of emergency and resuscitative equipment.

—— ~~Source:~~ 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~Cross-Reference:~~ Scope and standards of nursing practice — Basic role, § 20:48:04:01.

—— ~~44:04:16:12. Anesthesia services.~~ The requirements for anesthesia services in ambulatory surgery centers are as follows:

- ~~—— (1) The anesthesia service must be under the direction of a physician;~~
- ~~—— (2) A physician must be on the premises during the postanesthetic recovery period until all patients are alert or discharged;~~
- ~~—— (3) When a general anesthetic is used, at least one registered nurse must be in the recovery room during the patient's postanesthetic recovery period;~~
- ~~—— (4) Policies and procedures on the administration of anesthetics must be developed by the medical staff and approved by the governing body;~~
- ~~—— (5) Prior to undergoing general anesthesia, patients must have a history and physical examination by a physician, including necessary laboratory examinations;~~
- ~~—— (6) Before discharge from the facility, each patient must be evaluated by a physician for proper anesthesia recovery;~~
- ~~—— (7) Monthly inspections must be made by designated personnel of all areas where flammable anesthetics are administered or stored to insure safeguards are being observed by personnel and equipment meets safety standards. A written record of inspections must be kept. If the ambulatory surgery center provides written assurance to the department that no flammable anesthetics will be administered and the area is posted to that effect, safety inspections are not required; and~~
- ~~—— (8) All anesthetics must be administered by an anesthesiologist or anesthesiologist, except for local anesthetic agents which may be administered by the attending physician.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:16:13. Pharmaceutical services.** The requirements for pharmaceutical services in ambulatory surgery centers are as follows:~~

- ~~—— (1) A physician or a pharmacist must be responsible for the supervision of drug stocks in the facility;~~
- ~~—— (2) Records must be kept of stock supplies of all drugs and must give an accounting for all items purchased and dispensed;~~
- ~~—— (3) Policies and procedures on drug handling, storing, labeling, and dispensing must be in writing and available to personnel; and~~
- ~~—— (4) All drugs in the facility must be labeled with drug name, strength, and expiration date and must be stored in specially designated, well illuminated cabinets, closets, or storerooms. Drug cabinets must be accessible only to the registered nurse in charge, the physician, or the pharmacist. All drugs controlled pursuant to SDCL 34-20B must be kept in a securely locked box, accessible only to the physician, registered nurse in charge, or the pharmacist.~~

~~—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:16:14. Laboratory services.** Laboratory services performed in an ambulatory surgery center must be under the supervision of a qualified director or must be done by a laboratory that has CLIA~~

certification. Blood, blood products, and equipment required for their administration must be provided to meet the needs of the patients. There must be written policies and procedures regarding administration of blood and blood products, as well as the investigation of possible transfusion reactions.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **Cross Reference:** Clinical laboratory services, § 44-04:10:01.

—— **44:04:16:15. Radiological services.** An ambulatory surgery center must be able to provide or arrange with an outside service for the provision of diagnostic radiology services in connection with surgery to be performed. Facilities must comply with §§ 44:04:10:05 to 44:04:10:08, inclusive.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:16:16. Surgical services equipment.** An ambulatory surgery center must be designed and equipped for the types of procedures to be performed. Emergency equipment available to the operating rooms shall minimally include the following:

—— (1) An emergency call system;

—— (2) Oxygen;

—— (3) Mechanical ventilatory assistance equipment including airways, manual breathing bag, and ventilator;

—— (4) Cardiac defibrillator;

—— (5) Cardiac monitoring equipment;

—— (6) Thoracotomy set;

—— (7) Tracheostomy set;

—— (8) Laryngoscopes and endotracheal tubes;

—— (9) Suction equipment; and

—— (10) Emergency drugs and supplies specified by the medical staff.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:16:17. Medical records.** A medical record must be maintained for each patient in an ambulatory surgery center in conformance with chapter 44:04:09.

—— **Source:** 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

CHAPTER 44:04:17

RESIDENTS' RIGHTS IN NURSING FACILITIES

(Transferred to Chapter 44:73:11)

Section

44:04:17:01 — Application of chapter — Residents' rights policies.

44:04:17:02 Facility to inform resident of rights.
 44:04:17:03 Facility to provide information on available services.
 44:04:17:04 Notification when resident's condition changes.
 44:04:17:05 Notification of resident's room assignment or rights change.
 44:04:17:06 Right to manage financial affairs.
 44:04:17:07 Choice in planning care.
 44:04:17:08 Privacy and confidentiality.
 44:04:17:09 Quality of life.
 44:04:17:10 Grievances.
 44:04:17:11 Availability of survey results.
 44:04:17:12 Right to refuse to perform services.
 44:04:17:13 Self administration of drugs.
 44:04:17:14 Admission, transfer, and discharge policies.

44:04:17:01. Application of chapter -- Residents' rights policies. Each nursing facility shall comply with this chapter. Each nursing facility shall establish policies consistent with this chapter to protect and promote the rights of each resident.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(15).

—— **Law Implemented:** SDCL 34-12-13(15).

—— **44:04:17:02. Facility to inform resident of rights.** Prior to or at the time of admission, a facility must inform the resident, both orally and in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while living in the facility. The resident must acknowledge in writing that the resident received the information. During the resident's stay the facility must notify the resident, both orally and in writing, of any changes to the original information. The information must contain the following:

—— (1) The resident's right to exercise the resident's rights as a resident of the facility and as a citizen of the United States;

—— (2) The resident's right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising the resident's rights;

—— (3) The resident's right to have a person appointed to act on the resident's behalf. If a resident has been adjudged incompetent or incapacitated, the resident's rights shall be exercised by the person appointed under state law to act on the resident's behalf. If a resident has not been adjudged to be incompetent or incapacitated, the resident's rights may be exercised by the legal surrogate recognized under state law, whether statutory or as recognized by the courts of the state to act on the resident's behalf. The facility must record and keep up to date the appointed person's address and phone number;

—— (4) The resident's right to access records pertaining to the resident. The resident may purchase photocopies of the resident's records or any portions of them. The cost to the resident may not exceed community standards for photocopying, and the facility must provide the photocopies within two working days after the request;

—— (5) The resident's right to be fully informed of the resident's total health status, including functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health, psychosocial status, and sensory and physical impairments;

~~—— (6) The resident's right to refuse treatment and to refuse to participate in experimental research. A resident's right to refuse treatment does not absolve a facility from responsibility to provide for necessary medical services and treatment. Residents who refuse treatment must be informed of the results of that refusal, plus any alternatives that may be available;~~

~~—— (7) The resident's right to formulate a durable power of attorney for health care as provided in SDCL chapter 59-7 and a living will declaration as provided in SDCL chapter 34-12D; and~~

~~—— (8) The resident's right to receive visitors. Visiting hours and policies of the facility must permit and encourage the visiting of residents by friends and relatives.~~

~~—— **Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; subdivision (8) transferred from § 44:04:12:03, 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:17:03. Facility to provide information on available services.** A facility must provide the following information in writing to each resident:~~

~~—— (1) A list of services available in the facility and the charges for such services. The facility must specify which items and services are included in the services for which the resident may not be charged, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges;~~

~~—— (2) A description of how a resident can protect personal funds;~~

~~—— (3) A list of names, addresses, and telephone numbers of client advocates;~~

~~—— (4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of resident property;~~

~~—— (5) A description of how the resident can contact the resident's physician, including the name and specialty of the physician;~~

~~—— (6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;~~

~~—— (7) A description of the bed hold policy which indicates the length of time the bed will be held for the resident, any policies regarding the held bed, and readmission rights of the resident; and~~

~~—— (8) A description explaining the responsibilities of the resident and family members regarding self-administered medication.~~

~~—— A signed and dated admission agreement between the resident or the resident's legal representative and the facility must include subdivisions (1) to (8), inclusive, of this section. The resident or resident's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the resident has made a commitment for payment for proposed or actual care. The agreement may not include ambiguous or misleading information and may not be in conflict with this chapter. The agreement must be printed for ease of reading by the resident. If the agreement exceeds three pages, it must contain a table of contents or an index of principal sections. Any change in the information~~

must be given to the resident or the resident's legal representative as a signed and dated addendum to the original agreement.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:17:04. Notification when resident's condition changes.** A facility must immediately inform the resident, consult with the resident's physician, and, if known, notify the resident's legal representative or interested family member when any of the following occurs:

—— (1) An accident involving the resident which results in injury or has the potential for requiring intervention by a physician;

—— (2) A significant change in the resident's physical, mental, or psychosocial status;

—— (3) A need to alter treatment significantly; or

—— (4) A decision to transfer or discharge the resident from the facility.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:17:05. Notification of resident's room assignment or rights change.** A facility must promptly notify the resident and, if known, the resident's legal representative, as specified in SDCL 34-12C-3, or interested family member when there has been a change in the resident's room or roommate assignment or when there has been a change in the resident's rights.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **44:04:17:06. Right to manage financial affairs.** A resident may manage personal financial affairs. A facility may not require residents to deposit their personal funds with the facility. If the resident chooses to deposit funds with the facility and gives written authorization, the facility shall hold the funds in accordance with SDCL 34-12-15.1 to 34-12-15.10, inclusive.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012.

—— **General Authority:** SDCL 34-12-13(15).

—— **Law Implemented:** SDCL 34-12-13(15).

—— **44:04:17:07. Choice in planning care.** A resident may choose a personal attending physician, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment.

—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

—— **Cross-References:**

~~Right to choose own physician unimpaired by public health programs — Misdemeanor, SDCL 34-1-20.~~

~~Rights of authorized person as incapacitated person, SDCL 34-12C-6.~~

~~Liability of health care provider — Liability of authorized decision maker, SDCL 34-12C-7.~~

~~**44:04:17:08. Privacy and confidentiality.** A facility must provide for privacy and confidentiality for the resident, including the resident's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. A facility is not required to provide a private room for each resident. A facility must permit residents to perform the following:~~

~~(1) To send and receive unopened mail and to have access to stationery, postage, and writing implements at the resident's own expense;~~

~~(2) To access and use a telephone without being overheard;~~

~~(3) To visit a spouse or, if both are residents of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;~~

~~(4) Except in an emergency, to have room doors closed and to require knocking before entering the resident's room;~~

~~(5) To have only authorized staff present during treatment or activities of personal hygiene;~~

~~(6) To retire and rise according to the resident's wishes, as long as the resident does not disturb other residents;~~

~~(7) To meet, associate, and communicate with any person of the resident's choice in a private place within the facility;~~

~~(8) To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and~~

~~(9) To approve or refuse the release of personal and medical records to any individual outside the facility, except when the resident is transferred to another health care facility or when the release of the record is required by law. With the resident's permission, a facility must allow the state ombudsman or a representative of the ombudsman access to the resident's medical records.~~

~~**Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995.~~

~~**General Authority:** SDCL 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

~~**Cross-Reference:** Written policies and confidentiality of records, § 44:04:09:04.~~

~~**44:04:17:09. Quality of life.** A facility must provide care and an environment that contributes to the resident's quality of life, including:~~

~~(1) A safe, clean, comfortable, and homelike environment;~~

~~(2) Maintenance or enhancement of the resident's ability to preserve individuality, exercise self-determination, and control everyday physical needs;~~

~~(3) Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;~~

~~(4) Freedom from verbal, sexual, physical, and mental abuse and from involuntary seclusion, neglect, or exploitation imposed by anyone, and theft of personal property;~~

~~—— (5) Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents; and~~

~~—— (6) Support and coordination to assure pain is recognized and addressed appropriately.~~

~~—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **Cross Reference:** Care policies for nursing facilities, § 44-04:04:11.~~

~~—— **44:04:17:10. Grievances.** A resident may voice grievances without discrimination or reprisal. A resident's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other residents, and infringement of the resident's rights. A facility must adopt a grievance process and make the process known to each resident and to the resident's immediate family. The grievance process must include the facility's efforts to resolve the grievance and documentation of:~~

~~—— (1) The grievance;~~

~~—— (2) The names of the persons involved;~~

~~—— (3) The disposition of the matter; and~~

~~—— (4) The date of disposition.~~

~~—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:17:11. Availability of survey results.** A resident may examine the results of the department's most recent survey of the facility and any plan of correction in effect. A facility must make available, in a place readily accessible to residents, results of the department's most recent survey, and if applicable, the survey conducted by the United States Department of Health and Human Services and any plans of correction in effect.~~

~~—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:17:12. Right to refuse to perform services.** A resident may refuse to perform services on behalf of the facility, unless otherwise agreed to in the resident's plan of care. The resident may perform services for the facility when the following conditions are met:~~

~~—— (1) The plan of care includes documentation of the need or desire for work;~~

~~—— (2) The nature of the services performed is specified, including whether the services are voluntary or paid;~~

~~—— (3) Compensation for paid services is at or above prevailing rates; and~~

~~—— (4) The resident agrees to the work arrangement.~~

~~—— **Source:** 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~44:04:17:13. Self-administration of drugs.~~ A resident may self administer drugs if the interdisciplinary team consisting of selected healthcare workers and licensed health professionals has determined the practice to be safe. The determination shall state whether the resident or the nursing staff is responsible for storage of the drug and documentation of its administration in accordance with chapter 44:04:08.

~~Source:~~ 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012.

~~General Authority:~~ SDCL 34-12-13(15).

~~Law Implemented:~~ SDCL 34-12-13(15).

~~Cross Reference:~~ Medication control, ch 44:04:08.

~~44:04:17:14. Admission, transfer, and discharge policies.~~ A facility must establish and maintain policies and practices for admission, discharge, and transfer of residents which prohibit discrimination based upon payment source and which are made known to residents at or before the time of admission. The policies and practices must include:

~~(1) The resident may remain in the facility and may not be transferred or discharged unless the resident's needs and welfare cannot be met by the facility, the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of individuals in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;~~

~~(2) The facility must notify the resident and a family member or client advocate in writing at least 30 days before the transfer or discharge unless a change in the resident's health requires immediate transfer or discharge or the resident has not resided in the facility for 30 days. The written notice must specify the reason for and effective date of the transfer or discharge and the location to which the resident will be transferred or discharged;~~

~~(3) Conditions under which the resident may request or refuse transfer within the facility; and~~

~~(4) A description of how the resident may appeal a decision by the facility to transfer or discharge the resident.~~

~~Source:~~ 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 10, 1995.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

CHAPTER 44:04:18

NURSE AIDES

(Transferred to Chapter 44:74:02)

Section

44:04:18:01 Application of chapter.

44:04:18:02 Employment of qualified nurse aides required.

44:04:18:03 Exception for employment of unqualified nurse aides.

44:04:18:04 Multistate registry verification required.

44:04:18:05 Nursing facility required to maintain records.

44:04:18:06 Nursing facility required to pay costs of training and competency evaluation.

~~44:04:18:07 — Approval and reapproval of nurse aide training programs.~~
~~44:04:18:08 — Notice of change in approved training program.~~
~~44:04:18:09 — Denial or withdrawal of approval of training program.~~
~~44:04:18:10 — Qualifications of program coordinator.~~
~~44:04:18:11 — Qualifications of primary instructor.~~
~~44:04:18:12 — Qualifications of supplemental personnel.~~
~~44:04:18:13 — Supervision of students.~~
~~44:04:18:14 — Physical facilities.~~
~~44:04:18:15 — Nurse aide curriculum.~~
~~44:04:18:16 — Equivalency of education.~~
~~44:04:18:17 — Nurse aide competency evaluation program standards.~~
~~44:04:18:18 — Competency evaluation program administration standards.~~
~~44:04:18:19 — Nursing facility proctoring of examination.~~
~~44:04:18:20 — Notification to individual regarding successful or unsuccessful completion of competency evaluation program.~~
~~44:04:18:21 — Operation of nurse aide registry.~~
~~44:04:18:22 — Registry status by application.~~
~~44:04:18:23 — Registry status by endorsement.~~
~~44:04:18:24 — Registry content.~~
~~44:04:18:25 — Renewal of registry status.~~
~~44:04:18:26 — Grounds for revocation, denial, or suspension of nurse aide registry status.~~
~~44:04:18:27 — Mandatory reporting of allegations.~~
~~44:04:18:28 — Investigation of allegations.~~
~~44:04:18:29 — Notice and hearing process.~~
~~44:04:18:30 — Documentation of substantiated allegations on registry.~~
~~44:04:18:31 — Procedure to remove of a finding of neglect from registry.~~

~~**44:04:18:01. Application of chapter.** Facilities defined in SDCL 34-12-1.1(7) must comply with §§ 44:04:18:02 to 44:04:18:30, inclusive.~~

~~—— **Source:** 21 SDR 118, effective January 2, 1995.~~

~~—— **General Authority:** SDCL 34-12-29.~~

~~—— **Law Implemented:** SDCL 34-12-29.~~

~~—— **44:04:18:02. Employment of qualified nurse aides required.** Nurse aides employed by a nursing facility must meet the following minimum qualifications of training, competency evaluation, registry status, and performance:~~

~~—— (1) Successful completion of a training program and a competency evaluation program approved by the department pursuant to §§ 44:04:18:07 and 44:04:18:17;~~

~~—— (2) Verification from the department of current registry status or eligibility for inclusion on the registry;~~

~~—— (3) Acceptable employment performance as a nurse aide as documented by the aide's supervisor; and~~

~~—— (4) Annual attendance at a minimum of 12 hours of in-service education related to results of performance review and of special resident needs.~~

~~—— **Source:** 21 SDR 118, effective January 2, 1995; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-12-29.~~

~~—— **Law Implemented:** SDCL 34-12-29.~~

~~44:04:18:03. Exception for employment of unqualified nurse aides.~~ A nursing facility may employ for a maximum of four months an individual to provide nurse aide duties who has not met the qualifications of § 44:04:18:02 if the individual is enrolled in a training and competency evaluation program approved by the department pursuant to §§ 44:04:18:07 and 44:04:18:17 or if the individual can prove that approved training and competency evaluation has been completed and the individual has not yet been included on the registry. The nursing facility must ensure that such an individual actually obtains registry status within the four month period.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:04. Multistate registry verification required.~~ A nursing facility must seek information from every state registry that the facility has reason to believe has information on the individual before allowing the individual to work as a nurse aide.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:05. Nursing facility required to maintain records.~~ A nursing facility must maintain employment records that verify the qualifications of the nurse aides as outlined in § 44:04:18:02.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:06. Nursing facility required to pay costs of training and competency evaluation.~~ A nursing facility must pay all costs of nurse aide training and competency evaluation or reimburse the nurse aide for the cost incurred in completing the program if the facility employs the aide within twelve months following completion of the training program. Reimbursement may be made during the first twelve months of employment by installments.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:07. Approval and reapproval of nurse aide training programs.~~ The department must approve nurse aide training programs. To obtain approval, the entity providing the nurse aide training program must submit to the department an application on a form provided by the department that contains information demonstrating compliance with requirements specified in this chapter. The department shall respond within 90 days after receipt of the application. The department may grant approval for a maximum of two years.

~~At the end of the approval period, the entity must apply for reapproval. As part of the reapproval process, the department shall conduct an unannounced on site visit to determine compliance with the requirements.~~

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:08. Notice of change in approved training program.~~ The entity offering an approved nurse aide training program must submit to the department, within 30 days after the change, any substantive changes made to the program during the two-year approval period. The department shall notify the entity of its approval within 90 days after receipt of the information.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:09. Denial or withdrawal of approval of training program.~~ The department may deny or withdraw approval of a nurse aide training program if one of the following conditions applies to the nursing facility within the 24 months preceding the current survey:

~~(1) The facility has been found to be out of compliance with the provision of care requirements in chapter 44:04:04 or the nursing service requirements in chapter 44:04:06;~~

~~(2) The facility has been issued a probationary license;~~

~~(3) The facility refuses to permit an unannounced visit by the department;~~

~~(4) The facility fails to maintain a 75 percent pass rate on the competency evaluation for the two-year approval period;~~

~~(5) There is evidence that the facility has charged the nurse aide a fee for a portion of the training or competency evaluation.~~

~~The department shall notify the entity in writing of the reason for withdrawal or denial of approval. Nurse aides currently enrolled in a program whose approval is withdrawn may complete the program with that entity.~~

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:10. Qualifications of program coordinator.~~ The program coordinator of a nurse aide training program must be a registered nurse. The program coordinator is responsible for the general supervision of the program. General supervision means providing guidance for the program and maintaining ultimate responsibility for the course. The program coordinator must have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services. The director of nursing of a facility may serve simultaneously as the program coordinator but may not perform training while serving as the director of nursing.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority:~~ SDCL 34-12-29.

~~Law Implemented:~~ SDCL 34-12-29.

~~44:04:18:11. Qualifications of primary instructor.~~ The primary instructor of a nurse aide training program must be a licensed nurse. The primary instructor is the actual teacher of course material. The primary instructor must have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services. The primary instructor must have completed a course of instruction in teaching adults or must have experience in teaching adults within the past five years.

~~Source:~~ 21 SDR 118, effective January 2, 1995.

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:12. Qualifications of supplemental personnel.** Supplemental personnel may assist with the instruction of nurse aides. One year of experience in the individual's respective field of practice is required.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:13. Supervision of students.** Students in a nurse aide training program may not perform any services unless they have been trained and found to be proficient by the instructor. Students in a training program may perform services only under the supervision of a licensed nurse.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:14. Physical facilities.** Classrooms, conference rooms, laboratories, and equipment must be available in the number and size to accommodate the number of nurse aides enrolled in the training program. Programs must provide temperature control, lighting, and clean, safe conditions for instruction.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:15. Nurse aide curriculum.** The curriculum of the nurse aide training program must address the medical, psychosocial, physical, and environmental needs of the patients or residents served by the nursing facility. Each unit of instruction must include behaviorally stated objectives with measurable performance criteria. The nurse aide training program must consist of at least 75 hours of classroom and clinical instruction, including the following:~~

~~(1) Sixteen hours of training in the following areas before the nurse aide has any direct contact with a patient or resident:~~

- ~~(a) Communication and interpersonal skills;~~
- ~~(b) Infection control;~~
- ~~(c) Safety/emergency procedures, including the Heimlich maneuver;~~
- ~~(d) Promoting patients' and residents' independence; and~~
- ~~(e) Respecting patients' and residents' rights;~~

~~(2) Sixteen hours of supervised practical training, with enough instructors to ensure that nursing care is provided with effective assistance and supervision. The ratio may not be less than one instructor for each eight students in the clinical setting;~~

~~(3) Instruction in each of the following content areas:~~

- ~~(a) Basic nursing skills:~~
 - ~~(i) Taking and recording vital signs;~~
 - ~~(ii) Measuring and recording height and weight;~~
 - ~~(iii) Caring for the patients' or residents' environment;~~

- ~~_____ (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and~~
- ~~_____ (v) Caring for patients or residents when death is imminent;~~
- ~~_____ (b) Personal care skills, including the following:~~
 - ~~_____ (i) Bathing;~~
 - ~~_____ (ii) Grooming, including mouth care;~~
 - ~~_____ (iii) Dressing;~~
 - ~~_____ (iv) Toileting;~~
 - ~~_____ (v) Assisting with eating and hydration;~~
 - ~~_____ (vi) Feeding techniques;~~
 - ~~_____ (vii) Skin care; and~~
 - ~~_____ (viii) Transfers, positioning, and turning;~~
- ~~_____ (c) Mental health and social services:~~
 - ~~_____ (i) Modifying aides' behavior in response to patients' or residents' behavior;~~
 - ~~_____ (ii) Awareness of developmental tasks associated with the aging process;~~
 - ~~_____ (iii) How to respond to patients' or residents' behavior;~~
 - ~~_____ (iv) Allowing the patient or resident to make personal choices, providing and reinforcing other behavior consistent with the patient's or resident's dignity; and~~
 - ~~_____ (v) Using the patient's or resident's family as a source of emotional support;~~
- ~~_____ (d) Care of cognitively impaired patients or residents, including the following:~~
 - ~~_____ (i) Techniques for addressing the unique needs and behaviors of individuals with dementia;~~
 - ~~_____ (ii) Communicating with cognitively impaired patients or residents;~~
 - ~~_____ (iii) Understanding the behavior of cognitively impaired patients or residents;~~
 - ~~_____ (iv) Appropriate responses to the behavior of cognitively impaired patients or residents; and~~
 - ~~_____ (v) Methods of reducing the effects of cognitive impairments;~~
- ~~_____ (e) Basic restorative nursing services, including the following:~~
 - ~~_____ (i) Training the patient or resident in self care according to the patient's or resident's abilities;~~
 - ~~_____ (ii) Use of assistive devices in transferring, ambulation, eating, and dressing;~~
 - ~~_____ (iii) Maintenance of range of motion;~~
 - ~~_____ (iv) Proper turning and positioning in bed and chair;~~
 - ~~_____ (v) Bowel and bladder control care training; and~~
 - ~~_____ (vi) Care and use of prosthetic and orthotic devices;~~
- ~~_____ (f) Residents' rights, including the following:~~
 - ~~_____ (i) Providing privacy and maintaining confidentiality;~~
 - ~~_____ (ii) Promoting the patients' or residents' right to make personal choices to accommodate their needs;~~
 - ~~_____ (iii) Giving assistance in reporting grievances and disputes;~~
 - ~~_____ (iv) Providing needed assistance in getting to and participating in resident and family groups and other activities;~~
 - ~~_____ (v) Maintaining care and security of patients' or residents' personal possessions;~~

- ~~———— (vi) Promoting the patient's or resident's right to be free from abuse, mistreatment, and neglect and understanding the need to report any instances of such treatment to appropriate facility staff;~~
- ~~———— (vii) Avoiding the need for restraints.~~

~~———— Source: 21 SDR 118, effective January 2, 1995.~~

~~———— General Authority: SDCL 34-12-29.~~

~~———— Law Implemented: SDCL 34-12-29.~~

~~———— **44:04:18:16. Equivalency of education.** An individual may meet the 75-hour training requirement by equivalency of education. A nursing facility shall make a request to the department in writing for an equivalency determination, including proof of training with the request.~~

~~———— Source: 21 SDR 118, effective January 2, 1995.~~

~~———— General Authority: SDCL 34-12-29.~~

~~———— Law Implemented: SDCL 34-12-29.~~

~~———— **44:04:18:17. Nurse aide competency evaluation program standards.** A nurse aide competency evaluation program must meet the following standards:~~

~~———— (1) The nurse aide must be informed by the facility that a record of successful completion of the evaluation will be included in the registry;~~

~~———— (2) The evaluation must consist of two elements:~~

~~———— (a) The competency evaluation component may be offered as either a written or oral examination. This component of the evaluation must:~~

~~———— (i) Include each curriculum requirement specified in § 44:04:18:15;~~

~~———— (ii) Be developed from a pool of test questions, with no more than 20 percent of prior questions used on a succeeding examination;~~

~~———— (iii) Use a system that prevents disclosure of the content of the examination; and~~

~~———— (iv) If oral, be read from a prepared text in a neutral manner;~~

~~———— (b) The skills demonstration component must consist of a minimum of five tasks randomly selected from a pool of tasks generally performed by nurse aides. The pool of skills must include all of the personal care skills listed in subdivision 44:04:18:15(3)(b). The skills demonstration tasks must be performed on a live person.~~

~~———— Source: 21 SDR 118, effective January 2, 1995.~~

~~———— General Authority: SDCL 34-12-29.~~

~~———— Law Implemented: SDCL 34-12-29.~~

~~———— **44:04:18:18. Competency evaluation program administration standards.** The competency evaluation may be administered by a nursing facility. The entity that administers competency evaluations must meet the requirements of this section and must have the approval of the department:~~

~~———— (1) The written or oral examination must be administered by an individual with previous group testing experience;~~

~~———— (2) The skills demonstration must be administered by a registered nurse who has at least one year's experience in providing care for the elderly or the chronically ill and who has taken a skills demonstration rater training course;~~

~~—— (3) The skills demonstration must be conducted in a nursing facility or laboratory setting comparable to the setting in which the nurse aide functions and must accommodate the number of nurse aides enrolled in the competency evaluation program.~~

~~—— Source: 21 SDR 118, effective January 2, 1995; 30 SDR 84, effective December 4, 2003.~~

~~—— General Authority: SDCL 34-12-29.~~

~~—— Law Implemented: SDCL 34-12-29.~~

~~—— **44:04:18:19. Nursing facility proctoring of examination.** The written, oral, or skills demonstration examination may be conducted in a nursing facility and proctored by facility personnel if the facility obtains department approval before giving the examinations. The nursing facility must ensure that the examination is secure from tampering. Department approval may be withdrawn if there is evidence of tampering. Scoring of the examination must be done by the professional testing company under contract with the department to administer the examination.~~

~~—— Source: 21 SDR 118, effective January 2, 1995; 30 SDR 84, effective December 4, 2003.~~

~~—— General Authority: SDCL 34-12-29.~~

~~—— Law Implemented: SDCL 34-12-29.~~

~~—— **44:04:18:20. Notification to individual regarding successful or unsuccessful completion of the competency evaluation program.** The facility offering the examination must advise in advance any individual who takes a competency evaluation that a record of the successful completion of the evaluation will be included in the registry. To be listed in the registry, a nurse aide must pass the written or oral portion and the skills demonstration portion of the competency evaluation with a score of at least 75 percent. If the nurse aide does not achieve a score of 75 percent, the facility must advise the nurse aide of the areas failed. The nurse aide may have two additional opportunities to complete evaluation successfully.~~

~~—— Source: 21 SDR 118, effective January 2, 1995.~~

~~—— General Authority: SDCL 34-12-29.~~

~~—— Law Implemented: SDCL 34-12-29.~~

~~—— **44:04:18:21. Operation of nurse aide registry.** The department is accountable for the operation of the nurse aide registry and may designate an entity to maintain the registry. A nurse aide is listed on the registry through application or by endorsement. The department shall provide a copy of all information contained in the registry on an individual upon request. The public may contact the department at South Dakota Department of Health, Office of Licensure and Certification, 615 East 4th Street, Pierre, South Dakota 57501, or by calling 605-773-3356, to obtain information from the registry between the hours of 8:00 a.m. and 5:00 p.m. central time, Monday through Friday, except for state and federal holidays.~~

~~—— Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000.~~

~~—— General Authority: SDCL 34-12-29.~~

~~—— Law Implemented: SDCL 34-12-29.~~

~~—— **44:04:18:22. Registry status by application.** A nurse aide seeking registry status must submit to the department an application, completed by the program coordinator or primary instructor, documenting successful completion of an approved training program. The entity responsible for scoring the nurse aide competency evaluation program must submit documentation of successful completion of the written or oral examination and the skills demonstration of the competency evaluation to the department within 30 days after the administration of the evaluation.~~

~~—— Source: 21 SDR 118, effective January 2, 1995.~~

~~—— General Authority: SDCL 34-12-29.~~

~~—— Law Implemented: SDCL 34-12-29.~~

~~44:04:18:23. Registry status by endorsement.~~ A nurse aide seeking registry status by endorsement from another state registry must submit to the department the following information:

- ~~(1) A completed application;~~
- ~~(2) Written documentation indicating successful completion of another state's approved nurse aide training and competency evaluation program;~~
- ~~(3) Verification of initial listing on the nurse aide registry in another state;~~
- ~~(4) Verification of listing on a nurse aide registry from the state of most recent employment; and~~
- ~~(5) Documentation of employment as a nurse aide within the last 24 consecutive months.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~44:04:18:24. Registry content.~~ The registry contains the following information for each nurse aide who has gained registry status:

- ~~(1) The full name of the nurse aide, including maiden name and any surnames used;~~
- ~~(2) The last known home address;~~
- ~~(3) The registration number;~~
- ~~(4) The date the registry status expires;~~
- ~~(5) The date of birth;~~
- ~~(6) The most recent employment;~~
- ~~(7) The date of successful completion of the examination and skills demonstration components of the competency evaluation;~~
- ~~(8) The name and address of the professional testing service that scored the competency evaluations taken by the nurse aide; and~~
- ~~(9) Any disciplinary proceedings against the nurse aide, including findings of abuse, neglect, or misappropriation of patient or resident property as specified in § 44:04:18:30.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~44:04:18:25. Renewal of registry status.~~ Registry status expires two years from the date of initial registration. To renew registry status, the nurse aide must submit to the department a verification of employment for a minimum of eight hours during the preceding 24 months. An individual who has not performed any nursing or nursing related services for monetary compensation during the preceding 24 consecutive months must complete a new competency evaluation program.

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~44:04:18:26. Grounds for revocation, denial, or suspension of nurse aide registry status.~~ The department may revoke a nurse aide's current registry status if the department determines after a contested case hearing pursuant to SDCL chapter 1-26 that the nurse aide has violated the meaning of abuse or neglect as those terms are defined in § 44:04:01:01. The department may deny registry status to a nurse aide applying for registration if the nurse aide was convicted of criminal charges related to abuse or neglect of an individual. Registry status may be suspended by the department during the investigation of an allegation of abuse or neglect by a nurse aide following due process as outlined in § 44:04:18:29.

~~Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:27. Mandatory reporting of allegations.** A nursing facility must notify the department in writing, within 48 hours, of any alleged misconduct by a nurse aide related to abuse or neglect of an individual or to misappropriation of a patient's or resident's property.~~

~~Source: 21 SDR 118, effective January 2, 1995.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:28. Investigation of allegations.** After an allegation of abuse or neglect, the facility must take steps to prevent further incidents of abuse or neglect from occurring, investigate allegations thoroughly, and take any corrective action necessary. The facility must report its findings to the department within five working days. The department, or another agency of state government, may conduct its own investigation in addition to the facility's investigation.~~

~~Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:29. Notice and hearing process.** The department shall follow the contested case procedure found in SDCL chapter 1-26 if a hearing is conducted:~~

~~(1) To determine if a nurse aide has engaged in abuse or neglect of an individual; or~~

~~(2) When the department denies a petition to remove a finding of neglect from the registry.~~

~~If the department has determined abuse or neglect of an individual has occurred, a notice of the right to a hearing will be sent to the nurse aide. The notice shall state the aide has 10 days from receipt of the notice to respond. The notice shall include a waiver of hearing. Failure to return the waiver or failure to request a hearing within 10 days waives the right to a hearing.~~

~~Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.~~

~~General Authority: SDCL 34-12-29.~~

~~Law Implemented: SDCL 34-12-29.~~

~~**44:04:18:30. Documentation of substantiated allegations on registry.** If, after a hearing on the matter, the nurse aide is found to have committed abuse or neglect of an individual, the department shall update the registry with documentation within 60 days from the date of the ruling. If a waiver of hearing is received, the department shall update the registry by flagging the nurse aide's name on the registry. The documentation remains on the registry permanently and includes the following:~~

~~(1) A summary of the allegation;~~

~~(2) A summary of the department's investigative report;~~

~~(3) The statement by the nurse aide, if one is provided;~~

~~(4) The department's decision;~~

~~(5) The waiver of the hearing, if any; and~~

~~(6) A date of the hearing, findings of fact, and conclusions of law, and the outcome, if a hearing is held.~~

—— ~~Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.~~

—— ~~General Authority: SDCL 34-12-29.~~

—— ~~Law Implemented: SDCL 34-12-29.~~

—— ~~44:04:18:31. Procedure to remove of a finding of neglect from registry.~~ A certified nurse aide may petition for a removal of a finding of neglect after one year beginning on the date on which the finding was placed on the certified nurse aide registry.

—— ~~If the department determines the employment and personal history of the certified nurse aide does not reflect a pattern of abusive behavior or neglect and the neglect in the original finding was a singular occurrence, the department may remove the finding from the registry.~~

—— ~~The department may deny the petition if the employment and personal history of the certified nurse aide reflects a pattern of abusive behavior or neglect and the neglect involved in the original finding was not a singular occurrence. The department shall follow the procedure as provided in § 44:04:18:29.~~

—— ~~Source: 29 SDR 81, effective December 11, 2002.~~

—— ~~General Authority: SDCL 34-12-29.~~

—— ~~Law Implemented: SDCL 34-12-29.~~

CHAPTER 44:04:19

ADULT FOSTER CARE

(Repealed)

Section

44:04:19:01 — ~~Criteria for licensed adult foster care home owners and adult foster care home applicants.~~

44:04:19:02 — ~~Physical requirements of adult foster care homes.~~

44:04:19:03 — ~~Nutrition requirements.~~

44:04:19:04 — ~~Food quality — Storage.~~

44:04:19:05 — ~~Personal care and health supervision.~~

44:04:19:06 — ~~Presence of the adult foster care home owner.~~

44:04:19:07 — ~~Sanitation.~~

44:04:19:08 — ~~Insect and rodent control.~~

44:04:19:09 — ~~Evacuation plan — Fire drills.~~

44:04:19:10 — ~~Exits.~~

—— ~~44:04:19:01. Criteria for licensed adult foster care home owners and adult foster care home applicants.~~ Licensed adult foster care home owners shall meet the following criteria:

—— ~~(1) Neither the adult foster care home owners nor family members residing at the residence may be a habitual user of alcohol or drugs;~~

—— ~~(2) Neither the adult foster care home owner nor family members residing at the residence may have a conviction for abusing or neglecting another person; and~~

—— ~~(3) Any person providing supervisory care in the adult foster care home must be at least 18 years of age.~~

—— ~~Source:~~ 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 32 SDR 128, effective January 30, 2006.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:19:02. Physical requirements of adult foster care homes.~~ An adult foster care home shall meet the following physical requirements:

—— (1) A minimum of 200 square feet of floor space shall be available to the resident. This floor space shall include an easily accessible bathroom and a dining area sufficient to accommodate the resident and the adult foster care home owner's family at one setting;

—— (2) Sufficient sleeping space to accommodate comfortably the resident in care as well as the adult foster care home owner's family;

—— (3) Exit pathways must remain free of obstacles that would prevent mobility or escape during fire or other emergencies;

—— (4) Spaces occupied by people within buildings and their approaches must have artificial lighting at a level for general safety. Bedrooms must have general lighting and night lighting;

—— (5) A water supply must be derived from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Private water supplies must have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient to meet the needs of the adult foster care home. Maximum hot water temperatures at plumbing fixtures used by patients and residents may not exceed 120 degrees Fahrenheit (49 degrees centigrade);

—— (6) A working heating system. The adult foster care home owner shall maintain the temperature of the home between 68 degrees Fahrenheit and 80 degrees Fahrenheit during waking hours with a temperature no lower than 60 degrees Fahrenheit at night;

—— (7) A smoke detector with an audible alarm must be located on each level of the building. The alarm must be audible above the maximum normal noise level of the house. Smoke detectors must be tested monthly. All smoke detectors must be cleaned and the battery changed at least annually; and

—— (8) Portable space heaters and portable halogen lamps may not be used in the home.

—— Residents may not reside in attics. They may reside in finished basements where the living quarters, heating plant, and utility room are completely and safely segregated by one hour fire resistant construction. Residents shall be made aware of escape procedures.

—— If a health department representative identifies any other condition that may be hazardous to residents, the department may direct the operator to correct the hazard.

—— ~~Source:~~ 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 32 SDR 128, effective January 30, 2006.

—— ~~General Authority:~~ SDCL 34-12-13.

—— ~~Law Implemented:~~ SDCL 34-12-13.

—— ~~44:04:19:03. Nutrition requirements.~~ A resident shall receive a minimum of three meals a day. Each meal shall include portions from each of the five basic food groups listed in the "Food Guide Pyramid," 1996, or as otherwise prescribed by a physician.

~~Source: 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Reference: "Food Guide Pyramid," 1996, USDA's Center for Nutrition Policy and Promotion, United States Department of Agriculture, 1120 20th Street, NW, Suite 200, North Lobby, Washington, DC 20036-3475. Phone: 1-202-606-8000.~~

~~**44:04:19:04. Food quality -- Storage.** Food shall be free from spoilage and contamination and shall be safe for human consumption. Fluid milk and fluid milk products used or served shall be pasteurized. Unless its identity is unmistakable, a bulk food such as cooking oil, syrup, salt, sugar, or flour not stored in the product container or package in which it was obtained shall be stored in a container identifying the food by its common name.~~

~~Source: 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:19:05. Personal care and health supervision.** The adult foster care home owner must provide continuous care for the resident and shall be cooperative with the department in carrying out the plan for the resident. The adult foster care home owner shall be available to assist the resident with personal care and health supervision.~~

~~Source: 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:19:06. Presence of the adult foster care home owner.** The adult foster care home owner shall be present during the day and night according to the needs of the resident. The adult foster care home owner may arrange for a substitute during an absence from the home. The substitute provider shall meet the criteria listed in § 44:04:19:01.~~

~~Source: 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:19:07. Sanitation.** The adult foster care home shall be kept clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons must be labeled, stored in a safe place, and kept in an enclosed cabinet. Garbage and refuse shall be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. Sewage shall be disposed of by means of a public sewage disposal system or a septic system, and must not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance.~~

~~Source: 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:19:08. Insect and rodent control.** An adult foster care home owner shall keep the house and premises free of rodents and insects. Doors and windows used for outside ventilation shall have screens.~~

~~Source: 26 SDR 96, effective January 23, 2000.~~

~~General Authority: SDCL 34-12-13.~~

~~———— Law Implemented: SDCL 34-12-13.~~

~~———— 44:04:19:09. Evacuation plan — Fire drills. An adult foster care home shall have an evacuation plan. The adult foster care home owner shall conduct a minimum of four fire drills each year.~~

~~———— Source: 26 SDR 96, effective January 23, 2000.~~

~~———— General Authority: SDCL 34-12-13.~~

~~———— Law Implemented: SDCL 34-12-13.~~

~~———— 44:04:19:10. Exits. There shall be two exits remote from each other on each level used for the care of a resident. Each of these exits shall provide unobstructed travel to the outside. One of these exits shall be a door or stairway leading to the outside of the building at ground level. The other exit may be a window if it meets the following requirements:~~

~~———— (1) It can be easily opened from the inside without the use of tools;~~

~~———— (2) It provides a clear opening with a minimum dimension of at least 20 inches in width by 24 inches in height, is at least 5.7 square feet in area, with a sill at 44 inches, and provides a safe means of escape; and~~

~~———— (3) If a storm window, screen, or burglar guard is used, it has a quick opening device which can be easily opened from the inside.~~

~~———— A ladder, folding stairs, or trap door may not be the only access to a bedroom.~~

~~———— Source: 26 SDR 96, effective January 23, 2000.~~

~~———— General Authority: SDCL 34-12-13.~~

~~———— Law Implemented: SDCL 34-12-13.~~

CHAPTER 44:04:20

INPATIENT CHEMICAL DEPENDENCY TREATMENT FACILITY

(Repealed)

Section

44:04:20:01 — Application of chapter.

44:04:20:02 — Facility standards.

44:04:20:03 — Patient rooms.

44:04:20:04 — Detoxification room.

44:04:20:05 — Patient room furnishings.

44:04:20:06 — Care units.

44:04:20:07 — Food service.

44:04:20:08 — Laundry.

44:04:20:09 — Storage.

44:04:20:10 — Outside yard storage.

44:04:20:11 — Flooring.

44:04:20:12 — Fire extinguishers.

44:04:20:13 — Insulation.

44:04:20:14 — Handwashing fixtures.

44:04:20:15 — Exhaust ventilation.

44:04:20:16 — Waste disposal.

44:04:20:17 — Ventilation.

~~44:04:20:18 — Heating and cooling.~~
~~44:04:20:19 — Hot water systems.~~
~~44:04:20:20 — Potable water.~~
~~44:04:20:21 — Lighting.~~
~~44:04:20:22 — Electrical convenience outlets.~~
~~44:04:20:23 — Infection control.~~
~~44:04:20:24 — Cleaning procedures.~~
~~44:04:20:25 — Insect and rodent control.~~
~~44:04:20:26 — Preventative maintenance.~~

~~—— **44:04:20:01. Application of chapter.** This chapter applies to the construction and operation of any inpatient chemical dependency treatment facility, including any renovation or addition.~~

~~—— **Source:** 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-7.~~

~~—— **Cross-References:** Rules of General Applicability, ch 44:04:01, for information regarding license requirements for health care facilities by the Department of Health; Alcohol and Drug Abuse, art 46:05, for the operational and care standards of programs accredited by the Department of Human Services.~~

~~—— **44:04:20:02. Facility standards.** Each facility must comply with life safety standards in chapters 1 to 10, inclusive, and 32 and 33 of the National Fire Protection Association Code 101 "Life Safety Code," 2000 edition.~~

~~—— Each facility must comply with building standards of the International Conference of Building Officials "International Building Code," 2000 edition.~~

~~—— Each facility must comply with accessibility standards of the "American's with Disabilities Act Accessibility Guidelines" found in 28 C.F.R. Part 36, Appendix A, as published in 56 Fed. Reg. 35605 to 35690, inclusive, (July 26, 1991).~~

~~—— Any facility plans, including renovation of existing facilities, must be reviewed for compliance with the above standards and this chapter and approved in writing by a department facilities engineer prior to commencing construction.~~

~~—— **Source:** 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.~~

~~—— **General Authority:** SDCL 34-1-17, 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-7.~~

~~—— **References:** NFPA 101 Life Safety Code, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone 1-800-344-3555. Cost: \$53.50.~~

~~—— **International Building Code,** 2000 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$69.55.~~

~~—— **44:04:20:03. Patient rooms.** A patient room must meet the following requirements:~~

~~—— (1) The maximum room capacity is two patients. Patient rooms approved prior to January 1, 2001, are acceptable as approved;~~

~~—— (2) The minimum clear floor area must be, exclusive of toilet rooms, closets, wardrobes, and vestibules, 100 square feet in single occupancy and 160 square feet in double occupancy;~~

~~—— (3) The floor of the patient room must be above grade at the building site;~~

~~—— (4) A separate closet space of five square feet must be provided for each patient; and~~

~~—— (5) Toilet rooms must be available to the patient room. If the toilet room is not attached to the patient room, the distance to the toilet room from the door to the patient room must not exceed 50 feet. The toilet room must be accessible and must contain a handwashing fixture and stool with at least a side grab bar and toilet paper dispenser.~~

~~—— **Source:** 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:20:04. Detoxification room.** The room must be only for single occupancy, be 120 square feet and have an attached toilet room with staff controlled access. The toilet room must be provided with an accessible shower, stool, and handwashing fixture.~~

~~—— **Source:** 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:20:05. Patient room furnishings.** The facility must provide the following furnishings for the patient rooms:~~

~~—— (1) A sturdy, comfortable bed with an impervious cover on the mattress;~~

~~—— (2) A pillow, two sheets, blanket, and bath towel;~~

~~—— (3) A dresser, drawers, or shelves for each patient;~~

~~—— (4) A chair, table or desk, reading lamp, and mirror for each patient; and~~

~~—— (5) Window coverings for privacy.~~

~~—— **Source:** 28 SDR 83, effective December 16, 2001.~~

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~—— **44:04:20:06. Care units.** The care unit must contain the following features:~~

~~—— (1) Staff work area with handwashing fixture, charting space, communication and security equipment, supply storage, and locked medication storage, including refrigerated storage and dispensing area;~~

~~—— (2) Staff toilet room convenient to work area. The toilet room must be accessible and must contain a handwashing fixture and stool with at least a side grab bar and toilet paper dispenser;~~

~~—— (3) Clean linen storage or linen cart storage room;~~

~~—— (4) A housekeeping room for supply and housekeeping equipment storage. A floor receptor or service sink must be provided and the adjacent wall surfaces must be protected from water damage;~~

~~—— (5) A bathing room for each gender served with bath fixtures in accordance with SDCL 36-25-15 and 36-25-15.1;~~

~~—— (6) Lounge space with a minimum area of 20 square feet for each patient;~~

~~—— (7) Dining space with a minimum of 20 square feet for each patient;~~

~~—— (8) A group room with a minimum of 150 square feet for each six patients; and~~

~~—— (9) A counselor office with a minimum of 100 square feet for each six patients.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:07. Food service. The facility food service must comply with the Food Service Code (§ 44:02:07:01 to § 44:02:07:95, inclusive, with the exception of § 44:02:07:03). If a commercial contract food service is used, dietary areas and equipment must meet sanitary storage, processing, and handling requirements of the Food Service Code. The following equipment and space must be provided in the dietary area:~~

~~(1) A receiving area for incoming food supplies;~~

~~(2) A vegetable preparation two compartment sink with a garbage disposal. This fixture requires an indirect connection to the waste line;~~

~~(3) A dry food storage;~~

~~(4) A floor receptor with moisture resistant protection for the adjacent wall surfaces;~~

~~(5) Refrigerated storage space with 15 cubic foot refrigerator capacity and 4 cubic foot freezer capacity for each 12 persons served by the dietary area. Refrigerated storage for milk, eggs, and butter must be located within 6 feet of the food preparation areas;~~

~~(6) Food production equipment designed to produce a complete meal three times daily for each person served;~~

~~(7) Food holding and transport equipment capable of protecting food from contamination and maintaining safe temperatures during the meal serving time;~~

~~(8) Hood and ventilation equipment to remove heat, moisture, cooking odors, and grease to the exterior of the building at cooking equipment. Continuous mechanical exhaust ventilation at the commercial dishwasher location to remove heat and moisture;~~

~~(9) A handwashing fixture convenient to food preparation areas and dishwashing. No mirror is allowed at these sink locations;~~

~~(10) Aisles of 36 inches clear width;~~

~~(11) If a grease trap is required by local ordinance, it must be located in a room adjacent to the dietary area;~~

~~(12) A dishwasher with a sanitizing cycle. A commercial dishwasher supplied with 180 degree Fahrenheit rinse water or a chemical sanitizing cycle is required when more than 20 meals are served;~~

~~(13) Dietary manager work space with desk and chair; and~~

~~(14) A self dispensing ice machine. Ice from a bin type ice machine may be used for cooling food containers, but not for consumption.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:08. Laundry.~~ Equipment for processing an individual patient's personal clothing, if provided, must have water supplied at 130 degrees Fahrenheit. Personal clothing must be transported to the laundry equipment in a closed container.

~~All common use linens and combined patients' personal clothing must be processed for disinfection using either hot water at 160 degrees Fahrenheit or chlorine bleach must be introduced to the process to provide 100 parts per million free chlorine with the water temperature reduced to 140 degrees Fahrenheit or department approved laundry disinfectant. Closed containers must be used during transport and the arrangement of equipment and the handling of linens must prevent soiled linens from contacting the processed clean linens. Air flow in the linen processing must be from clean processing areas toward the soiled holding and sorting area. Clean linens must be covered during transport to storage areas.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:09. Storage.~~ A minimum of the 200 square feet of general supply storage must be provided in a single room. If the patient capacity exceeds 25, an additional 200 square feet of storage must be provided for each multiple of 25 patients.

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:10. Outside yard storage.~~ The facility must provide storage space for yard equipment with an exterior building access or separate storage shed.

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:11. Flooring.~~ Flooring materials that are slip resistant must be installed at the building main entry, dishwashing, and bathing areas.

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:12. Fire extinguishers.~~ Fire extinguishers that are at least 2-A:10-B:C rated must be installed for general building coverage at a rate of one for each 3,000 square feet and one additional 2-A:10-B:C rated extinguisher also located at the kitchen, laundry, and furnace room.

~~Source: 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:13. Insulation.~~ All combustible building insulation exposed in attics, crawl spaces, and other areas, must be protected with a 1/2 inch gypsum board thermal barrier, unless the product is tested and conforming to the standards in the building code which allows the product to remain exposed without thermal protection. Documentation of the testing must be available at the facility for the insulation material installed.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:14. Handwashing fixtures.~~ Hot and cold water must be supplied through a mixing faucet controlled by a "hands free" operator such as a blade handle, single lever operator, etc. Soap dispensers and hand dryers or single use towel dispensers and waste receptacles must be provided convenient to each handwashing fixture.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:15. Exhaust ventilation.~~ Electrically powered continuous exhaust ventilation must be provided for soiled areas, wet areas, and toilet rooms at ten air changes each hour and must be provided for storage rooms at two air changes each hour.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:16. Waste disposal.~~ Garbage must be handled in a safe sanitary manner with outside storage only in covered containers and disposed of twice a week from April to September, inclusive, and weekly during other times of the year. Sewage must be disposed in a public system or disposal must be approved by the Department of Environment and Natural Resources according to SDCL chapter 34A-2.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:17. Ventilation.~~ The facility must have general ventilation of two air changes each hour. The outside air supply must be tempered to eliminate cold air from being introduced into occupied space. The supply air unit must be equipped with one inch furnace filter media installed in the ductwork ahead of the unit. The filter media must be changed at least every three months.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:18. Heating and cooling.~~ The facility heating system must be capable of maintaining a minimum temperature of 75 degrees Fahrenheit at winter design conditions. The building cooling system must be capable of maintaining room temperatures in occupied spaces at 75 degrees Fahrenheit or less. Portable space heaters may not be used in the facility. Electric blankets may not be used in the facility.

~~Source: 28 SDR 83, effective December 16, 2001.~~
~~General Authority: SDCL 34-12-13.~~
~~Law Implemented: SDCL 34-12-13.~~

~~44:04:20:19. Hot water systems.~~ The facility must install a recirculating system to provide hot water to all fixtures. Equipment must be installed to provide hot water at a temperature of 110 to 125 degrees Fahrenheit to all handwashing and bathing fixtures, 130 to 160 degrees to laundry, and 140 to 180 degrees to the dishwasher or, if provided, the three compartment sink in the dietary area.

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:20. Potable water.** All plumbing used for distribution of potable water must be maintained to minimize dead-end runs of piping. Before placing a potable water system into use and after repairs or modifications, the system must be disinfected by:~~

~~(1) Flushing the water system until clear water appears at each outlet;~~

~~(2) Piping must be filled with a chlorine water solution of fifty parts per million of free chlorine and held in the piping for twenty-four hours or a chlorine water solution of two hundred parts per million of free chlorine may be used to fill the piping and held in the piping system for at least three hours; and~~

~~(3) Following the required holding time, the piping system must be flushed to remove the chlorine solution.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:21. Lighting.** All building spaces, parking lots, and exit-discharge routes must be illuminated for general safety. Specific required lighting levels must be provided for the following spaces:~~

~~(1) Ten footcandles for general illumination;~~

~~(2) Thirty footcandles for dining rooms, bathing areas, food preparation areas, laundry, staff work area, and areas where persons are involved in reading or other close work tasks;~~

~~(3) Fifty footcandles must be provided on the work surface of the medication set-up and distribution area; and~~

~~(4) Portable halogen lamps may not be used due to extremely high surface temperatures.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:22. Electrical convenience outlets.** Electrical extension cords may not be used as a substitute for properly installed electrical receptacles. Power strips in business office areas and for entertainment centers may be used.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:23. Infection control.** The facility must develop policies to address cleaning of environmental surfaces, standard precautions, employee illness, and patient transfer to another health care facility.~~

~~Chemicals used to sanitize, disinfect, or sterilize must be labeled to show registration with the United States Environmental Protection Agency as being safe and effective for use in accordance with the procedures used by the facility.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:24. Cleaning procedures.** The facility must develop written procedures for cleaning all areas of the building. The building must be maintained clean. Equipment and supplies must be available for proper cleaning and disinfecting and must be stored safely to protect the building occupants. Dustless methods must be used for cleaning.~~

~~Written procedures must be developed for the cleaning and sanitizing of food service equipment, countertops in the food production area, and dining room tables in accordance with the registered product label.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:25. Insect and rodent control.** The facility must take measures to effectively control the entry, presence, and breeding of vermin. All openings around pipe, conduit, and wiring or similar penetrations of the exterior wall must be caulked to prevent vermin entry. Any poisons used must be stored safely to avoid contamination of food and properly labeled and applied to protect the building occupants.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~**44:04:20:26. Preventative maintenance.** The facility must develop and implement a written system of scheduled maintenance for building equipment, mechanical, and electrical systems.~~

~~Source: 28 SDR 83, effective December 16, 2001.~~

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

ARTICLE 44:73

NURSING FACILITIES

Chapter

<u>44:73:01</u>	<u>Rules of general applicability.</u>
<u>44:73:02</u>	<u>Physical environment.</u>
<u>44:73:03</u>	<u>Fire protection.</u>
<u>44:73:04</u>	<u>Management and administration.</u>
<u>44:73:05</u>	<u>Physician, physician assistant, and nurse practitioner services.</u>
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<u>44:73:07</u>	<u>Dietetic services.</u>
<u>44:73:08</u>	<u>Medication control.</u>
<u>44:73:09</u>	<u>Resident record services.</u>
<u>44:73:10</u>	<u>Supportive services.</u>
<u>44:73:11</u>	<u>Residents' rights.</u>
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CHAPTER 44:73:01

RULES OF GENERAL APPLICABILITY

(Transferred from 44:04:01)

Section		
<u>44:04:01:01</u>	<u>44:73:01:01</u>	Definitions.
<u>44:04:01:02</u>	<u>44:73:01:02</u>	Licensure of facilities by classification <u>Posting of license.</u>
<u>44:04:01:03</u>	<u>44:73:01:03</u>	Name of facility.
<u>44:04:01:04</u>	<u>44:73:01:04</u>	Bed capacity.
<u>44:04:01:05</u>	<u>44:73:01:05</u>	Restrictions on acceptance of patients or residents.
<u>44:04:01:06</u>	<u>44:73:01:06</u>	Joint occupancy.
<u>44:04:01:07</u>	<u>44:73:01:07</u>	Reports.
<u>44:04:01:08</u>	<u>44:73:01:08</u>	Plans of correction.
<u>44:04:01:09</u>	<u>44:73:01:09</u>	Modifications.
<u>44:04:01:10</u>		Repealed.
<u>44:73:01:10</u>		Scope of article.

44:04:01:01 44:73:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or
(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a patient's or resident's property or funds;
(ii) An attempt to commit a crime against a patient or resident;
(iii) Physical harm or injury against a patient or resident; or
(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;

(2) "Activities coordinator," a person who is a therapeutic recreation specialist or activity professional eligible for certification from the National Certification Council of Activity Professionals, who has two years of experience in a social or recreational program within the last five years, one year of which was full-time in a patient or resident activities program in a health care setting, or who is a qualified occupational therapist or occupational therapy assistant under SDCL chapter 36-31 or who has completed a training program, or has similar qualifications as determined by the department;

(3) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;

(4) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;

(5) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for managing the facility and who maintains an office on the premises of the facility;

(6) "Adult day care," a nonresident program in a licensed facility that provides health, social, and related support services;

~~—— (7) "Anesthesiologist," a physician whose specialized training and certification qualify the person to administer anesthetic agents and to monitor the patient under the influence of these agents;~~

~~—— (8) "Anesthetist," a physician eligible for certification as an anesthesiologist or a certified registered nurse anesthetist who meets the requirements of SDCL chapter 36-9;~~

~~(9)~~ (7) "Client advocates," agencies responsible for the protection and advocacy of ~~patients and~~ residents, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;

(8) "Clinical Nurse Specialist," a person who practices the nurse specialty of a clinical nurse specialist as authorized pursuant to SDCL 36-9;

~~(10)~~ (9) "Cognitively impaired," a ~~patient or~~ resident with mental deficiencies which result in a diminished ability to solve problems, to exercise good judgment in the context of a value system, to remember, and to be aware of and respond to safety hazards;

~~(11)~~ (10) "Department," the South Dakota Department of Health;

~~(12)~~ (11) "Developmental disability," a severe, chronic disability of a person as defined in SDCL ~~27B-1-3~~ 27B-1-18 or a disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

~~(e) Requires a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are individually planned and coordinated~~ Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration;

~~(13)~~ (12) "Dietary manager," a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides 120 or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the National Certifying Board of Dietary Managers and who functions with consultation from a dietitian;

~~(14)~~ (13) "Dietitian," a person who is registered with the ~~Commission on Dietetic Registration of the American Dietetic Association~~ Academy of Nutrition and Dietetics and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

~~(15)~~ (14) "Dining assistant," a person who has successfully completed a dining assistant program approved pursuant to § ~~44:04:07:17~~ 44:73:07:17;

~~(16)~~ (15) "Direct contact," any activity that requires physically touching a ~~patient or~~ resident;

~~(17)~~ (16) "Distinct part," an identifiable unit, such as an entire ward or contiguous wards, wing, floor, or building, which is licensed at a specific level. It consists of all beds and related facilities in the unit;

~~(18)~~ (17) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

~~—— (19) "Endorsement," the process of formally recognizing for the purpose of employment in a licensed health care facility in South Dakota the qualifications of a person trained and evaluated in another state as a nurse aide;~~

~~—— (20) "Equivalency," training of another or different type that is determined by the department to be equal to department approved training;~~

~~(21)~~ (18) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

~~(22)~~ (19) "Facility," the place of business licensed by the department as a nursing facility used to provide health care for ~~patients or~~ residents;

~~—— (23) "General hospital," a hospital that provides at least medical, surgical, obstetrical, and emergency services;~~

~~(24)~~ (20) "Governing body," an organized body of persons that is ultimately responsible for the quality of care in a health care facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policy;

~~—— (25) "Health supervision," activity by an adult foster care provider that ensures a resident carries out the health plan of the resident's physician and observes good health practices;~~

~~(26)~~ (21) "Healthcare worker," any paid person working in a health-care setting;

~~(27)~~ (22) "Hospice services," a coordinated interdisciplinary program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;

~~(28)~~ (23) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a ~~patient or~~ resident;

~~—— (29) "Instrumental activities of daily living," tasks performed routinely by a person, utilizing physical and social environmental features, to manage life situations, including meal preparation, self-~~

~~administration of medications, telephone use, housekeeping, laundry, handling finances, shopping, and use of transportation;~~

~~(30)~~ (24) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";

~~(34)~~ (25) "Licensed health professional," a physician; physician's assistant; nurse practitioner; physical therapist, speech-language pathologist, ~~or~~ occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;

~~(32)~~ (26) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients and residents in a health care facility;

(27) "Memory care unit," a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined unique population, which is staffed by persons with training to meet the needs of residents admitted to the unit;

~~(33)~~ (28) "Mental disease," a mental condition that causes a person to lack sufficient understanding or capacity to make the responsible decisions to meet the ordinary demands of life, as evidenced by the person's behavior, or that causes a person to be a danger to self or others;

(29) "Misappropriation of resident or patient property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's or patient's belongings or money without the resident's or patient's consent;

~~(34)~~ (30) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

~~(35)~~ (31) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

~~(36)~~ (32) "Nurse aide," an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay;

~~(35)~~ (33) "Nurse practitioner," a person who practices the specialty nurse practitioner as authorized pursuant to SDCL 36-9A;

~~(37)~~ (34) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, and restorative aides, ~~and orderlies;~~

~~(38)~~ (35) "Nursing unit," a patient unit that is limited to one floor of a health care facility and has all patient room entrances and exits within sight or control of nursing personnel;

~~(39) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, critical access hospital, swingbed, ambulatory surgery center, or chemical dependency treatment facility;~~

~~_____ (40) "Personal care," assistance given by an adult foster care home owner in those areas of daily living when a resident has difficulty functioning because of a physical, mental, or emotional condition;~~

(41) ~~(36)~~ "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;

~~(42)~~ (37) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

~~_____ (38) "Physician assistant," a health care professional who meets the qualifications as defined and is licensed as authorized pursuant to SDCL chapter 36-4A;~~

~~_____ (43) "Physician's extender," a person who is an assistant to a physician as authorized under SDCL chapter 36-4A; a nurse practitioner as authorized under SDCL chapter 36-9A; or a nurse midwife as authorized under SDCL chapter 36-9A;~~

(44) (39) "Practitioner," one of the following:

(a) A ~~person who is~~ physician or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(b) A ~~person who is~~ dentist licensed to practice dentistry pursuant to SDCL chapter 36-6;

(c) A ~~person who is~~ podiatrist licensed to practice podiatry pursuant to SDCL chapter 36-8;

(d) A ~~person who is~~ optometrist licensed to practice optometry pursuant to SDCL chapter 36-7;

(e) A ~~person who is~~ chiropractor licensed to practice chiropractic pursuant to SDCL chapter 36-5;

(f) A ~~person who is~~ pharmacist licensed to practice pharmacy pursuant to SDCL chapter 36-11;

(g) A ~~person who is~~ physical therapist licensed to practice physical therapy pursuant to SDCL chapter 36-10; or

(h) A ~~person who is~~ occupational therapist licensed to practice occupational therapy pursuant to SDCL chapter 36-31;

~~_____ (i) A nurse practitioner licensed pursuant to SDCL chapter 36-9A;~~

~~_____ (j) A physician assistant licensed pursuant to SDCL chapter 36-4A; or~~

~~_____ (k) A speech-language pathologist pursuant to SDCL chapter 36-37;~~

~~(45)~~ (40) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 1990 2000, Pub. L. No. 101-496 (October 30, 1990), codified at 42 U.S.C. § 6042 106-402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mentally Illness Individuals Amendments Act of 1991, Pub. L. No. 102-173 (November 27, 1991) Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;

(46) (41) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;

~~_____ (47) "Referral hospital," a general hospital with medical personnel qualified to receive emergency and nonemergency patient transfers from a critical access hospital, which has sufficient resources to provide consultation to a critical access hospital in the areas of clinical protocols, quality assurance, utilization review, staff inservice, and business consultation;~~

~~_____ (48) "Registry," a computerized record of all nurse aides who have completed the minimum nurse aide training and competency evaluation requirements in chapter 44:04:18 article 44:74 to obtain registry status as a nurse aide;~~

~~(49)~~ (42) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;

~~—— (50) "Rehabilitation services," services which include physical therapy, occupational therapy, respiratory therapy, and speech therapy;~~

~~(51)~~ (43) "Resident," a person not in need of acute care with a valid order by a practitioner for services in a nursing facility;

~~—— (52) "Residential living center," the residence, facility, or place of business required to be registered pursuant to SDCL 34-12-32;~~

~~(53)~~ (44) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one ~~patient or~~ resident;

~~(54)~~ (45) "Restorative nursing," a part of nursing directed toward assisting a patient to achieve and maintain an optimal level of self-care and independence and which offers assistance to patients in learning or relearning of skills needed in everyday activities;

~~(55)~~ (46) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or resident or the movement or normal function of a portion of the ~~patient's or resident's~~ body, excluding devices used for specific medical and surgical treatment;

~~—— (56) "Secure," a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined unique population, which is staffed by persons with training to meet the needs of patients or residents admitted to the unit;~~

~~(57)~~ (47) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

~~—— (58) "Self-directed care," care provided at the instruction and direction of an individual with the ability to provide the instruction and understand the consequences of the provision of that care;~~

~~(59)~~ (48) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;

~~(60)~~ (49) "Social service designee," a person who has a degree in a behavioral science field, two years of previous supervised experience in a behavioral science field, is a licensed nurse, or has similar qualifications;

~~—— (61) "Specialized hospital," a hospital that provides only one service or a combination of services but does not provide all of the services required to qualify as a general hospital;~~

~~—— (62) "Stand alone assisted living center," an assisted living center not physically attached to a nursing facility or hospital;~~

~~—— (63) "Swing bed," a licensed hospital bed which has been approved by the department pursuant to § 44:04:11:10 to also provide short term nursing care;~~

~~(64)~~ (50) "Supervised practical training," training in a laboratory or other setting in which the nurse aide performs health-related tasks on a ~~patient or~~ resident while under the direct supervision of a licensed nurse;

~~(65)~~ (49) "Supplemental personnel," individuals who assist the primary instructor in the training of nurse aides;

~~(66)~~ "Terminal illness," a medical prognosis that the individual's life expectancy is six months or less if the illness runs its normal course;

~~(67)~~ "Therapeutic activity," any purposeful activity outside of activities of daily living that fosters social, emotional, physical, cognitive, and mental well-being;

~~(68)~~ (51) "Therapeutic diet," any diet other than a regular diet that is ordered by a physician, physician assistant, nurse practitioner, or qualified dietitian as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency;

~~(69)~~ (52) "Transfer or discharge," the movement of a patient or resident to a bed outside the distinct part or outside the facility;

~~(70)~~ (53) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

~~(71)~~ (54) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a patient or resident as delegated by the nurse and authorized by chapter 20:48:04.01.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 17 SDR 122, effective February 24, 1991; 19 SDR 95, effective January 7, 1993; 21 SDR 118, effective January 2, 1995; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:01:01.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

Note: National Certification Council of Activity Professionals, 520 Stewart, Park Ridge, IL 60068. Phone (708) 698-4263.

44:04:01:02 44:73:01:02. Licensure of facilities by classification Posting of License.
~~Applications for licensure of a health care facility shall set out the classification being applied for. Any license issued shall denote the classification and the facility address on the face of the license. The license shall include each facility address at which services licensed under this chapter are provided. A critical access hospital must first receive notice of eligibility for licensure from the secretary of health. A facility shall comply only with those chapters in this article that apply to the classification of license issued. The most current license issued by the department must shall be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department. Facility classifications in addition to those defined in SDCL 34-12-1.1 are as follows:~~

- ~~—— (1) General hospital;~~
- ~~—— (2) Specialized hospital; and~~
- ~~—— (3) Hospice facility.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000, transferred from 44:04:01:02.

General Authority: SDCL 34-12-7-~~34-12-13.~~

Law Implemented: SDCL 34-12-7; ~~34-12-13.~~

~~44:04:01:03~~ **44:73:01:03. Name of facility.** Each facility ~~must~~ shall be designated by a pertinent and distinctive name that ~~must~~ shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000, transferred from 44:04:01:03.

General Authority: SDCL ~~34-12-13~~ 34-12-7.

Law Implemented: SDCL 34-12-7; ~~34-12-13.~~

~~44:04:01:04~~ **44:73:01:04. Bed capacity.** The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The ~~patient or~~ resident census ~~must~~ shall not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of change of purpose or construction ~~must~~ shall be approved by the department before any changes are made. ~~A critical access hospital (CAH) may license no more than 25 beds. A CAH may establish a distinct part unit (e.g., psychiatric or rehabilitation) that meets requirements for such beds as established for a short term, general hospital. Those beds may not count toward the CAH bed limit, and the total number in each distinct part unit may not exceed ten.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004, transferred from 44:04:01:04.

General Authority: SDCL ~~34-12-13~~ 34-12-7.

Law Implemented: SDCL 34-12-7; ~~34-12-13.~~

~~44:04:01:05~~ **44:73:01:05. Restrictions on acceptance of ~~patients or~~ residents.** A facility shall accept ~~patients or~~ residents in accordance with the following restrictions:

(1) A ~~patient or~~ resident accepted for care by a licensed facility ~~must~~ shall be housed within the facility covered by the license;

(2) A ~~licensed~~ facility may not accept or retain ~~patients or~~ residents who require care in excess of the classification for which it is licensed;

(3) Nursing and personal care, personnel essential to maintaining adequate staff may not leave a licensed facility during their tour of duty in the facility to provide services to persons who are not ~~patients or~~ residents of the facility with the exception of providing emergency care on premises contiguous to the facility's property;

~~(4) Hospitals which accept or retain patients for other than short term acute care shall provide the facilities, equipment, programs, and care needed by such patients;~~

~~(5)~~ (4) All licensed facilities that accept or retain ~~patients or~~ residents suffering from developmental disabilities or mental diseases shall provide facilities and programs consistent with the needs of such ~~patients or~~ residents;

~~(6)~~ (5) If persons other than ~~inpatients or~~ residents are accepted for care or to participate in any programs, services, or activities for the ~~inpatients or~~ residents, their numbers ~~must~~ shall be included in the evaluation of central use, activity, and dining spaces; staffing of nursing, dietary, and activity programs; and the provision of an infection control program. Services provided such individuals may not infringe upon the needs of the ~~inpatients or~~ residents;

~~—— (7) A critical access hospital may provide inpatient acute care up to an annual average length of stay of 96 hours; and~~

~~—— (8) A licensed hospice facility may admit and retain only patients certified by a physician as terminally ill.~~

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000, transferred from 44:04:01:05.

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

~~44:04:01:06~~ **44:73:01:06. Joint occupancy.** The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the ~~patients or~~ residents. The area ~~must~~ shall be open to inspection by the department.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000, transferred from 44:04:01:06.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:01:07~~ **44:73:01:07. Reports.** Each ~~licensed facility, when requested by the department,~~ shall fax, email, or mail submit to the department the pertinent data necessary to comply with the requirements of ~~SDCL chapter 34-12 and this article~~ all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any resident by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each ~~nursing~~ facility shall report to the department within 24 hours ~~and any other licensed facility shall report to the department within 48 hours~~ of the event any death resulting from other than natural causes originating on facility property such as accidents, ~~abuse, negligence,~~ or suicide; ~~any missing patient or resident;~~ and ~~any allegation of abuse or neglect of any patient or resident by any person.~~ A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing resident to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

~~Each facility shall report the results of the investigation within five working days after the event.~~

Each facility shall also report to the department as soon as possible any fire with ~~structural~~ damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least ~~30~~ 60 days in advance of the effective date.

Each facility shall report to the department any unsafe water samples for pools or spas.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006, transferred from 44:04:01:07.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL ~~34-12-5, 34-12-13(14), 34-12-17.~~

~~44:04:01:07.01~~ **44:73:01:08. Plans of correction.** Within ~~45~~ 10 days of the receipt of the statement of deficiencies, each licensed facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source: 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:01:07.01.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~44:04:01:08~~ **44:73:01:09. Modifications.** ~~Modifications to standards provided in this article may be approved by the department for an adult foster care home if the health and safety of the residents are not jeopardized.~~

Modifications to the staffing requirements provided in § ~~44:04:03:02~~ 44:73:03:02 ~~or 44:04:06:08~~ may be approved by the department for licensed facilities which are physically combined and jointly operated if:

(1) A hospital or critical access hospital and nursing facility are co-located and the nursing facility has a licensed bed capacity of 16 or less or the hospital has an acute care patient daily census of less than five; or

~~(2) A hospital or a critical access hospital and assisted living center are co-located; or~~

~~(3)~~ (2) A nursing facility and assisted living center are co-located.

The health and safety of the patients or residents in either facility ~~must~~ shall not be jeopardized.

~~Modifications to the staffing requirements in this article may be approved by the department for a critical access hospital if there are no acute care or swing bed patients present.~~

~~Modifications specified by this section may be requested in writing by the ~~health care~~ facility. Any modifications must be approved in writing by the department. The approval letter must specify the modifications permitted and any limitations pertaining to the modifications.~~

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 38 SDR 115, effective January 9, 2012, transferred from 44:04:01:08.

General Authority: SDCL ~~34-12-7~~, 34-12-13~~(45)~~ and (14).

Law Implemented: SDCL ~~34-12-7~~, 34-12-13~~(45)~~ and (14).

~~44:04:01:11~~ **44:73:01:10. Scope of article.** Nothing in article ~~44:04~~ 44:73 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source: 31 SDR 62, effective November 7, 2004, transferred from 44:04:01:11.

General Authority: SDCL 34-12-13~~(5)~~.

Law Implemented: SDCL ~~34-12-7~~, 34-12-13~~(5)~~.

CHAPTER 44:73:02

PHYSICAL ENVIRONMENT

(Transferred from 44:04:02)

Section

44:04:02:01		Repealed.
44:04:02:02	<u>44:73:02:01</u>	Sanitation.
44:04:02:02.01	<u>44:73:02:02</u>	Pets.
44:04:02:03	<u>44:73:02:03</u>	Cleaning methods and facilities.
44:04:02:03.01	<u>44:73:02:04</u>	Chemicals used to sanitize, disinfect, or sterilize.
44:04:02:04	<u>44:73:02:05</u>	Sterilization.
44:04:02:05	<u>44:73:02:06</u>	Housekeeping cleaning methods and equipment.
44:04:02:06	<u>44:73:02:07</u>	Food service.
44:04:02:07	<u>44:73:02:08</u>	Handwashing facilities.
44:04:02:08	<u>44:73:02:09</u>	Linen.
44:04:02:09	<u>44:73:02:10</u>	Infection control.
44:04:02:10	<u>44:73:02:11</u>	Plumbing.
44:04:02:11	<u>44:73:02:12</u>	Water supply.
44:04:02:12	<u>44:73:02:13</u>	Ventilation.
44:04:02:13	<u>44:73:02:14</u>	Lighting.
44:04:02:14	<u>44:73:02:15</u>	Refuse and waste disposal.
44:04:02:15	<u>44:73:02:16</u>	Insect and rodent control.
44:04:02:16	<u>44:73:02:17</u>	Sewage disposal.
44:04:02:17	<u>44:73:02:18</u>	Occupant protection.
44:04:02:18	<u>44:73:02:19</u>	Area requirements for currently licensed resident rooms.
44:04:02:18.01	<u>44:73:02:19.01</u>	Room required for isolation techniques. Repealed.

44:04:02:18.02	<u>44:73:02:20</u>	Office required for social services activities.
44:04:02:19	<u>44:73:02:21</u>	Physical plant changes.
44:04:02:20	<u>44:73:02:22</u>	Location.
44:04:02:21	<u>44:73:02:23</u>	Heating and cooling.
44:04:02:22	<u>44:73:02:24</u>	Seclusion rooms in hospitals. <u>Repealed.</u>

44:04:02:02 44:73:02:01. Sanitation. The facility shall be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases and ensure the safety and well-being of residents, personnel, visitors, and the community at large. This requirement shall be accomplished by providing the physical resources, personnel, and technical expertise necessary to ensure good public health practices for institutional sanitation.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:02.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:04:02:02.01 44:73:02:02. Pets. Any pet kept in or visiting a nursing facility or adult foster care home may not negatively affect the well-being of residents. ~~The facility or home shall develop policies and procedures regarding the care and training of pets following the recommendations of a local veterinarian. The primary responsibility of care or the supervision of care for any pet shall be assigned to a staff member.~~

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012, transferred from 44:04:02:02.01.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:04:02:03 44:73:02:03. Cleaning methods and facilities. The facility ~~must~~ shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, disinfecting, or sterilizing all work areas, equipment, utensils, dressings, and medical devices, and solutions used for residents' or patients' care. Common use equipment shall be disinfected or sterilized after each use. ~~Hospitals and nursing facilities must~~ shall have separate clean and soiled utility rooms.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:03.

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:04:02:03.01 44:73:02:04. Chemicals used to sanitize, disinfect, or sterilize. The label of chemicals used to sanitize, disinfect, or sterilize ~~must~~ shall indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006, transferred from 44:04:02:03:01.

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:04:02:04 44:73:02:05. Sterilization. Instruments, supplies, utensils and equipment which are not single service ~~must~~ shall be decontaminated before sterilization in a manner that will make them safe for handling by personnel. Supplies and equipment commercially prepared and sterilized to retain sterility indefinitely are acceptable in lieu of sterilization in the facility. Autoclaves used for steam sterilization ~~must~~ shall be bacteriologically monitored at least weekly. Supplies and equipment sterilized and packaged in the facility ~~must~~ shall have the processing date on the package and ~~must~~ shall be reprocessed in accordance with any specific manufacturer's recommendation for the packaging.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:04.

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:04:02:05 44:73:02:06. Housekeeping cleaning methods and equipment. The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and copies made available to all housekeeping personnel. All parts of the facility shall be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for ~~patient or~~ resident use shall be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in medical facilities shall be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. Cleaning shall include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms except medical equipment, supplies, or devices that are the responsibility of other services or departments of the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012, transferred from 44:04:02:05.

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:04:02:06 44:73:02:07. Food service. Food service ~~must~~ shall be provided by a licensed facility or food service establishment that is inspected by a local, state, or federal agency. The facility ~~must~~ shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. In addition, a mechanical dishwasher ~~must~~ shall be provided in all facilities of ~~20~~ 17 beds or more. The facility ~~must~~ shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation if any part of the food service is provided by the facility.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006, transferred from 44:04:02:06.

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30 4.14.

~~44:04:02:07~~ 44:73:02:08. Handwashing facilities. Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and hand cleanser must ~~shall~~ be located in dietary areas, utility rooms, ~~nurses' staff~~ stations, pharmacies, ~~laboratories, nurseries, surgical suites, delivery suites,~~ physical therapy rooms, restorative therapy rooms, examination and treatment rooms, ~~emergency rooms,~~ laundry, and all toilet rooms not directly connected to ~~patient~~ resident rooms. A handwashing facility ~~must~~ shall be provided in each ~~patient or~~ resident room or in a bath or toilet room connected directly to the room. If existing faucets and controls are replaced or changed, they ~~must~~ shall be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:07.

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

Cross-Reference: Plumbing fixtures, § ~~44:04:13:33~~ 44:73:12:31.

~~44:04:02:08~~ 44:73:02:09. Linen. The supply of bed linen and towels shall equal three times the licensed capacity. The facility shall have written procedures for the storage and handling of soiled and clean linens. The facility shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Commingled ~~patients' or residents'~~ personal clothing, common-use linen, such as towels, washcloths, gowns, bibs, protective briefs, and bedding, any isolation clothing, and housekeeping items shall be processed by methods that assure disinfection. The facility shall process laundry follow the laundry equipment and cleaning agent recommendations. If hot water is used for disinfection, minimum water temperatures supplied for laundry purposes shall be 160 degrees Fahrenheit (71 degrees centigrade). If chlorine bleach is added to the laundry process to provide 100 parts per million or more of free chlorine, the minimum hot water temperatures supplied for laundry purposes may be reduced to ~~140~~ 120 degrees Fahrenheit (~~60~~ 48.8 degrees centigrade). The facility may choose to wash commingled ~~patients' or residents'~~ personal clothing, common-use linen, and any isolation clothing in water temperatures less than ~~140~~ 120 ° F. if the following conditions are met:

~~—— (1) The process is effective at removing Staphylococcus aureus, Klebsiella pneumoniae. For hospitals the process is effective at also removing Pseudomonas aeruginosa;~~

~~—— (2) The water temperature is maintained at a temperature of at least 70° F. for the chemicals used in low temperature washing to be effective in hard water;~~

~~(3)~~ (1) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility;

~~(4)~~ (2) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff;

~~(5)~~ (3) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations; and

~~(6)~~ (4) The facility ensures that staff monitors chemical usage and wash water temperatures at least monthly to ensure conformance with the chemical supplier's instructions.

Any resident's personal clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in quantity as recommended by the garment or detergent manufacturer. The facility shall have distinct areas for the storage and handling of clean and soiled linens. Those areas used for the storage and handling of soiled linens shall be negatively pressurized. The facility shall establish special procedures for the handling and processing of contaminated linens. Soiled linen shall be placed in closed containers prior to transportation. To safeguard clean linens from cross contamination, the linens shall be transported in containers used exclusively for clean linens, shall be kept covered with dust covers at all times while in transit or in hallways, and shall be stored in areas designated exclusively for this purpose. A written request for any modification of the requirements of this section shall be ~~received~~ reviewed and approved by the department before any changes are made.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012, transferred from 44:04:02:08.

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

~~44:04:02:09~~ **44:73:02:10. Infection control.** The infection control program ~~must~~ shall utilize the concept of standard precautions as the basis for infection control pursuant to chapter 44:20:04. Bloodborne pathogen control ~~must~~ shall ~~include a written exposure control plan, approved by the facility's medical director or physician responsible for infection control, that addresses the~~ be maintained according to the requirements contained in 29 C.F.R. 1910.1030, ~~December 6, 1994~~ July 1, 2006. The facility ~~must~~ shall designate an employee to be responsible for the implementation of the infection control program including surveillance and reporting activities. There ~~must~~ shall be written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each facility shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). There ~~must~~ shall be a method of control used in relation to the sterilization of supplies and a written policy requiring sterile supplies to be reprocessed. The facility ~~must~~ shall provide orientation and continuing education to all personnel on the facility's staff on the cause, effect, transmission, prevention, and elimination of infections. ~~A~~ Each facility shall develop a written policy ~~must be developed~~ for evaluation and reporting of any employee with a reportable infectious disease.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004, transferred from 44:04:02:09.

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:10~~ **44:73:02:11. Plumbing.** Facility plumbing systems ~~must~~ shall be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing ~~must~~ shall be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility. ~~Plumbing may not constitute a source of contamination of food equipment or utensils or create an unsanitary condition or nuisance.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:02:10.

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

~~44:04:02:11~~ 44:73:02:12. Water supply. The facility's water supply ~~must~~ shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Private water supplies ~~must~~ shall have a water sample bacteriologically tested at least monthly. The volume of water ~~must~~ shall be sufficient for the needs of the facility, including fire fighting requirements. The hot water system ~~must~~ shall be capable of supplying the work and ~~patient or~~ resident areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by ~~patients and~~ residents may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for ~~patient and~~ resident use ~~must~~ shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. If testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:02:11.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-References: Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

~~44:04:02:12~~ 44:73:02:13. Ventilation. Electrically powered exhaust ventilation ~~must~~ shall be provided in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air-handling system.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006, transferred from 44:04:02:12.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:13~~ 44:73:02:14. Lighting. Spaces occupied by people, machinery, and equipment within buildings and their approaches and parking lots ~~must~~ shall have artificial lighting at a level for general safety. ~~Patient or~~ Each resident bedrooms ~~must~~ shall have general lighting and night lighting. A reading light ~~must~~ shall be provided for each ~~patient or~~ resident who can benefit from one. Each required exits ~~must~~ shall be equipped with continuous emergency lighting. Emergency power ~~must~~ shall be provided if the main source of power fails.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000, transferred from 44:04:02:13.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:14~~ 44:73:02:15. Refuse and waste disposal. Garbage, refuse, and waste ~~must~~ shall be handled and disposed of in a safe and sanitary manner. ~~Medical waste that is categorized as regulated in article 74:35 must be disposed of as specified in that article.~~ Final disposal of all refuse and waste ~~must~~ shall comply with articles 74:27 and 74:28. Putrescible garbage ~~must~~ shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006, transferred from 44:04:02:14.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:15~~ 44:73:02:16. Insect and rodent control. The facility ~~must~~ shall take effective measures to protect against the entrance into the facility and the breeding or presence on the premises of rodents, flies, roaches, and other vermin. The facility may use chemical substances of a poisonous nature in accordance with the requirements of this section to control or eliminate various types of vermin. The substances ~~must~~ shall be properly colored and labeled to identify them as poisons, ~~must~~ shall be used and stored in a safe manner, and may not be stored with food or drugs used for human consumption. Extreme care ~~must~~ shall be taken to prevent any poisons from contaminating food or food products.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:02:15.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:16~~ 44:73:02:17. Sewage disposal. Sewage ~~must~~ shall be disposed of in a public sewage works system or, in its absence, in a manner approved by the department in accordance with SDCL chapter 34A-2.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:02:16.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:17~~ 44:73:02:18. Occupant protection. Each ~~licensed health care facility covered by this article must~~ shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the ~~patients and~~ residents admitted to the facility. The facility ~~must~~ shall take at least the following precautions:

- (1) Develop and implement a written and scheduled preventive maintenance program;
- (2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by ~~patients or~~ residents;
- (3) Provide a call system for each ~~patient or~~ resident bed and in all toilet rooms and bathing facilities routinely used by ~~patients or~~ residents. The call system ~~must~~ shall be capable of being easily activated by the ~~patient or~~ resident and must register at a staff station serving the unit. A wireless call system may be used;
- (4) Provide handrails firmly attached to the walls on both sides of all resident corridors ~~in nursing facilities~~;

(5) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters ~~must~~ shall be provided in wet areas and for outlets within six feet of sinks;

(6) Install an electrically activated audible alarm on all unattended exit doors ~~in nursing facilities~~. ~~Any~~ ~~Other~~ exterior doors ~~must~~ shall be locked or alarmed. The alarm ~~must~~ shall be audible at a designated ~~nurses'~~ staff station and may not automatically silence when the door is closed;

(7) Portable space heaters and portable halogen lamps may not be used in a facility;

(8) Household-type electric blankets or heating pads may not be used in a facility;

(9) Any light fixture located over a ~~patient or~~ resident bed, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area ~~must~~ shall be equipped with a lens cover or a shatterproof lamp; ~~and~~

(10) Any clothes dryer ~~must~~ shall have a galvanized metal vent pipe for exhaust; and

(11) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006, transferred from 44:04:02:17.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 99 Health Care Facilities, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

~~44:04:02:18~~ 44:73:02:19. Area requirements for currently licensed ~~patient and~~ resident rooms. Each currently licensed ~~patient or~~ resident room shall have at least 75 square feet (6.98 square meters) of floor space per bed, with at least three feet (0.91 meters) between beds in a multi-bed room exclusive of closets and wardrobes; and 95 square feet (8.83 square meters) in a single room, exclusive of closets and wardrobes. Each ~~patient or~~ resident shall have for individual use in the assigned room a bed, a bedside stand, and a chair appropriate to the needs and comfort of the ~~patient or~~ resident. ~~Each hospital shall have 20 square feet (1.86 square meters) of general storage for each bed. Each nursing facility shall have 10 square feet (0.93 square meters) of general storage for each bed. A total of 37.5 square feet (3.48 square meters) of recreational, activity, dining, and occupational therapy area for each bed and each day care~~ patient resident shall be provided in a ~~nursing~~ facility. Each facility shall be constructed, equipped, and operated to maintain the privacy and dignity of all ~~patients or~~ residents. In a multi-bed room, each bed shall be able to be separated from the other beds by privacy curtains.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012, transferred from 44:04:02:18.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Area requirements for new construction or renovations, § 44:04:13:02(2) 44:73:12:08(2).

~~44:04:02:18.01 44:73:02:19.01. Room required for isolation techniques.~~ When a physician determines isolation is required, a private room with necessary equipment, including handwashing facilities, to carry out isolation techniques must be provided. Isolation of a patient or resident with suspected or confirmed tuberculosis in a communicable form requires the room to have a negative air pressure with regard to the corridor and connecting rooms and a minimum of six air exchanges an hour exhausted to the outside air. **Repealed.**

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:02:18.01.

~~General Authority:~~ SDCL 34-12-13, 34-22-9.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:02:18.02 44:73:02:20. Office required for social services activities.~~ An office which is large enough to accommodate private consultation and record keeping and which is easily accessible to patients or residents ~~must~~ shall be provided for social services activities.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:02:18.02.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~44:04:02:19 44:73:02:21. Physical plant changes.~~ A facility ~~must~~ shall submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change ~~must~~ shall have the approval of the department before it is made.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:19.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:02:20 44:73:02:22. Location.~~ The location of and access to facilities ~~must~~ shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. Facilities ~~must~~ shall be served by good, passable roads. Easy accessibility for employees, visitors, and fire-fighting services ~~must~~ shall be maintained.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:02:20.

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

~~44:04:02:21 44:73:02:23. Heating and cooling.~~ The temperature in any occupied space in the facility ~~must~~ shall be maintained between 68 and 80 degrees Fahrenheit during waking hours and not lower than 64 degrees Fahrenheit during sleeping hours. Individual resident's space may be maintained outside the required range when desired by the occupant.

Source: 29 SDR 81, effective December 11, 2002, transferred from 44:04:02:21.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

~~44:04:02:22 44:73:02:24. Seclusion rooms in hospitals. Each seclusion room must be arranged for the safety of the patient and to prevent patient hiding, escape, injury, or suicide. The room must be without sharp corners. The room door must swing out of the patient room, but not into a general traffic corridor. Each room door must permit staff observation of the patient while still providing for patient privacy. Each finish fastener and hardware must be tamper resistant. Security fixtures must be provided for lighting. Nine foot ceiling heights must be provided. An anteroom at the seclusion room entrance should be provided to allow staff controlled access to the seclusion room toilet facility. Any lock on a seclusion room must be controlled by staff at the door location and must unlock when released by the staff person. A locking device may be manual or automatic in nature.~~ **Repealed.**

Source: 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004, transferred from 44:04:04:22.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

CHAPTER 44:73:03

FIRE PROTECTION

(Transferred from 44:04:03)

Section

44:04:03:01 44:73:03:01 Fire safety code requirements.

44:04:03:02 44:73:03:02 General fire safety.

44:04:03:02:01 ~~Transferred.~~

44:04:03:03 ~~Repealed.~~

~~44:04:03:01 44:73:03:01. Fire safety code requirements.~~ Each facility shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:03:01.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: ~~\$53.50~~ 93.00.

~~44:04:03:02 44:73:03:02. General fire safety.~~ Each facility covered under this article shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. At least two staff members shall be on duty at all times. In a multilevel facility, at least one staff member shall be on duty on each floor containing occupied beds. ~~Compliance with this section does not~~

eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012, transferred from 44:04:03:02.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:04:03:01 44:73:03:01.

CHAPTER 44:73:04

MANAGEMENT AND ADMINISTRATION

(Transferred from 44:04:04)

Section

44:04:04:01	<u>44:73:04:01</u>	Administrative management. <u>Repealed</u>
44:04:04:02	<u>44:73:04:02</u>	Governing body.
44:04:04:02.01	<u>44:73:04:02.01</u>	Hospital medical staff. <u>Repealed.</u>
44:04:04:03	<u>44:73:04:03</u>	Administrator.
44:04:04:04	<u>44:73:04:04</u>	Personnel.
44:04:04:05	<u>44:73:04:05</u>	Personnel training.
44:04:04:06	<u>44:73:04:06</u>	Employee health program.
44:04:04:06.01		Repealed.
44:04:04:07	<u>44:73:04:07</u>	Admissions of patients or residents.
44:04:04:07.01	<u>44:73:04:08</u>	Admission to nursing facilities of residents with communicable diseases or antibiotic resistant organisms.
44:04:04:07.02		Repealed.
44:04:04:07.03	<u>44:73:04:09</u>	Prevention and control of influenza.
44:04:04:07.04	<u>44:73:04:10</u>	Prevention and control of pneumonia.
44:04:04:08	<u>44:73:04:11</u>	Disease prevention.
44:04:04:08.01	<u>44:73:04:12</u>	Tuberculin screening requirements.
44:04:04:09 and 44:04:04:10		Repealed.
44:04:04:11	<u>44:73:04:13</u>	Care policies.
44:04:04:11.01	<u>44:73:04:14</u>	Secured Memory care units.
44:04:04:11.02	<u>44:73:04:15</u>	Restraints.
44:04:04:12 to 44:04:04:14		Transferred.
44:04:04:15	<u>44:73:04:16</u>	Transfer agreement.
44:04:04:16	<u>44:73:04:17</u>	Quality assessment.
44:04:04:17	<u>44:73:04:18</u>	Discharge planning.
Appendix A Minimum Data Set Plus for Nursing Facility Resident Assessment and Care Screening (MDS+), repealed April 1, 1991.		
Appendix B Minimum Data Set Plus for Nursing Home Resident Assessment and Care Screening (MDS+) Background Information at Intake/Admission, repealed, 22 SDR 70, effective November 19, 1995.		

44:04:04:01 44:73:04:01. Administrative management. Each facility must comply with §§ 44:04:04:02 to 44:04:04:08.01 inclusive. **Repealed**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:04:01.

~~General Authority: SDCL 34-12-13(5).~~

~~Law Implemented: SDCL 34-12-13(5).~~

~~44:04:04:02 44:73:04:02. Governing body.~~ Each facility operated by limited liability partnership, a corporation, or political subdivision ~~must shall~~ have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility. ~~The governing body of a hospital shall determine which categories of practitioners are eligible candidates for appointment to the medical staff and shall credential and grant admitting or patient care privileges to appointees to the medical staff. The governing body may appoint members to the medical staff only after considering the recommendations of the existing members of the medical staff.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004, transferred from 44:04:04:02.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~Cross Reference: Hospital medical staff, § 44:04:04:02.01.~~

~~44:04:04:02.01 44:73:04:02.01. Hospital medical staff.~~ ~~A hospital must have a medical staff organized under bylaws and rules approved by the governing body and responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members. The medical staff must include physicians, but it may also include other practitioners appointed by the governing body. If the medical staff has an executive committee, a majority of the members of the committee must be physicians. The responsibility for the conduct of medical staff affairs must be assigned to an individual physician. The medical staff must establish a credentials committee to review the qualifications of practitioners applying for admitting or patient care privileges and recommend to the governing body practitioners eligible for appointment to the medical staff by the governing body. The review shall include recommendations regarding delineation of admitting and patient care privileges. The medical staff must conduct appraisals of its members at least every two years.~~
Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; transferred from § 44:04:05:04, 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:04:02.01.

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Cross Reference: Governing body, § 44:04:04:02.~~

44:04:04:03 44:73:04:03. Administrator. The governing body shall designate an appropriately licensed and qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator. ~~The administrator of a nursing facility shall be licensed pursuant to article 20:49.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012, transferred from 44:04:04:03.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:04:04:04 44:73:04:04. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. Staff members on duty shall be awake at all times. Any supervisor shall be 18 years of age or older. Written job descriptions and personnel policies and procedures shall be made available to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility shall establish and follow policies regarding special duty or staff members on contract.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012, transferred from 44:04:04:04.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:04:04:05 44:73:04:05. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

(1) Fire prevention and response. The facility shall conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, monthly fire drills shall be conducted to provide training for all staff;

- (2) Emergency procedures and preparedness;
- (3) Infection control and prevention;
- (4) Accident prevention and safety procedures;
- (5) Proper use of restraints;
- (6) ~~Patient and r~~Resident rights;
- (7) Confidentiality of ~~patient or~~ resident information;
- (8) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;
- (9) Care of ~~patients or~~ residents with unique needs; ~~and~~
- (10) Dining assistance, nutritional risks, and hydration needs of residents; and-
- (11) Abuse, neglect, misappropriation of resident property and funds, and mistreatment.

Any personnel whom the facility determines will have no contact with residents are exempt from training required by subdivisions (5), (9), and (10) of this section.

Additional personnel education shall be based on facility identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006, transferred from 44:04:04:05.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~44:04:04:06~~ 44:73:04:06. Employee health program. The facility shall have an employee health program for the protection of the residents. All personnel shall be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties or within 14 days after employment including an assessment of previous vaccinations and tuberculin skin tests. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Any personnel absent from duty because of a reportable communicable disease which may endanger the health of residents and fellow employees may not return to duty until they are determined by a physician, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000, transferred from 44:04:04:06.

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Reportable diseases and conditions, ch 44:20:01.

~~44:04:04:07~~ 44:73:04:07. Admissions of ~~patients or~~ residents. The governing body of the facility shall establish and maintain admission, transfer, and discharge policies, with written evidence to assure the ~~patients or~~ residents admitted to and retained in the facility are within the licensure classification of the facility or its distinct part. The facility may admit and retain, on the orders of a practitioner, only those ~~patients or~~ residents for whom it can provide care safely and effectively. A nursing facility may admit and retain ~~patients or~~ residents only on the orders of a physician, physician assistant, or nurse practitioner.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; transfer agreement transferred to § 44:04:04:15, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012, transferred from 44:04:04:07.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~44:04:04:07.01~~ 44:73:04:08. Admission to ~~nursing facilities of~~ residents with communicable diseases or antibiotic resistant organisms. A resident who is infected with a communicable disease which is reportable to the department, pursuant to SDCL 34-22-12, may be admitted to a facility if the appropriate infection control measures can be provided by the facility to prevent the spread of the communicable disease. ~~The following specific diseases do not preclude a patient resident from being admitted to a facility: acquired immune deficiency syndrome (AIDS), human immunodeficiency virus positive (HIV+), viral hepatitis, herpes (genital), leprosy, malaria, syphilis (late latent only), infection with antibiotic resistant organisms, and tuberculosis (noninfectious).~~ If the facility chooses to admit residents with these diseases or antibiotic resistant organisms, the following conditions shall be met:

(1) ~~Nursing facility~~ staff ~~must~~ shall complete a training program in infection control applicable to the states reportable diseases listed in this section or antibiotic resistant organisms;

(2) The ~~nursing~~ facility ~~must~~ shall have written procedures and protocols for staff to follow to avoid exposure to blood or body fluids of the affected residents; and

(3) The ~~nursing~~ facility ~~must~~ shall have written infection control procedures in place and practiced that prevent the spread of antibiotic resistant organisms.

If, after admission, a resident is suspected of having a communicable disease that endangers the health and welfare of employees or other residents, the facility ~~must~~ shall contact a physician, physician assistant, or nurse practitioner and ~~assure~~ ensure that measures are taken in behalf of the resident with the communicable disease and the other residents to prevent transmission of the disease.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:07.01.

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14), 34-22-9.

44:04:04:07.03 44:73:04:09. Prevention and control of influenza. Each ~~nursing~~ facility shall arrange for influenza vaccination to be completed annually for all residents. ~~Any~~ Each resident ~~admitted after completion of the vaccination program and before April 1~~ shall be offered influenza vaccine when he or she is admitted and annually during the influenza season. ~~An influenza vaccination may be waived for a resident because of religious beliefs, medical contraindication, or refusal by the resident.~~ Documentation of vaccination or ~~its waiver~~ refusal shall be recorded in the resident's medical ~~or care~~ record.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:07.03.

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

44:04:04:07.04 44:73:04:10. Prevention and control of pneumonia. Each ~~nursing~~ facility shall arrange for immunization for pneumococcal disease. If immunization is lacking and the resident's physician, physician assistant, or nurse practitioner recommends immunization, the nursing facility shall arrange for an immunization for pneumococcal pneumonia within 14 days of admission. A pneumococcal vaccination may be waived for a resident because of religious beliefs, medical contraindication, or refusal by the resident. Documentation of the vaccination or its waiver shall be recorded in the resident's medical ~~or~~ care record.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:07.04.

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1), (5), and (14), 34-22-9(8).

44:04:04:08 44:73:04:11. Disease prevention. Each facility shall provide an organized infection control program for preventing, investigating, and controlling infection. The facility ~~must~~ shall establish written policies regarding visitation in the various services and departments of the facility. Any visitor who has an infectious disease, who has recently recovered from such a disease, or who has recently had contact with such a disease ~~must~~ shall be discouraged from entering the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:08.

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

44:04:04:08.01 44:73:04:12. Tuberculin screening requirements. Each facility shall develop criteria to screen healthcare workers, ~~patients,~~ or residents for *Mycobacterium tuberculosis* (TB) based on the guidelines issued by Centers for Disease Control and Prevention. Each facility shall establish policies

and procedures for conducting *Mycobacterium tuberculosis* risk assessment that include the key components of responsibility, surveillance, containment, and education. ~~Policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment shall be established and should include the key components of responsibility, surveillance, containment, and education.~~ The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

Tuberculin screening requirements for healthcare workers or residents are as follows:

(1) Each new healthcare worker or resident shall receive the two-step method of tuberculin Mantoux skin test or a TB blood assay test to establish a baseline within 14 days of employment or admission to a facility. Any two documented tuberculin Mantoux skin tests completed within a 12 month period prior to the date of admission or employment ~~shall can~~ be considered a two-step or one blood assay TB test completed within a 12 month period prior to the date of admission or employment can be considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new employee or resident transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation of the last skin testing completed within the prior 12 months. Skin testing is or TB blood assay test are not necessary if documentation is provided of a previous positive reaction of ten mm induration or greater to either test. Any new healthcare worker or resident who has a newly recognized positive reaction to the skin test or TB blood assay test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) A new healthcare worker or resident who provides documentation of a positive reaction to the tuberculin Mantoux skin test or TB blood assay test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

(3) Each healthcare worker or resident with a history of a positive reaction to the tuberculin Mantoux skin test or blood assay shall be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*. If this evaluation results in suspicion of active tuberculosis, the person shall be referred for further medical evaluation to confirm the presence or absence of tuberculosis.

Source: 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006, transferred from 44:04:04:08.01.

General Authority: SDCL 34-12-13(1), (5), and (14) 34-22-9.

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Reference: **Guidelines for Preventing the Transmission of *Mycobacterium Tuberculosis* in Health-Care Facilities, 2005.** "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005 (RR17).

~~44:04:04:11~~ **44:73:04:13. Care policies.** Each facility ~~must~~ shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the ~~patients' or residents'~~ needs. Each facility shall establish and maintain ~~P~~olicies and procedures for the management of adult day care clients and respite care ~~patients or residents if the facilities offering facility offers those services shall be established and maintained.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003, transferred from 44:04:04:11.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:04:04:11.01 44:73:04:14. Secured Memory care units. Each facility with ~~secured~~ memory care units ~~must~~ shall comply with the following provisions:

(1) ~~A~~ Each physician's, physician assistant's, or nurse practitioner's order for confinement that includes medical symptoms that warrant seclusion or placement ~~must~~ shall be documented in the ~~patient's~~ or resident's chart and ~~must~~ shall be reviewed periodically by the physician, physician assistant, or nurse practitioner;

(2) Therapeutic programming ~~must~~ shall be provided and ~~must~~ shall be documented in the overall plan of care;

(3) Confinement may not be used as a punishment or for the convenience of the staff;

(4) Confinement and its necessity ~~must~~ shall be based on a comprehensive assessment of the ~~patient's or~~ resident's physical and cognitive and psychosocial needs, and the risks and benefits of this confinement ~~must~~ shall be communicated to the ~~patient's or~~ resident's family;

(5) Locked doors ~~must~~ shall conform to Sections: 18.2.2.2.4 and 19.2.2.2.4 of **NFPA 101 Life Safety Code, 2000** 2012 edition; and

(6) Staff assigned to the secured memory care unit ~~must~~ shall have specific training regarding the unique needs of ~~patients or~~ residents in that unit. At least one caregiver ~~must~~ shall be on duty on the secured memory care unit at all times.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002, transferred from 44:04:04:11.01.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

Reference: **NFPA 101 Life Safety Code, 2000** 2012 edition, Sections: 18.2.2.2.4 and 19.2.2.2.4 National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: ~~\$53.50~~ 93.00.

44:04:04:11.02 44:73:04:15. Restraints. There ~~must~~ shall be written policies and procedures for all restraint use, including emergency restraints, bedrails, and locked doors. The use of restraints ~~must~~ shall be based on a comprehensive assessment of the ~~patient's or~~ resident's physical and cognitive abilities, evaluation and effectiveness of less restrictive alternatives, and an involvement of the ~~patient or~~ resident in weighing the benefits and consequences. Restraint use requires a physician's, physician assistant's, or nurse practitioner's order including specific time frames. Continued use of the restraint and reorders may be given only on review of the ~~patient's or~~ resident's condition by the physician, physician assistant, or nurse practitioner and the interdisciplinary team. Restraints ~~must~~ shall be physically checked as ordered and documented every 30 minutes by nursing personnel. ~~Patients or residents under restraint must be given the opportunity for motion and exercise for not less than 10 minutes at intervals as necessary based on the patient's or resident's condition, but at least every two hours.~~ Restraints ~~must~~ shall not be used to limit mobility, for convenience of staff, for punishment, or as a substitute for supervision. Restraints ~~must~~ shall not hinder evacuation of the ~~patient or~~ resident during fire or cause injury to the resident.

Source: 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:04:11.02.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

~~44:04:04:15~~ **44:73:04:16. Transfer agreements.** Each ~~nursing-facility~~ must ~~shall~~ have in effect a transfer agreement with one or more hospitals sufficiently close to provide prompt inpatient hospital care to the facility's residents when needed. The agreement ~~must~~ shall provide for an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities.

~~Each specialized hospital and critical access hospital must have in effect a transfer agreement with one or more hospitals to provide services not available on site. The agreement must provide for an interchange of medical and other necessary information; and~~

~~Each ambulatory surgery center must have in effect a transfer agreement with a hospital sufficiently close to accept emergency transfer of patients.~~

Source: Transferred from § 44:04:04:07, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:04:15.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

~~44:04:04:16~~ **44:73:04:17. Quality assessment.** Each ~~licensed-facility~~ shall provide for on-going evaluation of the quality of services provided to ~~patients or~~ residents. Components of the quality assessment evaluation ~~must~~ shall include establishment of facility standards; interdisciplinary review of ~~patient or~~ resident services to identify deviations from the standards and actions taken to correct deviations; ~~patient or~~ resident satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:04:16.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

~~44:04:04:17~~ **44:73:04:18. Discharge planning.** A facility shall have policies and procedures for discharge planning including the person responsible, members of the discharge planning team, a list of all area agencies and resources, and a description of the process. Outside caregivers may be included in discharge planning conferences.

~~Within 24 hours after admission, a hospital shall determine each patient's potential need for continuing care following discharge and within 48 hours a nursing facility shall determine each resident's potential for discharge. The facility shall initiate planning with applicable agencies to meet identified needs, and patients and residents shall be offered assistance to obtain needed services upon discharge. Information necessary for coordination and continuity of care shall be made available to whomever the patient or resident is discharged and to referral agencies as required by the discharge plan.~~

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012, transferred from 44:04:04:17.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

CHAPTER 44:73:05

PHYSICIAN, PHYSICIAN ASSISTANT, AND NURSE PRACTITIONER SERVICES

(Transferred from 44:04:05)

Section

44:04:05:01	<u>44:73:05:01</u>	Admissions to hospitals. Repealed.
44:04:05:01.01	<u>44:73:05:02</u>	Admissions to nursing facilities.
44:04:05:02	<u>44:73:05:03</u>	Medical orders in hospitals and nursing facilities.
44:04:05:03	<u>44:73:05:04</u>	Emergency physician, physician assistant, or nurse practitioner coverage.
44:04:05:04 and 44:04:05:05		Transferred.
44:05:05:05		Physician services for assisted living center.
44:04:05:06	<u>44:73:05:05</u>	Physician extenders. <u>Repealed</u>
44:04:05:07	<u>44:73:05:06</u>	Medical director required.
44:04:05:08	<u>44:73:05:07</u>	Physician services for hospice facilities <u>patients</u> .

~~**44:04:05:01 44:73:05:01. Admissions to hospitals.** Each patient admitted to a hospital may be admitted only on the order of a practitioner and the patient's health care shall continue under the supervision of a physician who is a member of the medical staff. Before or on admission of a patient, the patient's physician must provide the staff of the facility with documented information regarding current medical findings, admitting diagnoses, and written orders for the immediate care of the individual.~~

~~— The patient's history and physical examination must be completed no more than seven days prior to admission or 48 hours after admission; or within thirty days prior to admission with documentation of an update of the patient's current medical status completed within seven days prior to admission or 48 hours after admission. The patient's history and physical examination must be completed prior to surgery except in emergency situations. **Repealed.**~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 32 SDR 128, effective January 30, 2006, transferred from 44:04:05:01.

~~— **General Authority:** SDCL 34-12-13.~~

~~— **Law Implemented:** SDCL 34-12-13.~~

~~**44:04:05:01.01 44:73:05:02. Admissions to nursing facilities.** Each resident admitted to a nursing facility may be admitted only on the order of a physician, physician assistant, or nurse practitioner. Prior to or upon admission of a resident, the attending physician, physician assistant, or nurse practitioner ~~must~~ shall provide the staff of the facility with documented information regarding current medical findings and with written orders for the immediate care of the individual. This information ~~must~~ shall include a medical evaluation, diagnosis, and rehabilitation potential. The information on the resident ~~must~~ shall be based on a physical examination done within 48 hours after admission unless the examination was performed within the five days prior to admission. The resident's health care shall continue under the supervision of a physician, physician assistant, or nurse practitioner. If a resident transfers from one nursing facility to another while retaining the same physician, physician assistant, or nurse practitioner, the requirement for the physical examination shall be waived; however, the schedule for physician, physician assistant, or nurse visits shall continue.~~

The resident shall be seen by the attending physician, physician assistant, or nurse practitioner at least once every 30 days for the first 90 days following admission. Subsequent to the 90th day following admission, the physician, physician assistant, or nurse practitioner shall visit the resident whenever necessary; but the time between visits may not exceed 60 days. ~~A resident in a physician extender may conduct every other visit with the resident's permission.~~

The facility shall follow the physician visit requirements as outlined in the federal regulations for nursing facilities. A physician may not delegate a task when the regulations specify the physician shall perform it personally, or when the delegation is prohibited under State law or by the facility's own policies.

The resident's total care program including medications and treatments shall be reviewed during the physician, physician assistant, or nurse practitioner visit.

Source: 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:05:01.01.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:04:05:02 44:73:05:03. Medical orders in hospitals and nursing facilities. All medical orders, including verbal orders, ~~must~~ shall be in writing or electronic format and signed by the ~~physician or the physician extender practitioner~~. Verbal orders are for medications, treatments, interventions, or other resident care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. ~~Telephone~~ Verbal orders may be taken only when there is an urgent need to initiate or change a medical order. ~~The physician or physician extender shall sign or initial the orders for nursing facility residents on the next visit to the facility.~~ The physician or physician extender ~~physician or practitioner~~ shall sign or initial the orders for all hospital patients as soon as possible residents on the next visit to the facility. Each ~~patient's or resident's physician practitioner~~ is responsible for documenting written or electronic orders and progress notes on each ~~patient's or resident's~~ clinical record.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:05:02.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:04:05:03 44:73:05:04. Emergency physician, physician assistant, or nurse practitioner coverage for hospitals and nursing facilities. A ~~patient's or resident's~~ physician, physician assistant, or nurse practitioner shall arrange for the care of the ~~patient or resident~~ by an alternate physician, physician assistant, or nurse practitioner during the physician's, physician assistant's, or nurse practitioner's unavailability. ~~A hospital must have one or more physicians on duty or call at all times and available to the hospital on-site or by telephone within 20 minutes to give necessary orders or medical care to patients in case of emergency.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000, transferred from 44:04:05:03.

General Authority: SDCL 34-12-13(6) and ((14)).

Law Implemented: SDCL 34-12-13(6) and (14).

44:04:05:06 44:73:05:05. Physician extenders. ~~If the services of a physician extender are utilized, the facility must develop written policies regarding the extender's role in the care of the patient or resident.~~
Repealed

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:05:06.

—— **General Authority:** SDCL 34-12-13.

—— **Law Implemented:** SDCL 34-12-13.

~~44:04:05:07~~ 44:73:05:06. Medical director required. A ~~critical access hospital and a nursing facility must~~ shall appoint a physician licensed in South Dakota to serve as a medical director. The medical director shall assure physician services are provided only by qualified caregivers.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:05:07.

General Authority: SDCL 34-12-13(5) and (6).

Law Implemented: SDCL 34-12-13(5) and (6).

~~44:04:05:08~~ 44:73:05:07. Physician services for hospice facilities patients. A ~~hospice facility must~~ shall provide or arrange for physician services, including emergencies once a resident elects hospice care. Each resident shall designate an attending physician upon admission or when they elect hospice care.

Source: 22 SDR 70, effective November 19, 1995, transferred from 44:04:05:08.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

CHAPTER 44:73:06

NURSING AND RELATED CARE SERVICES

(Transferred from 44:04:06)

Section

44:04:06:01	<u>44:73:06:01</u>	Nursing service for hospitals and nursing facilities. Repealed.
44:04:06:02	<u>44:73:06:02</u>	Organized nursing service. Repealed.
44:04:06:03	<u>44:73:06:03</u>	Director of nursing service.
44:04:06:04	<u>44:73:06:04</u>	Nursing policies and procedures.
44:04:06:05	<u>44:73:06:05</u>	Patient or r Resident care plans and programs.
44:04:06:06 and 44:04:06:07		Repealed.
44:04:06:08	<u>44:73:06:06</u>	Nursing service staffing for hospitals. Repealed.
44:04:06:09	<u>44:73:06:07</u>	Nursing service staffing for nursing facilities.
44:04:06:10		Repealed.
44:04:06:11		Transferred.
44:04:06:11.1 <u>44:73:06:08</u>		Intermittent nursing care.
44:04:06:12		Transferred.
44:04:06:13	<u>44:73:06:09</u>	Hospice services.
44:04:06:14		Repealed.
44:04:06:15	<u>44:73:06:10</u>	Resident assessments.
44:73:06:16	<u>44:73:06:11</u>	Resident assessment reviews. Repealed.
44:04:06:17	<u>44:73:06:12</u>	Nursing service staffing for hospice facilities. Repealed.
<u>44:73:06:13</u>		<u>Nurse Aides</u>

~~44:04:06:01~~ 44:73:06:01. Nursing service for hospitals and nursing facilities. All hospitals and nursing facilities must comply with §§ 44:04:06:02 to 44:04:06:05, inclusive. **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:06:01.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:06:02~~ 44:73:06:02. Organized nursing service. ~~There shall be an organized nursing service with a written organizational plan that delineates its service's functional structure.~~ **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:73:06:02.

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:06:03~~ 44:73:06:03. Director of nursing service. There ~~must~~ shall be a full-time registered nurse designated as the director of nursing service who is responsible for the organization of the total nursing service and who serves during the day shift. The director may not serve in a dual role as the administrator of the facility and the director of nursing.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, February 24, 1991; 22 SDR 70, effective November 22, 1995, transferred from 44:04:06:03.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

~~44:04:06:04~~ 44:73:06:04. Nursing policies and procedures. The facility shall establish and maintain p~~Policies and procedures that provide the nursing staff with methods of meeting its administrative and technical responsibilities in providing care to patients or residents must be established and maintained.~~ The policies ~~must~~ shall include at least the following:

- (1) The noting of diagnostic and therapeutic orders;
- (2) Assigning the nursing care of ~~patients or~~ residents;
- (3) Administration and control of medications;
- (4) Charting by nursing personnel;
- (5) Infection control;
- (6) ~~Patient or r~~ Resident safety; and
- (7) Delineation of orders from nonphysician practitioners.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003, transferred from 44:04:06:04.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

~~44:04:06:05~~ 44:73:06:05. Patient or rResident care plans and programs. ~~The nursing service of a health care facility must shall~~ provide nursing services that provide safe and effective care from the day of admission through the ongoing development and implementation of written care plans for each ~~patient or~~ resident. The care plan ~~must shall~~ address medical, physical, mental, and emotional needs of the ~~patient or~~ resident. The ~~health care~~ facility ~~must shall~~ establish and implement procedures for assessment and management of symptoms including pain.

The care plan ~~for nursing facility residents must shall~~ be based on the resident assessments required in §§ ~~44:04:06:15~~ 44:73:06:10 ~~and 44:04:06:16~~ and ~~must shall~~ be developed and approved by the resident's physician, physician assistant, or nurse practitioner; the resident, the resident's family, or the resident's legal representative; the interdisciplinary team consisting of at least a licensed nurse, the facility's social worker or social service designee, the dietary manager or dietitian, the activities coordinator, and other staff in disciplines determined by the resident's needs. The care plan shall describe the services necessary to meet the resident's medical, physical, mental or cognitive, nursing, and psychosocial needs and shall contain

objectives and timetables to attain and maintain the highest level of functioning of the resident. The care plan ~~must~~ shall be completed within seven days after the completion of each resident assessment required in §§ 44:04:06:15 44:73:06:10 ~~and 44:04:06:16~~.

Each ~~nursing~~ facility ~~must~~ shall provide restorative care services to meet resident needs.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:06:05.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

Cross-Reference: Record content, § 44:04:09:05(4) 44:73:09:04(4).

~~44:04:06:08 44:73:06:06. Nursing service staffing for hospitals. All hospitals must maintain a sufficient number of registered nurses and other qualified nursing personnel on duty at all times to provide supervision of and nursing care for all patients. A registered nurse must be designated as charge nurse for each nursing care unit at all times except that a critical access hospital is required to staff with a registered nurse only when there are acute care patients present. A critical access hospital is required to staff with a licensed nurse when there are only swing bed patients present. Written staffing patterns must be developed for each patient care unit, including surgical and obstetrical suites, emergency services, special care units, and other services. Registered nurses must be in charge of the operating room, function as supervisory nurse in the operating room, be in attendance at all deliveries of obstetrical patients, supervise obstetrical nursing service, and supervise the nursing care of newborn infants. Repealed.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:06:08.

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~44:04:06:09 44:73:06:07. Nursing service staffing for nursing facilities. Each nursing facility must shall maintain a licensed nurse in charge of nursing activities during each tour of duty. The director of nursing may not serve as charge nurse in a nursing facility with an average daily occupancy of 60 or more residents. Adequate staff must shall be provided to meet the resident's total care needs at all times. The ratio of registered and licensed practical nurses to aides and orderlies must shall be sufficient to assure professional guidance and supervision in the nursing care of the patients residents.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004, transferred from 44:04:06:09.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

~~44:04:06:11.01 44:73:06:08. Intermittent nursing care. The service providing the care shall specify a planned completion date based on the assessments conducted. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any nonemployed, noncontracted skilled nursing and therapy providers pursuant to SDCL chapters 36-9, 36-10, and 36-31.~~

Source: 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012, transferred from 44:04:06:11:01.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:04:06:13 44:73:06:09. Hospice services. Each facility offering hospice services ~~must~~ shall provide services to terminally ill ~~person's individuals~~ or arrange for such services by a hospice program under a written plan established and periodically reviewed by the ~~person's individual's~~ attending physician, physician assistant, or nurse practitioner. The hospice agency ~~must shall~~ provide for care and services in the ~~licensed facility, the individual's home, on an outpatient basis, or on a short term inpatient basis. Personnel providing hospice care must shall~~ include at least one physician, one registered nurse, and one social worker. An unlicensed employee of a ~~licensed~~ facility may not accept any delegated skilled tasks from any hospice providers pursuant to SDCL chapter 36-9.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:06:13.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:04:06:15 44:73:06:10. Resident assessments. Each ~~nursing~~ facility ~~must shall~~ make a comprehensive assessment of the functional, medical, mental, nursing, and psychosocial needs of each resident ~~within 14 calendar days after the date of admission.~~

The facility ~~must shall~~ use the resident assessment instrument described in the Long Term Care Facility Resident Assessment Instrument User's Manual or an instrument substantially equivalent as determined by the department.

~~—The resident assessment must be completed with participation of the interdisciplinary team, the resident, and the resident's family or legal representative.~~

~~—A registered nurse must conduct or coordinate the completion of the resident assessment process. The registered nurse must receive resident assessment instrument training provided or approved by the department and the Department of Social Services.~~

~~—The facility must ensure that staff who participate in the assessment process are trained to complete an accurate and comprehensive assessment. Each individual who completes a portion of the resident assessment instrument must sign that portion of the assessment and certify to its accuracy.~~

Source: 17 SDR 122, effective February 24, 1991, and April 1, 1991; transferred from § 44:04:04:13, 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; transferred from §44:04:06:15.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

Reference: Long Term Care Facility Resident Assessment Instrument User's Manual, Version 2.0, ~~October 1995~~ 3.0. Copies and manual may be viewed and printed free of charge at <http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/MDS30RAIManual.html> ~~may be obtained from Briggs Corporation. Phone: 1-800-247-2243. Cost: \$29.95.~~

44:04:06:16 44:73:06:11. Resident assessment reviews. A ~~nursing~~ facility ~~must~~ periodically reassess each resident by conducting a resident assessment review that meets the requirements in § 44:04:06:15. Resident assessment reviews must be completed on the following schedule:

~~—(1) Every 90 days after the date of admission or significant change;~~

~~—— (2) Within 14 days after the determination of a significant change by the interdisciplinary team. A significant change determination may be considered if there is a deterioration in physical functioning; in cognition, behavior, mood, or relationships; or other deterioration in health indicating an interdisciplinary review and revision of the care plan is necessary; and~~

~~—— (3) Within 14 days after a marked or sudden improvement in the resident's health. **Repealed.**~~

Source: 17 SDR 122, effective February 24, 1991; transferred from § 44:73:04:14, 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; transferred from §44:04:06:16.

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13.~~

~~**44:04:06:17 44:73:06:12. Nursing service staffing for hospice facilities.** All licensed hospice facilities must maintain a sufficient number of registered nurses and other qualified personnel, directly or by contract, to provide supervision of care for all residents. A registered nurse must be designated as charge nurse and responsible for the overall care of the residents. Written staffing patterns must be developed including instructions for contacting support service personnel. All hospice staff must have been specifically trained to provide care for the terminally ill. **Repealed.**~~

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:06:17.

~~—— **General Authority:** SDCL 34-12-13.~~

~~—— **Law Implemented:** SDCL 34-12-13~~

44:73:06:13. Nurse Aides. The facility and nurse aide shall meet the provisions of article 44:74.

Source:

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

CHAPTER 44:73:07

DIETETIC SERVICES

(Transferred from 44:04:07)

Section

44:04:07:01	44:04:07:01	Dietetic standards for all facilities. <u>Repealed.</u>
44:04:07:02	44:73:07:01.01	Dietetic services.
44:04:07:02.01	44:73:07:02	Food safety.
44:04:07:02.02	44:73:07:03	Nutritional adequacy.
44:04:07:02.03	44:73:07:04	Food substitutions.
44:04:07:02.04	44:73:07:05	Food supply.
44:04:07:02.05	44:73:07:06	Therapeutic diets.
44:04:07:02.06	44:73:07:07	Social needs <u>and dining arrangement.</u>
44:04:07:03	44:73:07:08	Written dietetic policies.
44:04:07:04	44:73:07:09	Written menus.
44:04:07:05	44:73:07:10	Preparation of food. <u>Repealed.</u>

44:04:07:06	<u>44:73:07:10.01</u>	Additional dietetic standards for hospitals and nursing facilities. <u>Repealed.</u>
44:04:07:07	<u>44:73:07:11</u>	Director of dietetic services.
44:04:07:07.01	<u>44:73:07:11.01</u>	Hospitals without in-house dietary departments. <u>Repealed.</u>
44:04:07:09	<u>44:73:07:12</u>	Diet manual.
44:04:07:10		Repealed.
44:04:07:11	<u>44:73:07:13</u>	Frequency of meals.
44:04:07:12	<u>44:73:07:14</u>	Dining arrangements.
44:04:07:13		Transferred.
44:04:07:14	<u>44:73:07:15</u>	<u>Nutritional assessments.</u>
44:04:07:15		Transferred.
44:04:07:16	<u>44:73:07:16</u>	Required dietary inservice training.
44:04:07:17	<u>44:73:07:17</u>	Nursing facilities a <u>Nutrition and hydration assistance program.</u>

44:04:07:01 44:73:07:01. Dietetic standards for all facilities. ~~All facilities must shall comply with §§ 44:04:07:02 to 44:04:07:05, inclusive.~~ Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:07:01.

~~**General Authority:** SDCL 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

44:04:07:02 44:73:07:01.01. Dietetic services. ~~There must be facility shall have an organized dietetic service that meets the daily nutritional needs of patients or residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, sanitary, in accordance with § 44:04:02:06.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003, transferred from 44:04:07:02.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:04:07:02.01 44:73:07:02. Food safety. ~~The dietetic service must ensure that food is prepared and served in a manner that is safe and palatable.~~ Hot food ~~must~~ shall be held at or above ~~440~~ 135 degrees Fahrenheit (~~60~~ 57.2 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods ~~must~~ shall be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device. Milk and milk products ~~must~~ shall be from a source approved by the state Department of Agriculture. Fluid milk ~~must~~ shall be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:07:02.01.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Cross-Reference: Permit required to produce or process milk and milk products, § 12:05:03:01.

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 E. Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for ~~\$3.30~~ 4.14.

44:04:07:02.02 44:73:07:03. Nutritional adequacy. The dietetic service ~~must~~ shall ensure ~~that~~ food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the ~~Food Guide Pyramid, 1996 or 2005, Center for Nutrition Policy and Promotion, MyPlate, Dietary Guidelines for Americans, 2010, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.~~

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006, transferred from 44:04:07:02.02.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Reference: ~~Food Guide Pyramid, 1996 or 2005, Center for Nutrition Policy and Promotion~~ **Dietary Guidelines for Americans, 2010**, United States Department of Agriculture, 1120 20th Street, NW, Suite 200, North Lobby, Washington DC 20036 3475. Phone: 1 202 606 8000. ~~Recommended Dietary Allowances, Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington DC 20055. Cost: \$19.95. Phone: 1 800 624 6242. Copies may be viewed and printed free of charge at <http://www.dietaryguidelines.gov>.~~

44:04:07:02.03 44:73:07:04. Food substitutions. Reasonable substitutions of equal nutritional value shall be offered to ~~patients or~~ residents who refuse or are unable to eat the food served.

Source: 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004, transferred from 44:04:07:02.03.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:04:07:02.04 44:73:07:05. Food supply. The facility shall maintain an on-site supply of perishable and nonperishable foods adequate to meet the planned menus for three days. A facility shall maintain an additional on-site supply of nonperishable foods adequate to meet the requirements of planned menus for three days must be maintained as part of their emergency preparedness plan. Military meals ready to eat (MRE) are not a substitute for the nonperishable food supply for residents, but may be used to address other emergency food supply needs.

Source: 22 SDR 70, effective November 19, 1995, transferred from 44:04:07:02.04.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:04:07:02.05 44:73:07:06. Therapeutic diets. In each ~~licensed~~ facility the dietetic service shall provide for the needs of those ~~patients or~~ residents requiring therapeutic diets.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012, transferred from 44:04:07:02.05.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:04:07:02.06 44:73:07:07. Social needs and dining arrangements. In each ~~nursing~~ facility the dietetic service, in cooperation with other departments or services, shall meet the social and environmental needs of ~~the each residents in the dining setting to encourage eating in the common dining area.~~ Social needs include mutually compatible seating arrangements, pleasant dining atmosphere, encouragement of

interactions between residents, and food service to all residents at a table at approximately the same time. Assistance shall be provided for residents in need of help in eating.

Source: 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:07:02.06.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

~~44:04:07:03~~ 44:73:07:08. Written dietetic policies. There ~~must~~ shall be written policies and procedures that govern all dietetic activities. ~~The pPolicies and procedures must shall~~ include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. ~~The pPolicies and procedures must shall~~ be reviewed yearly and revised as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002, transferred from 44:04:07:03.

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Reference: **Article 44:02, Lodging and Food Service**, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30 4.14 and **Food Code**, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for \$45 69.00.

~~44:04:07:04~~ 44:73:07:09. Written menus. Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, shall be written, prepared, and served as prescribed by each ~~patient's or~~ resident's physician, physician assistant, nurse practitioner, or qualified dietitian. ~~Each menu shall be written at least one week in advance.~~ Each planned menu shall be approved, signed, and dated by the dietitian for each facility. Any menu changes from month to month shall be reviewed by the dietitian and each menu shall be reviewed and approved by the dietitian at least annually if applicable. Each menu as served shall meet the nutritional needs of the ~~patients or~~ residents in accordance with the physician's, physician assistant's, nurse practitioner's, or qualified dietitian's orders and the ~~Recommended Dietary Allowances of the National Research Council, Tenth Edition, 1989~~ Dietary Guidelines for Americans, 2010. A record of each menu as served shall be filed and retained for 30 days.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:08, 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012, transferred from 44:04:07:04.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Reference: ~~Recommended Dietary Allowances, Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington, DC 20055. Cost: \$19.95. Phone: 1-800-624-6242.~~ Dietary Guidelines for Americans, 2010, United States Department of Agriculture. Copies may be obtained at www.dietaryguidelines.gov.

~~44:04:07:05~~ 44:73:07:10. Preparation of food. Food ~~must shall~~ be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and ~~must shall~~ be attractively served at the

~~temperature applicable to the particular food in a form to meet the individual patient's or resident's needs.~~
Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:07:05.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

44:04:07:06 44:73:07:10.01. Additional dietetic standards for hospitals and nursing facilities.
~~In addition to §§ 44:04:07:02 to 44:04:07:05, inclusive, hospitals and nursing facilities must comply with §§ 44:04:07:07 to 44:04:07:09, inclusive. Nursing facilities must also comply with §§ 44:04:07:11, 44:04:07:12, 44:04:07:14, 44:04:07:16, and 44:04:07:17.~~ **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004, transferred from 44:04:07:06.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

44:04:07:07 44:73:07:11. Director of dietetic services. A full time dietary manager who is responsible to the administrator shall direct the dietetic services. Any dietary manager that has not completed a Dietary Manager's course, approved by the ~~Dietary Managers Association~~ Association of Nutrition & Foodservice Professionals, ~~must~~ shall enroll in a course within 90 days of the hire date and complete the course within 18 months. The dietary manager and at least one cook ~~must~~ shall successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the ~~Dietary Managers Association~~ Association of Nutrition & Foodservice Professionals, or successfully completed equivalent training as determined by the Health Department. Individuals seeking ServSafe recertification are only required to take the national examination. The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each ~~patient or~~ resident are met. If the dietary manager is not a dietitian, the facility shall schedule dietitian consultations onsite at least monthly. The dietitian ~~must~~ shall approve all menus, assess the nutritional status of ~~patients or~~ residents with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits. Adequate staff whose working hours are scheduled to meet the dietetic needs of the ~~patients or~~ residents ~~must~~ shall be on duty daily over a period of 12 or more hours in ~~nursing facilities or 10 or more hours in hospitals.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002, transferred from 44:04:07:07.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:04:07:07.01 44:73:07:11.01. Hospitals without in-house dietary departments. ~~Each hospital without an in-house dietary department must develop and maintain a written contract or agreement for dietary services for the patients. The facility must have a person responsible to the administrator who monitors the receiving, storage, and service of the food to patients in accordance with § 44:04:07:02. The facility must have at least one full-time person who has completed the ServSafe Food Protection Program and possesses a current certificate.~~

~~Each hospital without an in-house dietary department must employ or contract a qualified dietitian and schedule a minimum of monthly on-site consultations. The facility's dietitian shall review the facility's food contract agreement and make recommendations. The facility's dietitian shall review, sign, and approve menus annually. The facility's dietitian shall review menus served monthly, oversee the operation of the~~

~~dietetic services, assess the nutritional status and needs of patients, and review and revise the dietetic service policies and procedures.~~ **Repealed.**

Source: 30 SDR 84, effective December 4, 2003, transferred from 44:04:07:07.01.

~~**General Authority:** SDCL 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

~~44:04:07:09~~ **44:73:07:12. Diet manual.** A current therapeutic diet manual with description of all diets served in the facility ~~must~~ shall be readily available in the facility to food service personnel, nursing service personnel, and practitioners.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:07:09.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

~~44:04:07:11~~ **44:73:07:13. Frequency of meals.** At least three meals ~~must~~ shall be served daily at regular times with not more than a 14-hour span between a substantial evening meal and breakfast.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:07:11.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

~~44:04:07:12~~ **44:73:07:14. Dining arrangements.** The facility ~~must~~ shall provide environmental and social accommodations for each ~~patient or~~ resident to encourage eating in the common dining area. Assistance ~~must~~ shall be provided for patients or residents in need of help in eating.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:07:12.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

~~44:04:07:14~~ **44:73:07:15. Nutritional assessments.** A registered dietitian shall ensure a nutritional assessment is completed on each new resident upon admission; any resident having a significant change in diet, eating ability, or nutritional status; monthly for any resident receiving tube feedings; and on any resident with a disease or condition that puts the resident at significant nutritional risk. A monthly tube feeding assessment ~~must~~ shall include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each resident.

Source: 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:07:14.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

~~44:04:07:16~~ **44:73:07:16. Required dietary inservice training.** The dietary manager or the dietitian ~~in any hospital and any nursing facility~~ shall provide ongoing inservice training for all dietary and food-handling employees. ~~The person in charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing inservice training for all dietary and food-handling employees.~~ Topics shall include: food safety, handwashing, food handling and preparation techniques,

food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012, transferred from 44:04:07:16.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

~~44:04:07:17~~ 44:73:07:17. ~~Nursing facility n~~**Nutrition and hydration assistance program.** A nursing facility may develop a program to train nutrition and hydration assistants. The program ~~must~~ shall be approved by the department. To be approved by the department, the program ~~must~~ shall include instruction from a speech-therapist-language pathologist and registered dietitian and consist of ten hours of training and clinical experience.

Source: 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:07:17.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

CHAPTER 44:73:08

MEDICATION CONTROL

(Transferred from 44:04:08)

Section

44:04:08:01	<u>44:73:08:01</u>	Medication control in hospitals and nursing facilities. Repealed.
44:04:08:02	<u>44:73:08:01.01</u>	Policies and procedures.
44:04:08:03	<u>44:73:08:02</u>	Written orders for medication required.
44:04:08:03.01	<u>44:73:08:03</u>	Drug <u>Medication</u> therapy reviewed monthly.
44:04:08:04	<u>44:73:08:04</u>	Storage and labeling of medications and drugs.
44:04:08:04.01	<u>44:73:08:05</u>	Control and accountability of medications and drugs.
44:04:08:04.02	<u>44:73:08:06</u>	Documentation of drug disposal.
44:04:08:05	<u>44:73:08:07</u>	<u>Medication</u> Administration of medication and drugs.
44:73:08:08		Medication records.
44:04:08:06	<u>44:73:08:09</u>	Administration of hospital and nursing facility pharmacy.
44:04:08:07	<u>44:73:08:10</u>	Stock of legend drugs prohibited in nursing facilities -- Exception.
44:04:08:07.01	<u>44:73:08:11</u>	Controlled drugs kept for emergency use.

~~44:04:08:01~~ 44:73:08:01. **Medication control in hospitals and nursing facilities.** Hospitals and nursing facilities must comply with §§ 44:04:08:02 to 44:04:08:05, inclusive, in regard to medication control. **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:08:01.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:08:02~~ 44:73:08:01.01. **Policies and procedures.** ~~Methods and written policies and procedures must be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in each hospital or nursing facility. If any patient or resident is~~

~~permitted to self-administer medications, the facility's policies and procedures related to self-administered drugs must include a description of the responsibilities of the patient or resident, the patient's or resident's family members, and the facility staff. The facility must provide written educational material explaining to the patient or resident and the patient's or resident's family the patient's or resident's rights and responsibilities associated with self-administration. Each nursing facility must keep a list of the following in the drug storage area for reference:~~

- ~~_____ (1) Generic and trade names for drugs substituted within the facility;~~
- ~~_____ (2) Drugs with unique requirements for administration, used within the facility, including enteric coatings, sublingual, buccal, and sustained release dosage forms; and~~
- ~~_____ (3) Drugs controlled under SDCL 34-20B that are used within the facility.~~

Each facility shall establish and practice methods and procedures for medication control that include the following:

_____ (1) A requirement that each resident's prescribing physician, physician assistant, or nurse practitioner provide to the facility electronic or written signed orders for any medications taken by the resident; authorization for medications or drugs kept on the person or in the room of the resident; and release of medications;

_____ (2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to residents or visitors with requirements for:

- _____ (a) Separate storage of poisons, topical medications, and oral medications;
- _____ (b) Each resident's medication to be stored in the container in which it was originally received and not transferred to another container; and
- _____ (c) A medication prescribed for one resident not to be administered to any other resident;

_____ (3) Self-administration of medications to be accomplished with the supervision of a designated employee of the facility to include:

- _____ (a) A description of the responsibilities of the resident, the resident's family members, and the facility staff; and
- _____ (b) The provision of written educational material explaining to the resident and the resident's family the resident's rights and responsibilities associated with self-administration; and

_____ (4) The proper disposition of medicines that are discontinued because of the discharge or death of the resident, because the drug is outdated, or because the prescription is no longer appropriate to the care of the resident.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

The facility and pharmacist shall establish a system of records of receipt and disposition for all controlled drugs in sufficient detail to enable an accurate reconciliation. The facility and pharmacist shall ensure the drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled. The facility and pharmacist shall have policies and procedure for the periodic reconciliation of all controlled substances. The policies and procedure shall minimize the time between the actual loss or diversion and the time of detection and follow-up to determine the extent of the loss.

If a loss or diversion of controlled substances is identified the facility and pharmacist shall evaluate the residents potentially affected consistent with their comprehensive assessment and plan of care. If the

systems have not been effective in preventing the loss or diversion of controlled substances, the facility and pharmacist shall review and revise related controls and procedures as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002, transferred from 44:04:08:02.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:08:03 44:73:08:02. Written orders for medication required. All medications or drugs administered to ~~patients or residents~~ must shall be ordered electronically or in writing and signed by the ~~prescribing practitioner~~ prescriber. Telephone Verbal orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse ~~in both hospitals and nursing facilities~~. The ~~practitioner~~ prescriber shall sign or initial the orders for ~~nursing facility~~ residents on the next visit to the facility. ~~The practitioner shall sign or initial the orders for hospital patients as soon as possible. In hospitals a policy on stop orders for antibiotics, anticoagulants, and controlled drugs must be established based on recommendations of the medical staff. In nursing facilities, a policy on stop orders for anticoagulants, antibiotics, narcotics, sedatives, hypnotics, and central nervous system stimulants must be established.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:08:03.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:04:08:03.01 44:73:08:03. Drug Medication therapy reviewed monthly. ~~The pharmaceutical service shall be under the supervision of a licensed pharmacist who is responsible to the administrator for developing, coordinating, and supervising medication control.~~ The pharmacist shall review the drug regimen of each nursing facility resident or swing bed patient at least monthly. The pharmacist shall review the resident's diagnosis, the drug regimen, and any pertinent laboratory findings and dietary considerations. The pharmacist shall report potential drug therapy irregularities and make recommendations for improving the drug therapy of the residents ~~or patients~~ to the attending physician, physician assistant, or nurse practitioner and the administrator. The pharmacist shall document the review by preparing a monthly report of the potential irregularities and recommendations. The administrator shall retain the report in the ~~nursing facility or hospital~~. A copy of the medication review shall be in the resident medical record.

The pharmaceutical service shall be under the supervision of a licensed pharmacist who is responsible to the issuance, proper storage, control, and accountability.

Source: 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012, transferred from 44:04:08:03.01.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:04:08:04 44:73:08:04. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to ~~patients~~, residents, or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained

between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to ~~patients~~ or residents.

~~— In a hospital, locked storage does not apply to drugs and medications needed for emergency use in intensive care, emergency room, neonatal intensive care, pediatric intensive care, or coronary care units. Drugs and medications utilized in these care units shall be in a storage area that is readily available to the professional staff but inaccessible to patients or visitors.~~

The medications or drugs of each ~~patient or~~ resident for whom medications are facility-administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the ~~patient's or resident's name, practitioner's name~~ physician, physician assistant, or nurse practitioner's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

A nursing facility, ~~a co-located nursing facility and assisted living center, a co-located hospital and assisted living center~~ may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by qualified personnel.

~~— If a stock bottle system is used in a hospital or a nursing facility with a licensed pharmacy, the container shall be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:04:08:04.02 44:73:08:06. A licensed pharmacist shall be responsible for the labeling, relabeling, or altering of labels on medication containers.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 5 SDR 29, effective October 22, 1978; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012, transferred from 44:04:08:04.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:04.01~~ 44:73:08:05. Control and accountability of medications and drugs. Medications brought from home may be used if ordered by the attending physician, physician assistant, or nurse practitioner and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one ~~patient or~~ resident may not be administered to another. ~~Patients or residents in licensed health care facilities~~ may not keep medications on their person or in their room without a physician's, physician assistant, or nurse practitioner's order allowing self-administration. Written authorization by the ~~attending resident's physician, physician assistant, or nurse practitioner~~ must shall be secured for the release of any medication to a ~~patient or~~ resident upon discharge, transfer, or temporary leave from the facility. The release of medication ~~must shall~~ be documented in the ~~patient's or~~ resident's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:08:04.01.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:04.02 44:73:08:06. Documentation of drug disposal. If a hospital or nursing facility has a licensed pharmacy, outdated or discontinued medications must be returned to the pharmacy for disposition. In the absence of a licensed pharmacy, the method of disposition of outdated or discontinued medications must be handled and recorded in the patient's or resident's medical record as follows:~~

~~—— (1) Legend drugs not controlled under SDCL 34-20B must be destroyed by a professional nurse and another witness;~~

~~—— (2) Medications controlled under SDCL 34-20B must be destroyed in the facility by a pharmacist and a registered nurse; and~~

~~—— (3) Medications, excluding controlled substances listed in SDCL chapter 34-20B, in unit dose packaging which meets packaging standards in § 20:51:13:02.01 may be returned to the pharmacy pursuant to § 20:51:13:02.01.~~

Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

—— (1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

—— (2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

—— (3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

—— (4) Release to resident upon discharge after authorization by the resident's prescribing practitioner.

Medications controlled under SDCL chapter 34-20B shall not be returned to the dispensing pharmacy or to an authorized reverse distributor company. Documentation of destruction or disposal of medications shall be included in the resident's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to resident); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998, transferred from 44:04:08:04.02.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:05 44:73:08:07. Medication Administration of medications and drugs.~~ Medication administration records shall be used and regularly checked against the physician's orders. ~~Except in a hospital having an admixtures program, a person may not administer medications that have been prepared by another person. A nursing facility shall obtain solid dosage forms of medications from a pharmacist in the specific dosage needed by the residents of the facility.~~

Each medication administered shall be recorded in the ~~patient's or~~ resident's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the ~~patient's or~~ resident's physician, physician assistant, or nurse practitioner and an entry made in the ~~patient's or~~ resident's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. ~~In each hospital and nursing facility a~~ All medications shall be administered to patients residents by personnel acting under delegation of a licensed nurse, or licensed to administer medications.

A person may not administer medications that have been prepared by another person.

Medication administration shall comply with §§ 44:73:08:02 to 44:73:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The supervising nurse shall provide an orientation to the unlicensed assistive personnel who will administer medications. The orientation shall be specific to the facility and relevant to the residents receiving administered medications.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004; 38 SDR 115, effective January 9, 2012, transferred from 44:04:08:05.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:73:08:08. Medication records. Medication administration records shall be used and regularly checked against the physician, physician assistant, or nurse practitioner's orders. Each medication administered shall be recorded in the resident's medical record and signed by the individual responsible.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:06 44:73:08:09. Administration of hospital or nursing facility pharmacy.~~ The pharmaceutical service of each ~~hospital or nursing~~ facility with a licensed full or part-time pharmacy ~~must~~ shall be directed by a licensed pharmacist accountable to the administration of the ~~hospital or nursing~~ facility. Only prepackaged drugs or a single dose unit may be removed from the pharmacy when the pharmacist is not available. These drugs may be removed only by a designated registered nurse or physician, physician assistant, or nurse practitioner in amounts sufficient only for immediate therapeutic needs. A record of such withdrawals ~~must~~ shall be made by the designated nurse or the physician, physician assistant, or nurse practitioner making the withdrawal.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998, transferred from 44:04:08:06.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:07~~ **44:73:08:10. Stock of legend drugs prohibited in nursing facilities -- Exception.** Legend drugs or medications may ~~not~~ be stocked in bulk form in nursing facilities ~~except in nursing facilities~~ which employ a licensed pharmacist full or part time to supervise, within the facility, the procurement, storage, and dispensing of such drugs and medications. Nursing facilities without a pharmacy shall use the emergency drug box kept on the premises pursuant to § ~~44:04:08:07.01~~ 44:73:08:11 ~~or obtain emergency medications from a pharmacy licensed to distribute to outpatients.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:08:07.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

~~44:04:08:07.01~~ **44:73:08:11. Controlled drugs kept for emergency use.** ~~In nursing facilities,~~ Controlled drugs may be kept for emergency use under the following circumstances:

(1) The pharmacist supplying the controlled drugs maintains ownership and responsibility for the drugs, including a monthly physical inventory;

(2) The controlled drugs are stored in a manner that allows only those individuals authorized to administer the drugs access to them;

(3) The controlled drugs are stored in a sealed emergency box or in a separate locked cabinet, with a complete and accurate record kept of the drugs in the box or cabinet and of their disposition;

(4) The facility notifies the pharmacist within 36 hours after the withdrawal of a Schedule II drug and within 72 hours after the withdrawal of Schedule III and IV drugs and the pharmacist replaces the drugs within 72 hours after notification; and

(5) No more than 5 different controlled drugs are stored in the emergency box, which may contain no more than 6 doses of any Schedule II controlled drug, no more than 6 doses of any Schedule III or IV injectable controlled drug, and no more than 12 doses of any oral Schedule III or IV controlled drug.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:08:07.01.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 44:73:09

RESIDENT MEDICAL RECORD SERVICES

(Transferred from 44:04:09)

Section

~~44:04:09:01~~ 44:73:09:01. ~~Record services for hospitals and nursing facilities. Repealed.~~

44:04:09:02	44:73:09:01.01	Medical record department .
44:04:09:03	44:73:09:02	Medical record department staff.
44:04:09:04	44:73:09:03	Written policies and confidentiality of records.
44:04:09:05	44:73:09:04	Record content.
44:04:09:06		Transferred.
44:04:09:07	44:73:09:05	Authentication.
44:04:09:08	44:73:09:06	Retention of medical or care records.
44:04:09:09	44:73:09:07	Storage of medical or care records.
44:04:09:10	44:73:09:08	Destruction of medical or care records.
44:04:09:11	44:73:09:09	Disposition of medical or care records on closure of facility or transfer of ownership.
44:04:09:12		Repealed.

44:04:09:01 44:73:09:01. Record services for hospitals and nursing facilities. ~~All hospitals and nursing facilities must comply with §§ 44:04:09:02 to 44:04:09:05, inclusive.~~ **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:09:01.

~~**General Authority:** SDCL 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

44:04:09:02 44:73:09:01.01. Medical record department. There ~~must~~ shall be an organized medical record system. A medical record ~~must~~ shall be maintained for each level of care for each ~~patient or~~ resident admitted to the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:09:02.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:04:09:03 44:73:09:02. Medical record department staff. The medical record functions ~~must~~ shall be performed by persons trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service ~~must~~ shall have knowledge and training in the field of medical records.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:09:03.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:04:09:04 44:73:09:03. Written policies and confidentiality of records. There ~~must~~ shall be written policies and procedures to govern the administration and activities of the medical record service. They ~~must~~ shall include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a ~~patient's or~~ resident's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:09:04.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

~~44:04:09:05~~ 44:73:09:04. Record content. Each medical record ~~must~~ shall show the condition of the ~~patient or~~ resident from the time of admission until discharge and ~~must~~ shall include the following:

- (1) Identification data;
- (2) Consent forms, except when unobtainable, or in an emergency;
- (3) History of the ~~patient or~~ resident;
- (4) A current overall plan of care;
- (5) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;
- (6) Diagnostic and therapeutic orders;
- (7) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech-language pathology;
- (8) Laboratory and radiology reports;
- (9) Description of treatments, diet, and services provided and medications administered;
- (10) All indications of an illness or an injury, including the date, the time, and the action taken regarding each;
- (11) A final diagnosis; and
- (12) A discharge summary, including all discharge instructions for home care.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 172, effective May 19, 1993; 26 SDR 96, effective January 23, 2000, transferred from 44:04:09:05.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

~~44:04:09:07~~ 44:73:09:05. Authentication. A ~~health-care~~ facility ~~must~~ shall ensure entries to the medical ~~or care~~ record are signed or electronically authenticated. If the facility permits any portion of the medical ~~or care~~ record to be generated by electronic or optical means, policies and procedures ~~must~~ shall exist to prohibit the use of authentication by unauthorized users.

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:09:07.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

~~44:04:09:08~~ 44:73:09:06. Retention of medical ~~or care~~ records. A ~~health-care~~ facility ~~must~~ shall retain medical ~~or care~~ records for a minimum of ten years from the actual visit date of service or resident care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors ~~must~~ shall be retained until the minor reaches the age of majority plus an additional two years, but no less than ten years from the actual visit date of service or resident care. Initial, annual, and significant-change resident assessment records, as required in §§ ~~44:04:06:15~~ 44:73:06:10 and ~~44:04:06:16~~ 44:73:06:11, ~~must~~ shall be retained for ten years from the actual visit date of resident care. The retention of the record for ten years is not affected by additional and future visit dates.

Source: 19 SDR 172, effective May 19, 1993; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004, transferred from 44:04:09:08.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical ~~or care~~ records, § ~~44:04:09:09~~ 44:73:09:07.

~~44:04:09:09~~ 44:73:09:07. Storage of medical ~~or care~~ records. A ~~health care~~ facility ~~must~~ shall provide for filing, safe storage, and easy accessibility of medical ~~or care~~ records. The medical ~~or care~~ records ~~must~~ shall be preserved as original records or in other readily retrievable and reproducible form. Medical ~~or care~~ records ~~must~~ shall be protected against access by unauthorized individuals. All medical ~~or care~~ records ~~must~~ shall be retained by the health care facility upon change of ownership.

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:09:09.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Disposition of medical ~~or care~~ records on closure of facility or transfer of ownership, § ~~44:04:09:11~~ 44:73:09:09.

~~44:04:09:10~~ 44:73:09:08. Destruction of medical ~~or care~~ records. After the minimum retention period of ten years from the actual visit date of care outlined in § ~~44:04:09:08~~ 44:73:09:06, the medical ~~or care~~ record may be destroyed at the discretion of the ~~health care~~ facility. Before the destruction of the medical ~~or care~~ record, the ~~health care~~ facility ~~must~~ shall prepare and retain a ~~patient or~~ resident index or abstract. The ~~patient or~~ resident index or abstract ~~must~~ shall include:

- (1) Name;
- (2) Medical record number;
- (3) Date of birth;
- (4) Summary of visit dates;
- (5) Attending or admitting physician, physician assistant, or nurse practitioner; and
- (5) Diagnosis or diagnosis code.

The ~~health care~~ facility ~~must~~ shall destroy the medical ~~or care~~ record in a way that maintains confidentiality.

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 31 SDR 62, effective November 7, 2004, transferred from 44:04:09:10.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

~~44:04:09:11~~ 44:73:09:09. Disposition of medical ~~or care~~ records on closure of facility or transfer of ownership. If a ~~health care~~ facility ceases operation, the facility ~~must~~ shall provide for safe storage and prompt retrieval of medical ~~or care~~ records and the ~~patient or~~ resident indexes specified in § ~~44:04:09:10~~ 44:73:09:06. The ~~health care~~ facility may arrange storage of medical ~~or care~~ records with another health care facility of the same licensure classification, transfer medical ~~or care~~ records to another health care provider at the request of the ~~patient or~~ resident, relinquish medical records to the ~~patient or~~ resident or the ~~patient's or~~ resident's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least ~~30~~ 60 days before closure, the ~~health care~~ facility ~~must~~ shall notify the department in writing indicating the provisions for the safe preservation of medical ~~or care~~ records and their location and publish in a local newspaper the location and disposition arrangements of the medical ~~or care~~ records.

If ownership of the ~~health care~~ facility is transferred, the new owner shall maintain the medical ~~or care~~ records as if there was not a change in ownership.

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000, transferred from 44:04:09:11.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical or care records, § ~~44:04:09:09~~ 44:73:09:07.

CHAPTER 44:73:10

LONG-TERM CARE SUPPORTIVE SERVICES

(Transferred from 44:04:12)

Section

44:04:12:01	<u>44:73:10:01</u>	Supportive services. <u>Repealed.</u>
44:04:12:02	<u>44:73:10:02</u>	Activities program.
44:04:12:04	<u>44:73:10:03</u>	Spiritual needs.
44:04:12:05	<u>44:73:10:04</u>	Provision of social services by nursing facilities.
44:04:12:06	<u>44:73:10:05</u>	Rehabilitation services in nursing facilities.

44:04:12:01 44:73:10:01. Supportive services. ~~Each nursing facility, hospital accepting long term care patients, and hospital and critical access hospital with swing beds shall provide supportive services that comply with §§ 44:04:12:02 to 44:04:12:05, inclusive.~~ **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012, transferred from 44:04:12:01.

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

44:04:12:02 44:73:10:02. Activities program. A planned activities program ~~must~~ shall be provided with therapeutic activities designed to meet the needs and interests of individual ~~patients or residents.~~ An activities coordinator ~~must~~ shall be in charge of the activities program in nursing facilities ~~and hospitals which admit swing bed patients.~~ Supplies and equipment ~~must~~ shall be provided for activities to satisfy the individual interests of patients or residents.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002, transferred from 44:04:12:02.

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

44:04:12:04 44:73:10:03. Spiritual needs. The facility ~~must~~ shall provide for the spiritual needs of the ~~patients or residents.~~ ~~Patient or r~~Resident requests to see a clergyman ~~must~~ shall be honored. No specific religious beliefs or practices may be imposed on any ~~patient or~~ resident contrary to the ~~patient's or~~ resident's choice.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002, transferred from 44:04:12:04.

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

~~44:04:12:05~~ 44:73:10:04. Provision of social services by nursing facilities. A nursing facility ~~must~~ shall provide or make arrangements to provide social services for each resident as needed. A staff social worker or social service designee ~~must~~ shall be designated as responsible to facilitate the provision of social services. If the staff member is not a social worker, the facility ~~must~~ shall have a written agreement with a social worker for consultation and assistance to be provided on a regularly scheduled basis but at least quarterly.

Source: 14 SDR 81, effective December 10, 1987; transferred from § 44:04:06:12, 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:12:05.

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

~~44:04:12:06~~ 44:73:10:05. Rehabilitation services in nursing facilities. A nursing facility ~~must~~ shall provide rehabilitation services based on the needs of residents as identified in the comprehensive resident assessment specified in §§ ~~44:04:06:15~~ 44:73:06:10 and ~~44:04:06:16~~ 44:73:06:11.

Source: 22 SDR 70, effective November 19, 1995, transferred from 44:04:12:06.

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

CHAPTER 44:73:11

RESIDENTS' RIGHTS

(Transferred from 44:04:17)

Section

44:04:17:01	<u>44:73:11:01</u>	Application of chapter -- Residents' rights policies.
44:04:17:02	<u>44:73:11:02</u>	Facility to inform resident of rights.
44:04:17:03	<u>44:73:11:03</u>	Facility to provide information on available services.
44:04:17:04	<u>44:73:11:04</u>	Notification when resident's condition changes.
44:04:17:05	<u>44:73:11:05</u>	Notification of resident's room assignment or rights change. <u>Repealed.</u>
44:04:17:06	<u>44:73:11:06</u>	Right to manage financial affairs.
44:04:17:07	<u>44:73:11:07</u>	Choice in planning care. <u>Repealed.</u>
44:04:17:08	<u>44:73:11:08</u>	Privacy and confidentiality.
44:04:17:09	<u>44:73:11:09</u>	Quality of life.
44:04:17:10	<u>44:73:11:10</u>	Grievances.
44:04:17:11	<u>44:73:11:11</u>	Availability of survey results.
44:04:17:12	<u>44:73:11:12</u>	Right to refuse to perform services.
44:04:17:13	<u>44:73:11:13</u>	Self-administration of drugs.
44:04:17:14	<u>44:73:11:14</u>	Admission, transfer, and discharge policies.

~~44:04:17:01~~ 44:73:11:01. Application of chapter -- Residents' rights policies. ~~Each nursing facility shall comply with this chapter.~~ Each nursing facility shall establish policies consistent with this chapter to protect and promote the rights of each resident.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:17:01.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

44:04:17:02 44:73:11:02. Facility to inform resident of rights. Prior to or at the time of admission, a facility ~~must~~ shall inform the resident, both orally and in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while living in the facility. The resident ~~must~~ shall acknowledge in writing that the resident received the information. During the resident's stay the facility ~~must~~ shall notify the resident, both orally and in writing, of any changes to the original information. ~~The information shall contain the following:~~

~~—— (1) The resident's right to exercise the resident's rights as a resident of the facility and as a citizen of the United States;~~

~~—— (2) The resident's right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising the resident's rights;~~

~~—— (3) The resident's right to have a person appointed to act on the resident's behalf. If a resident has been adjudged incompetent or incapacitated, the resident's rights shall be exercised by the person appointed under state law to act on the resident's behalf. If a resident has not been adjudged to be incompetent or incapacitated, the resident's rights may be exercised by the legal surrogate recognized under state law, whether statutory or as recognized by the courts of the state to act on the resident's behalf. The facility shall record and keep up to date the appointed person's address and phone number;~~

~~(4) The resident's right to access records pertaining to the resident. The resident may purchase photocopies of the resident's records or any portions of them. The cost to the resident may not exceed community standards for photocopying. The facility must provide the photocopies within two working days after the request;~~

~~(5) The resident's right to be fully informed of the resident's total health status, including functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health, psychosocial status, and sensory and physical impairments;~~

~~(6) The resident's right to refuse treatment and to refuse to participate in experimental research. A resident's right to refuse treatment does not absolve a facility from responsibility to provide for necessary medical services and treatment. Any resident who refuses treatment must be informed of the results of that refusal, plus any alternatives that may be available;~~

~~—— (7) The resident's right to formulate a durable power of attorney for health care as provided in SDCL chapter 59-7 and a living will declaration as provided in SDCL chapter 34-12D; and~~

~~—— (8) The resident's right to receive visitors. Visiting hours and policies of the facility ~~must~~ shall permit and encourage the visiting of residents by friends and relatives. Visitors shall not cause a disruption to the care and services residents receive or infringement on other residents' rights or place an undue burden on the facility.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; subdivision (8) transferred from § 44:73:12:03, 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:17:02.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

44:04:17:04 44:73:11:03. Facility to provide information on available services. A facility ~~must~~ shall provide the following information in writing to each resident:

(1) A list of services available in the facility and the charges for such services. The facility ~~must~~ shall specify which items and services are included in the services for which the resident may not be charged, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges;

~~(2) A description of how a resident may protect personal funds;~~

~~(3) A list of names, addresses, and telephone numbers of client advocates;~~

~~(4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of resident property;~~

~~— (5) A description of how the resident can contact the resident's physician including the name and specialty of the physician;~~

~~(6)~~ (2) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

~~(7)~~ (3) A description of the bed-hold policy that indicates the length of time the bed will be held for the resident, any policies regarding the held bed, and readmission rights of the resident; and

~~(8)~~ (4) A description explaining the responsibilities of the resident and family members regarding self-administered medication.

A signed and dated admission agreement between the resident or the resident's legal representative and the facility shall include subdivisions (1) to ~~(8)~~ (4), inclusive, of this section. The resident or resident's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the resident has made a commitment for payment for proposed or actual care. ~~The agreement may not include ambiguous or misleading information and may not be in conflict with this chapter. The agreement must shall be printed for ease of reading by the resident. If the agreement exceeds three pages, the agreement must shall contain a table of contents or an index of principal sections.~~ Any change in the information ~~must~~ shall be given to the resident or the resident's legal representative as a signed and dated addendum to the original agreement.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:17:03.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:17:04~~ 44:73:11:04. Notification when resident's condition changes. A facility ~~must~~ shall immediately inform the resident, consult with the resident's physician, physician assistant, or nurse practitioner, and, if known, notify the resident's legal representative or interested family member when any of the following occurs:

(1) An accident involving the resident that results in injury or has the potential for requiring intervention by a physician, physician assistant, or nurse practitioner;

(2) A significant change in the resident's physical, mental, or psychosocial status;

(3) A need to alter treatment significantly; or

(4) A decision to transfer or discharge the resident from the facility.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:17:04.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:17:05 44:73:11:05. Notification of resident's room assignment or rights change. A facility must promptly notify the resident and, if known, the resident's legal representative, as specified in SDCL 34-12C-3, or interested family member if there has been a change in the resident's room or roommate assignment or if there has been a change in the resident's rights. **Repealed.**~~

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:17:05.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

~~44:04:17:06 44:73:11:06. Right to manage financial affairs. A resident may manage personal financial affairs. A facility may not require any resident to deposit any personal funds with the facility. If the resident chooses to deposit funds with the facility and gives written authorization, the facility shall hold the funds in accordance with the provisions of SDCL 34-12-15.1 to 34-12-15.10, inclusive.~~

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:17:06.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:17:07 44:73:11:07. Choice in planning care. A resident may choose a personal attending physician, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment. **Repealed.**~~

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:17:07.

~~General Authority: SDCL 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

~~Cross-References:~~

~~Right to choose own physician unimpaired by public health programs — Misdemeanor, SDCL 34-1-20.~~

~~Rights of authorized person as incapacitated person, SDCL 34-12C-6.~~

~~Liability of health care provider — Liability of authorized decision maker, SDCL 34-12C-7.~~

~~44:04:17:08 44:73:11:08. Privacy and confidentiality. A facility must shall provide for privacy and confidentiality for the resident, including the resident's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. A facility is not required to provide a private room for each resident. A facility must shall permit residents to perform the following:~~

~~(1) To send and receive unopened mail and to have access to stationery, postage, and writing implements at the resident's own expense;~~

~~(2) To access and use a telephone without being overheard;~~

~~(3)~~ (1) To visit a spouse or, if both are residents of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;

~~(4)~~ (2) Except in an emergency, to have room doors closed ~~and to require knocking before entering the resident's room;~~

~~(5)~~ (3) To have only authorized staff present during treatment or activities of personal hygiene;

~~(6)~~ (4) To retire and rise according to the resident's wishes, as long as the resident does not disturb other residents;

~~(7)~~ (5) To meet, associate, and communicate with any person of the resident's choice in a private place within the facility;

~~(8)~~ (6) To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and

~~(9)~~ (7) To approve or refuse the release of personal and medical records to any individual outside the facility, except if the resident is transferred to another health care facility or if the release of the record is required by law. With the resident's permission, a facility shall allow the state ombudsman or a representative of the ombudsman access to the resident's medical records.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:17:08.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Written policies and confidentiality of records, § 44:73:09:03.

~~44:04:17:09~~ ~~44:73:11:09~~. **Quality of life.** A facility ~~must~~ shall provide care and an environment that contributes to the resident's quality of life, including:

- (1) A safe, clean, comfortable, and homelike environment;
- (2) Maintenance or enhancement of the resident's ability to preserve individuality, exercise self-determination, and control everyday physical needs;
- (3) Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;
- (4) Freedom from verbal, sexual, physical, and mental abuse and from involuntary seclusion, neglect, or exploitation imposed by anyone, and theft of personal property;
- (5) Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents; and
- (6) Support and coordination to assure pain is recognized and addressed appropriately.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:17:09.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Care policies ~~for nursing facilities,~~ § 44:73:04:12.

~~44:04:17:10~~ ~~44:73:11:10~~. **Grievances.** ~~A resident may voice grievances without discrimination or reprisal.~~ A resident's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other residents, and infringement of the resident's rights. A facility ~~must~~ shall adopt a grievance process and make the process known to each resident and to the

resident's immediate family. The grievance process ~~must~~ shall include the facility's efforts to resolve the grievance and documentation of:

- (1) The grievance;
- (2) The names of the persons involved;
- (3) The disposition of the matter; and
- (4) The date of disposition.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:17:10.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:11:11 44:73:11:11.~~ **Availability of survey results.** ~~A resident may examine the results of the department's most recent survey of the facility and any plan of correction in effect. A facility must shall make available, in a place readily accessible to residents, results of the department's most recent survey, and if applicable, the survey conducted by the United States Department of Health and Human Services and any plans of correction in effect. Survey results, along with the corresponding Plan of Correction shall be provided to residents and individuals upon request.~~

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:17:11.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:17:12 44:73:11:12.~~ **Right to refuse to perform services.** A resident may refuse to perform services on behalf of the facility, unless otherwise agreed to in the resident's plan of care. The resident may perform services for the facility if the following conditions are met:

- (1) The plan of care includes documentation of the need or desire for work;
- (2) The nature of the services performed is specified, including whether the services are voluntary or paid;
- (3) Compensation for paid services is at or above prevailing rates; and
- (4) The resident agrees to the work arrangement.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:17:12.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

~~44:04:17:13 44:73:11:13.~~ **Self-administration of drugs.** A resident may self-administer drugs if the interdisciplinary team consisting of selected healthcare workers and licensed health professionals has determined the practice to be safe. The determination shall state whether the resident or the nursing staff is responsible for storage of the drug and documentation of its administration in accordance with the provisions of chapter 44:73:08.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:17:13.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Medication control, ch 44:73:08.

44:04:17:14 44:73:11:14. Admission, transfer, and discharge policies. A facility ~~must~~ shall establish and maintain policies and practices for admission, discharge, and transfer of residents that prohibit discrimination based upon payment source. The facility shall notify each resident at or before the time of admission of these policies and procedures. The policies and practices shall include the following provisions:

(1) The resident may remain in the facility and may not be transferred or discharged unless the resident's needs and welfare cannot be met by the facility, the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of persons in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;

(2) The facility shall notify the resident and a family member or client advocate in writing at least 30 days before the transfer or discharge unless a change in the resident's health requires immediate transfer or discharge or the resident has not resided in the facility for 30 days. The written notice ~~must~~ shall specify the reason for and effective date of the transfer or discharge and the location to which the resident will be transferred or discharged;

(3) The conditions under which the resident may request or refuse transfer within the facility; and

(4) A description of how the resident may appeal a decision by the facility to transfer or discharge the resident.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 10, 1995; transferred from § 44:04:17:14.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

CHAPTER 44:73:12

CONSTRUCTION STANDARDS

(Transferred from 44:04:13 & 44:04:15)

Section

44:04:13:01 <u>44:73:12:01</u>	Application of chapter.
44:04:15:01 <u>44:73:12:01.01</u>	Application of chapter. <u>Repealed.</u>
44:04:15:02 <u>44:73:12:02</u>	Administration department.
44:04:15:03 <u>44:73:12:03</u>	Medical records unit.
44:04:13:03.02	Repealed.
44:04:15:04 <u>44:73:12:04</u>	Storage rooms.
44:04:15:05 <u>44:73:12:05</u>	Patient and r <u>Resident dining and recreation area.</u>
44:04:15:07 <u>44:73:12:06</u>	Outside area.
44:04:15:08 <u>44:73:12:07</u>	Secured <u>Memory care unit locations.</u>
44:04:13:02 <u>44:73:12:08</u>	Patient or r <u>Resident rooms.</u>
44:04:13:03 <u>44:73:12:09</u>	Service area in care units.
44:04:13:03.01 <u>44:73:12:10</u>	Social services office. <u>Repealed.</u>
44:04:13:04 <u>44:73:12:11</u>	Dietary department.
44:04:13:05 <u>44:73:12:12</u>	Food preparation services and equipment.
44:04:13:06 <u>44:73:12:13</u>	Laundry.

44:04:13:07 <u>44:73:12:14</u>	Employee facilities.
44:04:13:08 <u>44:73:12:15</u>	Engineering service and equipment areas.
44:04:13:09 <u>44:73:12:16</u>	Corridor restrictions.
44:04:13:10 <u>44:73:12:17</u>	Doors.
44:04:13:11 and 44:04:13:12	Repealed.
44:04:13:13 <u>44:73:12:18</u>	X-ray protection. <u>Repealed.</u>
44:04:13:14 <u>44:73:12:19</u>	Ceiling heights.
44:04:13:15 <u>44:73:12:20</u>	Insulation.
44:04:13:16 <u>44:73:12:21</u>	Fire extinguisher equipment.
44:04:13:17 <u>44:73:12:22</u>	Floor surface finish.
44:04:13:18 <u>44:73:12:23</u>	Wall and ceiling finish.
44:04:13:19 <u>44:73:12:24</u>	Elevators.
44:04:13:20 to 44:04:13:23	Repealed.
44:04:13:24 <u>44:73:12:25</u>	Incinerators. <u>Repealed.</u>
44:04:13:25 <u>44:73:12:26</u>	Steam and hot water systems.
44:04:13:26 <u>44:73:12:27</u>	Ventilating systems.
44:04:13:27 <u>44:73:12:28</u>	Filters.
44:04:13:28 <u>44:73:12:29</u>	Ducts.
44:04:13:29 <u>44:73:12:30</u>	Food service ventilation.
44:04:13:30 and 44:04:13:31	Repealed.
44:04:13:32 <u>44:73:12:31</u>	Recirculated air systems. <u>Repealed.</u>
44:04:13:33 <u>44:73:12:32</u>	Plumbing fixtures.
44:04:13:34 <u>44:73:12:33</u>	Water supply systems.
44:04:13:35 <u>44:73:12:34</u>	Vacuum breakers.
44:04:13:36 <u>44:73:12:35</u>	Hot water systems.
44:04:13:37 <u>44:73:12:36</u>	Drainage systems.
44:04:13:38 and 44:04:13:39	Repealed.
44:04:13:40 <u>44:73:12:37</u>	Electrical distribution system.
44:04:13:41 <u>44:73:12:38</u>	Lighting.
44:04:15:06 <u>44:73:12:39</u>	<u>Emergency electrical service.</u>
44:04:13:42 <u>44:73:12:40</u>	Receptacles or convenience outlets.
44:04:13:43	Repealed.
44:04:13:44 <u>44:73:12:41</u>	Nurses Staff call system.
44:04:13:45 <u>44:73:12:42</u>	Fire alarm systems.
44:04:13:46	Repealed.
44:04:13:47 <u>44:73:12:43</u>	Submittal of plans and specifications.
44:04:13:48 <u>44:73:12:44</u>	Pipe requirements.
44:04:13:49 <u>44:73:12:45</u>	Detached structures.
44:04:13:50	Repealed.
<u>44:73:12:46</u>	<u>Water recreation facilities.</u>

~~44:04:13:01~~ 44:73:12:01. **Application of chapter.** This chapter applies to ~~all~~ any new ~~facilities~~ facility and to any renovations, additions, and changes in space use of currently approved existing ~~facilities~~ facility. Accessible and usable accommodations ~~must~~ shall be available to the public, staff, and ~~patients or residents~~ with disabilities. ~~Minimum requirements, except as noted in this chapter, are those in "ADA Accessibility Guidelines for Buildings and Facilities," 28 C.F.R. Part 36, Appendix A, as published in 56 Fed. Reg. 35605 to 35690, inclusive (July 26, 1991),~~ <http://www.usdoj.gov/crt/ada/reg3a.html#Anchor-Appendix-52467> Standards for Accessible Design.

~~Facilities must~~ Each facility shall comply with **NFPA 101 Life Safety Code**, ~~2000~~ 2012 edition. ~~Facilities must~~ Each facility shall also comply with the building construction standards of the **International Building Code**, ~~2000~~ 2012 edition.

Facilities Each facility providing off-site services ~~must~~ shall comply with "Business Occupancy standards or other occupancies standards as applicable for the use of the facility from" **NFPA 101 Life Safety Code**, 2000 2012 edition, ~~and construction standards of the~~ **International Building Code**, 2000 2012 edition for the buildings where these services are offered.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:01.

General Authority: SDCL 34-1-17(4) and (5),-34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~— **References:** Federal Register of July 26, 1991, 28 C.F.R. Part 36, Appendix A, "ADA Accessibility Guidelines For Buildings and Facilities." Copies may be obtained from the Rocky Mountain Disability and Business Technical Assistance Center, 3630 Sinton Road, Suite 103, Colorado Springs, Colorado 80907. Phone: 1-800-949-4232. Cost \$5.~~

NFPA 101 Life Safety Code, 2000 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: ~~\$53.50~~ 93.00.

~~— **International Building Code**, 2000 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone (562) 699-0541. Cost: ~~\$69.55~~ 89.00.~~

~~**44:04:15:01 44:73:12:01.01. Application of chapter.** This chapter applies to all new facilities and to renovations, additions, and changes in space use in any existing nursing facility **Repealed.**~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:15:01.

~~— **General Authority:** SDCL 34-12-13(3).~~

~~— **Law Implemented:** SDCL 34-12-13(3).~~

~~**44:04:15:02 44:73:12:02. Administration department.** The administration department ~~must~~ shall include a business office, administrator's office, lobby, public and staff toilet rooms, office for the director of nurses, and social service office, ~~dietary service office, and housekeeper's office.~~~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:15:02.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~**44:04:15:03 44:73:12:03. Medical records unit.** The medical records unit ~~must~~ shall include active and closed record storage and a work area.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:15:03.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~**44:04:15:04 44:73:12:04. Storage rooms.** There ~~must~~ shall be at least 10 square feet (0.929 square meters) of central storage provided for each bed. General storage ~~must~~ shall be concentrated in one area in~~

the facility, but up to 50 percent of the general storage space may be provided on the premises. ~~Each resident must be provided with an individual closet with an area of at least five square feet (0.465 square meters) that is directly connected to the resident room.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:15:04.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:15:05~~ 44:73:12:05. Patient or Resident dining and recreation area. The total areas set aside for resident dining, recreation, and other central use areas may not be less than ~~40~~ 45 square feet (~~3.71~~ 4.18 square meters) for each bed and each day-care resident. The resident dining space shall be at least 25 square feet (2.32 square meters) for each bed. Additional space shall be provided for day-care residents if they participate in a day-care program. Storage shall be provided for recreational equipment and supplies.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:15:05.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:15:07~~ 44:73:12:06. Outside area. Each ~~secure~~ memory care unit shall have for the residents access to an outdoor area that is enclosed by a fence. The fence ~~must~~ shall extend to a minimum of six feet above grade level and be designed to be safe for resident contact. Hard surface walking paths ~~must~~ shall be provided in the outside area. Space shall be provided for lounging and for gardening. If the access to the outside area is through a required building exit, the area shall be large enough to allow movement of all residents away from the building structure a distance of 50 feet (15.24 meters) and have a gate to exit the outside area to allow emergency egress and allow access for maintenance.

Source: 29 SDR 81, effective December 11, 2002; transferred from § 44:04:15:07.

General Authority: SDCL 34-12-13(3) and (14).

Law Implemented: SDCL 34-12-13(3) and (14).

~~44:04:15:08~~ 44:73:12:07. Secured Memory care unit locations. Any ~~secured~~ memory care unit ~~must~~ shall be located at grade level and have direct access to an outside area.

Source: 31 SDR 62, effective November 7, 2004, transferred from § 44:04:15:08.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:13:02~~ 44:73:12:08. Patient or Resident rooms. A ~~patient or~~ resident room shall meet the following requirements:

(1) A maximum room capacity not exceeding two ~~patients or~~ residents;

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of 120 square feet (10.8 square meters) in a each one-bed room and 200 square feet (18.58 square meters) in a each two-bed room. ~~Each~~ Any sleeping room designed as part of a suite of rooms shall have a minimum area of 100 square feet (9.29 square meters) in a each one-bed room and ~~180~~ 160 square feet (14.86 square meters) in a each two-bed room. The minimum dimension in sleeping rooms shall not be less than nine feet six inches (2.90 meters);

(3) Each bed in a two-bed room shall have cubicle curtains or equivalent built-in devices for full visual privacy that allow access to the toilet room and corridor without entering the roommate's space;

(4) Have a window whose sill is not higher than three feet (0.91 meters) above the floor. The floor shall be above grade;

(5) Have a call button at each bed for ~~nurses'~~ staff calling stations;

(6) Have a toilet room and lavatory. Each ~~patient or~~ resident toilet room shall be directly accessible for each ~~patient or~~ resident without going through the general corridor. In a remodeling project, a one toilet room with handsink in a ~~patient or~~ resident room may serve two ~~patient or~~ resident rooms, but not more than four beds. For new construction, a toilet room may not be shared between ~~patient or~~ resident rooms. ~~The lavatory may be omitted from the toilet room if one is provided in each patient or resident room. The minimum dimensions of any room containing only a water closet are three feet by six feet (0.91 meters by 1.83 meters).~~ Each resident toilet room shall include a water closet, handsink, mirror, and private individual storage. In two bed rooms a separate handsink shall be provided in the resident room. All toilet rooms used by residents shall be wheelchair accessible meet the accessibility standards required in § 44:04:13:01;

(7) Have a ~~locker~~ wardrobe or closet for each ~~patient or~~ resident with an area of at least five square feet (0.465 square meters); and

(8) Have each ~~patient or~~ resident room door located not more than 150 feet (45.72 meters) from the ~~nurse's~~ staff station.

Any ~~Modification~~ of the requirements listed in subdivisions (1) to (8), inclusive, of this section may be approved for any special care room by the department after receipt of a written request.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012, transferred from § 44:04:13:02..

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:13:03~~ **44:73:12:09. Service area in care units.** Each care unit ~~must~~ shall contain a service area which includes the following, ~~except when the service is not required for licensure category:~~

(1) ~~Nurses'~~ Staff station with convenient access to handwashing facilities;

(2) ~~Nurses'~~ Staff charting;

(3) ~~Doctors' charting;~~

(4) (3) Communications;

(5) (4) Storage for supplies and ~~nurses'~~ staff personal effects;

(6) (5) ~~Nurses'~~ Staff toilet room;

(7) (6) Nurses' office;

(8) (7) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;

~~(9)~~ (8) Soiled workroom which contains a work counter with a ~~two-compartment sink with drainboards on each side~~, handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;

~~(10)~~ (9) Medicine room adjacent to the ~~nurses'~~ staff station with a sink, refrigerator, locked storage, and facilities for preparation and administration of medication;

~~(11)~~ (10) Clean linen storage area in an enclosed storage space;

~~(12)~~ (11) Nourishment station containing refrigerated storage, self-dispensing ice machine, and a sink for serving between-meal nourishments;

~~(13)~~ (12) Equipment storage room on each ~~patient or~~ resident wing or floor for storage of ~~patient or~~ resident care equipment such as intravenous stands, inhalators, air mattresses, walkers, wheelchairs, portable lifting equipment, clean linen or clean linen carts, and similar bulky equipment;

~~(14)~~ (13) ~~Patient or r~~Resident bathing facilities containing one shower, bathtub, or whirlpool for each 15 beds not individually served. Whirlpool units with lifts may serve 30 beds;

~~(15)~~ (14) Janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink. The janitor's closet space and equipment may be incorporated into the soiled utility room;

~~—— (16) Isolation facilities for the use of those prone to infections as well as those suffering from infections. One isolation room must be provided for each 30 acute care beds. The entry into the isolation room must be through an anteroom which is equipped with handwashing, gowning space and supplies, and space to handle clean and soiled supplies for the room or rooms served. Toilet, bathing, and handwashing facilities must be available for the isolation room patient without entry into the anteroom or general corridor. A nursing unit is not required to maintain an isolation facility if such facilities are provided elsewhere in the institution;~~

~~—— (17) Playroom facilities for pediatric patients; and~~

~~(18)~~ (15) Multipurpose rooms for staff, ~~patients or~~ residents, and ~~patients' or~~ residents' families for conferences, reports, education, training sessions, and consultation; and

If outpatient therapy services are offered, the therapy unit ~~must~~ shall provide access without traversing inpatient areas, locked records storage, handsinks located convenient to treatment areas, private room with handsink for speech language pathology, cubicle curtains for privacy at treatment areas, and the therapy unit ~~must~~ shall be sized and equipped to accommodate the therapy modalities offered.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998, transferred from 44:04:13:03.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:13:03.01 44:73:12:10. Social services office. In hospitals and nursing facilities, a social services office which is in accordance with § 44:04:02:18.02 must be provided. **Repealed.**~~

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:03.01.

~~General Authority: SDCL 34-1-17, 34-12-13.~~

~~Law Implemented: SDCL 34-12-13.~~

44:04:13:04 44:73:12:11. Dietary department. Construction, equipment, and installation of the dietary department ~~must~~ shall comply with or exceed the minimum standards in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The installation ~~must~~ shall comply with § 44:04:13:05 unless a commercially prepared dietary service, meals, or disposables are used. If a commercial service is used, dietary areas and equipment ~~must~~ shall meet the requirements for sanitary storage, processing, and handling.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998, transferred from 44:04:13:04.

General Authority: SDCL ~~34-1-17, 34-12-13~~(3).

Law Implemented: SDCL 34-12-13(3).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for ~~\$3.30~~ 4.14.

44:04:13:05 44:73:12:12. Food preparation services and equipment. The dietary area ~~must~~ shall be completely cleanable by conventional methods. The location and design of the dietary area ~~must~~ shall enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided ~~must~~ shall include the following:

(1) In dietary areas serving 20 beds or more, a dishwashing area including a commercial dishwasher supplied with 180 degree Fahrenheit (82 degrees centigrade) rinse water or a chemical sanitizing cycle, a soiled dish table with at least 7 feet (2.13 meters) of work space, a garbage disposal, a garbage can, a clean dish table with room for at least 3 dish racks, and handwashing facilities. ~~If commercial undercounter dishwasher is used, the unit must be raised above the floor so that the rack height is level with the adjacent dish tables~~ Dietary areas located in resident areas serving 16 residents or less may use a undercounter commercial dishwasher;

(2) A dry food storage area with at least 1.5 linear feet (0.46 meters) of shelving 20 inches (0.51 meters) wide for each ~~patient or~~ resident bed and a functional aisle;

(3) Refrigerated storage space providing at least 1.5 cubic feet (0.042 cubic meters) of refrigerated space and 0.5 cubic feet (0.014 cubic meters) of freezer space per ~~patient or~~ resident bed with sufficient refrigerated storage space located within the food production area for convenient food preparation;

(4) Aisles within the dietary area not less than ~~3~~ three feet (0.91 meters) wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic ~~must~~ shall be at least ~~4~~ four feet (1.22 meters) wide;

(5) Pot and pan washing facilities, including a three-compartment sink with 18 inch drainboards on both sides and drying and storage facilities for pots and pans;

(6) A vegetable preparation area with a two-compartment sink with drainboards on both sides;

~~(7) Cart cleaning facilities;~~

~~(8) (7) Cart storage areas;~~

~~(9)~~ (8) Waste disposal facilities;

~~(10)~~ Waste can washing facilities;

~~(11)~~ (9) Employee dining facilities;

~~(12)~~ (10) Dietary manager's office or desk;

~~(13)~~ (11) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink;

~~(14)~~ (12) Food production equipment sized and designed to prepare a complete meal for the total bed complement and for personnel, guests, day-care ~~patients~~ residents, or other catering services;

~~(15)~~ (13) ~~Food~~ Appropriate food holding and transportation equipment capable of protecting food from contamination and of maintaining ~~cold proper food temperatures at 41 degrees Fahrenheit (5 degrees centigrade) or below and hot food at 140-135 degrees Fahrenheit (60-57.2 degrees centigrade) or above during the total serving period;~~

~~(16)~~ (14) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

~~(17)~~ (15) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single-service towels or hand drying device and wall mounted hand cleanser;

~~(18)~~ (16) In dietary areas serving ~~20~~ 17 beds or more, a staff toilet facility convenient to dietary department; and

~~(19)~~ (17) In dietary areas serving ~~20~~ 17 beds or more, an ice maker with bin or self-dispensing ice maker. A built-in dispensing ice maker in a refrigerator may be used in any facility or resident neighborhood with a capacity of less than 20 17 beds. Any ice maker accessible to residents or visitors shall be self-dispensing.

The facility may request in writing modifications to § 44:73:12:12 if additional kitchens services are provided residents in a resident neighborhood setting. There shall be appliances that allow for the storing, refrigeration, preparation, cooking, and disposal of food products based on the facilities food service plan.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003, transferred from 44:04:13:05.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1), (2), and (14).

Law Implemented: SDCL 34-12-13(1), (2), and (14).

~~44:04:13:06~~ 44:73:12:13. **Laundry.** The laundry shall include the following:

(1) Soiled linen holding room with a storage capacity of 1.75 square feet (0.1626 square meters) of floor area for each bed, to be used for storage, sorting, and weighing of soiled linen;

(2) Linen cart storage;

(3) Janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry;

(4) Storage for laundry supplies;

(5) Lavatories conveniently accessible to soiled, clean, and processing rooms; ~~and~~

(6) Laundry processing room with separate soiled and clean work areas with commercial equipment. Each clothes dryer shall have a galvanized metal vent pipe for exhaust- ~~and~~

(7) A clinical sink with an exposed water trap seal, siphon jet or blow action, and sprayer device.

The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The laundry department shall be capable of processing ten pounds (4.54 kilograms) of soiled linen for each bed during a normal work day. Any modification to the standard may be made if the services are contracted to an outside organization. A modification shall be requested in writing by the facility and approved by the department.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012, transferred from 44:04:13:06.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:13:07~~ **44:73:12:14. Employee facilities.** The locker room for employees ~~must~~ shall have lockers and a separate toilet room.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:07.

General Authority: SDCL ~~34-1-17~~, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:13:08~~ **44:73:12:15. Engineering service and equipment areas.** The requirements for engineering service and equipment areas for each facility are as follows:

- (1) A boiler room with two remote doors to the exit or exit access;
- (2) An engineer's office which may be combined with a maintenance shop;
- (3) Mechanical and electrical equipment rooms;
- (4) A maintenance shop with at least one room;
- (5) A storage room for building maintenance supplies;
- (6) A refuse room for trash storage which is conveniently located to the service entrance or exterior trash receptacles; and
- (7) A yard equipment storage room or exterior building.

~~— The boiler room and other rooms containing storage of combustible materials may not contain ventilation equipment or unprotected ventilation ducts serving other areas, the main electrical switchboard, or emergency electrical equipment.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:13:08.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:04:13:09 44:73:12:16. Corridor restrictions. Drinking fountains, telephone booths, fire extinguisher cabinets, and vending machines ~~must~~ shall be located so that they do not project into the required width of exit corridors. Handrails installed in corridors ~~must~~ shall return to the wall at the ends. Handrails ~~must~~ shall be installed with the top 34 to 38 inches, inclusive, from the floor. Handrails ~~must~~ shall be installed with 1½ inch spacing between the wall and the handrail.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:13:09.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:04:13:10 44:73:12:17. Doors. Any door to a ~~patient or~~ resident room toilet or bathroom ~~must~~ shall be equipped with hardware which will permit access in any emergency. A pocket or sliding door may not be installed except on a clothes closet or restroom in a ~~patient or~~ resident room. Any hardware on a restroom pocket or sliding door shall provide for ease of operation for a resident with limited mobility. Any door opening onto a corridor, except an elevator door, ~~must~~ shall be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Thresholds and expansion joint covers, if used, ~~must~~ shall be flush with the floor. Any cross-corridor door ~~must~~ shall be provided with vision panels.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003, transferred from 44:04:13:10.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:04:13:13 44:04:12:18. X ray protection. ~~Protection of X-ray and gamma ray installations must shall conform to requirements in "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV Equipment Design and Use," NCRP Report No. 102, 1989, and in "Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, 1976. Repealed.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:13.

~~General Authority:~~ SDCL 34-1-17, 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~References:~~ "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV Equipment Design and Use," NCRP Report No. 102, National Council on Radiation Protection and Measurements, June 30, 1989. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 800, Bethesda, MD 20814. Cost: \$35.

~~"Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, National Council on Radiation Protection and Measurements, September 15, 1976. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 800, Bethesda, MD 20814. Cost: \$30.~~

44:04:13:14 44:73:12:19. Ceiling heights. Boiler room ceilings may not be less than 2 feet 6 inches (0.76 meters) above the main boiler header and connecting piping, with a minimum height of 9 feet (2.74 meters). The ceilings of corridors, storage rooms, patient resident toilet rooms, and other minor rooms may not be less than 7 seven feet, 8 eight inches (2.34 meters). The ceilings of all other rooms may not be less than 7 seven feet, 10 ten inches (2.39 meters).

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:13:14.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:13:15~~ **44:73:12:20. Insulation.** Boiler rooms, food preparation centers, and laundries ~~must~~ shall be insulated and ventilated to prevent any floor surface above them from exceeding a temperature of 85 degrees Fahrenheit (29.4 degrees centigrade). All combustible insulation within the building ~~must~~ shall be covered with a fire-resistive material giving fire protection equivalent to 0.5 inch (0.01 meters) gypsum board, unless tested and acceptable by **International Building Code**, 2000 2012 edition, 2603.4 for use without a thermal barrier as installed.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006, transferred from 44:04:13:15.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **International Building Code**, 2000 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: ~~\$69.55~~ \$89.00.

~~44:04:13:16~~ **44:73:12:21. Fire extinguisher equipment.** Fire extinguisher equipment ~~must~~ shall be installed and maintained by the following minimum standards:

(1) Portable fire extinguishers ~~must~~ shall have a minimum rating of 2-A:10-B:C;

(2) Fire extinguisher equipment ~~must~~ shall be inspected monthly and maintained yearly; and

(3) Approved fire extinguisher cabinets ~~must~~ shall be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls ~~must~~ shall be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire extinguisher cabinets ~~must~~ shall be wire glass or other safety glazing material. Fire extinguisher cabinets ~~must~~ shall be identified with a sign mounted perpendicular to the wall surface above the cabinet or with sign mounted on the sides of cabinet that are visible from the corridor; and

~~(4) Halon chemical extinguishers may be installed and used only in those remote areas that do not present a hazard to staff, patients, or residents.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:16.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:13:17~~ **44:73:12:22. Floor surface finish.** Floors ~~must~~ shall be easily cleanable and ~~must~~ shall have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces ~~must~~ shall be water-resistant. In all areas where floors are subject to wetting, they ~~must~~ shall have a nonslip finish. Adjacent dissimilar floor materials must be flush with each other to provide a level floor surface. A walking surface that is not flush with an adjacent surface shall be provided with a transition. A change in

level up to 1/8 inch may be vertical and without edge treatment. Changes in level between 1/8 inch and 1/2 inch are to be bevel with a slope no greater than 1:2. A change in level may not exceed 1/2 inch. Gaps in the walking surface may not exceed 1/2 inch wide in the direction of travel.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:17.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:04:13:18 44:73:12:23. Wall and ceiling finish. Walls ~~must~~ shall be washable, and in the immediate area of plumbing fixtures the finish ~~must~~ shall be protected from water damage. Wall bases in dietary areas ~~must~~ shall be free of spaces that can harbor insects. ~~Wall bases in any areas used for surgical and obstetrical procedures must be integral with either the wall or the floor surface material and must be without voids that can harbor harmful bacteria. All surgical, obstetrical, emergency, nursery, X ray film processing rooms, and dietary ceilings must shall~~ be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops, and similar spaces. ~~A ceiling in any surgical, central sterilization, isolation, and x ray film processing room must be a gypsum board surface.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006, transferred from 44:04:13:18.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:04:13:19 44:73:12:24. Elevators. ~~All facilities where either patients' or residents' beds or a critical service, If a resident's bed or a service such as operating, delivery, diagnostic, recreation, patient or resident dining, dietary, laundry, central storage, or therapy rooms, is located, other than on the first floor, must the facility shall have an~~ electrical or electrohydraulic elevators. Elevator cars and platforms ~~must~~ shall be constructed of noncombustible material, except that material treated with fire retardant may be used if all exterior surfaces of the car are covered with metal. Cars of hospital-type elevators ~~must~~ shall have inside dimensions that will accommodate a ~~patient's~~ resident's bed and attendants and ~~must~~ shall be at least ~~5 five~~ feet (1.52 meters) wide by ~~7 seven~~ feet ~~6 six~~ inches (2.29 meters) deep. The car door ~~must~~ shall have a clear opening of not less than ~~3 three~~ feet ~~8 eight~~ inches (1.12 meters). Elevators ~~must~~ shall have automatic two-way leveling with accuracy within plus or minus 0.5 inch (0.01 meters). ~~Each E~~elevators, except freight elevators, ~~must~~ shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and to be dispatched directly to any floor.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:19.

General Authority: SDCL 34-1-17, 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:04:13:24 44:73:12:25. Incinerators. ~~Incinerators must be gas, electric, or oil fired and must be capable of, but need not be limited to, the complete destruction of pathological wastes. Design and construction of incinerators must be in accordance with requirements of article 74:35. Repealed.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:24.

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

~~44:04:13:25~~ **44:73:12:26. Steam and hot water systems.** Boilers ~~must~~ shall have the capacity to supply the normal requirements of all systems and equipment. Supply and return mains and risers of space heating and process steam systems ~~must~~ shall be valved to isolate the various sections of each system. Each piece of equipment ~~must~~ shall be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping ~~must~~ shall be insulated with insulation having a flame spread of 25 or less and a smoke emission rating of 50 or less using NFPA 255, ~~2000~~ 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials" or equivalent test procedures.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:25.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 255, ~~2000~~ 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: ~~\$22.25~~ \$35.00.

~~44:04:13:26~~ **44:73:12:27. Ventilating systems.** The ventilating systems ~~must~~ shall maintain temperatures, minimum air changes of outdoor air an hour, minimum total air changes, and relative humidities as follows:

(1) ~~Operating rooms—68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 45 to 60 percent humidity~~ All occupied areas of the building shall maintain a minimum humidity level of 15% relative humidity provided through the building central ventilation system;

(2) ~~Delivery rooms—68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 30 to 60 percent humidity~~ Beauty shops shall provide a minimum of 15 air changes per hour of exhaust ventilation when the room is in use;

(3) ~~Recovery rooms—at least 70 degrees Fahrenheit (21.1 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity~~ Toilet and bathing rooms shall provide a minimum of 10 air changes per hour of exhaust ventilation;

~~—(4) Nursery rooms—at least 75 degrees Fahrenheit (23.9 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity; and~~

~~—(5) Intensive care rooms—70 to 75 degrees Fahrenheit (21.1 to 23.9 degrees centigrade), 2 outdoor, 6 total, and 30 to 60 percent humidity.~~

For ~~all other~~ occupied areas, the facility ~~must~~ shall be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) and at least 20 percent humidity at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems ~~must~~ shall be mechanically operated. All fans serving exhaust systems ~~must~~ shall be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, ~~must~~ shall be located as far away as practicable but not less than 25 feet (7.62 meters) from plumbing vent stacks and the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems ~~must~~ shall be located as high as possible but not less than ~~6~~ six feet (1.83 meters) above the ground level or, if installed through the roof, ~~3~~ three feet (0.91 meters) above roof level. ~~The~~ Each mechanical ventilation systems ~~must~~ shall be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. Each ~~R~~room supply air inlets, recirculation, and exhaust air outlets ~~must~~ shall be located with the grill or diffuser

opening not less than 3 three inches (0.08 meters) above the floor. ~~Corridors~~ A corridor may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation ~~must~~ shall be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

~~Indirect fuel-fired ventilation units may be used only when safety equipment is provided, the fuel is lighter than air, and the unit is separated from the building by one-hour fire-resistive construction when the unit is mounted on the roof.~~

~~Laboratories must be ventilated at a rate of six total air changes an hour. All ventilation air from the laboratory must be directly exhausted to the outside. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional air must be provided. A filter with 90 percent efficiency must be installed in the air supply system at its entrance to the media transfer room. Hoods in which highly radioactive materials are processed must have a face velocity of 150 feet a minute (0.76 meters a second), have a high efficiency (99.97%) filter, and each hood must have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials must have a face velocity of 75 feet a minute (0.38 meters a second).~~

~~Cooking~~ Each cooking appliances, other than microwave ovens, ~~must~~ shall be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture. ~~Cooking appliances installed in resident rooms must be equipped with a recirculating fan and charcoal filter or may be exhausted to the exterior to remove cooking odors, heat, and moisture.~~

~~Vehicle~~ Each vehicle parking garages ~~must~~ shall be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. ~~A~~ Signs ~~must~~ shall be posted at the front of parking spaces advising the driver to shut off the engine.

~~Crawl~~ Each crawl spaces ~~must~~ shall be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006, transferred from 44:04:13:26.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: International Building Code, 2000 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: ~~\$69.55~~ \$89.00.

~~44:04:13:27~~ 44:73:12:28. **Filters.** A ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Each supply air unit shall have a minimum of 30 percent effective filters. Each central ventilation system shall have a minimum of 80 percent effective filters. Each common use area, i.e., dining, lounge, and corridor, shall have 80 percent effective filters on an air supply system. Each air supply system serving solely an administrative area shall have a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.4~~2~~, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter

frame shall be durable and carefully dimensioned and ~~must~~ shall provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work shall be gasketed or sealed to provide a positive seal against air leakage. A manometer shall be installed across each filter bed serving a central air system.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012, transferred from 44:04:13:27.

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: ASHRAE 52.4(2), 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.

~~44:04:13:28~~ **44:73:12:29. Ducts.** ~~Ducts—must~~ Each duct shall be constructed of iron, steel, aluminum, or other approved metal or materials as defined in **NFPA 101 Life Safety Code 2000 2012** edition. Duct linings, coverings, vapor barriers, and the adhesives used for applying them ~~must~~ shall have a flame spread classification of not more than 25 and a smoke developed rating of not more than 50 using **NFPA 255, 2000 2012** edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." A fire and smoke damper ~~must~~ shall be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. ~~Ducts which pass through a required smoke barrier must be provided with smoke dampers.~~ Access for maintenance ~~must~~ shall be provided at all dampers. ~~Duct~~ Each duct systems serving hoods must shall be constructed of corrosion resistant material. ~~Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used must be constructed of stainless steel for a minimum distance of 10 feet (3.05 meters) from the hood and must be equipped with washdown facilities.~~ ~~Cold~~ Each cold air ducts ~~must~~ shall be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:28.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

References: **NFPA 255, 2000 2012** edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: ~~\$22-25~~ 35.00.

NFPA 101 Life Safety Code, 2000 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone 1-800-344-3555. Cost: ~~\$53-50~~ 93.00.

~~44:04:13:29~~ **44:73:12:30. Food service ventilation.** The air from dining areas may be used to ventilate the food preparation areas only after it has been passed through a filter with 80 percent efficiency. ~~Exhaust~~ Each exhaust hoods in food preparation centers ~~must~~ shall have a minimum exhaust rate of 50 cubic feet a minute for each square foot (0.25 cubic meters a second for each square meter) of hood face area. ~~All~~ Each hoods over cooking ranges ~~must~~ shall be equipped with fire extinguishing systems interconnected to shut off the fuel source. ~~Cleanout~~ A cleanout openings ~~must~~ shall be provided every 20 feet (6.10 meters) in horizontal exhaust duct systems serving hoods.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:29.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:13:32 44:73:12:31. Recirculated air systems. All recirculated air systems serving more than one room must be equipped with automatic shutdown and smoke dampers activated by a smoke detector and the building fire alarm system.~~ **Repealed.**

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:32.

~~**General Authority:** SDCL 34-1-17, 34-12-13.~~

~~**Law Implemented:** SDCL 34-12-13.~~

~~44:04:13:33 44:73:12:32. Plumbing fixtures.~~ The material used for plumbing fixtures ~~must~~ shall be of nonabsorptive acid-resistant material. ~~Lavatories~~ Each lavatory and sinks required in ~~patient or resident~~ care areas ~~must~~ shall have the water supply spout mounted so that the discharge is a minimum of ~~5~~ five inches (0.13 meters) above the rim of the fixture. Handwashing facilities used by medical and care staff, ~~patients,~~ residents, and food handlers ~~must~~ shall be equipped with hands-free controls. Single ~~A single~~ lever devices may be used. ~~If blade handles are used, they may not exceed 4.5 inches (0.11 meters) in length, except that handles on scrub sinks and clinical sinks may not be less than 6 inches (0.15 meters) long.~~ Clinical ~~Each clinical~~ sinks ~~must~~ shall have an integral trap in which the upper portion of a visible trap seal provides a water surface. If blade handles are used, proper clearance ~~must~~ shall be maintained for operation. ~~An aerators are~~ is not approved for use on faucet spouts. ~~Paper~~ A paper towel dispensers or hand-drying devices ~~must~~ shall be provided at ~~all lavatories~~ each lavatory and sinks used for handwashing. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the ~~laboratory, nursery, clean utility, central sterilizing, dietary, or other critical areas where grooming could potentially cause contamination.~~

~~Water~~ Each water closets ~~must~~ shall be an elongated bowl type and be equipped with an open front seat.

Any shower stall that is not required to be ~~accessible~~ must wheelchair transfer or standard roll-in type shall have curb heights not more than ~~five~~ six inches above the finished floor. The shower floor elevation and bathroom finished floor elevation ~~must~~ shall be level where possible but the difference in elevation cannot exceed three inches.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003, transferred from 44:04:13:33.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:13:34 44:73:12:33. Water supply systems.~~ Water Each water supply systems ~~must~~ shall supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures ~~must~~ shall be valved. Stop valves ~~must~~ shall be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur ~~must~~ shall be insulated. Insulation of cold and chilled water lines ~~must~~ shall include an exterior vapor barrier.

All plumbing fixtures which used by residents, visitors, or staff will be equipped with a thermostatic mixing valve limited to a maximum delivery temperature of 120 degrees Fahrenheit [48.9 degrees centigrade].

~~Water supply systems in a health care facility must maintain one part per million free residual chlorine at remote point of use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility must document water temperatures to verify the hot water temperature is being maintained within the acceptable range. The chlorine testing must be done daily using photocell and light source DPD (N, N, Diethyl p-phenylenediamine) test kits and the test results logged. When testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001, transferred from 44:04:13:34.

General Authority: SDCL 34-1-17, 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:04:13:35 44:73:12:34. Vacuum breakers. ~~Antisiphon~~—An antisiphon devices or backflow preventers ~~must~~ shall be installed on any hose bibs and on ~~all~~ any fixtures to which hoses or tubing can be attached such as laboratory, ~~and~~ janitors' sinks, bedpan flushing attachments, and handheld showers, ~~and~~ autopsy tables. ~~Antisiphon~~—Each antisiphon devices or backflow preventers ~~must~~ shall be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000, transferred from 44:04:13:35.

General Authority: SDCL 34-1-17, 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:04:13:36 44:73:12:35. Hot water systems. Hot water distribution systems over 50 feet (15.24 meters) long ~~must~~ shall recirculate to provide hot water at each fixture at all times. The hot water heating equipment ~~must~~ shall have sufficient capacity to supply water at the temperature and amounts indicated in the following:

(1) Three gallons an hour (0.0033 liters a second) for each bed ~~at a temperature range of 122-125 degrees Fahrenheit (50-52 degrees centigrade);~~

(2) Two gallons an hour (0.0020 liters a second) for each bed for dietary ~~use at a temperature of 140 degrees Fahrenheit (60 degrees centigrade); and~~

(3) Two gallons an hour (0.0020 liters a second) per bed for laundry ~~at a temperature of 160 degrees Fahrenheit (71 degrees centigrade).~~

~~Storage~~—Each storage tanks provided ~~must~~ shall be fabricated of noncorrosive metal or lined with noncorrosive material.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:36.

General Authority: SDCL 34-1-17, 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

~~44:04:13:37~~ 44:73:12:36. Drainage systems. ~~Each D~~rain lines from sinks in which acid wastes may be poured ~~must shall~~ be fabricated from an acid resistant material. ~~Any P~~iping over ~~operating and delivery rooms, nurseries, food preparation centers, food serving facilities facility, food storage areas, and other critical areas must be kept to a minimum and may not be exposed. Special precautions must shall be taken to protect these areas from possible leakage of necessary overhead piping systems. Floor drains may not be installed in operating and delivery rooms. The B~~building sewers ~~must shall~~ discharge into a community sewerage system. ~~Where If~~ such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

Water from roof systems ~~must shall~~ be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks ~~must shall~~ be provided for pitched roof systems. Provisions ~~must shall~~ be made to avoid having water accumulated on sidewalks and parking areas around the building.

The building sewer system ~~must shall~~ have a cleanout located outside the perimeter of the building foundation.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006, transferred from 44:04:13:37.

General Authority: SDCL ~~34-1-17, 34-12-13(1), (4), and (14).~~

Law Implemented: SDCL 34-12-13(1), (4), and (14).

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

~~44:04:13:40~~ 44:73:12:37. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices ~~must shall~~ be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials ~~must shall~~ be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. ~~Fixed and mobile X-ray units must be connected by means of independent feeders or circuits. Each C~~circuit breakers or fusible switches that provides disconnecting means and overcurrent protection for ~~a~~ conductors connected to switchboards and distribution panel boards ~~must shall~~ be enclosed or guarded to provide a dead front type of assembly. The main switchboard ~~must shall~~ be located in a separate enclosure accessible only to authorized persons. The switchboard ~~must shall~~ be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. ~~Each O~~verload protective devices ~~must shall~~ be designed for operating in the ambient temperature conditions. ~~Each L~~ighting and appliance panel boards ~~must shall~~ be provided for the circuits on each floor. This section does not apply to emergency system circuits.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:40.

General Authority: SDCL ~~34-1-17, 34-12-13(1), (3), and (4).~~

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:13:41~~ 44:73:12:38. Lighting. Any space occupied by people, machinery, and equipment within buildings, the approaches to the buildings, and parking lots shall have artificial lighting approved by the department. Each ~~patient or~~ resident bedroom shall have general lighting of at least ten footcandles (0.929 lumens per square meter) and night lighting. If task illumination is required, a light with an intensity of at least 30 footcandles (2.79 lumens per square meter) at the work surface shall be provided for each ~~patient or~~ resident. At least one luminaire for night lighting shall be switched at the entrance to each ~~patient~~

~~or~~ resident room. Any ~~patient's or~~ resident's reading light and other fixed light not switched at the door shall have a switch control convenient for use at the luminaire. Each switch for control of lighting in a ~~patient or~~ resident area shall be of the quiet operating type. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 50 footcandles (4.65 lumens per square meter) shall be provided at the activity room work tables. Illumination of at least 30 footcandles (2.79 lumens per square meter) shall be provided in each dining area, physical and restorative therapy area, and at any bathing facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012, transferred from 44:04:13:41.

General Authority: SDCL 34-12-13(3), (4) and (14).

Law Implemented: SDCL 34-12-13(3), (4) and (14).

44:04:15:06 44:73:12:39. Emergency electrical service. Each facility shall have a Type 2, Essential Electrical System in accordance with the National Fire Protection Association (NFPA 99 Health Care Facilities Code, 2012 Edition). Automatic emergency lighting shall also be provided at for any exit way, staff work station, dining room, medication room, dietary department, room where main electrical panel is located, and boiler room and power for the fire alarm system. Emergency electrical service shall be provided from an automatic generator set and automatic transfer switches serving emergency panels in nursing facilities.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:15:06.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:04:13:42 44:73:12:40. Receptacles or convenience outlets. ~~Each operating, delivery, and emergency room must have at least three receptacles. In locations where mobile X ray is used, an additional receptacle, distinctively marked for X ray use, must be provided.~~ Each ~~patient or~~ resident bedroom ~~must~~ shall have duplex receptacles as follows: one on each side of the head of each bed; receptacles for luminaires and motorized beds, if used; and one receptacle on ~~another~~ each wall. ~~Single polarized receptacles marked for use of X ray only must be located in corridors of patient or resident areas so that mobile equipment may be used in any location within a patient or resident room. If the same mobile X ray unit is used in operating rooms and in nursing areas, all receptacles for X ray use must be the same. Where capacitive discharge or battery powered mobile X ray units are used, polarized receptacles are not required. Duplex receptacles for general use must~~ shall be installed approximately 50 feet apart in ~~all~~ each corridors and within 25 feet of ends of corridors. ~~Receptacles in patient rooms of pediatric units must be of the safety type. Receptacles in corridors of pediatric units must be of a safety type or must be controlled by switches located at a nurses' station or another supervised location.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:42.

General Authority: SDCL 34-1-17, 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:04:13:44 44:73:12:41. Nurses Staff call system. A ~~nurses staff~~ call system ~~must shall~~ be provided for ~~patient or resident use to summon assistance from staff, at each bed that will register a call from the patient or resident~~ The system shall be capable of being easily activated by the resident and shall register both visually and audibly at the nurses' call staff station and actuate a visual signal at the patient or resident room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals must be installed at corridor intersections. ~~Nurses call systems which provide two way voice communication must be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. An emergency calling station convenient for patient or resident use must be provided at each patient or resident toilet, bath, or shower and at toilets serving patients or residents in laboratory, physical therapy, emergency, and X ray departments. An emergency nurses calling station must be provided for nurses' use in each operating, delivery, recovery, emergency, and intensive nursing care room and in nurseries, supervised wards for mental patients, and rooms for children. The system shall be utilized and maintained in such a manner as to ensure that it is a consistent and effective means for a resident to alert staff of the need for assistance. The call stations convenient for resident use shall be provided at each bed, resident toilet, bathing or shower facility used by the resident. Staff call systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. The call system shall also meet at least one of the following requirements:~~

(a) The call system utilizes fixed call stations that are convenient for resident use and activated by a pull cord or other approved device. The fixed system shall actuate a visual signal at the resident room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections;

(b) The call system utilizes wireless devices that are convenient for resident use and activated by a pull cord or other approved device. The wireless system shall actuate a visual and audible signal at the staff station and on pocket paging devices carried by all direct care staff. Wireless devices shall be fully supervised, shall be capable of alarm reset at the source, and transmit low battery alert. Wireless devices shall utilize batteries that are readily available; or

(c) Another type of call system that has been submitted for review and approved by the department.

A call station or device is not required in the resident room of a cognitively impaired resident if a nursing assessment determines the resident would not benefit from the availability. There shall be a method for staff to summon assistance if needed.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:44.

General Authority: SDCL 34-1-17, 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:04:13:45 44:73:12:42. Fire alarm systems. A manually operated, electrically supervised fire alarm system ~~must shall~~ be installed in each facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:45.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:04:13:47 44:73:12:43. Submittal of plans and specifications. Plans and specifications for new construction ~~must shall~~ be submitted to the department for evaluation of function and fire protection

including concealed spaces. The department's approval ~~must~~ shall be obtained before beginning construction. Modification during construction ~~must~~ shall be submitted to the department for review and ~~must~~ shall be approved prior to the modification. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:47.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:13:48~~ **44:73:12:44. Pipe requirements.** All ~~Each~~ piping systems for potable water ~~must~~ shall be installed to eliminate any dead-end runs of piping. Before placing potable water systems in service, the piping system ~~must~~ shall be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification ~~must~~ shall be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used for applying them ~~must~~ shall have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, ~~2000~~ 2012 edition.

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002, transferred from 44:04:13:48.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: **NFPA 101 Life Safety Code**, ~~2000~~ 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: ~~\$53.50~~ 93.00.

~~44:04:13:49~~ **44:73:12:45. Detached structures.** A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a health care facility ~~must~~ shall either be separated from the facility by a minimum distance of 20 feet ~~or,~~ provided with two-hour fire rated separation, or equip the structure with a complete automatic sprinkler system.

Source: 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995, transferred from 44:04:13:49.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Fire safety code requirements, § ~~44:04:03:01~~ 44:73:03:01.

44:70:12:46. Water recreation facilities. Each water recreation facility, including a swimming pool, spa, and water slide operated by a facility and used by any resident or the public, shall be designed, constructed, and maintained using the "Recommended Standards for Swimming Pool Design and Operation," 1996 edition.

The facility shall collect and submit at least one water sample weekly for each swimming pool, spa, or other water recreational facility under the owner's or operator's control to an EPA-certified laboratory for bacteriological analysis. The facility shall report any unsafe water sample test results to the department

within three days after receipt of such test results. Upon the receipt of a positive water sample the facility shall submit two consecutive negative samples to the department to confirm treatment procedures have eliminated the contamination. If a resample test if positive, the facility shall close the affected water recreational facility and submit two consecutive negative samples prior to allowing guest use of affected water recreational facility. A colorimetric test kit is required for the monitoring and adjusting of disinfectant levels and pH in swimming pool, spa, or other water recreational facilities. A daily log of disinfectant levels and pH shall be maintained for each water recreation facility.

Source:
General Authority: SDCL 34-12-13(1) and (14).
Law Implemented: SDCL 34-12-13(1) and (14).

Reference: "Recommended Standards for Swimming Pool Design and Operation," 1996 edition, Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environment Managers. Copies are available at no cost from the Office of Health Protection, South Dakota Health Department, 615 East 4th Street, Pierre, SD 57501.

ARTICLE 44:74

NURSE AIDE

Chapter
44:74:01 Rules of general applicability.
44:74:02 Nurse Aides

CHAPTER 44:74:01

RULES OF GENERAL APPLICABILITY

Section
44:74:01:01 Definitions.
44:74:01:02 Scope of article.

44:74:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or
(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a resident's property or funds;
(ii) An attempt to commit a crime against a resident;
(iii) Physical harm or injury against a resident; or
(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a resident;

- (2) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;
- (3) "Cognitively impaired," a patient or resident with mental deficiencies which result in a diminished ability to solve problems, to exercise good judgment in the context of a value system, to remember, and to be aware of and respond to safety hazards;
- (4) "Department," the South Dakota Department of Health;
- (5) "Direct contact," any activity that requires physically touching a patient or resident;
- (6) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;
- (7) "Endorsement," the process of formally recognizing for the purpose of employment in a licensed health care facility in South Dakota the qualifications of a person trained and evaluated in another state as a nurse aide;
- (8) "Equivalency," training of another or different type that is determined by the department to be equal to department approved training;
- (9) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;
- (10) "Facility," the place of business used to provide health care for patients or residents;
- (11) "Healthcare worker," any paid person working in a health-care setting;
- (12) "Misappropriation of resident property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent;
- (13) "Mistreatment," actions that cause harm or have the potential to cause harm whether or not harm to the individual was intended. The inappropriate use of an individual's property with the individual's consent obtained through coercion, solicitation, or persuasion;
- (14) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;
- (15) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;
- (16) "Nurse aide," an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay who is either:
- (a) "Qualified," recognized as an individual who has successfully completed a training and competency evaluation program. May be acknowledged as a certified nurse assistant (CNA);
- (b) "Unqualified," recognized as an entry level individual enrolled in a training and competency evaluation program;
- (17) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and orderlies;

(18) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, critical access hospital, swingbed, ambulatory surgery center, or chemical dependency treatment facility;

(19) "Personal care," assistance given by an adult foster care home owner in those areas of daily living when a resident has difficulty functioning because of a physical, mental, or emotional condition;

(20) "Registry," a computerized record of all nurse aides who have completed the minimum nurse aide training and competency evaluation requirements in article 44:74 to obtain registry status as a nurse aide;

(21) "Resident," a person not in need of acute care with a valid order by a practitioner for services in a nursing facility;

(22) "Restorative nursing," a part of nursing directed toward assisting a patient to achieve and maintain an optimal level of self-care and independence and which offers assistance to patients in learning or relearning of skills needed in everyday activities;

(23) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or resident or the movement or normal function of a portion of the patient's or resident's body, excluding devices used for specific medical and surgical treatment;

(24) "Supervised practical training," training in a laboratory or other setting in which the nurse aide performs health-related tasks on a patient or resident while under the direct supervision of a licensed nurse;

(25) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:74:01:02. Scope of article. Nothing in article 44:74 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-7, 34-12-13.

CHAPTER 44:74:02

NURSE AIDES

(Transferred from Chapter 44:04:18)

Section

44:04:18:01 44:74:02:01

Application of chapter.

44:04:18:02 44:74:02:02

Employment of qualified nurse aides required.

44:04:18:03 44:74:02:03

Exception for employment of unqualified nurse aides.

44:04:18:04 44:74:02:04	Multistate registry verification required.
44:04:18:05 44:74:02:05	Nursing facility <u>Facilities</u> required to maintain records.
44:04:18:06 44:74:02:06	Nursing facility required to pay costs of training and competency evaluation.
44:04:18:07 44:74:02:07	Approval and reapproval of nurse aide training programs.
44:04:18:08 44:74:02:08	Notice of change in approved training program.
44:04:18:09 44:74:02:09	Denial or withdrawal of approval of training program.
44:04:18:10 44:74:02:10	Qualifications of program coordinator.
44:04:18:11 44:74:02:11	Qualifications of primary instructor.
44:04:18:12 44:74:02:12	Qualifications of supplemental personnel.
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44:04:18:14 44:74:02:14	Physical facilities.
44:04:18:15 44:74:02:15	Nurse aide curriculum.
44:04:18:16 44:74:02:16	Equivalency of education.
44:04:18:17 44:74:02:17	Nurse aide competency evaluation program standards.
44:04:18:18 44:74:02:18	Competency evaluation program administration standards.
44:04:18:19 44:74:02:19	Nursing f Facility proctoring of examination.
44:04:18:20 44:74:02:20	Notification to individual regarding successful or unsuccessful completion of competency evaluation program.
44:04:18:21 44:74:02:21	Operation of nurse aide registry.
44:04:18:22 44:74:02:22	Registry status by application.
44:04:18:23 44:74:02:23	Registry status by endorsement.
44:04:18:24 44:74:02:24	Registry content.
44:04:18:25 44:74:02:25	Renewal of registry status <u>certification</u> .
44:04:18:26 44:74:02:26	Grounds for revocation, denial, or suspension of nurse aide registry status <u>certification</u> .
44:04:18:27 44:74:02:27	Mandatory reporting of allegations.
44:04:18:28 44:74:02:28	Investigation of allegations.
44:04:18:29 44:74:02:29	Notice and hearing process.
44:04:18:30 44:74:02:30	Documentation of substantiated allegations on registry.
44:04:18:31 44:74:02:31	Procedure to remove of a finding of neglect from registry.

44:04:18:01 44:74:02:01. Application of chapter. Facilities defined in SDCL 34-12-1.1(7) ~~must~~ shall comply with §§ 44:04:18:02 44:74:02:02 to 44:04:18:30 44:74:02:31, inclusive.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:01.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:02 44:74:02:02. Employment of qualified nurse aides required. Nurse aides ~~employed by a nursing facility must~~ shall meet the following minimum qualifications of training, competency evaluation, registry status, and performance:

(1) Successful completion of a training program and a competency evaluation program approved by the department pursuant to §§ 44:04:18:07 44:74:02:07 and 44:04:18:17 44:74:02:17;

(2) Verification from the department of current registry status or eligibility for inclusion on the registry;

(3) Acceptable employment performance as a nurse aide as documented by the aide's supervisor; and

(4) Annual attendance at a minimum of 12 hours of in-service education related to results of performance review and of special resident needs.

Source: 21 SDR 118, effective January 2, 1995; 29 SDR 81, effective December 11, 2002, transferred from § 44:04:18:02.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:03 44:74:02:03. Exception for employment of unqualified nurse aides. A ~~nursing~~ facility may employ for a maximum of four months an individual to provide nurse aide duties who has not met the qualifications of § ~~44:04:18:02 44:74:02:02~~ if the individual is enrolled in a training and competency evaluation program approved by the department pursuant to §§ ~~44:04:18:07 44:74:02:07~~ and ~~44:04:18:17 44:74:02:17~~ or if the individual can prove that approved training and competency evaluation has been completed and the individual has not yet been included on the registry. The facility ~~must~~ shall ensure that such an individual actually obtains registry status within the four-month period.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:03.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:04 44:74:02:04. Multistate registry verification required. A ~~nursing~~ facility ~~must~~ shall seek information from every state registry that the facility has reason to believe has information on the individual before allowing the individual to work as a nurse aide. A nurse aide shall apply for endorsement through the South Dakota Board of Nursing within 30 days of employment. A facility may not employ a nurse aide for more than 60 days unless the aide provides proof the endorsement has been requested.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:04.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:05 44:74:02:05. ~~Nursing facility~~ Facilities required to maintain records. A ~~nursing~~ facility ~~must~~ shall maintain employment records that verify the qualifications of the nurse aides as outlined in § ~~44:04:18:02 44:74:02:02~~.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:05.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:06 44:74:02:06. Nursing facility required to pay costs of training and competency evaluation. A nursing facility ~~must~~ shall pay all costs of nurse aide training and competency evaluation or reimburse the nurse aide for the cost incurred in completing the program if the facility employs the aide within twelve months following completion of the training program. Reimbursement may be made during the first twelve months of employment by installments. A nursing facility is not required to pay the cost of training and competency evaluation of a training program, conducted by an online or non-nursing home based nurse aide training program, if the nurse aide leaves employment or is terminated before completing the facilities probationary period of employment. The nursing facilities probationary period for nurse aides shall be similar to other employees of the nursing home. A nursing facility may not seek restitution for those installments already paid to nurse aide prior to termination. The nurse aide shall not seek payment of training costs if costs have already been paid by another facility where previously employed.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:06.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

44:04:18:07 44:74:02:07. Approval and reapproval of nurse aide training programs. The department ~~must~~ shall approve nurse aide training programs. To obtain approval, the entity providing the

nurse aide training program ~~must~~ shall submit to the department an application on a form provided by the department that contains information demonstrating compliance with requirements specified in this chapter. The department shall respond within 90 days after receipt of the application. The department may grant approval for a maximum of two years.

At the end of the approval period, the entity ~~must~~ shall apply for reapproval. As part of the reapproval process, the department shall conduct an unannounced on-site visit to determine compliance with the requirements.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:07.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:08~~ 44:74:02:08. Notice of change in approved training program. The entity offering an approved nurse aide training program ~~must~~ shall submit to the department, within 30 days after the change, any substantive changes made to the program during the two-year approval period. The department shall notify the entity of its approval within 90 days after receipt of the information.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:08.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:09~~ 44:74:02:09. Denial or withdrawal of approval of training program. The department may deny or withdraw approval of a nurse aide training program if one of the following conditions applies to the nursing facility within the 24 months preceding the current survey:

(1) The facility has been found to be out of compliance with the provision of care requirements in chapter ~~44:04:04~~ 44:73:04 or the nursing service requirements in chapter ~~44:04:06~~ 44:73:06;

(2) The facility has been issued a probationary license;

(3) The facility refuses to permit an unannounced visit by the department;

(4) The facility fails to maintain a 75 percent pass rate on the competency evaluation for the two-year approval period;

(5) There is evidence that the facility has charged the nurse aide a fee for a portion of the training or competency evaluation.

The department shall notify the entity in writing of the reason for withdrawal or denial of approval. Nurse aides currently enrolled in a program whose approval is withdrawn may complete the program with that entity.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:09.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:10~~ 44:74:02:10. Qualifications of program coordinator. The program coordinator of a nurse aide training program ~~must~~ shall be a registered nurse. The program coordinator is responsible for the general supervision of the program. General supervision means providing guidance for the program and maintaining ultimate responsibility for the course. The program coordinator ~~must~~ shall have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services.

The director of nursing of a facility may serve simultaneously as the program coordinator but may not perform training while serving as the director of nursing.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:10.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:11~~ 44:74:02:11. Qualifications of primary instructor. The primary instructor of a nurse aide training program ~~must~~ shall be a licensed nurse. The primary instructor is the actual teacher of course material. The primary instructor ~~must~~ shall have a minimum of two years of nursing experience, at least one year of which is in the provision of long-term care services. The primary instructor ~~must~~ shall have completed a course of instruction in teaching adults or ~~must~~ shall have experience in teaching adults within the past five years.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:11.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:12~~ 44:74:02:12. Qualifications of supplemental personnel. Supplemental personnel may assist with the instruction of nurse aides. One year of experience in the individual's respective field of practice is required.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:12.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:13~~ 44:74:02:13. Supervision of students. Students in a nurse aide training program may not perform any services unless they have been trained and found to be proficient by the instructor. Students in a training program may perform services only under the supervision of a licensed nurse.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:13.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:14~~ 44:74:02:14. Physical facilities. Classrooms, conference rooms, laboratories, and equipment ~~must~~ shall be available in the number and size to accommodate the number of nurse aides enrolled in the training program. Programs ~~must~~ shall provide temperature control, lighting, and clean, safe conditions for instruction.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:14.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:15~~ 44:74:02:15. Nurse aide curriculum. The curriculum of the nurse aide training program ~~must~~ shall address the medical, psychosocial, physical, and environmental needs of the patients or residents served by the nursing facility. Each unit of instruction ~~must~~ shall include behaviorally stated objectives with measurable performance criteria. The nurse aide training program ~~must~~ shall consist of at least 75 hours of classroom and clinical instruction, including the following:

(1) Sixteen hours of training in the following areas before the nurse aide has any direct contact with a patient or resident:

(a) Communication and interpersonal skills;

- (b) Infection control;
 - (c) Safety/emergency procedures, including the Heimlich maneuver;
 - (d) Promoting patients' and residents' independence;~~and~~
 - (e) Respecting patients' and residents' rights; and
 - (f) Abuse, neglect, and misappropriation of resident property;
-

(2) Sixteen hours of supervised practical training, with enough instructors to ensure that nursing care is provided with effective assistance and supervision. The ratio may not be less than one instructor for each eight students in the clinical setting;

(3) Instruction in each of the following content areas:

(a) Basic nursing skills:

- (i) Taking and recording vital signs;
- (ii) Measuring and recording height and weight;
- (iii) Caring for the patients' or residents' environment;
- (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
- (v) Caring for patients or residents when death is imminent;

(b) Personal care skills, including the following:

- (i) Bathing;
- (ii) Grooming, including mouth care;
- (iii) Dressing;
- (iv) Toileting;
- (v) Assisting with eating and hydration;
- (vi) Feeding techniques;
- (vii) Skin care; and
- (viii) Transfers, positioning, and turning to include the use of mechanical lift or movement devices;

(c) Mental health and social services:

- (i) Modifying aides' behavior in response to patients' or residents' behavior;
- (ii) Awareness of developmental tasks associated with the aging process;
- (iii) How to respond to patients' or residents' behavior;
- (iv) Allowing the patient or resident to make personal choices, providing and reinforcing other behavior consistent with the patient's or resident's dignity; and
- (v) Using the patient's or resident's family as a source of emotional support;

(d) Care of cognitively impaired patients or residents, including the following:

- (i) Techniques for addressing the unique needs and behaviors of individuals with dementia;
- (ii) Communicating with cognitively impaired patients or residents;
- (iii) Understanding the behavior of cognitively impaired patients or residents;
- (iv) Appropriate responses to the behavior of cognitively impaired patients or residents; and
- (v) Methods of reducing the effects of cognitive impairments;

(e) Basic restorative nursing services, including the following:

- abilities;
- (i) Training the patient or resident in self-care according to the patient's or resident's
 - (ii) Use of assistive devices in transferring, ambulation, eating, and dressing;
 - (iii) Maintenance of range of motion;
 - (iv) Proper turning and positioning in bed and chair;
 - (v) Bowel and bladder control care training; and
 - (vi) Care and use of prosthetic and orthotic devices;
- (f) Residents' rights, including the following:
- (i) Providing privacy and maintaining confidentiality;
 - (ii) Promoting the patients' or residents' right to make personal choices to accommodate their
 - (iii) Giving assistance in reporting grievances and disputes;
 - (iv) Providing needed assistance in getting to and participating in resident and family
 - (v) Maintaining care and security of patients' or residents' personal possessions;
 - (vi) Promoting the patient's or resident's right to be free from abuse, mistreatment, and
 - (vii) Avoiding the need for restraints.
- needs;
- groups and other activities;
- neglect and understanding the need to report any instances of such treatment to appropriate facility staff;

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:15.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:16~~ 44:74:02:16. Equivalency of education. An individual may meet the 75-hour training requirement by equivalency of education. A facility shall make a request to the department in writing for an equivalency determination, including proof of training with the request.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:16.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:17~~ 44:74:02:17. Nurse aide competency evaluation program standards. A nurse aide competency evaluation program ~~must~~ shall meet the following standards:

(1) The nurse aide ~~must~~ shall be informed by the facility that a record of successful completion of the evaluation will be included in the registry;

(2) The evaluation ~~must~~ shall consist of two elements:

(a) The competency evaluation component may be offered as either a written or oral examination. This component of the evaluation shall:

- (i) Include each curriculum requirement specified in § ~~44:04:18:15~~ 44:74:02:15;
- (ii) Be developed from a pool of test questions, with no more than 20 percent of prior questions used on a succeeding examination;
- (iii) Use a system that prevents disclosure of the content of the examination; and
- (iv) If oral, be read from a prepared text in a neutral manner;

(b) The skills demonstration component ~~must~~ shall consist of a minimum of five tasks randomly selected from a pool of tasks generally performed by nurse aides. The pool of skills shall include all of the

personal care skills listed in subdivision ~~44:04:18:15(3)(b)~~ 44:74:02:15(3)(b). The skills demonstration tasks shall be performed on a live person.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:17.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:18~~ 44:74:02:18. Competency evaluation program administration standards. The competency evaluation may be administered by a ~~nursing~~ facility. The entity that administers competency evaluations ~~must~~ shall meet the requirements of this section and ~~must~~ shall have the approval of the department:

(1) The written or oral examination ~~must~~ shall be administered by an individual with previous group testing experience;

(2) The skills demonstration ~~must~~ shall be administered by a registered nurse who has at least one year's experience in providing care for the elderly or the chronically ill and who has taken a skills demonstration rater training course;

(3) The skills demonstration ~~must~~ shall be conducted in a ~~nursing~~ facility or laboratory setting comparable to the setting in which the nurse aide functions and shall accommodate the number of nurse aides enrolled in the competency evaluation program.

Source: 21 SDR 118, effective January 2, 1995; 30 SDR 84, effective December 4, 2003, transferred from § 44:04:18:18.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:19~~ 44:74:02:19. Nursing fFacility proctoring of examination. The written, oral, or skills demonstration examination may be conducted in a ~~nursing~~ facility and proctored by facility personnel if the facility obtains department approval before giving the examinations. The ~~nursing~~ facility ~~must~~ shall ensure that the examination is secure from tampering. Department approval may be withdrawn if there is evidence of tampering. Scoring of the examination shall be done by the professional testing company under contract with the department to administer the examination.

Source: 21 SDR 118, effective January 2, 1995; 30 SDR 84, effective December 4, 2003, transferred from § 44:04:18:19.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:20~~ 44:74:02:20. Notification to individual regarding successful or unsuccessful completion of the competency evaluation program. The facility offering the examination ~~must~~ shall advise in advance any individual who takes a competency evaluation that a record of the successful completion of the evaluation will be included in the registry. To be listed in the registry, a nurse aide ~~must~~ shall pass the written or oral portion and the skills demonstration portion of the competency evaluation with a score of at least 75 percent. If the nurse aide does not achieve a score of 75 percent, the facility ~~must~~ shall advise the nurse aide of the areas failed. The nurse aide may have two additional opportunities to complete evaluation successfully.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:20.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:21~~ 44:74:02:21. Operation of nurse aide registry. The department is accountable for the operation of the nurse aide registry and may designate an entity to maintain the registry. A nurse aide is listed on the registry through application or by endorsement. The department shall provide a copy of all information contained in the registry on an individual upon request. The public may contact the department at South Dakota Department of Health, Office of Licensure and Certification, 615 East 4th Street, Pierre, South Dakota 57501, or by calling 605-773-3356, to obtain information from the registry between the hours of 8:00 a.m. and 5:00 p.m. central time, Monday through Friday, except for state and federal holidays.

Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000, transferred from § 44:04:18:21.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:22~~ 44:74:02:22. Registry status by application. A nurse aide seeking registry status ~~must~~ shall submit to the department an application, completed by the program coordinator or primary instructor, documenting successful completion of an approved training program. The entity responsible for scoring the nurse aide competency evaluation program ~~must~~ shall submit documentation of successful completion of the written or oral examination and the skills demonstration of the competency evaluation to the department within 30 days after the administration of the evaluation.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:22.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:23~~ 44:74:02:23. Registry status by endorsement. A nurse aide seeking registry status by endorsement from another state registry ~~must~~ shall submit to the department the following information:

- (1) A completed application;
- (2) Written documentation indicating successful completion of another state's approved nurse aide training and competency evaluation program;
- (3) Verification of initial listing on the nurse aide registry in another state;
- (4) Verification of listing on a nurse aide registry from the state of most recent employment; and
- (5) Documentation of employment as a nurse aide within the last 24 consecutive months.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:23.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:24~~ 44:74:02:24. Registry content. The registry contains the following information for each nurse aide who has gained registry status:

- (1) The full name of the nurse aide, including maiden name and any surnames used;
- (2) The last known home address;
- (3) The registration number;
- (4) The date the registry status expires;
- (5) The date of birth;
- (6) The most recent employment;
- (7) The date of successful completion of the examination and skills demonstration components of the competency evaluation;
- (8) The name and address of the professional testing service that scored the competency evaluations taken by the nurse aide; and
- (9) Any disciplinary proceedings against the nurse aide, including findings of abuse, neglect, or misappropriation of patient or resident property as specified in § ~~44:04:18:30~~ 44:74:02:30.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:24.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:25~~ 44:74:02:25. Renewal of registry status certification. ~~Registry status certification~~ expires two years from the date of initial registration. To renew ~~registry status certification~~, the nurse aide shall submit to the department a verification of a minimum of ~~eight~~ 12 hours of training per year as required in § 44:74:02:02(4) and a minimum of 12 hours of monetary compensation as a nurse aide during the preceding 24 months. An individual who has not performed the training and the required any nursing or nursing-related services for monetary compensation during the preceding 24 consecutive months shall complete a new competency evaluation program. The department may grant an exception to § 44:74:02:25 for those nurse aides called to active military service. The nurse aide shall provide evidence of active duty, such as a copy of duty orders. The exemption for renewal ceases six months after discharge from active military service.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:25.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:26~~ 44:74:02:26. Grounds for revocation, denial, or suspension of nurse aide registry status certification. The department may revoke, deny, or suspend a nurse aide's ~~current registry status certification~~ if the department determines after a contested case hearing pursuant to SDCL chapter 1-26 that the nurse aide has violated the meaning of abuse, ~~or neglect, or misappropriation of resident property~~ as those terms are defined in § 44:04:01:01 ~~44:74:01:01. The department may deny registry status to a nurse aide applying for registration if the nurse aide was convicted of criminal charges related to abuse or neglect of an individual.~~ The department may also revoke, deny, or suspend a nurse aide's certification if the nurse aide waives his or her right to a case hearing in accordance with § 44:74:02:29. Registry status Certification may be suspended by the department during the investigation of an allegation of abuse, or neglect, or misappropriation of resident property by a nurse aide following due process as outlined in § 44:04:18:29 44:74:02:29. The department may revoke, deny, or suspend a nurse aide's certification, following due process as outlined in § 44:74:02:29, if the department determines the nurse aide's certification has been revoked, suspended, or denied in another state.

Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000, transferred from § 44:04:18:26.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:27~~ 44:74:02:27. Mandatory reporting of allegations. A ~~nursing~~ facility licensed by the department shall notify the department in writing, within 48 hours, of any alleged misconduct by a nurse aide related to abuse or neglect of an individual or to misappropriation of a patient's or resident's property.

Source: 21 SDR 118, effective January 2, 1995, transferred from § 44:04:18:27.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:28~~ 44:74:02:28. Investigation of allegations. After an allegation of abuse, ~~or neglect, or misappropriation of resident property~~, the facility shall take steps to prevent further incidents of abuse, ~~or neglect, or misappropriation of resident property~~ from occurring, investigate allegations thoroughly, and take any corrective action necessary. The facility shall report its findings to the department within five working days. The department, or another agency of state government, may conduct its own investigation in addition to the facility's investigation.

Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000, transferred from § 44:04:18:28.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:29~~ **44:74:02:29. Notice and hearing process.** The department shall follow the contested case procedure found in SDCL chapter 1-26 if a hearing is conducted:

- (1) To determine if a nurse aide has engaged in abuse, ~~or neglect, or misappropriation of resident property~~ of an individual; or
- (2) When the department denies a petition to remove a finding of neglect from the registry.

If the department has determined abuse, ~~or neglect, or misappropriation of resident property~~ of an individual has occurred, a notice of the right to a hearing will be sent to the nurse aide. The notice shall state the aide has ~~40~~ 30 days from receipt of the notice to respond. The notice shall include a waiver of hearing. Failure to return the waiver or failure to request a hearing within ~~40~~ 30 days waives the right to a hearing.

Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003, transferred from § 44:04:18:29.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:30~~ **44:74:02:30. Documentation of substantiated allegations on registry.** If, after a hearing on the matter, the nurse aide is found to have committed abuse, ~~or neglect, or misappropriation of resident property~~ of an individual, the department shall update the registry with documentation within 10 days from the date of the ruling. If a waiver of hearing is received, the department shall update the nurse aide's registry status ~~by flagging the nurse aide's name on the registry~~. The documentation remains on the registry permanently and includes the following:

- (1) A summary of the allegation;
- (2) A summary of the department's investigative report;
- (3) The statement by the nurse aide, if one is provided;
- (4) The department's decision;
- (5) The waiver of the hearing, if any; and
- (6) A date of the hearing, findings of fact, and conclusions of law, and the outcome, if a hearing is held.

Source: 21 SDR 118, effective January 2, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003, transferred from § 44:04:18:30.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

~~44:04:18:31~~ **44:74:02:31. Procedure to remove of a finding of neglect from registry.** A certified nurse aide may petition for a removal of a finding of neglect after one year beginning on the date on which the finding was placed on the certified nurse aide registry.

If the department determines the employment and personal history of the certified nurse aide does not reflect a pattern of abusive behavior or neglect and the neglect in the original finding was a singular occurrence, the department may remove the finding from the registry.

The department may deny the petition if the employment and personal history of the certified nurse aide reflects a pattern of abusive behavior or neglect and the neglect involved in the original finding was not a singular occurrence. The department shall follow the procedure as provided in § 44:04:18:29 44:74:02:29.

Source: 29 SDR 81, effective December 11, 2002, transferred from § 44:04:18:31.

General Authority: SDCL 34-12-29.

Law Implemented: SDCL 34-12-29.

ARTICLE 44:75

HOSPITAL, SPECIALIZED HOSPITAL, AND CRITICAL ACCESS HOSPITAL FACILITIES

Chapter

<u>44:75:01</u>	<u>Rules of general applicability.</u>
<u>44:75:02</u>	<u>Physical environment.</u>
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<u>44:75:09</u>	<u>Medical record services.</u>
<u>44:75:10</u>	<u>Hospital diagnostic services.</u>
<u>44:75:11</u>	<u>Hospital complimentary services.</u>
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CHAPTER 44:75:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:75:01:01</u>	<u>Definitions.</u>
<u>44:75:01:02</u>	<u>Licensure of facilities by classification.</u>
<u>44:75:01:03</u>	<u>Name of facility.</u>
<u>44:75:01:04</u>	<u>Bed capacity.</u>
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<u>44:75:01:06</u>	<u>Joint occupancy.</u>
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<u>44:75:01:09</u>	<u>Modifications.</u>
<u>44:75:01:10</u>	<u>Scope of article.</u>

44:75:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article.
In addition, terms used in this article mean:

- (1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:
- (a) A criminal conviction against a person for mistreatment toward an individual; or
 - (b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:
 - (i) Misappropriation of a patient's or resident's property or funds;
 - (ii) An attempt to commit a crime against a patient or resident;
 - (iii) Physical harm or injury against a patient or resident; or
 - (iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;
- (2) "Activities coordinator," a person who is a therapeutic recreation specialist or activity professional eligible for certification from the National Certification Council of Activity Professionals, who has two years of experience in a social or recreational program within the last five years, one year of which was full-time in a patient activities program in a health care setting, or who is a qualified occupational therapist or occupational therapy assistant under SDCL chapter 36-31 or who has completed a training program, or has similar qualifications as determined by the department;
- (3) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;
- (4) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;
- (5) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for managing the facility and who maintains an office on the premises of the facility;
- (6) "Anesthesiologist," a physician whose specialized training and certification qualify the person to administer anesthetic agents and to monitor the patient under the influence of these agents;
- (7) "Anesthetist," a physician eligible for certification as an anesthesiologist or a certified registered nurse anesthetist who meets the requirements of SDCL chapter 36-9;
- (8) "Client advocates," agencies responsible for the protection and advocacy of patients and residents, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;
- (9) "Clinical Nurse Specialist," a person who practices the nurse specialty of a clinical nurse specialist as authorized pursuant to SDCL 36-9;
- (10) "Circulating Nurse," a registered nurse trained, educated, or experienced in perioperative nursing who is responsible for coordinating and monitoring the nursing care and safety needs of a patient in the operating or procedure room and who also meets the needs of the operating and procedure room team members during surgery. The circulating nurse works outside the sterile field in which the procedure takes place and duties include but are not limited to recording the progress of the procedure, accounting for instruments, and handling specimens.
- (11) "Critical Access Hospital," a hospital providing emergency care on a twenty-four hour basis located in a rural area which has limited acute inpatient services, focusing on primary and preventive care. For the purposes of this article, a rural area is any municipality of under fifty thousand population;

(12) "Department," the South Dakota Department of Health;

(13) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-18 or a disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

(e) Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration;

(14) "Dietary manager," a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides 120 or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the National Certifying Board of Dietary Managers and who functions with consultation from a dietitian;

(15) "Dietitian," a person who is registered with the Academy of Nutrition and Dietetics and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

(16) "Distinct part," an identifiable unit, such as an entire ward or contiguous wards, wing, floor, or building, which is licensed at a specific level. It consists of all beds and related facilities in the unit;

(17) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

(18) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

(19) "Facility," the place of business licensed as a general hospital, specialized hospital, or critical access hospital used to provide health care to patients that is licensed by the department;

(20) "General hospital," a hospital that provides at least medical, surgical, obstetrical, and emergency services;

(21) "Governing body," an organized body of persons that is ultimately responsible for the quality of care in a health care facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policy;

(22) "Healthcare worker," any paid person working in a health-care setting;

(23) "Hospice services," a coordinated interdisciplinary program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;

(24) "Hospital" is a general hospital, specialized hospital, or critical access hospital.

(25) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a patient;

(26) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";

(27) "Licensed health professional," a physician; physician's assistant; nurse practitioner; clinical nurse specialist, physical therapist, speech-language pathologist, occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;

(28) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients in a health care facility;

(29) "Mental disease," a mental condition that causes a person to lack sufficient understanding or capacity to make the responsible decisions to meet the ordinary demands of life, as evidenced by the person's behavior, or that causes a person to be a danger to self or others;

(30) "Misappropriation of patient and resident property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's or resident's belongings or money without the patient's or resident's consent;

(31) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

(32) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

(33) "Nurse aide," an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay;

(34) "Nurse practitioner," a person who practices the specialty nurse practitioner as authorized pursuant to SDCL 36-9A;

(35) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and patient care technicians;

(36) "Nursing unit," a patient unit that is limited to one floor of a health care facility and has all patient room entrances and exits within sight or control of nursing personnel;

- (37) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, or critical access hospital, or swingbed;
- (38) "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;
- (39) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;
- (40) "Physician assistant," a health care professional who meets the qualifications as defined and is licensed as authorized pursuant to SDCL chapter 36-4A;
- (41) "Practitioner," one of the following;
- (a) A physician or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4;
 - (b) A dentist licensed pursuant to SDCL chapter 36-6;
 - (c) A podiatrist licensed pursuant to SDCL chapter 36-8;
 - (d) A optometrist licensed pursuant to SDCL chapter 36-7;
 - (e) A chiropractor licensed pursuant to SDCL chapter 36-5;
 - (f) A pharmacist licensed pursuant to SDCL chapter 36-11;
 - (g) A physical therapist licensed pursuant to SDCL chapter 36-10;
 - (h) A occupational therapist licensed pursuant to SDCL chapter 36-31;
 - (i) A nurse practitioner licensed pursuant to SDCL chapter 36-9A;
 - (j) A physician assistant licensed pursuant to SDCL chapter 36-4A;
 - (k) A speech-language pathologist pursuant to SDCL chapter 36-37; or
 - (l) A clinical nurse specialist pursuant to SDCL chapter 36-9;
- (42) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mental Ill Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;
- (43) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;
- (44) "Referral hospital," a general hospital with medical personnel qualified to receive emergency and nonemergency patient transfers from a critical access hospital or specialized hospital, which has sufficient resources to provide consultation to a critical access hospital or specialized hospital in the areas of clinical protocols, quality assurance, utilization review, staff inservice, and business consultation;
- (45) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;
- (46) "Rehabilitation services," services which include physical therapy, occupational therapy, respiratory therapy, and speech therapy;
- (47) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one patient;
- (48) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or the movement or normal function of a portion of the patient's body, excluding devices used for specific medical and surgical treatment;

(49) "Secured unit," a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined unique population, which is staffed by persons with training to meet the needs of patients admitted to the unit;

(50) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

(51) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;

(52) "Social service designee," a person who has a degree in a behavioral science field, two years of previous supervised experience in a behavioral science field, is a licensed nurse, or has similar qualifications;

(53) "Specialized hospital," a hospital that provides only one service or a combination of services but does not provide all of the services required to qualify as a general hospital;

(54) "Swing-bed," a licensed hospital bed which has been approved by the department pursuant to § 44:75:11:10 to also provide short-term nursing care;

(55) "Therapeutic diet," any diet other than a regular diet that is ordered by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or qualified dietitian as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency;

(56) "Transfer or discharge," the movement of a patient to a bed outside the distinct part or outside the facility;

(57) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

(58) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a patient as delegated by the nurse and authorized by chapter 20:48:04.01.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

Note: National Certification Council of Activity Professionals, P.O. Box 62589, Virginia Beach, VA 23466, Phone (757) 552-0653.

44:75:01:02. Licensure of facilities by classification. Application for licensure of a health care facility shall set out the classification being applied for. Any license issued shall denote the classification and the facility address on the face of the license. The license shall include each facility address at which services licensed under this chapter are provided. A critical access hospital shall first receive notice of eligibility for licensure from the secretary of health. A facility shall comply only with those chapters in this article that apply to the classification of license issued. The most current license issued by the department shall be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department. Facility classifications in addition to those defined in SDCL 34-12-1.1 are as follows:

(1) General hospital; and

(2) Specialized hospital.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:75:01:03. Name of facility. Each facility shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:75:01:04. Bed capacity. The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The patient census shall not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of change of purpose or construction shall be approved by the department before any changes are made. A critical access hospital (CAH) may license no more than 25 beds. A CAH may establish a distinct part unit (e.g., psychiatric or rehabilitation) that meets requirements for such beds as established for a short-term, general hospital. Those beds may not count toward the CAH bed limit, and the total number in each distinct part unit may not exceed ten.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:75:01:05. Restrictions on acceptance of patients. A facility shall accept patients in accordance with the following restrictions:

(1) A patient accepted for care by a licensed facility shall be housed within the facility covered by the license;

(2) A facility may not accept or retain patients who require care in excess of the classification for which it is licensed;

(3) Nursing and personal care personnel essential to maintaining adequate staff may not leave a facility during their tour of duty in the facility to provide services to persons who are not patients of the facility with the exception of providing emergency care on premises contiguous to the facility's property;

(4) Hospitals which accept or retain patients for other than short-term acute care shall provide the facilities, equipment, programs, and care needed by such patients;

(5) All facilities that accept or retain patients suffering from developmental disabilities or mental diseases shall provide facilities and programs consistent with the needs of such patients;

(6) If persons other than inpatients are accepted for care or to participate in any programs, services, or activities for the inpatients, their numbers shall be included in the evaluation of central use, activity, and dining spaces; staffing of nursing, dietary, and activity programs; and the provision of an infection control program. Services provided such individuals may not infringe upon the needs of the inpatients; and

(7) A critical access hospital may provide inpatient acute care up to an annual average length of stay of 96 hours.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:75:01:06. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the patients. The area shall be open to inspection by the department.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:01:07. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any patient by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide patient. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing patient to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Each facility shall report to the department any unsafe water samples for pools or spas.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:75:01:08. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each licensed facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms

provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:
General Authority: SDCL 34-12-13(5).
Law Implemented: SDCL 34-12-13(5).

44:75:01:09. Modifications. Modifications to the staffing requirements provided in § 44:75:03:02 or 44:75:06:05 may be approved by the department for facilities which are physically combined and jointly operated if:

(1) A hospital or critical access hospital and nursing facility are co-located and the nursing facility has a licensed bed capacity of 16 or less or the hospital has an acute care patient daily census of less than five;

(2) A hospital or a critical access hospital and assisted living center are co-located; or

The health and safety of the patients or residents in either facility shall not be jeopardized.

Modifications to the staffing requirements in this article may be approved by the department for a critical access hospital if there are no acute care or swing bed patients present.

Modifications specified by this section may be requested by the health care facility. Any modifications shall be approved in writing by the department. The approval letter shall specify the modifications permitted and any limitations pertaining to the modifications.

Source:
General Authority: SDCL 34-12-13(5) and (14).
Law Implemented: SDCL 34-12-13(5) and (14).

44:75:01:10. Scope of article. Nothing in article 44:75 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:
General Authority: SDCL 34-12-13(5).
Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:75:02

PHYSICAL ENVIRONMENT

<u>Section</u>	
<u>44:75:02:01</u>	<u>Sanitation.</u>
<u>44:75:02:02</u>	<u>Pets.</u>
<u>44:75:02:03</u>	<u>Cleaning methods and facilities.</u>
<u>44:75:02:04</u>	<u>Chemicals used to sanitize, disinfect, or sterilize.</u>
<u>44:75:02:05</u>	<u>Sterilization.</u>
<u>44:75:02:06</u>	<u>Housekeeping cleaning methods and equipment.</u>
<u>44:75:02:07</u>	<u>Food service.</u>
<u>44:75:02:08</u>	<u>Handwashing facilities.</u>

<u>44:75:02:09</u>	<u>Linen.</u>
<u>44:75:02:10</u>	<u>Infection prevention and control.</u>
<u>44:75:02:11</u>	<u>Plumbing.</u>
<u>44:75:02:12</u>	<u>Water supply.</u>
<u>44:75:02:13</u>	<u>Ventilation.</u>
<u>44:75:02:14</u>	<u>Lighting.</u>
<u>44:75:02:15</u>	<u>Refuse and waste disposal.</u>
<u>44:75:02:16</u>	<u>Insect and rodent control.</u>
<u>44:75:02:17</u>	<u>Sewage disposal.</u>
<u>44:75:02:18</u>	<u>Occupant protection.</u>
<u>44:75:02:19</u>	<u>Area requirements for currently licensed patient rooms.</u>
<u>44:75:02:20</u>	<u>Room required for isolation techniques.</u>
<u>44:75:02:21</u>	<u>Office required for social services activities.</u>
<u>44:75:02:22</u>	<u>Physical plant changes.</u>
<u>44:75:02:23</u>	<u>Location.</u>
<u>44:75:02:24</u>	<u>Heating and cooling.</u>
<u>44:75:02:25</u>	<u>Seclusion rooms.</u>

44:75:02:01. Sanitation. The facility shall be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases to patients, personnel, visitors, and the community at large. This requirement shall be accomplished by providing the physical resources, personnel, and technical expertise necessary to ensure good public health practices for institutional sanitation.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:02. Pets. Any pet kept in or visiting a facility may not negatively affect the well-being of patients.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:75:02:03. Cleaning methods and facilities. The facility shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, disinfecting, or sterilizing all work areas, equipment, utensils, and medical devices used for patients' care. Common use equipment shall be disinfected or sterilized after each use. Facilities shall have separate clean and soiled utility rooms.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:75:02:04. Chemicals used to sanitize, disinfect, or sterilize. The label of chemicals used to sanitize, disinfect, or sterilize shall indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:75:02:05. Sterilization. Instruments, supplies, utensils and equipment which are not single service shall be decontaminated before sterilization in a manner that will make them safe for handling by personnel. Supplies and equipment commercially prepared and sterilized to retain sterility indefinitely are acceptable in lieu of sterilization in the facility. Autoclaves used for steam sterilization shall be bacteriologically monitored at least weekly. Supplies and equipment sterilized and packaged in the facility shall have the processing date on the package and shall be reprocessed in accordance with any specific manufacturer's recommendation for the packaging.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:75:02:06. Housekeeping cleaning methods and equipment. The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and copies made available to all housekeeping personnel. All parts of the facility shall be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for patient use shall be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in medical facilities shall be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. Cleaning shall include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms except medical equipment, supplies, or devices that are the responsibility of other services or departments of the facility.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:75:02:07. Food service. Food service shall be provided by a licensed facility or food service establishment that is inspected by a local, state, or federal agency. The facility shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. In addition, a mechanical dishwasher shall be provided in all facilities of 17 beds or more. The facility shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation if any part of the food service is provided by the facility.

Source:

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:75:02:08. Handwashing facilities. Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and hand cleanser shall be located in dietary areas, utility rooms, nurses' stations, pharmacies, laboratories, nurseries, surgical suites, delivery suites, physical therapy rooms, restorative therapy rooms, examination and treatment rooms, emergency rooms, laundry, and all toilet rooms not directly connected to patient rooms. A handwashing facility shall be provided in each patient room or in a bath or toilet room connected directly to the room. If existing faucets

and controls are replaced or changed, they shall be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

Cross-Reference: Plumbing fixtures, § 44:75:13:29.

44:75:02:09. Linen. The supply of bed linen and towels shall equal three times the licensed capacity. The facility shall have written procedures for the storage and handling of soiled and clean linens. The facility shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Commingled patients' or residents' personal clothing, common-use linen, such as towels, washcloths, gowns, protective overgarment, protective briefs, and bedding, any isolation clothing, and housekeeping items shall be processed by methods that ensure disinfection. The facility shall process laundry following the laundry equipment and cleaning agent recommendations. If hot water is used for disinfection, minimum water temperatures supplied for laundry purposes shall be 160 degrees Fahrenheit (71 degrees centigrade). If chlorine bleach is added to the laundry process to provide 100 parts per million or more of free chlorine, the minimum hot water temperatures supplied for laundry purposes may be reduced to 120 degrees Fahrenheit (48.8 degrees centigrade). The facility may choose to wash commingled patients' or residents' personal clothing, common-use linen, and any isolation clothing in water temperatures less than 120° F. if the following conditions are met:

(1) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility;

(2) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff;

(3) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations; and

(4) The facility ensures that staff monitors chemical usage and wash water temperatures at least monthly to ensure conformance with the chemical supplier's instructions.

Any patient's personal clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in quantity as recommended by the garment or detergent manufacturer. The facility shall have distinct areas for the storage and handling of clean and soiled linens. Those areas used for the storage and handling of soiled linens shall be negatively pressurized. The facility shall establish special procedures for the handling and processing of contaminated linens. Soiled linen shall be placed in closed containers prior to transportation. To safeguard clean linens from cross contamination, the linens shall be transported in containers used exclusively for clean linens, shall be kept covered with dust covers at all times while in transit or in hallways, and shall be stored in areas designated exclusively for this purpose. A written request for any modification of the requirements of this section shall be reviewed and approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:75:02:10. Infection prevention and control. The infection prevention and control program shall utilize the concept of standard precautions as the basis for infection prevention and control program. Bloodborne pathogen control shall be maintained according to the requirements contained in 29 C.F.R. 1910.1030, July 1, 2006. The facility shall designate an employee to be responsible for the implementation of the infection control program including surveillance and reporting activities. There shall be written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each facility shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). There shall be a method of control used in relation to the sterilization of supplies and a written policy requiring sterile supplies to be reprocessed. The facility shall provide orientation and continuing education to all personnel on the facility's staff on the cause, effect, transmission, prevention, and elimination of infections. Each facility shall develop a written policy for evaluation and reporting of any employee with a reportable infectious disease.

Source:

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1).

44:75:02:11. Plumbing. Facility plumbing systems shall be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing shall be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

44:75:02:12. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Each private water supply shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the facility, including fire fighting requirements. The hot water system shall be capable of supplying the work and patient areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by patients may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for patient use shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range. The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. When testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-References: Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:75:02:13. Ventilation. Electrically powered exhaust ventilation shall be provided in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air-handling system.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:14. Lighting. Spaces occupied by people, machinery, and equipment within buildings and their approaches and parking lots shall have artificial lighting at a level for general safety. Patient bedrooms shall have general lighting and night lighting. A reading light shall be provided for each patient who can benefit from one. Required exits shall be equipped with continuous emergency lighting. Emergency power shall be provided if the main source of power fails.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:15. Refuse and waste disposal. Garbage, refuse, and waste shall be handled and disposed of in a safe and sanitary manner. Final disposal of all refuse and waste shall comply with articles 74:27 and 74:28. Putrescible garbage shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:16. Insect and rodent control. The facility shall take effective measures to protect against the entrance into the facility and the breeding or presence on the premises of rodents, flies, roaches, and other vermin. The facility may use chemical substances of a poisonous nature in accordance with the requirements of this section to control or eliminate various types of vermin. The substances shall be properly colored and labeled to identify them as poisons, shall be used and stored in a safe manner, and may not be stored with food or drugs used for human consumption. Extreme care shall be taken to prevent any poisons from contaminating food or food products.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:17. Sewage disposal. Sewage shall be disposed of in a public sewage works system or, in its absence, in a manner approved by the department in accordance with the provisions of SDCL chapter 34A-2.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:18. Occupant protection. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the patients admitted to the facility. The facility shall take at least the following precautions:

(1) Develop and implement a written and scheduled preventive maintenance program;

(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by patients;

(3) Provide a call system for each patient bed and in all toilet rooms and bathing facilities routinely used by patients. The call system shall be capable of being easily activated by the patient and shall register at a nurses' station serving the unit. A wireless call system may be used;

(4) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;

(5) Portable space heaters and portable halogen lamps may not be used in a facility;

(6) Household-type electric blankets or heating pads may not be used in a facility;

(7) Any light fixture located over a patient bed, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area shall be equipped with a lens cover or a shatterproof lamp;

(8) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:02:19. Area requirements for currently licensed patient rooms. Each currently licensed patient room shall have at least 75 square feet (6.98 square meters) of floor space per bed, with at least three feet (0.91 meters) between beds in a multi-bed room exclusive of closets and wardrobes; and 95 square feet (8.83 square meters) in a single room, exclusive of closets and wardrobes. Each patient shall have for individual use in the assigned room a bed, a bedside stand, and a chair appropriate to the needs and comfort of the patient. Each hospital shall have 20 square feet (1.86 square meters) of general storage for each bed. Each facility shall be constructed, equipped, and operated to maintain the privacy and dignity of all patients. In a multi-bed room, each bed shall be able to be separated from the other beds by privacy curtains.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Area requirements for new construction or renovations, § 44:75:13:07(2).

44:75:02:20. Room required for isolation techniques. When an authorized facility personnel determines isolation is required, a private room with necessary equipment, including handwashing facilities, to carry out isolation techniques shall be provided. Isolation room shall have a negative air pressure with regard to the corridor and connecting rooms and a minimum of six air exchanges an hour exhausted to the outside air.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13(1) and (3), 34-22-9.

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:02:21. Office required for social services activities. An office which is large enough to accommodate private consultation and record keeping and which is easily accessible to patients shall be provided for social services activities.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:02:22. Physical plant changes. A facility shall submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change shall have the approval of the department before it is made.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:02:23. Location. The location of and access to facilities shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. Facilities shall be served by good, passable roads. Easy accessibility for employees, visitors, and fire-fighting services shall be maintained.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:75:02:24. Heating and cooling. The temperature in any occupied space in the facility shall be maintained between 68 and 80 degrees Fahrenheit during waking hours and not lower than 64 degrees Fahrenheit during sleeping hours. Individual patient space may be maintained outside the required range when desired by the occupant.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:75:02:25. Seclusion rooms. Each seclusion room shall be arranged for the safety of the patient and to prevent patient hiding, escape, injury, or suicide. The room shall be without sharp corners. The room door shall swing out of the patient room, but not into a general traffic corridor. Each room door shall permit staff observation of the patient while still providing for patient privacy. Each finish fastener and hardware shall be tamper resistant. Security fixtures shall be provided for lighting. Nine foot ceiling heights shall be provided. An anteroom at the seclusion room entrance should be provided to allow staff controlled access to the seclusion room toilet facility. Any lock on a seclusion room shall be controlled by staff at the door location and shall unlock when released by the staff person. A locking device may be manual or automatic in nature.

Source:

General Authority: SDCL 34-12-13(1) & (14).

Law Implemented: SDCL 34-12-13(1) & (14).

CHAPTER 44:75:03

FIRE PROTECTION

Section

44:75:03:01 Fire safety code requirements.

44:75:03:02 General fire safety.

44:75:03:03 Fire extinguisher equipment.

44:75:03:04 Fire alarm systems.

44:75:03:01. Fire safety code requirements. Each facility shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:75:03:02. General fire safety. Each licensed health care facility covered under this article shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. A minimum of two staff members shall be on duty at all times. In a multilevel facility, at least one staff member shall be on duty on each floor containing occupied beds.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:75:03:01.

44:75:03:03. Fire extinguisher equipment. Fire extinguisher equipment shall be installed and maintained by the following minimum standards:

(1) Portable fire extinguishers shall have a minimum rating of 2-A:10-B:C;

(2) Fire extinguisher equipment shall be inspected monthly and maintained yearly; and

(3) Approved fire extinguisher cabinets shall be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls shall be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire extinguisher cabinets shall be a safety glazing material. Fire extinguisher cabinets shall be identified with a sign mounted perpendicular to the wall surface above the cabinet or with sign mounted on the sides of cabinet that are visible from the corridor.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:03:04. Fire alarm systems. A manually operated, electrically supervised fire alarm system shall be installed in each facility.

Source:

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

CHAPTER 44:75:04

MANAGEMENT AND ADMINISTRATION

Section

<u>44:75:04:01</u>	<u>Governing body.</u>
<u>44:75:04:02</u>	<u>Hospital medical staff.</u>
<u>44:75:04:03</u>	<u>Administrator.</u>
<u>44:75:04:04</u>	<u>Personnel.</u>
<u>44:75:04:05</u>	<u>Personnel training.</u>
<u>44:75:04:06</u>	<u>Employee health program.</u>
<u>44:75:04:07</u>	<u>Admissions of patients.</u>
<u>44:75:04:08</u>	<u>Disease prevention.</u>
<u>44:75:04:09</u>	<u>Tuberculin screening requirements.</u>
<u>44:75:04:10</u>	<u>Care policies.</u>
<u>44:75:04:11</u>	<u>Secured units.</u>
<u>44:75:04:12</u>	<u>Restraints.</u>
<u>44:75:04:13</u>	<u>Transfer agreement.</u>
<u>44:75:04:14</u>	<u>Quality assessment.</u>
<u>44:75:04:15</u>	<u>Discharge planning.</u>

44:75:04:01. Governing body. Each facility operated by limited liability partnership, a corporation, or political subdivision shall have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility. The governing body of a facility shall determine which categories of practitioners are eligible candidates for appointment to the medical staff and shall credential and grant admitting or patient care privileges to appointees to the medical staff. The governing body may appoint members to the medical staff only after considering the recommendations of the existing members of the medical staff.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

Cross-Reference: Hospital medical staff, § 44:75:04:03.

44:75:04:02. Hospital medical staff. A hospital shall have a medical staff organized under bylaws and rules approved by the governing body and responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members. The responsibility for the conduct of medical staff affairs shall be assigned to an individual physician. The medical staff shall establish a credentials committee to review the qualifications of practitioners applying for admitting or patient care privileges and recommend to the governing body practitioners eligible for appointment to the medical staff by the governing body. The review shall include recommendations regarding delineation of admitting and patient care privileges. The medical staff shall conduct appraisals of its members at least every two years.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

Cross-Reference: Governing body, § 44:75:04:02.

44:75:04:03. Administrator. The governing body shall designate a qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:04. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. Staff members on duty shall be awake at all times. Any supervisor shall be 18 years of age or older. Written job descriptions and personnel policies and procedures shall be made available to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility shall establish and follow policies regarding special duty or staff members on contract.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:05. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

(1) Fire prevention and response. The facility shall conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, monthly fire drills shall be conducted to provide training for all staff;

(2) Emergency procedures and preparedness;

(3) Infection control and prevention;

(4) Accident prevention and safety procedures;

(5) Proper use of restraints;

(6) Patient rights;

(7) Confidentiality of patient information;

(8) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;

(9) Care of patients with unique needs; and

(10) Dining assistance, nutritional risks, and hydration needs of patients.

Personnel whom the facility determines will have no contact with patients are exempt from training required by subdivisions (5), (9), and (10) of this section.

Additional personnel education shall be based on facility identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:06. Employee health program. The facility shall have an employee health program for the protection of the patients. All personnel shall be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties or within

14 days after employment including an assessment of previous vaccinations, tuberculin skin tests, or blood assay test. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Any personnel absent from duty because of a reportable communicable disease which may endanger the health of patients and fellow employees may not return to duty until they are determined by a physician, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Reportable diseases, ch 44:20:01.

44:75:04:07. Admissions of patients. The governing body of the facility shall establish and maintain admission, transfer, and discharge policies, with written evidence to ensure the patients admitted to and retained in the facility are within the licensure classification of the facility or its distinct part. The facility may admit and retain, on the orders of a practitioner, only those patients for whom it can provide care safely and effectively.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:08. Disease prevention. Each facility shall provide an organized infection control program for preventing, investigating and controlling infection. The facility shall establish written policies regarding visitation in the various services and departments of the facility. Visitors who have an infectious disease, who have recently recovered from such a disease, or who have recently had contact with such a disease shall be discouraged from entering the facility.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

44:75:04:09. Tuberculin screening requirements. Each facility shall develop criteria to screen healthcare workers or patients for *Mycobacterium tuberculosis* (TB) based on the guidelines issued by Centers for Disease Control and Prevention. Each facility shall establish policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment that include the key components of responsibility, surveillance, containment, and education. The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

Tuberculin screening requirements for healthcare workers or patients are as follows:

(1) Each new healthcare worker shall receive the two-step method of tuberculin skin test or a TB blood assay test to establish a baseline within 14 days of employment. Any two documented tuberculin skin tests completed within a 12 month period prior to the date of employment can be considered a two-step or one TB blood assay test completed within a 12 month period prior to the date of employment can be considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new employee transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation of the last skin or blood assay TB testing completed within the prior 12 months. Skin testing or TB blood assay test are not necessary if documentation is provided of a previous positive reaction to either test. Any new healthcare worker who has a newly recognized positive

reaction to the skin test or TB blood assay test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) A new healthcare worker who provides documentation of a positive reaction to the tuberculin skin test or TB blood assay test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

(3) Each healthcare worker with a history of a positive reaction to the tuberculin skin test or TB blood assay shall be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*. If this evaluation results in suspicion of active tuberculosis, the person shall be referred for further medical evaluation to confirm the presence or absence of tuberculosis.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9.

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Reference: **Reference: Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 2005.** "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005 (RR17).

44:75:04:10. Care policies. Each facility shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the patients' needs.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:11. Secured units. Each facility with secured units shall comply with the following provisions:

(1) A physician's, physician's assistant, nurse practitioner, or clinical nurse specialist's order for confinement that includes medical symptoms that warrant seclusion or placement shall be documented in the patient's chart and shall be reviewed periodically by the physician;

(2) Therapeutic programming shall be provided and shall be documented in the overall plan of care;

(3) Confinement may not be used as a punishment or for the convenience of the staff;

(4) Confinement and its necessity shall be based on a comprehensive assessment of the patient's physical and cognitive and psychosocial needs, and the risks and benefits of this confinement shall be communicated to the patient's family;

(5) Locked doors shall conform to Sections: 18.2.2.2 and 19.2.2.2 of **NFPA 101 Life Safety Code**, 2012 edition; and

(6) Staff assigned to the secured unit shall have specific training regarding the unique needs of patients in that unit. At least one caregiver shall be on duty on the secured unit at all times.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

Reference: NFPA 101 Life Safety Code, 2012 edition, Sections: 18.2.2.2.4 and 19.2.2.2.4 National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:75:04:12. Restraints. There shall be written policies and procedures for all restraint use, including emergency restraints, bedrails, and locked doors. The use of restraints shall be based on a comprehensive assessment of the patient's physical and cognitive abilities, evaluation and effectiveness of less restrictive alternatives, and an involvement of the patient in weighing the benefits and consequences. Restraint use requires a physician's or other practitioner's order including specific time frames. Continued use of the restraint and reorders may be given only on review of the patient's condition by the physician or other practitioner's order and the interdisciplinary team. Restraints shall be physically checked as ordered and documented by nursing personnel. Restraints shall not be used to limit mobility, for convenience of staff, for punishment, or as a substitute for supervision. Restraints shall not hinder evacuation of the patient during fire or cause injury to the patient.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:75:04:13. Transfer agreements. Each specialized hospital and critical access hospital shall have in effect a transfer agreement with one or more hospitals to provide services not available on site or each physician shall have admitting privileges to a Medicare participating or nonparticipating hospital. The agreement shall provide for an interchange of medical and other necessary information.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:14. Quality assessment. Each facility shall provide for on-going evaluation of the quality of services provided to patients. Components of the quality assessment evaluation shall include establishment of facility standards; interdisciplinary review of patient services to identify deviations from the standards and actions taken to correct deviations; patient satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:75:04:15. Discharge planning. A facility shall have policies and procedures for discharge planning including the person responsible, members of the discharge planning team, a list of all area agencies and resources, and a description of the process. Outside caregivers may be included in discharge planning conferences.

Within 24 hours after admission, a hospital shall determine each patient's potential need for continuing care following discharge. The facility shall initiate planning with applicable agencies to meet identified needs, and patients shall be offered assistance to obtain needed services upon discharge. Information necessary for coordination and continuity of care shall be made available to whomever the patient is discharged and to referral agencies as required by the discharge plan.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

CHAPTER 44:75:05

PHYSICIAN SERVICES

Section

<u>44:75:05:01</u>	<u>Admissions.</u>
<u>44:75:05:02</u>	<u>Medical orders.</u>
<u>44:75:05:03</u>	<u>Emergency physician coverage.</u>
<u>44:75:05:04</u>	<u>Physician assistant, nurse practitioner, or clinical nurse specialist.</u>
<u>44:75:05:05</u>	<u>Medical director required.</u>
<u>44:73:05:06</u>	<u>Physician services for hospice patients.</u>

44:75:05:01. Admissions. Each patient admitted to a hospital may be admitted only on the order of a practitioner and the patient's health care shall continue under the supervision of a physician who is a member of the medical staff. Before or on admission of a patient, the patient's physician shall provide the staff of the facility with documented information regarding current medical findings, admitting diagnoses, and written orders for the immediate care of the individual.

The patient's history and physical examination shall be completed no more than seven days prior to admission or 48 hours after admission; or within thirty days prior to admission with documentation of an update of the patient's current medical status completed within seven days prior to admission or 48 hours after admission. The patient's history and physical examination shall be completed prior to surgery except in emergency situations.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:75:05:02. Medical orders. All medical orders, including verbal orders, shall be in writing or electronic format and shall be dated, timed, and authenticated promptly by the practitioner. Verbal orders are for medications, treatment, interventions, or other patient care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. Verbal orders may be taken only when there is an urgent need to initiate or change a medical order. The practitioner shall time, date, and authenticate the orders for all patients promptly. Each patient's practitioner is responsible for documenting written or electronic orders and progress notes on each patient's medical record.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:75:05:03. Emergency physician coverage. A patient's physician shall arrange for the care of the patient by an alternate physician during the physician's unavailability. A hospital shall have one or more physicians on duty or call at all times and available to the hospital on-site, by telephone or other reliable communications device within 30 minutes to give necessary orders or medical care to patients in case of emergency.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:75:05:04. Physician assistant, nurse practitioner, or clinical nurse specialist. If the services of a physician assistant, nurse practitioner, or clinical nurse specialist are utilized, the facility shall develop written policies regarding their role in the care of the patient.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:75:05:05. Medical director required. A facility shall appoint a physician licensed in South Dakota to serve as a medical director. The medical director shall ensure physician services are provided only by qualified caregivers.

Source:

General Authority: SDCL 34-12-13(5) and (6).

Law Implemented: SDCL 34-12-13(5) and (6).

44:75:05:06. Physician services for hospice patients. A facility shall provide or arrange for physician services, including emergencies once a patient elects hospice care. Each patient shall designate an attending physician upon admission or when they elect hospice care.

Source: 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

CHAPTER 44:75:06

NURSING AND RELATED CARE SERVICES

Section

<u>44:75:06:01</u>	<u>Organized nursing service.</u>
<u>44:75:06:02</u>	<u>Director of nursing service.</u>
<u>44:75:06:03</u>	<u>Nursing policies and procedures.</u>
<u>44:75:06:04</u>	<u>Patient care plans and programs.</u>
<u>44:75:06:05</u>	<u>Nursing service staffing.</u>
<u>44:75:06:06</u>	<u>Intermittent nursing care.</u>
<u>44:75:06:07</u>	<u>Hospice services.</u>

44:75:06:01. Organized nursing service. There shall be an organized nursing service with a written organizational plan that delineates its functional structure.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:75:06:02. Director of nursing service. There shall be a full-time registered nurse designated as the director of nursing service who is responsible for the organization of the total nursing service and who serves during the day shift. The director may not serve in a dual role as the administrator of the facility and the director of nursing.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:75:06:03. Nursing policies and procedures. The facility shall establish and maintain policies and procedures that provide the nursing staff with methods of meeting its administrative and technical responsibilities in providing care to patients. The policies shall include at least the following:

- (1) The noting of diagnostic and therapeutic orders;
- (2) Assigning the nursing care of patients;
- (3) Administration and control of medications;
- (4) Charting by nursing personnel;
- (5) Infection control;
- (6) Patient safety; and
- (7) Delineation of orders from nonphysician practitioners.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:75:06:04. Patient care plans and programs. The facility shall provide nursing services that provide safe and effective care from the day of admission through the ongoing development and implementation of written care plans for each patient. The care plan shall address medical, physical, mental, and emotional needs of the patient. The facility shall establish and implement procedures for assessment and management of symptoms including pain.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

Cross-Reference: Record content, § 44:04:09:05(4).

44:75:06:05. Nursing service staffing. All hospitals shall maintain a sufficient number of registered nurses and other qualified nursing personnel on duty at all times to provide supervision of and nursing care for all patients. A registered nurse shall be designated as charge nurse for each nursing care unit at all times except that a critical access hospital is required to staff with a registered nurse only when there are acute care patients present. A critical access hospital is required to staff with a licensed nurse when there are only swing bed patients present. Written staffing patterns shall be developed for each patient care unit, including surgical and obstetrical suites, emergency services, special care units, and other services. Registered nurses shall be in charge of the operating suite and function as supervisory nurse in the operating room.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:75:06:06. Intermittent nursing care. The service providing the care shall specify a planned completion date based on the assessments conducted. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any nonemployed, noncontracted skilled nursing and therapy providers pursuant to SDCL chapters 36-9, 36-10, and 36-31.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:75:06:07. Hospice services. Each facility offering hospice services shall provide services to terminally ill individuals or arrange for such services by a hospice program under a written plan established and periodically reviewed by the individual's attending physician. The hospice agency shall provide for care and services in the facility or on a short-term inpatient basis. Personnel providing hospice care shall include at least one physician, one registered nurse, and one social worker. An unlicensed employee of a facility may not accept any delegated skilled tasks from any hospice providers pursuant to SDCL chapter 36-9.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

CHAPTER 44:75:07

DIETETIC SERVICES

Section

<u>44:75:07:01</u>	<u>Dietetic services.</u>
<u>44:75:07:02</u>	<u>Food safety.</u>
<u>44:75:07:03</u>	<u>Nutritional adequacy.</u>
<u>44:75:07:04</u>	<u>Food substitutions.</u>
<u>44:75:07:05</u>	<u>Food supply.</u>
<u>44:75:07:06</u>	<u>Therapeutic diets.</u>
<u>44:75:07:07</u>	<u>Social needs.</u>
<u>44:75:07:08</u>	<u>Written dietetic policies.</u>
<u>44:75:07:09</u>	<u>Written menus.</u>
<u>44:75:07:10</u>	<u>Preparation of food.</u>
<u>44:75:07:11</u>	<u>Director of dietetic services.</u>
<u>44:75:07:12</u>	<u>Hospitals without in-house dietary departments.</u>
<u>44:75:07:13</u>	<u>Diet manual.</u>
<u>44:75:07:14</u>	<u>Frequency of meals.</u>
<u>44:75:07:15</u>	<u>Dining arrangements.</u>
<u>44:75:07:16</u>	<u>Nutritional screening and assessments.</u>
<u>44:75:07:17</u>	<u>Required dietary inservice training.</u>

44:75:07:01. Dietetic services. The facility shall have an organized dietetic service that meets the daily nutritional needs of patients.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:02. Food safety. Hot food shall be held at or above 135 degrees Fahrenheit (57.2 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods shall be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device. Milk and milk products shall be from a source approved by the state Department of Agriculture. Fluid milk shall be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Cross-Reference: Permit required to produce or process milk and milk products, § 12:05:03:01.

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 E. Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:75:07:03. Nutritional adequacy. The dietetic service shall ensure that food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the **My Plate, Dietary Guidelines for Americans, 2010**, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Reference: **Dietary Guidelines for Americans, 2010**, United States Department of Agriculture. Copies may be viewed and printed free of charge at <http://www.dietaryguidelines.gov>.

44:75:07:04. Food substitutions. The facility shall offer reasonable substitutions of equal nutritional value to patients who refuse or are unable to eat the food served.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:05. Food supply. The facility shall maintain an on-site supply of perishable and nonperishable foods adequate to meet the planned menus for three days. A facility shall maintain additional nonperishable foods as part of their emergency preparedness plan. Military meals ready to eat (MRE) are not a substitute for the nonperishable food supply for patients, but may be used to address other emergency food supply needs.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:06. Therapeutic diets. In each facility the dietetic service shall provide for the needs of those patients requiring therapeutic diets.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:07. Social needs. In each facility the dietetic service, in cooperation with other departments or services, shall meet the social needs of the swing bed patients in the dining setting. Social needs include mutually compatible seating arrangements, pleasant dining atmosphere, encouragement of interactions between patients, and food service to all patients at a table at approximately the same time.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:08. Written dietetic policies. The facility shall develop written policies and procedures that govern all dietetic activities. Policies shall include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. The policies and procedures shall be reviewed yearly and revised as necessary.

Source:

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Reference: **Article 44:02, Lodging and Food Service**, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14 and **Food Code**, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for \$69.00.

44:75:07:09. Written menus. Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, shall be written, prepared, and served as prescribed by each patient's physician, practitioner, or qualified dietitian. Each menu shall be written at least one week in advance. Each planned menu shall be approved, signed, and dated by the dietitian for each facility. Any menu changes from month to month shall be reviewed by the dietitian and each menu shall be reviewed and approved by the dietitian at least annually. Each menu as served shall meet the nutritional needs of the patients in accordance with the physician's orders and the Dietary Guidelines for Americans 2010. A record of each menu as served shall be filed and retained for 30 days.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Reference: **Dietary Guidelines for Americans, 2010**, United States Department of Agriculture. Copies may be obtained at www.dietaryguidelines.gov.

44:75:07:10. Preparation of food. Food shall be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and shall be attractively served at the temperature applicable to the particular food in a form to meet the individual patient's needs.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:11. Director of dietetic services. A full time dietary manager who is responsible to the administrator shall direct the dietetic services. Any dietary manager that has not completed a Dietary Manager's course, approved by the Association of Nutrition & Foodservice Professionals, shall enroll in a course within 90 days of the hire date and complete the course within 18 months. The dietary manager and at least one cook shall successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers, or the Certified Food Protection Professional's Sanitation Course offered by the Association of Nutrition & Foodservice Professionals, or successfully completed equivalent training as determined by the Health Department. Individuals seeking ServSafe recertification are only required to take the national examination. The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each patient are met. If the dietary manager is not a dietitian, the facility shall schedule dietitian consultations onsite at least monthly. The dietitian shall

approve all menus, assess the nutritional status of patients with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits. Adequate staff whose working hours are scheduled to meet the dietetic needs of the patients shall be on duty daily over a period of 10 or more hours in facilities.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:12. Hospitals without in-house dietary departments. Each hospital without an in-house dietary department shall develop and maintain a written contract or agreement for dietary services for the patients. The facility shall have a person responsible to the administrator who monitors the receiving, storage, and service of the food to patients in accordance with § 44:75:07:02. The facility shall have at least one full-time person who has completed the ServSafe Food Protection Program and possesses a current certificate.

Each hospital without an in-house dietary department shall employ or contract a qualified dietitian and schedule a minimum of monthly on-site consultations. The facility's dietitian shall review the facility's food contract agreement and make recommendations. The facility's dietitian shall review, sign, and approve menus annually. The facility's dietitian shall review menus served monthly, oversee the operation of the dietetic services, assess the nutritional status and needs of patients, and review and revise the dietetic service policies and procedures.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:13. Diet manual. A current therapeutic diet manual with description of all diets served in the facility shall be readily available in the facility to food service personnel, nursing service personnel, and practitioners.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:14. Frequency of meals. Each facility shall serve at least three meals at regular times with not more than a 14-hour span between a substantial evening meal and breakfast.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:15. Dining arrangements. The facility shall provide environmental and social accommodations for each swing bed patient to encourage eating in the common dining area. Assistance shall be provided for patients in need of help in eating.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:75:07:16. Nutritional screening and assessments. A licensed nurse or dietary manager shall complete a nutritional screen upon each patient admission and make a referral to the registered dietitian based on screening protocols related to nutritional risk. Nutritional risks include but not limited to any

patient having a significant change in diet, eating ability, nutritional status; or any patient receiving tube feedings; and on any patient with a disease or condition, that puts the patient at significant nutritional risk. A monthly tube feeding assessment shall include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each swing bed patient.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:07:17. Required dietary inservice training. The dietary manager or the dietitian in any hospital shall provide ongoing inservice training for all dietary and food-handling employees. The person-in-charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing inservice training for all dietary and food-handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

CHAPTER 44:75:08

MEDICATION CONTROL

Section

<u>44:75:08:01</u>	<u>Policies and procedures.</u>
<u>44:76:08:02</u>	<u>Written orders for medication required.</u>
<u>44:77:08:03</u>	<u>Medication therapy review.</u>
<u>44:78:08:04</u>	<u>Storage and labeling of medications and drugs.</u>
<u>44:79:08:05</u>	<u>Control and accountability of medications and drugs.</u>
<u>44:70:08:06</u>	<u>Documentation of drug disposal.</u>
<u>44:75:08:07</u>	<u>Medication administration.</u>
<u>44:75:08:08</u>	<u>Medication records.</u>
<u>44:75:08:09</u>	<u>Administration of facility pharmacy.</u>

44:75:08:01. Policies and procedures. Each facility shall establish and practice methods and procedures for medication control that include the following:

(1) A requirement that each patient's prescribing physician, physician assistant, nurse practitioner, or clinical nurse specialist provide to the facility electronic or written signed orders for any medications taken by the patient; authorization for medications or drugs kept on the person or in the room of the patient; and release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to patients or visitors with requirements for:

(a) Separate storage of poisons, topical medications, and oral medications;

(b) Each patient's medication to be stored in the container in which it was originally received and not transferred to another container; and

(c) A medication prescribed for one patient not to be administered to any other patient;

(3) Self-administration of medications to be accomplished with the supervision of a licensed nurse to include:

(a) A description of the responsibilities of the patient, the patient's family members, and the facility staff; and

(b) The provision of written educational material explaining to the patient and the patient's family the patient's rights and responsibilities associated with self-administration; and

(4) The proper disposition of medicines that are discontinued because of the discharge or death of the patient, because the drug is outdated, or because the prescription is no longer appropriate to the care of the patient.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:02. Written orders for medication required. All medications or drugs administered to patients shall be ordered electronically or in writing and dated, timed, and authenticated by the prescriber. Verbal orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse in hospitals. The prescriber shall date, time, and authenticate the orders for hospital patients on the next visit to the facility. The practitioner shall date, time, and authenticate the orders for patients promptly. A policy on stop orders for antibiotics, anticoagulants, and controlled drugs shall be established based on recommendations of the medical staff.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:03. Medication therapy review. The pharmacist shall review the patient's diagnosis, the drug regimen, and any pertinent laboratory findings and dietary considerations. The pharmacist shall report potential drug therapy irregularities and make recommendations for improving the drug therapy of the patients to the attending physician, physician assistant, nurse practitioner, clinical nurse specialist, and the administrator. The pharmacist shall document the review by preparing a report of the potential irregularities and recommendations. The administrator shall retain the report in the facility. A copy of the medication review shall be in the patient medical record.

The pharmaceutical service shall be under the supervision of a licensed pharmacist who is responsible to the issuance, proper storage, control, and accountability.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:04. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to patients, or visitors at all times. Medications suitable for

storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to patients.

Locked storage does not apply to drugs and medications needed for emergency use in intensive care, emergency room, neonatal intensive care, pediatric intensive care, or coronary care units. Drugs and medications utilized in these care units shall be in a storage area that is readily available to the professional staff but inaccessible to patients or visitors.

The medications or drugs of each patient for whom medications are facility-administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the patient's name, physician, physician assistant, or nurse practitioner's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

A co-located hospital and assisted living center may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by qualified personnel.

If a stock bottle system is used in a facility with a licensed pharmacy, the container shall be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:73:08:06. Licensed pharmacists are responsible for the labeling, relabeling, or altering of labels on medication containers.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:05. Control and accountability of medications and drugs. Medications brought from home may be used if ordered by the attending physician, physician assistant, nurse practitioner, or clinical nurse specialist and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one patient may not be administered to another. Patients may not keep medications on their person or in their room without a physician's, physician assistant, or nurse practitioner's order allowing self-administration. Written authorization by the patient's physician, physician assistant, or nurse practitioner shall be secured for the release of any medication to a patient upon discharge, transfer, or temporary leave from the facility. The release of medication shall be documented in the patient's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:06. Documentation of drug disposal. Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

(1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to patient upon discharge after authorization by the patient's prescribing practitioner.

Documentation of destruction or disposal of medications shall be included in the patient's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to patient); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:07. Medication administration. Each medication administered shall be recorded in the patient's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the patient's physician, physician assistant, nurse practitioner, or clinical nurse specialist and an entry made in the patient's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. All medications shall be administered to patients by personnel acting under delegation of a licensed nurse, or licensed to administer medications.

A person may not administer medications that have been prepared by another person.

Medication administration shall comply with §§ 44:75:08:02 to 44:75:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The supervising nurse shall provide an orientation to the unlicensed assistive personnel who will administer medications. The orientation shall be specific to the facility and relevant to the patients receiving administered medications.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:08. Medication records. Medication administration records shall be used and regularly checked against the practitioner's orders. Each medication administered shall be recorded in the patient's medical record and signed by the individual responsible.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:73:08:09. Administration of facility pharmacy. The pharmaceutical service of each facility with a licensed full or part-time pharmacy shall be directed by a licensed pharmacist accountable to the administration of the facility. Only prepackaged drugs or a single dose unit may be removed from the pharmacy when the pharmacist is not available. These drugs may be removed only by a designated registered nurse or physician, physician assistant, nurse practitioner, or clinical nurse specialist in amounts sufficient only for immediate therapeutic needs. A record of such withdrawals shall be made by the designated nurse or the physician, physician assistant, nurse practitioner, clinical nurse specialist making the withdrawal.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 44:75:09

MEDICAL RECORD SERVICES

Section

44:75:09:01 Medical record department.

44:75:09:02 Medical record department staff.

44:75:09:03 Written policies and confidentiality of records.

44:75:09:04 Record content.

44:75:09:05 Authentication.

44:75:09:06 Retention of medical records.

44:75:09:07 Storage of medical records.

44:75:09:08 Destruction of medical records.

44:75:09:09 Disposition of medical records on closure of facility or transfer of ownership.

44:75:09:01. Medical record department. There shall be an organized medical record system. A medical record shall be maintained for each level of care for each patient admitted to the facility.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:02. Medical record department staff. The medical record functions shall be performed by persons trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service shall have knowledge and training in the field of medical records.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:03. Written policies and confidentiality of records. There shall be written policies and procedures to govern the administration and activities of the medical record service. They shall include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a patient's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:04. Record content. Each medical record shall show the condition of the patient from the time of admission until discharge and shall include the following:

- (1) Identification data;
- (2) Consent forms, except when unobtainable, or in an emergency;
- (3) History of the patient;
- (4) A current overall plan of care;
- (5) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;
- (6) Diagnostic and therapeutic orders;
- (7) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech-language pathology;
- (8) Laboratory and radiology reports;
- (9) Description of treatments, diet, and services provided and medications administered;
- (10) All indications of an illness or an injury, including the date, the time, and the action taken regarding each;
- (11) A final diagnosis; and
- (12) A discharge summary, including all discharge instructions for home care.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:05. Authentication. A facility shall ensure entries to the medical record are signed or electronically authenticated. If the facility permits any portion of the medical record to be generated by electronic or optical means, policies and procedures shall exist to prohibit the use of authentication by unauthorized users.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:06. Retention of medical records. A facility shall retain medical records for a minimum of ten years from the actual visit date of service or patient care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors shall be retained until the minor reaches the age of majority plus an additional two years, but no less than ten years from the actual visit date of service or patient care. The retention of the record for ten years is not affected by additional and future visit dates.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical records, § 44:75:09:07.

44:75:09:07. Storage of medical records. A facility shall provide for filing, safe storage, and easy accessibility of medical records. The medical records shall be preserved as original records or in other readily retrievable and reproducible form. Medical records shall be protected against access by unauthorized individuals. All medical records shall be retained by the health care facility upon change of ownership.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Disposition of medical records on closure of facility or transfer of ownership, § 44:75:09:09.

44:75:09:08. Destruction of medical records. After the minimum retention period of ten years from the actual visit date of care outlined in § 44:75:09:06, the medical record may be destroyed at the discretion of the health care facility. Before the destruction of the medical record, the facility shall prepare and retain a patient index or abstract. The patient index or abstract shall include:

- (1) Name;
- (2) Medical record number;
- (3) Date of birth;
- (4) Summary of visit dates;
- (5) Attending or admitting physician; and
- (5) Diagnosis or diagnosis code.

The facility shall destroy the medical or care record in a way that maintains confidentiality.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:09. Disposition of medical records on closure of facility or transfer of ownership. If a facility ceases operation, the facility shall provide for safe storage and prompt retrieval of medical records and the patient indexes specified in § 44:75:09:08. The facility may arrange storage of medical records with another facility of the same licensure classification, transfer medical records to another health care provider at the request of the patient, relinquish medical records to the patient's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the facility shall notify the department in writing indicating the provisions for the safe preservation of medical records and their location and publish in a local newspaper the location and disposition arrangements of the medical records.

If ownership of the facility is transferred, the new owner shall maintain the medical records as if there was not a change in ownership.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical or care records, § 44:75:09:07.

CHAPTER 44:75:10

HOSPITAL DIAGNOSTIC SERVICES

(Transferred from 44:04:10)

Section

44:04:10:01 <u>44:75:10:01</u>	Clinical laboratory services.
44:04:10:02 <u>44:75:10:02</u>	Clinical pathology services.
44:04:10:03 <u>44:75:10:03</u>	Technical laboratory operations.
44:04:10:04 <u>44:75:10:04</u>	Blood transfusion services.
44:04:10:05 <u>44:75:10:05</u>	Diagnostic x-ray services.
44:04:10:06 <u>44:75:10:06</u>	Radiological service policies and manuals required.
44:04:10:07 <u>44:75:10:07</u>	Radiological department personnel.
44:04:10:08 <u>44:75:10:08</u>	Radiological reports.

44:04:10:01 44:75:10:01. Clinical laboratory services. Each hospital ~~must~~ shall provide for emergency laboratory services which are available 24 hours a day, 7 days a week, including holidays. ~~The laboratory must hold a valid Clinical Laboratory Improvement Amendment (CLIA) certificate.~~ Laboratory examinations necessary for diagnosis and treatment of the patient ~~must~~ shall be performed in the hospital or by arrangement. Laboratory examinations required on hospital admissions are determined by the medical staff and bylaws. The original laboratory report ~~must~~ shall be made a part of the patient's medical record. ~~Fire and safety precautions must be enforced to protect against physical, chemical, and biological hazards peculiar to the laboratory.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:10:01.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

Note: CLIA applications are obtained from the South Dakota Department of Health, Office of Licensure and Certification, 615 East 4th Street, Pierre, SD 57501. Telephone (605) 773-3356, or Division of Laboratory Standards and Performance, Health Standards and Quality Bureau, Centers for Medicare/Medicaid Services, 7500 Security Boulevard S-2-11-07, Baltimore, MD 21244-1850. Telephone (410)-786-3531, or online at www.phppo.cdc.gov/clia/default.asp www.cms.gov/medicare/cms-forms/downloads/cms116/pdf.

44:04:10:02 44:75:10:02. Clinical pathology services. Each hospital laboratory ~~must~~ shall have the services of a pathologist available within the facility or by arrangement. ~~The pathologist or a representative must provide technical oversight at least quarterly.~~ The pathologist ~~must~~ shall examine tissues removed from hospital patients as outlined in hospital policy. Pathology services ~~by arrangement must~~ provided shall be governed by written policies and procedures establishing guidelines for the prompt transportation of specimens and submission of reports.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:10:02.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:04:10:03 44:75:10:03. Technical laboratory operations. Each hospital laboratory ~~must~~ shall have a policy and procedural manual for each phase of operation. There ~~must~~ shall be a quality control program to insure the reliability of laboratory test data. Each item of diagnostic test equipment ~~must~~ shall be routinely checked and ~~must~~ shall be precise in terms of calibration as shown by records maintained in the laboratory.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:10:03.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:04:10:04 44:75:10:04. Blood transfusion services. Each ~~general hospital and specialized hospital~~ facility providing transfusion services ~~must~~ shall provide facilities and equipment for the procurement, storage, and administration of ~~whole blood and blood products~~. The transfusion service ~~must~~ shall be under the supervision of ~~a qualified director~~ the medical staff. The medical staff or ~~an equivalent quality improvement committee which includes a pathologist~~ must shall review all transfusions and transfusion reactions and make recommendations concerning policies and procedures governing such practices.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:10:04.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:04:10:05 44:75:10:05. Diagnostic x-ray services. Each hospital ~~must~~ shall provide for emergency diagnostic x-ray services which are available 24-hours a day, 7 days a week, including holidays, except for specialized hospitals which can document to the satisfaction of the department that this service is not essential to the specialty being served. Safety and sanitation procedures as required by the department for the radiological service which will protect the patient and the radiological worker shall be established and enforced. There ~~must~~ shall be a quality control program with records maintained in the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:10:05.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

Cross-Reference: Radiation safety, art 44:03.

44:04:10:06 44:75:10:06. Radiological service policies and manuals required. There ~~must~~ shall be a policy and procedural manual for all phases of the radiological services. If radioactive isotopes are to be used within the facility, policies which are approved by the medical staff ~~must~~ shall be established.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:10:06.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:04:10:07 44:75:10:07. Radiological department personnel. There shall be trained personnel to provide the scope of services offered by the facility. If therapeutic radiological services are provided, the services ~~must~~ shall be under the direct supervision of a radiologist.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:10:07.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

~~44:04:10:08~~ **44:75:10:08. Radiological reports.** Complete signed reports of the interpretations of all radiological examinations made by practitioners shall be made a part of the patient's clinical record. The radiological department ~~must~~ shall have a policy that requires any record to be retained for at least ten years and any film to be retained for at least five years.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:10:08.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

CHAPTER 44:75:11

HOSPITAL COMPLIMENTARY SERVICES

(Transferred from 44:04:11)

Section

44:04:11:01 <u>44:75:11:01</u>	Surgical services.
44:04:11:02 <u>44:75:11:02</u>	Surgical records.
44:04:11:03 <u>44:75:11:03</u>	Obstetric and newborn services.
44:04:11:04 <u>44:75:11:04</u>	Emergency services.
44:04:11:05 <u>44:75:11:05</u>	Anesthesia services.
44:04:11:06 <u>44:75:11:06</u>	Rehabilitation services.
44:04:11:07 <u>44:75:11:07</u>	Outpatient rehabilitation services.
44:04:11:08 <u>44:75:11:08</u>	Social services.
44:04:11:09 <u>44:75:11:09</u>	Swing-bed services. <u>Repealed.</u>
44:04:11:10 <u>44:75:11:10</u>	Eligibility to offer swing-bed services.
44:04:11:11 <u>44:75:11:11</u>	Application for approval to offer swing-bed services.
44:04:11:12 <u>44:75:11:12</u>	Suspension of approval to offer swing-bed services.
44:04:11:13 <u>44:75:11:13</u>	Patient care requirements for swing-bed services.

~~44:04:11:01~~ **44:75:11:01. Surgical services.** Each hospital in which surgery is performed ~~must~~ shall maintain an operating suite with appropriate equipment, including an X-ray view box or film illuminator. The suite ~~must~~ shall be supervised by a registered nurse with training and experience in operating room services. A circulating nurse shall be assigned to each operating/procedure room during each procedure and shall be present for the duration of the surgical procedure unless it becomes necessary for the nurse to leave the operating or procedure room as part of the procedure or the nurse is relieved by another circulating nurse. There ~~must~~ shall be written policies for surgical services which govern surgical staff privileges, supportive services of other professional and ~~paramedical~~ perioperative personnel, and operating suite procedures. Policies and procedures pertaining to safety controls shall be developed and implemented. Safety controls shall be posted. A roster of surgical staff members which delineates the surgical privileges of each member shall be maintained on file in the operating suite.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:11:01.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:04:11:02 44:75:11:02. Surgical records. When surgery is performed, the following record requirements apply:

(1) An operating room register ~~must~~ shall be ~~maintained~~ complete and up to date. It shall at a minimum include: patient name, hospital identification number, date of operation, inclusive or total time of operation, name of surgeon and any assistants, name of nursing personnel (scrub and circulating), type of anesthesia and name of person administering, operation performed, pre and post-operative diagnosis, and age of patient;

(2) The patient's medical record, including at least a medical history, a copy of the physician's examination, copies of laboratory tests, a signed consent for the surgical procedure to be performed, and a preoperative diagnosis, ~~must~~ shall be made available in the surgical suite at the time of surgery; and

(3) An accurate and complete description of the operative procedure ~~must~~ shall be recorded by the operating surgeon within 48 hours following completion of surgery.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:11:02.

General Authority: SDCL 34-12-13(10) and (12).

Law Implemented: SDCL 34-12-13(10) and (12).

44:04:11:03 44:75:11:03. Obstetric and newborn services. Each hospital offering obstetric and newborn services ~~must~~ shall maintain facilities, equipment, and supplies appropriate to the service. The hospital ~~must~~ shall establish, implement, and maintain written policies and procedures and have techniques and methods that will provide safe intrapartum and postpartum care on the nursing unit for obstetric patients, immediate delivery room care, recovery period care, and continuing nursery care for the newborn infants. A medical record for each obstetrical patient and newborn infant, and a delivery room register ~~must~~ shall be maintained. ~~Safe formula must be supplied.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:11:03.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:04:11:04 44:75:11:04. Emergency services. Each hospital offering emergency services ~~must~~ shall have a written plan and procedural manual for the provision of 24 hour a day emergency care which, as a minimum, provides for assessment and either treatment or referral to an appropriate facility. All referring hospitals ~~must~~ shall initiate essential life-saving measures and provide emergency procedures that will minimize aggravation of a patient's condition during transportation. An area of the facility with appropriate staff, equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs for ill or injured persons ~~must~~ shall be reserved exclusively for the patients requiring emergency care. A medical record ~~must~~ shall be maintained for each patient receiving emergency service.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:11:04.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:04:11:05 44:75:11:05. Anesthesia services. Each hospital ~~must~~ shall provide anesthesia services organized, directed, and integrated with other related services of the hospital commensurate with the scope and needs of patients. The delivery of anesthesia care to patients ~~must~~ shall be provided by qualified persons according to written policies relating to anesthesia procedures approved by the medical staff. Safety and sanitation controls ~~must~~ shall be established. All anesthetizing locations which are not protected against potential explosive hazards ~~must~~ shall have a legible sign posted prohibiting the use of flammable gas as anesthetics.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:11:05.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:04:11:06 44:75:11:06. Rehabilitation services. A hospital offering physical therapy, occupational therapy, or speech pathology ~~must~~ shall maintain facilities, equipment, and supplies appropriate for services provided. There ~~must~~ shall be written policies and procedures for the organization and function of the services. If physical therapy is offered, services ~~must~~ shall be provided under the supervision of a licensed physical therapist. If occupational therapy is offered, services ~~must~~ shall be provided under the supervision of a registered occupational therapist. If speech pathology is offered, services ~~must~~ shall be provided under the supervision of a speech pathologist with a certificate of clinical competence from the American Speech and Hearing Association. Physical therapy, occupational therapy, or speech pathology services ~~must~~ shall be given in accordance with a practitioner's orders and documented in the patient's medical record.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:11:06.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

Cross-References: Physical therapists, SDCL 36-10; Occupational therapists, SDCL 36-31.

44:04:11:07 44:75:11:07. Outpatient rehabilitation services. A hospital offering outpatient rehabilitation services ~~must~~ shall maintain written policies and procedures relating to staff, functions of services, and outpatient medical records ~~and must provide facilities.~~ The outpatient rehabilitation department ~~must~~ shall have space and equipment to meet the needs of the patient, staff, and visitors; and ~~must~~ shall maintain cooperative arrangements and communications with treatment-related community agencies. A physician ~~must~~ shall be responsible for the professional services. A physician or administrator ~~must~~ shall be responsible for administrative services.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:11:07.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:04:11:08 44:75:11:08. Social services. A hospital offering social services ~~must~~ shall maintain written policies and procedures relating to staffing requirements and functions of services and ~~must~~ shall provide social services facilities as required by § 44:04:02:18.02 44:75:02:21. If social services are offered, services ~~must~~ shall be provided under the supervision of a social worker or the facility ~~must~~ shall have a written agreement with a social worker for regularly scheduled consultation and assistance. The social services staff shall participate in discharge planning to assist patients to access inpatient, outpatient,

extended care, hospice, and home health services in the community. Social services summaries ~~must~~ shall be entered in the patient's medical record.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:11:08.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

Cross-Reference: Social workers, SDCL 36-26, art 20:59.

~~44:04:11:10~~ **44:75:11:09. Swing-bed services.** ~~In addition to other requirements of article 44:75, hospitals offering swing-bed services must comply with §§ 44:04:11:11 and 44:04:11:12.~~ **Repealed.**

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:11:10.

~~General Authority:~~ SDCL 34-12-13.

~~Law Implemented:~~ SDCL 34-12-13.

~~44:04:11:11~~ **44:75:11:10. Eligibility to offer swing-bed services.** A hospital with less than 100 staffed beds may offer swing-bed services after obtaining approval from the department pursuant to § 44:04:11:11.01 ~~44:75:11:11.~~ A hospital with less than 50 staffed beds may not designate more than one-half of its staffed beds as swing beds, but a hospital with less than 50 licensed beds may designate up to one-half of its licensed beds as swing beds. A critical access hospital may have no more than 15 swing beds. A hospital with 50 to 99 staffed beds, inclusive, may not designate more than 10 beds as swing beds. A hospital which subsequently exceeds 99 staffed beds may not offer swing-bed services. For purposes of this section and § 44:04:11:11.01 ~~44:75:11:11,~~ staffed beds are inpatient beds utilized and staffed for by the hospital, exclusive of beds for newborn, obstetrical delivery, intensive care, coronary care, and any psychiatric or rehabilitation unit excluded from the Medicare prospective payment system, except during a catastrophe, such as a disaster or epidemic, to which the hospital responds.

Source: 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:11:11.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

~~44:04:11:11.01~~ **44:75:11:11. Application for approval to offer swing-bed services.** A hospital may not offer swing-bed services without first applying in writing to the department for approval. The application ~~must~~ shall contain the following:

- (1) The effective date the swing-bed services will begin;
 - (2) Designation of the bed category for which the hospital is requesting approval to offer swing-bed services, either a critical access hospital, not more than 49 staffed beds, or greater than 49 staffed beds and fewer than 100 staffed beds;
 - (3) The number of staffed beds which will be designated as swing beds;
 - (4) Evidence of the hospital's ability to comply with the provisions of § 44:04:11:12 44:75:11:13;
- and

(5) Written assurance that the hospital will operate within the bed category it has designated and will not operate more than the number of swing beds designated on the face of the license.

The department shall denote the number of designated swing beds on the face of the license. A hospital may not change the number of designated swing beds or the designated bed category without first applying to the department for approval in accordance with this section.

Source: 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:11:11.01.

General Authority: SDCL 34-12-5, 34-12-13(12).

Law Implemented: SDCL 34-12-5, 34-12-13(12).

44:04:11:11.02 44:75:11:12. Suspension of approval to offer swing-bed services. Pursuant to the contested case provisions of SDCL 1-26, the department may prohibit a hospital from admitting new swing bed patients for not more than 3 months if the department has determined by inspections that the hospital has substantially failed to comply with the provisions of § ~~44:04:11:12~~ 44:75:11:13 on at least 2 occasions in any 12 consecutive months. A hospital which has been prohibited from admitting new swing-bed patients ~~must~~ shall reapply to the department for approval to offer swing-bed services to new admissions in accordance with § ~~44:04:11:11.01~~ 44:75:11:11.

Source: 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:11:11.02.

General Authority: SDCL 34-12-13(12), 34-12-19.

Law Implemented: SDCL 34-12-13(12), 34-12-21.

44:04:11:12 44:75:11:13. Patient care requirements for swing-bed services. Hospital and critical access hospital swing-bed services ~~must~~ shall provide nursing and related care services to meet patients' care needs at all times. Patient care services ~~must~~ shall include at least the following:

(1) Patient rights as stated in §§ ~~44:04:17:02(1),(5),(6),(7),(8), 44:04:17:03(1), 44:04:17:07, 44:04:17:08(1),(2),(7),(9), 44:04:17:09(3),(4),(5), 44:04:17:12, and 44:04:17:14~~ chapter 44:73:11;

(2) Specialized rehabilitative services needed by patients to improve and maintain functioning. Specialized rehabilitative services may include physical therapy, speech pathology and audiology, and occupational therapy; and the services ~~must~~ shall be provided by the hospital or arranged for by written agreement with qualified personnel;

(3) Dental services for routine and emergency dental care;

(4) Social services as stated in § ~~44:04:12:05~~ 44:73:10:04;

(5) Patient activities as stated in § ~~44:04:12:02~~ 44:73:10:02;

(6) Discharge planning services to ensure that patients have a planned program of continuing care which meets post-discharge needs. The hospital ~~must~~ shall have written policies for the discharge planning process and ~~must~~ shall comply with § ~~44:04:04:17~~ 44:73:04:18; and

(7) Comprehensive assessment to assist with the development of a comprehensive care plan.

Source: 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:11:12.

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

CHAPTER 44:75:12

LONG-TERM CARE SUPPORTIVE SERVICES

Section

<u>44:75:12:01</u>	<u>Supportive services.</u>
<u>44:75:12:02</u>	<u>Activities program.</u>
<u>44:75:12:03</u>	<u>Spiritual needs.</u>
<u>44:75:12:04</u>	<u>Provision of social services.</u>

44:75:12:01. Supportive services. Each hospital accepting long-term care patients, and hospital and critical access hospital with swing beds shall provide supportive services that comply with §§ 44:75:12:02 to 44:75:12:04, inclusive.

Source:

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

44:75:12:02. Activities program. A planned activities program shall be provided with therapeutic activities designed to meet the needs and interests of individual patients. An activities coordinator shall be in charge of the activities program in hospitals which admit swing-bed patients. Supplies and equipment shall be provided for activities to satisfy the individual interests of patients.

Source:

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

44:75:12:03. Spiritual needs. The facility shall provide for the spiritual needs of the patients. Patient requests to see a clergyman shall be honored. No specific religious beliefs or practices may be imposed on any patient contrary to the patient's choice.

Source:

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

44:75:12:04. Provision of social services. A facility shall provide or make arrangements to provide social services for each patient as needed. A staff social worker or social service designee shall be designated as responsible to facilitate the provision of social services. If the staff member is not a social worker, the facility shall have a written agreement with a social worker for consultation and assistance to be provided on a regularly scheduled basis but at least quarterly.

Source:

General Authority: SDCL 34-12-13(13).

Law Implemented: SDCL 34-12-13(13).

CHAPTER 44:75:13

CONSTRUCTION STANDARDS

Section

<u>44:75:13:01</u>	<u>Application of chapter.</u>
<u>44:75:13:02.</u>	<u>Medical records unit.</u>
<u>44:75:13:03.</u>	<u>Storage rooms.</u>
<u>44:75:13:04.</u>	<u>Swing bed patient dining and recreation area.</u>
<u>44:75:13:05.</u>	<u>Outside area</u>
<u>44:75:13:06</u>	<u>Patient rooms.</u>
<u>44:75:13:07</u>	<u>Service area in care units.</u>
<u>44:75:13:08</u>	<u>Social services office.</u>
<u>44:75:13:09</u>	<u>Dietary department.</u>
<u>44:75:13:10</u>	<u>Food preparation services and equipment.</u>
<u>44:75:13:11</u>	<u>Laundry.</u>
<u>44:75:13:12</u>	<u>Employee facilities.</u>
<u>44:75:13:13</u>	<u>Engineering service and equipment areas.</u>
<u>44:75:13:14</u>	<u>Corridor restrictions.</u>
<u>44:75:13:15</u>	<u>Doors.</u>
<u>44:75:13:16</u>	<u>X ray protection.</u>
<u>44:75:13:17</u>	<u>Ceiling heights.</u>
<u>44:75:13:18</u>	<u>Insulation.</u>
<u>44:75:13:19</u>	<u>Floor surface finish.</u>
<u>44:75:13:20</u>	<u>Wall and ceiling finish.</u>
<u>44:75:13:21</u>	<u>Elevators.</u>
<u>44:75:13:22</u>	<u>Steam and hot water systems.</u>
<u>44:75:13:23</u>	<u>Ventilating systems.</u>
<u>44:75:13:24</u>	<u>Filters.</u>
<u>44:75:13:25</u>	<u>Ducts.</u>
<u>44:75:13:26</u>	<u>Food service ventilation.</u>
<u>44:75:13:27</u>	<u>Plumbing fixtures.</u>
<u>44:75:13:28</u>	<u>Water supply systems.</u>
<u>44:75:13:29</u>	<u>Vacuum breakers.</u>
<u>44:75:13:30</u>	<u>Hot water systems.</u>
<u>44:75:13:31</u>	<u>Drainage systems.</u>
<u>44:75:13:32</u>	<u>Electrical distribution system.</u>
<u>44:75:13:33</u>	<u>Lighting.</u>
<u>44:75:13:34</u>	<u>Receptacles or convenience outlets.</u>
<u>44:75:13:35</u>	<u>Staff call system.</u>
<u>44:75:13:36</u>	<u>Submittal of plans and specifications.</u>
<u>44:75:13:37</u>	<u>Pipe requirements.</u>
<u>44:75:13:38</u>	<u>Detached structures.</u>
<u>44:75:13:39</u>	<u>Water recreation facilities.</u>

44:75:13:01. Application of chapter. This chapter applies to any new facility and to any renovation, addition, and change in space use of any currently approved existing facility. Accessible and usable accommodations shall be available to the public, staff, and patients with disabilities.

Each facility shall comply with **NFPA 101 Life Safety Code**, 2012 edition. Each facility providing off-site services shall comply with "Business Occupancy standards or other occupancies standards as applicable for the use of the facility from" **NFPA 101 Life Safety Code**, 2012 edition when these services are offered.

Source:

General Authority: SDCL 34-1-17(4) and (5), 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:73:13:02. Medical records unit. The medical records unit shall include active and closed record storage and a work area.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:73:13:03. Storage rooms. There shall be at least 20 square feet (1.858 square meters) of central storage provided for each bed. General storage shall be concentrated in one area in the facility, but up to 50 percent of the general storage space may be provided on the premises. Each patient shall be provided with an individual closet, locker, or wardrobe that is located within or directly connected to the patient room.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:73:13:04. Swing bed patient dining and recreation area. The total areas set aside for patient dining, recreation, and other central use areas may not be less than 45 square feet (4.18 square meters) for each bed. The patient dining space shall be at least 25 square feet (2.32 square meters) for each bed. Storage shall be provided for recreational equipment and supplies.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:73:13:05. Outside area. Each secure unit shall have for the patient access to an outdoor area that is enclosed by a fence. The fence shall extend to a minimum of six feet above grade level and be designed to be safe for patient contact. Hard surface walking paths shall be provided in the outside area. Space shall be provided for lounging. If the access to the outside area is through a required building exit a gate shall be provided to exit the outside area to allow emergency egress and allow access for maintenance.

Source:

General Authority: SDCL 34-12-13(3) and (14).

Law Implemented: SDCL 34-12-13(3) and (14).

44:75:13:06. Patient rooms. A patient room shall meet the following requirements:

(1) A maximum room capacity not exceeding two patients;

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of 120 square feet (10.8 square meters) in each one-bed room and 200 square feet (18.58 square meters) in each two-bed room. The minimum dimension in patient rooms shall not be less than nine feet six inches (2.90 meters);

(3) Each bed in a two-bed room shall have cubicle curtains or equivalent built-in devices for full visual privacy that allow access to the toilet room and corridor without entering the roommates space;

(4) Have a window whose sill is not higher than three feet (0.91 meters) above the floor. The floor shall be above grade;

(5) Have a call button at each bed for staff calling stations;

(6) Have a toilet room and lavatory. Each patient toilet room shall be directly accessible for each patient without going through the general corridor. In a remodeling project, a one toilet room with handsink in a patient room may serve two patient rooms, but not more than four beds. For new construction, a toilet room may not be shared between patient rooms. Each patient toilet room shall include a water closet, handsink, mirror, and private individual storage. In two bed rooms a separate handsink shall be provided in the patient room. All new construction of toilet rooms used by patients shall be wheelchair accessible;

(7) Have a locker, wardrobe, or closet for each patient; and

(8) Have each patient room door located not more than 150 feet (45.72 meters) from the nurse's station.

Modification of the requirements listed in subdivisions (1) to (8), inclusive, of this section may be approved for any special care room by the department after receipt of a written request.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:13:07. Service area in care units. Each care unit shall contain a service area which includes the following:

(1) Nurses' station with convenient access to handwashing facilities;

(2) Nurses' charting;

(3) Doctors' charting;

(4) Communications;

(5) Storage for supplies and staffs' personal effects;

(6) Staff toilet room;

(7) Nurses' office;

(8) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;

(9) Soiled workroom which contains a work counter, a handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;

(10) Medicine room adjacent to the staff station with a sink, refrigerator, locked storage, and facilities for preparation and administration of medication;

(11) Clean linen storage area in an enclosed storage space;

(12) Nourishment station containing refrigerated storage, self-dispensing ice machine, and a sink for serving between-meal nourishments;

(13) Equipment storage room on each patient wing or floor for storage of patient care equipment such as intravenous stands, inhalators, air mattresses, walkers, wheelchairs, and similar bulky equipment;

(14) Patient bathing facilities containing one shower, bathtub, or whirlpool for each 15 beds not individually served. Whirlpool units with lifts may serve 30 beds;

(15) Janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink. The janitor's closet space and equipment may be incorporated into the soiled utility room;

(16) Isolation facilities for the use of those prone to infections as well as those suffering from infections. One isolation room shall be provided for each 30 acute-care beds. The entry into the isolation room shall be through an anteroom which is equipped with handwashing, gowning space and supplies, and space to handle clean and soiled supplies for the room or rooms served. Toilet, bathing, and handwashing facilities shall be available for the isolation room patient without entry into the anteroom or general corridor. A nursing unit is not required to maintain an isolation facility if such facilities are provided elsewhere in the institution;

(17) Playroom facilities for pediatric patients; and

(18) Multipurpose rooms for staff, patients, and patients' families for conferences, reports, education, training sessions, and consultation.

If outpatient therapy services are offered, the therapy unit shall provide access without traversing inpatient areas, locked records storage, handsinks located convenient to treatment areas, private room with handsink for speech language pathology, cubicle curtains for privacy at treatment areas, and the therapy unit shall be sized and equipped to accommodate the therapy modalities offered.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:13:08. Social services office. In hospitals, a social services office which is in accordance with § 44:04:02:18.02 44:75:02:18 shall be provided.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL ~~34-1-17~~, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:13:09. Dietary department. Construction, equipment, and installation of the dietary department shall comply with or exceed the minimum standards in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The installation shall comply with § 44:75:13:11 unless a commercially prepared dietary service, meals, or disposables are used. If a commercial service is used, dietary areas and equipment shall meet the requirements for sanitary storage, processing, and handling.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:75:13:10. Food preparation services and equipment. The dietary area shall be completely cleanable by conventional methods. The location and design of the dietary area shall enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided shall include the following:

(1) In dietary areas serving 17 beds or more, a dishwashing area including a commercial dishwasher supplied with 180 degree Fahrenheit (82 degrees centigrade) rinse water or a chemical sanitizing cycle, a soiled dish table with at least 7 feet (2.13 meters) of work space, a garbage disposal, a garbage can, a clean dish table with room for at least 3 dish racks, and handwashing facilities. If commercial undercounter dishwasher is used, the unit shall be raised above the floor so that the rack height is level with the adjacent dish tables;

(2) A dry food storage area with at least 1.5 linear feet (0.46 meters) of shelving 20 inches (0.51 meters) wide for each patient or resident bed and a functional aisle;

(3) Refrigerated storage space providing at least 1.5 cubic feet (0.042 cubic meters) of refrigerated space and 0.5 cubic feet (0.014 cubic meters) of freezer space per patient or resident bed with sufficient refrigerated storage space located within the food production area for convenient food preparation;

(4) Aisles within the dietary area not less than 3 feet (0.91 meters) wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic shall be at least 4 feet (1.22 meters) wide;

(5) Pot and pan washing facilities, including a three-compartment sink with 18 inch drainboards on both sides and drying and storage facilities for pots and pans;

(6) A vegetable preparation area with a two-compartment sink with drainboards on both sides;

(7) Cart storage areas;

(8) Waste disposal facilities;

(9) Employee dining facilities;

(10) Dietary manager's office or desk;

(11) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink;

(12) Food production equipment sized and designed to prepare a complete meal for the total bed complement and for personnel, guests, day-care patients, or other catering services;

(13) Food holding and transportation equipment capable of protecting food from contamination and of maintaining cold food at 41 degrees Fahrenheit (5 degrees centigrade) or below and hot food at 135 degrees Fahrenheit (57.2 degrees centigrade) or above during the total serving period;

(14) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

(15) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single-service towels or hand drying device and wall mounted hand cleanser;

(16) Dietary areas serving 17 beds or more, a staff toilet facility convenient to dietary department; and

(17) Dietary areas shall have an ice maker with bin or self-dispensing ice maker. Any ice maker accessible to patients or visitors shall be self-dispensing.

Source:

General Authority: SDCL 34-12-13(1), (2), and (14).

Law Implemented: SDCL 34-12-13(1), (2), and (14).

44:75:13:11. Laundry. The laundry shall include the following:

(1) Soiled linen holding room with a storage capacity of 1.75 square feet (0.1626 square meters) of floor area for each bed, to be used for storage, sorting, and weighing of soiled linen;

(2) Linen cart storage;

(3) Janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry;

(4) Storage for laundry supplies;

(5) Lavatories conveniently accessible to soiled, clean, and processing rooms; and

(6) Laundry processing room with separate soiled and clean work areas with commercial equipment. Each clothes dryer shall have a galvanized metal vent pipe for exhaust: and

(7) A clinical sink with an exposed water trap seal, siphon jet or blow action, and a sprayer device.

The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The laundry department shall be capable of processing ten pounds (4.54 kilograms) of soiled linen for each bed during a normal work day. Any modification to the standard may be made if the services are contracted to an outside organization. A modification shall be requested in writing by the facility and approved by the department.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:75:13:12. Employee facilities. The locker room for employees shall have lockers and a separate toilet room with handwashing facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:13:13. Engineering service and equipment areas. The requirements for engineering service and equipment areas for each facility are as follows:

- (1) A boiler room with two remote doors to the exit or exit access;
- (2) An engineer's office which may be combined with a maintenance shop;
- (3) Mechanical and electrical equipment rooms;
- (4) A maintenance shop with at least one room;
- (5) A storage room for building maintenance supplies;
- (6) A refuse room for trash storage which is conveniently located near the service entrance or exterior trash receptacles; and
- (7) A yard equipment storage room or exterior building.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:14. Corridor restrictions. Drinking fountains, telephone booths, fire extinguisher cabinets, and vending machines shall be located so that they do not project into the required width of exit corridors. Handrails installed in corridors shall return to the wall at the ends. Handrails if installed shall be installed with the top 34 to 38 inches, inclusive, from the floor. Handrails shall be installed with 1½ inch spacing between the wall and the handrail.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:15. Doors. Any door to a patient room toilet or bathroom shall be equipped with hardware that permits access in any emergency. A pocket or sliding door may not be installed except on a clothes closet or restroom in a patient room. Any hardware on a restroom pocket or sliding door shall provide for ease of operation for a patient with limited mobility. Any door opening onto a corridor, except an elevator door, shall be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Thresholds and expansion joint covers, if used, shall be flush with the floor. Any cross-corridor door shall be provided with vision panels.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:16. X ray protection. Protection of X ray and gamma ray installations shall conform to requirements in "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV--Equipment Design and Use," NCRP Report No. 102, 1989, and in "Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, 1976.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

References: "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV--Equipment Design and Use," NCRP Report No. 102, National Council on Radiation Protection and

Measurements, June 30, 1989. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 400, Bethesda, MD 20814. Cost: \$45.

"Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, National Council on Radiation Protection and Measurements, September 15, 1976. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 400, Bethesda, MD 20814. Cost: \$40.

44:75:13:17. Ceiling heights. The ceilings of corridors, storage rooms, patient toilet rooms, and other minor rooms may not be less than seven feet, eight inches (2.34 meters). The ceilings of all other rooms may not be less than seven feet, ten inches (2.39 meters).

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:18. Insulation. Boiler rooms, food preparation centers, and laundries shall be insulated and ventilated to prevent any floor surface above them from exceeding a temperature of 85 degrees Fahrenheit (29.4 degrees centigrade). All combustible insulation within the building shall be covered with a fire-resistive material giving fire protection equivalent to 0.5 inch (0.01 meters) gypsum board, unless tested and acceptable by **International Building Code**, 2012 edition, 2603.4 for use without a thermal barrier as installed.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **International Building Code**, 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$89.00.

44:75:13:19. Floor surface finish. Floors shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces shall be water-resistant. In all areas where floors are subject to wetting, they shall have a nonslip finish. A walking surface that is not flush with an adjacent surface shall be provided with a transition. A change in level up to 1/8 inch may be vertical and without edge treatment. Changes in level between 1/8 inch and 1/2 inch are to be beveled with a slope no greater than 1:2. A change in level may not exceed 1/2 inch. Gaps in the walking surface may not exceed 1/2 inch wide in the direction of travel.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:20. Wall and ceiling finish. Walls shall be washable, and in the immediate area of plumbing fixtures the finish shall be protected from water damage. Wall bases in dietary areas shall be free of spaces that can harbor insects. Wall bases in any areas used for surgical and obstetrical procedures shall be integral with either the wall or the floor surface material and shall be without voids that can harbor harmful bacteria. All surgical, obstetrical, emergency, nursery, X-ray film processing rooms, and dietary ceilings shall be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops, and similar spaces. A ceiling in any surgical, central sterilization, isolation, and x-ray film processing room shall be a gypsum board surface.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:21. Elevators. All facilities where either patients' beds or a critical service, such as operating, delivery, diagnostic, recreation, patient dining, dietary, laundry, central storage, or therapy rooms, is located, other than the first floor, shall have electrical or electrohydraulic elevators. Elevator cars and platforms shall be constructed of noncombustible material, except that material treated with fire retardant may be used if all exterior surfaces of the car are covered with metal. Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient's bed and attendants and shall be at least five feet (1.52 meters) wide by seven feet six inches (2.29 meters) deep. The car door shall have a clear opening of not less than three feet eight inches (1.12 meters). Elevators shall have automatic two-way leveling with accuracy within plus or minus 0.5 inch (0.01 meters). Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and to be dispatched directly to any floor.

Source:

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:75:13:22. Steam and hot water systems. Boilers shall have the capacity to supply the normal requirements of all systems and equipment. Supply and return mains and risers of space heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping shall be insulated with insulation having a flame spread of 25 or less and a smoke emission rating of 50 or less using NFPA 255, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials" or equivalent test procedures.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 255, Reference: NFPA 255, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$35.00.

44:75:13:23. Ventilating systems. The ventilating systems shall maintain temperatures, minimum air changes of outdoor air an hour, minimum total air changes, and relative humidities as follows:

(1) Operating rooms - 68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 20 total, and 20 to 60 percent humidity;

(2) Delivery rooms - 68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 20 to 60 percent humidity;

(3) Recovery rooms - at least 70 degrees Fahrenheit (21.1 degrees centigrade), 2 outdoor, 6 total, and 20 to 60 percent humidity;

(4) Nursery rooms - at least 75 degrees Fahrenheit (23.9 degrees centigrade), 2 outdoor, 6 total, and 20 to 60 percent humidity; and

(5) Intensive care rooms - 70 to 75 degrees Fahrenheit (21.1 to 23.9 degrees centigrade), 2 outdoor, 6 total, and 20 to 60 percent humidity.

For all other occupied areas, the facility shall be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) and at least 15 percent humidity at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, shall be located as far away as practicable but not less than 25 feet (7.62 meters) from plumbing vent stacks and the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than six feet (1.83 meters) above the ground level or, if installed through the roof, three feet (0.91 meters) above roof level. The mechanical ventilation systems shall be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. Room supply air inlets, recirculation, and exhaust air outlets shall be located with the grill or diffuser opening not less than 3 inches (0.08 meters) above the floor. Corridors may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation shall be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

Laboratories shall be ventilated at a rate of six total air changes an hour. All ventilation air from the laboratory shall be directly exhausted to the outside. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional air shall be provided. A filter with 90 percent efficiency shall be installed in the air supply system at its entrance to the media transfer room. Hoods in which highly radioactive materials are processed shall have a face velocity of 150 feet a minute (0.76 meters a second), have a high-efficiency (99.97%) filter, and each hood shall have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials shall have a face velocity of 75 feet a minute (0.38 meters a second).

Cooking appliances, other than microwave ovens, shall be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture.

Vehicle parking garages shall be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. Signs shall be posted at the front of parking spaces advising the driver to shut off the engine.

Crawl spaces shall be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: **International Building Code**, 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$89.00.

44:75:13:24. Filters. A ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Each supply air unit shall have a minimum of 30 percent effective filters. Each central ventilation system shall have a minimum of 80 percent effective filters. Each common use area, i.e., dining, lounge, and corridor, shall have 80 percent effective filters on an air supply system. Each air supply system serving solely an administrative area shall have a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based

on the ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter frame shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work shall be gasketed or sealed to provide a positive seal against air leakage. A manometer shall be installed across each filter bed serving a central air system.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.

44:75:13:25. Ducts. Ducts shall be constructed of iron, steel, aluminum, or other approved metal or materials as defined in **NFPA 101 Life Safety Code** 2012 edition. Duct linings, coverings, vapor barriers, and the adhesives used for applying them shall have a flame spread classification of not more than 25 and a smoke developed rating of not more than 50 using **NFPA 255**, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." A fire and smoke damper shall be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. Access for maintenance shall be provided at all dampers. Duct systems serving hoods shall be constructed of corrosion resistant material. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used shall be constructed of stainless steel for a minimum distance of ten feet (3.05 meters) from the hood and shall be equipped with washdown facilities. Each cold air duct shall be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

References: **NFPA 255**, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$35.00.

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone 1-800-344-3555. Cost: \$93.00.

44:75:13:26. Food service ventilation. The air from dining areas may be used to ventilate the food preparation areas only after it has been passed through a filter with 80 percent efficiency. Each exhaust hood in food preparation centers shall have a minimum exhaust rate of 50 cubic feet a minute for each square foot (0.25 cubic meters a second for each square meter) of hood face area. Each hood over cooking ranges shall be equipped with fire extinguishing systems interconnected to shut off the fuel source. A cleanout openings shall be provided every 20 feet (6.10 meters) in horizontal exhaust duct systems serving hoods.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:75:13:27. Plumbing fixtures. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material. Lavatories and sinks required in patient care areas shall have the water supply spout

mounted so that the discharge is a minimum of five inches (0.13 meters) above the rim of the fixture. Handwashing facilities used by medical and care staff, patients, and food handlers shall be equipped with hands-free controls. Single lever devices may be used. Each clinical sink shall have an integral trap in which the upper portion of a visible trap seal provides a water surface. If blade handles are used, proper clearance shall be maintained for operation. An aerator is not approved for use on faucet spouts. A paper towel dispenser or hand-drying device shall be provided at each lavatory and sinks used for handwashing. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the laboratory, nursery, clean utility, central sterilizing, dietary, or other critical areas where grooming could potentially cause contamination.

Each water closet shall be an elongated bowl type and be equipped with an open front seat.

Any shower stall that is not required to be wheelchair transfer or standard roll-in type stall shall have curb heights not more than five inches above the finished floor. The shower floor elevation and bathroom finished floor elevation shall be level where possible but the difference in elevation cannot exceed three inches.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:28. Water supply systems. Each water supply system shall supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

Each plumbing fixture which patients and staff may come in contact with shall be equipped with a thermostatic mixing bable limited to a maximum of 120 degrees Fahrenheit (60 degrees centigrade).

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:75:13:29. Vacuum breakers. An antisiphon device or backflow preventer shall be installed on hose bibs and on any fixtures to which hoses or tubing can be attached such as laboratory, janitor sink, bedpan flushing attachment, handheld shower, and autopsy table. Each antisiphon device or backflow preventer shall be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:75:13:30. Hot water systems. Hot water distribution systems over 50 feet (15.24 meters) long shall recirculate to provide hot water at each fixture at all times. The hot water heating equipment shall have sufficient capacity to supply water at a minimum temperature of 140 degrees Fahrenheit (60 degrees centigrade) and amounts indicated in the following:

(1) Three gallons an hour (0.0033 liters a second) for each bed;

(2) Two gallons an hour (0.0020 liters a second) for each bed for dietary use; and

(3) Two gallons an hour (0.0020 liters a second) per bed for laundry.

Storage tanks provided shall be fabricated of noncorrosive metal or lined with noncorrosive material.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:75:13:31. Drainage systems. Each drain line from sinks in which acid wastes may be poured shall be fabricated from an acid resistant material. Any piping over operating and delivery rooms, nurseries, food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and may not be exposed. Special precautions shall be taken to protect these areas from possible leakage of necessary overhead piping systems. Floor drains may not be installed in operating and delivery rooms. The building sewers shall discharge into a community sewerage system. If such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

Water from roof systems shall be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks shall be provided for pitched roof systems. Provisions shall be made to avoid having water accumulated on sidewalks and parking areas around the building.

The building sewer system shall have a cleanout located outside the perimeter of the building foundation.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

44:75:13:32. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. Fixed and mobile X ray units shall be connected by means of independent feeders or circuits. Each circuit breaker or fusible switch that provide disconnecting means and overcurrent protection for conductors connected to switchboard and distribution panel board shall be enclosed or guarded to provide a dead front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Each overload protective device shall be designed for operating in the ambient temperature conditions. Each lighting and appliance panel board shall be provided for the circuit on each floor. This section does not apply to emergency system circuits.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:75:13:33. Lighting. Any space occupied by people, machinery, and equipment within buildings, the approaches to the buildings, and parking lots shall have artificial lighting approved by the department. Each patient bedroom shall have general lighting of at least ten footcandles (0.929 lumens per square meter) and night lighting. If task illumination is required, a light with an intensity of at least 30 footcandles (2.79

lumens per square meter) at the work surface shall be provided for each patient. At least one luminaire for night lighting shall be switched at the entrance to each patient room. Any patient's reading light and other fixed light not switched at the door shall have a switch control convenient for use at the luminaire. Each switch for control of lighting in a patient area shall be of the quiet operating type. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 50 footcandles (4.65 lumens per square meter) shall be provided at the activity room work tables. Illumination of at least 30 footcandles (2.79 lumens per square meter) shall be provided in each dining area, physical and restorative therapy area, and at any bathing facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:75:13:34. Receptacles or convenience outlets. Each operating, delivery, and emergency room shall have at least three receptacles. In locations where mobile X ray is used, an additional receptacle, distinctively marked for X ray use, shall be provided. Each patient bedroom shall have duplex receptacles as follows: one on each side of the head of each bed; receptacles for luminaires and motorized beds, if used; and one receptacle on each wall. Single polarized receptacles marked for use of X ray only shall be located in corridors of patient areas so that mobile equipment may be used in any location within a patient room. If the same mobile X ray unit is used in operating rooms and in nursing areas, all receptacles for X ray use shall be the same. Where capacitive discharge or battery-powered mobile X ray units are used, polarized receptacles are not required. Duplex receptacles for general use shall be installed approximately 50 feet apart in all corridors and within 25 feet of ends of corridors. Receptacles in patient rooms of pediatric units shall be of the safety type. Receptacles in corridors of pediatric units shall be of a safety type or shall be controlled by switches located at a nurses' station or another supervised location.

Source:

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:75:13:35. Staff call system. A staff call system shall be provided for patient use to summon assistance from staff. Staff call systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. An emergency calling station convenient for patient use shall be provided at each patient toilet, bath, or shower and at toilets serving patients in laboratory, physical therapy, emergency, and X ray departments. An emergency staff calling station shall be provided for staff use in each operating, delivery, recovery, emergency, and intensive nursing care room and in nurseries, supervised wards for mental patients, and rooms for children.

The system shall be utilized and maintained in such a manner as to ensure that it is a consistent and effective means for a patient to alert staff of the need for assistance. The call stations convenient for patient use shall be provided at each bed, patient toilet, bathing or shower facility used by the patient. The call system shall also meet at least one of the following requirements:

(a) The call system utilizes fixed call stations that are convenient for patient use and activated by a pull cord or other approved device. The fixed system shall actuate a visual signal at the patient room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections;

(b) The call system utilizes wireless devices that are convenient for patient use and activated by a pull cord or other approved device. The wireless system shall actuate a visual and audible signal at the staff station and on pocket paging devices carried by all direct care staff. Wireless devices shall be fully supervised, shall be capable of alarm reset at the source, and transmit low battery alert. Wireless devices shall utilize batteries that are readily available; or

(c) Another type of call system that has been submitted for review and approved by the department.

Source:

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:75:13:36. Submittal of plans and specifications. Plans and specifications for new construction shall be submitted to the department for evaluation of function and fire protection including concealed spaces. The department's approval shall be obtained before beginning construction. Modification during construction shall be submitted to the department for review and shall be approved prior to the modification. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:75:13:37. Pipe requirements. All piping systems for potable water shall be installed to eliminate any dead-end runs of piping. Before placing potable water systems in service, the piping system shall be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification shall be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used for applying them shall have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, 2012 edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: **NFPA 101 Life Safety Code**, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:75:13:38. Detached structures. A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a health care facility shall either be separated from the facility by a minimum distance of 20 feet or provided with two-hour fire rated separation, or equip the structure with a complete automatic sprinkler system.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Fire safety code requirements, § 44:75:03:01.

44:75:13:39. Water therapy facilities. Each water therapy facility, including a swimming pool or spa operated by a facility and used by any patient or the public, shall be designed, constructed, and maintained using the "Recommended Standards for Swimming Pool Design and Operation," 1996 edition.

The owner or operator of a swimming pool or spa facility shall collect and submit at least one water sample weekly for each swimming pool or spa facility under the owner's or operator's control to an EPA-

certified laboratory for bacteriological analysis. The owner or operator shall report any unsafe water sample test results to the department within three days after receipt of such test results. Upon the receipt of a positive water sample the owner or operator of the facility shall submit two consecutive negative samples to the department to confirm treatment procedures have eliminated the contamination. If a resample test is positive, the facility shall close the affected water facility and submit two consecutive negative samples prior to allowing patient use of affected water treatment facility. A colorimetric test kit is required for the monitoring and adjusting of disinfectant levels and pH in swimming pool or spa facilities. A daily log of disinfectant levels and pH shall be maintained by the owner or operator of the facility.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

Reference: "Recommended Standards for Swimming Pool Design and Operation," 1996 edition, Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environment Managers. Copies are available at no cost from the Office of Health Protection, South Dakota Health Department, 615 East 4th Street, Pierre, SD 57501.

CHAPTER 44:75:14

ADDITIONAL HOSPITAL STANDARDS

(Transferred from 44:04:14)

Section

<u>44:04:14:01</u>	<u>44:75:14:01</u>	Application of standards.
<u>44:04:14:02</u>	<u>44:75:14:02</u>	Newborn nursery unit.
<u>44:04:14:04</u>	<u>44:75:14:03</u>	Psychiatric unit.
<u>44:04:14:05</u>	<u>44:75:14:04</u>	Surgical suites.
<u>44:04:14:06</u>	<u>44:75:14:05</u>	Service areas in surgical suite.
<u>44:04:14:07</u>	<u>44:75:14:06</u>	Obstetrical suite.
<u>44:04:14:08</u>	<u>44:75:14:07</u>	Service areas in obstetrical suite.
<u>44:04:14:09</u>	<u>44:75:14:08</u>	Emergency and outpatient care areas of the facility.
<u>44:04:14:10</u>	<u>44:75:14:19</u>	Diagnostic imaging suite.
<u>44:04:14:11</u>	<u>44:75:14:10</u>	Laboratory suite.
<u>44:04:14:12</u>	<u>44:75:14:11</u>	Pharmacy or drug room.
<u>44:04:14:13</u>	<u>44:75:14:12</u>	Administration department.
<u>44:04:14:14</u>	<u>44:75:14:13</u>	Medical records unit.
<u>44:04:14:15</u>	<u>44:75:14:14</u>	Central medical and surgical supply department.
<u>44:04:14:16</u>	<u>44:75:14:15</u>	Central stores.
<u>44:04:14:17</u>	<u>44:75:14:16</u>	Details and finishes.
<u>44:04:14:18</u>	<u>44:75:14:17</u>	Ventilation.
<u>44:04:14:19</u>	<u>44:75:14:18</u>	Air filters.
<u>44:04:14:20</u>	<u>44:75:14:19</u>	Ducts.
<u>44:04:14:21</u>	<u>44:75:14:20</u>	Plumbing fixture devices.
<u>44:04:14:22</u>	<u>44:75:14:21</u>	Operating and delivery room lighting.
<u>44:04:14:23</u>	<u>44:75:14:22</u>	Equipment installation in special areas.
<u>44:04:14:24</u>	<u>44:75:14:23</u>	Emergency electric supply.
<u>44:04:14:25</u>	<u>44:75:14:24</u>	Emergency electrical circuit connections.
<u>44:04:14:26</u>	<u>44:75:14:25</u>	Emergency power for electrical heating.
<u>44:04:14:27</u>	<u>44:75:14:26</u>	Emergency electrical system details.

~~44:04:14:01~~ 44:75:14:01. Application of standards. The construction standards in this chapter apply to all new hospital facilities and to alterations, additions, and changes in space use to currently approved existing hospital facilities. In hospitals with a capacity of 50 beds or less, some functions allotted separate spaces or rooms in these standards may be combined if the resulting plan does not compromise safety or medical practice.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:01.

General Authority: SDCL 34-1-17(4) and (5), 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:02~~ 44:75:14:02. Newborn nursery unit. Each nursery shall provide a lavatory, emergency nurses call, oxygen, and facilities for viewing the babies. Each full-term nursery room shall contain not more than 12 bassinets with a minimum area of 24 square feet (2.23 square meters) per bassinet. An examination and workroom with lavatory shall be provided and may serve up to 24 bassinets. A janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink shall be provided.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:02.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:04~~ 44:75:14:03. Psychiatric unit. If a psychiatric unit is included as a separate nursing unit, it ~~must~~ shall be designed as other nursing units with extra care taken to provide close supervision for patients. Service areas ~~must~~ shall be provided.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:04.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Cross-Reference: Requirements for service areas in each nursing unit, § ~~44:04:13:03~~ 44:75:13:07.

~~44:04:14:05~~ 44:75:14:04. Surgical suites. Hospitals with 50 beds or less that accept surgical patients ~~must~~ shall provide one operating room. The number of operating rooms for hospitals over 50 beds shall be based on the expected surgical workload. The surgical suite ~~must~~ shall be located to prevent through traffic. A recovery room with charting space, medication storage and preparation space, and a clinical sink is required.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:05.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:06~~ 44:75:14:05. Service areas in surgical suite. The size of the service areas in each surgical suite depends on the surgical workload. Each surgical suite ~~must~~ shall include the following service areas:

- (1) A surgical supervisor station;
- (2) Sterilizing facilities near the operating room with high speed autoclave;

- (3) Facilities for storage and preparation of medication;
- (4) Scrub-up facilities located adjacent to operating rooms;
- (5) Soiled workroom containing a counter with ~~two-compartment sink with drainboards on each side~~, clinical sink, hand sink, waste receptacle, and soiled linen receptacles;
- (6) Storage for sterile and unsterile supplies, which may be in a clean workroom;
- (7) Storage room or cabinet for anesthetic agents;
- (8) Nitrous oxide and oxygen facilities with storage room if these services are not piped in;
- (9) Clean work area for storage and assembly of supplies containing counter and sink;
- (10) Equipment storage area for surgical and monitoring equipment;
- (11) Floor receptor or service sink and storage for housekeeping supplies and equipment;
- (12) Clothing change areas, lockers, and toilet rooms for doctors, nurses, ~~orderlies~~ technicians, and other personnel; and
- (13) ~~Holding area for patients in facilities with two or more operating rooms; and~~
- ~~—(14) Stretcher alcove.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:06.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:07~~ **44:75:14:06. Obstetrical suite.** The obstetrical suite ~~must~~ shall be located to prevent through traffic. The number of delivery rooms and labor rooms required shall be based on the estimated annual birthrate. A patients' toilet room ~~must~~ shall be provided adjoining each labor room or ~~must~~ shall be conveniently accessible within the obstetrical suite. Bathing facilities ~~must~~ shall be conveniently available.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:07.

General Authority: SDCL ~~34-1-17~~, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:08~~ **44:75:14:07. Service areas in obstetrical suite.** The size of the service areas in each obstetrical suite depends on the obstetrical workload. Each obstetrical suite ~~must~~ shall include the following service areas:

- (1) A supervisor's station;
- (2) Sterilizing facilities with high speed autoclave convenient to delivery rooms;
- (3) Facilities for storage and preparation of medication;
- (4) Scrub-up facilities adjacent to delivery rooms;
- (5) A soiled workroom containing a counter with a ~~two-compartment sink with drainboards on each side~~, clinical sink, hand sink, waste receptacle, and soiled linen receptacles;
- (6) Storage for sterile and unsterile supplies, which may be in clean workroom;
- (7) Storage room or cabinet for anesthetic agents;
- (8) Nitrous oxide and oxygen facilities with storage room if these services are not piped in;
- (9) Clean work area for storage and assembly of supplies, containing counter and sink;
- (10) Equipment storage area for surgical and monitoring equipment;
- (11) Floor receptor or service sink and storage for housekeeping supplies and equipment;
- (12) Clothing change areas, lockers, and toilet rooms with handwashing facility for doctors, nurses, ~~orderlies~~ technicians, and other personnel; and
- (13) Stretcher alcove.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:08.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:09~~ 44:75:14:08. Emergency and outpatient care areas of the facility. The size of emergency and outpatient care areas shall be based on admissions and ~~must~~ shall be located to prevent outpatients from traversing inpatient areas. Emergency and outpatient care areas ~~must~~ shall include:

- (1) A well marked and sheltered entry with nearby emergency parking and convenient access for ambulances;
- (2) Admission and patient records area;
- (3) Examination and treatment room with lavatory;
- (4) ~~Clinical~~ A handwashing sink;
- (5) Storage for sterile supplies;
- (6) Wheelchair and stretcher alcove;
- (7) Floor receptor or service sink and storage for housekeeping supplies and equipment; ~~and~~
- (8) A secure area for storage and preparation of medications;
- ~~(9) A soiled workroom.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:14:09.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:10~~ 44:75:14:09. Diagnostic imaging suite. The diagnostic imaging suite ~~must~~ shall contain:

- (1) One or more radiographic rooms with necessary radiation protection;
- (2) A film processing room;
- ~~(3) A film filing room;~~
- ~~(4)~~ (3) Toilet room adjoining each fluoroscopy and ultrasound room;
- ~~(5)~~ (4) Dressing area for ambulatory patients;
- ~~(6)~~ (5) Holding area for stretcher patients;
- ~~(7)~~ (6) Waiting space; and
- ~~(8)~~ (7) An office with film viewing facilities.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:10.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:11~~ 44:75:14:10. Laboratory suite. Clinical laboratory facilities and equipment consistent with the needs of the patients ~~must~~ shall be provided. Handwashing fixtures ~~must~~ shall be provided and equipped with valves which can be operated without the use of hands. ~~If blade handles are used for this purpose, the blade handles may not exceed 4.5 inches (0.11 meters) in length.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:11.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:12~~ 44:75:14:11. Pharmacy or drug room. The pharmacy or drug room ~~must~~ shall be well ventilated and have a locking door. The pharmacy or drug room ~~must~~ shall be sized for the distribution

system used and ~~must~~ shall have a work counter with sink, a separate locked and fastened compartment or room for the storage of controlled substances, refrigerated and frozen storage spaces, and other approved storage for drugs. If additive injectables are prepared, a sterile products area ~~must~~ shall be provided. The work space ~~must~~ shall be well illuminated. Emergency power ~~must~~ shall be provided for essential services. Heating, ventilation, and air conditioning services ~~must~~ shall be provided to maintain the temperature of the room between 59 degrees Fahrenheit (15 degrees centigrade) and 86 degrees Fahrenheit (30 degrees centigrade).

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:12.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), (4) and (9).

Law Implemented: SDCL 34-12-13(1), (3), (4) and (9).

~~44:04:14:13~~ **44:75:14:12. Administration department.** The administration department ~~must~~ shall include a business office, information center, administrator's office, admitting office, staff lounge, medical library, lobby, and public and staff toilet rooms. There ~~must~~ shall be an office for the director of nurses, space for inservice training, and a housekeeper's office.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:13.

General Authority: SDCL 34-1-17, 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

~~44:04:14:14~~ **44:75:14:13. Medical records unit.** The medical records unit ~~must~~ shall include an active record storage area; record review and dictating area; work area for sorting, recording, or microfilming; and an inactive record storage area which may be omitted if microfilming is used.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:14.

General Authority: SDCL 34-1-17, 34-12-13(3) and (10).

Law Implemented: SDCL 34-12-13(3) and (10).

~~44:04:14:15~~ **44:75:14:14. Central medical and surgical supply department.** The clean and soiled areas of the central medical and surgical supply department ~~must~~ shall be separated from each other. Space for cleaning equipment and disposing or processing of unclean articles ~~must~~ shall be provided in the decontamination area and the plumbing fixtures ~~must~~ shall be at least those provided for the soiled utility room. The clean workroom ~~must~~ shall be divided into work space, clean storage area, sterilizing facilities, and storage area for sterile supplies. Pathological waste sterilization may not be done in this area. An unsterile supply storage area ~~must~~ shall be provided, but it may be located in an area outside this department. Handwashing fixtures ~~must~~ shall be provided between the clean and soiled work areas. ~~If blade handles are used, they may not exceed four and one half inches (0.11 meters) in length. The decontamination area shall contain a two compartment sink with a drainboard on both sides.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:14:15.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:14:16~~ **44:75:14:15. Central stores.** General central storage rooms ~~must~~ shall have a total area of not less than 20 square feet (1.86 square meters) for each bed. General storage should be concentrated in one area on-site, but up to 50 percent of the general storage space may be provided off-site.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:16.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:14:17~~ 44:75:14:16. Details and finishes. Ceiling heights of operating rooms, delivery rooms, cystoscopic rooms, radiographic rooms, and rooms with ceiling-mounted surgical light fixtures ~~must~~ shall be at least nine feet (2.74 meters).

The ceilings in isolation rooms, X-ray film processing rooms, central sterilization rooms, and operating rooms ~~must~~ shall be an epoxy painted gypsum board membrane or an equivalent material for ease of cleaning and for improved maintenance of clean surfaces below the ceilings.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:14:17.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

~~44:04:14:18~~ 44:75:14:17. Ventilation. All air supply and air exhaust systems ~~must~~ shall be mechanically operated. All fans serving exhaust systems ~~must~~ shall be located at the discharge end of the system. All air supplied to sensitive areas such as operating rooms, delivery rooms, and nurseries ~~must~~ shall be delivered at or near the ceiling of the area served. All air exhausted from the area ~~must~~ shall be removed near floor level. At least two exhaust outlets ~~must~~ shall be used in all operating and delivery rooms. Exhaust wall outlets ~~must~~ shall be located not less than three inches (0.076 meters) above the floor.

A ventilation system in operating, delivery, emergency, isolation, central sterilization, or nursery room ~~must~~ shall be a ducted system. A ventilation system using the building concealed space (return air plenum) from a clean room is not acceptable.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:14:18.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

~~44:04:14:19~~ 44:75:14:18. Air filters. The ventilation systems serving sensitive areas such as operating rooms, delivery rooms, nurseries, isolation rooms, laboratory sterile rooms, and the recirculated central air systems serving other hospital areas ~~must~~ shall be equipped with a minimum of two filter beds. Filter bed number one ~~must~~ shall be located upstream of the conditioning equipment and ~~must~~ shall have a minimum efficiency of 30 percent. Filter bed number two ~~must~~ shall be located downstream of the conditioning equipment and ~~must~~ shall have a minimum efficiency of 90 percent. Central systems using 100 percent outdoor air and serving other than sensitive areas ~~must~~ shall be provided with filters rated at 80 percent efficiency. These filter efficiencies ~~must~~ shall be warranted by the manufacturer and ~~must~~ shall be based on the ASHRAE 52.1-2, ~~1992~~ 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. The exhausts from all laboratory hoods in which infectious or radioactive materials are processed ~~must~~ shall be equipped with filters with a 99 percent efficiency. Filter frames ~~must~~ shall be durable and ~~must~~ shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork ~~must~~ shall have positive seal against air leakage.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:19.

General Authority: SDCL 34-1-17, 34-12-13(2), (3), and (14).

Law Implemented: SDCL 34-12-13(2), (3), and (14).

Reference: "ASHRAE 52.1~~2~~," 1992 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta GA 30329. Phone: ~~404-636-8400~~ 1-800-527-4723. Cost: \$~~19~~ 39.00.

~~44:04:14:20~~ 44:75:14:19. Ducts. Ducts which penetrate construction intended for X ray or other ray protection ~~must~~ shall not impair the effectiveness of the protection. Porous duct lining materials may not be used in the interior of duct systems serving sensitive areas such as operating and delivery rooms, nurseries, and isolation rooms.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:20.

General Authority: SDCL 34-1-17, 34-12-13(1), (2), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (2), (3), and (14).

~~44:04:14:21~~ 44:75:14:20. Plumbing fixture devices. Flush valves installed on plumbing fixtures ~~must~~ shall be of a quiet operating type equipped with silencers. Bedpan flushing devices ~~must~~ shall be provided in each patient toilet room and in the soiled workrooms.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:21.

General Authority: SDCL 34-1-17, 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

~~44:04:14:22~~ 44:75:14:21. Operating and delivery room lighting. Operating and delivery rooms ~~must~~ shall have general lighting for the room in addition to special lighting units at the surgical and obstetrical tables. Each special lighting unit for local lighting at tables ~~must~~ shall be connected to an independent circuit.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:22.

General Authority: SDCL 34-1-17, 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

~~44:04:14:23~~ 44:75:14:22. Equipment installation in special areas. X ray stationary installations and mobile equipment ~~must~~ shall conform to rules of the state electrical commission.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:23.

General Authority: SDCL 34-1-17, 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Electrical installations, ch 20:44:05.

~~44:04:14:24~~ 44:75:14:23. Emergency electric supply. Each facility ~~must~~ shall have an emergency source of electric supply to provide electricity during an interruption of the normal electric supply. The source of emergency electric supply ~~must~~ shall be an automatic emergency generating set when the normal service is supplied by one or more central station transmission lines, or an automatic generating set or a central station transmission line when the normal electric supply is generated on the premises. The required

emergency generating set, including the prime mover and generator, ~~must~~ shall be located on the premises. The emergency generator set ~~must~~ shall be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:24.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

~~44:04:14:25~~ **44:75:14:24. Emergency electrical circuit connections.** Emergency electrical service ~~must~~ shall be furnished to circuits as follows:

- (1) Lighting of exit ways and all necessary ways of approach to them, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;
- (2) Surgical, obstetrical, and emergency room operating lights;
- (3) Lighting for nursery, laboratory, recovery room, intensive care areas, nursing stations, medication preparation areas, and labor rooms;
- (4) Lighting for the generator set location, the switch gear location, and the boiler room;
- (5) Equipment essential to life safety and for protection of important equipment or vital materials;
- (6) Nurses calling system;
- (7) Alarm system, including fire alarms actuated at manual stations;
- (8) Water flow alarm devices of sprinkler system if electrically operated;
- (9) Fire detecting and smoke detecting systems;
- (10) Paging or speaker systems if intended for issuing instructions during emergency conditions;
- (11) Alarms required for nonflammable medical gas systems, if installed;
- (12) Receptacles for incubators for infants;
- (13) Pump for central suction system;
- (14) Sewage or sump lift pump, if installed;
- (15) Receptacles for blood bank refrigerator;
- (16) At least two duplex receptacles for the laboratory;
- (17) Receptacles in operating, recovery, intensive care, and delivery rooms except those for X ray;
- (18) At least one duplex receptacle in each nursery;
- (19) Duplex receptacles in patient corridors; and
- (20) Equipment, such as burners and pumps, necessary for operation of one or more boilers required for heating and sterilization and their necessary auxiliaries and controls.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:25.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

~~44:04:14:26~~ **44:75:14:25. Emergency power for electrical heating.** If electricity is the only source of power normally used for space heating, the emergency service ~~must~~ shall provide for heating of operating, delivery, labor, recovery, intensive care, nurseries, and patient rooms. Emergency heating of patient rooms is not required if the hospital is supplied by at least two utility service feeders, each supplied by separate generating sources, or a network distribution system fed by two or more generators, with the facility feeders routed, connected, and protected so that a fault any place between the generators and the facility will not be likely to cause an interruption of more than one of the facility service feeders.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:26.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:04:14:27 44:75:14:26. Emergency electrical system details. The emergency electrical system ~~must~~ shall be so controlled that after interruption of the normal electric power supply the generator is brought to full voltage and frequency and connected within ten seconds through one or more primary automatic transfer switches to all emergency lighting; all alarms; blood banks; nurses' call; equipment necessary for maintaining telephone service; pump for central suction system; and receptacles in operating and delivery rooms, patient corridors, recovery rooms, intensive care nursing areas, and nurseries. All other lighting and equipment required to be connected to the emergency system ~~must~~ shall either be connected through the primary automatic transfer switching or ~~must~~ shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system ~~must~~ shall be distinctively marked for identification. Storage-battery-powered lights, provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, may not be used as a substitute for the required generator. If fuel is normally stored on the site, the storage capacity ~~must~~ shall be sufficient for 24-hour operation. If fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site are not required.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:14:27.

General Authority: SDCL 34-1-17, 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

CHAPTER 44:75:15

SWING BED PATIENTS' RIGHTS

Section

<u>44:75:15:01</u>	<u>Application of chapter – Swing bed patients' rights policies.</u>
<u>44:75:15:02</u>	<u>Facility to inform swing bed patient of rights.</u>
<u>44:75:15:03</u>	<u>Facility to provide information on available services.</u>
<u>44:75:15:04</u>	<u>Notification when patient's condition changes.</u>
<u>44:75:15:05</u>	<u>Notification of patient's room assignment or rights change.</u>
<u>44:75:15:06</u>	<u>Right to manage financial affairs.</u>
<u>44:75:15:07</u>	<u>Choice in planning care.</u>
<u>44:75:15:08</u>	<u>Privacy and confidentiality.</u>
<u>44:75:15:09</u>	<u>Quality of life.</u>
<u>44:75:15:10</u>	<u>Grievances.</u>
<u>44:75:15:11</u>	<u>Availability of survey results.</u>
<u>44:75:15:12</u>	<u>Right to refuse to perform services.</u>
<u>44:75:15:13</u>	<u>Self-administration of drugs.</u>
<u>44:75:15:14</u>	<u>Admission, transfer, and discharge policies.</u>

44:75:15:01. Application of chapter – Swing bed patients' rights policies. Each facility offering swing bed services shall comply with this chapter. Each facility offering swing bed services shall establish policies consistent with this chapter to protect and promote the rights of each swing bed patient.

Source:

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

44:75:15:02. Facility to inform swing bed patient of rights. Prior to or at the time of admission, a facility shall inform the swing bed patient, both orally and in writing, of the patient's rights and of the rules governing the patient's conduct and responsibilities while in the facility. The patient shall acknowledge in writing that the patient received the information. During the patient's stay the facility shall notify the patient, both orally and in writing, of any changes to the original information. The patient's right to receive visitors. Visiting hours and policies of the facility shall permit and encourage the visiting of patients by friends and relatives. Visitors shall not cause a disruption to the care and services residents receive or infringement on other residents' rights or place an undue burden on the facility.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:03. Facility to provide information on available services. A facility shall provide the following information in writing to each patient:

(1) A list of services available in the facility and the charges for such services. The facility shall specify which items and services are included in the services for which the patient may not be charged, those other items and services that the facility offers and for which the patient may be charged, and the amount of any such charges;

(2) A description of how a patient can protect personal funds;

(3) A list of names, addresses, and telephone numbers of client advocates;

(4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of patient property;

(5) A description of how the patient can contact the patient's physician, including the name and specialty of the physician;

(6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

(7) A description of the bed-hold policy which indicates the length of time the bed will be held for the patient, any policies regarding the held bed, and readmission rights of the patient; and

(8) A description explaining the responsibilities of the patient and family members regarding self-administered medication.

A signed and dated admission agreement between the patient or the patient's legal representative and the facility shall include subdivisions (1) to (8), inclusive, of this section. The patient or patient's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the patient has made a commitment for payment for proposed or actual care. The agreement may not include ambiguous or misleading information and may not be in conflict with this chapter. The agreement shall be printed for ease of reading by the patient. If the agreement exceeds three pages, it shall contain a table of contents or an index of principal sections. Any change in the information shall be given to the patient or the patient's legal representative as a signed and dated addendum to the original agreement.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:04. Notification when patient's condition changes. A facility shall immediately inform the patient, consult with the patient's physician, and, if known, notify the patient's legal representative or interested family member when any of the following occurs:

- (1) An accident involving the patient which results in injury or has the potential for requiring intervention by a physician;
- (2) A significant change in the patient's physical, mental, or psychosocial status;
- (3) A need to alter treatment significantly; or
- (4) A decision to transfer or discharge the patient from the facility.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:05. Notification of patient's room assignment or rights change. A facility shall promptly notify the patient and, if known, the patient's legal representative, as specified in SDCL 34-12C-3, or interested family member when there has been a change in the patient's room or roommate assignment or when there has been a change in the patient's rights.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:06. Right to manage financial affairs. A patient may manage personal financial affairs. A facility may not require patients to deposit their personal funds with the facility. If the patient chooses to deposit funds with the facility and gives written authorization, the facility shall hold the funds in accordance with SDCL 34-12-15.1 to 34-12-15.10, inclusive.

Source:

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

44:75:15:06. Choice in planning care. A patient may choose a personal attending physician, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the patient's well-being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-References:

Right to choose own physician unimpaired by public health programs -- Misdemeanor, SDCL 34-1-20.

Rights of authorized person as incapacitated person, SDCL 34-12C-6.

Liability of health care provider -- Liability of authorized decision maker, SDCL 34-12C-7.

44:75:15:08. Privacy and confidentiality. A facility shall provide for privacy and confidentiality for the patient, including the patient's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and patient groups. A facility is not required to provide a private room for each patient. A facility shall permit patients to perform the following:

(1) To send and receive unopened mail and to have access to stationery, postage, and writing implements at the patient's own expense;

(2) To access and use a telephone without being overheard;

(3) To visit a spouse or, if both are patients of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;

(4) Except in an emergency, to have room doors closed and to require knocking before entering the patient's room;

(5) To have only authorized staff present during treatment or activities of personal hygiene;

(6) To retire and rise according to the patient's wishes, as long as the patient does not disturb other patients;

(7) To meet, associate, and communicate with any person of the patient's choice in a private place within the facility;

(8) To participate in social, religious, and community activities that do not interfere with the rights of other patients in the facility; and

(9) To approve or refuse the release of personal and medical records to any individual outside the facility, except when the patient is transferred to another health care facility or when the release of the record is required by law. With the patient's permission, a facility shall allow the state ombudsman or a representative of the ombudsman access to the patient's medical records.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-Reference: Written policies and confidentiality of records, § 44:75:09:03.

44:75:15:09. Quality of life. A facility shall provide care and an environment that contributes to the patient's quality of life, including:

(1) A safe, clean, comfortable, and homelike environment;

(2) Maintenance or enhancement of the patient's ability to preserve individuality, exercise self-determination, and control everyday physical needs;

(3) Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;

(4) Freedom from verbal, sexual, physical, and mental abuse and from involuntary seclusion, neglect, or exploitation imposed by anyone, and theft of personal property;

(5) Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other patients; and

(6) Support and coordination to assure pain is recognized and addressed appropriately.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-Reference: Care policies § 44:75:04:11.

44:75:15:10. Grievances. A patient may voice grievances without discrimination or reprisal. A patient's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other patients, and infringement of the patient's rights. A facility shall adopt a grievance process and make the process known to each patient and to the patient's immediate family. The grievance process shall include the facility's efforts to resolve the grievance and documentation of:

- (1) The grievance;
- (2) The names of the persons involved;
- (3) The disposition of the matter; and
- (4) The date of disposition.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:11. Availability of survey results. Survey results, along with the corresponding Plan of Correction shall be provided to patients and individuals upon request.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:12. Right to refuse to perform services. A patient may refuse to perform services on behalf of the facility, unless otherwise agreed to in the patient's plan of care. The patient may perform services for the facility when the following conditions are met:

- (1) The plan of care includes documentation of the need or desire for work;
- (2) The nature of the services performed is specified, including whether the services are voluntary or paid;
- (3) Compensation for paid services is at or above prevailing rates; and
- (4) The patient agrees to the work arrangement.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:15:13. Self-administration of drugs. A patient may self-administer drugs if the interdisciplinary team consisting of selected healthcare workers and licensed health professionals has determined the practice to be safe. The determination shall state whether the patient or the nursing staff is responsible for storage of the drug and documentation of its administration in accordance with chapter 44:75:08.

Source:

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Medication control, ch 44:75:08.

44:75:15:14. Admission, transfer, and discharge policies. A facility shall establish and maintain policies and practices for admission, discharge, and transfer of patients which prohibit discrimination based upon payment source and which are made known to patients at or before the time of admission. The policies and practices shall include:

(1) The patient may remain in the facility and may not be transferred or discharged unless the patient's needs and welfare cannot be met by the facility, the patient's health has improved sufficiently so the patient no longer needs the services provided by the facility, the safety or health of individuals in the facility is endangered by the patient, the patient has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;

(2) The facility shall notify the patient and a family member or client advocate in writing at least 30 days before the transfer or discharge unless a change in the patient's health requires immediate transfer or discharge or the patient has not resided in the facility for 30 days. The written notice shall specify the reason for and effective date of the transfer or discharge and the location to which the patient will be transferred or discharged;

(3) Conditions under which the patient may request or refuse transfer within the facility; and

(4) A description of how the patient may appeal a decision by the facility to transfer or discharge the patient.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

ARTICLE 44:76

AMBULATORY SURGERY CENTER FACILITIES

Chapter

<u>44:76:01</u>	<u>Rules of general applicability.</u>
<u>44:76:02</u>	<u>Physical environment.</u>
<u>44:76:03</u>	<u>Fire protection.</u>
<u>44:76:04</u>	<u>Management and administration.</u>
<u>44:76:05</u>	<u>Physician services.</u>
<u>44:76:06</u>	<u>Nursing and related care services.</u>
<u>44:76:07</u>	<u>Medication control.</u>
<u>44:76:08</u>	<u>Medical record services.</u>
<u>44:76:09</u>	<u>Diagnostic services.</u>
<u>44:76:10</u>	<u>Surgical services.</u>
<u>44:76:11</u>	<u>Construction standards.</u>
<u>44:76:12</u>	<u>Additional ambulatory surgery center standards.</u>
<u>44:76:13</u>	<u>Patients' rights.</u>

CHAPTER 44:76:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:76:01:01</u>	<u>Definitions.</u>
<u>44:76:01:02</u>	<u>Posting of license.</u>
<u>44:76:01:03</u>	<u>Name of facility.</u>
<u>44:76:01:04</u>	<u>Bed capacity.</u>

<u>44:76:01:05</u>	<u>Restrictions on acceptance of patients.</u>
<u>44:76:01:06</u>	<u>Joint occupancy.</u>
<u>44:76:01:07</u>	<u>Reports.</u>
<u>44:76:01:08</u>	<u>Plans of correction.</u>
<u>44:76:01:09</u>	<u>Modifications.</u>
<u>44:76:01:10</u>	<u>Scope of article.</u>

44:76:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

- (a) A criminal conviction against a person for mistreatment toward an individual; or
- (b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:
 - (i) Misappropriation of a patient's or resident's property or funds;
 - (ii) An attempt to commit a crime against a patient or resident;
 - (iii) Physical harm or injury against a patient or resident; or
 - (iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;

(2) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;

(3) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;

(4) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for managing the facility and who maintains an office on the premises of the facility;

(5) "Anesthesiologist," a physician whose specialized training and certification qualify the person to administer anesthetic agents and to monitor the patient under the influence of these agents;

(6) "Anesthetist," a physician eligible for certification as an anesthesiologist or a certified registered nurse anesthetist who meets the requirements of SDCL chapter 36-9;

(7) "Client advocates," agencies responsible for the protection and advocacy of patients, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;

(8) "Clinical Nurse Specialist," a person who practices the nurse specialty of a clinical nurse specialist as authorized pursuant to SDCL 36-9;

(9) "Circulating Nurse," a registered nurse trained, educated, or experienced in perioperative nursing who is responsible for coordinating and monitoring the nursing care and safety needs of a patient in the operating or procedure room and who also meets the needs of the operating room or procedure room team members during surgery. The circulating nurse works outside the sterile field in which the procedure takes place and duties include but are not limited to recording the progress of the procedure, accounting for instruments, and handling specimens.

(10) "Department," the South Dakota Department of Health;

(11) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-18 or a disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

(e) Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration;

(12) "Dietitian," a person who is registered with the Academy of Nutrition and Dietetics and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

(13) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

(14) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

(15) "Facility," the ambulatory surgical center licensed by the department that is not part of a hospital and which is not an office of a dentist, in which surgical procedures requiring the use of general anesthesia are performed upon patients;

(16) "General hospital," a hospital that provides at least medical, surgical, obstetrical, and emergency services;

(17) "Governing body," an organized body of persons that is ultimately responsible for the quality of care in a health care facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policy;

(18) "Healthcare worker," any paid person working in a health-care setting;

(19) "Hospital," is a general hospital, specialized hospital, or critical access hospital.

(20) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a patient;

(21) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";

(22) "Licensed health professional," a physician; physician's assistant; nurse practitioner; clinical nurse specialist, physical therapist, speech-language pathologist, occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;

(23) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients in a health care facility;

(24) "Mental disease," a mental condition that causes a person to lack sufficient understanding or capacity to make the responsible decisions to meet the ordinary demands of life, as evidenced by the person's behavior, or that causes a person to be a danger to self or others;

(25) "Misappropriation of patient or resident property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's or resident's belongings or money without the patient's or resident's consent;

(26) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

(27) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

(28) "Nurse aide," an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay;

(29) "Nurse practitioner," a person who practices the specialty nurse practitioner as authorized pursuant to SDCL 36-9A;

(30) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, patient care technicians, and restorative aides;

(31) "Nursing unit," a patient unit that is limited to one floor of a health care facility and has all patient room entrances and exits within sight or control of nursing personnel;

(32) "Patient," a person with a valid order by a practitioner for surgical services that does not require hospitalization and in which the expected duration of services would not exceed 24 hours and not require an overnight stay in an ambulatory surgical center;

(33) "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;

(34) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(35) "Physician assistant," a health care professional who meets the qualifications as defined and is licensed as authorized pursuant to SDCL chapter 36-4A;

(36) "Practitioner," one of the following:

- (a) A physician or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4;
- (b) A dentist licensed pursuant to SDCL chapter 36-6;
- (c) A podiatrist licensed pursuant to SDCL chapter 36-8;
- (d) An optometrist licensed pursuant to SDCL chapter 36-7;
- (e) A chiropractor licensed pursuant to SDCL chapter 36-5;
- (f) A pharmacist licensed pursuant to SDCL chapter 36-11;
- (g) A nurse practitioner licensed pursuant to SDCL chapter 36-9A;
- (h) A physician assistant licensed pursuant to SDCL chapter 36-4A;
- (i) A clinical nurse specialist pursuant to SDCL chapter 36-9; or

(37) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mental Illness Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;

(38) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;

(39) "Rehabilitation services," services which include physical therapy, occupational therapy, respiratory therapy, and speech therapy;

(40) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or the movement or normal function of a portion of the patient's body, excluding devices used for specific medical and surgical treatment;

(41) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

(42) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;

(43) "Specialized hospital," a hospital that provides only one service or a combination of services but does not provide all of the services required to qualify as a general hospital;

(44) "Transfer or discharge," the movement of a patient outside the facility;

(45) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

(46) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a patient as delegated by the nurse and authorized by chapter 20:48:04.01.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

44:76:01:02. Posting of License. The most current license issued by the department shall be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:76:01:03. Name of facility. Each facility shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:04:01:04. Facility capacity. The department shall establish the capacity of each facility pursuant to the physical plant and space provisions of this article. The patient census shall not exceed the capacity for which the facility is designed. A request by the facility for an adjustment in capacity because of change of purpose or construction shall be approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-7, 34-12-13.

44:76:01:05. Restrictions on acceptance of patients. A facility shall accept patients in accordance with the following restrictions:

(1) A patient accepted for care by a licensed facility shall be treated within the facility covered by the license;

(2) A facility may not accept patients who require care in excess of the classification for which it is licensed;

(3) Nursing and personal care, personnel essential to maintaining adequate staff may not leave a facility during their tour of duty in the facility to provide services to persons who are not patients of the facility with the exception of providing emergency care on premises contiguous to the facility's property;

(5) All facilities that accept patients suffering from developmental disabilities or mental diseases shall provide facilities and programs consistent with the needs of such patients;

(6) If persons are accepted for care or to participate in any programs or services their numbers shall be included in the evaluation of central use, activity, and staffing of nursing and programs; and the provision of an infection control program.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:76:01:06. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the patients. The area shall be open to inspection by the department.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:01:07. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any patient by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide patient. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing patient to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Each facility shall report to the department any unsafe water samples for pools or spas.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:76:01:08. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each licensed facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:01:10. Scope of article. Nothing in article 44:76 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:76:02
PHYSICAL ENVIRONMENT

Section

<u>44:76:02:01</u>	<u>Sanitation.</u>
<u>44:76:02:02</u>	<u>Pets.</u>
<u>44:76:02:03</u>	<u>Cleaning methods and facilities.</u>
<u>44:76:02:04</u>	<u>Chemicals used to sanitize, disinfect, or sterilize.</u>
<u>44:76:02:05</u>	<u>Sterilization.</u>
<u>44:76:02:06</u>	<u>Housekeeping cleaning methods and equipment.</u>
<u>44:76:02:07</u>	<u>Food service.</u>
<u>44:76:02:08</u>	<u>Handwashing facilities.</u>
<u>44:76:02:09</u>	<u>Linen.</u>
<u>44:76:02:10</u>	<u>Infection prevention and control.</u>
<u>44:76:02:11</u>	<u>Plumbing.</u>
<u>44:76:02:12</u>	<u>Water supply.</u>
<u>44:76:02:13</u>	<u>Ventilation.</u>
<u>44:76:02:14</u>	<u>Lighting.</u>
<u>44:76:02:15</u>	<u>Refuse and waste disposal.</u>
<u>44:76:02:16</u>	<u>Insect and rodent control.</u>
<u>44:76:02:17</u>	<u>Sewage disposal.</u>
<u>44:76:02:18</u>	<u>Occupant protection.</u>
<u>44:76:02:19</u>	<u>Area requirements for currently licensed patient rooms.</u>
<u>44:76:02:20</u>	<u>Physical plant changes.</u>
<u>44:76:02:21</u>	<u>Location.</u>
<u>44:76:02:22</u>	<u>Heating and cooling.</u>
<u>44:80:02:23</u>	<u>Other hazardous conditions.</u>

44:76:02:01. Sanitation. The facility shall be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases to patients, personnel, visitors, and the community at large. This requirement shall be accomplished by providing the physical resources, personnel, and technical expertise necessary to ensure good public health practices for institutional sanitation.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:02. Pets. Any pet kept in or visiting a facility may not negatively affect the well-being of patients.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:76:02:03. Cleaning methods and facilities. The facility shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, disinfecting, or sterilizing all work areas,

equipment, utensils, and medical devices used for patients' care. Common use equipment shall be disinfected or sterilized after each use. Facilities shall have separate clean and soiled utility rooms.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:76:02:04. Chemicals used to sanitize, disinfect, or sterilize. The label of chemicals used to sanitize, disinfect, or sterilize shall indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2)

44:76:02:05. Sterilization. Instruments, supplies, utensils and equipment which are not single service shall be decontaminated before sterilization in a manner that will make them safe for handling by personnel. Supplies and equipment commercially prepared and sterilized to retain sterility indefinitely are acceptable in lieu of sterilization in the facility. Autoclaves used for steam sterilization shall be bacteriologically monitored at least weekly. Supplies and equipment sterilized and packaged in the facility shall have the processing date on the package and shall be reprocessed in accordance with any specific manufacturer's recommendation for the packaging.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:76:02:06. Housekeeping cleaning methods and equipment. The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and copies made available to all housekeeping personnel. All parts of the facility shall be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for patient use shall be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in medical facilities shall be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. Cleaning shall include all environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms except medical equipment, supplies, or devices that are the responsibility of other services or departments of the facility.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:76:02:07. Food service. Food services if provided shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. Any food service provided from an outside food establishment shall be inspected by a local, state, or federal agency. In addition, a mechanical dishwasher shall be provided in all facilities providing food service. The facility shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation if any part of the food service is provided by the facility.

Source:

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:76:02:08. Handwashing facilities. Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and hand cleanser shall be located in dietary areas, utility rooms, staff stations, pharmacies, laboratories, surgical suites, physical therapy rooms, restorative therapy rooms, examination and treatment rooms, laundry, and all toilet rooms. If existing faucets and controls are replaced or changed, they shall be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

Cross-Reference: Plumbing fixture devices, § 44:76:12:14.

44:76:02:09. Linen. The supply of linens and towels shall equal three times the number of post operative rooms. The facility shall have written procedures for the storage and handling of soiled and clean linens. The facility shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Commingled patients' personal clothing, common-use linen, such as towels, washcloths, gowns, bibs, protective briefs, and bedding, any isolation clothing, and housekeeping items shall be processed by methods that assure disinfection. The facility shall process laundry following the laundry equipment and cleaning agent recommendations. If hot water is used for disinfection, minimum water temperatures supplied for laundry purposes shall be 160 degrees Fahrenheit (71 degrees centigrade). If chlorine bleach is added to the laundry process to provide 100 parts per million or more of free chlorine, the minimum hot water temperatures supplied for laundry purposes may be reduced to 120 degrees Fahrenheit (48.8 degrees centigrade). The facility may choose to wash common-use linen and any isolation clothing in water temperatures less than 120° F. if the following conditions are met:

(1) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility;

(2) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff;

(3) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations; and

(4) The facility ensures that staff monitors chemical usage and wash water temperatures at least monthly to ensure conformance with the chemical supplier's instructions.

Any clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in quantity as recommended by the garment or detergent manufacturer. The facility shall have distinct areas for the storage and handling of clean and soiled linens. Those areas used for the storage and handling of soiled linens shall be negatively pressurized. The facility shall establish special procedures for the handling and processing of contaminated linens. Soiled linen shall be placed in closed containers prior to transportation. To safeguard clean linens from

cross contamination, the linens shall be transported in containers used exclusively for clean linens, shall be kept covered with dust covers at all times while in transit or in hallways, and shall be stored in areas designated exclusively for this purpose. A written request for any modification of the requirements of this section shall be reviewed and approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:76:02:10. Infection prevention and control. The infection prevention and control program shall utilize the concept of standard precautions as the basis for infection prevention and control program. Bloodborne pathogen control shall be maintained according to the requirements contained in 29 C.F.R. 1910.1030, July 1, 2006. The facility shall designate a qualified professional with training in infection control to be responsible for the implementation of the infection control program including surveillance and reporting activities. There shall be written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each facility shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). There shall be a method of control used in relation to the sterilization of supplies and a written policy requiring sterile supplies to be reprocessed. The facility shall provide orientation and continuing education to all personnel on the facility's staff on the cause, effect, transmission, prevention, and elimination of infections. Each facility shall develop a written policy for evaluation and reporting of any employee with a reportable infectious disease.

Source:

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1).

44:76:02:11. Plumbing. Facility plumbing systems shall be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing shall be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility. Plumbing may not constitute a source of contamination of food equipment or utensils or create an unsanitary condition or nuisance.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

44:76:02:12. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Each private water supply shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the facility, including fire fighting requirements. The hot water system shall be capable of supplying the work and patient areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by patients may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for patient use shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. If testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-References: Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:76:02:13. Ventilation. Electrically powered exhaust ventilation shall be provided in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air-handling system.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:14. Lighting. Spaces occupied by people, machinery, and equipment within buildings and their approaches and parking lots shall have artificial lighting at a level for general safety. Required exits shall be equipped with continuous emergency lighting. Emergency power shall be provided if the main source of power fails.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:15. Refuse and waste disposal. Garbage, refuse, and waste shall be handled and disposed of in a safe and sanitary manner. Final disposal of all refuse and waste shall comply with articles 74:27 and 74:28. Putrescible garbage shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:16. Insect and rodent control. The facility shall take effective measures to protect against the entrance into the facility and the breeding or presence on the premises of rodents, flies, roaches, and other vermin. The facility may use chemical substances of a poisonous nature in accordance with the requirements of this section to control or eliminate various types of vermin. The substances shall be properly colored and labeled to identify them as poisons, shall be used and stored in a safe manner, and may not be stored with food or drugs used for human consumption. Extreme care shall be taken to prevent any poisons from contaminating food or food products.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:17. Sewage disposal. Sewage shall be disposed of in a public sewage works system or, in its absence, in a manner approved by the department in accordance with the provisions of SDCL chapter 34A-2.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:76:02:18. Occupant protection. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the patients admitted to the facility. The facility shall take at least the following precautions:

- (1) Develop and implement a written and scheduled preventive maintenance program;
- (2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by patients;
- (3) Provide a call system for each patient recovery station, preoperative and postoperative holding space, and in all toilet rooms and bathing facilities routinely used by patients. The call system shall be capable of being easily activated by the patient and shall register at a staff station serving the unit. A wireless call system may be used;
- (4) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;
- (5) Portable space heaters, portable halogen lamps, household-type electric blankets, or house-hold heating pads may not be used in a facility;
- (6) Any light fixture located over a patient recovery station, preoperative and postoperative holding spaces, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area shall be equipped with a lens cover or a shatterproof lamp;
- (7) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and
- (8) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: **NFPA 99 Health Care Facilities**, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:76:02:19. Area requirements. Each facility shall be constructed, equipped, and operated to maintain the privacy and dignity of all patients. In a multi-patient recovery room, each patient recovery area shall be able to be separated from the other patients by privacy curtains.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:02:20. Physical plant changes. A facility shall submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change shall have the approval of the department before it is made.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:02:21. Location. The location of facilities shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. Facilities shall be served by good, passable roads. Easy accessibility for employees, visitors, and fire-fighting services shall be maintained.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:76:02:22. Heating and cooling. The temperature in any occupied space in the facility shall be maintained between 68 and 80 degrees Fahrenheit during business hours.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:23. Other hazardous conditions. A facility may be directed to remove or correct other hazardous conditions not covered in this chapter if the department considers the conditions to have a potential to cause injury or illness to the patients or staff.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

CHAPTER 44:76:03

FIRE PROTECTION

Section

44:76:03:01 Fire safety code requirements.

44:76:03:02 General fire safety.

44:76:03:03 Fire protection equipment.

44:76:03:04 Fire alarm systems.

44:76:03:01. Fire safety code requirements. Each facility shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:76:03:02. General fire safety. Each facility covered under this article shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. A minimum of two staff members shall be on duty at all times. In a multilevel facility, at least one staff

member shall be on duty on each floor containing occupied beds. Compliance with this section does not eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:76:03:01.

44:76:03:03. Fire extinguisher equipment. Fire extinguisher equipment shall be installed and maintained by the following minimum standards:

(1) Portable fire extinguishers shall have a minimum rating of 2-A:10-B:C;

(2) Fire extinguisher equipment shall be inspected monthly and maintained yearly; and

(3) Approved fire extinguisher cabinets shall be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls shall be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire extinguisher cabinets shall be a safety glazing material. Fire extinguisher cabinets shall be identified with a sign mounted perpendicular to the wall surface above the cabinet or with sign mounted on the sides of cabinet that are visible from the corridor.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:03:04. Fire alarm systems. A manually operated, electrically supervised fire alarm system shall be installed in each facility.

Source:

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

CHAPTER 44:76:04

MANAGEMENT AND ADMINISTRATION

Section

<u>44:76:04:01</u>	<u>Administrative management.</u>
<u>44:76:04:02</u>	<u>Governing body.</u>
<u>44:76:04:03</u>	<u>Medical staff.</u>
<u>44:76:04:04</u>	<u>Administrator.</u>
<u>44:76:04:05</u>	<u>Personnel.</u>
<u>44:76:04:06</u>	<u>Personnel training.</u>
<u>44:76:04:07</u>	<u>Employee health program.</u>
<u>44:76:04:08</u>	<u>Admissions of patients.</u>
<u>44:76:04:09</u>	<u>Disease prevention.</u>
<u>44:76:04:10</u>	<u>Tuberculin screening requirements.</u>
<u>44:76:04:11</u>	<u>Care policies.</u>

44:76:04:12	Transfer agreement.
44:76:04:13	Quality assessment.
44:76:04:14	Discharge planning.

44:76:04:01. Administrative management. Each facility shall comply with §§ 44:76:04:02 to 44:76:04:12, inclusive.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:02. Governing body. Each facility operated by limited liability partnership, a corporation, or political subdivision shall have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility. The governing body of a facility shall determine which categories of practitioners are eligible candidates for appointment to the medical staff and shall credential and grant admitting or patient care privileges to appointees to the medical staff. The governing body may appoint members to the medical staff only after considering the recommendations of the existing members of the medical staff. In addition, the governing body shall do the following:

(1) Appoint the medical staff and grant privileges in accordance with the bylaws of the medical staff and governing body;

(2) Maintain personnel records on each employee, including job application, professional licensing information, and health information;

(3) Establish procedures for transfer to a hospital of patients requiring immediate medical care beyond the capacity of the ambulatory surgery center;

(4) Assure that all patients admitted to the ambulatory surgery center are under the care of a physician who is a member of the medical staff;

(5) Assure the provision of equipment is in good repair within the ambulatory surgery center to provide efficient services and protection to the patients and staff;

(6) Provide for the patient all essential medical information, including diagnosis, if a patient is transferred to another health care facility; and

(7) Provide a written plan for the evacuation of patients, visitors, and personnel in the event of fire or other disaster within the ambulatory surgery center and an alarm system to notify personnel. Personnel shall be acquainted with the evacuation plan.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

Cross-Reference: Medical staff, § 44:76:04:03.

44:76:04:03. Medical staff. A facility shall have a medical staff organized under bylaws and rules approved by the governing body and responsible to the governing body for the quality of all medical care

provided patients in the facility and for the ethical and professional practices of its members. The medical staff shall include physicians, but it may also include other practitioners appointed by the governing body. If the medical staff has an executive committee, a majority of the members of the committee shall be physicians. The responsibility for the conduct of medical staff affairs shall be assigned to an individual physician. The medical staff shall establish a credentials committee to review the qualifications of practitioners applying for admitting or patient care privileges and recommend to the governing body practitioners eligible for appointment to the medical staff by the governing body. The review shall include recommendations regarding delineation of admitting and patient care privileges. The medical staff shall conduct appraisals of its members at least every two years. The review shall include recommendations regarding delineation of privileges. In addition, the medical staff shall do the following:

(1) Hold at least quarterly meetings for which records of attendance and minutes are kept;

(2) At least biennially review and analyze the clinical experience of its members and the medical records of patients on sampling or another basis. All techniques and procedures involving diagnosis and treatment of patients shall be reviewed annually and shall be subject to change by the medical staff;

(3) Assure that all persons admitted to the ambulatory surgery center are under the care of a physician; and

(4) Assure that all medical orders are given by a practitioner and recorded in accordance with the medical staff bylaws and rules. All orders shall be signed or countersigned by the attending physician.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

Cross-Reference: Governing body, § 44:76:04:02.

44:76:04:04. Administrator. The governing body shall designate a qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:05. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. Staff members on duty shall be awake at all times. Any supervisor shall be 18 years of age or older. Written job descriptions and personnel policies and procedures shall be made available to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility shall establish and follow policies regarding special duty or staff members on contract.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:06. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

- (1) Fire prevention and response. The facility shall conduct fire drills quarterly for each shift to provide training for all staff;
(2) Emergency procedures and preparedness;
(3) Infection control and prevention;
(4) Accident prevention and safety procedures;
(5) Proper use of restraints;
(6) Patient rights;
(7) Confidentiality of patient information;
(8) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;
and
(9) Care of patients with unique needs;

Personnel whom the facility determines will have no contact with patients are exempt from training required by subdivisions (5) and (9) of this section.

Additional personnel education shall be based on facility identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:07. Employee health program. The facility shall have an employee health program for the protection of the patients. All personnel shall be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties or within 14 days after employment including an assessment of previous vaccinations and a tuberculin skin tests or blood assay test. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Any personnel absent from duty because of a reportable communicable disease which may endanger the health of patients and fellow employees may not return to duty until they are determined by a physician, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Reportable diseases, ch 44:20:01.

44:76:04:08. Admissions of patients. The governing body of the facility shall establish and maintain admission, assessment, transfer, and discharge policies, with written evidence to assure the patients admitted are within the licensure classification of the facility or its distinct part. The facility may admit, on the orders of a practitioner, only those patients for whom it can provide care safely and effectively.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:09. Disease prevention. Each facility shall provide an organized infection control program for preventing, investigating and controlling infection. The facility shall establish written policies regarding visitation in the various services and departments of the facility. Visitors who have an infectious disease, who have recently recovered from such a disease, or who have recently had contact with such a disease shall be discouraged from entering the facility.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

44:76:04:10. Tuberculin screening requirements. Each facility shall develop criteria to screen healthcare workers for *Mycobacterium tuberculosis* (TB) based on the guidelines issued by Centers for Disease Control and Prevention. Each facility shall establish policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment that include the key components of responsibility, surveillance, containment, and education. The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

Tuberculin screening requirements for healthcare workers are as follows:

(1) Each new healthcare worker shall receive the two-step method of tuberculin skin test or a TB blood assay test to establish a baseline within 14 days of employment. Any two documented tuberculin skin tests completed within a 12 month period prior to the date of employment can be considered a two-step or one blood assay TB test completed within a 12 month period prior to the date of employment can be considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new employee transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation of the last skin testing completed within the prior 12 months. Skin testing or TB blood assay test are not necessary if documentation is provided of a previous positive reaction to either test. Any new healthcare worker who has a newly recognized positive reaction to the skin test or TB blood assay test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) A new healthcare worker who provides documentation of a positive reaction to the tuberculin skin test or TB blood assay test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

(3) Each healthcare worker with a history of a positive reaction to the tuberculin skin test or blood assay shall be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*. If this evaluation results in suspicion of active tuberculosis, the person shall be referred for further medical evaluation to confirm the presence or absence of tuberculosis.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9.

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Reference: Reference: Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005 (RR17).

44:76:04:11. Care policies. Each facility shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the patients' needs.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:12. Transfer agreements. Each ambulatory surgery center shall have in effect a transfer agreement with one or more hospitals to provide services not available on site. The agreement shall provide for an interchange of medical and other necessary information. The facility shall have an effective procedure for the immediate transfer to a hospital of patients requiring emergency medical care beyond the capabilities of the facility. The hospital shall be a local Medicare participating or local nonparticipating hospital that meets the requirements for payment for emergency services. The facility shall have a written transfer agreement with a hospital or all physicians performing surgery in the facility have admitting privileges at a hospital.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:76:04:13. Quality assessment. Each licensed facility shall provide for on-going evaluation of the quality of services provided to patients that includes any contract services. Components of the quality assessment evaluation shall include establishment of facility standards; interdisciplinary review of patient services to identify deviations from the standards and actions taken to correct deviations; patient satisfaction surveys; utilization of services provided; and documentation of the evaluation and report to the governing body.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:76:04:14. Discharge planning. A facility shall have policies and procedures for discharge planning including the person responsible, members of the discharge planning team, a list of all area agencies and resources, and a description of the process. Outside caregivers may be included in discharge planning conferences.

The facility shall initiate planning with applicable agencies to meet identified needs, and patients shall be offered assistance to obtain needed services upon discharge. Information necessary for coordination and continuity of care shall be made available to whomever the patient is discharged and to referral agencies as required by the discharge plan.

The facility shall ensure each has a discharge order signed by the physician who performed the surgery or procedure. All patient's shall be discharged in the company of a responsible adult, except those patient's exempted by the attending physician as outlined by the facility policy. Each patient shall be provided written discharge instructions.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

CHAPTER 44:76:05

PHYSICIAN SERVICES

Section

44:76:05:01 Admissions.

44:76:05:02 Medical orders.

44:76:05:03 Physician assistant, nurse practitioner, or clinical nurse specialist.

44:76:05:01. Admissions. Each patient admitted may be admitted only on the order of a practitioner and the patient's health care shall continue under the supervision of a physician who is a member of the medical staff. Before or on admission of a patient, the patient's physician shall provide the staff of the facility with documented information regarding current medical findings, admitting diagnoses, and written orders for the immediate care of the individual.

The patient's history and physical examination shall be completed no more than seven days prior to admission; or within thirty days prior to admission with documentation of an update of the patient's current medical status completed within seven days prior to admission. The patient's history and physical examination shall be completed and placed in the medical record prior to surgery except in emergency situations. In emergency situations when a completed history and physical examination cannot be completed prior to surgery, a brief admission note on the patient record is necessary. The note shall include at minimum critical information about the patient's condition, including pulmonary status, cardiovascular status, blood pressure, and vital signs. The history and physical examination shall specifically state the patient and anesthesia choice is appropriate for the ambulatory surgery center setting.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:76:05:02. Medical orders. All medical orders, including verbal orders, shall be in writing or electronic format and shall be dated, timed, and authenticated promptly by the practitioner. Verbal orders are for medications, treatments, interventions, or other patient care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. Verbal orders may be taken only when there is an urgent need to initiate or change a medical order. The practitioner shall time, date, and authenticate the orders for all patients promptly. Each practitioner is responsible for documenting written or electronic orders and progress notes on each patient's medical record.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:76:05:03. Physician assistant, nurse practitioner, or clinical nurse specialist. If the services of a physician assistant, nurse practitioner, or clinical nurse specialist are utilized, the facility shall develop written policies regarding their role in the care of the patient.

Source:

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

CHAPTER 44:76:06

NURSING AND RELATED CARE SERVICES

Section

<u>44:76:06:01</u>	<u>Nursing services.</u>
<u>44:76:06:02</u>	<u>Nursing policies and procedures.</u>

44:04:06:01. Nursing services. Each facility shall have an organized nursing service under the direction of a registered nurse. At least one registered nurse shall be on duty in the ambulatory surgery center at all times when a patient is in the facility. Written policies and procedures consistent with the standards of nursing practices shall be developed for the direction and guidance of nursing personnel. All licensed practical nurses and other nursing personnel involved in patient care shall be under the direct supervision of a registered nurse. When general anesthetics are used, at least one registered nurse other than the individual administering anesthesia shall be available in each operating room during surgical procedures. Nursing personnel shall be familiar with the location and trained in the operation and use of emergency and resuscitative equipment. A facility shall maintain a sufficient number of nursing personnel on duty at all times to provide supervision of and nursing care for all patients. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any nonemployed, noncontracted skilled nursing and therapy providers pursuant to SDCL chapters 36-9, 36-10, and 36-31. The perioperative registered nurse monitoring the patient receiving moderate sedation/analgesive shall have no other responsibilities that would require leaving the patient unattended or compromise continuous monitoring during the procedure. The perioperative registered nurse shall continuously monitor the patient's heart rate and function via electrocardiogram; oxygenation using pulse oximetry; respiratory rate and adequacy of ventilation, blood pressure; level of consciousness, comfort level, and skin condition at regular intervals. Annually education and competency shall be completed for nursing staff responsible for moderate sedation.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

Cross-Reference: Scope and standards of nursing practice -- Basic role, § 20:48:04:01.

44:76:06:02. Nursing policies and procedures. The facility shall establish and maintain policies and procedures that provide the nursing staff with methods of meeting its administrative and technical responsibilities in providing care to patients. The policies shall include at least the following:

- (1) The noting of diagnostic and therapeutic orders;
- (2) Assigning the nursing care of patients;
- (3) Administration and control of medications;
- (4) Charting by nursing personnel;
- (5) Infection control;
- (6) Patient safety; and
- (7) Delineation of orders from nonphysician practitioners.

Source:

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

CHAPTER 44:76:07

MEDICATION CONTROL

Section

<u>44:76:07:01</u>	<u>Pharmaceutical services.</u>
<u>44:76:07:02</u>	<u>Policies and procedures.</u>
<u>44:76:07:03</u>	<u>Written orders for medication required.</u>
<u>44:78:07:04</u>	<u>Storage and labeling of medications and drugs.</u>
<u>44:79:07:05</u>	<u>Control and accountability of medications and drugs.</u>
<u>44:70:07:06</u>	<u>Documentation of drug disposal.</u>
<u>44:76:07:07</u>	<u>Medication administration.</u>
<u>44:76:07:08</u>	<u>Medication records.</u>
<u>44:76:07:09</u>	<u>Administration of facility pharmacy.</u>

44:76:07:01. Pharmaceutical services. The requirements for pharmaceutical services in ambulatory surgery centers are as follows:

- (1) A physician or a pharmacist shall be responsible for the supervision of drug stocks in the facility;
- (2) Records shall be kept of stock supplies of all drugs and shall give an accounting for all items purchased and dispensed;
- (3) Policies and procedures on drug handling, storing, labeling, and dispensing shall be in writing and available to personnel; and
- (4) All drugs in the facility shall be labeled with drug name, strength, and expiration date and shall be stored in specially designated, well illuminated cabinets, closets, or storerooms. Drug cabinets shall be accessible only to authorized individuals as outlined in the facilities policies and procedures. All drugs controlled pursuant to SDCL 34-20B shall be securely locked and shall be accessible only to authorized individuals.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:02. Policies and procedures. Each facility shall establish and practice methods and procedures for medication control that include the following:

- (1) A requirement that each patient's prescribing physician, physician assistant, nurse practitioner, or clinical nurse specialist provide to the facility electronic or written signed orders for any medications taken by the patient; authorization for medications or drugs kept on the person or in the room of the patient; and release of medications;
- (2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to patients or visitors with requirements for:
 - (a) Separate storage of poisons, topical medications, and oral medications;
 - (b) Each patient's medication to be stored in the container in which it was originally received and not transferred to another container; and
 - (c) A medication prescribed for one patient not to be administered to any other patient;
- (3) Self-administration of medications to be accomplished with the supervision and within the scope of practice by a designated employee of the facility to include:
 - (a) A description of the responsibilities of the patient, the patient's family members, and the facility staff; and

(b) The provision of written educational material explaining to the patient and the patient's family the patient's rights and responsibilities associated with self-administration; and

(4) The proper disposition of medicines that are discontinued because of the discharge or death of the patient, because the drug is outdated, or because the prescription is no longer appropriate to the care of the patient.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:03. Written orders for medication required. All medications or drugs administered to patients shall be ordered electronically or in writing and authenticated by the prescriber. Verbal orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse in facility. The prescriber shall date, time, and authenticate the orders for patients promptly. The practitioner shall date, time, and authenticate the orders for patients as soon as promptly. A policy on stop orders for antibiotics, anticoagulants, and controlled drugs shall be established based on recommendations of the medical staff.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:04. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to patients, or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to patients.

The medications or drugs of each patient for whom medications are facility-administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the patient's name, physician, physician assistant, or nurse practitioner's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

If a stock bottle system is used in a facility with a licensed pharmacy, the container shall be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:73:08:06. Licensed pharmacists are responsible for the labeling, relabeling, or altering of labels on medication containers.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:05. Control and accountability of medications and drugs. A patient may self-administer medications brought from home during their treatment or these medications may be administered by the facility staff if ordered by the attending physician, physician assistant, nurse practitioner, clinical nurse specialist and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one patient may not be administered to another. Patients may not keep medications on their person without a physician's, physician assistant, or nurse practitioner's order allowing self-administration. Written authorization by the patient's physician, physician assistant, or nurse practitioner shall be secured for the release of any medication to a patient upon discharge from the facility. The release of medication shall be documented in the patient's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:06. Documentation of drug disposal. Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

(1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to patient upon discharge after authorization by the patient's prescribing practitioner.

Documentation of destruction or disposal of medications shall be included in the patient's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to patient); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:07. Medication administration. Each medication administered shall be recorded in the patient's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the patient's physician, physician assistant, nurse practitioner's, or clinical nurse specialist and an entry made in the patient's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. All medications shall be administered to patients by personnel acting under delegation of a licensed nurse, or licensed to administer medications.

A person may not administer medications that have been prepared by another person.

Medication administration shall comply with §§ 44:76:08:02 to 44:76:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The supervising nurse shall provide an orientation to the unlicensed assistive personnel who will administer medications. The orientation shall be specific to the facility and relevant to the patients receiving administered medications.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:76:07:08. Medication records. Medication administration records shall be used and regularly checked against the practitioner's orders. Each medication administered shall be recorded in the patient's medical record and signed by the individual responsible.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:73:07:09. Administration of facility pharmacy. The pharmaceutical service of each facility with a licensed full or part-time pharmacy shall be directed by a licensed pharmacist accountable to the administration of the facility. Only prepackaged drugs or a single dose unit may be removed from the pharmacy when the pharmacist is not available. These drugs may be removed only by a designated registered nurse or physician, physician assistant, nurse practitioner, clinical nurse specialist in amounts sufficient only for immediate therapeutic needs. A record of such withdrawals shall be made by the designated nurse or the physician, physician assistant, nurse practitioner, or clinical nurse specialist making the withdrawal.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 44:76:08

MEDICAL RECORD SERVICES

Section

44:76:08:01 Medical record department.

44:76:08:02 Medical record department staff.

44:76:08:03 Written policies and confidentiality of records.

44:76:08:04 Record content.

44:76:08:05 Authentication.
44:76:08:06 Retention of medical records.
44:76:08:07 Storage of medical records.
44:76:08:08 Destruction of medical records.
44:76:08:09 Disposition of medical records on closure of facility or transfer of ownership.

44:76:08:01. Medical record department. There shall be an organized medical record system. A medical record shall be maintained for each level of care for each patient admitted to the facility.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:02. Medical record department staff. The medical record functions shall be performed by persons trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service shall have knowledge and training in the field of medical records.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:03. Written policies and confidentiality of records. There shall be written policies and procedures to govern the administration and activities of the medical record service. They shall include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a patient's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:04. Record content. Each medical record shall show the condition of the patient from the time of admission until discharge and shall include the following:

- (1) Identification data;
- (2) Consent forms, except in procedures determined emergencies;
- (3) History of the patient;
- (4) Any allergies and abnormal drug reactions;
- (5) Entries related to anesthesia administration;
- (6) A current overall plan of care;
- (7) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;
- (8) Diagnostic and therapeutic orders;
- (9) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech pathology;
- (10) Laboratory and radiology reports;
- (11) Description of treatments, diet, and services provided and medications administered;
- (12) All indications of an illness or an injury, including the date, the time, and the action taken regarding each;
- (13) An operative report with findings and techniques of the operation that include pre-operative and postoperative diagnosis; and

(14) Discharge diagnosis, including all discharge instructions for home care.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:05. Authentication. A facility shall ensure entries to the medical record timed, dated and signed or electronically authenticated. If the facility permits any portion of the medical record to be generated by electronic or optical means, policies and procedures shall exist to prohibit the use of authentication by unauthorized users.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:06. Retention of medical records. A facility shall retain medical records for a minimum of ten years from the actual visit date of service or patient care. The retention of the record for ten years is not affected by additional and future visit dates. Records of minors shall be retained until the minor reaches the age of majority plus an additional two years, but no less than ten years from the actual visit date of service or patient care. The retention of the record for ten years is not affected by additional and future visit dates.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical records, § 44:76:08:07.

44:76:08:07. Storage of medical records. A facility shall provide for filing, safe storage, and easy accessibility of medical records. The medical records shall be preserved as original records or in other readily retrievable and reproducible form. Medical records shall be protected against access by unauthorized individuals. All medical records shall be retained by the health care facility upon change of ownership.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Disposition of medical records on closure of facility or transfer of ownership, § 44:76:08:09.

44:76:08:08. Destruction of medical records. After the minimum retention period of ten years from the actual visit date of care outlined in § 44:76:09:06, the medical record may be destroyed at the discretion of the health care facility. Before the destruction of the medical record, the facility shall prepare and retain a patient index or abstract. The patient index or abstract shall include:

(1) Name;

(2) Medical record number;

(3) Date of birth;

(4) Summary of visit dates;

(5) Attending or admitting physician; and

(5) Diagnosis or diagnosis code.

The facility shall destroy the medical record in a way that maintains confidentiality.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:76:08:09. Disposition of medical records on closure of facility or transfer of ownership. If a facility ceases operation, the facility shall provide for safe storage and prompt retrieval of medical records and the patient indexes specified in § 44:76:09:08. The facility may arrange storage of medical records with another facility of the same licensure classification, transfer medical records to another health care provider at the request of the patient, relinquish medical records to the patient's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the facility shall notify the department in writing indicating the provisions for the safe preservation of medical records and their location and publish in a local newspaper the location and disposition arrangements of the medical records.

If ownership of the facility is transferred, the new owner shall maintain the medical records as if there was not a change in ownership.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical records, § 44:76:08:07.

CHAPTER 44:76:09

DIAGNOSTIC SERVICES

Section

44:76:09:01 Laboratory services.

44:76:09:02 Pathology services.

44:76:09:03 Technical laboratory operations.

44:76:09:04 Blood transfusion services.

44:76:09:05 Diagnostic x-ray services.

44:76:09:06 Radiological service policies and manuals required.

44:76:09:07 Radiological department personnel.

44:76:09:08 Radiological reports.

44:76:09:01. Laboratory services. Laboratory services performed in an ambulatory surgery center shall be under the supervision of a qualified director or shall be done by a laboratory that has a valid Clinical Laboratory Improvement Amendment (CLIA) certificate. Laboratory examinations necessary for diagnosis and treatment of the patient shall be performed in the facility or by arrangement. Laboratory examinations required on facility admissions are determined by the medical staff and bylaws. The original laboratory report shall be made a part of the patient's medical record.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

Note: CLIA applications are obtained from the South Dakota Department of Health, Office of Licensure and Certification, 615 East 4th Street, Pierre, SD 57501. Telephone (605) 773-3356, Division of Laboratory Standards and Performance, Health Standards and Quality Bureau, Centers for Medicare/Medicaid Services, 7500 Security Boulevard S-2-11-07, Baltimore, MD 21244-1850. Telephone (410)-786-3531, or online at www.phppo.cdc.gov/clia/default.asp.

44:76:09:02. Pathology services. Each laboratory shall have the services of a pathologist available within the facility or by arrangement. Any tissue removed from a patient shall be handled as outlined in facility policy. Pathology services by arrangement shall be governed by written policies and procedures establishing guidelines for the prompt transportation of specimens and submission of reports.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:76:09:03. Technical laboratory operations. Each laboratory shall have a policy and procedural manual for each phase of operation. There shall be a quality control program to insure the reliability of laboratory test data. Each item of diagnostic test equipment shall be routinely checked and shall be precise in terms of calibration as shown by records maintained in the laboratory.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:76:09:04. Blood transfusion services. Each facility providing transfusion services shall provide facilities and equipment for the procurement, storage, and administration of blood products. Blood, blood products, and equipment required for their administration shall be provided to meet the needs of the patients. The transfusion service shall be under the supervision of the medical staff. There shall be written policies and procedures regarding administration of blood products, as well as the investigation of possible transfusion reactions.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:76:09:05. Diagnostic x-ray services. Each facility shall be able to provide or arrange with an outside service for the provision of diagnostic radiology services in connection with surgery to be performed. Safety and sanitation procedures as required by the department for the radiological service which will protect the patient and the radiological worker shall be established and enforced. There shall be a quality control program with records maintained in the facility.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

Cross-Reference: Radiation safety, art 44:03.

44:76:09:06. Radiological service policies and manuals required. There shall be a policy and procedural manual for all phases of the radiological services. If radioactive isotopes are to be used within the facility, policies which are approved by the medical staff shall be established.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:76:09:07. Radiological department personnel. There shall be trained personnel to provide the scope of services offered by the facility. If therapeutic radiological services are provided, the services shall be under the direct supervision of a radiologist.

Source:

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13(11).

44:76:09:08. Radiological reports. Complete signed reports of the interpretations of all radiological examinations made by practitioners shall be made a part of the patient's clinical record. The radiological department shall have a policy that requires any record to be retained for at least ten years and any film to be retained for at least five years.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

CHAPTER 44:76:10

SURGICAL SERVICES

Section

44:76:10:01 Scope of surgical services.

44:76:10:02 Surgical services.

44:76:10:03 Surgical records.

44:76:10:04 Anesthesia services.

44:76:10:05 Emergency equipment.

44:76:10:06 Emergency services.

44:76:10:01. Scope of surgical services. The ambulatory surgery center services are limited to those surgical and other medical procedures that may be safely performed in a dedicated operating room or procedure rooms and which may require a postoperative recovery room or short-term, not overnight, convalescent room. An ambulatory surgery center may not retain patients overnight. Surgical procedures which may not be performed in an ambulatory surgery center includes those that:

- (1) Generally result in extensive blood loss;
- (2) Require major or prolonged invasion of body cavities;
- (3) Directly involve major blood vessels;
- (4) Are generally emergent or life-threatening in nature; or
- (5) Require admission to a hospital on an inpatient basis in order to have the procedure performed or to recover from the procedure.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:10:02. Surgical services. Each facility in which surgery is performed shall maintain an operating suite with appropriate equipment, including an X-ray view box or film illuminator. The suite shall be supervised by a registered nurse with training and experience in operating room services. A circulating

nurse shall be assigned to each operating or procedure room during each procedure and shall be present for the duration of the surgical procedure unless it becomes necessary for the nurse to leave the operating or procedure room as part of the procedure or the nurse is relieved by another circulating nurse. There shall be written policies for surgical services which govern surgical staff privileges, supportive services of other professional and paramedical personnel, and operating suite procedures. Policies and procedures pertaining to safety controls shall be developed and implemented. Safety controls shall be posted. A roster of surgical staff members which delineates the surgical privileges of each member shall be maintained on file in the operating suite.

Source:

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:76:10:03. Surgical records. When surgery is performed, the following record requirements apply:

(1) An operating room register shall be maintained and shall include the patient's name, identification number or medical record number, date of operation, inclusive or total time of the operation or procedure, name of surgeon and assistant(s), nursing personnel, type of anesthesia and name of person administering, operation or procedure performed, preoperative and postoperative diagnosis, and age of patient;

(2) The patient's medical record, including at least a medical history, a copy of the physician's examination, copies of laboratory tests, radiology reports, a signed consent for the surgical procedure to be performed, and a preoperative diagnosis, shall be made available in the surgical suite at the time of surgery; and

(3) An accurate and complete description of the operative procedure that includes a preoperative and postoperative diagnosis shall be recorded by the operating surgeon within 48 hours following completion of surgery.

Source:

General Authority: SDCL 34-12-13(10) and (12).

Law Implemented: SDCL 34-12-13(10) and (12).

44:76:10:04. Anesthesia services. Each facility shall provide anesthesia services organized, directed, and integrated with other related services commensurate with the scope and needs of patients. The delivery of anesthesia care to patients shall be provided by qualified persons according to written policies relating to anesthesia procedures approved by the medical staff. Safety and sanitation controls shall be established. All anesthetizing locations which are not protected against potential explosive hazards shall have a legible sign posted prohibiting the use of flammable gas as anesthetics. The requirements for anesthesia services in ambulatory surgery centers are as follows:

(1) The anesthesia service shall be under the direction of a physician;

(2) A physician shall be on the premises during the postanesthetic recovery period until all patients are alert or discharged;

(3) When a general anesthetic is used, at least one registered nurse shall be in the recovery room during the patient's postanesthetic recovery period;

(4) Policies and procedures on the administration of anesthetics shall be developed by the medical staff and approved by the governing body;

(5) Prior to undergoing general anesthesia, patients shall have a history and physical examination by a physician, including necessary laboratory examinations;

(6) Before discharge from the facility, each patient shall be evaluated by a physician for proper anesthesia recovery;

(7) No flammable anesthetics shall allowed; and

(8) All anesthetics shall be administered by an anesthesiologist or anesthesiologist, except for local anesthetic agents which may be administered by the attending physician.

Source:

General Authority: SDCL 34-12-13(12).

Law Implemented: SDCL 34-12-13(12).

44:76:10:05. Emergency equipment. The facility governing body and medical staff shall coordinates, develops, and revises policies and procedures to specify the type of emergency equipment required for use in the facilities operating and procedure rooms. The equipment shall meet the following requirements;

(1) Be immediately available for use during emergency situations;

(2) Be appropriate for the facility's patient population; and

(3) Be maintained by appropriate personnel.

44:76:10:06. Emergency services. All facilities referring patients for transfer must initiate essential life-saving measures and provide emergency procedures within the capacity of the facility that will minimize aggravation of a patient's condition during transfer. The medical staff shall determine appropriate personnel, equipment, drugs, and supplies for emergency care and shall maintain them readily available.

CHAPTER 44:76:11

CONSTRUCTION STANDARDS

Section

<u>44:76:11:01</u>	<u>Application of chapter.</u>
<u>44:76:11:02</u>	<u>Administration department.</u>
<u>44:76:11:03.</u>	<u>Medical records unit.</u>
<u>44:76:11:04.</u>	<u>Storage rooms.</u>
<u>44:76:11:05</u>	<u>Service area in care units.</u>
<u>44:76:11:06</u>	<u>Dietary department.</u>
<u>44:76:11:07</u>	<u>Food preparation services and equipment.</u>
<u>44:76:11:08</u>	<u>Laundry.</u>
<u>44:76:11:09</u>	<u>Employee facilities.</u>
<u>44:76:11:10</u>	<u>Corridor restrictions.</u>
<u>44:76:11:11</u>	<u>Doors.</u>
<u>44:76:11:12</u>	<u>X ray protection.</u>
<u>44:76:11:13</u>	<u>Ceiling heights.</u>

44:76:11:14	<u>Insulation.</u>
44:76:11:15	<u>Floor surface finish.</u>
44:76:11:16	<u>Wall and ceiling finish.</u>
44:76:11:17	<u>Elevators.</u>
44:76:11:18	<u>Steam and hot water systems.</u>
44:76:11:19	<u>Ventilating systems.</u>
44:76:11:20	<u>Filters.</u>
44:76:11:21	<u>Ducts.</u>
44:76:11:22	<u>Food service ventilation.</u>
44:76:11:23	<u>Plumbing fixtures.</u>
44:76:11:24	<u>Water supply systems.</u>
44:76:11:25	<u>Vacuum breakers.</u>
44:76:11:26	<u>Hot water systems.</u>
44:76:11:27	<u>Drainage systems.</u>
44:76:11:28	<u>Electrical distribution system.</u>
44:76:11:29	<u>Lighting.</u>
44:76:11:30	<u>Receptacles or convenience outlets.</u>
44:76:11:31	<u>Nurses call system.</u>
44:76:11:32	<u>Submittal of plans and specifications.</u>
44:76:11:33	<u>Pipe requirements.</u>
44:76:11:34	<u>Detached structures.</u>

44:76:11:01. Application of chapter. This chapter applies to any new facility and to any renovation, addition, and change in space use of any currently approved existing facility. Accessible and usable accommodations shall be available to the public, staff, and patients with disabilities.

Each facility shall comply with **NFPA 101 Life Safety Code**, 2012 edition.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

References: **NFPA 101 Life Safety Code**, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:73:11:02. Administration department. The administration department shall include a business office, information center, administrator's office, admitting office, staff lounge, medical library, lobby, and public and staff toilet rooms. There shall be space for inservice training.

Source:

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:73:11:03. Medical records unit. The medical records unit shall include an active record storage area; record review and dictating area; work area for sorting, recording, or microfilming; and an inactive record storage area which may be omitted if microfilming or electronic medical records are used.

Source:

General Authority: SDCL 34-12-13(3) and (10).

Law Implemented: SDCL 34-12-13(3) and (10).

44:73:11:04. Storage rooms. There shall be at least 20 square feet (1.858 square meters) of central storage provided for each operating or procedure room. General storage shall be concentrated in one area in the facility, but up to 50 percent of the general storage space may be provided on the premises. Each patient shall be provided with closet or locker to secure personal belongings.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:11:05. Service area in care units. Each care unit shall contain a service area which includes the following:

- (1) Staff station with convenient access to handwashing facilities;
- (2) Staff charting;
- (3) Communications;
- (4) Storage for supplies and personal effects;
- (5) Staff toilet room;
- (6) Nurses' office;
- (7) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;
- (8) Soiled workroom which contains a work counter with a handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;
- (9) Medicine room adjacent to the staff station with a sink, refrigerator, locked storage, and facilities for preparation and administration of medication;
- (10) Clean linen storage area in an enclosed storage space;
- (12) Nourishment station containing refrigerated storage, self-dispensing ice machine, and a sink for serving between-meal nourishments;
- (11) Equipment storage room on each patient wing or floor for storage of patient care equipment such as intravenous stands, inhalators, air mattresses, walkers, wheelchairs, and similar bulky equipment;
- (12) Janitor's closet for storage of housekeeping supplies and equipment which contains a floor receptor or service sink. The janitor's closet space and equipment may be incorporated into the soiled utility room;
- (13) Multipurpose rooms for staff, patients, and patients' families for conferences, reports, education, training sessions, and consultation; and
- (14) Preoperative and postoperative holding rooms or spaces.

Any modification to the standard may be made. A modification shall be requested in writing by the facility and approved by the department.

Source:

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:11:06. Dietary department. Construction, equipment, and installation of the dietary department if provided shall comply with or exceed the minimum standards in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The installation shall comply with § 44:76:11:07 unless a commercially prepared dietary service, meals, or disposables are used. If a commercial service is used, dietary areas and equipment shall meet the requirements for sanitary storage, processing, and handling.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:76:11:07. Food preparation services and equipment. Any dietary area shall be completely cleanable by conventional methods. The location and design of the dietary area if provided shall enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. If a dietary area is provided it shall contain equipment and space provided shall include the following:

(1) A dishwashing area including a commercial dishwasher supplied with 180 degree Fahrenheit (82 degrees centigrade) rinse water or a chemical sanitizing cycle, a garbage disposal, a garbage can, a clean dish table, and handwashing facilities;

(2) Aisles within the dietary area not less than 3 feet (0.91 meters) wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic shall be at least 4 feet (1.22 meters) wide;

(3) Pot and pan washing facilities, including a three-compartment sink with 18 inch drainboards on both sides and drying and storage facilities for pots and pans;

(4) A vegetable preparation area with a two-compartment sink with drainboards on both sides;

(5) Cart storage areas;

(6) Waste disposal facilities;

(7) Employee dining facilities;

(8) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink;

(9) Food production equipment sized and designed to prepare a complete meal for the patients, staff, and guests;

(10) Food holding and transportation equipment capable of protecting food from contamination and of maintaining cold food at 41 degrees Fahrenheit (5 degrees centigrade) or below and hot food at 135 degrees Fahrenheit (57.2 degrees centigrade) or above during the total serving period;

(11) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

(12) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single-service towels or hand drying device and wall mounted hand cleanser;

(13) In dietary areas shall have a bin or self-dispensing ice maker. Any ice maker accessible to patients or visitors shall be self-dispensing.

Any modification to the standard may be made. A modification shall be requested in writing by the facility and approved by the department.

Source:

General Authority: SDCL 34-12-13(1), (2), and (14).

Law Implemented: SDCL 34-12-13(1), (2), and (14).

44:76:11:08. Laundry. The laundry shall include the following:

(1) Linen cart storage;

(2) Storage for laundry supplies;

(3) A lavatory conveniently accessible to soiled, clean, and processing rooms; and

(4) Laundry processing room with separate soiled and clean work areas with commercial equipment.

Each clothes dryer shall have a galvanized metal vent pipe for exhaust: and

The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. Any modification to the standard may be made if the services are contracted to an outside organization. A modification shall be requested in writing by the facility and approved by the department.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:76:11:09. Employee facilities. The male and female locker rooms for employees shall have lockers and a separate toilet room with handwashing facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:11:10. Corridor restrictions. Drinking fountains, telephone booths, fire extinguisher cabinets, and vending machines shall be located so that they do not project into the required width of exit corridors. Handrails installed in corridors shall return to the wall at the ends. Handrails if installed shall be installed with the top 34 to 38 inches, inclusive, from the floor. Handrails shall be installed with 1½ inch spacing between the wall and the handrail.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:11. Doors. Any door to a patient toilet shall be equipped with hardware that permits access in any emergency. A pocket or sliding door may not be installed except on a clothes closet or restroom in a patient room. Any hardware on a restroom pocket or sliding door shall provide for ease of operation for a patient with limited mobility. Any door opening onto a corridor, except an elevator door, shall be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Thresholds and expansion joint covers, if used, shall be flush with the floor. Any cross-corridor door shall be provided with vision panels.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:12. X ray protection. Protection of X ray and gamma ray installations shall conform to requirements in "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV--Equipment Design and Use," NCRP Report No. 102, 1989, and in "Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, 1976.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

References: "Medical X ray, Electron Beam, and Gamma ray Protection for Energies up to 50 MeV--Equipment Design and Use," NCRP Report No. 102, National Council on Radiation Protection and Measurements, June 30, 1989. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 400, Bethesda, MD 20814. Cost: \$45.

"Structural Shielding Design and Evaluation for Medical Use of X rays and Gamma rays of Energies up to 10 MeV," NCRP Report No. 49, National Council on Radiation Protection and Measurements, September 15, 1976. Copies may be obtained from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 400, Bethesda, MD 20814. Cost: \$40.

44:76:11:13. Ceiling heights. The ceilings of corridors, storage rooms, patient toilet rooms, and other minor rooms may not be less than seven feet, eight inches (2.34 meters). The ceilings of all other rooms may not be less than seven feet, ten inches (2.39 meters).

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:14. Insulation. Boiler rooms, food preparation centers, and laundries shall be insulated and ventilated to prevent any floor surface above them from exceeding a temperature of 85 degrees Fahrenheit (29.4 degrees centigrade). All combustible insulation within the building shall be covered with a fire-resistive material giving fire protection equivalent to 0.5 inch (0.01 meters) gypsum board, unless tested and acceptable by **International Building Code**, 2012 edition, 2603.4 for use without a thermal barrier as installed.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: International Building Code, 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$89.00.

44:76:11:15. Floor surface finish. Floors shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces shall be water-resistant. In all areas where floors are subject to wetting, they shall have a nonslip finish. Adjacent dissimilar floor materials shall be flush with each other to provide a level floor surface.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:16. Wall and ceiling finish. Walls shall be washable, and in the immediate area of plumbing fixtures the finish shall be protected from water damage. Wall bases in dietary areas shall be free of spaces that can harbor insects. Wall bases in any areas used for surgical procedures shall be integral with either the wall or the floor surface material and shall be without voids that can harbor harmful bacteria. All surgical, X-ray film processing rooms, and dietary ceilings shall be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops, and similar spaces. A ceiling in any surgical, central sterilization, isolation, and x-ray film processing room shall be gypsum board surface.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:17. Elevators. All facilities where either patients' beds or a critical service, such as operating, diagnostic, dietary, laundry, central storage, or therapy rooms, is located, other than the first floor, shall have electrical or electrohydraulic elevators. Elevator cars and platforms shall be constructed of noncombustible material, except that material treated with fire retardant may be used if all exterior surfaces of the car are covered with metal. Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient's gurneys and attendants and shall be at least five feet (1.52 meters) wide by seven feet six inches (2.29 meters) deep. The car door shall have a clear opening of not less than three feet eight inches (1.12 meters). Elevators shall have automatic two-way leveling with accuracy within plus or minus 0.5 inch (0.01 meters). Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and to be dispatched directly to any floor.

Source:

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:76:11:18. Steam and hot water systems. Boilers shall have the capacity to supply the normal requirements of all systems and equipment. Supply and return mains and risers of space heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping shall be insulated with insulation having a flame spread of 25 or less and a smoke emission rating of 50 or less using NFPA 255, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials" or equivalent test procedures.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 255, Reference: NFPA 255, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$35.00.

44:76:11:19. Ventilating systems. The ventilating systems shall maintain temperatures, minimum air changes of outdoor air an hour, minimum total air changes, and relative humidities as follows:

(1) Operating rooms - 68 to 73 degrees Fahrenheit (20 to 22.8 degrees centigrade), 3 outdoor, 15 total, and 20 to 60 percent humidity;

(2) Recovery rooms - at least 70 degrees Fahrenheit (21.1 degrees centigrade), 2 outdoor, 6 total, and 20 to 60 percent humidity;

For all other occupied areas, the facility shall be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, shall be located as far away as practicable but not less than 25 feet (7.62 meters) from plumbing vent stacks and the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than 6 feet (1.83 meters) above the ground level or, if installed through the roof, 3 feet (0.91 meters) above roof level. The mechanical ventilation systems shall be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. Room supply air inlets, recirculation, and exhaust air outlets shall be located with the grill or diffuser opening not less than 3 inches (0.08 meters) above the floor. Corridors may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation shall be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

Indirect fuel-fired ventilation units may be used only when safety equipment is provided, the fuel is lighter than air, and the unit is separated from the building by one-hour fire-resistive construction when the unit is mounted on the roof.

Laboratories shall be ventilated at a rate of six total air changes an hour. All ventilation air from the laboratory shall be directly exhausted to the outside. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional air shall be provided. A filter with 90 percent efficiency shall be installed in the air supply system at its entrance to the media transfer room. Hoods in which highly radioactive materials are processed shall have a face velocity of 150 feet a minute (0.76 meters a second), have a high-efficiency (99.97%) filter, and each hood shall have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials shall have a face velocity of 75 feet a minute (0.38 meters a second).

Cooking appliances, other than microwave ovens, shall be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture.

Vehicle parking garages shall be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. Signs shall be posted at the front of parking spaces advising the driver to shut off the engine.

Crawl spaces shall be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: **International Building Code**, 2012 edition. Copies may be obtained from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541. Cost: \$89.00.

44:76:11:20. Filters. A ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Each supply air unit shall have a minimum of 30 percent effective filters. Each central ventilation system shall have a minimum of 80 percent effective filters. Each common use area, i.e., dining, lounge, and corridor, shall have 80 percent effective filters on an air supply system. Each air supply system serving solely an administrative area shall have a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter frame shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work shall be gasketed or sealed to provide a positive seal against air leakage. A manometer shall be installed across each filter bed serving a central air system.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

Reference: ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.

44:76:11:21. Ducts. Ducts shall be constructed of iron, steel, aluminum, or other approved metal or materials as defined in **NFPA 101 Life Safety Code** 2012 edition. Duct linings, coverings, vapor barriers, and the adhesives used for applying them shall have a flame spread classification of not more than 25 and a smoke developed rating of not more than 50 using **NFPA 255**, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." A fire and smoke damper shall be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. Ducts which pass through a required smoke barrier shall be provided with smoke dampers. Access for maintenance shall be provided at all dampers. Duct systems serving hoods shall be constructed of corrosion resistant material. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used shall be constructed of stainless steel for a minimum distance of 10 feet (3.05 meters) from the hood and shall be equipped with washdown facilities. Cold air ducts shall be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

References: **NFPA 101 Life Safety Code**, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone 1-800-344-3555. Cost: \$93.00.

NFPA 255, Reference: NFPA 255, 2006 edition, "Standard Method of Test for Surface Burning Characteristics of Building Materials." Copies may be obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Cost: \$35.00.

44:76:11:22. Food service ventilation. The air from dining areas may be used to ventilate the food preparation areas only after it has been passed through a filter with 80 percent efficiency. Exhaust hoods in food preparation centers shall have a minimum exhaust rate of 50 cubic feet a minute for each square foot (0.25 cubic meters a second for each square meter) of hood face area. All hoods over cooking ranges shall be equipped with fire extinguishing systems interconnected to shut off the fuel source. Cleanout openings shall be provided every 20 feet (6.10 meters) in horizontal exhaust duct systems serving hoods.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:11:23. Plumbing fixtures. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material. Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that the discharge is a minimum of 5 inches (0.13 meters) above the rim of the fixture. Handwashing facilities used by medical and care staff, patients, and food handlers shall be equipped with hands-free controls. Single lever devices may be used. Handles on scrub sinks and clinical sinks may not be less than 6 inches (0.15 meters) long. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface. If blade handles are used, proper clearance shall be maintained for operation. Aerators are not approved for use on faucet spouts. Paper towel dispensers or hand-drying devices shall be provided at all lavatories and sinks used for handwashing. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the laboratory, nursery, clean utility, central sterilizing, dietary, or other critical areas where grooming could potentially cause contamination.

Water closets shall be an elongated bowl type and be equipped with an open front seat.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:24. Water supply systems. Water supply systems shall supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1,055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:76:11:25. Vacuum breakers. Antisiphon devices or backflow preventers shall be installed on hose bibs and on all fixtures to which hoses or tubing can be attached such as laboratory and janitors' sinks, bedpan flushing attachments, and handheld showers. Antisiphon devices or backflow preventers shall be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:76:11:26. Hot water systems. Hot water distribution systems over 50 feet (15.24 meters) long shall recirculate to provide hot water at each fixture at all times. The hot water heating equipment shall have sufficient capacity to supply water at the temperature and amounts needed for facility operations.

Storage tanks provided shall be fabricated of noncorrosive metal or lined with noncorrosive material.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:76:11:27. Drainage systems. Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid resistant material. Piping over operating and delivery rooms, nurseries, food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and may not be exposed. Special precautions shall be taken to protect these areas from possible leakage of necessary overhead piping systems. Floor drains may not be installed in operating and delivery rooms. Building sewers shall discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

Water from roof systems shall be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks shall be provided for pitched roof systems. Provisions shall be made to avoid having water accumulated on sidewalks and parking areas around the building.

The building sewer system shall have a cleanout located outside the perimeter of the building foundation.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

44:76:11:28. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. Fixed and mobile X ray units shall be connected by means of independent feeders or circuits. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and distribution panel boards shall be enclosed or guarded to provide a dead front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Overload protective devices shall be designed for operating in the ambient temperature conditions. Lighting and appliance panel boards shall be provided for the circuits on each floor. This section does not apply to emergency system circuits.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:76:11:29. Lighting. Any space occupied by people, machinery, and equipment within buildings, the approaches to the buildings, and parking lots shall have artificial lighting approved by the department. Each patient treatment room shall have general lighting of at least ten footcandles (0.929 lumens per square meter). If task illumination is required, a light with an intensity of at least 30 footcandles (2.79 lumens per square meter) at the work surface shall be provided for each patient. Any fixed light not switched at the door shall have a switch control convenient for use at the luminaire. Each switch for control of lighting in a patient area shall be of the quiet operating type. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 30 footcandles (2.79 lumens per square meter) shall be provided in each physical and restorative therapy area, and at any bathing facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:11:30. Receptacles or convenience outlets. Each operating room shall have at least three receptacles. In locations where mobile X ray is used, an additional receptacle, distinctively marked for X ray use, shall be provided. Each treatment room shall have duplex receptacles as follows: one on each side of the head of each patient table; receptacles for luminaires and motorized beds, if used; and one receptacle on each wall. Single polarized receptacles marked for use of X ray only shall be located in corridors of patient areas so that mobile equipment may be used in any location within a patient room. If the same mobile X ray unit is used in operating rooms, all receptacles for X ray use shall be the same. Where capacitive discharge or battery-powered mobile X ray units are used, polarized receptacles are not required. Duplex receptacles for general use shall be installed approximately 50 feet apart in all corridors and within 25 feet of ends of corridors. Receptacles in pediatric units shall be of the safety type.

Source:

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:76:11:31. Staff call system. A staff call system shall be provided for patient use at each recovery station that will register a call from the patient both visually and audibly at the staff call station and actuate a visual signal at the patient recovery room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. Nurses call systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. An emergency calling station convenient for patient use shall be provided at each patient toilet, bath, or shower and at toilets serving patients in laboratory, physical therapy, preoperative and postoperative holding space, and X ray departments. An emergency nurses calling station shall be provided for staff use in each operating and recovery room.

Source:

General Authority: SDCL 34-1-17, 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:11:32. Submittal of plans and specifications. Plans and specifications for new construction shall be submitted to the department for evaluation of function and fire protection including concealed spaces. The department's approval shall be obtained before beginning construction. Modification during construction shall be submitted to the department for review and shall be approved prior to the modification. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:11:33. Pipe requirements. All piping systems for potable water shall be installed to eliminate any dead-end runs of piping. Before placing potable water systems in service, the piping system shall be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification shall be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used for applying them shall have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, 2012 edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:76:11:34. Detached structures. A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a health care facility shall either be separated from the facility by a minimum distance of 20 feet, provided with two-hour fire rated separation, or equip structure with a complete automatic sprinkler system.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Fire safety code requirements, § 44:76:03:01.

CHAPTER 44:76:12

ADDITIONAL AMBULATORY SURGERY CENTER STANDARDS

Section

<u>44:76:12:01</u>	<u>Application of standards.</u>
<u>44:76:12:02</u>	<u>Surgical suites.</u>
<u>44:76:12:03</u>	<u>Service areas in surgical suite.</u>
<u>44:76:12:04</u>	<u>Diagnostic imaging suite.</u>
<u>44:76:12:05</u>	<u>Laboratory suite.</u>
<u>44:76:12:06</u>	<u>Pharmacy or drug room.</u>
<u>44:76:12:07</u>	<u>Central medical and surgical supply department.</u>
<u>44:76:12:08</u>	<u>Central stores.</u>
<u>44:76:12:09</u>	<u>Details and finishes.</u>
<u>44:76:12:10</u>	<u>Ventilation.</u>
<u>44:76:12:11</u>	<u>Air filters.</u>
<u>44:76:12:12</u>	<u>Ducts.</u>
<u>44:76:12:13</u>	<u>Plumbing fixture devices.</u>
<u>44:76:12:14</u>	<u>Operating lighting.</u>
<u>44:76:12:15</u>	<u>Equipment installation in special areas.</u>

44:76:12:16 Emergency electric supply.
44:76:12:17 Emergency electrical circuit connections.
44:76:12:18 Emergency electrical system details.

44:76:12:01. Application of standards. The construction standards in this chapter apply to all new facilities and to alterations, additions, and changes in space use to existing facilities.

Source:

General Authority: SDCL 34-1-17(4) and (5), 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:02. Surgical suites. The number of operating rooms shall be based on the expected surgical workload. The surgical suite shall be located to prevent through traffic. A recovery room with charting space, medication storage and preparation space, and a clinical sink is required.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:03. Service areas in surgical suite. The size of the service areas in each surgical suite depends on the surgical workload. Each surgical suite shall include the following service areas:

- (1) A surgical supervisor station;
- (2) Sterilizing facilities near the operating room with high speed autoclave;
- (3) Facilities for storage and preparation of medication;
- (4) Scrub-up facilities located adjacent to operating rooms;
- (5) Soiled workroom containing a work counter clinical sink, hand sink, waste receptacle, and soiled linen receptacles;
- (6) Storage for sterile and unsterile supplies, which may be in a clean workroom;
- (7) Storage room or cabinet for anesthetic agents;
- (8) Nitrous oxide and oxygen facilities with storage room if these services are not piped in;
- (9) Clean work area for storage and assembly of supplies containing counter and sink;
- (10) Equipment storage area for surgical and monitoring equipment;
- (11) Floor receptor or service sink and storage for housekeeping supplies and equipment;
- (12) Clothing change areas, lockers, and toilet rooms for doctors, nurses, technicians, and other personnel;
- (13) Holding area for patients in facilities with two or more operating rooms; and
- (14) Stretcher alcove.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:04. Diagnostic imaging suite. The diagnostic imaging suite shall contain:

- (1) One or more radiographic rooms with necessary radiation protection;
- (2) A film processing room, if required;
- (3) A film filing room;
- (4) Toilet room adjoining each fluoroscopy and ultrasound room;
- (5) Dressing area for ambulatory patients;
- (6) Holding area for stretcher patients;
- (7) Waiting space; and

(8) An office with film viewing facilities.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:05. Laboratory suite. Clinical laboratory facilities and equipment consistent with the needs of the patients shall be provided. Handwashing fixtures shall be provided and equipped with faucets which can be operated without the use of hands.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:06. Pharmacy or drug room. The pharmacy or drug room shall be well ventilated and have a locking door. The pharmacy or drug room shall be sized for the distribution system used and shall have a work counter with sink, a separate locked and fastened compartment or room for the storage of controlled substances, refrigerated and frozen storage spaces, and other approved storage for drugs. If additive injectables are prepared, a sterile products area shall be provided. The work space shall be well illuminated. Emergency power shall be provided for essential services. Heating, ventilation, and air conditioning services shall be provided to maintain the temperature of the room between 59 degrees Fahrenheit (15 degrees centigrade) and 86 degrees Fahrenheit (30 degrees centigrade).

Source:

General Authority: SDCL 34-12-13(1), (3), (4) and (9).

Law Implemented: SDCL 34-12-13(1), (3), (4) and (9).

44:76:12:07. Central medical and surgical supply department. The clean and soiled areas of the central medical and surgical supply department shall be separated from each other. Space for cleaning equipment and disposing or processing of unclean articles shall be provided in the decontamination area and the plumbing fixtures shall be at least those provided for the soiled utility room. The clean workroom shall be divided into work space, clean storage area, sterilizing facilities, and storage area for sterile supplies. Pathological waste sterilization may not be done in this area. An unsterile supply storage area shall be provided, but it may be located in an area outside this department. Handwashing fixtures shall be provided between the clean and soiled work areas.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:12:08. Central stores. General central storage rooms shall have a total area of not less than 20 square feet (1.86 square meters) for each operating or procedure room. General storage should be concentrated in one area on-site, but up to 50 percent of the general storage space may be provided off-site.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:12:09. Details and finishes. Ceiling heights of operating rooms, cystoscopic rooms, radiographic rooms, and rooms with ceiling-mounted surgical light fixtures shall be at least nine feet (2.74 meters).

The ceilings in isolation rooms, X-ray film processing rooms, central sterilization rooms, and operating rooms shall be an epoxy painted gypsum board membrane or an equivalent material for ease of cleaning and for improved maintenance of clean surfaces below the ceilings.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:76:12:10. Ventilation. All air supply and air exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. All air supplied to sensitive areas such as operating rooms shall be delivered at or near the ceiling of the area served. All air exhausted from the area shall be removed near floor level. At least two exhaust outlets shall be used in all operating room. Exhaust wall outlets shall be located not less than three inches (0.076 meters) above the floor.

A ventilation system in operating, isolation, or central sterilization shall be a ducted system. A ventilation system using the building concealed space (return air plenum) from a clean room is not acceptable.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:76:12:11. Air filters. The ventilation systems serving sensitive areas such as operating rooms, isolation rooms, laboratory sterile rooms, and the recirculated central air systems serving other facility areas shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Filter bed number two shall be located downstream of the conditioning equipment and shall have a minimum efficiency of 90 percent. Central systems serving other than sensitive areas shall be provided with filters rated at 80 percent efficiency. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. The exhausts from all laboratory hoods in which infectious or radioactive materials are processed shall be equipped with filters with a 99 percent efficiency. Filter frames shall be durable and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall have positive seal against air leakage.

Source:

General Authority: SDCL 34-12-13(2), (3), and (14).

Law Implemented: SDCL 34-12-13(2), (3), and (14).

Reference: "ASHRAE 52.2," 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta GA 30329. Phone: 1-800-527-4723. Cost: \$39.00.

44:76:12:12. Ducts. Ducts which penetrate construction intended for X ray or other ray protection shall not impair the effectiveness of the protection. Porous duct lining materials may not be used in the interior of duct systems serving sensitive areas such as operating rooms and isolation rooms.

Source:

General Authority: SDCL 34-12-13(1), (2), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (2), (3), and (14).

44:76:12:13. Plumbing fixture devices. Bedpan flushing devices shall be provided in each soiled workroom.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:76:12:14. Operating room lighting. Operating rooms shall have general lighting for the room in addition to special lighting units at the surgical tables. Each special lighting unit for local lighting at tables shall be connected to an independent circuit.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:76:12:15. Equipment installation in special areas. X ray stationary installations and mobile equipment shall conform to rules of the state electrical commission.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Electrical installations, ch 20:44:05.

44:76:12:16. Emergency electric supply. Each facility shall have an emergency source of electric supply to provide electricity during an interruption of the normal electric supply. The source of emergency electric supply shall be an automatic emergency generating set when the normal service is supplied by one or more central station transmission lines, or an automatic generating set or a central station transmission line when the normal electric supply is generated on the premises. The required emergency generating set, including the prime mover and generator, shall be located on the premises. The emergency generator set shall be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:76:12:17. Emergency electrical circuit connections. Emergency electrical service shall be furnished to circuits as follows:

- (1) Lighting of exit ways and all necessary ways of approach to them, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;
- (2) Surgical room operating lights;
- (3) Lighting for laboratory, recovery room, staff stations, and medication preparation areas;
- (4) Lighting for the generator set location, the switch gear location, and the boiler room;
- (5) Equipment essential to life safety and for protection of important equipment or vital materials;
- (6) Staff calling system;
- (7) Alarm system, including fire alarms actuated at manual stations;
- (8) Water flow alarm devices of sprinkler system if electrically operated;
- (9) Fire detecting and smoke detecting systems;
- (10) Paging or speaker systems if intended for issuing instructions during emergency conditions;
- (11) Alarms required for nonflammable medical gas systems, if installed;

- (13) Pump for central suction system;
- (14) Sewage or sump lift pump, if installed;
- (15) Receptacles for blood bank refrigerator;
- (16) At least two duplex receptacles for the laboratory;
- (17) Receptacles in operating and recovery rooms except those for X ray;
- (19) Duplex receptacles in patient corridors; and
- (20) Equipment, such as burners and pumps, necessary for operation of one or more boilers required for heating and sterilization and their necessary auxiliaries and controls.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:76:12:18. Emergency electrical system details. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply the generator is brought to full voltage and frequency and connected within ten seconds through one or more primary automatic transfer switches to all emergency lighting; all alarms; blood banks; staff call; equipment necessary for maintaining telephone service; pump for central suction system; and receptacles in operating rooms, patient corridors, and recovery rooms. All other lighting and equipment required to be connected to the emergency system shall either be connected through the primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system shall be distinctively marked for identification. Storage-battery-powered lights, provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, may not be used as a substitute for the required generator. If fuel is normally stored on the site, the storage capacity shall be sufficient for 24-hour operation. If fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site are not required.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

CHAPTER 44:76:13

PATIENTS' RIGHTS

Section

- 44:76:13:01 Application of chapter – Patients' rights policies.
- 44:76:13:02 Facility to inform patient of rights.
- 44:76:13:03 Facility to provide information on available services.
- 44:76:13:04 Notification when patient's condition changes.
- 44:76:13:05 Choice in planning care.
- 44:76:13:06 Privacy and confidentiality.
- 44:76:13:07 Grievances.
- 44:76:13:08 Availability of survey results.
- 44:76:13:09 Self-administration of drugs.
- 44:76:13:10 Advance directive.
- 44:76:13:11 Admission, transfer, and discharge policies.

44:76:13:01. Application of chapter – Patients' rights policies. Each facility shall establish policies consistent with this chapter to protect and promote the rights of the patient.

Source:

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

44:76:13:02. Facility to inform patient of rights. Prior to or at the time of admission, a facility shall inform the patient, both orally and in writing, of the patient's rights and of the rules governing the patient's conduct and responsibilities while in the facility. The patient shall acknowledge in writing that the patient received the information. During the patient's stay the facility shall notify the patient, both orally and in writing, of any changes to the original information. The facility shall post written notice of patient rights in a place likely to be noticed by patients waiting for treatment or provided to the patients' representative or surrogate. The patient's right to receive visitors. Visiting hours and policies of the facility shall permit and encourage the visiting of patients by friends and relatives.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:03. Facility to provide information on available services. A facility shall provide the following information in writing to each patient:

(1) A list of services available in the facility and the charges for such services. The facility shall specify which items and services are included in the services for which the patient may not be charged, those other items and services that the facility offers and for which the patient may be charged, and the amount of any such charges;

(3) A list of names, addresses, and telephone numbers of client advocates;

(4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of patient property;

(5) A description of how the patient can contact the patient's physician, including the name and specialty of the physician;

(6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration; and

(7) A description explaining the responsibilities of the patient and family members regarding self-administered medication.

A signed and dated admission agreement between the patient or the patient's legal representative and the facility shall include subdivisions (1) to (8), inclusive, of this section. The patient or patient's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the patient has made a commitment for payment for proposed or actual care. The agreement may not include ambiguous or misleading information and may not be in conflict with this chapter. The agreement shall be printed for ease of reading by the patient. If the agreement exceeds three pages, it shall contain a table of contents or an index of principal sections. Any change in the information shall be given to the patient or the patient's legal representative as a signed and dated addendum to the original agreement.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:04. Notification when patient's condition changes. A facility shall immediately inform the patient, consult with the patient's physician, and, if known, notify the patient's legal representative or interested family member when any of the following occurs:

(1) An accident involving the patient which results in injury or has the potential for requiring intervention by a physician;

(2) A significant change in the patient's physical, mental, or psychosocial status;

(3) A need to alter treatment significantly; or

(4) A decision to transfer or discharge the patient from the facility.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:05. Choice in planning care. A patient may choose a personal attending physician, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the patient's well-being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-References:

Right to choose own physician unimpaired by public health programs -- Misdemeanor, SDCL 34-1-20.

Rights of authorized person as incapacitated person, SDCL 34-12C-6.

Liability of health care provider -- Liability of authorized decision maker, SDCL 34-12C-7.

44:76:13:06. Privacy and confidentiality. A facility shall provide for privacy and confidentiality for the patient, including the patient's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and patient groups.

To approve or refuse the release of personal and medical records to any individual outside the facility, except when the patient is transferred to another health care facility or when the release of the record is required by law. With the patient's permission, a facility shall allow the state ombudsman or a representative of the ombudsman access to the patient's medical records.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-Reference: Written policies and confidentiality of records, § 44:76:08:03.

44:76:13:07. Grievances. A patient may voice grievances without discrimination or reprisal. A patient's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other patients, and infringement of the patient's rights. A facility shall adopt a grievance process and make the process known to each patient and to the patient's immediate family. The grievance process shall include the facility's efforts to resolve the grievance and documentation of:

- (1) The grievance;
- (2) The names of the persons involved;
- (3) The disposition of the matter; and
- (4) The date of disposition.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:08. Availability of survey results. Survey results, along with the corresponding Plan of Correction shall be provided to patients and individuals upon request.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:09. Self-administration of drugs. A patient may self-administer drugs if approved by the physician and determined the practice to be safe. The determination shall state whether the patient or the nursing staff is responsible for storage of the drug and documentation of its administration in accordance with chapter 44:76:07.

Source:

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Medication control, ch 44:76:07.

44:76:13:10. Advance Directive. The facility shall provide the patient or the patients' representative, as appropriate, the following:

- (1) Information on the facility's policies on Advance Directives;
- (2) A description of the applicable State health and safety laws; and
- (3) State advance directive forms if requested by patients.

Include in the facility policies a clear and precise statement on limitations if the facility cannot implement an advance directive on the basis of conscience or any other specific reason that is permitted under State law. A blanket statement of refusal by the facility to comply with any patient advance directives is not permissible. However, if and to the extent permitted under State law, the facility may decline to implement elements of an advance directive on the basis of conscience or any other reason permitted under State law if it includes in the information concerning its advance directive policies a clear and precise statement of limitation. A statement of limitation shall:

- (1) Clarify any differences between facility wide conscience objections and those that may be raised by individual facility staff;
- (2) Identify the state legal authority permitting such objection; and
- (3) Describe the range of medical conditions and procedures affected by the objection.

The facility shall document in a prominent part of the patient's current medical record where it will be readily noticeable by any facility staff providing clinical services whether or not the patient has executed an advance directive.

If the patient with an advance directive is transferred from the facility to another healthcare facility, the facility shall ensure a copy of the patient's advance directive is provided with the medical record when the

patient is transferred. The facility shall provide education to its staff on the facility's policies and procedures on advance directives.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:76:13:11. Admission, transfer, and discharge policies. A facility shall establish and maintain policies and practices for admission, discharge, and transfer of patients which prohibit discrimination based upon payment source and which are made known to patients at or before the time of admission.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

ARTICLE 44:77

ADULT FOSTER CARE

Chapter

<u>44:77:01</u>	<u>Rules of general applicability.</u>
<u>44:77:02</u>	<u>Physical environment and safety.</u>
<u>44:77:03</u>	<u>Fire safety and construction standards.</u>
<u>44:77:04</u>	<u>Owner and caregivers.</u>
<u>44:77:05</u>	<u>Medications and resident records.</u>

CHAPTER 44:77:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:77:01:01</u>	<u>Definitions.</u>
<u>44:77:01:02</u>	<u>Licensure of adult foster care home.</u>
<u>44:77:01:03</u>	<u>Name of adult foster care home.</u>
<u>44:77:01:04</u>	<u>Bed capacity.</u>
<u>44:77:01:05</u>	<u>Criteria for licensed adult foster care home owners and adult foster care home applicants.</u>
<u>44:77:01:06</u>	<u>Restrictions on acceptance and retaining of residents.</u>
<u>44:77:01:07</u>	<u>Resident evaluation</u>
<u>44:77:01:08</u>	<u>Joint occupancy.</u>
<u>44:77:01:09</u>	<u>Reports.</u>
<u>44:77:01:10</u>	<u>Plans of correction.</u>
<u>44:77:01:11</u>	<u>Modifications.</u>
<u>44:77:01:12</u>	<u>Scope of article.</u>

44:77:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or

(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a patient's or resident's property or funds;

(ii) An attempt to commit a crime against a patient or resident;

(iii) Physical harm or injury against a patient or resident; or

(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;

(2) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;

(3) "Caregiver," the owner or any person, but not including another resident, who provides care and services required to meet the performance criteria established by this article;

(4) "Department," the South Dakota Department of Health;

(5) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-18 or a disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility;

(v) Self-direction;

(vi) Capacity for independent living; and

(vii) Economic self-sufficiency; and

(e) Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration;

(6) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

(7) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

(8) "Facility," the family-style residence, other than an apartment, licensed by the department used to provide supervision of care to residents;

(9) "Healthcare worker," any paid person working in a health-care setting;

(10) "Health supervision," activity by an adult foster care provider that ensures a resident carries out the health plan of the resident's physician and observes good health practices with minimal assistance from the provider;

(11) "Misappropriation of resident or patient property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's or patient's belongings or money without the resident's or patient's consent;

(12) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including but not limited to offensive behavior made to or directed at a client, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

(13) "Owner," a person who resides at the adult foster care home who is responsible for the overall supervision and care of the homes residents;

(14) "Personal care," limited assistance given by facility caregivers in those areas of daily living when a resident has difficulty functioning because of a physical, mental, or emotional condition;

(15) "Qualified personnel," persons with the specific education, license, and training to provide services;

(16) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;

(17) "Resident advocates," agencies responsible for the protection and advocacy of clients, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;

(18) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with limited assistance from a qualified personnel;

(19) "Supervision of personal cares," general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and provide minimal assistance in the self-administration of prescribed medications; and

(20) "Therapeutic diet," any diet other than a regular diet, excluding low sodium diets, that is ordered by a physician as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:77:01:02. Licensure of adult foster care home. Any license issued shall denote the adult foster care home and the homes address on the face of the license. The most current license issued by the department shall be posted on the premises of the home in a place conspicuous to the public. The license certificate remains the property of the department.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:77:01:03. Name of adult foster care home. Each adult foster care home shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7

44:77:01:04. Bed capacity. The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The resident census shall not exceed the bed capacity for which the home is licensed. A request by the home for an adjustment in bed capacity because of change of purpose or construction shall be approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:77:01:05. Criteria for licensed adult foster care home owners and adult foster care home applicants. Licensed adult foster care home owners shall meet the following criteria:

(1) Neither the adult foster care home owners nor family members residing at the residence may be a habitual user of alcohol or drugs;

(2) Neither the adult foster care home owner nor family members residing at the residence may have a conviction for abusing or neglecting another person; and

(3) Any person providing supervisory care in the adult foster care home shall be at least 18 years of age.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:77:01:06. Restrictions on acceptance and retaining of residents. An adult foster care home shall accept and retain residents in accordance with the following restrictions:

(1) A resident accepted for care by an adult foster care home shall be housed within the home covered by the license;

(2) An adult foster care home may not accept or retain residents who require care in excess of the classification for which it is licensed;

(3) Caregivers may not leave an adult foster care home during their tour of duty in the home to provide services to persons who are not residents of the home with the exception of providing emergency care on premises contiguous to the home's property;

(4) Each facility that accepts or retains residents suffering from developmental disabilities or mental diseases shall provide facilities and programs consistent with the needs of such residents;

(5) If persons other than residents are accepted for care or to participate in any programs, services, or activities for the residents, their numbers shall be included in the evaluation of central use, activity, and dining spaces; dietary, and activity programs; and the provision of an infection control program. Services provided such persons may not infringe upon the needs of the residents;

(6) An adult foster care home may admit and retain any resident who is able to:

(a) Turn self in bed and raise from bed or chair independently or with limited assistance of one staff for safety;

(b) Transfer independently or with limited assistance of one staff and do not require a mechanical lift;

(c) Complete activities of daily living of mobility or ambulation, dressing, toileting, personal hygiene, and bathing with limited assistance of one staff but less than total assist;

(d) Complete own ostomy or catheter cares;

(e) Feed self with set up, cueing, and supervision;

(f) Display normal expected behaviors for condition that do not place self or others at risk;

(g) Complete own injections if required or may be provided by a licensed nurse;

(h) Manage care for his or her own feeding tube, tracheotomy, or peritoneal dialysis;

(i) Remains free from the need for restraints;

(j) Demonstrate no need for skilled services unless provided by contract with a Medicare certified home health agency for a limited time with a planned end date;

(k) With limited direction, is capable of taking action for self-preservation in emergencies;

(l) Does not pose a danger to self or others;

(m) Be free from communicable diseases that place other residents or staff at risk; and

(n) Maintain conditions that are stable and controlled that do not require frequent medical intervention; and

(7) A resident that is an immediate family member of the adult foster care owner may receive care and assistance beyond what is identified in this section.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:77:01:07. Resident evaluation. The facility shall ensure an evaluation of each resident's needs is documented at the time of admission, annually thereafter, and upon a resident's significant change, to determine if the facility can meet the needs for each resident. The evaluation will be documented on a form developed by the department and maintained in each residents record.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:77:01:08. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the residents. The area shall be open to inspection by the department.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:77:01:09. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any resident by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing resident to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Each facility shall report to the department any unsafe water samples for pools or spas.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:77:01:10. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:77:01:11. Modifications. Modifications specified by this section may be requested by the facility. If the department approves the modifications, the approval shall be in writing. The approval letter shall specify the modifications permitted and any limitations pertaining to the modifications.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:77:01:12. Scope of article. Nothing in article 44:77 limits or expands the rights of any healthcare worker or caregiver to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:77:02

PHYSICAL ENVIRONMENT AND SAFETY

Section

<u>44:77:02:01</u>	<u>Sanitation.</u>
<u>44:77:02:02</u>	<u>Pets.</u>
<u>44:77:02:03</u>	<u>Cleaning methods and facilities.</u>
<u>44:77:02:04</u>	<u>Food service.</u>
<u>44:77:02:05</u>	<u>Nutrition requirements.</u>
<u>44:77:02:06</u>	<u>Food quality -- Storage.</u>
<u>44:77:02:07</u>	<u>Linen.</u>
<u>44:77:02:08</u>	<u>Plumbing.</u>
<u>44:77:03:09</u>	<u>Water supply.</u>
<u>44:77:02:10</u>	<u>Occupant protection.</u>
<u>44:77:02:11</u>	<u>Physical plant changes.</u>
<u>44:77:02:12</u>	<u>Location.</u>
<u>44:77:02:13</u>	<u>Insect and rodent control.</u>
<u>44:77:02:14</u>	<u>Physical requirements of adult foster care homes.</u>
<u>44:77:02:15</u>	<u>Heating and cooling.</u>
<u>44:77:02:16</u>	<u>Reasonable accommodations.</u>
<u>44:77:02:17</u>	<u>Other hazardous conditions.</u>

44:77:02:01. Sanitation. The facility shall be kept clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons shall be labeled, stored in a safe place, and kept in an enclosed cabinet. Garbage and refuse shall be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. Sewage shall be disposed of by means of a public sewage disposal system or a septic system, and shall not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:77:02:02. Pets. Any pet kept in of visiting the facility may not negatively affect the well-being of residents.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:77:02:03. Cleaning methods and facilities. The facility shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, or disinfecting all work areas, equipment, utensils, and medical devices used by residents'. Common use equipment shall be disinfected after each use.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:77:02:04. Food service. Adult foster care homes shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, in the Food Service Code. The facility shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation. If an adult foster care home's food service is contracted out, the contractor shall be a licensed food service establishment that is inspected by a local, state, or federal agency.

Source:

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:77:02:05. Nutrition requirements. A resident shall receive a minimum of three meals a day. Each meal shall include portions from each of the five basic food groups listed in the Myplate, "Dietary Guidelines for Americans," 2010, U.S. Department of Agriculture, or as otherwise prescribed by a physician, physician assistant, nurse practitioner, or clinical nurse specialist.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

Reference: Dietary Guidelines for Americans, 2010, United States Department of Agriculture. Copies may be viewed and printed free of charge at <http://www.dietaryguidelines.gov>.

44:77:02:06. Food quality -- Storage. Food shall be free from spoilage and contamination and shall be safe for human consumption. Fluid milk and fluid milk products used or served shall be pasteurized. Unless its identity is unmistakable, a bulk food such as cooking oil, syrup, salt, sugar, or flour not stored in the product container or package in which it was obtained shall be stored in a container identifying the food by its common name.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:77:02:07. Linen. The supply of bed linen and towels shall equal two times the licensed capacity. Each facility shall contract with commercial laundry services or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. An adult foster care home providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:77:02:08. Plumbing. An adult foster care home's plumbing system shall be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing shall be sized, installed, and maintained to carry required quantities of water to required locations throughout the adult foster care home. Plumbing may not constitute a source of contamination of food equipment or utensils or create an unsanitary condition or nuisance.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-References:

Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15.

Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:77:02:09. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Any private water supply shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the adult foster care home. The hot water system shall be capable of supplying the work and resident areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by clients may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for resident use shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:77:02:10. Occupant protection. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the residents admitted to the home. The home shall take at least the following precautions:

(1) Develop and implement a written and scheduled preventive maintenance program;

(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by residents;

(3) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;

(4) Portable space heaters and portable halogen lamps may not be used in a home;

(5) Household-type electric blankets or heating pads may not be used in a home;

(6) A 2-A:10-B:C fire extinguisher shall be provided on each level;

(7) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and

(8) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 99 Health Care Facilities, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:77:02:11. Physical plant changes. A facility shall submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change shall have the approval of the department before it is made. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:77:02:12. Insect and rodent control. An owner shall keep the home and premises free of rodents and insects. Doors and windows used for outside ventilation shall have screens.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:77:02:13. Location. The location of the facility shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. The home shall be served by good, passable roads. Easy accessibility for caregivers, visitors, and fire-fighting services shall be maintained.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:77:02:14. Physical requirements of adult foster care homes. A facility shall meet the following physical requirements:

(1) A minimum of 200 square feet of floor space shall be available to the resident. This floor space shall include an easily accessible bathroom and a dining area sufficient to accommodate the resident and the adult foster care home owner's family at one setting;

(2) Sufficient sleeping space to accommodate comfortably the resident in care as well as the adult foster care home owner's family;

(3) Exit pathways shall remain free of obstacles that would prevent mobility or escape during fire or other emergencies;

(4) Spaces occupied by people within buildings and their approaches shall have artificial lighting at a level for general safety. Bedrooms shall have general lighting and night lighting; and

(5) A smoke detector with an audible alarm shall be located on each level of the building. The alarm shall be audible above the maximum normal noise level of the house. Smoke detectors shall be tested monthly. All smoke detectors shall be cleaned and the battery changed at least annually.

Residents may not reside in attics. They may reside in finished basements where the living quarters, heating plant, and utility room are completely and safely segregated by one hour fire-resistant construction. Residents shall be made aware of escape procedures.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:77:02:15. Heating and cooling. The temperature in any occupied space in the facility shall be maintained between 68 and 80 degrees Fahrenheit (20 and 26.7 degrees Celsius) during waking hours and not lower than 64 degrees Fahrenheit (17.8 degrees Celsius) during sleeping hours. A resident's room may be maintained outside the required range if desired by the resident.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:77:02:16. Reasonable accommodations. Accessible and usable accommodations shall be available to meet the needs of the resident with disabilities.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:77:02:17. Other hazardous conditions. A facility may be directed to remove or correct other hazardous conditions not covered in this chapter if the department considers the conditions to have the potential to cause injury or illness to any resident or caregiver.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

CHAPTER 44:77:03

FIRE SAFTY AND CONSTRUCTION STANDARDS

Section

44:77:03:01 General fire safety.

44:77:03:02 Evacuation plan – Fire drills.

44:77:03:03 Exits.

44:77:03:04 New Construction.

44:77:03:05 Ventilation.

44:77:03:01. General fire safety. Each facility shall meet the applicable fire safety standards of One- and Two- Family Dwellings in the Life Safety Code in NFPA 101 Life Safety Code, 2000 edition. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to

the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. Compliance with this section does not eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions. A person shall be available to provide assistance if a resident is present.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: NFPA 101 Life Safety Code, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$ 93.00.

44:77:03:02. Evacuation plan -- Fire drills. A facility shall have an evacuation plan. The home owner shall conduct and document a minimum of four fire drills each year.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:77:03:03. Exits. There shall be two exits remote from each other on each level used for the care of a resident. Each of these exits shall provide unobstructed travel to the outside. One of these exits shall be a door or stairway leading to the outside of the building at ground level. The other exit may be a window if it meets the following requirements:

(1) It can be easily opened from the inside without the use of tools;

(2) It provides a clear opening with a minimum dimension of at least 20 inches in width by 24 inches in height, is at least 5.7 square feet in area, with a sill at 44 inches, and provides a safe means of escape; and

(3) If a storm window, screen, or burglar guard is used, it has a quick-opening device which can be easily opened from the inside.

A ladder, folding stairs, or trap door may not be the only access to a bedroom.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:77:03:04. New construction. This section applies to all newly licensed adult foster care homes and to renovations, additions, and changes in space use of currently approved existing homes.

Each facility shall comply with NFPA 101 Life Safety Code, 2012 edition. Each facility shall meet the provisions of One- and Two- Family Dwellings in the Life Safety Code.

An automatic sprinkler system is not required in adult foster care homes unless required by the local municipality issuing the building permit.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:77:03:05. Ventilation. Electrically powered exhaust ventilation shall be provided in all newly constructed or renovated toilet rooms.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

CHAPTER 44:77:04

OWNER AND CAREGIVERS

Section

44:77:04:01 Owner.

44:77:04:02 Presence of the adult foster care home owner

44:77:04:03 Caregivers.

44:77:04:04 Caregiver training.

44:77:04:05 Caregiver health.

44:77:04:06 Personal care and health supervision.

44:77:04:01. Owner. The facility owner is responsible for the daily overall operation of the home. The owner shall notify the department in writing of any change of ownership.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:77:04:02. Presence of the adult foster care home owner. The facility owner shall be present during the day and night according to the needs of the resident. The facility owner may arrange for an alternative caregiver during an absence from the home. The alternative caregiver shall meet the criteria listed in § 44:77:01:05.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:77:04:03. Caregivers. The facility shall have sufficient caregivers to provide effective and safe supervision and care. The home shall not knowingly employ any person with a conviction for abusing another person.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:77:04:04. Caregiver training. An facility shall have an orientation and ongoing education program for all caregivers. Education programs shall include the following subjects:

- (1) Fire prevention and response;
- (2) Emergency procedures and preparedness;
- (3) Infection control and prevention;
- (4) Accident prevention and safety procedures;
- (5) Residents rights;
- (6) Confidentiality of resident information;
- (7) Incidents subject to mandatory reporting and the home's reporting mechanisms; and
- (8) Care of residents with special and unique needs.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:77:04:05. Caregiver health. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Caregivers with a reportable communicable disease that may endanger the health of residents and fellow caregivers may not return to caregiving until they are determined by a physician or the physician's designee to no longer have the disease in a communicable state.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Definition of terms, subdivisions 44:20:01:01(8) and (43).

44:77:04:06. Personal care and health supervision. The facility owner or caregivers shall provide continuous care for the resident and shall be cooperative with the department in carrying out the plan for the resident. The facility owner or caregiver shall be available to assist the resident with personal care and health supervision.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

CHAPTER 44:77:05

MEDICATIONS AND RESIDENT RECORDS

Section

44:77:05:01 Medication labeling, storage, and disposal.

44:77:05:02 Resident records.

44:77:05:01. Medication labeling, storage, and disposal. The requirements for medications in adult foster care homes include the following:

(1) Medications and biologicals kept in the facility shall be labeled with the drug name, strength, and expiration date;

(2) Medications shall be kept in a secure location or in residents' room to prevent unauthorized access;

(3) Medications requiring refrigeration may be stored in a refrigerator used for food storage if the drugs are stored in a sealed container and placed on the top rack or tray;

(4) Medications shall be self-administered only by residents or by qualified personnel or caregivers licensed or authorized to administer drugs; and

(5) Outdated or discontinued medication shall be properly destroyed or disposed.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:77:05:02. Resident records. The facility shall maintain the confidentiality and safeguarding of resident records. A facility shall retain resident records for a minimum of ten years from the actual visit date of service or resident care. After the minimum retention period of ten years from discharge the resident record may be destroyed at the discretion of the facility. Before the destruction of the resident record, the facility shall prepare and retain a resident index or abstract at includes the residents name and date of birth. If a facility ceases operation, the facility shall provide for safe storage and prompt retrieval of resident records and the resident indexes. The facility may arrange storage or transfer of resident records with another licensed health care facility, or at the request of the resident, relinquish resident records to the resident or the resident's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the facility shall notify the department in writing indicating the provisions for the safe preservation of resident records and their location and publish in a local newspaper the location and disposition arrangements of the resident records. If ownership of the facility is transferred, the new owner shall maintain the resident records as if there was not a change in ownership. The resident record shall include the following:

(1) Admission information including a list of medications, allergies, and diet;

(2) The name and contact information of the resident's physician, physician assistant, or nurse;

(3) The name and contact information of the resident's power of attorney or immediate family member;

(4) The resident evaluation form developed by the department upon admission, annually, or upon a significant change;

(5) Any reports of suspicion of abuse or neglect reported to the department;

(6) Disposition of medications upon outdate or disposed; and

(7) Discharge information including disposition of medications.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

ARTICLE 44:78

INPATIENT CHEMICAL DEPENDENCY TREATMENT FACILITY

Chapter

<u>44:78:01</u>	<u>Rules of general applicability.</u>
<u>44:78:02</u>	<u>Physical environment and safety.</u>
<u>44:78:03</u>	<u>Fire safety and construction standards.</u>

CHAPTER 44:78:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:78:01:01</u>	<u>Definitions.</u>
<u>44:78:01:02</u>	<u>Licensure of inpatient chemical dependency treatment facilities.</u>
<u>44:78:01:03</u>	<u>Name of facility.</u>
<u>44:78:01:04</u>	<u>Bed capacity.</u>
<u>44:78:01:05</u>	<u>Joint occupancy.</u>
<u>44:78:01:06</u>	<u>Reports.</u>
<u>44:78:01:07</u>	<u>Plans of correction.</u>
<u>44:78:01:08</u>	<u>Modifications.</u>
<u>44:78:01:09</u>	<u>Scope of article.</u>
<u>44:78:01:10</u>	<u>Scope of licensure inspections.</u>

44:78:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article.
In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or

(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a patient's or resident's property or funds;

(ii) An attempt to commit a crime against a patient or resident;

(iii) Physical harm or injury against a patient or resident; or

(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;

(2) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for the daily overall management of the facility and who maintains an office on the premises of the facility;

(3) "Department," the South Dakota Department of Health;

(4) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-18 or a disability which:

- (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (b) Is manifested before the person attains age 22;
- (c) Is likely to continue indefinitely;
- (d) Results in substantial functional limitations in three or more of the following areas of major life activity:
- (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency; and
- (e) Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration;
- (5) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;
- (6) "Facility," the place of business used to provide health care for patients that is licensed by the department;
- (7) "Governing body," is an individual, partnership, or an organized body of persons that is ultimately responsible for the quality of care in an inpatient chemical dependency treatment facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policies and procedures, or bylaws governing the operation of the facility;
- (8) "Healthcare worker," any paid person working in a health-care setting;
- (9) "Licensed health professional," a physician; physician's assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;
- (10) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients and residents in a health care facility;
- (11) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including but not limited to offensive behavior made to or directed at a client, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;
- (12) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a chemical dependency treatment facility;
- (13) "Patient advocates," agencies responsible for the protection and advocacy of patients, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;

(14 "Qualified personnel," persons with the specific education, license, and training to provide the health service for which they are employed;

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:78:01:02. Licensure of inpatient chemical dependency facility. Any license issued shall denote the name of the facility and the facility address on the face of the license. The license shall include each facility address at which services licensed under this chapter are provided. The most current license issued by the department shall be posted on the premises of the facility in a place conspicuous to the public. The license certificate remains the property of the department.

Source:.

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:78:01:03. Name of facility. Each facility shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:.

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7

44:78:01:04. Bed capacity. The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The patient census shall not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of change of purpose or construction shall be approved by the department before any changes are made.

Source:.

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:78:01:05. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the patients. The area shall be open to inspection by the department.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:01:06. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any patient by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall

also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing patient to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:78:01:07. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each facility shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the treatment facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:78:01:08. Modifications. Modifications specified by this section may be requested in writing by the facility. If the department approves the modifications, the approval shall be in writing. The approval letter shall specify the modifications permitted and any limitations pertaining to the modifications.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:78:01:09. Scope of article. Nothing in article 44:78 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:78:01:10. Scope of licensure inspections. Inpatient chemical dependency treatment facilities are Level III.7 medically-monitored intensive inpatient treatment programs providing services in accordance

with article 46:05. The department's scope of inspection of these facilities includes licensure, physical environment and safety, fire safety, construction standards, and accessibility.

Source:

General Authority: SDCL 34-12-13(1), (2), (3), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (2), (3), (5), and (14).

CHAPTER 44:78:02

PHYSICAL ENVIRONMENT AND SAFETY

Section

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44:78:02:01. Sanitation. The facility shall be kept clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons shall be labeled, stored in a safe place, and kept in an enclosed cabinet. Garbage and refuse shall be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. Sewage shall be disposed of by means of a public sewage disposal system or a septic system, and shall not constitute a source of contamination of food, equipment, or utensils or otherwise create an unsanitary condition or nuisance.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:78:02:02. Cleaning procedures. The facility shall develop written procedures for cleaning all areas of the building. The building shall be maintained clean. Equipment and supplies shall be available for proper cleaning and disinfecting and shall be stored safely to protect the building occupants. Dustless methods shall be used for cleaning.

Written procedures shall be developed for the cleaning and sanitizing of food service equipment, countertops in the food production area, and dining room tables in accordance with the registered product label.

Source: 28 SDR 83, effective December 16, 2001.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:78:02:03. Patient rooms. A patient room shall meet the following requirements:

(1) The maximum room capacity is two patients. Patient rooms approved prior to January 1, 2001, are acceptable as approved;

(2) The minimum clear floor area shall be, exclusive of toilet rooms, closets, wardrobes, and vestibules, 100 square feet in single occupancy and 160 square feet in double occupancy;

(3) The floor of the patient room shall be above grade at the building site;

(4) A separate closet space of five square feet shall be provided for each patient; and

(5) Toilet rooms shall be available to the patient room. If the toilet room is not attached to the patient room, the distance to the toilet room from the door to the patient room shall not exceed 50 feet. The toilet room shall be accessible and shall contain a handwashing fixture and stool with at least a side grab bar and toilet paper dispenser.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:04. Patient room furnishings. The facility shall provide the following furnishings for the patient rooms:

(1) A sturdy, comfortable bed with an impervious cover on the mattress;

(2) A pillow, two sheets, blanket, and bath towel;

(3) A dresser, drawers, or shelves for each patient;

(4) A chair, table or desk, reading lamp, and mirror for each patient; and

(5) Window coverings for privacy.

Source:

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:78:02:05. Care units. The care unit shall contain the following features:

(1) Staff work area with handwashing fixture, charting space, communication and security equipment, supply storage, and locked medication storage, including refrigerated storage and dispensing area;

(2) Staff toilet room convenient to work area. The toilet room shall be accessible and shall contain a handwashing fixture and stool with at least a side grab bar and toilet paper dispenser;

(3) Clean linen storage or linen cart storage room;

(4) A housekeeping room for supply and housekeeping equipment storage. A floor receptor or service sink shall be provided and the adjacent wall surfaces shall be protected from water damage;

(5) A bathing room for each gender served with bath fixtures in accordance with SDCL 36-25-15 and 36-25-15.1;

(6) Lounge space with a minimum area of 20 square feet for each patient;

(7) Dining space with a minimum of 20 square feet for each patient;

(8) A group room with a minimum of 150 square feet for each six patients; and

(9) A counselor office with a minimum of 100 square feet for each six patients.

Source:

General Authority: SDCL 34-12-13(1), (3), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (3), (4), and (14).

44:78:02:06. Food service. In-house dietary department areas and equipment shall meet sanitary storage, processing, and handling requirements of the Food Service Code. If a facility's food service is contracted out, the contractor shall be a licensed food service establishment that is inspected by a local, state, or federal agency. If the facility has an in-house dietary department the dietary manager or at least one cook must successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the Dietary Managers Association, or successfully completed equivalent training as determined by the Health Department. If the facility contracts out food services at least one staff person serving meals shall successfully complete and possess a current certificate from a ServSafet Food Protection Program or equivalent as noted in this section. The following equipment and space shall be provided in the dietary area:

(1) A receiving area for incoming food supplies;

(2) A vegetable preparation two compartment sink with a garbage disposal. This fixture requires an indirect connection to the waste line;

(3) A dry food storage area;

(4) A floor receptor with moisture resistant protection for the adjacent wall surfaces;

(5) Refrigerated storage space with 15 cubic foot refrigerator capacity and 4 cubic foot freezer capacity for each 12 persons served by the dietary area. Refrigerated storage for milk, eggs, and butter shall be located within 6 feet of the food preparation areas;

(6) Food production equipment designed to produce a complete meal three times daily for each person served;

(7) Food holding and transport equipment capable of protecting food from contamination and maintaining safe temperatures during the meal serving time;

(8) A hood and ventilation equipment for cooking equipment to remove heat, moisture, cooking odors, and grease to the exterior of the building. Continuous mechanical exhaust ventilation at the commercial dishwasher location to remove heat and moisture;

(9) A handwashing fixture convenient to food preparation areas and dishwashing. No mirror is allowed at these sink locations;

(10) Aisles of 36 inches clear width;

(11) If a grease trap is required by local ordinance, it shall be located in a room adjacent to the dietary area;

(12) A dishwasher with a sanitizing cycle. A commercial dishwasher supplied with 180 degree Fahrenheit rinse water or a chemical sanitizing cycle is required when more than 20 meals are served;

(13) Dietary manager work space with desk and chair; and

(14) A self-dispensing ice machine. Ice from a bin type ice machine may be used for cooling food containers, but not for consumption.

Source:

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:78:02:07. Laundry. Personal clothing shall be transported to the laundry equipment in a closed container.

The facility shall process laundry following the laundry equipment and cleaning agent recommendations. If hot water is used for disinfection, all common use linens and combined patients' personal clothing shall be processed for disinfection using either hot water at 160 degrees Fahrenheit (71 degrees centigrade) or chlorine bleach shall be introduced to the process to provide 100 parts per million free chlorine with the water temperature reduced to 120 degrees Fahrenheit or department approved laundry disinfectant. Air flow in the linen processing shall be from clean processing areas toward the soiled holding and sorting area. Clean linens shall be covered during transport to storage areas. Laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service.

The facility may choose to wash commingled patients' personal clothing, common-use linen, and any isolation clothing in water temperatures less than 120 ° F. if the following conditions are met:

(1) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility;

(2) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff;

(3) The facility ensures that laundry staff receives in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations; and

(4) The facility ensures that staff monitors chemical usage and wash water temperatures at least monthly to ensure conformance with the chemical supplier's instructions.

Any resident's personal clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in quantity as recommended by

the garment or detergent manufacturer. The facility shall have distinct areas for the storage and handling of clean and soiled linens. Those areas used for the storage and handling of soiled linens shall be negatively pressurized. The facility shall establish special procedures for the handling and processing of contaminated linens. Soiled linen shall be placed in closed containers prior to transportation. To safeguard clean linens from cross contamination, the linens shall be transported in containers used exclusively for clean linens, shall be kept covered with dust covers at all times while in transit or in hallways, and shall be stored in areas designated exclusively for this purpose. A written request for any modification of the requirements of this section shall be received and approved by the department before any changes are made.

Source: .

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:78:02:08. Storage. A minimum of the 200 square feet of general supply storage shall be provided in a single room. If the patient capacity exceeds 25, an additional 200 square feet of storage shall be provided for each multiple of 25 patients.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:09. Outside yard storage. The facility shall provide storage space for yard equipment with an exterior building access or separate storage shed.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:10. Flooring. Flooring materials that are slip resistant shall be installed at the building main entry, dishwashing, and bathing areas.

Source: .

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:11. Handwashing fixtures. Hot and cold water shall be supplied through a mixing faucet controlled by a "hands free" operator such as a blade handle, single lever operator, etc. Each handwashing fixture shall be provided with a soap dispenser, hand dryers or protected single use towel dispensers, and waste receptacle.

Source: .

General Authority: SDCL 34-12-13(3) and (4).

Law Implemented: SDCL 34-12-13(3) and (4).

44:78:02:12. Exhaust ventilation. Electrically powered continuous exhaust ventilation shall be provided for soiled areas, wet areas, and toilet rooms at ten air changes each hour and shall be provided for storage rooms at two air changes each hour.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:13. Waste disposal. Garbage, refuse, and waste shall be handled and disposed of in a safe and sanitary manner. Final disposal of all refuse and waste shall comply with articles 74:27 and 74:28. Putrescible garbage shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source: .

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:78:02:14. Ventilation. The facility shall have general ventilation of two air changes each hour. The outside air supply shall be tempered to eliminate cold air from being introduced into occupied space. The supply air unit shall be equipped with one inch furnace filter media installed in the ductwork ahead of the unit. The filter media shall be changed at least every three months.

Source: .

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:15. Heating and cooling. The facility heating system shall be capable of maintaining a minimum temperature of 75 degrees Fahrenheit at winter design conditions. The building cooling system shall be capable of maintaining room temperatures in occupied spaces at 75 degrees Fahrenheit or less.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:16. Hot water systems. The facility shall install a recirculating system to provide hot water to all fixtures. Equipment shall be installed to provide hot water at a temperature of 100 (38 degrees centigrade) to 125 degrees Fahrenheit (52 degrees centigrade) to all handwashing sinks. Maximum hot water temperatures at plumbing fixtures used by patients may not exceed 125 degrees Fahrenheit (52 degrees centigrade).

Source: .

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:17. Potable water. All plumbing used for distribution of potable water shall be maintained to minimize dead-end runs of piping. Before placing a potable water system into use and after repairs or modifications, the system shall be disinfected in accordance with the 2009 Uniform Plumbing Code, Section 609.9.

Source: .

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:18. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Any private water supply shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the facility. The hot water system shall be capable of supplying the work and resident areas with water at the required temperatures.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:19. Plumbing. A facility's plumbing system shall be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing shall be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:20. Lighting. All building spaces, parking lots, and exit discharge routes shall be illuminated for general safety. Specific required lighting levels shall be provided for the following spaces:

(1) Ten footcandles for general illumination;

(2) Thirty footcandles for dining rooms, bathing areas, food preparation areas, laundry, staff work area, and areas where persons are involved in reading or other close work tasks;

(3) Fifty footcandles shall be provided on the work surface of the medication set up and distribution area; and

(4) Portable halogen lamps may not be used due to extremely high surface temperatures.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:21. Electrical convenience outlets. Electrical extension cords may not be used as a substitute for properly installed electrical receptacles. Power strips in business office areas and for entertainment centers may be used.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:02:22. Infection control. The facility shall develop policies to address cleaning of environmental surfaces, standard precautions, employee illness, and patient transfer to another health care facility.

Chemicals used to sanitize, disinfect, or sterilize shall be labeled to show registration with the United States Environmental Protection Agency as being safe and effective for use in accordance with the procedures used by the facility.

Source:

General Authority: SDCL 34-12-13(1) and (2).

Law Implemented: SDCL 34-12-13(1) and (2).

44:78:02:23. Occupant protection. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the patients admitted to the facility. The facility shall take at least the following precautions:

(1) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by patients;

(2) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;

(3) Portable space heaters, portable halogen lamps, household-type electric blankets or heating pads may not be used in a facility;

(4) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and

(5) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 99 Health Care Facilities, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:78:02:24. Physical plant changes. A facility shall submit any proposed change by new construction, remodeling, or change of use of an area to the department. Any change shall have the approval of the department before it is made. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:78:02:25. Insect and rodent control. The facility shall take measures to effectively control the entry, presence, and breeding of vermin. All openings around pipe, conduit, and wiring or similar penetrations of the exterior wall shall be caulked to prevent vermin entry. Any poisons used shall be stored safely to avoid contamination of food and properly labeled and applied to protect the building occupants.

Source: .

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:78:02:26. Location. The location of the facility shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. The facility shall be served by good, passable roads. Easy accessibility for caregivers, visitors, and fire-fighting services shall be maintained.

Source:.

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:78:02:27. Preventative maintenance. The facility shall develop and implement a written system of scheduled maintenance for building equipment, mechanical, and electrical systems.

Source: .

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:78:02:28. Other hazardous conditions. A facility may be directed to remove or correct other hazardous conditions not covered in this chapter if the department considers the conditions to have the potential to cause injury or illness to any resident or staff.

Source:

General Authority: SDCL 34-12-13(1) and (14).

Law Implemented: SDCL 34-12-13(1) and (14).

44:78:02:29. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

(1) Fire prevention and response. The facility shall conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, monthly fire drills shall be conducted to provide training for all staff;

(2) Emergency procedures and preparedness;

(3) Infection control and prevention;

(4) Accident prevention and safety procedures; and

(5) Incidents and diseases subject to mandatory reporting and the facility's reporting mechanisms;

Additional personnel education shall be based on facility identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:78:03

FIRE SAFETY AND CONSTRUCTION STANDARDS

Section

44:78:03:01 Fire safety code requirements.

44:78:03:02 General fire safety.

44:78:03:03 Staffing exception.

44:78:03:04 Fire extinguishers.

44:78:03:05 New Construction

44:78:03:01. Fire safety code requirements. Each facility shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition. An automatic sprinkler system is not required in an existing facility unless significant renovations or remodeling occurs; however, any existing automatic sprinkler system shall remain in service.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: NFPA 101 Life Safety Code, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:78:03:02. General fire safety. Each facility covered under this article shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. At least two staff members shall be on duty at all times. In a multilevel facility, at least one staff member shall be on duty on each floor containing occupied beds. Compliance with this section does not eliminate or reduce the necessity for other provisions for safety of persons using the structure under normal occupancy conditions.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:78:03:01.

44:70:03:03. Staffing exception. A staffing exception may be allowed as follows:

(1) For each facility with 16 beds or less, one staff person who is awake is required if:

(a) The facility fire alarm promptly alerts staff;

(b) The facility is equipped with an automatic sprinkler system as defined in § 9.7, automatic sprinklers, of **NFPA 101 Life Safety Code**, 2000 edition;

(c) An automatic fire alarm dialer as defined in § 9.6.4, Emergency Forces Notification, of **NFPA 101 Life Safety Code**, 2000 edition, to summon the local fire department is provided; and

(d) The clients have an evacuation time which shows them capable of evacuation in five minutes or less.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: NFPA 101 Life Safety Code, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:78:03:04. Fire extinguishers. Fire extinguishers that are at least 2-A:10-B:C rated shall be installed for general building coverage at a rate of one for each 3,000 square feet and one additional 2-A:10-B:C rated extinguisher also located at the kitchen, laundry, and furnace room.

Source: .

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:78:03:05. New Construction. This section applies to all newly licensed inpatient chemical dependency treatment facilities and to renovations, additions, and changes in space use of currently approved existing facility.

New construction, renovations, additions, and changes of space use shall comply with Article 44:78 and NFPA 101 Life Safety Code, 2012 edition.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

ARTICLE 44:79

INPATIENT HOSPICE FACILITIES

Chapter

<u>44:79:01</u>	<u>Rules of general applicability.</u>
<u>44:79:02</u>	<u>Physical environment.</u>
<u>44:79:03</u>	<u>Fire protection.</u>
<u>44:79:04</u>	<u>Management and administration.</u>
<u>44:79:05</u>	<u>Nursing and related care services.</u>
<u>44:79:06</u>	<u>Dietetic services.</u>
<u>44:79:07</u>	<u>Medication control.</u>
<u>44:79:08</u>	<u>Medical record services.</u>
<u>44:79:09</u>	<u>Patients' and families rights.</u>
<u>44:79:10</u>	<u>Construction standards.</u>

CHAPTER 44:79:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:79:01:01</u>	<u>Definitions.</u>
<u>44:79:01:02</u>	<u>Posting of license</u>
<u>44:79:01:03</u>	<u>Name of hospice.</u>
<u>44:79:01:04</u>	<u>Bed capacity.</u>
<u>44:79:01:05</u>	<u>Restrictions on acceptance of patients.</u>
<u>44:79:01:06</u>	<u>Joint occupancy.</u>
<u>44:79:01:07</u>	<u>Reports.</u>
<u>44:79:01:08</u>	<u>Plans of correction.</u>
<u>44:79:01:09</u>	<u>Modifications.</u>
<u>44:79:01:10</u>	<u>Scope of article.</u>

44:79:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or
(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a patient's or patient's property or funds;

(ii) An attempt to commit a crime against a resident or patient;
(iii) Physical harm or injury against a patient; or
(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or patient;

(2) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;

(3) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for the daily overall management of the facility, who may maintain an office on the premises of the facility, and appoints a qualified person to represent the administrator during the administrator's absence;

(4) "Client advocates," agencies responsible for the protection and advocacy of patients and residents, including the department, the state ombudsman, and the protection and advocacy network;

(5) "Department," the South Dakota Department of Health;

(6) "Dietary manager," a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides 120 or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the National Certifying Board of Dietary Managers and who functions with consultation from a dietitian;

(7) "Dietitian," a person who is registered with the Academy of Nutrition and Dietetics and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

(8) "Distinct part," an identifiable unit, such as an entire ward or contiguous wards, wing, floor, or building, which is licensed at a specific level. It consists of all beds and related facilities in the unit;

(9) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

(10) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

(11) "Facility," the place of business licensed by the department used to provide health care for inpatient hospice patients;

(12) "Governing body," is an individual, partnership, or an organized body of persons that is ultimately responsible for the quality of care in an inpatient hospice facility, credentialing of and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policies and procedures, or bylaws governing the operation of the facility;

(13) "Healthcare worker," any paid person working in a health-care setting;

(14) "Hospice services," a coordinated interdisciplinary program of health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;

(15) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a patient;

(16) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";

(17) "Licensed health professional," a physician; physician's assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;

(18) "Medical staff," an organized staff composed of practitioners that operates under bylaws approved by the governing body and which is responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to patients in a facility;

(19) "Misappropriation of resident or patient property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's or patient's belongings or money without the resident's or patient's consent;

(20) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

(21) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

(22) "Nurse practitioner," a person who practices the specialty nurse practitioner as authorized pursuant to SDCL 36-9A;

(23) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and unlicensed assistive personnel;

(24) "Nursing unit," a patient unit that is limited to one floor of a hospice and has all patient room entrances and exits within sight or control of nursing personnel;

(25) "Patient," a person with a valid order by a practitioner to receive hospice services in an inpatient hospice;

(26) "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;

(27) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(28) "Practitioner," one of the following:

(a) A physician or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(b) A pharmacist licensed pursuant to SDCL chapter 36-11; or

(c) A nurse practitioner licensed pursuant to SDCL chapter 36-9A; or

(29) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mental Illness Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;

(30) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;

(31) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;

(32) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one patient;

(33) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or the movement or normal function of a portion of the patient's body, excluding devices used for specific medical and surgical treatment;

(34) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

(35) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;

(36) "Terminal illness," a medical prognosis that the individual's life expectancy is six months or less if the illness runs its normal course;

(37) "Therapeutic diet," any diet other than a regular diet, excluding low sodium diets, that is ordered by a physician as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency;

(38) "Transfer or discharge," the movement of a patient to a bed outside the distinct part or outside the facility;

(39) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

(40) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a patient or resident as delegated by the nurse and authorized by chapter 20:48:04.01.

Source:.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

Note: National Certification Council of Activity Professionals, 520 Stewart, Park Ridge, IL 60068. Phone (708) 698-4263.

44:79:01:02. Posting of License. The most current license issued by the department shall be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:79:01:03. Name of hospice. Each hospice shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No hospice may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:79:01:04. Bed capacity. The department shall establish the bed capacity of each hospice pursuant to the physical plant and space provisions of this article. The patient census shall not exceed the bed capacity for which the facility is licensed. A request by the hospice for an adjustment in bed capacity because of change of purpose or construction shall be approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:79:01:05. Restrictions on acceptance of patients. A hospice shall accept patients in accordance with the following restrictions:

(1) The hospice facility shall be certified by the Centers for Medicare and Medicaid Services as a Medicare certified hospice providing inpatient hospice services;

(2) A patient accepted for care by a hospice shall be housed within the facility covered by the license;

(3) A hospice may not accept or retain patients who require care in excess of the classification for which it is licensed;

(4) Personnel essential to maintaining adequate staff may not leave a hospice during their tour of duty in the hospice to provide services to persons who are not patients of the hospice with the exception of providing emergency care on premises contiguous to the hospice's property; and

(5) A hospice facility may admit and retain only patients certified by a physician as terminally ill.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:79:01:06. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the patients. The area shall be open to inspection by the department.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:01:07. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any patient by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing patient to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:01:08. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each hospice shall submit to the department a written plan of correction for citations of noncompliance with licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the hospice to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:01:09. Modifications. Modifications to the staffing requirements provided in § 44:79:03:02 may be approved by the department for licensed hospices which are physically combined and jointly operated. The health and safety of the patient either facility shall not be jeopardized. Modifications specified by this section may be requested in writing by the hospice.

Source:.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:79:01:10. Scope of article. Nothing in article 44:79 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:79:02

PHYSICAL ENVIRONMENT

Section

<u>44:79:02:01</u>	<u>Sanitation.</u>
<u>44:79:02:02</u>	<u>Pets.</u>
<u>44:79:02:03</u>	<u>Cleaning methods and facilities.</u>
<u>44:80:02:04</u>	<u>Chemicals used to sanitize, disinfect, or sterilize.</u>
<u>44:79:02:05</u>	<u>Food service.</u>
<u>44:80:02:06</u>	<u>Handwashing facilities.</u>
<u>44:79:02:07</u>	<u>Linen.</u>
<u>44:79:02:08</u>	<u>Infection control.</u>
<u>44:79:02:09</u>	<u>Refuse and waste disposal.</u>
<u>44:79:02:10</u>	<u>Occupant protection.</u>
<u>44:79:02:11</u>	<u>Area requirements for currently licensed patient rooms.</u>
<u>44:79:02:12</u>	<u>Location.</u>
<u>44:79:02:13</u>	<u>Water supplies.</u>
<u>44:79:02:14</u>	<u>Other hazardous conditions.</u>

44:79:02:01. Sanitation. The hospice shall be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases to clients, personnel, visitors, and the community at large.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:79:02:02. Pets. Any pet kept in a hospice may not negatively affect the well-being of patients.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:79:02:03. Cleaning methods and facilities. The hospice shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, or disinfecting all work areas, equipment, utensils, and medical devices used for patient's care. Common use equipment shall be disinfected after each use. Facilities shall have a separate clean and soiled utility rooms. All parts of the hospice shall be kept clean, neat, and free of visible soil, litter, or rubbish.

44:80:02:04. Chemicals used to sanitize, disinfect, or sterilize. The label of chemicals used to sanitize, disinfect, or sterilize shall indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

Source:.

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:79:02:05. Food service. If an in-house food service is provided, the hospice shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The hospice shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation. If the hospice food service is contracted out, the contractor shall be a licensed food service establishment that is inspected by a local, state, or federal authority. The facility shall ensure that food is prepared and served in a manner that is safe and palatable. Hot food shall be held at or above 135 degrees Fahrenheit (57.2 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods shall be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device.

Source:.

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:79:02:06. Handwashing facilities. Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and hand cleanser shall be located at dietary areas, utility rooms, staff stations, laundry, and all toilet rooms not directly connected to resident rooms. A handwashing facility shall be provided in each resident room. If existing faucets and controls are replaced or changed, they shall be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source:.

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

Cross-Reference: Plumbing fixtures, § 44:80:10:21.

44:79:02:07. Linen. The hospice shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. The facility shall process laundry following the laundry equipment and cleaning agent recommendations. A hospice providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Closed containers shall be used during transport and the arrangement of equipment and the handling of linens shall prevent soiled linens from contacting the processed clean linens. Air flow in the linen processing shall be from clean processing areas toward the soiled holding and sorting area. Clean linens shall be covered during transport to storage areas.

Source:.

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:79:02:08. Infection control. The infection control program shall utilize the concept of standard precautions as the basis for infection control pursuant to chapter 44:20:04. Bloodborne pathogen control shall be maintained according to the requirements contained in 29 C.F.R. 1910.1030, July 1, 2006. The hospice shall designate an employee to be responsible for the implementation of the infection control program including surveillance and reporting activities. There shall be written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each hospice shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). There shall be a method of control if sterilize supplies are used and a written policy if sterile supplies are reprocessed. The hospice shall provide orientation and continuing education to all personnel on the cause, effect, transmission, prevention, and elimination of infections. Each hospice shall develop a written policy for evaluation and reporting of any employee with a reportable infectious disease.

Source:

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1).

44:79:02:09. Refuse and waste disposal. Garbage, refuse, and waste shall be handled and disposed of in a safe and sanitary manner. Final disposal of all refuse and waste shall comply with articles 74:27 and 74:28. Putrescible garbage shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:79:02:10. Occupant protection. Each hospice shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the patients admitted to the facility. The hospice shall take at least the following precautions:

(1) Develop and implement a written and scheduled preventive maintenance program;

(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by patients;

(3) Provide a call system for each patient bed and in all toilet rooms and bathing facilities routinely used by patients. The call system shall be capable of being easily activated by the patient and shall register at a staff station. A wireless call system may be used;

(4) Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;

(5) Portable space heaters, portable halogen lamps, household-type electric blankets, or heating pads may not be used in a facility;

(6) Any light fixture located over a patient bed, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area shall be equipped with a lens cover or a shatterproof lamp;

(7) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and

(8) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 99 Health Care Facilities, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$66.50.

44:79:02:11. Area requirements for currently licensed patient rooms. Each currently licensed hospice patient room shall have at least 120 square feet (11.15 square meters) of floor space per bed, exclusive of closets and wardrobes. Each hospice shall have 10 square feet (0.93 square meters) of general storage for each bed. A total of 40 square feet (3.72 square meters) of dining and lounge area for each patient shall be provided in a facility. Each hospice shall be constructed, equipped, and operated to maintain the privacy, comfort, and dignity of all patients.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Area requirements for new construction or renovations, § 44:79:10:08(2).

44:79:02:12. Location. The location of a hospice shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:79:02:13. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Private water supplies shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the facility, including fire fighting requirements. The hot water system shall be capable of supplying the work and patient-areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by patients may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for patient use shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range. The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. If testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001, transferred from 44:04:02:11.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-References: Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:79:02:14. Other hazardous conditions. A hospice may be directed to remove or correct other hazardous conditions not covered in this chapter if the department considers the conditions to have a potential to cause injury or illness to the patients or staff.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

CHAPTER 44:79:03

FIRE PROTECTION

Section

44:79:03:01 Fire safety code requirements.

44:79:03:02 General fire safety.

44:79:03:03 Fire extinguisher equipment.

44:49:03:04 Fire alarm systems.

44:97:03:05 Detached structures.

44:79:03:01. Fire safety code requirements. Each hospice shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$ 93.00.

44:79:03:02. General fire safety. Each hospice shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. At least two staff members shall be on duty at all times. In a multilevel hospice, at least one staff member shall be on duty on each floor containing occupied beds.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:79:03:01.

44:79:03:03. Fire extinguisher equipment. Fire extinguisher equipment shall be installed and maintained by the following minimum standards:

(1) Portable fire extinguishers shall have a minimum rating of 2-A:10-B:C;

(2) Fire extinguisher equipment shall be inspected monthly and maintained yearly; and

(3) Approved fire extinguisher cabinets shall be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls shall be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire extinguisher cabinets shall be wire glass or other safety glazing material. Fire extinguisher cabinets shall be identified with a sign mounted perpendicular to the wall surface above the cabinet or with sign mounted on the sides of cabinet that are visible from the corridor.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:03:04. Fire alarm systems. A manually operated, electrically supervised fire alarm system shall be installed in each facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:03:05. Detached structures. A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a hospice shall either be separated from the facility by a minimum distance of 20 feet, equipped with automatic sprinkler protection, or provided with two-hour fire rated separation.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Fire safety code requirements, § 44:79:03:01.

CHAPTER 44:79:04

MANAGEMENT AND ADMINISTRATION

Section

<u>44:79:04:01</u>	<u>Governing body.</u>
<u>44:79:04:02</u>	<u>Administrator.</u>
<u>44:79:04:03</u>	<u>Personnel.</u>
<u>44:79:04:04</u>	<u>Personnel training.</u>
<u>44:79:04:05</u>	<u>Employee health program.</u>
<u>44:79:04:06</u>	<u>Tuberculin screening requirements.</u>
<u>44:79:04:07</u>	<u>Care policies.</u>
<u>44:79:04:08</u>	<u>Admissions of patients.</u>
<u>44:79:04:09</u>	<u>Discharge planning.</u>
<u>44:79:04:10</u>	<u>Quality assessment.</u>

44:79:04:01. Governing body. Each facility operated by limited liability partnership, a corporation, or political subdivision shall have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:02. Administrator. The governing body shall designate a qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:03. Personnel. The hospice shall have a sufficient number of qualified personnel to provide effective and safe care. Written job descriptions and personnel policies and procedures shall be made available to personnel of all departments and services. The hospice may not knowingly employ any person with a conviction for abusing another person. The hospice shall establish and follow policies regarding special duty or staff members on contract.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:04. Personnel training. The hospice shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

(1) Fire prevention and response. The hospice shall conduct fire drills quarterly for each shift to train all staff. Silent or code announcement drills may be conducted;

(2) Emergency procedures and preparedness;

(3) Infection control and prevention;

(4) Accident prevention and safety procedures;

(5) Proper use of restraints;

(6) Patient rights;

(7) Hospice philosophy and death & dying;

(8) Confidentiality of patient information;

(9) Incidents and diseases subject to mandatory reporting and the hospices reporting mechanisms;

(10) Care of patients with special or unique needs; and

(11) Dining assistance, nutritional risks, and hydration needs of patients.

Any personnel whom the hospice determines will have no contact with patients are exempt from training required by subdivisions (5), (7), (9), (10) and (11) of this section.

Additional personnel education shall be based on hospice identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:05. Employee health program. The hospice shall have an employee health program for the protection of the patients. All personnel shall be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties or within 14 days after employment including an assessment of previous vaccinations and tuberculin skin tests. The hospice may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Any personnel absent from duty because of a reportable communicable disease which may endanger the health of patients and fellow employees may not return to duty until they are determined by a physician, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Reportable diseases and conditions, ch 44:20:01.

44:79:04:06. Tuberculin screening requirements. Each facility shall develop criteria to screen healthcare workers for *Mycobacterium tuberculosis* (TB) based on the guidelines issued by Centers for Disease Control and Prevention. Each facility shall establish policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment that include the key components of responsibility, surveillance, containment, and education. The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

Tuberculin screening requirements for healthcare workers are as follows:

(1) Each new healthcare worker shall receive the two-step method of tuberculin skin test or a TB blood assay test to establish a baseline within 14 days of employment. Any two documented tuberculin skin tests completed within a 12 month period prior to the date of employment can be considered a two-step or one blood assay TB test completed within a 12 month period prior to the date of employment can be considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new employee transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation of the last skin testing completed within the prior 12 months. Skin testing or TB blood assay tests are not necessary if documentation is provided of a previous positive reaction to either test. Any new healthcare worker who has a newly recognized positive reaction to the skin test or TB blood assay test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) A new healthcare worker who provides documentation of a positive reaction to the tuberculin skin test or TB blood assay test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

(3) Each healthcare worker with a history of a positive reaction to the tuberculin skin test or blood assay shall be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*. If this evaluation results in suspicion of active tuberculosis, the person shall be referred for further medical evaluation to confirm the presence or absence of tuberculosis.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9.

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Reference: Reference: Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005 (RR17).

44:79:04:07. Admissions of patients. The governing body of the hospice shall establish and maintain admission, transfer, and discharge policies, with written evidence to assure the patients admitted to and retained in the hospice are within the licensure classification of the facility. The hospice may admit and retain, on the orders of a physician, only those patients for whom it can provide care safely and effectively.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:08. Care policies. Each hospice shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the patients' needs. Each hospice shall establish and maintain policies and procedures for the management of respite care patients if the hospice offers those services shall be established and maintained.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:79:04:09. Discharge planning. Each facility shall have policies and procedures for discharge planning.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:79:04:10. Quality assessment. Each hospice shall provide for on-going evaluation of the quality of services provided to patients and families.

Source:

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

CHAPTER 44:79:05

NURSING AND RELATED CARE SERVICES

Section

44:79:05:01. Admissions.

44:79:05:02 Medical orders.

44:79:05:03 Physician services for hospice patients.

44:79:05:04 Nursing policies and procedures.

44:79:05:01. Admissions. Each patient may be admitted only on the order of a physician. Prior to or upon admission of a patient, the attending physician shall provide the staff of the facility with documented information regarding current medical findings and with written orders for the immediate care of the individual.

A physician may not delegate a task when the regulations specify the physician shall perform it personally, or when the delegation is prohibited under State law or by the facility's own policies.

Source:.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:79:05:02. Medical orders. All medical orders shall be in writing or electronic format and signed by the physician. Verbal orders are for medications, treatment, interventions, or other patient care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. Verbal orders may be taken only when there is an urgent need to initiate or change a medical order.

Source:.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:79:05:03. Physician services for hospice patients. A facility shall provide or arrange for physician services, including emergencies once a patient elects hospice care.

Source:.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:79:05:04. Nursing policies and procedures. The hospice shall establish and maintain policies and procedures that provide the nursing staff with methods of meeting its administrative and technical responsibilities in providing care to patients. The policies shall include at least the following:

- (1) The noting of diagnostic and therapeutic orders;
- (2) Assigning the nursing care of patients;
- (3) Administration and control of medications;
- (4) Documentation by nursing personnel;
- (5) Infection control; and
- (6) Patient safety.

Source:.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

CHAPTER 44:79:06

DIETETIC SERVICES

Section

44:79:06:01 Dietetic services.
44:79:06:02 Food substitutions.
44:79:06:03 Preparation of food.
44:79:06:04 Dietetic services.
44:79:06:05 Nutritional assessments.
44:79:06:06 Required dietary inservice training.
44:79:06:07 Dietary department.

44:79:06:01. Dietetic services. The facility shall have an organized dietetic service that meets the nutritional needs of patients and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with the provisions of § 44:79:02:04.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:02. Food substitutions. The hospice shall offer reasonable substitutions of equal nutritional value to patients who refuse or are unable to eat the food served.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:03. Preparation of food. Food shall be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and shall be attractively served at the temperature applicable to the particular food in a form to meet the individual patient's needs.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:04. Dietetic services. A person who is responsible to the administrator shall direct the dietetic services. At least one person shall successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the Dietary Managers Association, or successfully completed equivalent training as determined by the Health Department. Individuals seeking ServSafe recertification are only required to take the national examination. The person shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each patient are met. A dietitian or nutritionist shall approve all menus, assess the nutritional status of patient with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:05. Nutritional assessments. A dietitian, nutritionist, or registered nurse shall ensure a nutritional assessment is completed on each new patient upon admission; any patient having a significant change in diet, eating ability, nutritional status, and monthly for any patient receiving tube feedings.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:06. Required dietary inservice training. A dietitian, nutritionist, or registered nurse shall provide ongoing inservice training for all dietary and food-handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source:

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:07. Dietary department. Construction, equipment, and installation of the dietary department shall comply with or exceed the minimum standards in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. The installation shall comply with § 44:79:10:10 unless a commercially prepared dietary service, meals, or disposables are used. If a commercial service is used, dietary areas and equipment shall meet the requirements for sanitary storage, processing, and handling.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

CHAPTER 44:79:07

MEDICATION CONTROL

Section

<u>44:79:07:01</u>	<u>Policies and procedures.</u>
<u>44:79:07:02</u>	<u>Orders for medication required.</u>
<u>44:79:07:03</u>	<u>Medication therapy reviewed monthly.</u>
<u>44:79:07:04</u>	<u>Storage and labeling of medications and drugs.</u>
<u>44:79:07:05</u>	<u>Control and accountability of medications and drugs.</u>
<u>44:79:07:06</u>	<u>Documentation of drug disposal.</u>
<u>44:79:07:07</u>	<u>Medication administration.</u>
<u>44:79:07:08</u>	<u>Medication records.</u>

44:79:07:01. Policies and procedures. Each hospice shall establish and practice methods and procedures for medication control that include the following:

(1) A requirement that each patient's prescribing physician provide to the facility electronic or written signed orders for any medications taken by the patient; authorization for medications or drugs kept on the person or in the room of the patient; and release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to patients or visitors with requirements for:

- (a) Separate storage of poisons, topical medications, and oral medications; and
- (b) A medication prescribed for one patient not to be administered to any other patient;

(3) Self-administration of medications to be accomplished with the supervision of a designated employee of the facility to include:

- (a) A description of the responsibilities of the patient, the patient's family members, and the facility staff; and
- (b) The provision of written educational material explaining to the patient and the patient's family the patient's rights and responsibilities associated with self-administration; and

(4) The proper disposition of medicines that are discontinued because of the discharge or death of the patient, because the drug is outdated, or because the prescription is no longer appropriate to the care of the patient.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

The facility and pharmacist shall establish a system of records of receipt and disposition for all controlled drugs in sufficient detail to enable an accurate reconciliation. The facility and pharmacist shall ensure the drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled. The facility and pharmacist shall have policies and procedure for the periodic reconciliation of all controlled substances. The policies and procedure shall minimize the time between the actual loss or diversion and the time of detection and follow-up to determine the extent of the loss.

If a loss or diversion of controlled substances is identified the facility and pharmacist shall evaluate the patients potentially affected consistent with their comprehensive assessment and plan of care. If the systems have not been effective in preventing the loss or diversion of controlled substances, the facility and pharmacist shall review and revise related controls and procedures as necessary.

Source:.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:79:07:02. Orders for medication required. All medications or drugs administered to patients shall be ordered electronically or in writing and signed by the prescriber. Verbal orders are for medications, treatments, or other patient care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. Verbal orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:03. Medication therapy. The pharmacist shall review the patient's diagnosis, the drug regimen, and any pertinent laboratory findings and dietary considerations. The pharmacist shall report potential drug therapy irregularities and make recommendations for improving the drug therapy of the patients to the attending physician and the administrator. A copy of the medication review shall be in the patient medical record.

The pharmaceutical service shall be under the supervision of a licensed pharmacist who is responsible to the issuance, proper storage, control, and accountability.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:04. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to patients or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to patients.

The medications or drugs of each patient for whom medications are facility-administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the patient's name, physician's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

A facility may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by qualified personnel.

Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:79:08:06. Licensed pharmacists are responsible for the labeling, relabeling, or altering of labels on medication containers.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:05. Control and accountability of medications and drugs. Medications brought from home may be used if ordered by the attending physician and, if prior to administration, is identified as the prescribed drug. Patients may not keep medications on their person or in their room without a physician's order allowing self-administration. Written authorization by the patient's physician shall be secured for the release of any medication to a patient upon discharge, transfer, or temporary leave from the facility. The release of medication shall be documented in the patient's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:06. Documentation of drug disposal. Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

(1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to patient upon discharge after authorization by the patient's prescribing practitioner.

Documentation of destruction or disposal of medications shall be included in the patient's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to patient); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:07. Medication administration. Each medication administered shall be recorded in the patient's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the patient's physician and an entry made in the patient's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. All medications shall be administered to patients by personnel acting under delegation of a licensed nurse, or licensed to administer medications.

A person may not administer medications that have been prepared by another person.

Medication administration shall comply with §§ 44:79:08:02 to 44:79:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The licensed nurse shall provide an orientation and training to the unlicensed assistive personnel who will administer medications annually. The orientation shall be specific to the facility and relevant to the patients receiving administered medications.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:79:07:08. Medication records. Medication administration records shall be used and regularly checked against the physician's orders. Each medication administered shall be recorded in the patient's medical record and signed by the individual responsible.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 44:79:08

PATIENT RECORD SERVICES

Section

44:79:08:01. Medical record.

44:79:08:02 Written policies and confidentiality of records.

44:79:08:03 Record content.

44:79:08:04 Retention of medical records.

44:79:08:05 Storage of medical records.

44:79:08:06 Destruction of medical records.

44:79:08:07 Disposition of medical records on closure of facility or transfer of ownership.

44:79:08:01. Medical record. There shall be an organized medical record system. A medical record shall be maintained for each patient admitted to the hospice.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:79:08:02. Written policies and confidentiality of records. There shall be written policies and procedures to govern the administration and activities of the medical record service. They shall include policies and procedures pertaining to the confidentiality and safeguarding of medical records, the record content, continuity of a patient's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:79:08:03. Record content. Each medical record shall show the condition of the patient from the time of admission until discharge and shall include the following:

(1) Identification data;

(2) Consent forms, except when unobtainable;

(3) History of the patient;

(4) A current overall plan of care;

(5) Report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;

(6) Diagnostic and therapeutic orders;

(7) Progress notes from all disciplines, including practitioners, physical therapy, occupational therapy, and speech pathology;

- (8) Laboratory and radiology reports;
- (9) Description of treatments, diet, and services provided and medications administered;
- (10) All indications of an illness or an injury and change in condition, including the date, the time, and the action taken regarding each;
- (10) Advanced directive;
- (11) Physicians orders;
- (12) Patients' rights;
- (13) A final diagnosis;
- (14) A discharge summary; and
- (15) Discharge instructions for home care when applicable.

Source:.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:79:08:04. Retention of medical records. A hospice shall retain medical records for a minimum of six years from the actual visit date of service or patient care. The retention of the record for six years is not affected by additional and future visit dates. The retention of the record for six years is not affected by additional and future visit dates.

Source:.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical records, § 44:79:08:05.

44:79:08:05. Storage of medical records. A hospice shall provide for filing, safe storage, and easy accessibility of medical records. The medical records shall be preserved as original records or in other readily retrievable and reproducible form. Medical records shall be protected against access by unauthorized individuals. All medical records shall be retained by the hospice upon change of ownership.

Source:.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Disposition of medical records on closure of facility or transfer of ownership, § 44:79:08:08.

44:79:08:06. Destruction of medical records. After the minimum retention period of six years from the actual date of care outlined in § 44:79:09:04, the medical record may be destroyed at the discretion of the facility. Before the destruction of the medical record, the facility shall prepare and retain a patient index or abstract. The patient index or abstract shall include:

- (1) Name;
- (2) Medical record number;
- (3) Date of birth;
- (4) Summary of care dates;
- (5) Attending or admitting physician; and
- (5) Diagnosis or diagnosis code.

The facility shall destroy the medical record in a way that maintains confidentiality.

Source:.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:79:08:07. Disposition of medical records on closure of facility or transfer of ownership. If a hospice ceases operation, the facility shall provide for safe storage and prompt retrieval of medical records and the patient indexes specified in § 44:79:08:06. The hospice may arrange storage of medical records with another health care facility of the same licensure classification, transfer medical records to another health care provider at the request of the patient, relinquish medical records to the patient or the patient's parent or legal guardian, or arrange storage of remaining medical records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the hospice shall notify the department in writing indicating the provisions for the safe preservation of medical records and their location and publish in a local newspaper the location and disposition arrangements of the medical records.

If ownership of the hospice is transferred, the new owner shall maintain the medical records as if there was not a change in ownership.

Source:.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Storage of medical records, § 44:79:08:05.

CHAPTER 44:79:09

PATIENTS' AND FAMILIES RIGHTS

Section

<u>44:79:09:01</u>	<u>Patients' rights policies.</u>
<u>44:79:09:02</u>	<u>Facility to inform patient of rights.</u>
<u>44:79:09:03</u>	<u>Facility to provide information on available services.</u>
<u>44:79:09:04</u>	<u>Notification when patient's condition changes.</u>
<u>44:79:09:05</u>	<u>Choice in planning care.</u>
<u>44:79:09:06</u>	<u>Privacy and confidentiality.</u>
<u>44:79:09:07</u>	<u>Availability of survey results.</u>
<u>44:79:09:08</u>	<u>Admission, transfer, and discharge policies.</u>

44:79:09:01. Patients' rights policies. Each facility shall establish policies consistent with this chapter to protect and promote the rights of each patient.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:09:02. Facility to inform patient of rights. Prior to or at the time of admission, a facility shall inform the patient, both orally and in writing, of the patient's rights and of the rules governing the patient's conduct and responsibilities while in the facility. The patient shall acknowledge in writing that the patient received the information. During the patient's stay the facility shall notify the patient, both orally and in writing, of any changes to the original information. A patient has the right to receive visitors. Visitors shall not cause a disruption to the care and services residents receive or infringement on other residents' rights or place an undue burden on the facility.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:09:03. Facility to provide information on available services. A facility shall provide the following information in writing to each patient:

(1) A list of services available in the facility and the charges for such services. The facility shall specify which items and services are included in the services for which the patient may not be charged, those other items and services that the facility offers and for which the patient may be charged, and the amount of any such charges;

(2) A description of how a patient may protect personal funds;

(3) A list of names, addresses, and telephone numbers of client advocates;

(4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of patient property;

(5) A description of how the patient can contact the patient's physician, including the name and specialty of the physician;

(6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

(7) A description of readmission rights of the patient; and

(8) A description explaining the responsibilities of the patient and family members regarding self-administered medication.

A signed and dated admission agreement between the patient or the patient's legal representative and the facility shall include subdivisions (1) to (8), inclusive, of this section. The patient or patient's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the patient has made a commitment for payment for proposed or actual care.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:09:04. Notification when patient's condition changes. A facility shall immediately inform the patient, consult with the patient's physician and, if known, notify the patient's legal representative or interested family member when any of the following occurs:

(1) An accident involving the patient that results in injury or has the potential for requiring intervention by a physician;

(2) A significant change in the patient's physical, mental, or psychosocial status;

(3) A need to alter treatment significantly; or

(4) A decision to transfer or discharge the patient from the facility.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:09:05. Choice in planning care. A patient may choose a personal attending physician, be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the patient's well-being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

Cross-References: Right to choose own physician unimpaired by public health programs -- Misdemeanor, SDCL 34-1-20.

Rights of authorized person as incapacitated person, SDCL 34-12C-6.

Liability of health care provider -- Liability of authorized decision maker, SDCL 34-12C-7.

44:79:09:06. Privacy and confidentiality. A facility shall provide for privacy and confidentiality for the patient, including the patient's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and patient groups. A facility shall permit patients to perform the following:

(1) To send and receive unopened mail and to have access to stationery, postage, and writing implements at the patient's own expense;

(2) Use a telephone without being overheard;

(3) To visit a spouse or, if both are patients of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;

(4) Except in an emergency, to have room doors closed and to require knocking before entering the patient's room;

(5) To have only authorized staff present during treatment or activities of personal hygiene;

(6) To retire and rise according to the patient's wishes, as long as the patient does not disturb other patients;

(7) To meet, associate, and communicate with any person of the patient's choice in a private place within the facility; and

(8) To approve or refuse the release of personal and medical records to any individual outside the facility, except if the patient is transferred to another health care facility or if the release of the record is required by law. With the patient's permission, a facility shall allow the state ombudsman or a representative of the ombudsman access to the patient's medical records.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

Cross-Reference: Written policies and confidentiality of records, § 44:79:08:03.

44:79:09:07. Availability of survey results. Survey results, along with the corresponding Plan of Correction shall be provided to residents and individuals upon request.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:79:09:08. Admission, transfer, and discharge policies. A facility shall establish and maintain policies and practices for admission, discharge, and transfer of patients that prohibit discrimination based upon payment source. The facility shall notify each patient at or before the time of admission of these policies and procedures. The policies and practices shall include the following provisions:

(1) The patient may remain in the facility and may not be transferred or discharged unless the patient's needs and welfare cannot be met by the facility, the patient's health has improved sufficiently so the patient no longer needs the services provided by the facility, the safety or health of persons in the facility is endangered by the patient, the patient has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;

(2) The facility shall notify the patient and a family member or client advocate in writing before the transfer or discharge unless a change in the patient's health requires immediate transfer or discharge. The written notice shall specify the reason for and effective date of the transfer or discharge and the location to which the patient will be transferred or discharged;

(3) The conditions under which the patient may request or refuse transfer within the facility; and

(4) A description of how the patient may appeal a decision by the facility to transfer or discharge the patient.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

CHAPTER 44:79:10

CONSTRUCTION STANDARDS

Section

<u>44:79:10:01</u>	<u>Application of chapter.</u>
<u>44:79:10:02</u>	<u>Administrative space.</u>
<u>44:79:10:03</u>	<u>Medical records storage.</u>
<u>44:79:10:04</u>	<u>Storage rooms.</u>
<u>44:79:10:05</u>	<u>Patient dining and lounge area.</u>
<u>44:79:10:06</u>	<u>Patient rooms.</u>
<u>44:79:10:07</u>	<u>Family room.</u>
<u>44:79:10:08</u>	<u>Service area in care units.</u>
<u>44:79:10:09</u>	<u>Food preparation services and equipment.</u>
<u>44:79:10:10</u>	<u>Laundry.</u>
<u>44:79:10:11</u>	<u>Engineering service and equipment areas.</u>
<u>44:79:10:12</u>	<u>Corridor restrictions.</u>
<u>44:79:10:13</u>	<u>Doors.</u>
<u>44:79:10:14</u>	<u>Floor surface finish.</u>
<u>44:79:10:15</u>	<u>Wall and ceiling finish.</u>
<u>44:79:10:16</u>	<u>Ventilating systems.</u>

<u>44:79:10:17</u>	<u>Ducts.</u>
<u>44:79:10:18</u>	<u>Food service ventilation.</u>
<u>44:79:10:19</u>	<u>Plumbing fixtures.</u>
<u>44:79:10:20</u>	<u>Water supply systems.</u>
<u>44:79:10:21</u>	<u>Vacuum breakers.</u>
<u>44:79:10:22</u>	<u>Hot water systems.</u>
<u>44:79:10:23</u>	<u>Drainage systems.</u>
<u>44:79:10:24</u>	<u>Piping requirements.</u>
<u>44:79:10:25</u>	<u>Electrical distribution system.</u>
<u>44:79:10:26</u>	<u>Lighting.</u>
<u>44:79:10:27</u>	<u>Emergency electrical service.</u>
<u>44:79:10:28</u>	<u>Staff call system.</u>
<u>44:79:10:29</u>	<u>Submittal of plans and specifications.</u>

44:79:10:01. Application of chapter. This chapter applies to any new facility and to any renovations, additions, and changes in space use of currently approved existing facility. Accessible and usable accommodations shall be available to the public, staff, and patients with disabilities.

Each facility shall comply with **NFPA 101 Life Safety Code**, 2012 edition. Each facility shall also comply with the building construction standards of the **International Building Code**, 2012 edition.

Source:.

General Authority: SDCL 34-1-17(4), (5), and 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:79:10:02. Administrative space. The administrative area shall consist of an office, lobby, and public and staff toilet rooms.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:03. Medical records storage. The medical records shall include active and closed record storage and a work area.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:04. Storage rooms. There shall be at least 10 square feet (0.929 square meters) of central storage provided for each bed. General storage shall be concentrated in one area in the facility, but up to 50 percent of the general storage space may be provided on the premises.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:05. Patient dining and lounge area. The total areas set aside for patient dining, lounge, and other central use areas may not be less than 40 square feet (4.18 square meters) for each bed.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:06. Patient rooms. A patient room shall meet the following requirements:

(1) A maximum room capacity is one patient;

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of 150 square feet (13.98 square meters) in each bedroom. Any sleeping room designed as part of a suite of rooms shall have a minimum area of 120 square feet (11.15 square meters). The minimum dimension in sleeping rooms shall not be less than nine feet six inches (2.90 meters);

(3) Have a window whose sill is not higher than three feet (0.91 meters) above the floor. The floor shall be above grade;

(4) A toilet room shall be attached to the patient room. The toilet room shall include a water closet with bedpan washer, handsink, mirror, soap dispenser, towel dispenser, and private individual storage. All new construction of toilet rooms shall be wheelchair accessible;

(5) A handsink shall be provided in the room equipped with a soap dispenser and paper towel dispenser; and

(6) A separate closet space or wardrobe of five square feet (.46 meters).

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:07 Family room. An attached living space for the patient family shall be 150 square feet (13.94 meters) and shall be equipped with comfortable seating and sleeping accommodations. Provisions shall be made for patient privacy at the adjoining family room.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:08. Service area in care units. Each care unit shall contain following:

(1) Staff station work area with handwashing fixture, charting space, communication and security equipment, supply storage, and locked medication storage, including refrigerated storage and dispensing area;

(2) Staff toilet room convenient to work area. The toilet room shall be accessible and shall contain a handwashing fixture with mirror, soap and towel dispenser, and toilet with at least a side grab bar and toilet paper dispenser;

(3) Clean linen storage or linen cart storage room;

(4) Housekeeping room for supply and equipment storage. A floor receptor or service sink shall be provided and the adjacent wall surfaces shall be impervious to protect from water damage. The space could be arranged as part of a soiled utility room;

(5) Bathing room for each thirty patients with whirlpool bath fixture equipped with a patient lift for patient and staff safety;

(6) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;

(7) Soiled workroom with a work counter and handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;

(8) Nourishment station containing food storage space, refrigerated storage, microwave, self-dispensing ice machine, and a sink;

(9) Equipment storage room for patient care equipment such as walkers, wheelchairs, and similar bulky equipment; and

(10) Multipurpose rooms for staff, patients, and patients' families for conferences, reports, education, training sessions, and consultation.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:09. Food preparation services and equipment. The dietary area shall be completely cleanable by conventional methods. The location and design of the dietary area shall enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided shall include the following:

(1) A dishwasher with a sanitizing cycle. In dietary areas serving 17 beds or more, a dishwashing area including a commercial dishwasher supplied with 180 degree Fahrenheit (82 degrees centigrade) rinse water or a chemical sanitizing cycle, work space, a garbage disposal, a garbage can, a clean dish table, and handwashing facilities;

(2) A dry food storage area with adequate shelving and a functional aisle;

(3) Refrigerated and freezer storage space with sufficient refrigerated storage space located within the food production area for convenient food preparation;

(4) Aisles not less than three feet (0.91 meters) width;

(5) Pot and pan washing facilities, including a three-compartment sink with 18 inch drainboards on both sides and drying and storage facilities for pots and pans;

(6) A vegetable preparation area with a two-compartment sink with a garbage disposal;

(7) Dietary manager work space with desk and chair;

(8) Janitor's closet with storage for housekeeping supplies and floor receptor or service sink with moisture resistant protection for the adjacent wall surfaces;

(9) Food production equipment designed to prepare a complete meal for the total bed complement and for personnel, guests, or other catering services;

(10) Food holding and transportation equipment capable of protecting food from contamination and of maintaining cold or hot food temperatures during the total serving period;

(11) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

(12) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single-service towels or hand drying device and wall mounted hand cleanser; and

(13) An ice maker with bin or self-dispensing ice maker. A built-in dispensing ice maker in a refrigerator may be used in any facility or patient neighborhood with a capacity of less than 17 beds. Any ice maker accessible to patients or visitors shall be self-dispensing.

The facility may request in writing modifications to § 44:79:10:09. There shall be appliances that allow for the storing, refrigeration, preparation, cooking, and disposal of food products based on the facilities food service plan.

Source:.

General Authority: SDCL 34-12-13(1), (2), and (14).

Law Implemented: SDCL 34-12-13(1), (2), and (14).

44:79:10:10. Laundry. Equipment for processing an individual patients' personal clothing shall be provided. All common use linens and combined patients' personal clothing must be processed for disinfecting. The laundry shall contain an area for soiled linen holding with adequate storage capacity to be used for storage, sorting, and weighing of soiled linen, cart storage, janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry, storage for laundry supplies, and a lavatory conveniently accessible to soiled, clean, and processing rooms;

The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The facility may request in writing modifications to § 44:79:10:10.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:79:10:11. Engineering service and equipment areas. The requirements for engineering service and equipment areas for each facility shall include an area for maintenance supplies and a yard equipment storage room or exterior building.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:12. Corridor restrictions. Drinking fountains, fire extinguisher cabinets, and vending machines shall be located so they do not project into the required width of exit corridors. Handrails shall be installed with top 34 to 38 inches above the floor on both sides of the corridor and return to the wall at the ends. Handrails shall be installed with 1½ inch spacing between the wall and the handrail.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:13. Doors. Any door to a patient room toilet or bathroom shall be equipped with hardware which will permit access in any emergency. A pocket or sliding door may not be installed except on a clothes closet or restroom in a patient room. Any hardware on a restroom pocket or sliding door shall provide for ease of operation for a patient with limited mobility. Any door opening onto a corridor, except an elevator door, shall be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Any cross-corridor door shall be provided with vision panels.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:14. Floor surface finish. Floors shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces shall be water-resistant. All areas where floors are subject to wetting shall have a nonslip finish. A walking surface that is not flush with an adjacent surface shall be provided with a transition. A change in level up to 1/8 inch may be vertical and without edge treatment. Changes in level between 1/8 inch and 1/2 inch are to be beveled with a slope no greater than 1:2. A change in level may not exceed 1/2 inch. Gaps in the walking surface may not exceed 1/2 inch wide in the direction of travel.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:15. Wall and ceiling finish. Walls shall be washable, and in the immediate area of plumbing fixtures the finish shall be protected from water damage. Wall bases in dietary areas shall be free of spaces that can harbor insects. All dietary ceilings shall be washable or easily cleanable.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:16. Ventilating systems. The ventilating systems shall maintain temperatures total air changes as follows:

(1) For all other occupied areas, the facility shall be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. Each mechanical ventilation systems shall be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. A corridor may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation shall be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

(2) Each cooking appliances, other than microwave ovens, shall be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture.

(3) Each vehicle parking garages shall be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. A signs shall be posted at the front of parking spaces advising the driver to shut off the engine.

(4) Each crawl space shall be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.

A ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall be located upstream of the conditioning equipment and shall have a minimum efficiency of 30 percent. Each supply air unit shall have a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter frame shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work shall contain a gasket or sealed to provide a positive seal against air leakage.

Source:.

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

ASHRAE 52.(2), 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.

44:79:10:19 Plumbing fixtures. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material. Each lavatory and sink required in patient care areas shall have the water supply spout mounted so that the discharge is a minimum of 5 inches (0.13 meters) above the rim of the fixture. Handwashing facilities shall be equipped with hands-free controls. A single lever devices may be used. Each clinical sink shall have an integral trap in which the upper portion of a visible trap seal provides a water surface. If blade handles are used, proper clearance shall be maintained for operation. An aerator is not approved for use on faucet spouts. A paper towel dispensers or hand-drying devices shall be provided at sink. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the clean utility or dietary where grooming could potentially cause contamination.

Each water closet shall be an elongated bowl type and be equipped with an open front seat.

Any shower stall that is not required to be wheelchair transfer or standard roll-in type shall have curb heights not more than six inches above the finished floor. The shower floor elevation and bathroom finished floor elevation shall be level where possible but the difference in elevation cannot exceed three inches.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:79:10:20. Water supply systems. Each water supply systems shall supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. Hot, cold, and chilled

water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:79:10:21. Vacuum breakers. An antisiphon device or backflow preventer shall be installed on any hose bib and on any fixture to which hoses or tubing can be attached such as janitor sink, bedpan flushing attachment, and handheld shower. Each antisiphon device or backflow preventer shall be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:79:10:22. Hot water systems. The facility shall install a recirculating system to provide hot water to all fixtures. The hot water heating equipment shall have sufficient capacity to supply water at the temperature and amounts to meet the needs of the facility.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:79:10:23. Drainage systems. Any piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and may not be exposed. Special precautions shall be taken to protect these areas from possible leakage of necessary overhead piping systems. The building sewer shall discharge into a community sewerage system. If such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

Water from roof systems shall be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks shall be provided for pitched roof systems. Provisions shall be made to avoid having water accumulated on sidewalks and parking areas around the building.

The building sewer system shall have a cleanout located outside the perimeter of the building foundation.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

44:79:10:24. Pipe requirements. Before placing potable water systems in service, the piping system shall be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification shall be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used for applying them shall have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, 2012 edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:79:10:25. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. Each circuit breaker or fusible switch that provides disconnecting means and overcurrent protection for a conductor connected to switchboard and distribution panel board shall be enclosed or guarded to provide a dead front type of assembly. The main switchboard shall be located in a separate enclosure accessible to authorized persons. Each lighting and appliance panel board shall be provided for the circuit on each floor. This section does not apply to emergency system circuits.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:79:10:26. Lighting. Each patient bedroom shall have general lighting of at least ten footcandles (0.929 lumens per square meter) and night lighting. If task illumination is required, a light with an intensity of at least 30 footcandles (2.79 lumens per square meter) at the work surface shall be provided. At least one luminaire for night lighting shall be switched at the entrance to each patient room. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 30 footcandles (2.79 lumens per square meter) shall be provided in each dining area and at any bathing facility.

Source:

General Authority: SDCL 34-12-13(3), (4) and (14).

Law Implemented: SDCL 34-12-13(3), (4) and (14).

44:79:10:27. Emergency electrical service. Each facility shall have a Type 2, Essential Electrical System in accordance with the National Fire Protection Association (NFPA 99 Health Care Facilities Code, 2012 Edition). Automatic emergency lighting shall also be provided at staff work station, medication room, room where main electrical panel is located, and boiler room. Emergency electrical service shall be provided from an automatic generator set and automatic transfer switches serving emergency panels.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: NFPA 99 Health Care Facilities Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$66.50.

44:79:10:28. Staff call system. A staff call system shall be provided for patient use to summon assistance from staff. The system shall be capable of being easily activated by the patient and shall register both visually and audibly at the staff station. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. The system shall be utilized and maintained in such a manner as to

ensure that it is a consistent and effective means for a patient to alert staff of the need for assistance. The call stations convenient for patient use shall be provided at each bed, patient toilet, bathing or shower facility used by the patient. Staff call systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. The call system shall also meet at least one of the following requirements:

(a) The call system utilizes fixed call stations that are convenient for patient use and activated by a pull cord or other approved device. The fixed system shall actuate a visual signal at the patient room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections;

(b) The call system utilizes wireless devices that are convenient for patient use and activated by a pull cord or other approved device. The wireless system shall actuate a visual and audible signal at the staff station and on pocket paging devices carried by all direct care staff. Wireless devices shall be fully supervised, shall be capable of alarm reset at the source, and transmit low battery alert. Wireless devices shall utilize batteries that are readily available; or

(c) Another type of call system that has been submitted for review and approved by the department.

Source:.

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:79:10:29. Submittal of plans and specifications. Plans and specifications for new construction shall be submitted to the department for evaluation of function and fire protection. The department's approval shall be obtained before beginning construction. Modification during construction shall be submitted to the department for review and shall be approved prior to the modification. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

ARTICLE 44:80

RESIDENTIAL HOSPICE FACILITIES

Chapter

<u>44:80:01</u>	<u>Rules of general applicability.</u>
<u>44:80:02</u>	<u>Physical environment.</u>
<u>44:80:03</u>	<u>Fire protection.</u>
<u>44:80:04</u>	<u>Management and administration.</u>
<u>44:80:05</u>	<u>Care and services.</u>
<u>44:80:06</u>	<u>Dietetic services.</u>
<u>44:80:07</u>	<u>Medication control.</u>
<u>44:80:08</u>	<u>Resident record services.</u>
<u>44:80:09</u>	<u>Residents' and families rights.</u>
<u>44:80:10</u>	<u>Construction standards.</u>

CHAPTER 44:80:01

RULES OF GENERAL APPLICABILITY

Section

<u>44:80:01:01</u>	<u>Definitions.</u>
<u>44:80:01:02</u>	<u>Posting of license.</u>
<u>44:80:01:03</u>	<u>Name of hospice.</u>
<u>44:80:01:04</u>	<u>Bed capacity.</u>
<u>44:80:01:05</u>	<u>Restrictions on acceptance of residents.</u>
<u>44:80:01:06</u>	<u>Joint occupancy.</u>
<u>44:80:01:07</u>	<u>Reports.</u>
<u>44:80:01:08</u>	<u>Plans of correction.</u>
<u>44:80:01:09</u>	<u>Modifications.</u>
<u>44:80:01:10</u>	<u>Scope of article.</u>

44:80:01:01. Definitions. Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

(1) "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

(a) A criminal conviction against a person for mistreatment toward an individual; or
(b) In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

(i) Misappropriation of a patient's or resident's property or funds;
(ii) An attempt to commit a crime against a patient or resident;
(iii) Physical harm or injury against a patient or resident; or
(iv) Using profanity, making gestures, or engaging in other acts made to or directed at a patient or resident;

(2) "Agency," the Medicare certified hospice agency which provides or coordinates palliative and supportive care to hospice residents within the facility;

(3) "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;

(4) "Adequate staff," a sufficient number of qualified personnel to perform the duties required to meet the performance criteria established by this article;

(5) "Administrator," a person appointed by the owner or governing body of a facility who is responsible for the daily overall management of the facility, who may maintain an office on the premises of the facility, and appoints a qualified person to represent the administrator during the administrator's absence;

(6) "Client advocates," agencies responsible for the protection and advocacy of residents and residents, including the department, the state ombudsman, and the protection and advocacy network;

(7) "Custodial care," is care and related services that helps a hospice resident with his or her activities of daily living, and may also include preparation of special diets, medication administration, or other activities that do not require constant attention of medical personnel;

(8) "Department," the South Dakota Department of Health;

(9) "Dietitian," a person who is registered with the Academy of Nutrition and Dietetics and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

(10) "Distinct part," an identifiable unit, such as an entire ward or contiguous wards, wing, floor, or building, which is licensed at a specific level. It consists of all beds and related facilities in the unit;

(11) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

(12) "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

(13) "Facility," the place of business licensed by the department as a residential hospice that provides custodial care to hospice residents;

(14) "Governing body," is an individual, partnership, or an organized body of persons that is ultimately responsible for the quality of care in an residential hospice facility, maintaining the financial viability of the facility, and formulating institutional policies and procedures, or bylaws governing the operation of the facility;

(15) "Healthcare worker," any paid person working in a health-care setting;

(16) "Hospice services," a coordinated interdisciplinary program of health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill resident and the resident's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;

(17) "Instrumental activities of daily living," tasks performed routinely by a person, utilizing physical and social environmental features, to manage life situations, including meal preparation, self-administration of medications, telephone use, housekeeping, laundry, handling finances, shopping, and use of transportation;

(18) "Legend drug," any drug that requires the label bearing the statement "Caution: Federal law prohibits dispensing without prescription";

(19) "Licensed health professional," a physician; physician's assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; nurse; nursing facility administrator; dietitian; pharmacist; respiratory therapist; or social worker who holds a current license to practice in South Dakota;

(20) "Misappropriation of resident or patient property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's or resident's belongings or money without the patient's or resident's consent;

(21) "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

(22) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

(23) "Nurse practitioner," a person who practices the specialty nurse practitioner as authorized pursuant to SDCL 36-9A;

(24) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and unlicensed assistive personnel;

(25) "Pharmacist," a person registered to practice pharmacy pursuant to SDCL chapter 36-11;

(26) "Physician," a person who is licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(27) "Practitioner," one of the following:

(a) A physician or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4;

(b) A pharmacist licensed pursuant to SDCL chapter 36-11; or

(c) A nurse practitioner licensed pursuant to SDCL chapter 36-9A;

(28) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mental Illness Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;

(29) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;

(30) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person;

(31) "Resident," a terminally ill individual that is receiving custodial care on a twenty-four hour per day basis and receives services as a resident under the direction of a Medicare hospice provider certified by the Centers for Medicare and Medicaid Services;

(32) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one resident;

(33) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and self-injecting, -ingesting, or -applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

(34) "Social worker," a person who is licensed pursuant to SDCL chapter 36-26;

(35) "Terminal illness," a medical prognosis that the individual's life expectancy is six months or less if the illness runs its normal course;

(36) "Therapeutic diet," any diet other than a regular diet, excluding low sodium diets, that is ordered by a physician as part of the treatment for a disease or clinical condition to increase, decrease, or to eliminate certain substances in the diet, and to alter food consistency;

(37) "Transfer or discharge," the movement of a resident to a bed outside the distinct part or outside the facility;

(38) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

(39) "Unlicensed assistive personnel," a person who is not licensed as a nurse under SDCL chapter 36-9 but who is trained to assist a licensed nurse in the provision of nursing care to a resident or resident as delegated by the nurse and authorized by chapter 20:48:04.01.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

44:80:01:02. Posting of License. The most current license issued by the department shall be posted on the premises of the facility in a place conspicuous to the public. Each facility address shall show a current license. The license certificate remains the property of the department.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:80:01:03. Name of hospice. Each facility shall be designated by a pertinent and distinctive name that shall be used in applying for a license. The name may not be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies services rendered are in excess of the classification for which it is licensed or which would indicate an ownership other than actual.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:80:01:04. Bed capacity. The department shall establish the bed capacity of each facility pursuant to the physical plant and space provisions of this article. The resident census shall not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of change of purpose or construction shall be approved by the department before any changes are made.

Source:

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:80:01:05. Restrictions on acceptance of residents. A facility shall accept residents in accordance with the following restrictions:

(1) The facility shall ensure hospice services are provided to residents by a Medicare hospice agency certified by the Centers for Medicare and Medicaid Services;

(2) A resident accepted for care by a residential hospice shall be housed within the facility covered by the license;

(3) A licensed residential hospice may not accept or retain residents who require care in excess of the classification for which it is licensed;

(4) Personnel essential to maintaining adequate staff may not leave a licensed hospice during their tour of duty in the hospice to provide services to persons who are not residents of the hospice with the exception of providing emergency care on premises contiguous to the hospice's property; and

(6) A licensed hospice facility may admit and retain only residents certified by a physician as terminally ill.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13(5).

44:80:01:06. Joint occupancy. The use of a portion of a building for purposes other than that covered by the license may be approved by the department only if it can be shown that joint occupancy is not detrimental to the welfare of the residents. The area shall be open to inspection by the department.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:01:07. Reports. Each facility shall fax, email, or mail to the department the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.

Any incident or event where there is reasonable cause to suspect abuse or neglect of any patient by any person shall be reported within 24 hours of becoming informed of the alleged incident or event. The incident or event shall reported orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The incident or event shall also be report to the department within 24 hours, and a subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report to the department within 48 hours of the event any death resulting from other than natural causes originating on facility property such as accidents or suicide. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall report a missing patient to the department within 48 hours. A subsequent internal investigation by the facility shall be conducted and the results of which shall be reported to the department within five working days after the event.

Each facility shall also report to the department as soon as possible any fire with damage or where injury or death occurs; any partial or complete evacuation of the facility resulting from natural disaster; or any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than 24 hours.

Each facility shall notify the department of any anticipated closure or discontinuation of service at least 30 days in advance of the effective date.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:01:08. Plans of correction. Within 10 days of the receipt of the statement of deficiencies, each facility shall submit to the department a written plan of correction for citations of noncompliance with

licensure requirements. The plan of correction shall be signed, dated, and on forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the hospice to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:01:09. Modifications. Modifications to the staffing requirements provided in § 44:80:03:02 may be approved by the department for licensed residential hospices which are physically combined and jointly operated. The health and safety of the resident in either facility shall not be jeopardized. Modifications specified by this section shall be requested in writing by the residential hospice.

Source:.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:80:01:10. Scope of article. Nothing in article 44:80 limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

CHAPTER 44:80:02

PHYSICAL ENVIRONMENT

Section

<u>44:80:02:01</u>	<u>Sanitation.</u>
<u>44:80:02:02</u>	<u>Pets.</u>
<u>44:80:02:03</u>	<u>Cleaning methods and facilities.</u>
<u>44:80:02:04</u>	<u>Chemicals used to sanitize or disinfect.</u>
<u>44:80:02:05</u>	<u>Housekeeping cleaning methods and equipment.</u>
<u>44:80:02:06</u>	<u>Food service.</u>
<u>44:80:02:07</u>	<u>Handwashing facilities.</u>
<u>44:80:02:08</u>	<u>Linen.</u>
<u>44:80:02:09</u>	<u>Infection control.</u>
<u>44:80:02:10</u>	<u>Water supply.</u>
<u>44:80:02:11</u>	<u>Ventilation.</u>
<u>44:80:02:12</u>	<u>Lighting.</u>
<u>44:80:02:13</u>	<u>Refuse and waste disposal.</u>
<u>44:80:02:14</u>	<u>Insect and rodent control.</u>
<u>44:80:02:15</u>	<u>Occupant protection.</u>
<u>44:80:02:16</u>	<u>Area requirements for currently licensed resident rooms.</u>
<u>44:80:02:17</u>	<u>Location.</u>
<u>44:80:02:18</u>	<u>Heating and cooling.</u>
<u>44:80:02:19</u>	<u>Other hazardous conditions.</u>

44:80:02:01. Sanitation. The facility shall be designed, constructed, maintained, and operated to minimize the sources and transmission of infectious diseases to clients, personnel, visitors, and the community at large.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:02. Pets. Any pet kept in a facility may not negatively affect the well-being of residents.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-Reference: Physically disabled, blind or deaf person's right to be accompanied by guide dog without extra charge, SDCL 20-13-23.2.

44:80:02:03. Cleaning methods and facilities. The facility shall have supplies, equipment, work areas, and complete written procedures for cleaning, sanitizing, or disinfecting all work areas, equipment, utensils, and medical devices used for resident' care. Common use equipment shall be disinfected after each use. Facilities shall have a separate space for clean and soiled linens. All parts of the hospice shall be kept clean, neat, and free of visible soil, litter, and rubbish.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:80:02:04. Chemicals used to sanitize or disinfect. The label of chemicals used to sanitize or disinfected shall indicate registration with the Environmental Protection Agency as effective, safe, and approved for their intended use.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:80:02:05. Housekeeping cleaning methods and equipment. The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and copies made available to all housekeeping personnel. All parts of the facility shall be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for resident use shall be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in hospice shall be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. Cleaning shall include all environmental surfaces within the residential hospice that are subject to contamination from dust, direct splash, or pathogenic organisms except medical equipment, supplies, or devices that are the responsibility of other services or departments of the hospice.

Source:

General Authority: SDCL 34-12-13(2).

Law Implemented: SDCL 34-12-13(2).

44:80:02:06. Food service. If an in-house food service is provided, the hospice shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive, the Food Service Code. In addition, a mechanical dishwasher shall be provided. The hospice shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation. If the hospice food service is contracted out, the contractor shall be a licensed food service establishment that is inspected by a local, state, or federal authority. The facility shall ensure that food is prepared and served in a manner that is safe and palatable. Hot food shall be held at or above 135 degrees Fahrenheit (57.2 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods shall be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device.

Source:

General Authority: SDCL 34-12-13(3), (5) and (8).

Law Implemented: SDCL 34-12-13(3), (5) and (8).

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$4.14.

44:80:02:07. Handwashing facilities. Handwashing facilities consisting of hot and cold running water dispensed through a mixing faucet controlled with blade handles or other hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and hand cleanser shall be located at dietary areas, utility rooms, staff stations, laundry, and all toilet rooms not directly connected to resident rooms. A handwashing facility shall be provided in each resident room. If existing faucets and controls are replaced or changed, they shall be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

Cross-Reference: Plumbing fixtures, § 44:80:10:21.

44:80:02:08. Linen. The supply of bed linen and towels shall equal three times the licensed capacity. The facility shall have written procedures for the storage and handling of soiled and clean linens. The facility shall contract with a commercial laundry service or the laundry service of another licensed health care facility for all common use linens if laundry services are not provided on the premises. The facility shall process laundry following the laundry equipment and cleaning agent recommendations. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service. Closed containers shall be used during transport and the arrangement of equipment and the handling of linens shall prevent soiled linens from contacting the processed clean linens. Air flow in the linen processing shall be from clean processing areas toward the soiled holding and sorting area. Clean linens shall be covered during transport to storage areas.

Source:

General Authority: SDCL 34-12-13(1) and (4).

Law Implemented: SDCL 34-12-13(1) and (4).

44:80:02:09. Infection control. The infection control program shall utilize the concept of standard precautions as the basis for infection control pursuant to chapter 44:20:04. Bloodborne pathogen control shall be maintained according to the requirements contained in 29 C.F.R. 1910.1030, July 1, 2006. The facility shall designate an employee to be responsible for the implementation of the infection control program including surveillance and reporting activities. There shall be written procedures that govern the

use of aseptic techniques and procedures in all areas of the facility. Each hospice shall develop policies and procedures for the handling and storage of potentially hazardous substances (including lab specimens). The hospice shall provide orientation and continuing education to all personnel on the on the cause, effect, transmission, prevention, and elimination of infections. Each hospice shall develop a written policy for evaluation and reporting of any employee with a reportable infectious disease.

Source:.

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13(1).

44:80:02:10. Water supply. The facility's water supply shall be obtained from a public water system or, in its absence, from a supply approved by the Department of Environment and Natural Resources. Private water supplies shall have a water sample bacteriologically tested at least monthly. The volume of water shall be sufficient for the needs of the hospice, including fire fighting requirements. The hot water system shall be capable of supplying the work and resident areas with water at the required temperatures. Maximum hot water temperatures at plumbing fixtures used by residents may not exceed 125 degrees Fahrenheit (52 degrees centigrade). The minimum temperature of hot water for resident use shall be at least 100 degrees Fahrenheit (38 degrees centigrade).

Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits and the test results logged. If testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

Cross-References: Standards adopted for plumbing -- Conformity to National Code, SDCL 36-25-15; Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:80:02:11. Ventilation. Electrically powered exhaust ventilation shall be provided in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air-handling system.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:12. Lighting. Spaces occupied by people, machinery, and equipment within buildings and their approaches and parking lots shall have artificial lighting at a level for general safety. Each resident bedroom shall have general lighting and night lighting. Each required exit shall be equipped with continuous emergency lighting.

Source:.

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:13. Refuse and waste disposal. Garbage, refuse, and waste shall be handled and disposed of in a safe and sanitary manner. Final disposal of all refuse and waste shall comply with articles 74:27 and 74:28. Putrescible garbage shall be removed at a frequency to contain or prevent odors, insects, and vermin.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:14. Insect and rodent control. The facility shall take safe and effective measures to protect against the entrance into the facility and the breeding or presence on the premises of rodents, flies, roaches, and other vermin.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:15. Occupant protection. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the residents admitted to the facility. The hospice shall take at least the following precautions:

(1) Develop and implement a written and scheduled preventive maintenance program;

(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by residents;

(3) Provide a call system for each resident bed and in all toilet rooms and bathing facilities routinely used by residents. The call system shall be capable of being easily activated by the resident and shall register at a staff station. A wireless call system may be used;

(4) Ground fault circuit interrupters shall be provided in wet areas and for outlets within six feet of sinks;

(5) Portable space heaters, portable halogen lamps, household-type electric blankets, or heating pads may not be used in a facility;

(6) Any light fixture located over a resident bed, in any bathing or treatment area, in a clean supply storage room, in any laundry clean linen storage area, or in any medication set-up area shall be equipped with a lens cover or a shatterproof lamp;

(7) Any clothes dryer shall have a galvanized metal vent pipe for exhaust; and

(8) The storage and transfilling of oxygen cylinders or containers shall meet the requirements of the NFPA 99 Standard for Health Care Occupancies, 2012 Edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 99 Health Care Facilities, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$66.50.

44:80:02:16. Area requirements for currently licensed resident rooms. Each currently licensed resident room shall have at least 120 square feet (8.83 square meters) of floor space per bed, exclusive of closets and wardrobes. Each resident shall have for individual use in the assigned room a bed, a bedside stand, and a chair appropriate to the needs and comfort of the resident. Each hospice shall have 10 square feet (0.93 square meters) of general storage for each bed. A total of 40 square feet (3.72 square meters) of dining and lounge area for each resident shall be provided in a facility. Each hospice shall be constructed, equipped, and operated to maintain the comfort, privacy and dignity of all residents.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Cross-Reference: Area requirements for new construction or renovations, § 44:80:10:08(2).

44:80:02:17. Location. The location of a facility shall promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. Facilities shall be served by good, passable roads. Easy accessibility for employees, visitors, and fire-fighting services shall be maintained.

Source:

General Authority: SDCL 34-12-13(1), (3), and (14).

Law Implemented: SDCL 34-12-13(1), (3), and (14).

44:80:02:18. Heating and cooling. The temperature in any occupied space in the facility shall be maintained between 68 and 80 degrees Fahrenheit during waking hours and not lower than 64 degrees Fahrenheit during sleeping hours. Individual resident's space may be maintained outside the required range when desired by the occupant.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

44:80:02:19. Other hazardous conditions. A facility may be directed to remove or correct other hazardous conditions not covered in this chapter if the department considers the conditions to have a potential to cause injury or illness to the residents or staff.

Source:

General Authority: SDCL 34-12-13(1).

Law Implemented: SDCL 34-12-13(1).

CHAPTER 44:80:03

FIRE PROTECTION

Section

<u>44:80:03:01</u>	<u>Fire safety code requirements.</u>
<u>44:80:03:02</u>	<u>General fire safety.</u>
<u>44:80:03:03</u>	<u>Staffing exception.</u>
<u>44:80:03:04</u>	<u>Fire extinguisher equipment.</u>
<u>44:49:03:05</u>	<u>Fire alarm systems.</u>
<u>44:97:03:06</u>	<u>Detached structures.</u>

44:80:03:01. Fire safety code requirements. Each hospice shall meet applicable fire safety standards in **NFPA 101 Life Safety Code**, 2000 edition.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Reference: **NFPA 101 Life Safety Code**, 2000 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$ 93.00.

44:80:03:02. General fire safety. Each facility shall be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The fire alarm system shall be sounded each month. At least two staff members shall be on duty at all times unless approved for a staffing exception. In a multilevel hospice, at least one staff member shall be on duty on each floor containing occupied beds.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

Cross-Reference: Fire safety code requirements, § 44:80:03:01.

44:80:03:03. Staffing exception. A staffing exception may be approved for residential hospice facilities if the following are met:

(1) The bed capacity is four beds or less;

(2) The building is equipped with an automatic sprinkler system as defined in § 9.7, Automatic Sprinklers and Other Extinguishing Equipment, of NFPA 101 Life Safety Code, 2012 edition.

(3) The building is equipped with an automatic fire alarm dialer as defined in § 9.6.4 Emergency Forces Notification, of NFPA 101 Life Safety Code, 2012 edition to summon the local fire department; and

(4) The building is equipped with a staff call system.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

References: **NFPA 101 Life Safety Code**, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:80:03:04. Fire extinguisher equipment. Fire extinguisher equipment shall be installed and maintained by the following minimum standards:

(1) Portable fire extinguishers shall have a minimum rating of 2-A:10-B:C;

(2) Fire extinguisher equipment shall be inspected monthly and maintained yearly; and

(3) Approved fire extinguisher cabinets shall be provided throughout the building with one cabinet for each 3,000 square feet (278.7 square meters) of floor space or fraction thereof. The fire resistance rating of corridor walls shall be maintained at recessed fire extinguisher cabinets. The glazing in doors of fire

extinguisher cabinets shall be wire glass or other safety glazing material. Fire extinguisher cabinets shall be identified with a sign mounted perpendicular to the wall surface above the cabinet or with sign mounted on the sides of cabinet that are visible from the corridor.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:03:05. Fire alarm systems. A manually operated, electrically supervised fire alarm system shall be installed in each facility.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:03:06. Detached structures. A detached structure or auxiliary building used for combustible storage or vehicle parking built adjacent to, but not directly attached to, a hospice shall either be separated from the facility by a minimum distance of 20 feet, equipped with an automatic sprinkler protection, or provided with two-hour fire rated separation.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

CHAPTER 44:80:04

MANAGEMENT AND ADMINISTRATION

Section

44:80:04:01 Governing body.

44:80:04:02 Administrator.

44:80:04:03 Personnel.

44:80:04:04 Personnel training.

44:80:04:05 Employee health program.

44:80:04:06 Tuberculin screening requirements.

44:80:04:07 Admissions of residents.

44:80:04:08 Care policies.

44:80:04:09 Discharge planning.

44:80:04:10 Quality assessment.

44:80:04:01. Governing body. Each facility operated by limited liability partnership, a corporation, or political subdivision shall have an organized governing body legally responsible for the overall conduct of the facility. If the facility is operated by an individual or partnership, the individual or partnership shall carry out the functions in this chapter pertaining to the governing body. The governing body shall establish and maintain administration policies, procedures, or bylaws governing the operation of the facility.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:02. Administrator. The governing body shall designate a qualified administrator to represent the owner or governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:03. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. Staff members on duty shall be awake at all times. Any supervisor shall be 18 years of age or older. Written job descriptions and personnel policies and procedures shall be made available to personnel. The hospice may not knowingly employ any person with a conviction for abusing another person. The hospice shall establish and follow policies regarding special duty or staff members on contract.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:04. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all personnel. Ongoing education programs shall cover the required subjects annually. These programs shall include the following subjects:

- (1) Fire prevention and response. The hospice shall conduct fire drills quarterly for each shift to train all staff. Silent or code announcement drills may be conducted;
- (2) Emergency procedures and preparedness;
- (3) Infection control and prevention;
- (4) Accident prevention and safety procedures;
- (5) Proper use of restraints;
- (6) Resident rights;
- (7) Hospice philosophy and death & dying;
- (8) Confidentiality of resident information;
- (8) Incidents and diseases subject to mandatory reporting and the hospice's reporting mechanisms;
- (9) Care of residents with special and unique needs; and
- (10) Dining assistance, nutritional risks, and hydration needs of residents.

Any personnel whom the hospice determines will have no contact with residents are exempt from training required by subdivisions (5), (7), (9), and (10) of this section.

Additional personnel education shall be based on hospice identified needs.

Current professional and technical reference books and periodicals shall be made available for personnel.

Source:

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:05. Employee health program. The facility shall have an employee health program for the protection of the residents. All personnel shall be evaluated by a licensed health professional for freedom from reportable communicable disease which poses a threat to others before assignment to duties

or within 14 days after employment including an assessment of previous vaccinations and tuberculin skin tests. The hospice may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Any personnel absent from duty because of a reportable communicable disease which may endanger the health of residents and fellow employees may not return to duty until they are determined by a physician, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14).

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Cross-Reference: Reportable diseases and conditions, ch 44:20:01.

44:80:04:06. Tuberculin screening requirements. Each facility shall develop criteria to screen healthcare workers for *Mycobacterium tuberculosis* (TB) based on the guidelines issued by Centers for Disease Control and Prevention. Each facility shall establish policies and procedures for conducting *Mycobacterium tuberculosis* risk assessment that include the key components of responsibility, surveillance, containment, and education. The frequency of repeat screening shall depend upon annual risk assessments conducted by the facility.

Tuberculin screening requirements for healthcare workers are as follows:

(1) Each new healthcare worker shall receive the two-step method of tuberculin skin test or a TB blood assay test to establish a baseline within 14 days of employment. Any two documented tuberculin skin tests completed within a 12 month period prior to the date of employment can be considered a two-step or one blood assay TB test completed within a 12 month period prior to the date of employment can be considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new employee transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation of the last skin testing completed within the prior 12 months. Skin testing or TB blood assay tests are not necessary if documentation is provided of a previous positive reaction to either test. Any new healthcare worker who has a newly recognized positive reaction to the skin test or TB blood assay test shall have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) A new healthcare worker who provides documentation of a positive reaction to the tuberculin skin test or TB blood assay test shall have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; and

(3) Each healthcare worker with a history of a positive reaction to the tuberculin skin test or blood assay shall be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse and a record maintained of the presence or absence of symptoms of *Mycobacterium tuberculosis*. If this evaluation results in suspicion of active tuberculosis, the person shall be referred for further medical evaluation to confirm the presence or absence of tuberculosis.

Source:

General Authority: SDCL 34-12-13(1), (5), and (14), 34-22-9.

Law Implemented: SDCL 34-12-13(1), (5), and (14).

Reference: Reference: Guidelines for Preventing the Transmission of *Mycobacterium Tuberculosis* in Health-Care Facilities, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005 (RR17).

44:80:04:07. Admissions of residents. The governing body of the facility shall establish and maintain policies, with written evidence to assure the residents admitted to and retained in the hospice are within the licensure classification of the facility. Only residents that can receive hospice care safely and effectively may reside in the facility.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:08. Care policies. All care and services provided by facility staff shall be under the direction of the Medicare certified hospice agency. Each facility shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the residents' needs. Each facility shall establish and maintain policies and procedures for the management of respite care residents if the facility offers those services.

Source:.

General Authority: SDCL 34-12-13(5).

Law Implemented: SDCL 34-12-13(5).

44:80:04:09. Discharge planning. Each facility shall have policies and procedures for discharge planning the is coordinated with the Medicare certified hospice agency.

Source:.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

44:80:04:10. Quality assessment. Each facility shall provide for on-going evaluation of the quality of services provided to residents and families.

Source:.

General Authority: SDCL 34-12-13(5) and (14).

Law Implemented: SDCL 34-12-13(5) and (14).

CHAPTER 44:80:05

CARE AND SERVICES

Section

44:80:05:01. Admissions.

44:80:05:02 Organized service.

44:80:05:03 Policies and procedures.

44:80:05:04 Custodial care services.

44:80:05:05 Staffing for hospice facilities.

44:80:05:01. Admissions. Each resident admitted to a facility shall be terminally ill and shall be a patient of a Medicare certified hospice agency.

The facility or the Medicare certified hospice agency may not delegate a task when the delegation is prohibited under State law or by the facility's own policies.

Source:.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13(6).

44:80:05:02. Organized service. The facility shall provide services with a written organizational plan that delineates its custodial care.

Source:.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:80:05:03. Policies and procedures. The facility shall establish and maintain policies and procedures that provide the staff with methods of meeting its administrative and technical responsibilities in providing custodial care to residents. The policies shall include at least the following:

(1) The noting of care and services provided by facility staff may part of the in the Medicare certified hospice agency records;

(2) Providing custodial care for residents under the direction and as delegated by the Medicare certified hospice agency;

(3) Administration and control of medications;

(4) Documentation by personnel;

(5) Infection control; and

(6) Resident safety.

Source:.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:80:05:04. Custodial care services. Each residential hospice shall offer custodial care and services to terminally ill individuals supporting services that are arranged with and directed by a Medicare certified hospice agency. An unlicensed employee of a facility may not accept any delegated skilled tasks from any individual pursuant to SDCL chapter 36-9.

Source:.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

44:80:05:05. Staffing for hospice facilities. All residential hospice facilities shall maintain a sufficient number of personnel, directly or by contract, to provide custodial care and services offered to all residents. Written staffing patterns shall be developed including instructions for contacting support service personnel. All hospice staff shall have been specifically trained to provide care for the terminally ill.

Source:.

General Authority: SDCL 34-12-13(7).

Law Implemented: SDCL 34-12-13(7).

CHAPTER 44:80:06

DIETETIC SERVICES

Section

44:80:06:01 Dietetic services.
44:80:06:02 Food substitutions.
44:80:06:03 Written dietetic policies.
44:80:06:04 Preparation of food.
44:80:06:05 Dietetic services.
44:80:06:06 Nutritional assessments.
44:80:06:07 Required dietary inservice training.
44:80:06:08 Nutrition and hydration assistance program.

44:80:06:01. Dietetic services. The facility shall have an organized dietetic service that meets the nutritional needs of residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with the provisions of § 44:80:02:06.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:79:06:02. Food substitutions. The hospice shall offer reasonable substitutions of equal nutritional value to patients who refuse or are unable to eat the food served.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:80:06:03. Written dietetic policies. There shall be written policies and procedures that govern all dietetic activities. Policies shall include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. The policies and procedures shall be reviewed yearly and revised as necessary.

Source:.

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Reference: Article 44:02, Lodging and Food Service. Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30 and **Food Code**, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for \$69.00.

44:80:06:04. Preparation of food. Food shall be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and shall be attractively served at the temperature applicable to the particular food in a form to meet the individual resident's needs.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:80:06:05. Dietetic services. A person who is responsible to the administrator shall direct the dietetic services. At least one person shall successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the Dietary Managers Association, or successfully completed

equivalent training as determined by the Health Department. Individuals seeking ServSafe recertification are only required to take the national examination. The person shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each resident are met. A dietitian, nutritionist, or registered nurse shall approve all menus, assess the nutritional status of resident with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:80:06:06. Nutritional assessments. A dietitian, nutritionist, or registered nurse shall ensure a nutritional assessment is completed on each new resident upon admission; any resident having a significant change in diet, eating ability, or nutritional status.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:80:06:07. Required dietary inservice training. A dietitian, nutritionist, or registered nurse shall provide ongoing inservice training for all dietary and food-handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

44:80:06:08. Nutrition and hydration assistance program. A facility may develop a program to train nutrition and hydration assistants.

Source:.

General Authority: SDCL 34-12-13(8).

Law Implemented: SDCL 34-12-13(8).

CHAPTER 44:80:07

MEDICATION CONTROL

Section

<u>44:80:07:01</u>	<u>Policies and procedures.</u>
<u>44:80:07:02</u>	<u>Orders for medication required.</u>
<u>44:80:07:03</u>	<u>Storage and labeling of medications and drugs.</u>
<u>44:80:07:04</u>	<u>Control and accountability of medications and drugs.</u>
<u>44:80:07:05</u>	<u>Documentation of drug disposal.</u>
<u>44:80:07:06</u>	<u>Medication administration.</u>
<u>44:80:07:07</u>	<u>Medication records.</u>

44:80:07:01. Policies and procedures. Each facility shall establish and practice methods and procedures for medication control that include the following:

(1) A requirement that each resident's Medicare certified hospice agency provide instructions for the administration of medication, the recording of medication administration by facility staff, medications or drugs kept on the person or in the room of the resident; and release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to residents or visitors with requirements for:

(a) Separate storage of poisons, topical medications, and oral medications; and

(b) A medication prescribed for one resident not to be administered to any other resident;

(3) Self-administration of medications to be accomplished with the supervision of a designated employee of the facility to include a description of the responsibilities of the resident, the resident's family members, facility staff, and the resident's Medicare certified hospice agency;

(4) The return of medicines to the residents Medicare certified hospice agency that are discontinued because of the discharge or death of the resident, because the drug is outdated, or because the prescription is no longer appropriate to the care of the resident.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

The facility shall use records to ensure the receipt and disposition for all controlled drugs in sufficient detail to enable an accurate reconciliation. The facility, with the assistance of the Medicare certified hospice agency, shall ensure the drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled. The facility shall have policies and procedure for the periodic reconciliation of all controlled substances. The policies and procedure shall minimize the time between the actual loss or diversion and the time of detection and follow-up to determine the extent of the loss.

If a loss or diversion of controlled substances is identified the facility shall notify the Medicare certified hospice agency to evaluate the residents potentially affected. If the systems have not been effective in preventing the loss or diversion of controlled substances, the facility shall review and revise related controls and procedures as necessary.

Source:.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:80:07:02. Orders for medication required. All orders for medications or drugs administered to residents shall be the responsibility of resident's Medicare certified hospice agency.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:80:07:03. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to residents or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to residents.

The medications or drugs of each resident for whom medications are administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. The facility that administers and stores medications shall ensure each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the resident's name, physician, physician assistant, or nurse practitioner's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

A facility may not procure or stock, including in bulk form any nonlegend medications.

Any container with a worn, illegible, or missing label shall be returned to the Medicare certified hospice provider. Licensed pharmacists are responsible for the labeling, relabeling, or altering of labels on medication containers.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:80:07:04. Control and accountability of medications and drugs. Medications brought from home may be used once approved by the Medicare certified hospice agency and ordered by the residents attending physician and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one resident may not be administered to another. Residents may not keep medications on their person or in their room without approval from the resident's Medicare certified hospice agency allowing self-administration. Written authorization by the resident's Medicare certified hospice agency shall be secured for the release of any medication to a resident upon discharge, transfer, or temporary leave from the facility. The release of medication shall be documented in the resident's medication administration record provided by the Medicare certified hospice agency, indicating quantity, drug name, and strength. The facility shall maintain records provided by the Medicare certified hospice agency that account for all medications and drugs from their receipt through administration or return to the Medicare certified hospice agency.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:80:07:05. Documentation of drug disposal. Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by the Medicare certified hospice agency nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

(1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to resident upon discharge after authorization by the resident's prescribing practitioner.

Medications controlled under SDCL chapter 34-20B shall not be returned to the dispensing pharmacy or to an authorized reverse distributor company. Documentation of destruction or disposal of medications shall be included in the resident's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to resident); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:80:07:06. Medication administration. Each medication administered by facility staff shall be recorded in the resident's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the resident's Medicare certified hospice provider and an entry made in the resident's medical record. Abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols provided by the Medicare certified hospice agency. All medications shall be administered to residents by personnel acting under delegation of a licensed nurse, or individual licensed to administer medications.

A person may not administer medications that have been prepared by another person.

Medication administration shall comply with §§ 44:80:08:02 to 44:80:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. A nurse shall provide an orientation to the unlicensed assistive personnel who will administer medications. The orientation shall be specific to the facility and relevant to the residents receiving administered medications. A registered nurse shall provide medication administration training annually pursuant to § 20:48:04:01 to any unlicensed assistive personnel employed by the facility who will be administering medications.

Source:.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:80:07:07. Medication records. Medication administration records provided by the Medicare certified hospice agency shall be used and regularly checked by the Medicare certified hospice agency.

Source:

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 44:80:08

RESIDENT RECORD SERVICES

Section

<u>44:80:08:01.</u>	<u>Medical or care record.</u>
<u>44:80:08:02</u>	<u>Written policies and confidentiality of records.</u>
<u>44:80:08:03</u>	<u>Record content.</u>
<u>44:80:08:04</u>	<u>Retention and storage of medical or care records.</u>
<u>44:80:08:05</u>	<u>Resident index.</u>
<u>44:80:08:06</u>	<u>Disposition of medical or care records on closure of facility or transfer of ownership.</u>

44:80:08:01. Medical or care record. Medical or care records shall be considered the property of the Medicare certified hospice agency and remain the responsibility of that agency. The medical record shall show the current condition of the resident and necessary information for the facility to provide custodial care and support services to the terminally ill resident.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:80:08:02. Written policies and confidentiality of records. There shall be written policies and procedures to govern the activities of the medical or care record service. They shall include policies and procedures pertaining to the confidentiality and safeguarding of medical records and the entries to be made by various authorized personnel.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:80:08:03. Record content. Each medical record provided by the Medicare certified hospice agency shall include necessary information for the facility to provide custodial care and support services to the resident from the time of admission until discharge.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:80:08:04. Retention and storage of medical or care records. The Medicare certified hospice agency shall retain medical or care records once the resident is discharged. A facility shall provide for filing, safe storage, and easy accessibility for active medical or care records provided by the Medicare certified hospice agency during the residents stay. Medical or care records shall be protected against access by unauthorized individuals.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

Cross-Reference: Disposition of medical or care records on closure of facility or transfer of ownership, § 44:80:08:06.

44:80:08:05. Resident index. The facility shall prepare and maintain a resident index or abstract that include:

- (1) Resident name;
- (2) Date of birth;
- (3) Summary of care dates; and
- (4) Medicare certified hospice agency providing hospice services.

The facility shall destroy or turn over to the Medicare certified hospice agency any resident information in a way that maintains confidentiality.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:80:08:06. Disposition of records on closure of facility or transfer of ownership. If a facility ceases operation, the facility shall provide for safe storage and prompt retrieval of any resident indexes specified in § 44:80:08:05. The facility may arrange storage of these records with another health care facility of the same licensure classification or arrange storage of remaining records with a third party vendor who undertakes such a storage activity. At least 30 days before closure, the facility shall notify the department in writing indicating the provisions for the safe preservation of records and their location and publish in a local newspaper the location and disposition arrangements of the records.

If ownership of the facility is transferred, the new owner shall maintain the records as if there was not a change in ownership.

Source:

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

CHAPTER 44:80:09

RESIDENTS' AND FAMILIES RIGHTS

Section

- 44:80:09:01 Residents' rights policies.
- 44:80:09:02 Facility to inform resident of rights.
- 44:80:09:03 Facility to provide information on available services.
- 44:80:09:04 Notification when resident's condition changes.
- 44:80:09:05 Notification of resident's room assignment or rights change.
- 44:80:09:06 Choice in planning care.
- 44:80:09:07 Privacy and confidentiality.
- 44:80:09:08 Quality of life.
- 44:80:09:09 Grievances.
- 44:80:09:10 Availability of survey results.
- 44:80:09:11 Admission, transfer, and discharge policies.

44:80:09:01. Residents' rights policies. Each facility shall establish policies consistent with this chapter to protect and promote the rights of each resident.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:02. Facility to inform resident of rights. Prior to or at the time of admission, a facility shall inform the resident, both orally and in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while in the facility. The resident shall acknowledge in writing that the resident received the information. During the resident's stay the facility shall notify the resident, both orally and in writing, of any changes to the original information. A resident has the right to receive visitors. Visitors shall not cause a disruption to the care and services residents receive or infringement on other residents' rights or place an undue burden on the facility.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:03. Facility to provide information on available services. A facility shall provide the following information in writing to each resident:

(1) A list of services available in the facility and the charges for such services. The facility shall specify which items and services are included in the services for which the resident may not be charged, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges;

(2) A description of how a resident may protect personal funds;

(3) A list of names, addresses, and telephone numbers of client advocates;

(4) A description of how to file a complaint with the department concerning abuse, neglect, and misappropriation of resident property;

(5) A description of how the resident can contact the resident's physician, including the name and specialty of the physician;

(6) A description of how to apply for and use Medicare and Medicaid benefits, and the right to establish eligibility for Medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

(7) A description of readmission rights of the resident; and

(8) A description explaining the responsibilities of the resident and family members regarding self-administered medication.

A signed and dated admission agreement between the resident or the resident's legal representative and the facility shall include subdivisions (1) to (8), inclusive, of this section. The resident or resident's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the resident has made a commitment for payment for proposed or actual care.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:04. Notification when resident's condition changes. A facility shall immediately inform the resident, consult with the resident's Medicare certified hospice agency and, if known, notify the resident's legal representative or interested family member when any of the following occurs:

(1) An accident involving the resident that results in injury or has the potential for requiring intervention by a physician;

(2) A significant change in the resident's physical, mental, or psychosocial status; or

(3) A decision to transfer or discharge the resident from the facility.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:05. Notification of resident's room assignment or rights change. A facility shall promptly notify the resident and, if known, the resident's legal representative, as specified in SDCL 34-12C-3, or interested family member if there has been a change in the resident's room assignment or if there has been a change in the resident's rights.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:06. Choice in planning care. A resident may choose a Medicare certified hospice agency, be fully informed in advance about care and treatment provided by the facility and of any changes in that care or treatment that may affect the resident's well-being, and, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care or treatment.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

Cross-References: Right to choose own physician unimpaired by public health programs -- Misdemeanor, SDCL 34-1-20.

Rights of authorized person as incapacitated person, SDCL 34-12C-6.

Liability of health care provider -- Liability of authorized decision maker, SDCL 34-12C-7.

44:80:09:07. Privacy and confidentiality. A facility shall provide for privacy and confidentiality for the resident, including the resident's accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. A facility shall permit residents to perform the following:

(1) To send and receive unopened mail;

(2) To access and use a telephone without being overheard;

(3) To visit a spouse or, if both are residents of the same facility, to share a room with the spouse, within the capacity of the facility, upon the consent of both spouses;

(4) Except in an emergency, to have room doors closed and to require knocking before entering the resident's room;

(5) To have only authorized staff present during treatment or activities of personal hygiene;

(6) To retire and rise according to the resident's wishes, as long as the resident does not disturb other residents;

(7) To meet, associate, and communicate with any person of the resident's choice in a private place within the facility;

(8) To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and

(9) To approve or refuse the release of personal and medical records to any individual outside the facility, except if the resident is transferred to another health care facility or if the release of the record is required by law. With the resident's permission, a facility shall allow the state ombudsman or a representative of the ombudsman access to the resident's medical records.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

Cross-Reference: Written policies and confidentiality of records, § 44:80:08:03.

44:80:09:08. Quality of life. A facility shall provide care and an environment that contributes to the resident's quality of life, including:

(1) A safe, clean, comfortable, and homelike environment;

(2) Maintenance or enhancement of the resident's ability to preserve individuality, exercise self-determination, and control everyday physical needs;

(3) Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;

(4) Freedom from verbal, sexual, physical, and mental abuse and from involuntary seclusion, neglect, or exploitation imposed by anyone, and theft of personal property;

(5) Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents; and

(6) Support and coordination to assure pain is recognized and addressed appropriately.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

Cross-Reference: Care policies § 44:80:04:05.

44:80:09:09. Grievances. A resident may voice grievances without discrimination or reprisal. A facility shall adopt a grievance process and make the process known to each resident and to the resident's immediate family. The grievance process shall include the facility's efforts to resolve the grievance and documentation of:

(1) The grievance;

(2) The names of the persons involved;

(3) The disposition of the matter; and

(4) The date of disposition.

Source:.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:10. Availability of survey results. Survey results, along with the corresponding Plan of Correction shall be provided to residents and individuals upon request.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

44:80:09:11. Admission, transfer, and discharge policies. A facility shall establish and maintain policies and practices for admission, discharge, and transfer of residents that prohibit discrimination based upon payment source. The facility shall notify each resident at or before the time of admission of these policies and procedures. The policies and practices shall include the following provisions:

(1) The resident may remain in the facility and may not be transferred or discharged unless the resident's needs and welfare cannot be met by the facility, the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of persons in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;

(2) The facility shall notify the resident and a family member or client advocate in writing before the transfer or discharge unless a change in the resident's health requires immediate transfer or discharge. The written notice shall specify the reason for and effective date of the transfer or discharge and the location to which the resident will be transferred or discharged;

(3) The conditions under which the resident may request or refuse transfer within the facility; and

(4) A description of how the resident may appeal a decision by the facility to transfer or discharge the resident.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13(14).

CHAPTER 44:80:10

CONSTRUCTION STANDARDS

Section

<u>44:80:10:01</u>	<u>Application of chapter.</u>
<u>44:80:10:02</u>	<u>Administrative space.</u>
<u>44:80:10:03</u>	<u>Storage rooms.</u>
<u>44:80:10:04</u>	<u>Resident dining and lounge area.</u>
<u>44:80:10:05</u>	<u>Resident rooms.</u>
<u>44:80:10:06</u>	<u>Family room.</u>
<u>44:80:10:07</u>	<u>Service area in care units.</u>
<u>44:80:10:08</u>	<u>Food preparation services and equipment.</u>
<u>44:80:10:09</u>	<u>Laundry.</u>
<u>44:80:10:10</u>	<u>Corridor restrictions.</u>
<u>44:80:10:11</u>	<u>Doors.</u>
<u>44:80:10:12</u>	<u>Floor surface finish.</u>
<u>44:80:10:13</u>	<u>Wall and ceiling finish.</u>

<u>44:80:10:14</u>	<u>Ventilating systems.</u>
<u>44:80:10:15</u>	<u>Plumbing fixtures.</u>
<u>44:80:10:16</u>	<u>Water supply systems.</u>
<u>44:80:10:17</u>	<u>Vacuum breakers.</u>
<u>44:80:10:18</u>	<u>Hot water systems.</u>
<u>44:80:10:19</u>	<u>Drainage systems.</u>
<u>44:80:10:20</u>	<u>Piping requirements.</u>
<u>44:80:10:21</u>	<u>Electrical distribution system.</u>
<u>44:80:10:22</u>	<u>Lighting.</u>
<u>44:80:10:23</u>	<u>Emergency electrical service.</u>
<u>44:80:10:24</u>	<u>Staff call system.</u>
<u>44:80:10:25</u>	<u>Submittal of plans and specifications.</u>

44:80:10:01. Application of chapter. This chapter applies to any new facility and to any renovations, additions, and changes in space use of currently approved existing facility. Accessible and usable accommodations shall be available to the public, staff, and residents with disabilities.

Each facility shall comply with **NFPA 101 Life Safety Code**, 2012 edition.

Source:.

General Authority: SDCL 34-1-17(4), (5), and 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:89:10:02. Administrative space. The administrative area shall consist of an office, lobby, and public and staff toilet rooms.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:04. Storage rooms. There shall be at least 10 square feet (0.929 square meters) of central storage provided for each bed. General storage shall be concentrated in one area in the facility, but up to 50 percent of the general storage space may be provided on the premises.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:05. Resident dining and lounge area. The total areas set aside for resident dining, lounge, and other central use areas may not be less than 40 square feet (4.18 square meters) for each bed.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:06. Resident rooms. A resident room shall meet the following requirements:

(1) A maximum room capacity is one resident;

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of 150 square feet (13.98 square meters) in each bedroom. Any sleeping room designed as part of a suite of rooms shall have a minimum area of 120 square feet (11.15 square meters). The minimum dimension in sleeping rooms shall not be less than nine feet six inches (2.90 meters);

(3) Have a window whose sill is not higher than three feet (0.91 meters) above the floor. The floor shall be above grade;

(4) A toilet room shall be attached to the resident room. The toilet room shall include a water closet with bedpan washer, handsink, mirror, soap dispenser, towel dispenser, and private individual storage. All new construction of toilet rooms shall be wheelchair accessible;

(5) A handsink shall be provided in the room equipped with a soap dispenser and paper towel dispenser; and

(6) A separate closet space or wardrobe of five square feet (.46 meters).

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:07 Family room. At least one family room must be provided for every two licensed beds. The attached living space for the resident family shall be 150 square feet (13.94 meters) and be equipped with comfortable seating and sleeping accommodations. Provisions shall be made for resident privacy at the adjoining family room.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:08. Service area in care units. Each care unit shall contain following:

(1) Staff station work area with handwashing fixture, charting space, communication and security equipment, supply storage, and locked medication storage, including refrigerated storage and dispensing area;

(2) Staff toilet room convenient to work area. The toilet room shall be accessible and shall contain a handwashing fixture with mirror, soap and towel dispenser, and toilet with at least a side grab bar and toilet paper dispenser;

(3) Clean linen storage or linen care storage room;

(4) Housekeeping room for supply and equipment storage. A floor receptor or service sink shall be provided and the adjacent wall surfaces shall be impervious to protect from water damage. The space could be arranged as part of a soiled utility room;

(5) Bathing room for residents with whirlpool bath fixture equipped with a resident lift for resident and staff safety;

(6) Clean workroom for the storage and assembly of supplies for nursing procedures which contains a work counter and sink;

(7) Soiled workroom with a work counter and handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;

(8) Nourishment station containing food storage space, refrigerated storage, microwave, self-dispensing ice machine, and a sink;

(9) Equipment storage room for resident care equipment such as walkers, wheelchairs, and similar bulky equipment; and

(10) Multipurpose rooms for staff, residents, and residents' families for conferences, reports, education, training sessions, and consultation.

Source:

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:09. Food preparation services and equipment. The dietary area shall be completely cleanable by conventional methods. The location and design of the dietary area shall enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided shall include the following:

(1) A dishwasher with a sanitizing cycle;

(2) A dry food storage area with adequate shelving and a functional aisle;

(3) Refrigerated and freezer storage space with sufficient refrigerated storage space located within the food production area for convenient food preparation;

(4) Aisles not less than three feet (0.91 meters) width;

(5) A vegetable preparation area with a two-compartment sink with a garbage disposal;

(6) Food production equipment designed to prepare a complete meal for the total bed complement and for personnel, guests, or other catering services;

(7) Food holding and transportation equipment capable of protecting food from contamination and of maintaining cold or hot food temperatures during the total serving period;

(8) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

(9) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, towel dispenser with single-service towels or hand drying device and hand cleanser; and

(10) An ice maker with bin or self-dispensing ice maker. A built-in dispensing ice maker in a refrigerator may be used in any facility or resident neighborhood with a capacity of six beds or less. Any ice maker accessible to residents or visitors shall be self-dispensing.

The facility may request in writing modifications to § 44:80:10:09. There shall be appliances that allow for the storing, refrigeration, preparation, cooking, and disposal of food products based on the facilities food service plan.

Source:.

General Authority: SDCL 34-12-13(1), (2), and (14).

Law Implemented: SDCL 34-12-13(1), (2), and (14).

44:80:10:10. Laundry. Equipment for processing an individual residents' personal clothing shall be provided. All common use linens and combined residents' personal clothing must be processed for disinfecting. The laundry shall contain an area for soiled linen holding with adequate storage capacity to be used for sorting, cart storage, janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry, storage for laundry supplies, and a lavatory conveniently accessible to soiled, clean, and processing rooms.

The space and equipment layout shall be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The facility may request in writing modifications to § 44:80:10:10.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:11. Corridor restrictions. Drinking fountains, fire extinguisher cabinets, and vending machines shall be located so that they do not project into the required width of exit corridors. Handrails shall be installed with top 34 to 38 inches above the floor on both sides of the corridor and return to the wall at the ends. Handrails shall be installed with the top 34 to 38 inches, inclusive, from the floor.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:10:12. Doors. Any door to a resident room toilet or bathroom shall be equipped with hardware which will permit access in any emergency. A pocket or sliding door may not be installed except on a clothes closet or restroom in a resident room. Any hardware on a restroom pocket or sliding door shall provide for ease of operation for a resident with limited mobility. Any door opening onto a corridor, except an elevator door, shall be hinged on the side. Alcoves and similar spaces which generally do not require doors are excluded from this requirement. No door may swing into the corridor except a closet door. Any cross-corridor door shall be provided with vision panels.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:10:13. Floor surface finish. Floors shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces shall be water-resistant. All areas where floors are subject to wetting shall have a nonslip finish. A walking surface that is not flush with an adjacent surface shall be provided with a transition. A change in level up to 1/8 inch may be vertical and without edge treatment. Changes in level between 1/8 inch and 1/2 inch are to be beveled with a slope no greater than 1:2. A change in level may not exceed 1/2 inch. Gaps in the walking surface may not exceed 1/2 inch wide in the direction of travel.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:10:14. Wall and ceiling finish. Walls shall be washable, and in the immediate area of plumbing fixtures the finish shall be protected from water damage. Wall bases in dietary areas shall be free of spaces that can harbor insects. All dietary ceilings shall be washable or easily cleanable.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:10:15. Ventilating systems. The ventilating systems shall maintain temperatures, minimum air changes of outdoor air an hour, and minimum total air changes as follows:

(1) For all other occupied areas, the facility shall be able to maintain a minimum temperature of 75 degrees Fahrenheit (23.9 degrees centigrade) at winter design conditions with a minimum of at least two total air changes an hour. All air supply and air exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. Each mechanical ventilation systems shall be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. A corridor may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors. Continuous mechanical exhaust ventilation shall be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

(2) Each cooking appliances, other than microwave ovens, shall be provided with exhaust ventilation to the exterior of the building to remove cooking odors, heat, and moisture.

(3) Each vehicle parking garages shall be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under 1000 square feet. A signs shall be posted at the front of parking spaces advising the driver to shut off the engine.

(4) Each crawl spaces shall be provided with mechanical ventilation at least 0.5 air changes each day or be provided with open perimeter venting as required by the International Building Code.

A ventilation system using a recirculated central air system shall be equipped with a minimum of 30 percent effective filters. These filter efficiencies shall be warranted by the manufacturer and shall be based on the ASHRAE 52.2, 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers dust spot test method with atmospheric dust. Each filter frame shall be durable and carefully dimensioned and shall provide a tight fit with the enclosing duct work.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

ASHRAE 52.(2), 2007 edition, American Society of Heating, Refrigeration, and Air Conditioning Engineers. Copies may be obtained from 1801 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: \$39.

44:80:10:16 Plumbing fixtures. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material. Each lavatories and sinks required in resident care areas shall have the water supply spout mounted so that the discharge is a minimum of 5 inches (0.13 meters) above the rim of the fixture. Handwashing facilities shall be equipped with hands-free controls. A single lever devices may be used. Each clinical sink shall have an integral trap in which the upper portion of a visible trap seal provides a

water surface. If blade handles are used, proper clearance shall be maintained for operation. An aerator is not approved for use on faucet spouts. A paper towel dispenser or hand-drying device shall be provided at each lavatory and sink used for handwashing. Mirrors or paper towel dispensers with reflective surfaces may not be provided at handwashing facilities in the clean utility or dietary where grooming could potentially cause contamination.

Each water closet shall be an elongated bowl type and be equipped with an open front seat.

Any shower stall that is not required to be wheelchair transfer or standard roll-in type shall have curb heights not more than six inches above the finished floor. The shower floor elevation and bathroom finished floor elevation shall be level where possible but the difference in elevation cannot exceed three inches.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

44:80:10:17. Water supply systems. Each water supply systems shall supply water to the fixtures and equipment on the upper floors at a minimum pressure of 15 pounds a square inch (1055.9 kilograms a square meter) during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:80:10:18. Vacuum breakers. An antisiphon devices or backflow preventers shall be installed on any hose bib and on any fixture to which hoses or tubing can be attached such as a janitor sink, bedpan flushing attachment, or handheld shower. Each antisiphon devices or backflow preventers shall be installed on all plumbing and equipment where any possibility exists for contamination of the potable water supply.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:80:10:19. Hot water systems. The facility shall install a recirculating system to provide hot water to all fixtures. The hot water heating equipment shall have sufficient capacity to supply water at the temperature and amounts to meet the needs of the facility.

Source:.

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

44:80:10:20. Drainage systems. Any piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and may not be exposed. Special precautions shall be taken to protect these areas from possible leakage of necessary overhead piping systems. The building sewer shall discharge into a community sewerage system. If such a system is not available, a facility providing sewage treatment which conforms to applicable local and state regulations is required.

Water from roof systems shall be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks shall be provided for pitched roof systems. Provisions shall be made to avoid having water accumulated on sidewalks and parking areas around the building.

The building sewer system shall have a cleanout located outside the perimeter of the building foundation.

Source:

General Authority: SDCL 34-12-13(1), (4), and (14).

Law Implemented: SDCL 34-12-13(1), (4), and (14).

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

44:80:10:21. Pipe requirements. Before placing potable water systems in service, the piping system shall be disinfected in accordance with the South Dakota Plumbing Commission standards in article 20:54 and certification shall be available from the installer showing the method used, date, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used for applying them shall have a flame spread of not more than 25 and a smoke emission factor of not more than 50 when tested in accordance with the **NFPA 101 Life Safety Code**, 2012 edition.

Source:

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555. Cost: \$93.00.

44:80:10:22. Electrical distribution system. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards. Each circuit breaker or fusible switch that provides disconnecting means and overcurrent protection for a conductor connected to switchboard and distribution panel board shall be enclosed or guarded to provide a dead front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. Each lighting and appliance panel board shall be provided for the circuits on each floor. This section does not apply to emergency system circuits.

Source:

General Authority: SDCL 34-12-13(1), (3), and (4).

Law Implemented: SDCL 34-12-13(1), (3), and (4).

44:80:10:23. Lighting. Each resident bedroom shall have general lighting of at least ten footcandles (0.929 lumens per square meter) and night lighting. If task illumination is required, a light with an intensity of at least 30 footcandles (2.80 lumens per square meter) at the work surface shall be provided. At least one luminaire for night lighting shall be switched at the entrance to each resident room. Illumination of at least 100 footcandles (9.29 lumens per square meter) shall be provided at the medication set-up area. Illumination of at least 30 footcandles (2.80 lumens per square meter) shall be provided in each dining area and at any bathing facility.

Source:.

General Authority: SDCL 34-12-13(3), (4) and (14).

Law Implemented: SDCL 34-12-13(3), (4) and (14).

44:80:10:24. Emergency electrical service. A facility shall be equipped with automatic emergency lighting for each exit way, staff work area, medication room, room where main electrical panels are located, and power for the alarm system.

Source:.

General Authority: SDCL 34-12-13(3).

Law Implemented: SDCL 34-12-13(3).

44:80:10:25. Staff call system. A staff call system shall be provided for resident use to summon assistance from staff. The system shall be capable of being easily activated by the resident and shall register both visually and audibly at the staff station. The system shall be utilized and maintained in such a manner as to ensure that it is a consistent and effective means for a resident to alert staff of the need for assistance. The call stations convenient for resident use shall be provided at each bed, resident toilet, bathing or shower facility used by the resident. Staff call systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. The call system shall also meet at least one of the following requirements:

(a) The call system utilizes fixed call stations that are convenient for resident use and activated by a pull cord or other approved device. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections;

(b) The call system utilizes wireless devices that are convenient for resident use and activated by a pull cord or other approved device. The wireless system shall actuate a visual and audible signal at the staff station and on pocket paging devices carried by all direct care staff. Wireless devices shall be fully supervised, shall be capable of alarm reset at the source, and transmit low battery alert. Wireless devices shall utilize batteries that are readily available; or

(c) Another type of call system that has been submitted for review and approved by the department.

A call station or device is not required in the resident room of a cognitively impaired resident if a nursing assessment determines the resident would not benefit from the availability. There shall be a method for staff to summon assistance if needed.

Source:.

General Authority: SDCL 34-12-13(4) and (14).

Law Implemented: SDCL 34-12-13(4) and (14).

44:80:10:26. Submittal of plans and specifications. Plans and specifications for new construction shall be submitted to the department for evaluation of function and fire protection. The department's approval shall be obtained before beginning construction. Modification during construction shall be submitted to the department for review and shall be approved prior to the modification. A written narrative describing the intended use of the proposed construction shall accompany the plans and specifications.

Source:.

General Authority: SDCL 34-12-13(1) and (3).

Law Implemented: SDCL 34-12-13(1) and (3).

ARTICLE 44:03

RADIATION SAFETY

Chapter
44:03:01 Radiation control.

**CHAPTER 44:03:01
RADIATION CONTROL**

Section

44:03:01:01	Definitions.
44:03:01:02	Licensing of radiation-producing devices and materials.
44:03:01:03	Transferred.
44:03:01:04	Application for license.
44:03:01:05	Repealed.
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44:03:01:08	Prohibited uses of radiation.
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44:03:01:08.02	Equipment standards for medical diagnostic X ray machines.
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44:03:01:08.06	Equipment standards for dental X ray machines.
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44:03:01:09	Evaluation and correction of hazards.
44:03:01:10	General safety provisions to protect persons from radiation exposures.
44:03:01:10.01	Requirements for personal protective devices.
44:03:01:10.02	Operator protection requirements.
44:03:01:10.03	Reports of incidents involving radiation sources.
44:03:01:10.04	Requirements of X ray film processing and darkroom.
44:03:01:10.05	Quality assurance program requirements.
44:03:01:11	Repealed.
44:03:01:11.01	Shielding plan review prior to installation of radiation facilities or equipment.
44:03:01:11.02	Installation requirements of all radiation equipment.
44:03:01:11.03	Notification of installation of radiation equipment.
44:03:01:11.04	Licensee requirements after installation of radiation equipment.
44:03:01:11.05	Installation, maintenance, and operation of radiation equipment.
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44:03:01:14.01	Operator requirements for X ray equipment.
44:03:01:14.02	Operator training requirements for diagnostic radiation equipment.
44:03:01:14.03	Operator continuing education requirements.

44:03:01:15	Disposal of radioactive materials.
44:03:01:16	Loss or theft of radioactive material.
44:03:01:17	Amendment, suspension, or revocation of license.

44:03:01:14.01. Operator requirements for X ray equipment. Any person who is certified or registered by the American Registry of Radiological Technologists, ~~by the American Registry of Clinical Radiological Technologists,~~ by another state, or who has documented 40 hours of orientation and training in the operation of radiation producing equipment by a qualified instructor may operate any radiation producing device. For the purposes of complying with the provisions of electronic health records certification criteria established pursuant to 45 CFR 495.6 a radiologic technologist certified or registered by the American Registry of Radiologic Technologists or licensed by another state is considered to be a licensed health care practitioner. Dental radiographers shall have a minimum of 16 hours of training.

Source: 26 SDR 96, effective January 23, 2000; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

Reference: 45 CFR 495.6, Federal Register, National Archives and Records Administration. Copies may be obtained free of charge at <https://www.federalregister.gov/select-citation/2014/05/23/42-CFR-495.6>

ARTICLE 44:72

REDISTRIBUTION OF NURSING FACILITY BEDS

Chapter

44:72:01	Geographic and population requirements.
44:72:02	Proposal viability.
44:72:03	Demonstration of local community support.
44:72:04	Quality assurance requirements.
44:72:05	Workforce.

CHAPTER 44:72:01

GEOGRAPHIC AND POPULATION REQUIREMENTS

Section

44:72:01:01	Geographic area.
44:72:01:02	Population to be served.

44:72:01:01. Geographic area. An eligible proposal for additional nursing facility beds pursuant to SDCL 34-12-35.8 shall specify that the additional beds will be housed in a new or existing nursing facility that is located within the city limits of in or near the communities of Sioux Falls and Rapid City, South Dakota.

Source: 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-12-35.8(2).

Law Implemented: SDCL 34-12-35.8(2).