ARTICLE 44:75

HOSPITAL, SPECIALIZED HOSPITAL, ~~AND~~ CRITICAL ACCESS HOSPITAL, AND RURAL EMERGENCY HOSPITAL FACILITIES

Chapter

CHAPTER 44:75:01

RULES OF GENERAL APPLICABILITY

Section

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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~~ shown by a criminal conviction for, or substantial evidence of:

(a) ~~A criminal conviction against a person for mistreatment toward an individual; or~~ Emotional or psychological abuse as defined in SDCL 22-46-1;

(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 a gesture, or engaging in any other act made to or directed at a patient or resident~~ Exploitation as defined in SDCL 22-46-1; or

(c) Physical abuse as defined in SDCL 22-46-1(7);

(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~~ "Activities program," a diversional program under the direction of a therapeutic recreation specialist or activity professional eligible for certification from the National Certification Council of Activity Professionals, or a qualified occupational therapist or occupational therapy assistant licensed in accordance with SDCL chapter 36-31;

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

~~(5)~~(3) "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)~~(4) "Client advocate," an agency 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)~~(5) "Clinical ~~Nurse Specialist~~ nurse specialist," a person who practices the nurse specialty of a clinical nurse specialist ~~as authorized pursuant to~~ and who is licensed to practice in this state in accordance with SDCL chapter 36-9;

~~(10)~~(6) "Circulating ~~Nurse~~ 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)~~(7) "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)~~(8) "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~~ one hundred twenty or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the ~~National~~ Certifying Board ~~of~~ for Dietary Managers and who ~~functions~~ supervises food service with consultation from a dietitian;

~~(15)~~(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~~ accordance with SDCL chapter 36-10B;

~~(16)~~(10) "Distinct part," an ~~identifiable unit, such as an~~ entire ward or contiguous wards, wing, floor, or building, ~~which~~ that is licensed at a specific level. ~~It consists of~~ including all beds and related facilities in the unit;

~~(17)~~(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;

~~(18)~~(12) "Exploitation," ~~the wrongful taking or exercising of control over property of a person with intent to defraud that person~~ as defined in SDCL 22-46-1;

~~(19)~~(13) "Facility," the place of business licensed as a general hospital, specialized hospital, ~~or~~ critical access hospital, or rural emergency 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)~~(14) "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)~~(15) "Healthcare ~~worker~~ personnel," any ~~paid person~~ employee or individual working in a healthcare 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)~~(16) "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)~~(17) "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~~ this state or privilege to practice;

~~(28)~~(18) "Medical staff," ~~an organized staff composed of~~ practitioners that ~~operates~~ operate under bylaws approved by the governing body and ~~which is~~ who are 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)~~(19) "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)~~(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~~ as defined in SDCL 22-46-1;

~~(32)~~(21) "Nurse," a registered nurse or a licensed practical nurse ~~who holds a current license to practice in South Dakota pursuant to~~ licensed in accordance with 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)~~(22) "Nurse practitioner," a person ~~who practices the specialty nurse practitioner as authorized pursuant to~~ licensed in accordance with SDCL chapter 36-9A;

~~(35) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and patient care technicians;~~

~~(36)~~(23) "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~~(24) "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, ~~or~~ critical access hospital, rural emergency hospital, or

~~swingbed~~ swing bed;

~~(38)~~(25) "Pharmacist," a person registered ~~to practice pharmacy pursuant to~~ in accordance with SDCL chapter 36-11;

~~(39)~~(26) "Physician," a person ~~who is~~ licensed ~~or approved~~ to practice medicine ~~pursuant to~~ in accordance with SDCL chapter 36-4;

~~(40)~~(27) "Physician assistant," a ~~health care professional who meets the qualifications as defined and is licensed as authorized pursuant to~~ person licensed in accordance with SDCL chapter 36-4A;

~~(41)~~(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 dentist licensed ~~pursuant to~~ in accordance with SDCL chapter ~~36-6~~ 36-6A;

(c) A podiatrist licensed ~~pursuant to~~ in accordance with SDCL chapter 36-8;

(d) A optometrist licensed ~~pursuant to~~ in accordance with SDCL chapter 36-7;

(e) A chiropractor licensed ~~pursuant to~~ in accordance with SDCL chapter 36-5;

(f) A pharmacist ~~licensed pursuant to SDCL chapter 36-11~~;

(g) A physical therapist licensed ~~pursuant to~~ in accordance with SDCL chapter 36-10;

(h) A occupational therapist licensed ~~pursuant to~~ in accordance with 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~~ in accordance with SDCL chapter 36-37; or

(i) 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," a person 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)~~(29) "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-language 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)~~(30) "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;

(31) "Seclusion room," a room used for the involuntary confinement of a patient from which the patient is prevented from leaving and where most outside stimulus is eliminated to allow a patient to deescalate and feel calm;

~~(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, self-ingesting, or self-applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;~~

~~(51)~~(32) "Social worker," a person ~~who is~~ licensed ~~pursuant to~~ in accordance with 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;~~

(33) "Sufficient personnel," a number of qualified personnel sufficient to perform the duties required to meet the performance criteria established by this article;

~~(54)~~(34) "~~Swing-bed~~Swing bed," a licensed hospital bed ~~which~~ that has been approved by the department pursuant to § 44:75:11:10 to also provide short-term nursing care;

~~(55)~~(35) "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)~~(36) "Unlicensed assistive personnel," a person who is not licensed as a nurse ~~under~~ in

accordance with 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: 42 SDR 51, effective October 13, 2015.

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~~ https://www.nccap.org.

44:75:01:02. Licensure of facilities by classification. ~~Application for licensure of a~~ Each health care facility shall identify ~~the~~ its classification ~~desired by the facility~~ on the application for licensure. ~~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 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~~ post the current license in a place conspicuous to the public. 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: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-5, 34-12-7.

44:75:01:02.01. Rural emergency hospital -- Services. A rural emergency hospital must

provide emergency department services, observation care, outpatient medical care, and other health care services with a patient length of stay of less than twenty-four hours. A rural emergency hospital may not provide inpatient services, except those furnished in a unit that is a distinct part of the rural emergency hospital and is licensed as a skilled nursing facility to furnish posthospital extended care services.

Source:

General Authority: SDCL 34-12-7; 34-12-13(5).

Law Implemented: SDCL 34-12-13.

44:75:01:02.02. Rural emergency hospital -- Provider agreement.

A rural emergency hospital shall have in effect a provider agreement with the Centers for Medicare and Medicaid Services.

Source:

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-1.1(14).

44:75:01:03. Name of facility. Each facility shall ~~be designated by~~ use a pertinent and distinctive name ~~that shall be used~~ in applying for a license. The facility name may not imply services rendered in excess of the facility's licensure classification. 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~~ governing body of the facility or designee must provide prior written notice to the department of any name change for the facility.

Source: 42 SDR 51, effective October 13, 2015.

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~~ in accordance with chapters 44:75:13 an 44:75:14. The patient census may 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~~ may only be approved by the department before any changes are made.

A critical access hospital (CAH) may license no more than ~~25~~ twenty-five 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~~ with no more than ten beds. The distinct part's beds ~~may~~ do not count toward the CAH bed limit~~, and the total number in each distinct part unit may not exceed ten~~.

A rural emergency hospital may license no more than fifty beds.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-6(3)(9), 34-12-7.

Law Implemented: SDCL 34-1-17(4), 34-12-7, 34-12-14.

44:75:01:05. ~~Restrictions on acceptance~~ Acceptance and retention of patients. A facility shall accept and retain patients ~~in accordance with the following restrictions~~ based on the facility's capabilities to meet the needs of the patients, the services provided in accordance with the facility's classification as determined by the facility's governing body, and with written policies and procedures that:

(1) A patient accepted for care by a licensed facility ~~shall~~ must be housed and treated 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~~ Healthcare personnel and other personnel essential to maintaining ~~adequate staff~~ sufficient personnel 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)~~(3) ~~A~~ For a hospital ~~which accept or retain patients~~, if the facility accepts or retains a patient for other than short-term acute care ~~shall~~, it must provide the facilities, equipment, programs, and care needed by the patient;

~~(5)~~(4) A facility that ~~accept or retain patients suffering from~~ accepts or retains a patient with a developmental ~~disabilities~~ disability, as defined in SDCL 27B-1-18, or a patient with a mental ~~diseases~~ disease that causes the patient to lack sufficient understanding or capacity to make responsible decisions to meet the ordinary demands of life, as evidenced by the patient's behavior, or that causes the patient to be a danger to self or others, shall provide facilities and programs consistent with the needs of the ~~patients~~ patient;

~~(6)~~(5) If ~~persons~~ a person other than ~~inpatients are~~ an inpatient is accepted for care or to participate in any ~~programs,~~ nursing service, dietary service, or activity ~~for the inpatients, their numbers shall be included~~ program, the facility must include the person 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 or programs provided to persons other than inpatients may not infringe upon the needs of the inpatients; and

~~(7)~~(6) A critical access hospital may provide inpatient acute care up to an annual average length of stay of ~~96~~ ninety-six hours.

A facility may not accept or retain a patient who requires care in excess of the classification for which it is licensed.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7, 34-12-13(5).

Law Implemented: SDCL 34-12-7, 34-12-13~~(5)~~.

44:75:01:07. Reports to the department. Each facility shall ~~fax, email, or mail~~ report any of the following events to the department ~~the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.~~ through the department's online reporting system within twenty-four hours of the discovery of the event:

(1) 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 facility shall report each incident or event 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 facility shall report each incident or event to the department within 24 hours, and conduct a subsequent internal investigation and provide a written report of the results to the department within five working days after the event.~~

~~Each facility shall report to the department within 48 hours of the event any;~~

(2) Any death resulting from other than natural causes originating on facility property ~~such as accidents or suicide patient. The facility shall conduct a subsequent internal investigation and provide a written report of the results to the department within five working days after the event.~~

~~Each facility shall report a~~;

(3) A missing patient ~~to the department within 48 hours. The facility shall conduct a subsequent internal investigation and provide a written report of the results to the department within five working days after the event.~~

~~Each facility shall also report to the department as soon as possible any~~;

(4) A fire ~~with damage or where injury or death occurs; any partial or complete evacuation of~~ in the facility ~~resulting from natural disaster; or any~~;

(5) 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~~ twenty-four hours~~.~~; or

(6) Any

~~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.

The facility shall conduct an internal investigation for the even and report the results to the department no later than five working days after the event.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13~~(14)~~.

44:75:01:07.01. Reports to the Department of Human Services, law enforcement, or state's attorney. A facility shall report an event involving an attempted suicide, or any reasonable cause to suspect abuse or neglect of any patient by any person within twenty-four hours of the discovery of the event or reasonable cause orally or in writing to the Department of Human Services, to a law enforcement officer, or to the state's attorney of the county in which the facility is located.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13.

44:75:01:08. Plans of correction. Within ~~10~~ ten days of the receipt of the statement of deficiencies, each licensed facility ~~shall~~ must submit to the department a written plan of correction for the citation of noncompliance with licensure requirements. The plan of correction ~~shall~~ must be

signed, dated, and on the original 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: 42 SDR 51, effective October 13, 2015.

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

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

44:75:01:09. Modifications. ~~Modifications~~ The department may approve 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~~ that 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~~ sixteen 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.

The health and safety of the patients ~~or residents~~ in either facility may 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.

A modification specified by this section may be requested by the health care facility.

Source: 42 SDR 51, effective October 13, 2015.

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~~ personnel to provide services within the scope of the ~~professional's~~ personnel's license, certification, or registration, as provided by ~~South Dakota~~ law.

Source: 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:75:02

PHYSICAL ENVIRONMENT

Section

44:75:02:21 Office required for social services activities.

44:75:02:22 Physical plant changes.

44:75:02:23 Location.

44:75:02:24 Heating and cooling.

44:75:02:25 Seclusion rooms.

44:75:02:05. Sterilization. ~~Instruments~~ A facility shall decontaminate any instruments, supplies, utensils and equipment ~~which~~ that 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~~ A facility shall bacteriologically monitor autoclaves used for steam sterilization ~~shall be bacteriologically monitored~~ at least weekly. Supplies and equipment sterilized and packaged in the facility ~~shall~~ must have the processing date, the sterilizer number or unique identifier if more than one sterilizer is used, the cycle or load number, a description of the contents, and the identifier of the assembler on the package and ~~shall~~ must be reprocessed in accordance with any specific manufacturer's recommendation for ~~the~~ sterilization and packaging.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:02:07. Food service. Food service ~~shall~~ must be provided by a ~~licensed~~ facility or food service establishment licensed in accordance with SDCL chapter 34-18, 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~~. A facility of ~~17~~ seventeen

beds or more shall have a mechanical dishwasher. 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: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(5) and (8).

Law Implemented: SDCL 34-12-13(5) and (8).

Note Cross-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, chapter 44:02:07.

44:75:02:08. Handwashing facilities. Handwashing facilities A handwashing facility 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 wall-mounted hand cleanser shall dispenser must be located in each dietary areas area, utility rooms room, nurses' stations station, pharmacies pharmacy, laboratories laboratory, nurseries nursery, surgical suites suite, delivery suites suite, physical therapy rooms, restorative therapy rooms room, examination and treatment rooms room, emergency rooms room, laundry, and all toilet rooms not directly connected to patient rooms room. A handwashing facility shall must 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 must be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source: 42 SDR 51, effective October 13, 2015.

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~~ must equal ~~three~~ two times the licensed capacity of the facility. The facility shall ~~have~~ develop and implement 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~~ The facility must process comingled patients' ~~or residents'~~ personal clothing, common-use linen, any isolation clothing, and housekeeping items ~~shall be processed~~ by methods that ensure disinfection. The facility ~~shall~~ must 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~~ must be ~~160~~ one hundred sixty degrees Fahrenheit ~~(71~~ or seventy-one degrees centigrade~~)~~. If chlorine bleach is added to the laundry process ~~to provide 100 parts per million or more of free chlorine~~ following the manufacturer's direction, the minimum hot water temperatures supplied for laundry purposes may be reduced to ~~120~~ one hundred twenty degrees Fahrenheit ~~(48.8~~ or forty-nine 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 ~~120º F.~~ one hundred twenty degrees Fahrenheit 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~~ personnel;

(3) The facility ensures ~~that~~ laundry ~~staff receives~~ personnel receive 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~~ personnel monitor 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 a 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~~ Areas used for the storage and handling of soiled linens ~~shall~~ must be negatively pressurized. The facility shall establish ~~special~~ procedures for the handling and processing of contaminated linens. Soiled linen ~~shall~~ must be placed in closed containers prior to transportation. ~~To safeguard clean linens from cross contamination, the~~ Clean linens ~~shall~~ must be transported in containers used exclusively for clean linens, ~~shall~~ must be kept covered with dust covers at all times while in transit or in hallways, and ~~shall~~ must be stored in areas designated exclusively for this purpose. ~~A~~ The department must review and approve any written request for any modification of the requirements of this section ~~shall be reviewed and approved by the department~~ as to a facility's policy and procedure before any changes are made.

The facility must sort and process environmental cleaning and disinfection cleaning cloths, microfiber cloths, mop head, and other textiles in loads separate from healthcare textiles.

Source: 42 SDR 51, effective October 13, 2015.

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 program. ~~The infection prevention and control program shall utilize the concept of standard precautions. 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~~ Each facility shall have an active, facility-wide program for the surveillance, prevention, and control of healthcare-associated infections and other infectious disease. The program must demonstrate adherence to nationally recognized infection prevention and control guidelines.

Each facility shall, based on recommendations from the facility's medical and nursing leadership, appoint an infection prevention and control director who is qualified through education, training, experience, or certification in infection prevention and control, to be responsible for the infection prevention and control program including:

(1) Developing and implementing policies and procedures for facility-wide infection surveillance, prevention, and control that reflect the scope and complexity of services furnished by the facility and that maintain a clean and sanitary environment;

(2) Documenting infection prevention, control, and surveillance activities;

(3) Communicating and collaborating with the quality assessment and performance program required by § 44:75:04:14 and the antibiotic stewardship program required by § 44:75:02:10.01 on infection prevention and control issues;

(4) Ensuring competency-based training and education is provided to the facility's healthcare personnel; and

(5) Auditing adherence to the facility's infection prevention and control policies.

The governing body of each facility shall ensure systems are in place and operational for the tracking of all infection surveillance, prevention, and control activities to demonstrate implementation, success, and sustainability of activities.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1), 34-22-9(8).

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

44:75:02:10.01. Antibiotic stewardship program. Each facility shall have an active facility-wide program for the optimization of antibiotic use through stewardship. The program must demonstrate adherence to nationally recognized best practices for improving antibiotic use and reducing antibiotic-resistant organisms.

Each facility shall, based on recommendations from the facility's medical and pharmacy leadership, appoint an antibiotic stewardship director who is qualified through education, training, experience, or certification in infectious disease or antibiotic stewardship, to be responsible for the antibiotic stewardship program including:

(1) Developing and implementing policies and procedures for facility-wide antibiotic stewardship to monitor and improve the facility's use of antibiotics that reflect the scope and complexity of services furnished by the facility;

(2) Documenting antibiotic stewardship activities to include sustained improvements in proper antibiotic use;

(3) Communicating and collaborating with medical, nursing, and pharmacy personnel and with the quality assessment and performance program required by § 44:75:04:14 and the infection prevention and control program required by § 44:75:02:10 on antibiotic stewardship issues;

(4) Ensuring competency-based training and education is provided to the facility's healthcare personnel on the practical application of antibiotic stewardship guidelines, policies, and procedures; and

(5) Auditing adherence to the facility's antibiotic stewardship policies.

The governing body of each facility shall ensure a system is in place and operational for the tracking of all antibiotic use activities to demonstrate implementation, success, and sustainability of activities.

Source:

General Authority: SDCL 34-12-13(1), 34-22-9(8).

Law Implemented: SDCL 34-12-13.

44:75:02:11. Plumbing. Facility plumbing systems ~~shall~~ must be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1. Plumbing ~~shall~~ must be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility.

Source: 42 SDR 51, effective October 13, 2015.

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~~ A facility's water supply ~~shall~~ must be obtained from a public water system or, in its absence, from a supply approved by the Department of Agriculture and Natural Resources. Each private water supply ~~shall~~ must have a water sample bacteriologically tested at least monthly. The volume of water ~~shall~~ must be sufficient for the needs of the facility, including ~~fire fighting~~ firefighting requirements. The hot water system ~~shall~~ must be capable of supplying the work and patient areas with water at the required temperatures. ~~Maximum~~ The maximum temperature of hot water ~~temperatures at plumbing fixtures used by patients may not~~

~~exceed 125~~ for patient use is one hundred twenty-five degrees Fahrenheit ~~(52~~ or fifty-two degrees centigrade~~)~~. The minimum temperature of hot water for patient use ~~shall be at least 100~~ is one hundred degrees Fahrenheit ~~(38~~ or thirty-eight degrees centigrade~~)~~. A facility shall monitor water temperatures monthly, and maintain documentation in accordance with facility policy.

~~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, such as increasing water temperature range from 122 degrees to 125 degrees Fahrenheit (50-52 degrees centigrade), 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: 42 SDR 51, effective October 13, 2015; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

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

Cross-References:

Standards adopted for plumbing -- Conformity to ~~National~~ Uniform Plumbing Code, SDCL 36-25-15~~;~~.

Scope and objectives of plumbing standards and rules, SDCL 36-25-15.1.

44:75:02:12.01. Water supply -- Control of *Legionella*. Each water supply system in a facility must maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility, or other equivalent bacteriological control method for the control of *Legionella*. A

facility may increase the water temperature range from one hundred twenty-two degrees to one hundred twenty-five degrees Fahrenheit or fifty degrees to fifty-two degrees centigrade for the control *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range for the control *Legionella*. If hot water temperatures are outside the acceptable range, the facility must conduct chlorine testing using photocell and light source N, N, Diethyl-p-phenylenediamine test kits, and the facility shall log the test results. If testing demonstrates that consistent chlorine levels are maintained, the facility may conduct monthly chlorine testing.

Source:

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

Law Implemented: SDCL 34-12-13.

44:75:02:18. Occupant protection. Each facility ~~shall~~ 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 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~~ must be capable of being easily activated by the patient and ~~shall~~ must 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~~ must be provided in wet areas

and for outlets within six feet of sinks;

(5) ~~A~~ Prohibit the use of a portable space heater, portable halogen lamp~~.~~, household-type electric blanket, or household-type heating pad ~~may not be used~~ in ~~a~~ the facility;

(6) ~~Any~~ Ensure that any light fixture located over a patient bed, ~~in any~~ bathing or treatment area, ~~in a~~ clean supply storage room, ~~in any laundry~~ clean laundry and linen storage area, or ~~in any~~ medication set-up area ~~shall~~ be equipped with a lens cover or a shatterproof lamp;

(7) ~~Any~~ Ensure that any clothes dryer ~~shall~~ have a galvanized metal ~~vent pipe~~ transition duct for exhaust or flexible transition duct listed and labeled in accordance with UL 218A; and

(8) ~~The~~ Ensure that the storage and transfilling of oxygen cylinders or containers ~~shall~~ meet the requirements of the NFPA 99 ~~Standard for~~ Health Care ~~Occupancies~~ Facilities, 2012 Edition, chapter 11.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $111.00.

44:75:02:19. Area requirements for currently licensed patient rooms. Each ~~currently~~ licensed patient room ~~shall~~ must have at least ~~75~~ seventy-five square feet ~~(~~ or 6.98 square meters~~)~~ of floor space per bed, with at least three feet ~~(~~ or 0.91 meters~~)~~ between beds, in a multi-bed room exclusive of closets and wardrobes; and ~~95~~ ninety-five square feet ~~(~~ or 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~~ twenty square feet ~~(~~ or 1.86 square meters~~)~~ of general storage for each bed. Each facility ~~shall~~ must be constructed, equipped, and operated to maintain the privacy and dignity of all patients. In a multi-bed room, each bed ~~shall~~ must be able to be separated from the other beds by privacy curtains.

Source: 42 SDR 51, effective October 13, 2015.

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~~ healthcare personnel determines isolation is required, the facility must provide a private room with necessary equipment, including handwashing facilities, to carry out isolation techniques ~~shall be provided. Isolation~~. The room ~~shall~~ must 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: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1) ~~and~~ (3), 34-22-9.

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

44:75:02:22. Physical plant changes. A facility shall submit to the department any proposed change ~~by~~ due to new construction, remodeling, or change of use of an area ~~to the department~~. Any change ~~shall~~ must have the approval of the department before it is made.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:02:24. Heating and cooling. The temperature in any occupied space in the facility ~~shall~~ must be maintained between ~~68~~ sixty-eight and ~~80~~ eighty degrees Fahrenheit during waking hours and not lower than ~~64~~ sixty-four degrees Fahrenheit during sleeping hours. Individual patient space may be maintained outside the required range when desired by the occupant.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:02:25. Seclusion rooms. ~~Each~~ A facility must arrange each seclusion room ~~shall be arranged~~ for the safety of the patient and to prevent patient hiding, escape, injury, or suicide. The room ~~shall~~ must be without sharp corners. The room door ~~shall~~ must swing out of the patient room, but not into a general traffic corridor. Each room door ~~shall~~ must permit staff observation of the patient while still providing for patient privacy. Each finish fastener and hardware ~~shall~~ must be tamper resistant. Security fixtures ~~shall~~ must be provided for lighting. Nine foot ceiling heights ~~shall~~ must be provided. An anteroom at the seclusion room entrance ~~should~~ must be provided to allow ~~staff controlled~~ staff-controlled access to the seclusion room toilet facility. Any lock on a seclusion room ~~shall~~ must be controlled by staff at the door location and ~~shall~~ must unlock when released by the staff person. A locking device may be manual or automatic ~~in nature~~.

Source: 42 SDR 51, effective October 13, 2015.

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. Each facility shall meet applicable fire safety standards in NFPA 101 Life Safety Code, ~~2000~~ 2012 edition in chapter 32 or 33.

Source: 42 SDR 51, effective October 13, 2015.

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

Law Implemented: SDCL 34-12-13~~(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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $151.50.

44:75:03:02. General fire safety. Each ~~licensed health care~~ facility ~~covered under this article shall~~ 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. The ~~fire alarm system shall be sounded each month. A minimum of~~ facility shall conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, the facility must conduct monthly drills to provide training for all healthcare personnel. At least two ~~staff members shall~~ healthcare personnel must be on duty at all times. In a multilevel facility, at least ~~one staff member shall~~ personnel must be on duty on each floor containing occupied beds.

Source: 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Fire safety code requirements, § 44:75:03:01.

CHAPTER 44:75:04

MANAGEMENT AND ADMINISTRATION

Section

44:75:04:04. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. ~~Staff members~~ Healthcare personnel on duty ~~shall~~ must be awake at all times. Any supervisor ~~shall~~ must be ~~18~~ eighteen years of age or older. ~~Written~~ The facility shall make available 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~~ healthcare personnel on contract.

Source: 42 SDR 51, effective October 13, 2015.

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 healthcare personnel. ~~Ongoing education programs shall cover the required subjects annually.~~ These programs ~~shall~~ must be completed by all healthcare personnel within thirty days of hire and annually thereafter, and must 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 and seclusion;

(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;

(11) Advanced directives; and

(12) Abuse and neglect.

~~Personnel~~ Any personnel whom the facility determines will have no contact with patients are exempt from training required by subdivisions (5), (8), (9), ~~and~~ (10), (11), and (12) of this section.

~~Additional~~ The facility shall provide additional personnel education ~~shall be~~ based on ~~facility~~ the facility's identified needs.

~~Current~~ The facility shall make available current professional and technical reference books and periodicals ~~shall be made available~~ for personnel.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:04:06. ~~Employee~~ Personnel health program. The facility shall have ~~an employee~~ a personnel health program for the protection of the patients. ~~All~~ Before assignment to duties or within fourteen days after employment, personnel ~~shall~~ must be evaluated by a licensed health professional ~~for freedom from~~ to ensure they are not infected with any reportable communicable disease ~~which~~ that 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~~ that may endanger the health of patients and fellow ~~employees~~ personnel 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: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1)~~, (5), and~~ (14).

Law Implemented: SDCL 34-12-13~~(1), (5), and (14)~~.

Cross-Reference: ~~Reportable~~ Definitions and reportable diseases and conditions, ~~ch~~ chapter 44:20:01.

44:75:04:09. Tuberculin screening and testing requirements. Each facility shall develop criteria to screen healthcare ~~workers~~ personnel for *Mycobacterium* tuberculosis (TB) based on the ~~guidelines issued by Centers for Disease Control and Prevention~~ Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019. Each facility shall establish policies and procedures for conducting ~~*Mycobacterium* tuberculosis~~ TB risk ~~assessment~~ assessments that include the key components of responsibility, surveillance, and containment~~, and education~~. The frequency of repeat screening ~~shall depend~~ depends upon annual facility risk ~~assessments conducted by the facility~~ results.

Tuberculin screening requirements for healthcare ~~workers~~ personnel are as follows:

(1) Each new healthcare ~~worker~~ personnel shall receive an initial individual TB risk assessment that is documented and the two-step method of tuberculin skin test or a TB blood assay test to establish a baseline within ~~14~~ twenty-one days of employment. Any two documented tuberculin skin tests completed within a ~~12 month~~ twelve-month period prior to the date of employment ~~can be~~ are considered ~~a~~ two-step ~~or one~~. A TB blood assay test completed within a ~~12 month~~ twelve-month period prior to the date of employment ~~can be~~ or direct patient care is considered an adequate baseline test. Skin testing or TB blood assay tests are not necessary if a new ~~employee~~ healthcare personnel transfers from one licensed healthcare facility to another licensed healthcare facility within the state if the facility received documentation, from the transferring healthcare facility or personnel, of the last skin or blood assay TB testing having been completed

within the prior ~~12~~ twelve 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~~ personnel who has a newly recognized positive reaction to the skin test or TB blood assay test ~~shall~~ must have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

(2) ~~A new~~ Each healthcare ~~worker~~ personnel who provides documentation of a positive reaction to the tuberculin skin test or TB blood assay test ~~shall~~ must have a medical evaluation and chest X-ray to determine the presence or absence of the active disease; ~~and~~

(3) Each healthcare ~~worker~~ personnel with a history of a positive reaction to the tuberculin skin test or TB blood assay ~~shall~~ must 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~~ TB. If this evaluation ~~results in suspicion~~ supports the possibility of active tuberculosis, the ~~person shall~~ healthcare personnel must be referred for further medical evaluation to confirm the presence or absence of tuberculosis; and

(4) Each healthcare personnel identified at increased risk for TB because of an occupational risk or current or planned immunosuppression must receive an annual TB risk screening.

Source: 42 SDR 51, effective October 13, 2015.

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~~ Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019. ~~"~~Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, ~~" December 30, 2005 (RR17)~~ May 17, 2019 / 68(19); pages 439-443. Copies are

available at no cost at https://www.cdc.gov/mmwr/volumes/68/wr/mm6819a3.htm.

44:75:04:09.01. TB education for healthcare personnel. All healthcare personnel shall receive *Mycobacterium tuberculosis* (TB) education annually. TB education must include information on TB risk factors, the signs and symptoms of TB disease, and TB infection control policies and procedures of the facility.

Source:

General Authority: SDCL 34-12-13(1)(5), 34-22-9.

Law Implemented: SDCL 34-12-13.

44:75:04:10. Care policies. Each facility ~~shall~~ must 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: 42 SDR 51, effective October 13, 2015.

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~~ ensure compliance with the following provisions:

(1) A physician's, ~~physician's assistant~~ physician assistant's, or nurse practitioner's order for confinement that includes medical symptoms that warrant seclusion or placement ~~shall~~ must be documented in the patient's chart and ~~shall~~ must be reviewed periodically by the physician, physician assistant, or nurse practitioner;

(2) Therapeutic programming ~~shall~~ must 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~~ must 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~~ must 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~~ must 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~~ The facility shall ensure sufficient personnel are on duty at all times to safely provide care and services to the patients.

For the purpose of this section, the term, secured unit, means 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 and which is staffed by persons with training to meet the needs of patients admitted to the unit.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $151.50.

44:75:04:12. Restraints. ~~There shall be~~ Each facility must have written policies and procedures for all restraint use, including emergency restraints, bedrails, and locked doors. The use

of restraints ~~shall~~ must 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~~, physician assistant's, or nurse practitioner's order ~~including specific~~ specifying time frames and types of restraints. Continued use of the restraint and reorders may be given only ~~on review of the patient's condition~~ by ~~the physician or other~~ a physician's, physician assistant's, or nurse practitioner's order and a review of the patient condition by the interdisciplinary team. Restraints ~~shall~~ must be physically checked as ordered and documented by nursing personnel. Restraints may not be used to limit mobility, for convenience of staff, for punishment, or as a substitute for supervision. Restraints may not hinder evacuation of the patient during fire or cause injury to the patient.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13~~(14)~~.

44:75:04:12.01. Seclusion. Each facility shall have written policies and procedures for all seclusion use. The use of seclusion must be based on a comprehensive assessment of the patient's behaviors to prevent harm to self and others. Seclusion use requires a physician's, physician assistant's, or nurse practitioner's order specifying time frames and type of seclusion. Continued use of seclusion and reorders may be given only by a physician, physician assistant, or nurse practitioner after a review of the patient's condition. Seclusion may not be used to limit mobility, for convenience of staff, for punishment, or as a substitute for supervision. Seclusion may not hinder evacuation of the patient during fire or cause injury to the patient. Patients in seclusion must be visually monitored by staff at all times. A facility may not rely solely on the use of video surveillance of a patient in seclusion to meet the requirement for visual monitoring.

Source:

General Authority: SDCL 34-12-13(14).

Law Implemented: SDCL 34-12-13.

44:75:04:13. Transfer agreements. Each specialized hospital ~~and~~, critical access hospital ~~shall~~, and rural emergency hospital must have ~~in effect~~ a transfer agreement with one or more hospitals to provide services not available on site or each physician ~~shall~~, physician assistant, or nurse practitioner must have admitting privileges to a Medicare participating or nonparticipating hospital. ~~The~~ A rural emergency hospital must have a transfer agreement with a level 1 or level 2 trauma center. Any agreement ~~shall~~ must provide for an interchange of medical and other necessary information.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:04:14. Quality assessment and performance improvement program. 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~~ develop and implement a facility-wide, data-driven quality assessment and performance improvement program that reflects the complexity of the facility and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors. The facility must maintain and demonstrate evidence of its quality assessment and performance improvement program for review by the department.

The quality assessment and performance improvement program must measure, analyze, and track adverse patient events, medical errors, staffing, and other aspects of performance that assess processes of patient care and implement preventative actions and mechanisms, feedback, and learning throughout the hospital to address identified issues.

The program shall set priorities for quality assessment and performance improvement that:

(1) Focus on high-risk, high-volume, or problem areas;

(2) Consider the incidence, prevalence, and severity of problems in those areas; and

(3)Affect health outcomes, patient safety, and quality of care.

The governing body of the facility, its medical staff, and its administrative officials are responsible and accountable for ensuring adequate resources are allocated for measuring, assessing, improving, and sustaining the performance and reducing risks to patients.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:04:15. Discharge planning. A facility must have an effective discharge planning process that includes the patient and the patient's caregiver or support person as active partners for post-discharge care. The discharge planning process and discharge plan must:

(1) Be consistent with the patient's goals and treatment preferences;

(2) Ensure an effective transition of the patient from the hospital to discharge care; and

(3) Reduce the factors leading to preventable hospital readmissions.

A facility shall have policies and procedures ~~for~~ to support the discharge planning ~~including~~ process that outline the person responsible for discharge planning, 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~~ twenty-four hours after admission, a hospital ~~shall~~ must determine each patient's potential need for continuing care following discharge. The facility ~~shall~~ must initiate planning with applicable agencies to meet the patient's identified needs~~, and patients shall~~. To avoid any delays, the patient must be offered assistance to obtain needed services ~~upon~~ prior to 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 patient's discharge plan must be reevaluated and modified as needed according to the patient's condition.

A facility must assess its discharge planning process on a regular basis. The assessment must include ongoing periodic review of a representative sample of discharge plans.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(5) ~~and~~ (14).

Law Implemented: SDCL 34-12-13~~(5) and (14)~~.

44:75:05:01. Admissions. Each patient admitted to a hospital may be admitted only on the order of a ~~practitioner and the~~ physician, physician assistant, or nurse practitioner. The patient's health care ~~shall~~ must 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~~ 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 ~~shall~~ must be completed no more than seven days prior to admission or ~~48~~ forty-eight 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~~ forty-eight hours after admission. The patient's history and physical examination ~~shall~~ must be completed prior to surgery except in emergency situations.

Source: 42 SDR 51, effective October 13, 2015.

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~~ must be in writing or electronic format and ~~shall~~ must 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~~ the patient's medical record.

Source: 42 SDR 51, effective October 13, 2015.

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 by other reliable communications device within ~~30~~ thirty minutes to give necessary orders or medical care to patients in case of emergency.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(6).

Law Implemented: SDCL 34-12-13~~(6)~~.

44:75:06:01. Organized nursing service. ~~There shall be~~ A facility shall have an organized nursing service with a written organizational plan that delineates its functional structure.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:06:02. Director of nursing service. ~~There~~ A facility shall ~~be~~ have a full-time registered nurse designated as the director of nursing service who is responsible for the organization of the ~~total~~ entire 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: 42 SDR 51, effective October 13, 2015.

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~~ assist 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~~ including:

(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; and

(8) Discharge planning.

Source: 42 SDR 51, effective October 13, 2015.

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~~ are safe and effective ~~care~~ from the day of admission through the ongoing development and implementation of a written care ~~plans~~ plan for each patient. The care plan ~~shall~~ must 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: 42 SDR 51, effective October 13, 2015.

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~~ A hospital 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~~ must be designated as charge nurse for each nursing care unit at all times ~~except that a~~. A critical access hospital is required to staff with a registered nurse only when ~~there are~~ it admits an acute care ~~patients present~~ patient. A critical access hospital is required to staff with a licensed nurse when ~~there are~~ it has only swing bed patients ~~present~~. ~~Written~~ A facility shall develop 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: 42 SDR 51, effective October 13, 2015.

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~~ Unlicensed personnel of a 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~~ nurse, physical therapist, occupational therapist, or speech-language pathologist.

Source: 42 SDR 51, effective October 13, 2015.

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, as defined in § 44:79:01:01, shall provide services to a terminally ill ~~individuals~~ individual or arrange for ~~such~~ the services by a hospice program under a written plan established and periodically reviewed by the individual's attending physician, physician assistant, or nurse practitioner. 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~~ Unlicensed personnel of a facility may not accept any delegated ~~skilled~~ nursing tasks from any hospice providers ~~pursuant to SDCL chapter 36-9~~.

Source: 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:75:07

DIETETIC SERVICES

Section

44:75:07:02. Food safety. Hot food ~~shall~~ must be held at or above ~~135~~ one hundred thirty-five degrees Fahrenheit ~~(~~ or 57.2 degrees ~~Centigrade)~~ centigrade and served promptly after being removed from the temperature holding device. Cold foods ~~shall~~ must be held at or below ~~41~~ forty-one degrees Fahrenheit ~~(5~~ or five degrees centigrade~~)~~ and served promptly after being removed from

the holding device. Milk and milk products ~~shall~~ must be from a source approved by the state Department of Agriculture and Natural Resources. Fluid milk ~~shall~~ 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: 42 SDR 51, effective October 13, 2015; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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~~, chapter 44:02:07.

44:75:07:03. Nutritional adequacy. The dietetic service shall ~~ensure that~~ prepare food ~~prepared~~ that 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~~ 2020-2025, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.

Source: 42 SDR 51, effective October 13, 2015.

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

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

Reference: Dietary Guidelines for Americans, ~~2010~~ 2020-2025, United States Department of Agriculture. Copies may be ~~viewed and printed~~ obtained free of charge at ~~http//:www.dietaryguidelines.gov~~ https://www.dietaryguidelines.gov/sites/default/files/2021-

03/Dietary_Guidelines_for_Americans-2020-2025.pdf.

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~~ A facility may use 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~~ in an emergency event according to the facility's emergency response plan.

Source: 42 SDR 51, effective October 13, 2015.

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~~ Repealed.

Source: 42 SDR 51, effective October 13, 2015.

~~**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~~ and procedures 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~~. The facility shall review

the policies and procedures ~~shall be reviewed yearly~~ biennially and revised as necessary.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(5) ~~and~~ (8).

Law Implemented: SDCL 34-12-13~~(5) and (8)~~.

~~Reference~~Cross-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~~, chapter 44:02:07.

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~~ physician assistant, nurse practitioner, or ~~qualified~~ dietitian. Each menu ~~shall~~ must be written at least one week in advance. ~~Each~~ A dietician shall annually review and approve each planned menu ~~shall be approved, signed, and dated by the dietitian~~ for each facility. ~~Any~~ The dietitian shall review any menu changes from month to month ~~shall be reviewed by the dietitian~~ and each menu ~~shall~~ must be reviewed and approved by the dietitian at least annually. Each menu as served shall meet the nutritional needs of the ~~patients~~ patient in accordance with the ~~physician's or qualified dietitian's~~ orders of a physician, physician assistant, nurse practitioner, or dietitian and the Dietary Guidelines for Americans ~~2010~~ 2020-2025, United States Department of Agriculture. ~~A~~ The facility shall file and retain a record of each menu as served ~~shall be filed and retained~~ for ~~30~~ thirty days.

Source: 42 SDR 51, effective October 13, 2015.

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

Law Implemented: SDCL 34-12-13.

Reference: Dietary Guidelines for Americans, ~~2010~~ 2020-2025, United States Department of Agriculture. Copies may be obtained free of charge at ~~www.dietaryguidelines.gov~~ https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf.

44:75:07:11. Director of dietetic services. A ~~full time~~ general hospital, specialized hospital, or critical access hospital shall have a full-time dietary manager who is responsible to the administrator ~~shall~~ to direct the dietetic services.

Any dietary manager that has not completed a ~~Dietary Manager's~~ dietary manager's course, approved by the Association of Nutrition ~~&~~ and Foodservice Professionals, shall enroll in ~~a~~ the course within ~~90~~ ninety days of the manager's hire date and complete the course within ~~18~~ eighteen 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 ~~&~~ and Foodservice Professionals, or successfully completed equivalent training as determined by the 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~~ must 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~~ The facility shall have sufficient personnel to meet the dietetic needs of the patients ~~shall be on duty daily over a period of 10 or more~~ and

provide dietetic services for a minimum of ten hours ~~in facilities~~ each day.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:07:15. ~~Dining arrangements~~ Feeding assistance. 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~~ feeding assistance for patients in need of help in eating.

Source: 42 SDR 51, effective October 13, 2015.

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~~ must 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~~ of any patient ~~having~~:

(1) With a significant change in diet, eating ability, or nutritional status; ~~or any patient receiving~~

(2) Receiving tube feedings; ~~and on any patient with~~ or

(3) With a disease or condition~~,~~ that puts the patient at significant nutritional risk.

A monthly tube feeding assessment ~~shall~~ must include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each swing bed patient.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:75:07:17. Required dietary inservice training. The hospital's dietary manager or the dietitian ~~in any hospital~~ shall provide ongoing inservice training for all dietary and food-handling ~~employees~~ personnel. The person-in-charge of any hospital ~~without an in-house dietary department~~ that uses a ~~contracted dietary~~ food service establishment licensed in accordance with SDCL 34-18 shall provide ongoing inservice training for all dietary and food-handling ~~employees~~ personnel. ~~Topics shall include~~ Training must be completed within thirty days of hire and annually for any dietary or food-handling personnel and must cover: ~~food~~

(1) Food safety~~, handwashing, food~~;

(2) Handwashing;

(3) Food handling and preparation techniques~~, food-borne~~

(4) Food-borne illnesses~~, serving~~;

(5) Serving and distribution procedures~~, leftover~~;

(6) Leftover food handling policies~~, time~~;

(7) Time and temperature controls for food preparation and service~~, nutrition~~;

(8) Nutrition and hydration~~,~~; and ~~sanitation~~

(9) Sanitation requirements.

Source: 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:75:08

MEDICATION CONTROL

Section

44:75:08:01. Policies and procedures. Each facility shall establish and ~~practice methods~~ and implement written policies and procedures for medication control that include ~~the following~~:

(1) A requirement that each patient's prescribing physician, physician assistant, or nurse practitioner provide to the facility electronic or written signed orders for ~~any~~:

(a) Any medications taken by the patient; ~~authorization~~

(b) Authorization for medications ~~or drugs~~ kept on the ~~person~~ patient or in the room of the patient; and ~~release~~

(c) Release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to patients ~~or~~ and 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 that is 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~~ personnel; 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~~ medications due to:

(a) Patient discharge or death ~~of the patient, because the drug is outdated,~~;

(b) Outdated medication; or ~~because the~~

(c) The prescription ~~is no longer appropriate to the care of the patient~~ being discontinue by the physician, physician assistant, or nurse practitioner.

~~Methods and~~ The facility shall also establish written policies and procedures ~~shall be established to include~~ for 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.

For the purpose of subdivision (3), the phrase, self-administration of medications, means the removal of the correct dosage from the pharmaceutical container and self-injecting, self-ingesting, or self-applying the medication with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency.

Source: 42 SDR 51, effective October 13, 2015.

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~~ must 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 facility shall establish a policy on stop orders for antibiotics, anticoagulants, and controlled drugs ~~shall be established~~ based on recommendations of the medical staff.

Source: 42 SDR 51, effective October 13, 2015.

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~~ A facility shall store all medications ~~shall be stored~~ in a well illuminated, locked storage area that is ~~well ventilated~~ well-ventilated, maintained at a temperature appropriate for ~~drug~~ medication storage, and inaccessible to patients, ~~or~~ and visitors at all times. Medications suitable for storage at room temperature ~~shall~~ must be maintained between ~~59~~ fifty-nine and ~~86~~ eight-six degrees Fahrenheit ~~(15~~ or fifteen and ~~30~~ thirty degrees centigrade~~)~~. Medications that require refrigeration ~~shall~~ must be maintained between ~~36~~ thirty-six and ~~46~~ forty-six degrees Fahrenheit ~~(2~~ or two and ~~8~~ eight degrees centigrade~~)~~. Poisons and medications prescribed for external use ~~shall~~ must be stored separately from ~~internal~~ medications prescribe for internal use, locked, and made inaccessible to patients and visitors.

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~~ Medications utilized in these care units ~~shall~~ must be in a storage area that is readily available to the professional staff but inaccessible to patients or visitors.

The ~~medications or drugs~~ medication of each patient for whom medications are facility-administered ~~shall~~ must be stored in the containers in which ~~they were~~ the medication was 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~~ must be labeled with the patient's name~~,~~; physician, physician assistant, or nurse practitioner's name~~, drug~~; medication name and strength~~,~~; directions for use~~,~~; and prescription date.

~~Containers~~ A container with ~~contents~~ a medication that will not be used within ~~30~~ thirty days of issue or with contents that expire in less than ~~30~~ thirty days of issue ~~shall~~ must bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number ~~shall~~ must be on the unit dose packet.

A co-located hospital and assisted living center may procure and stock, including in bulk form, ~~nonlegend~~ non-legend 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~~ must be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label ~~shall~~ must be destroyed pursuant to § 44:73:08:06. ~~Licensed pharmacists are~~ A licensed pharmacist is responsible for the labeling, relabeling, or altering of labels on medication containers.

Source: 42 SDR 51, effective October 13, 2015.

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~~ A medication brought from a patient's home may be used if ordered by the attending physician, physician assistant, or nurse practitioner, and, if prior to administration, it is identified as the prescribed ~~drug~~ medication. 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~~ assistant's, or nurse practitioner's order allowing self-administration. ~~Written authorization by the~~ The patient's physician, physician assistant, or nurse practitioner ~~shall be secured for~~ must authorize the release of any medication to a patient upon discharge, transfer, or temporary leave from the facility. The release of medication ~~shall~~ must be documented in the patient's record, indicating quantity, ~~drug~~ medication name, and strength. The facility shall maintain records that account for all medications ~~and drugs~~ from their receipt through administration, destruction, or return.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:08:06. Documentation of ~~drug~~ medication disposal. ~~Legend drugs~~ A facility shall ensure that a legend drug not controlled under SDCL chapter 34-20B ~~shall be~~ is destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B ~~shall~~ must be witnessed by two persons, both of whom ~~are~~ must be 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~~ must 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~~ The facility shall document destruction or disposal of medications ~~shall be included~~ in the patient's record~~. The documentation shall~~ and must include the method of disposition ~~(destruction, disposal, return to pharmacy, or release to patient);~~ the medication name~~,~~ and strength~~,~~ prescription number ~~(as applicable),~~ quantity~~, and~~ date of disposition; and the name of any person who witnessed the destruction or disposal.

~~Medications~~A facility may return medication, 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~~ must be physically separated from the medications being used in the facility~~,~~ and locked in an area with limited access ~~limited, in an area with~~. The facility shall establish a system to reconcile, audit, ~~or~~ and monitor ~~them~~ medication held for disposal to prevent diversion.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:08:07. Medication administration. ~~Each medication administered~~ The healthcare personnel administering medication to a patient shall ~~be recorded~~ record the administration in the

patient's medical record ~~and signed by the person responsible~~. Medication errors and drug reactions ~~shall~~ must be reported to the patient's physician, physician assistant, or nurse practitioner 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~~. The facility shall make the list ~~is~~ available to ~~the~~ its nursing ~~staff~~ personnel. All medications ~~shall~~ must 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, ~~other than~~ unless the medication was prepared by a pharmacist.

Medication administration ~~shall~~ must 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~~ must be specific to the facility and relevant to the patients receiving administered medications.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:08:08. Medication records. ~~Medication~~ A facility must use medication administration records ~~shall be used~~ and regularly ~~checked~~ check the record against the practitioner's orders. Each medication administered ~~shall~~ must be recorded in the patient's medical record and signed by the individual ~~responsible~~ administering the medication.

Source: 42 SDR 51, effective October 13, 2015.

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

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

~~44:73:08:09~~44:75:08:09. Administration of facility pharmacy. ~~The pharmaceutical service of each~~ A facility with a licensed full or part-time pharmacy ~~shall be~~ must have its pharmaceutical service directed by a licensed pharmacist accountable to the administration of the facility.

Only prepackaged ~~drugs~~ or a single dose ~~unit~~ drugs may be removed from the pharmacy when the pharmacist is not available. ~~These drugs~~ A drug 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 shall~~ the removal must be made by the designated nurse or the physician, physician assistant, or nurse practitioner ~~making the withdrawal~~ removing the drug.

Source: 42 SDR 51, effective October 13, 2015.

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. ~~There~~ Each facility shall ~~be~~ have an organized medical record system. ~~A~~ Each facility shall maintain a medical record ~~shall be maintained~~ for each level of care for each patient admitted to the facility.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13~~(10)~~.

44:75:09:02. Medical record department ~~staff~~ personnel. ~~The~~ Each facility shall have medical record functions ~~shall be~~ performed by ~~persons~~ personnel 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~~ must have knowledge and training in the field of medical records.

Source: 42 SDR 51, effective October 13, 2015.

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~~ Each facility shall ~~be~~ have written policies and procedures ~~to govern the administration and activities of~~ for the medical record service~~. They shall include policies and procedures pertaining to~~ that address 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: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(10).

Law Implemented: SDCL 34-12-13(10).

44:75:09:04. Record content. ~~Each~~ The facility must ensure each medical record ~~shall~~ show the condition of the patient from the time of admission until discharge and ~~shall~~ must include ~~the following~~:

(1) Identification data;

(2) Consent forms, except when unobtainable, or in an emergency;

(3) ~~History of the patient~~ Inpatient and outpatient history;

(4) A current overall plan of care;

(5) ~~Report~~ A 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 practitioners of all disciplines~~, including practitioners, physical~~

~~therapy, occupational therapy, and speech-language pathology~~;

(8) Laboratory and radiology reports;

(9) ~~Description~~ A description of treatments, diet, and services provided and medications administered;

(10) All indications of an illness or an injury, including the date~~, the~~ and time of the illness or injury, and the date and time of action taken ~~regarding~~ on each;

(11) A final diagnosis; and

(12) A discharge summary, including all discharge instructions for home care.

Source: 42 SDR 51, effective October 13, 2015.

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~~ must be retained until the minor reaches the age of ~~majority~~ eighteen 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: 42 SDR 51, effective October 13, 2015.

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~~ must be preserved as original

records or in ~~other~~ another readily retrievable and reproducible form. Medical records ~~shall~~ must be protected against access by unauthorized individuals. All medical records ~~shall~~ must be retained by the health care facility upon change of ownership.

Source: 42 SDR 51, effective October 13, 2015.

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~~ required retention period ~~of ten years from the actual visit date of care~~ outlined in § 44:75:09:06, the facility may, at its discretion, destroy the medical record ~~may be destroyed at the discretion of the health care facility~~. Before the destruction of the medical record, the facility ~~shall~~ must prepare and retain a patient index or abstract. The patient index or abstract ~~shall~~ must include the patient's:

(1) Name;

(2) Medical record number;

(3) Date of birth;

(4) Summary of visit dates;

(5) Attending or admitting physician; and

(6) Diagnosis or diagnosis code.

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

Source: 42 SDR 51, effective October 13, 2015.

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 or patient's legal representative, relinquish medical records to the patient or patient's ~~parent or~~ legal ~~guardian~~ representative, or arrange storage of remaining medical records with a ~~third party~~ third-part storage vendor ~~who undertakes such a storage activity~~. At least ~~30~~ thirty days before closure, the facility ~~shall~~ must notify the department in writing indicating the provisions for the safe preservation of medical records and ~~their~~ the record's location and publish or share in ~~a local~~ the nearest legal newspaper or the facility's website, the location and disposition arrangements of the medical records.

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

Source: 42 SDR 51, effective October 13, 2015.

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.

44:75:10:01. Clinical laboratory services. Each hospital shall provide ~~for~~ emergency laboratory services which are available ~~24~~ twenty-four hours a day, ~~7~~ seven days a week, including holidays. Laboratory examinations necessary for diagnosis and treatment of the patient ~~shall~~ must be performed in the hospital or by arrangement. ~~Laboratory~~ The medical staff and facility bylaws determine whether laboratory examinations are required ~~on hospital admissions are determined by the medical staff and bylaws~~ for patients upon admission to the hospital. The original laboratory report ~~shall~~ must be made a part of the patient's medical 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; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:10:01, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(11).

Law Implemented: SDCL 34-12-13~~(11)~~.

Note: CLIA applications ~~are~~ may be obtained from the ~~South Dakota Department of Health, Office of Healthcare Facilities~~ Licensure and Certification, ~~615 East 4th Street~~ 600 East Capitol Avenue, ~~Pierre, SD 57501. Telephone (605) 773-3356, or Division of Laboratory Standards and Performance, Health Standards and Quality Bureau, Centers for Medicare/Medicaid Services~~ Center for Clinical Standards and Quality, 7500 Security Boulevard ~~S-2-11-07~~ S2-12-17, Baltimore, MD 21244-1850. Telephone (410)-786-3531, or online at ~~www.cms.gov/medicare/cms-forms/downloads//cms116/pdf~~ https://www.cms.gov/medicare/cms-forms/cms-forms/downloads/cms116.pdf.

44:75:11:01. Surgical services. Each hospital in which surgery is performed ~~shall~~ must maintain an operating suite with appropriate equipment, including ~~an~~ X-ray ~~view box or film illuminator~~ viewing devices. The suite ~~shall~~ must be supervised by a registered nurse with training and experience in operating room services. A circulating nurse ~~shall~~ must be assigned to each operating or procedure room during each procedure and ~~shall~~ must 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~~ A facility shall ~~be~~ develop and implement written policies and procedures for surgical services ~~which~~ that govern surgical ~~staff~~ personnel privileges, supportive services of other professional and perioperative personnel, and operating suite procedures. ~~Policies~~ A facility shall develop, implement, and post policies and procedures pertaining to safety controls ~~shall be developed and~~ implemented. ~~Safety controls shall be posted. A~~ Each facility shall maintain a roster of surgical staff members ~~which~~ that delineates the surgical privileges of each member ~~shall be maintained~~ on file in the operating suite. For the purposes of this section, the term, circulating nurse, means 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.

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, 42 SDR 51, effective October 13, 2015.

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

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

44:75:11:02. Surgical records. When surgery is performed, the following record requirements apply:

(1) An operating room register ~~shall~~ must be complete and up to date. It ~~shall~~ must 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, type of anesthesia and name of person administering, operation performed, pre and post-operative diagnosis, and ~~age of~~ patient age;

(2) The patient's medical record~~, including at least a~~ is available in the surgical suite at the time of surgery. The record must contain:

(a) The patient's medical history~~, a~~;

(b) A copy of the physician's examination~~, copies~~;

(c) A copy of laboratory tests~~, a~~;

(d) A signed consent for the surgical procedure to be performed~~,~~; and ~~a~~

(e) A preoperative diagnosis~~, shall be made available in the surgical suite at the time of surgery~~; and

(3) ~~An~~ The operating surgeon shall record an accurate and complete description of the operative procedure ~~shall be recorded by the operating surgeon~~ within ~~48~~ forty-eight hours ~~following~~ of the 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, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(10) ~~and~~ (12).

Law Implemented: SDCL 34-12-13~~(10) and (12)~~.

44:75:11:04. Emergency services. Each hospital offering emergency services ~~shall~~ must have a written plan and procedural manual for the provision of ~~24~~ twenty-four hour a day emergency care ~~which, as a minimum,~~ that provides for assessment and either treatment or referral to an appropriate facility. ~~All~~ A referring ~~hospitals~~ hospital shall initiate essential life-saving measures and provide emergency procedures that will minimize aggravation of a patient's condition during transportation. ~~An~~ A facility shall reserve an area of the facility with ~~appropriate staff~~ healthcare personnel, equipment, ~~drugs~~ medications, supplies, and ancillary services commensurate with the scope of anticipated needs for ill or injured persons ~~shall be reserved~~ exclusively for the patients requiring emergency care. A facility shall maintain a medical record ~~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, 42 SDR 51, effective October 13, 2015.

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

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

44:75:12:02. Activities program. ~~A planned activities~~ Each hospital shall develop an individualized activities program ~~shall be provided with therapeutic activities designed to meet the needs and interests~~ that holistically meets the needs and interests of patients and maintains optimal levels of physical and psychosocial functioning 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: 42 SDR 51, effective October 13, 2015.

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~~ is responsible to facilitate the provision of social services. The staff social worker or social services designee must have a degree in a behavioral science field, two years of previous supervised experience in a behavioral science field, or be a licensed nurse. If the staff member is not a licensed social worker, the facility shall have a written agreement with a licensed social worker for consultation and assistance to be provided on a regularly scheduled basis but at least quarterly.

Source: 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:75:13

CONSTRUCTION STANDARDS

Section

44:75:13:23 Ventilating systems.

44:75:13:24 ~~Filters~~Filtration.

44:75:13:25 Ducts.

44:75:13:26 Food service ventilation.

44:75:13:27 Plumbing fixtures.

44:75:13:28 Water supply systems.

44:75:13:29 Vacuum breakers.

44:75:13:30 Hot water systems.

44:75:13:31 Drainage systems.

44:75:13:32 Electrical distribution system.

44:75:13:33 Lighting.

44:75:13:34 Receptacles or convenience outlets.

44:75:13:35 Staff call system.

44:75:13:36 Submittal of plans and specifications.

44:75:13:37 Pipe requirements.

44:75:13:38 Detached structures.

44:75:13:39 Water therapy facilities.

44:75:13:01. Application of chapter. The provisions of this chapter apply to any new facility and to any renovation, addition, or change in space use of any currently ~~approved~~ licensed, 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~~ must comply with ~~"~~Business Occupancy standards ~~or~~ and other occupancies standards as applicable for the use of the facility from~~"~~ NFPA 101 Life Safety Code,

2012 edition ~~when these services are offered~~, chapter 38.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-1-17(4) ~~and~~ (5), 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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $150.50.

44:75:13:06. Patient rooms. A facility shall ensure a patient room ~~shall meet the following requirements~~ has:

(1) A maximum room capacity not exceeding two patients;

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of ~~120~~ one hundred twenty square feet ~~(~~or 10.8 square meters~~)~~ in each one-bed room and ~~200~~ two hundred square feet ~~(~~or 18.58 square meters~~)~~ in each two-bed room. The minimum dimension ~~in~~ of a patient ~~rooms may not be less than~~ room is nine feet six inches ~~(~~or 2.90 meters~~)~~;

(3) ~~Each~~ For 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~~ roommate's space;

(4) A ~~window sill~~ windowsill not higher than three feet ~~(~~or 0.91 meters~~)~~ above the floor~~. The~~;

(5) A floor ~~shall be~~ that is above grade;

~~(5)~~(6) ~~Have a~~ A call button at each bed for ~~staff~~ personnel calling stations;

~~(6)~~(7) ~~Have a~~ A toilet room and lavatory. Each patient toilet room ~~shall~~ must be directly accessible for each patient without going through the general corridor. In a remodeling project, a one toilet room with ~~handsink~~ hand sink 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~~ must have a water closet, ~~handsink~~ hand sink, mirror, and private individual storage. In ~~two-bed~~ two-bed rooms a separate ~~handsink shall~~ hand sink must be provided in the patient room. All new construction of toilet rooms used by patients ~~shall~~ must be wheelchair accessible;

(7) ~~Have a~~ A locker, wardrobe, or closet for each patient; and

(8) ~~Have each~~ Each patient room door located not more than ~~150~~ one hundred fifty feet ~~(~~ or 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: 42 SDR 51, effective October 13, 2015.

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

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

44:75:13:07. Service area in care units. ~~Each~~ The facility shall ensure each care unit ~~shall contain~~ contains a service area which includes ~~the following~~:

(1) ~~Nurses'~~ A nurses' station with convenient access to handwashing facilities;

(2) Nurses' charting;

(3) Doctors' charting;

(4) Communications;

(5) Storage for supplies and ~~staffs'~~ personnels' personal effects;

(6) ~~Staff~~ A personnel toilet room;

(7) ~~Nurses'~~ A nurses' office;

(8) ~~Clean~~ A clean workroom for the storage and assembly of supplies for nursing procedures ~~which contains~~, containing a work counter and sink;

(9) ~~Soiled~~ A soiled workroom ~~which contains~~ with 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~~ A medicine room adjacent to the staff station ~~with a~~, containing sink, refrigerator, locked storage, and facilities for preparation and administration of medication;

(11) ~~Clean~~ A clean linen storage area in an enclosed storage space;

(12) ~~Nourishment~~ A nourishment station containing refrigerated storage, self-dispensing ice machine, and a sink for serving between-meal nourishments;

(13) ~~Equipment~~ An equipment storage room on each patient wing or floor for storage of patient care equipment;

(14) Patient bathing facilities containing one shower, bathtub, or whirlpool for each ~~15~~ of the fifteen beds not individually served. Whirlpool units with lifts may serve ~~30~~ thirty beds;

(15) ~~Janitor's~~ A janitor's closet for storage of housekeeping supplies and equipment ~~which contains~~, containing a floor receptor or service sink. The janitor's closet space and equipment may be incorporated into the soiled ~~utility room~~ workroom;

(16) Isolation facilities for the use of those prone to infections as well as those suffering from infections. One isolation room ~~shall~~ must be provided for ~~each 30~~ every thirty acute-care beds. The entry into the isolation room ~~shall~~ 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 ~~shall~~ 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~~ the facility is provided elsewhere in the institution;

(17) Playroom facilities for pediatric patients; and

(18) Multipurpose rooms for ~~staff~~ personnel, patients, and patients' families, for conferences,

reports, education, training sessions, and consultation.

If outpatient therapy services are offered, the therapy unit ~~shall~~ must provide access to outpatient services without traversing inpatient areas~~,~~; locked records storage~~, handsinks~~; hand sinks 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: 42 SDR 51, effective October 13, 2015.

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

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

44:75:13:09. Dietary department. ~~Construction, equipment, and installation of~~ The facility shall construct, equip, and install the dietary department ~~shall comply~~ in compliance 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~~ of food service equipment must comply with § ~~44:75:13:11~~ 44:75:14:10 unless ~~a commercially prepared dietary service, meals, or disposables are used~~ the facility uses a commercial service. If a commercial service is used, dietary areas and equipment shall meet the requirements for sanitary storage, processing, and handling.

Source: 42 SDR 51, effective October 13, 2015.

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

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

~~Note~~Cross-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~~, chapter 44:02:07.

44:75:13:10. Food preparation services and equipment. The facility shall ensure the dietary area ~~shall be~~ is completely cleanable by conventional methods. The location and design of the dietary area ~~shall~~ must enable convenient handling of incoming supplies, preparation of meals, including tray service, and disposal of rubbish and garbage. Equipment and space provided ~~shall~~ must include ~~the following~~:

(1) In dietary areas serving ~~17~~ seventeen beds or more, a dishwashing area including a commercial dishwasher supplied with ~~180 degree~~ one hundred eight-degree Fahrenheit ~~(82~~ or eighty-two degrees centigrade~~)~~ rinse water or a chemical sanitizing cycle, a soiled dish table with at least seven feet ~~(~~or 2.13 meters~~)~~ of work space, a garbage disposal, a garbage can, a clean dish table with room for at least three dish racks, and handwashing facilities;

(2) A dry food storage area with at least one and ~~one half~~ one-half linear feet ~~(~~or 0.46 meters~~)~~ of shelving ~~20~~ twenty inches ~~(~~or 0.51 meters~~)~~ wide for each patient ~~or resident~~ bed and a functional aisle;

(3) Refrigerated storage space providing at least one and ~~one half~~ one-half cubic feet ~~(~~or 0.042 cubic meters~~)~~ of refrigerated space and ~~one half~~ one-half cubic feet ~~(~~or 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 three feet ~~(~~or 0.91 meters~~)~~ wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic ~~shall~~ must be at least four feet ~~(~~or 1.22 meters~~)~~ wide;

(5) Pot and pan washing facilities, including a three-compartment sink with ~~18~~ eighteen 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~~ forty-one degrees Fahrenheit ~~(5~~ or five degrees centigrade~~)~~ or below and hot food at ~~135~~ one hundred thirty-five degrees Fahrenheit ~~(~~or 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~~ seventeen beds or more, a ~~staff~~ personnel toilet facility convenient to the dietary department; and

(17) ~~Dietary areas shall have an~~ An ice maker with bin or self-dispensing ice maker. Any ice maker accessible to patients or visitors ~~shall~~ must be self-dispensing.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1)~~,~~ (2)~~, and~~ (14).

Law Implemented: SDCL 34-12-13~~(1), (2), and (14)~~.

44:75:13:12. ~~Employee~~ Personnel facilities. The facility shall provide a locker room for ~~employees shall have~~ personnel containing lockers and a separate toilet room with handwashing

facility.

Source: 42 SDR 51, effective October 13, 2015.

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

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

44:75:13:16. X ray protection. Protection of X ray and gamma ray installations ~~shall~~ 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,"~~ X-Ray Imaging Facilities, NCRP Report No. ~~49, 1976~~ 147, 2004.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://ncrponline.org/shop/reports/report-no-102-medical-x-ray-electron-beam-and-gamma-ray-protection-for-energies-up-to-50-mev-equipment-design-performance-and-use-supersedes-ncrp-report-no-33-1989/. Cost: ~~$45~~ $50.

~~"~~Structural Shielding Design ~~and Evaluation for~~ Medical ~~Use of X rays and Gamma rays of Energies up to 10 MeV,"~~ X-Ray Imaging Facilities, NCRP Report No. ~~49, National Council on Radiation Protection and Measurements, September 15, 1976~~ 147, 2004. Copies may be obtained ~~from National Council on Radiation Protection and Measurements, 7910 Woodmont Avenue, Suite 400, Bethesda, MD 20814~~ at https://www.aapm.org/pubs/ncrp/detail.asp?docid=31. Cost: ~~$40~~ $110.

44:75:13:18. Insulation. ~~Boiler~~ The facility shall ensure boiler rooms, food preparation centers, and laundries ~~shall be~~ are insulated and ventilated to prevent any floor surface above them from exceeding a temperature of ~~85~~ eighty-five degrees Fahrenheit ~~(~~or 29.4 degrees centigrade~~)~~. All combustible insulation within the building ~~shall~~ must be covered with a fire-resistive material giving fire protection equivalent to ~~one half~~ one-half inch ~~(~~or 0.01 meters~~)~~ gypsum board, unless ~~tested and acceptable by~~ the materials meet International Building Code, 2012 edition, section 2603.4 for use without a thermal barrier as installed.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://shop.iccsafe.org/. Cost: ~~$89.00~~ $81.75.

44:75:13:22. Steam and hot water systems. ~~Boilers~~ Each facility shall have the capacity to supply steam and hot water to meet the normal requirements of all the facility's systems and equipment. Supply and return mains and risers of space heating and process steam systems ~~shall~~ must be valved to isolate the various sections of each system. Each piece of equipment ~~shall~~ 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 ~~shall~~ must be insulated with insulation having a flame spread of ~~25~~ twenty-five or less and a smoke emission rating of ~~50~~ fifty or less using NFPA 255, 2006 edition, ~~"~~Standard Method of Test for Surface Burning Characteristics of Building Materials~~"~~ or equivalent test procedures.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$35.00~~ $60.50.

44:75:13:23. Ventilating systems. ~~The~~ A facility shall ensure its ventilating systems ~~shall~~ maintain temperatures, minimum air changes of outdoor air ~~an~~ per hour, minimum total air changes, and relative humidities as follows:

(1) ~~Operating~~ For operating rooms ~~68~~, sixty-eight to ~~73~~ seventy-three degrees Fahrenheit ~~(20~~ or twenty to 22.8 degrees centigrade~~)~~, three outdoor, ~~20~~ twenty total, and ~~20~~ twenty to ~~60~~ sixty percent humidity;

(2) ~~Delivery~~ For delivery rooms ~~68~~, sixty-eight to ~~73~~ seventy-three degrees Fahrenheit ~~(20~~ or twenty to 22.8 degrees centigrade~~)~~, three outdoor, ~~15~~ fifteen total, and ~~20~~ twenty to ~~60~~ sixty percent humidity;

(3) ~~Recovery~~ For recovery rooms ~~–~~, at least ~~70~~, seventy degrees Fahrenheit ~~(~~or 21.1 degrees centigrade~~)~~, two outdoor, six total, and ~~20~~ twenty to ~~60~~ sixty percent humidity;

(4) ~~Nursery~~ For nursery rooms ~~–~~, at least ~~75~~ seventy-five degrees Fahrenheit ~~(~~or 23.9 degrees centigrade~~)~~, two outdoor, six total, and ~~20~~ twenty to ~~60~~ sixty percent humidity; and

(5) ~~Intensive~~ For intensive care rooms ~~70~~, seventy to ~~75~~ seventy-five degrees Fahrenheit ~~(~~or 21.1 to 23.9 degrees centigrade~~)~~, two outdoor, six total, and ~~20~~ twenty to ~~60~~ sixty percent humidity.

For all other occupied areas, the facility shall ~~be able to~~ maintain a minimum temperature of ~~75~~ seventy-five degrees Fahrenheit ~~(~~or 23.9 degrees centigrade~~)~~ and at least ~~15~~ fifteen 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~~ must be mechanically operated. All fans serving exhaust systems ~~shall~~ must be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, ~~shall~~ must be located as far away as practicable but not less than ~~25~~ twenty-five feet ~~(~~or 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~~ must be located as high as possible but not less than six feet ~~(~~or 1.83 meters~~)~~ above the ground level or, if installed through the roof, three feet ~~(~~or 0.91 meters~~)~~ above roof level. The mechanical ventilation systems ~~shall~~ 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 shall be located with the grill or diffuser opening not less than three inches ~~(~~or 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~~ 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.

Laboratories ~~shall~~ must be ventilated at a rate of six total air changes an hour. All ventilation air from the laboratory ~~shall~~ 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 ~~shall~~ must be provided. A filter with ~~90~~ ninety percent efficiency ~~shall~~ must be installed in the air supply system at its entrance to the media transfer room. Hoods in which highly radioactive materials are processed ~~shall~~ must have a face velocity of ~~150~~ one hundred fifty feet ~~a~~ per minute ~~(~~or 0.76 meters a second~~)~~, have a high-efficiency ~~(~~99.97%~~)~~ filter, and each hood ~~shall~~ must have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials ~~shall~~ must have a face velocity of ~~75~~ seventy-five feet ~~a~~ per minute ~~(~~or 0.38 meters ~~a~~ per

second).

Cooking appliances, other than microwave ovens, shall must be provided with exhaust ventilation to the exterior of the building that is able to remove cooking odors, heat, and moisture.

Each vehicle parking garage shall 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 one thousand square feet. A sign shall must be posted at the front of each parking space advising the driver to shut off the engine.

Crawl spaces shall must be provided with mechanical ventilation at least one half one-half air changes each day or be provided with open perimeter venting as required by the International Building Code, 2012 edition, section 1203.

Source: 42 SDR 51, effective October 13, 2015.

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 the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541 Code Council at https://shop.iccsafe.org/. Cost: $89.00 $81.75.

44:75:13:24. Filters Filtration. A facility shall have a ventilation system using a recirculated central air system shall be equipped with a minimum of two filter beds. Filter bed number one shall must be located upstream of the conditioning equipment and shall must have a minimum efficiency of 30 thirty percent. Each supply air unit shall must have a minimum of 30 filters that are at least thirty percent effective filters. Each central ventilation system shall must have a minimum of 80 filters that are at least eighty percent effective filters. Each common use area, i.e., dining, lounge, and corridor, shall must have 80 filters that are eighty percent effective filters on an air supply

system. Each air supply system serving solely an administrative area ~~shall~~ must have ~~a minimum of 30~~ filters that are at least thirty percent effective ~~filters~~. These filter efficiencies ~~shall~~ must be warranted by the manufacturer and ~~shall~~ must be based on the ~~ASHRAE 52.2, 2007~~ 2017 edition~~,~~ of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 52.2 dust spot test method with atmospheric dust. Each filter frame ~~shall~~ must 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~~ must be gasketed or sealed to provide a positive seal against air leakage. A manometer ~~shall~~ must be installed across each filter bed serving a central air system.

Source: 42 SDR 51, effective October 13, 2015.

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~~ 2017 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~~ at no cost at https://www.ashrae.org/File%20Library/Technical%20Resources/COVID-19/52_2_2017_COVID-19_20200401.pdf.

44:75:13:25. Ducts. ~~Ducts shall be~~ The facility shall ensure its ducts are constructed of iron, steel, aluminum, or other approved metal or materials as defined in NFPA 101 Life Safety Code 2012 edition, section 32.3.6.2.1. Duct linings, coverings, vapor barriers, and the adhesives used for applying them ~~shall~~ must have a flame spread classification of not more than ~~25~~ twenty-five and a smoke developed rating of not more than ~~50~~ fifty using NFPA 255, 2006 edition, ~~"~~Standard Method of Test for Surface Burning Characteristics of Building Materials.~~"~~ A fire and smoke damper ~~shall~~ 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. Access for maintenance ~~shall~~ must be provided at all dampers. Duct systems serving hoods ~~shall~~ must be constructed of corrosion resistant material. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used ~~shall~~ must be constructed of stainless steel for a minimum distance of ten feet ~~(~~or 3.05 meters~~)~~ from the hood and ~~shall be~~ equipped with washdown facilities. Each cold air duct ~~shall~~ must be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source: 42 SDR 51, effective October 13, 2015.

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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$35.00~~ $60.50.

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~~ at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $150.50.

44:75:13:28. Water supply systems. ~~Each~~ A facility shall ensure its water supply system ~~shall supply~~ supplies water to the fixtures and equipment on the facility's upper floors at a minimum pressure of ~~15~~ fifty pounds ~~a~~ per square inch ~~(~~or 1055.9 kilograms ~~a~~ per square meter~~)~~ during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures ~~shall~~ must be valved. Stop valves ~~shall~~ must be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur ~~shall~~ must be insulated.

Insulation of cold and chilled water lines ~~shall~~ 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: 42 SDR 51, effective October 13, 2015.

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~~ A facility shall ensure each drain line from sinks in which acid wastes may be poured ~~shall be~~ is fabricated from an acid resistant material. Any piping over each operating and delivery room, nursery, food preparation center, food serving facility, food storage area, and any other critical area ~~shall~~ must be kept to a minimum and may not be exposed. Special precautions ~~shall~~ must be taken to protect these areas from possible leakage of necessary overhead piping systems. Floor drains may not be installed in operating ~~and~~ rooms, procedure rooms, or delivery rooms. The building sewers ~~shall~~ must discharge into a community sewerage system. If ~~such a~~ that system is not available, a facility providing sewage treatment ~~which~~ that conforms to applicable local and state regulations is required.

Water from roof systems ~~shall~~ must be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks ~~shall~~ must be provided for pitched roof

systems. ~~Provisions shall be made to~~ The facility shall avoid having water ~~accumulated~~ accumulate on sidewalks and parking areas around the building.

The building sewer system ~~shall~~ must have a cleanout located outside the perimeter of the building foundation.

Source: 42 SDR 51, effective October 13, 2015.

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.

44:75:13:37. Pipe requirements. ~~All~~ A facility shall ensure all piping systems for potable water ~~shall be~~ are installed to eliminate any dead-end runs of piping. Before placing potable water systems in service, the piping system ~~shall~~ must be disinfected in accordance with ~~the South Dakota Plumbing Commission standards in~~ article 20:54 and certification ~~shall~~ must be available from the installer showing the method used, date of installation, 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~~ must have a flame spread of not more than ~~25~~ twenty-five and a smoke emission factor of not more than ~~50~~ fifty when tested in accordance with the NFPA ~~101 Life Safety Code, 2012~~ 255, 2006 edition, Standard Method Test for Surface Burning Characteristics of Building Material.

Source: 42 SDR 51, effective October 13, 2015.

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~~ **255**, 2006 edition, Standard Method of Test for

Surface Burning Characteristics of Building Materials. Copies may be obtained at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards. Cost: ~~$93.00~~ $60.50.

44:75:13:39. Water therapy facilities. ~~Each~~ A facility shall ensure each water therapy facility~~, including a swimming pool or spa~~ operated by a facility and used by any patient or the public, ~~shall~~ must 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~~ A 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~~ facility's control to an EPA-certified laboratory for bacteriological analysis. The ~~owner or operator shall~~ facility mut 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~~ an unsafe water sample, the ~~owner or operator of the~~ facility ~~shall~~ must 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~~ must close the affected water facility and submit two consecutive negative samples prior to allowing patient or public use of the affected water treatment facility. ~~A~~ The facility shall use a colorimetric test kit ~~is required~~ for the monitoring and adjusting of disinfectant levels and pH in swimming pool or spa ~~facilities~~ facility. ~~A~~ The facility shall maintain daily log of disinfectant levels and pH ~~shall be maintained by the owner or operator of the facility~~.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1) ~~and~~ (14).

Law Implemented: SDCL 34-12-13~~(1) and (14)~~.

Collateral 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~~ at https://doh.sd.gov/topics/food-lodging-safety/food-and-lodging-licensure-and-codes/lodging-licensure-and-codes/.

44:75:14:12. Administration department. The facility's administration department shall include a business office, information center, administrator's office, admitting office, ~~staff~~ personnel lounge, medical library, lobby, and public and ~~staff~~ personnel toilet rooms. There ~~shall~~ must be an office for the director of ~~nurses~~ nursing, 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, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(3) ~~and~~ (4).

Law Implemented: SDCL 34-12-13~~(3) and (4)~~.

44:75:14:18. Air filters. ~~Each~~ The facility shall ensure that ventilation system serving an operating room, delivery room, nursery, isolation room, and laboratory sterile room~~, and the recirculated central air systems serving other hospital areas shall be~~ is equipped with a minimum of two filter beds. Filter bed number one ~~shall~~ must be located upstream of the conditioning equipment and shall have a minimum efficiency of ~~30~~ thirty percent. Filter bed number two ~~shall~~ must be located downstream of the conditioning equipment and ~~shall~~ must have a minimum efficiency of ~~90~~ ninety percent. Central systems using ~~100~~ one hundred percent outdoor air and serving other than sensitive areas shall be provided with filters rated at ~~80~~ eighty percent efficiency. These filter efficiencies ~~shall~~ must be warranted by the manufacturer and shall be based on the ~~ASHRAE 52.2, 2007~~ 2017 edition~~,~~ of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 52.2 dust spot test method with atmospheric dust. The exhausts from all laboratory hoods in which infectious or radioactive materials are processed ~~shall~~ must be equipped with filters with a ~~99~~ ninety-nine percent efficiency. Filter frames ~~shall~~ must be durable and ~~shall~~ must provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork ~~shall~~ must have a 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, 42 SDR 51, effective October 13, 2015.

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~~ 2017 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~~. Copies may be obtained at no cost at https://www.ashrae.org/File%20Library/Technical%20Resources/COVID-19/52_2_2017_COVID-19_20200401.pdf.

CHAPTER 44:75:15

SWING BED PATIENTS' RIGHTS

Section

44:75:15:02. Facility to inform swing bed patient of rights. Prior to or at the time of admission, a facility ~~shall~~ must inform the swing bed patient or patient representative, 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 or patient representative shall acknowledge in writing that the patient received the information. During the patient's stay the facility ~~shall~~ must notify the patient or patient representative, both orally and in writing, of any changes to the original information. The facility shall outline the patient's right to receive visitors in the facility's policies

and procedures. Visiting hours and policies of the facility ~~shall~~ must permit and encourage the visiting of patients by friends and relatives. Visitors may not cause a disruption to the care and services ~~residents~~ patients receive or infringement on other ~~residents'~~ patients' rights or place an undue burden on the facility.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13.

44:75:15:13. Self-administration of ~~drugs~~ medication. A patient may self-administer ~~drugs~~ medication if the interdisciplinary team, consisting of selected healthcare workers and licensed health professionals, has determined the ~~practice~~ self-administration to be safe. The determination ~~shall~~ must be in writing and state whether the patient or the nursing ~~staff~~ personnel is responsible for storage of the ~~drug~~ medication and documentation of its administration in accordance with chapter 44:75:08.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(15).

Law Implemented: SDCL 34-12-13(15).

Cross-Reference: Medication control, ch 44:75:08.