

67:42:01:01. Definitions. Terms used in this article mean:

(1) "Alternative care," care provided in family foster homes, group care centers for minors, group care centers meeting the qualifications of residential treatment centers as defined in § 67:42:08:01, independent living preparation programs, and intensive residential treatment centers;

(2) "Applicant," an individual, agency, institution, or organization which submits to the department an application for a license as provided in this article;

(3) "Case plan," a plan written in cooperation with a client which explains the client's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedule to resolve the problems;

(4) "Client," a person receiving assistance or service from the department;

(5) "Department," the Department of Social Services;

(6) "Employee applicant," an individual applying to a provider for employment;

(7) "Facility," a family foster home, group care center for minors, residential treatment center, child placement agency, independent living preparation program, or intensive residential treatment center licensed under the provisions of this article;

(8) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children placed in the facility;

(9) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this article;

(10) "Provider," an individual, agency, institution, or organization providing any of the services covered in this article;

(11) "Provider applicant," an individual, agency, institution, or organization applying to be a provider under this article;

(12) "Reasonable and prudent parent standard," the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities;

~~(12)~~ (13) "Staff member" or "staff person," an employee or volunteer of a facility; and

~~(13)~~ (14) "Volunteer applicant," an individual applying to provide voluntary services for a provider.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:06. Ability to provide care. An applicant shall demonstrate the ability to provide care to a client which meets the client's intellectual, physical, social, and emotional needs. The applicant's ability is determined by the capacity to provide the following:

- (1) An understanding of, and encouragement and emotional support to, the client;
- (2) Assistance to the client in coping with daily living experiences;
- (3) Supervision of the client; ~~and~~
- (4) If working with children, an understanding of child development and appropriate use of discipline; and
- (5) Ability to apply the reasonable and prudent parent standard for the participation in age or developmentally-appropriate activities.

The applicant must also be able to participate with the department or a responsible party in devising and executing a case plan for a client.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

CHAPTER 67:42:05
FAMILY FOSTER HOMES

Section

67:42:05:01	Definitions.
67:42:05:02	Licensing and supervision of a family foster parent.
67:42:05:02.01	Contents of licensing record to be available to foster parent.
67:42:05:03	Training and development.
67:42:05:04	Status and number of children cared for -- Exceptions.
67:42:05:05	Repealed.
67:42:05:06	General qualifications for family foster care provider.
67:42:05:06.01	Repealed.
67:42:05:07	Transferred.
67:42:05:08 to 67:42:05:10	Repealed.
67:42:05:10.01	Smoke detectors.
67:42:05:10.02	Repealed.
67:42:05:10.03	Water supply.
67:42:05:10.04	Repealed.
67:42:05:10.05	Safety caps.
67:42:05:10.06	Exits.
67:42:05:10.07	Carbon monoxide detectors.
67:42:05:11	Sanitation requirements.
67:42:05:12	Nutrition requirements.

67:42:05:13	Program requirements.
67:42:05:14	Transferred.
67:42:05:15	Discipline.
67:42:05:16	Food quality -- Storage.
67:42:05:17	Repealed.
67:42:05:18	Railings.
67:42:05:19	Sleeping space.
67:42:05:20	Access to hazardous items -- Completion of hunter safety course required.
67:42:05:21	Water safety.
67:42:05:22	Medication -- Storage

67:42:05:13. Program requirements. A foster parent shall comply with the following:

(1) Shall provide daily activities designed to promote the physical, social, intellectual, and emotional development of the children in the foster parent's home in accordance with the reasonable and prudent parent standard. A family foster home is not liable for harm caused to a child in an out of home placement if the child participates in an activity approved by the family foster home, provided that the family foster home has acted in accordance with the reasonable and prudent parent standard;

(2) Shall take part in case planning for the child and shall participate in the preparation, pre-placement, and visitation plans for a child placed in the foster parent's home; ~~and~~

(3) Shall demonstrate respect for the child's own family and shall agree to maintain a working relationship with the child's family members as indicated in the child's case plan; and

(4) Shall ensure that the child in foster care has the safety equipment and training necessary to safely engage in each activity the child participates in, including, but not limited to the following activities:

(a) Boating;

(b) Recreational vehicle use;

(c) Sports; and

(d) Hunting.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Reasonable and prudent parent standard, § 67:42:01:01(12).

67:42:05:20. Access to hazardous items — ~~Completion of hunter safety course required.~~ The following hazardous items must be inaccessible to children unless under adult supervision:

- (1) Firearms, including pellet guns, BB guns, and cap guns;
- (2) Ammunition;
- (3) Archery bows and arrows; and
- (4) Matches and lighters.

Firearms must be kept unloaded, in a locked room, closet, cabinet, or carrying case, and separate from the ammunition. Before a child in foster care under the age of 16 may hunt, the child must successfully complete a hunter safety course approved by the Department of Game, Fish and Parks under the applicable provisions of ~~chapters 41:06:05 and 41:06:53~~ SDCL 41-07-1.

The department may require the removal or correction of other hazardous conditions or circumstances not covered in this chapter if it considers the conditions or circumstances to have the potential to cause injury or illness to the child in care.

Source: 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: Requirements for issuance of hunting license to child under sixteen -- Violation as misdemeanor, SDCL ~~41-7-2~~ 41-7-1; Department to provide for course of

instruction, SDCL 41-7-2; Bowhunter education certification required for certain archery hunters, § 41:06:05:04.

CHAPTER 67:42:07
GROUP CARE CENTERS FOR MINORS

Section

67:42:07:01 Definitions.

67:42:07:01.01 Shelter care facility -- Length of stay.

67:42:07:01.02 Agreement to provide alternative services.

67:42:07:02 Qualifications for program director.

67:42:07:03 Staff-child ratio.

67:42:07:04 Orientation and in-service training.

67:42:07:04.01 Reasonable and prudent parent standard requirements.

67:42:07:05 Treatment plan.

67:42:07:06 Repealed.

67:42:07:07 Staff qualifications -- Contact with references required.

67:42:07:08 Repealed.

67:42:07:09 Personnel record.

67:42:07:10 Health care of children.

67:42:07:11 Fire and health inspections.

67:42:07:11.01 Building plans.

67:42:07:12 Sleeping space.

67:42:07:13 Nutrition requirements.

67:42:07:14 Volunteers.

- 67:42:07:15 Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.
- 67:42:07:16 Facility procedures for handling suspected in-house child abuse.
- 67:42:07:17 Interstate placement of children.
- 67:42:07:18 Written policy on discipline.
- 67:42:07:19 Written procedures for medication administration.
- 67:42:07:20 Psychotropic medications.
- 67:42:07:21 Repealed.
- 67:42:07:22 Required medication records.
- 67:42:07:23 Medication control.
- 67:42:07:24 Use of seclusion and restraint to be approved by child placement agency --
Required documentation.
- 67:42:07:25 Physical requirements for room used for seclusion.
- 67:42:07:26 Staff person to monitor seclusion room.
- 67:42:07:27 Placement in seclusion or restraint -- Limits.
- 67:42:07:28 Review and evaluation of treatment plan.
- 67:42:07:29 Written policy requirements.

67:42:07:04.01. Reasonable and prudent parent standard requirements. The reasonable and prudent parent standard for group care centers requires:

(1) Each facility will have onsite at least one official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities;

(2) Each designated official will be provided with training in how to use and apply the reasonable and prudent parent standard; and

(3) A facility is not liable for harm caused to a child in an out of home placement if the child participates in an activity approved by the facility, provided that the facility has acted in accordance with the reasonable and prudent parent standard.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Reasonable and prudent parent standard, § 67:42:01:01(12).

67:42:07:05. Treatment plan. The facility shall develop a written treatment plan for each child in care within one month after admission. The development of the treatment plan must involve the child in care, the facility staff working with the child, the placement agency, and if appropriate, the parent or guardian. The treatment plan must contain the following:

(1) An assessment of the child's needs and strengths, including implementation of the reasonable and prudent parent standard;

(2) Treatment goals for the child and family, including a description of how family and aftercare services will be provided, and projected times for achieving goals; and

(3) A discharge plan that includes the projected length of stay and the conditions under which the child will be discharged.

A shelter care facility that does not provide short-term assessment services is exempt from the requirement for establishing a written case treatment plan.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; portions of this rule were transferred to § 67:42:07:29, 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:07:29. Written policy requirements. The facility shall develop written policies in the following areas:

- (1) Intake;
- (2) Treatment;
- (3) Discharge;
- (4) Discipline;
- (5) Confidentiality;
- (6) Reporting suspected child abuse and neglect within the facility;
- (7) Use of seclusion and personal restraint, if used by the facility;
- (8) Health care of children; ~~and~~
- (9) Emergency procedures in case a child is injured; and
- (10) Reasonable and prudent parent standard.

The facility must inform the child's parent or guardian of these policies, including individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility shall make copies of these policies available on request.

Source: 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.