67:61:01:01. Definitions. ~~As~~ Terms used in this article mean:

(1) "Addiction counselor," ~~means any~~ an individual who meets the standards established by the Board of Addiction and Prevention Professionals and is recognized as a licensed addiction counselor or certified addiction counselor by the board;

(2) "Addiction counselor trainee," ~~means any~~ an individual who meets the standards established and is recognized~~,~~ by the Board of Addiction and Prevention Professionals;

(3) "Admission," ~~means~~ the point in an individual's relationship with an agency or program when the intake services are complete, and the individual is eligible to receive and accept services;

(4) "Advocate," ~~means any~~ an individual designated by a client to support that client by speaking or acting on the client's behalf;

(5) "Agency," ~~means any~~ a facility seeking or holding accreditation through the ~~Department of Social Services~~ department, as provided in SDCL subdivision 34-20A-2(1);

(6) "Agency director," ~~means~~ the individual in charge of the overall management of the agency;

(7) "Board of directors," ~~means~~ the entity legally responsible for the overall operation and management of an agency;

(8) ~~"Case staffing," means a meeting of members of an agency's staff treatment team to review and evaluate a client's case progress in treatment and determine whether changes are needed in the services provided to a client;~~

~~(9)~~ "Client," ~~means~~ an individual receiving alcohol, other drug, or gambling treatment services, from an accredited agency;

~~(10)~~(9) "Clinically-managed, low-intensity residential treatment program," ~~means~~ an

accredited residential program ~~providing~~ that provides services listed in chapter 67:61:16 to a client in a structured environment designed to aid re-entry into the community;

~~(11)~~(10) "Clinically-managed, residential detoxification program," ~~means~~ an accredited short-term residential program ~~providing~~ that provides services listed in chapter 67:61:17, through the supervised withdrawal from alcohol or other drugs, for an individual not having a known serious physical or immediate psychiatric complication;

~~(12)~~(11) "Collateral contact," ~~means~~ telephone or face-to-face contact with an individual, other than the identified client, in order to plan appropriate treatment~~,~~ to ~~assist~~:

(a) Assist an individual, so the individual can respond therapeutically to the client's substance abuse problem~~,~~; or ~~to refer~~

(b) Refer the client, family, or both, to other necessary community supports;

~~(13)~~(12) "Continued service criteria," ~~means~~ criteria to describe the clinical severity and degree of resolution of a client's alcohol or other drug problem and indicate the intensity of the services needed in determining continuing care;

~~(14)~~(13) "Continuing care," ~~means~~ the provision of a treatment plan and organizational structure that will ensure a client receives the care needed at the time, particularly at the point of discharge or transfer from the current level of care. The treatment program is flexible and tailored to the shifting needs of the client and level of treatment acceptance or adherence;

~~(15) "Contract" means a written agreement approved by an agency's board of directors or an authorized designee for specified services, personnel, or space to be provided to the agency by any other organization, agency, or individual in exchange for money;~~

~~(16)~~(14) "Co-occurring disorder," ~~means~~ a mental health condition in combination with a substance use problem, trauma issues, problem gambling, medical issues, or developmental disabilities;

~~(17)~~(15) "Crisis intervention," ~~means~~ services provided to an individual experiencing a crisis situation related to the individual's use of alcohol or other drugs, and includes crisis situations in which co-occurring mental health symptoms may be present~~. The~~ with a focus ~~of the intervention is to restore~~ on restoring the individual to the level of functioning before the crisis or ~~to provide~~ that provides a means to place the individual into a secure environment;

~~(18)~~(16) "Day treatment program," ~~means~~ an accredited program ~~providing~~ that provides services listed in chapter 67:61:15 to a client, in a clearly defined, structured, intensive treatment program;

~~(19)~~(17) "Department," ~~means~~ the Department of Social Services;

~~(20)~~(18) "Discharge summary," ~~means~~ a narrative summary of a client's treatment record, including the reason for the client's admission, clinical problems, accomplishments during treatment, and reason for discharge, and may include a recommendation or referral for further services;

~~(21)~~(19) "Diversion services," ~~mean~~ services intended to divert a person at high risk for alcohol, tobacco, or other drug use, abuse, and dependency;

~~(22) "Division" means the Division of Behavioral Health;~~

~~(23)~~(20) "Early intervention program," ~~means~~ an accredited nonresidential program ~~providing~~ that provides services listed in chapter 67:61:12 to individuals ~~that~~ who may have substance use related problems, but do not meet the diagnostic criteria for a substance use

disorder;

~~(24) "Evidence-based practice" means a treatment or intervention that research has proved to be effective;~~

~~(25)~~(21) "Family counseling," ~~means~~ the face-to-face or telehealth interaction between an addiction counselor or ~~counselor-trainee~~ addiction counselor trainee, a client, and a family member of the client, for a therapeutic purpose related to the client's treatment program;

~~(26)~~(22) "Group counseling," ~~means~~ the face-to-face or telehealth interaction between an addiction counselor or ~~counselor-trainee~~ addiction counselor trainee and at least two clients, for a specific therapeutic purpose, provided the number of clients does not exceed ~~15~~ fifteen, unless otherwise dictated by the evidence-based practice used;

~~(27)~~(23) "High risk," ~~means~~ an individual who is exposed to or experimenting with alcohol~~,~~ or other drugs, and possesses multiple risk factors for substance abuse;

~~(28)~~(24) "Individual counseling," ~~means~~ the face-to-face or telehealth interaction between an addiction counselor or ~~counselor-trainee~~ addiction counselor trainee and an individual client for a specific therapeutic purpose;

~~(29)~~(25) "Integrated assessment," ~~means~~ the gathering of information and engaging in a process with the client, thereby enabling the provider to establish the presence or absence of a co-occurring disorder~~. An integrated assessment also identifies~~ and identifying a client's strengths and needs, ~~determines~~ determining the client's motivation and readiness for change, and ~~engages~~ engaging the client in the development of an appropriate treatment relationship in which an individualized treatment plan can be developed;

~~(30)~~(26) "Intensive outpatient treatment program," ~~means~~ an accredited

nonresidential program ~~providing~~ that provides services listed in chapter 67:61:14 to a client, in a clearly defined, structured, intensive outpatient treatment program, on a regularly scheduled basis;

~~(31)~~(27) "Intern," ~~means~~ a college or university student gaining supervised practical experience;

~~(32)~~(28) "Management ~~Information Systems~~ information system," ~~means~~ a system designed to collect, store, and report treatment and treatment outcome data;

~~(33)~~(32) "Medical director," ~~means~~ the individual responsible for providing care and ~~oversight~~ overseeing the provision of medical care to a client in an accredited agency;

~~(34)~~(33) "Medically-monitored, intensive inpatient treatment program," ~~means~~ an accredited residential treatment program ~~providing~~ that provides services listed in chapter 67:61:18, to ~~a client~~ an individual, in a structured environment;

~~(35)~~(34) "Mental disorder," ~~means~~ a substantial organic or psychiatric disorder of thought, mood, perception, orientation, or memory, as specified within the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, criteria or in coding found in § 67:16:01:26. ~~Intellectual~~ An intellectual disability, epilepsy, ~~other~~ another developmental disability, alcohol abuse, substance abuse, brief periods of intoxication, or criminal behavior do not, alone, constitute a mental ~~illness~~ disorder;

~~(36)~~(35) "Nonresidential program," ~~means~~ an accredited program that provides alcohol and other drug abuse treatment and prevention services, on a less than ~~24-hour-a-day~~ twenty-four hour a day basis, ~~and~~ but does not provide housing for clients;

~~(37)~~(36) "Outpatient treatment program," ~~means~~ an accredited nonresidential program ~~providing~~ that provides services listed in chapter 67:61:13, to a client or a person

harmfully affected by alcohol or other drugs, through regularly scheduled counseling services;

~~(38) "Physician" means a person licensed in accordance with SDCL chapter 36-4 and qualified to provide medical and other health services under this chapter;~~

~~(39)~~(37) "Prevention program," ~~means~~ an accredited program ~~providing~~ that provides services listed in chapter 67:61:11, through a planned and recurring sequence of multiple, structured activities to inform, educate, impart skills~~, deliver services~~, and provide appropriate referrals for other services, through the practice and application of recognized prevention strategies;

~~(40)~~(38) "Program," ~~means~~ an organized system and specific level of services, offered by an agency, and designed to address the treatment needs of a client;

~~(41) "Recovery" means a process of change through which an individual achieves improved health, wellness, and quality of life;~~

~~(42)~~(39) "Residential program," ~~means~~ an accredited program that provides room and board, in addition to alcohol and other drug abuse treatment services~~,~~ on a ~~24-hour, 7-day-per-week~~ twenty-four hour a day, seven day a week basis;

~~(43)~~(40) "Services," ~~mean~~ direct or indirect contact between a client or a group of clients and agency staff, for the purpose of diagnosis, evaluation, treatment, consultation, or other necessary direct assistance in providing comprehensive treatment;

~~(44)~~(41) "Substance use disorder," ~~means~~ a diagnosable substance use condition or diagnosed gambling disorder;

~~(45)~~(42) "Telehealth," ~~means~~ a method of delivering services, including interactive audio-visual or audio-only technology, in accordance with SDCL ~~34-52-1~~ chapter 34-52;

~~(46)~~(43) "Transfer"~~ means~~ movement of the client from one level of service to another;

~~(47)~~(44) "Treatment plan," ~~means~~ a written, individualized, and comprehensive plan that is based on information obtained from the integrated assessment, is designed to improve a client's condition, and includes treatment goals or objectives for primary problems that indicate a need for treatment services;

~~(48) "Volunteer" means an individual who provides unpaid assistance to an agency or program;~~ and

~~(49)~~(45) "Work therapy," ~~means~~ a therapeutic task that is based on the client's physical abilities, interest level, and proficiency, and used to habilitate or rehabilitate a client.

Source: 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

Cross-Reference: Use of ~~ICD-10-CM~~ International Classification of Diseases, § 67:16:01:26.

Reference: DSM-5 -- Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. Cost: $199.00.

CHAPTER 67:61:02

ACCREDITATION

67:61:02:01. Definitions. Terms used in this chapter mean:

(1) "Comprehensive survey," a planned, on-site survey of an agency, by a team of representatives from the ~~division~~ department, for the ~~purpose~~ purposes of evaluating compliance with the standards for accreditation renewal and assessing the quality of services provided;

(2) ~~"Division director," the individual appointed by the secretary of the department to oversee the activities of the division pursuant to SDCL 1-36A-1.6;~~

~~(3)~~ "Plan of correction," a plan created by an agency to organize the process of making improvements in clinical or administrative practice, in order to address issues that are identified by the ~~division that~~ department and require corrective action or improvement to meet the requirements of this article;

~~(4)~~(3) "Probation," a status of restricted accreditation of an agency that fails to follow the requirements for accreditation;

~~(5)~~(4) "~~Revoke~~ Revocation," the permanent withdrawal of an alcohol or other drug abuse agency's accreditation by the ~~division~~ department;

~~(6)~~(5) "Root cause analysis," a process to identify the fundamental reason for a failure or an inefficiency of process that allowed for a mistake, including the occurrence~~,~~ or possible occurrence~~,~~ of a sentinel event, to determine how to change procedures so mistakes are less likely, and then make the change; and

~~(7)~~(6) "Suspension," the temporary withdrawal of an ~~alcohol and other drug abuse~~ agency's accreditation by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~, 34-20A-44.

67:61:02:02. Access by the ~~division~~ department. The ~~division~~ department shall monitor each agency for continued compliance with this article, regardless of the term of an agency's accreditation certificate. An agency is subject to review, with or without notice, by the ~~division~~ department. ~~The division's right includes~~ An agency shall provide the department with complete access to all clients and staff, and to all client, staff, financial, and administrative program records needed to determine whether the agency meets the requirements of SDCL chapter 34-20A and this article. The requirements for the ~~division~~ department to review and copy records are those contained in 42 C.F.R. Part 2 ~~(June 9, 1987), confidentiality of alcohol and drug abuse patient records~~, in effect on January 18, 2017.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27, 34-20A-44, 34-20A-44.1.

67:61:02:03. Accreditation of agencies by service classification. An agency that provides substance use disorder services may apply for accreditation by the ~~division~~ department. An agency shall comply with the rules in this article that apply to service classifications for which the accreditation is granted. An agency may apply for one or more of the following service classifications:

(1) Prevention;

(2) Outpatient services~~; to include~~ including, early intervention programs, outpatient treatment programs, and intensive outpatient treatment programs;

(3) Day treatment program;

(4) Clinically-managed, low-intensity residential program;

(5) Clinically-managed, residential detoxification program; and

(6) Medically-monitored, intensive inpatient treatment program.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:02:04. Application for accreditation. An agency seeking to operate an accredited alcohol, other drug, or gambling program shall submit an application for accreditation to the ~~division~~ department. The department shall return and not consider an incomplete application submitted by an agency. The ~~division~~ department shall make accreditation application forms available upon request to an agency seeking initial accreditation or seeking to add a new level of care to a ~~currently accredited agency. An incomplete application will be returned and will not be considered~~ current accreditation.

If an agency is seeking the renewal of an accreditation, the ~~division shall~~ department must provide the necessary application forms ~~for~~ to the agency at least ~~60~~ sixty days before the expiration of the agency's current accreditation.

~~An agency shall comply with rules in this article that apply to the program classifications for which the accreditation is granted.~~

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:02:05. Policies and procedures subject to approval. All agency policies~~,~~ and procedures~~, and other~~ must comply with and carry out the requirements of article 67:61 and are subject to the approval of the~~ division~~ department as part of the accreditation process.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:06. Provisional accreditation and comprehensive survey. The ~~division~~ department may grant provisional accreditation to an agency seeking accreditation for the first time or to an agency previously accredited to regain accreditation. A provisional accreditation certificate may only be issued upon submission of a completed application and a preliminary comprehensive survey by the ~~division~~ department to determine compliance with this article and the requirements of SDCL chapter 34-20A.

A provisional accreditation expires after six months and may not be extended except with the approval of the ~~division to accommodate division scheduling delays not to exceed an additional~~ department. An extension under this section may not exceed three months. ~~A~~ The department shall conduct a follow-up, comprehensive survey ~~on-site review shall be conducted~~, prior to the expiration of the agency's provisional accreditation, to determine if the requirements of SDCL chapter 34-20A and this article have been met ~~at which time the division~~. At that time, the department shall ~~take one of the following actions~~:

(1) Grant a one-year accreditation certificate for a new agency;

(2) Grant accreditation up to the end date of the original certification for a currently accredited agency who wants to change the level of care for which they are currently accredited; or

(3) Deny accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:07. Extension of accreditation period. The ~~division director~~ department may extend the period of accreditation to accommodate ~~division~~ department on-site scheduling delays. ~~The division shall document and maintain the reason for the extension.~~ No extension ~~shall~~ may exceed a period of one year beyond the certificate expiration date.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:02:08. Renewal of accreditation ~~— comprehensive~~ -- Comprehensive survey. ~~Any~~ Each agency currently accredited by the ~~division~~ department shall participate in a comprehensive survey to determine compliance with the requirements of this article and SDCL chapter 34-20A prior to the renewal of accreditation. The ~~division~~ department shall notify the agency of the date of the comprehensive survey.

The ~~division~~ department shall ~~make a decision regarding compliance~~ determine whether, based on the survey, the agency complied with SDCL chapter 34-20A and this article, within ~~90~~ ninety days of the ~~on-site~~ comprehensive survey. The determination must be based on the evaluation of each component of the accreditation application and materials reviewed ~~and either~~. As a result, the department shall:

(1) Issue a three-year accreditation certificate, if an agency is in compliance with ~~90~~ ninety percent or more of the requirements and submits a plan of correction that is approved by the ~~division that~~ department and addresses all areas of noncompliance;

(2) Issue a two-year accreditation certificate, if an agency is in compliance with ~~70~~ seventy to ~~89~~ eighty-nine percent of the requirements and submits a plan of correction that is approved by the ~~division that~~ department and addresses all areas of noncompliance;

(3) Place an agency on probation for not more than ~~6~~ six months, if an agency is in compliance with less than ~~70~~ seventy percent of the requirements. If the agency successfully completes a plan of correction approved by the ~~division~~ department, addresses all areas of noncompliance, and attains at least ~~70~~ seventy percent during an ~~onsite~~ comprehensive survey at the end of the probationary period, the ~~division shall~~ department must issue a one-year accreditation certificate; or

(4) Deny accreditation if the agency fails to ~~meet~~ substantially comply with the requirements of SDCL chapter 34-20A and this article or fails to submit a plan of correction approved by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:09. Comprehensive survey report ~~- plan~~ -- Plan of correction. The ~~division~~ department shall ~~provide a report to an agency,~~ within ~~30~~ thirty days following the ~~on-site~~ comprehensive survey ~~regarding the~~, report its findings ~~of the survey~~ to the agency. If an agency is not in compliance with ~~the requirements of~~ this article and SDCL chapter 34-20A, the ~~division shall~~ department must notify the agency of the areas of noncompliance in the accreditation report. ~~The~~ In response to any areas of noncompliance, the agency ~~shall~~ must submit a plan of correction to the ~~division~~ department within ~~30~~ thirty days of ~~receipt of~~ receiving the accreditation report. The plan ~~shall~~ must include the action to be taken to correct the areas of noncompliance and the date the action is to be completed. The plan of correction is subject to acceptance or rejection, in whole or in part, by the ~~division~~ department. The ~~division~~ department shall ~~notify the agency,~~ within ~~30~~ thirty days of ~~receipt of~~ receiving the plan of correction, notify the agency of the ~~division's~~ department's decision regarding approval or disapproval of the plan ~~of correction~~ and the accreditation status of the agency. The ~~division~~ department may conduct a follow-up review of the agency to evaluate the corrections ~~made~~. Failure to submit a plan of correction or failure to have the plan of correction approved by the ~~division~~ department will result in probation, suspension, or revocation of accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27, 34-20A-44.

67:61:02:10. Reasons for placing an agency on probation. The ~~division~~ department may place an agency on probation if the department determines:

(1) The agency is in compliance with less than ~~70~~ seventy percent of the requirements of this article and SDCL chapter 34-20A;

(2) The agency ~~fails~~ failed to follow through with the plan of correction to address the areas of noncompliance noted by the ~~division within~~ department in the accreditation report;

(3) The agency has serious infractions of this article that affect the overall continuity of care or safety of clients;

(4) The agency ~~falsifies~~ falsified information provided to the ~~division~~ department for accreditation or funding purposes;

(5) The agency ~~participates~~ participated in, ~~condones~~ condoned, or ~~permits~~ permitted illegal acts;

(6) The agency ~~is associated with~~ participated in, condoned, or permitted fraud, deceit, or coercion;

(7) The agency ~~fails~~ failed to comply with licensing and other standards that are required by federal or state laws, rules, or regulations; state and federal confidentiality laws; and this article, ~~that may result~~ and the noncompliance results in practices that are detrimental to the welfare of a client; or

(8) The agency ~~refuses~~ refused to allow the ~~division~~ department access for a comprehensive survey, a complaint review, or any necessary follow-up review.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:11. Probation procedures. If the ~~division~~ department determines ~~that the division has~~ there is sufficient cause to place an agency on probation~~, the following shall occur~~:

(1) The ~~division shall~~ department must send the agency written notice of probationary status and areas of noncompliance;

(2) The agency ~~shall~~ must develop and submit a plan of correction, pursuant to § 67:61:02:09, within ~~30~~ thirty days of the receipt of the notice of probationary status; and

(3) ~~Upon receipt of~~ Within five business days after receiving the plan of correction, the ~~division shall~~ department must notify the agency ~~within five business days~~ of the department's decision to approve or deny the plan of correction~~; and~~.

~~(4)~~ The ~~division may~~ department must conduct a site visit, at least once during the probationary period, to monitor the agency's progress on the plan of correction ~~items~~.

At the end of the probationary period, the ~~division~~ department shall conduct a comprehensive survey of the agency and ~~may~~:

~~(a) Grant~~ grant a one year accreditation certificate ~~if~~, provided the agency has ~~successfully~~ obtained at least ~~70~~ seventy percent compliance during the final comprehensive survey; ~~(b) Suspend~~ suspend the agency's accreditation; or ~~(c) Revoke~~ revoke the agency's accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:12. Suspension or revocation procedures. The ~~division~~ department shall provide written notice to an agency of the ~~division's~~ department's intent to suspend or revoke the agency's accreditation.

The suspension or revocation is effective ~~15~~ fifteen days after receipt of the notice. The notice ~~shall~~ must contain the reason for the ~~division's~~ department's action, ~~the opportunity for~~ describe the process by which the agency ~~to~~ may request reconsideration by the ~~division~~ department, and describe the appeal process.

An agency's request for reconsideration ~~shall~~ must be in writing and be received by the ~~division~~ department within ~~15~~ fifteen days ~~of receipt of notification~~ from the date the agency received the notice of suspension or revocation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

Cross-Reference: Acceptance of new clients prohibited, § 67:61:02:13.

67:61:02:13. Acceptance of new clients prohibited. An agency that has been placed on probation or whose accreditation has been suspended is prohibited from accepting new clients until the ~~division~~ department approves the plan of correction.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)(6)~~.

67:61:02:14. Delay in meeting requirements. The ~~division~~ department may grant an agency a delay in meeting the requirements of this article to avoid undue hardship on the agency if the ~~division~~ department determines that allowing a delay would be in the best ~~interests~~ interest of the agency's clients.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(5)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(5)~~.

67:61:02:15. Denial of accreditation. If the ~~division~~ department denies the accreditation ~~to~~ of an agency, the ~~division shall~~ department must send notice of the denial to the agency by certified mail, return receipt requested, within ~~60~~ sixty days of the final review. The notice of denial ~~shall also~~ must inform the agency that the denial is effective ~~15~~ fifteen days after receipt of the notice.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:16. Reconsideration of application for accreditation. An agency may request that the ~~division~~ department reconsider an application. The request ~~shall~~ must be in writing and sent within ~~15 calendar~~ fifteen days after receipt of the denial of accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:17. Appeal procedure. An agency may appeal to the secretary of the department any denial, revocation, or suspension of certification, or placement on probation by the ~~division~~ department. An appeal ~~to the department shall~~ under this section must be sent by certified mail within ~~15 calendar~~ fifteen days after receipt of notification of the ~~division's~~ department's action and must included a request for a fair hearing pursuant to SDCL chapter 1-26.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

Cross-Reference: Fair hearings, chapter 67:17:02.

67:61:02:19. Accreditation certificate nontransferable. A certificate issued by the ~~division director~~ department applies only to the applicant agency, the original facilities, and program classifications for which the certificate was issued. The agency shall notify the ~~division director~~ department in writing within ~~30~~ thirty days before a change of ownership, facility, or program for a determination on continued accreditation. A new application for accreditation ~~shall~~ must be filed if there is a change of ownership, facility, or program.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(1)(2)~~.

Law Implemented: SDCL 34-20A-27~~(1)(2)~~.

67:61:02:20. Changes requiring notification. An accredited agency shall notify the ~~division director~~ department before~~:~~ a change in the agency director, a reduction in services provided by the agency, or ~~an~~ the impending closure of the agency ~~for~~. Upon receiving a notification under this section, the department must make a determination on the agency's continued accreditation.

An accredited agency shall give the ~~division 30 days~~ department thirty days' written notice of closure. The agency shall provide the ~~division~~ department with written documentation ~~ensuring~~ outlining the manner in which safe storage of financial records will be provided, for at least six years from the date of closure, and safe storage of client case records will be provided, for ~~a minimum of~~ at least six years from the date of closure, as required by 42 C.F.R. § 2.19 ~~(June 9, 1987)~~, in effect on October 1, 1999, ~~disposition of records by discontinued programs~~.

The ~~division~~ department may assist in ~~making arrangements~~ arranging for the continuation of services to clients by another accredited agency before the closing.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:02:21. ~~Sentinel event~~ Event notification. Each accredited agency shall make a report to the ~~division~~ department within ~~24~~ twenty-four hours of any ~~sentinel event including;~~: death not primarily related to the natural course of the client's illness or underlying condition, permanent harm to a client, or severe temporary harm to a client, and any intervention required to sustain life to a client.

The agency shall submit a follow-up report to the ~~division~~ department within ~~72~~ seventy-two hours ~~of any sentinel event and the report shall~~ and must include:

(1) A written description of the event;

(2) The client's name and date of birth; and

(3) Immediate actions taken by the agency.

Each agency shall develop a root cause analysis ~~policies~~ policy and procedures to utilize in response to ~~sentinel events~~ any event requiring notification.

Each agency shall ~~also~~ report to the ~~division~~ department, as soon as possible~~:~~, any fire with structural damage or ~~where~~ in which injury or death occurs~~;~~; any partial or complete evacuation of the ~~facility~~ agency resulting from natural disaster~~, or~~; any loss of utilities, ~~such as~~ including electricity, natural gas, ~~telephone,~~ and phone lines; and any loss of an emergency generator, fire ~~alarm~~ alarms, sprinklers, and other critical equipment necessary for operation of the ~~facility~~ agency for more than ~~24~~ twenty-four hours.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27.

67:61:03:01. Articles of incorporation. Each agency that is not a governmental agency or a federally recognized tribe~~, that provides intensive~~ must be incorporated as or as part of a business corporation or a nonprofit corporation, in accordance with SDCL chapters 47-1A and 47-22 to 47-28, inclusive, as applicable, if the agency provides:

(1) Intensive outpatient treatment services~~, day~~;

(2) Day treatment services~~, clinically-managed~~;

(3) Clinically-managed, residential detoxification services~~, medically-monitored~~;

(4) Medically-monitored, intensive inpatient treatment services~~,~~; or~~ clinically-managed~~

(5) Clinically-managed, low-intensity residential treatment services~~ shall be incorporated as, or as a part of, either a business corporation or a nonprofit corporation in accordance with SDCL chapters 47-1A and 47-22 to 47-28, inclusive~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(1)~~.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:03:02. Board of director policies. An agency operating as a nonprofit corporation ~~shall~~ must have a board of directors. The board of directors shall establish policies that govern the overall management of the agency and reflect community concerns and interests.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(1)~~.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:03:03. Board meetings and minutes of meetings. The board of directors of each agency with a board shall meet at least quarterly. ~~Minutes~~ The agency must keep the minutes of all board ~~of director~~ meetings ~~shall be kept~~. The minutes ~~shall include at least the following~~ must contain:

(1) The date of the meeting;

(2) The names of board members ~~attending~~ in attendance;

(3) The topics discussed;

(4) The actions taken;

(5) A summary of the agency director's report; and

(6) Any fiscal reports.

The agency shall make the minutes available for review by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(1)~~.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:03:04. Discrimination in services prohibited. No agency may deny any person equal access to its facilities or services on the basis of race, color, religion, gender, ancestry, or national origin~~,~~. No agency may deny any person equal access to its facilities or services on the basis of mental or physical illness, or disability, unless ~~such~~ the illness or disability makes treatment offered by the agency non-beneficial or hazardous. Each agency shall ensure that ~~they comply~~ it complies with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. ~~(~~, in effect on September 25, 2008~~)~~ and ~~the nondiscrimination on the basis of disability by public accommodations and in commercial facilities,~~ 28 C.F.R. Part 36 ~~(March 11, 2011)~~, in effect on January 17, 2017. The agency shall provide referral services to individuals not admitted to treatment.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(3)~~.

Law Implemented: SDCL ~~20-13-1(12),~~ 20-13-23, 20-13-23.1, 34-20A-27~~(3), 29 U.S.C. § 794 (March 15, 2011)~~.

CHAPTER 67:61:04

GENERAL MANAGEMENT REQUIREMENTS

Section

67:61:04:01. ~~Policies~~ Policy and procedures manual. Each agency shall ~~have~~ establish a ~~policy and procedure~~ manual that sets forth policy and procedures to ~~establish~~ ensure compliance with this article ~~and procedures for reviewing and updating~~. Each agency shall review and update the manual.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-5-1~~(2)~~.

67:61:04:02. Statistical data. Each agency shall submit ~~accurate~~ to the department statistical data on each client receiving services ~~to the division~~ in a manner agreed upon by the ~~division~~ department and the agency. The agency shall provide statistical data on all services in accordance with the state ~~Management Information System (MIS)~~ management information system, and ~~the agency shall provide~~ any other data required by the ~~division~~ department and state and federal laws and regulations.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:04:04. Retention of records. Each agency shall retain all financial records, client case records, and documentation of services provided, for at least six calendar years post-treatment ~~for adults or~~. If a client is under the age of eighteen on the last date of treatment, records must be retained for at least six calendar years after the client reaches the age ~~18 for children or youth~~ of eighteen. Records may not be destroyed ~~when~~ while an audit or investigation is pending.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:61:04:05. Accounting systems, cost reporting, and annual audit. ~~An accredited~~ Each agency shall maintain an accounting system pursuant to generally accepted accounting principles. If requested by the department, the agency shall submit to the department a copy of an annual entity-wide, independent financial audit. The audit ~~shall~~ must be completed and filed with the department by the end of the fourth month following the end of the fiscal year being audited.

~~Audits shall~~ Each audit must contain, as part of the supplementary information, a cost report as outlined by the department. If applicable, the audit ~~shall~~ must be conducted in accordance with ~~the Federal Office of Management and Budget (OMB) Circular A-133 by an auditor approved by the Auditor General~~ 2 C.F.R. Part 200, Subpart F, in effect on August 13, 2020.

~~For either~~ In the case of an entity-wide, independent financial audit or ~~an A-133 audit~~ a single audit, the agency shall ~~assure~~ ensure the resolution of all interim audit findings. The agency shall facilitate and aid any ~~such~~ reviews, examinations, and agreed-upon procedures the department or any contractor may perform.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)~~.

~~**Reference:** Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", March 2008. Copies are available at no cost from the following website:~~

~~https://www.whitehouse.gov/omb/circulars_a133_compliance_08_08toc.~~

Cross-Reference: Single audit, 2 C.F.R. § 200.501(b).

67:61:04:06. Fees for services. Each agency shall adopt a schedule of fees for services~~. Each agency~~ and shall base the fees on the client's ability to pay. The agency shall provide its clients, referral resources, the public, and the department with up-to-date fees for services, including the fee per unit of service and any standard fees not included in the unit rate charged by the agency.

The agency shall make every effort to collect payment from clients for services in accordance with its fee schedule~~. The agency shall make every effort~~ and to collect reimbursement for costs of services for all clients from other third-party sources.

~~The agency shall provide its clients, referral resources, the public, and the division with up-to-date fees for services. The information shall include the fee per unit of service and any standard fees not included in the unit rate charged by the agency.~~

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)~~.

67:61:04:07. Client orientation. The agency shall develop ~~policies~~ policy and procedures to ensure that a new client receives orientation to the program ~~is provided to a new client~~ at or before the time of admission, or as soon thereafter as possible. The orientation ~~shall~~ must include:

(1) The agency's purpose and a description of the treatment process;

(2) All relevant agency ~~policies~~ policy;

(3) The hours during which services are available;

(4) The fees for services and the responsibility for payment ~~for~~ of those fees;

(5) ~~The~~ Information on the right to confidentiality, in accordance with ~~the confidentiality of records requirements of the Substance Abuse and Mental Health Services Administration,~~ 42 U.S.C. §§ 290-dd-2 ~~(January 7, 2011)~~, in effect on March 27, 2020, ~~the confidentiality of alcohol and drug abuse patient records,~~ 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017, and ~~the security and privacy of HIPAA~~, 45 C.F.R. ~~Part~~ Parts 160 and 164 ~~(~~, in effect on September 26, 2016~~)~~; and

(6) The rights of the client while receiving services, in accordance with §§ 67:61:06:01 and 67:61:06:02.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:04:08. Description of treatment services. The agency shall provide ~~a written description of each service provided,~~ to all staff members, clients, ~~the public, and~~ the ~~division~~ department, and upon request, to the public, a written description of each service offered. The description ~~shall~~ must include:

(1) The eligibility criteria contained in §§ 67:61:12:01, 67:61:13:01, 67:61:14:01, 67:61:15:01, 67:61:16:01, 67:61:17:01, or 67:61:18:01;

(2) The continued services criteria contained in § 67:61:07:07;

(3) The discharge criteria contained in § 67:61:07:09;

(4) The ~~policies~~ policy and procedures governing client use of alcohol or other drugs while participating in treatment; and

(5) ~~A description of the~~ The frequency and duration of services and activities ~~to be provided, including a description of the frequency and duration~~ offered.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:04:09. Staffing, training, and hours of operation. Each agency shall have ~~policies~~ policy and procedures ~~in place~~ to respond to potential medical emergencies that clients may encounter while residing at the ~~facility~~ agency. Each agency ~~providing~~ that provides treatment services shall provide adequate staffing, training, and hours of operation at the following levels:

(1) Early intervention, outpatient programs, and intensive outpatient treatment programs shall ~~ensure that~~ have counseling staff ~~is~~ on duty at all times during scheduled hours of program operation or available by phone. The agency shall post the hours that the agency is open to the general public in a prominent place on the premises. The agency shall have ~~a 24-hour-a-day, 7-day-a-week,~~ an on-call system, available seven days a week, twenty-four hours a day, for client access to program services, in the event of an emergency;

(2) Day treatment programs without residential services shall ~~ensure that~~ have counseling staff ~~is~~ on duty at all times during scheduled hours of program operation. The agency shall post the hours that the agency is open to the general public in a prominent place on the premises. The agency shall have ~~a 24-hour-a-day, 7-day-a-week,~~ an on-call system, available seven days a week, twenty-four hours a day, for client access to program services, in the event of an emergency;

(3) Day treatment with residential services and clinically-managed, low-intensity residential treatment programs shall operate ~~7~~ seven days a week, ~~24~~ twenty-four hours a day. The agency shall have, on duty at all times, a staff member who is trained to respond to fires and other natural disasters, as well as to administer emergency first aid and ~~CPR on duty at all times~~ cardiopulmonary resuscitation. An addiction counselor or addiction counselor trainee ~~shall~~ must be available to the clients at least ~~8~~ eight hours a day, ~~5~~ five days a week,

and ~~shall~~ must be available on-call, ~~24~~ twenty-four hours a day. The agency shall maintain written staff schedules, which ~~shall~~ must be available to the ~~division~~ department at the time of the accreditation survey;

(4) Clinically-managed, residential detoxification programs shall operate ~~7~~ seven days a week, ~~24~~ twenty-four hours a day whenever clients are present. ~~When~~ If no clients are present, a staff member ~~shall~~ must be on call to open the facility, if necessary. When the agency is open, a staff member ~~shall be on duty~~ who is trained, in accordance with § 67:61:17:06, to respond to fires and other natural disasters, as well as to administer emergency first aid and ~~CPR, with training in these areas to be in accordance with § 67:61:17:06~~ cardiopulmonary resuscitation, must be on duty. An addiction counselor or an addiction counselor trainee ~~shall~~ must be available to ~~the~~ clients at least ~~8~~ eight hours a day, ~~5~~ five days a week, and available on-call, ~~24~~ twenty-four hours a day. The agency shall maintain written staff schedules, which ~~shall~~ must be available to the ~~division~~ department at the time of the accreditation survey; and

(5) Medically-monitored, intensive inpatient treatment programs shall operate ~~7~~ seven days a week, ~~24~~ twenty-four hours a day. The agency shall have, on duty at all times, a staff member who is trained to respond to fires and other natural disasters, as well as to administer emergency first aid and ~~CPR on duty at all times~~ cardiopulmonary resuscitation. Training and annual training updates in each area ~~shall~~ must be documented in the staff members' personnel files. Nursing staff ~~shall~~ must be on-call ~~24~~ twenty-four hours a day, ~~7~~ seven days a week. Counseling staff shall be on duty during normal daytime hours and must be on-call, ~~24~~ twenty-four hours a day, ~~7~~ seven days a week. The agency shall maintain written staff schedules, which ~~shall~~ must be available to the ~~division~~ department at the time

of the accreditation survey.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:04:10. Support services directory. The agency shall maintain an electronic or ~~written~~ printed directory ~~complete~~ with the name, address, and telephone number of credentialed service providers available to provide the agency's clients with ~~support services such as~~ the following services, if applicable:

(1) Alcohol and other drug services;

(2) Social and mental health services;

(3) Medical services;

(4) Employment services;

(5) Education and educational counseling;

(6) Vocational evaluation and counseling;

(7) Continuing care services;

(8) Legal services; and

(9) Pastoral services.

The agency shall make the directory available to clients at all times and to the ~~division~~ department at the time of inspection.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

CHAPTER 67:61:05

PERSONNEL

Section

67:61:05:01. Tuberculin screening requirements. Tuberculin screening requirements ~~for employees~~ are as follows:

(1) Each new staff member, intern, and volunteer ~~shall~~ must receive both steps of the two-step ~~method of~~ tuberculin skin test or a ~~TB~~ tuberculosis blood assay test to establish a baseline, within ~~14~~ fourteen days of employment. Any two documented tuberculin skin tests completed within a ~~12~~ twelve month period before the date of employment ~~can~~ may be considered a two-step ~~or one TB~~ test and one tuberculosis blood assay test completed within a ~~12~~ twelve month period before employment ~~can~~ may be considered an adequate baseline test. Skin testing or ~~TB~~ tuberculosis blood assay tests are not required if a new staff member, intern, or volunteer provides documentation of the last skin testing completed within the prior ~~12~~ twelve months. Skin testing or ~~TB~~ tuberculosis blood assay tests are not required if documentation is provided of a previous ~~position~~ positive reaction to either test;

(2) A new staff member, intern, or volunteer, who provides documentation of a positive reaction to the tuberculin skin test or ~~TB~~ tuberculosis blood assay test ~~shall~~, must have a medical evaluation and chest X-ray to determine the presence or absence of the active disease;

(3) Each staff member, intern, and volunteer, with a positive reaction to the tuberculin skin test or ~~TB~~ tuberculosis blood assay test ~~shall~~, must be evaluated annually by a ~~licensed~~ physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse, and a record must be maintained of the presence or absence of symptoms of *Myobacterium* tuberculosis. If ~~this~~ the evaluation results in a suspicion of active tuberculosis, the ~~licensed~~ physician ~~shall~~, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse, must refer the staff member, intern, or volunteer for further medical evaluation to

confirm the presence or absence of tuberculosis; and

(4) Any employee confirmed or suspected to have infectious tuberculosis ~~shall~~ must be restricted from employment until a physician, physician assistant, nurse practitioner, or clinical nurse specialist, determines that the employee is no longer infectious.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27~~(1)(6)~~.

Law Implemented: SDCL 34-20A-27~~(1)(6), 34-22-11~~.

Reference: Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005/Vol. 54/No.RR-17. Copies are available free of charge from the following website: https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm.

67:61:05:02. Agency director. Each agency shall have an agency director whose qualifications, authority, and duties are ~~defined~~ described in writing. The agency director ~~shall~~ must be knowledgeable ~~of~~ about substance use disorder treatment and services, and possess administrative skills. If the agency has a board of directors, the board ~~shall~~ must appoint the ~~agency~~ director. The ~~agency~~ director shall represent the board ~~of directors~~ and be charged with the day-to-day management of the agency. The board ~~of directors~~ shall ensure that, at the time of employment, the agency director has knowledge of the administrative rules pertaining to substance use disorder ~~programs~~ treatment and services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)~~.

67:61:05:03. Qualifications of addiction counselors. All agency staff ~~providing~~ that provide addiction counseling shall meet the standards for addiction counselors or addiction counselor trainees ~~in accordance with BAPP requirements~~ as established by the Board of Addiction and Prevention Professionals. A certificate and identification card issued by ~~BAPP~~ the board is evidence of meeting the standards for an addiction counselor or certificate of recognition for an addiction counselor trainee. ~~Counselor~~ An addiction counselor must obtain certification ~~or~~ and an addiction counselor trainee must obtain recognition ~~shall be obtained~~ before performing any addiction counseling functions.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5), 36-34-12~~.

Cross-Reference: Addiction and prevention professionals, article 20:80.

67:61:05:04. Qualifications of staff providing prevention services. Agency staff providing prevention programming shall complete the Substance Abuse Prevention Skills Training ~~(SAPST)~~ or Foundations of Prevention within one year of ~~hire~~ being hired. Evidence of completion ~~shall~~ must be placed in the staff member's personnel file.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5), 36-34-12~~.

67:61:05:05. Orientation of personnel. The agency shall provide orientation for all staff~~, including~~ within ten working days after employment. The agency shall provide orientation for all contracted staff providing direct clinical services, interns, and volunteers, within ten working days after ~~employment~~ the start of their service with the agency. The orientation must be documented and ~~must include at least the following items~~ cover:

(1) Fire prevention and safety, including the location of all fire extinguishers in the facility, instruction in the operation and use of each type of fire extinguisher, and an explanation of the fire evacuation plan and agency's smoking policy;

(2) The confidentiality of all information about clients, including a review of the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017, and ~~the security and privacy of HIPAA,~~ 45 C.F.R. Parts 160 and 164 ~~(April 17, 2003)~~, in effect on September 26, 2016;

(3) The proper maintenance and handling of client case records;

(4) The agency's philosophical approach to treatment and the agency's goals;

(5) The procedures to follow in the event of a medical emergency or a natural disaster;

(6) The specific job descriptions and responsibilities of employees, contracted staff, interns, and volunteers, as applicable;

(7) The agency's ~~policies and procedure~~ policy and procedures manual, maintained in accordance with § 67:61:04:01; and

(8) The agency's procedures regarding the reporting of ~~cases of~~ suspected child abuse or neglect, in accordance with SDCL 26-8A-3 and 26-8A-8.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)~~.

Cross-References:

Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

67:61:05:06. Employee and other personnel supervision. Each agency shall establish and enforce ~~policies~~ policy and procedures for supervising agency employees, interns, and volunteers.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)(6)~~.

67:61:05:07. Clinical supervision. The board of directors or the agency director shall designate an addiction counselor to be responsible for supervising clinical services, ~~including~~ and for providing required supervision ~~required for~~ of addiction counselor trainees. ~~Supervising~~ The methods of supervising clinical services ~~includes~~ are:

(1) Case staffing, meaning a meeting of an agency's staff treatment team to review and evaluate a client's case progress in treatment and determine whether changes are needed in the services provided to a client;

(2) Individual case supervision;

(3) Consultation with other clinical professionals;

(4) Review of case record maintenance; and

(5) Other clinically appropriate supervision methods, as determined by agency policy.

If an addiction counselor is not available within the addiction counselor trainee's employing agency, supervision may be obtained on a contractual or consultant basis, from an outside party meeting the required qualifications.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)(6)~~.

67:61:05:08. Personnel policies and records. ~~The~~ An agency shall maintain ~~written~~ personnel policies and records for all staff, including provisions for equal employment opportunities. ~~Each~~ An agency shall maintain a personnel file ~~or record or both~~ for each staff member, including any contracted staff, intern, or volunteer. The file ~~includes the following~~ must contain:

(1) The application filed for employment ~~or~~, or any resume ~~and~~, transcripts ~~or~~, diploma and evidence of continuing education;

(2) The position description, signed by the staff member, with a statement of duties and responsibilities, and the minimum qualifications and competencies necessary to fulfill these duties;

(3) ~~The completion of~~ Evidence of having completed appropriate pre-hire screening ~~will be evident for~~, in the case of a staff ~~that provide~~ member who provides direct services to vulnerable populations;

(4) The ~~staff's~~ staff members's orientation documentation, in accordance with § 67:61:05:05;

(5) Copies of the ~~staff's~~ staff members's current credentials, as related to job duties; and

(6) Any staff health clearances, including ~~the~~ tuberculin test results, if required, and any clearances from a ~~licensed~~ physician after an infectious or contagious disease requires the ~~staff's~~ staff members's absence from the program.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)(6)~~.

67:61:05:09. Organizational chart. Each agency shall have ~~an up-to-date~~ a current organizational chart ~~indicating~~ that indicates lines of authority from the board of directors, if the agency has a board, or from the agency director, and lines of authority for all job classifications. The organizational chart ~~shall~~ must be made available to all staff members, the board of directors, if applicable, and the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(5)~~.

67:61:05:12. Office of Inspector General Medicaid exclusion list. Each agency shall routinely check the ~~Office of Inspector General's~~ List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General, to ensure that each new hire, as well as any current employee, is not on the ~~excluded~~ list. No payment to the agency may be provided for services furnished by an excluded individual. Documentation that ~~this~~ the check has been completed ~~shall~~ must be placed in the employee's personnel file.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(5)~~.

CHAPTER 67:61:06

CLIENTS' RIGHTS

Section

67:61:06:01. Clients' rights. An agency shall ensure that clients' rights are ~~fully~~ protected. The agency shall give each client a copy of the clients' rights and responsibilities, in writing, or in an accessible format, upon admission, and shall discuss the rights and responsibilities with the client or the client's advocate.

The clients' rights and responsibilities ~~statement shall~~ must be posted in a place accessible to clients. Copies ~~shall also~~ must be available in locations where clients can access them, without making a request to agency staff. ~~In addition, the~~ The agency shall make a copy of the clients' rights and responsibilities ~~statements~~ available to the ~~division~~ department. The agency shall provide services to each client in a manner that is responsive to the client's need in the areas of age, gender, social support, cultural orientation, psychological characteristics, sexual orientation, physical situation, and spiritual beliefs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)(6)~~.

67:61:06:02. Guaranteed rights. A client has rights guaranteed under the constitution and laws of the United States and ~~the~~ this state ~~of South Dakota,~~ including:

(1) The right to refuse ~~extraordinary~~ prohibited treatment, as provided in SDCL 27A-12-3.22;

(2) The right to be free of any exploitation or abuse;

(3) The right to seek and have access to legal counsel;

(4) ~~To~~ The right to have access to an advocate ~~as defined in subdivision 67:61:01:01(4)~~ or an employee of the state's designated protection and advocacy system;

(5) The right to confidentiality, of all records, correspondence, and information relating to assessment, diagnosis, and treatment, in accordance with ~~the confidentiality of records requirements of the Substance Abuse and Mental Health Services Administration~~, 42 U.S.C. §§ 290-dd-2 ~~(January 7, 2011)~~, in effect on March 27, 2020, ~~the confidentiality of alcohol and drug abuse patient records,~~ 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017, and ~~the security and privacy of HIPAA~~, 45 C.F.R. ~~Part~~ Parts 160 and 164 ~~(~~, in effect on September 26, 2016~~)~~; and

(6) The right to participate in ~~decision making~~ decision-making related to treatment, to the greatest extent possible.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(6)~~.

67:61:06:03. Policy on abuse, neglect, and exploitation. Each agency shall ~~have~~ establish a policy ~~which prohibits~~ to prohibit abuse, neglect, and exploitation of a client. The policy ~~shall~~ must contain ~~the following~~:

(1) Definitions of abuse, neglect, and exploitation, pursuant to SDCL 22-46-1;

(2) A requirement to report to the ~~division~~ department any incidents of abuse, neglect, or exploitation;

(3) A requirement to report to the department, pursuant to SDCL 26-8A-3 and 26-8A-8;

(4) A procedure for disciplinary action to be taken, if staff engages in abusive, neglectful, or exploitative behavior;

(5) A ~~procedure~~ requirement to make immediate efforts to inform the guardian, or the parent if the client is under ~~18 years of age~~ the age of eighteen, of ~~the~~ an alleged incident or allegation of abuse, neglect, or exploitation; and

(6) ~~Upon substantiation of the incident, a~~ A requirement to document the actions to be implemented, upon substantiation of an incident or allegation, to reduce the likelihood of, or ~~prevention of,~~ to prevent repeated incidents of abuse, neglect, or exploitation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(1)(2)(4)(5)~~.

Cross-References:

Persons required to report child abuse or neglected child -- Intentional failure as

misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

67:61:06:04. Grievance procedures. Each agency shall ~~have written grievance policies~~ establish a policy and procedures for ~~hearing~~ receiving, considering, and responding to client grievances.

The agency shall ~~inform~~ provide, to the client~~,~~ and the client's parent or guardian if the client is under the age of eighteen, a copy of the policy and procedures, in writing or in an accessible format, ~~of the grievance procedures~~ during intake services. The grievance ~~procedure shall~~ policy and procedures must be posted in a place accessible to a client and a copy ~~shall~~ must be available in locations where it can be accessed by a client ~~can access the grievance procedure~~ without making a request to agency staff. The ~~grievance procedure shall~~ policy and procedures must be available to a former client, upon request.

The ~~procedure shall~~ policy and procedures must include the ability to appeal the agency's decision regarding ineligibility or the termination of services to the ~~division~~ department, as provided in § 67:61:06:05, and ~~shall~~ must include the telephone number and address of the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)~~.

67:61:06:05. Appeal of ineligibility or termination of services. A client, a client's parent ~~if~~ in the case of a client ~~is~~ under ~~18 years of~~ the age of eighteen, or a client's guardian, if applicable, may appeal, to the ~~division~~ department, the agency's decision ~~to terminate~~ regarding client's ineligibility for or the termination of services. An appeal ~~shall~~ must be made in writing, to the ~~division~~ department, within ~~30~~ thirty days of ~~receipt of~~ receiving notice of the ~~notice~~ decision ~~to terminate~~ regarding the client's ineligibility for or the termination of services. The ~~division~~ department shall provide a determination within ~~30~~ thirty days of ~~receipt of~~ receiving the request for appeal. If the client, the client's parent, or the client's guardian is dissatisfied with the ~~division's~~ department's decision regarding the client's ineligibility for or the termination of services, the client ~~or~~, the client's parent, or the client's guardian may request a fair hearing, by notifying the department, in writing, within ~~30~~ thirty days of ~~receipt of~~ receiving the ~~division's~~ department's decision.

~~When~~ While a termination is being appealed, the ~~client~~ agency shall continue to ~~receive~~ provide services ~~from the agency~~ to the client, until a decision is reached, after a hearing pursuant to SDCL chapter 1-26.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

Cross-Reference: Confidentiality of alcohol and drug abuse patient records, 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017.

67:61:06:06. Time and place of hearing. A fair hearing by an impartial hearing officer ~~shall~~ must be held within ~~90~~ ninety days after ~~receipt for~~ receiving a request by the client, ~~or~~ the client's parent in the case of a client under the age of eighteen, or the client's guardian, if applicable. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. Time extensions may be provided by the impartial hearing officer upon order of the hearing officer or at the request of any of the parties involved ~~and upon agreement of both parties to a specific extension of time~~ if there is no objection to a time extension from any other party involved.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

67:61:06:07. Discharge ~~policies~~ policy. Each agency shall ~~have~~ establish a written discharge policy. The policy ~~includes the following~~ must specify:

(1) Client behavior that constitutes a reason for discharge at staff request;

(2) The procedure for the staff to follow when discharging a client involved in the commission of a crime on the premises of the program or against its staff, consistent with the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. § 2.12(c)(5) ~~(June 9, 1987)~~, in effect on October 1, 2018, and including who shall ~~must~~ make the report to the appropriate law enforcement agency;

(3) The procedure for the staff to follow when a client leaves against medical or staff advice, including offering the client discharge planning and continuation of care for substance abuse and any other condition, and documentation of what was offered, consistent with the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. ~~,~~ Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017~~, confidentiality of alcohol and drug abuse patient records~~;

(4) ~~Prohibition~~ A prohibition against automatic discharge for any instance of non-prescribed substance use, or for any instance of displaying symptoms of mental or physical illness; and

(5) The procedure for referrals ~~for~~ in the case of clients with symptoms of mental illness or a medical condition and those requesting assistance to manage symptoms.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)~~.

67:61:06:08. Residential program rights. Each residential ~~programs~~ program shall ensure ~~the following rights to all clients~~ that all clients have:

(1) The right to visitation with family and friends, subject to reasonable written visiting rules and hours established by the agency; ~~however,~~ provided agency personnel may impose limitations, as necessary for the welfare of the client, if ~~the~~ those reasons ~~for the limitations~~ are documented in the client's ~~individual~~ case record;

(2) The right to conduct private telephone conversations, subject to reasonable written rules and hours established by the agency~~; however~~, provided agency personnel may impose limitations, as necessary for the welfare of the client, if ~~the~~ those reasons ~~for the limitations~~ are documented in the client's ~~individual~~ case record;

(3) The right to communicate with a personal physician; and

(4) The right to practice personal religion or attend religious services, within the agency's policies and guidelines.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

CHAPTER 67:61:07

CLINICAL PROCESSES

Section

67:61:07:01. Client identification data. ~~The~~ Each agency shall establish a policy and ~~procedure~~ procedures to collect and record client identification data, at the time of admission or as soon after admission as possible. Client identification data ~~shall~~ must be kept in the clinical ~~record and includes the following information~~ file. Client identification data means:

(1) Name, street address, and telephone number of the client;

(2) Date of birth, gender, and race or ethnic origin of the client;

(3) ~~Client's unique~~ Unique identification number of the client;

(4) Referral source;

(5) Service start date;

(6) Outcome measures;

(7) Data for the state management information system; and

(8) Any other client information as required by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:02. Client admission policies. Each program shall ~~develop policies~~ establish a policy and procedures regarding the admission of ~~clients~~ a client into the program ~~by personnel designated by the agency director,~~ to ensure the client meets the eligibility criteria for the level of care ~~of admission~~ provided by the program.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:03. Client review of ~~case records~~ client's clinical record. ~~An~~ Each agency shall ~~have~~ establish a written ~~policies~~ policy and procedures to govern a client's access to ~~case records~~ the client's clinical record. The ~~policies~~ policy and procedures ~~shall~~ must specify any conditions or restrictions on client access and ~~shall~~ must be available to the client, upon request.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:04. Closure and storage of ~~case~~ clinical records. The agency shall ~~have written policies~~ establish a policy and procedures to ensure the closure and storage of ~~case~~ clinical records ~~at~~ upon the completion or termination of a treatment program ~~including~~. The policy and procedures must:

(1) ~~The identification of staff positions or titles~~ Identify, by position or title, the staff members who are responsible for the closure of ~~case~~ clinical records within the agency and the ~~MIS~~ management information system;

(2) ~~Procedures~~ Provide for the closure of ~~inactive client records, that are clients who have~~ a client's clinical record if the client has not received services from an inpatient or residential program in three days or ~~clients who have~~ if the client has not received services from an outpatient program in ~~30~~ thirty days; and

(3) ~~Procedures~~ Provide for the safe storage of ~~client~~ case records for at least six years from the date of closure.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:05. Integrated assessment. An addiction counselor or addiction counselor trainee shall meet with the client and, if appropriate, the client's family ~~if appropriate~~, to complete an integrated assessment, within ~~30~~ thirty days of the first day the intake process begins. The integrated assessment ~~includes~~ must include both functional and diagnostic components. The assessment ~~shall~~ must establish the historical development and dysfunctional nature of the client's alcohol and drug abuse or dependence, and ~~shall~~ must assess the client's treatment needs. The assessment ~~shall~~ must be recorded in the client's case record and ~~includes the following components~~ must contain:

(1) Strengths of the client and the client's family, if appropriate, as well as previous periods of success ~~and~~, the strengths that contributed to that success~~. Identification~~, and the identification of potential resources within the family, if applicable;

(2) Presenting problems or issues that indicate a need for services;

(3) Identification of readiness for change for problem areas, including motivation and supports for making such changes;

(4) Current substance use and relevant treatment history~~, including attention to~~ of any previous mental health and substance use disorder or gambling treatment, and periods of success, psychiatric hospital admissions, psychotropic and other medications, relapse history or potential for relapse, physical illness, and hospitalization;

(5) Relevant family history, including family relationship dynamics and family psychiatric and substance abuse history;

(6) Family and relationship issues, along with social needs;

(7) Educational history and needs;

(8) Legal issues;

(9) Living environment or housing;

(10) Safety needs and risks with ~~regards~~ regard to physical acting out, health conditions, acute intoxication, or ~~risk of~~ withdrawal;

(11) Past or current indications of trauma~~,~~ or domestic violence~~, or both if applicable~~;

(12) Vocational and financial history and needs;

(13) Behavioral observations or mental status~~, for example, a description of whether affect and mood are congruent or whether any hallucinations or delusions are present~~;

(14) Formulation of a diagnosis, including documentation of co-occurring medical, developmental disability, mental health, substance use disorder, or gambling issues, or a combination of these based on integrated screening;

(15) Eligibility determination, including level of care determination for substance use services, or ~~SMI~~ serious mental illness or ~~SED~~ serious emotional disturbance for mental health services, or both ~~if applicable~~;

(16) Clinician's signature, credentials, and date; and

(17) Clinical supervisor's signature, credentials, and date ~~verifying~~, to verify review of the assessment and if there is agreement with ~~the~~:

(a) The initial diagnosis; or

(b) The formulation of the initial diagnosis ~~in cases where~~, if the staff does not have the education or training to make a diagnosis.

Any information related to the integrated assessment ~~shall~~ must be verified through collateral contact, if possible, and recorded in the client's case record.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:06. Treatment plan. An addiction counselor or addiction counselor trainee shall develop an individualized treatment plan, based upon the integrated assessment for each client admitted to an outpatient treatment program, an intensive outpatient treatment program, a day treatment program, a clinically-managed, low-intensity residential treatment program, or a medically-monitored, intensive inpatient treatment program. Evidence of the client's meaningful involvement in formulating the plan ~~shall~~ must be documented in the ~~file~~ client's clinical record. The treatment plan ~~shall~~ must be recorded in the client's ~~case~~ clinical record and ~~includes~~ contain:

(1) A statement of specific client problems, ~~such as~~ including any co-occurring disorders, to be addressed during treatment, with supporting evidence;

(2) A diagnostic statement and a statement of short- and long-term treatment goals that relate to the problems identified;

(3) Measurable objectives or methods leading to the completion of short-term goals ~~including~~:

(a) Time frames for the anticipated dates of achievement or completion of each objective, or for reviewing progress towards objectives;

(b) ~~Specification~~ A specification and description of the indicators to be used to assess progress;

(c) Referrals for needed services that are not provided directly by the agency; and

(d) ~~Include interventions that~~ Interventions, for identified issues, that match the client's readiness for change ~~for identified issues~~; and

(4) A statement identifying the staff member responsible for facilitating the methods

or treatment procedures.

The individualized treatment plan ~~shall~~ must be developed within ten calendar days of the client's admission ~~for~~ to an intensive outpatient treatment program~~,~~; a day treatment program~~,~~; a clinically-managed, low-intensity residential treatment program~~,~~; a or medically-monitored, intensive inpatient treatment program.

The individualized treatment plan ~~shall~~ must be developed within ~~30~~ thirty calendar days of the client's admission ~~for~~ to a counseling services program.

All treatment plans ~~shall~~ must be reviewed, signed, and dated by the addiction counselor or addiction counselor trainee. The signature must be followed by the counselor's credentials.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:07. Continued service criteria. The program staff or direct care provider shall document, for each client, the progress and reasons for retaining the client at the present level of care~~;~~ and create an individualized plan of action to address the reasons for retaining the ~~individual in~~ client at the present level of care. This document ~~is~~ must be maintained in the client case record. It is appropriate to retain the client at the present level of care if:

(1) The client is making progress, but has not yet achieved the goals articulated in the individualized treatment plan. Continued treatment at the present level of care ~~is~~ must be assessed, as necessary, to permit the client to continue ~~to work~~ working toward his or her treatment goals; or

(2) The client is not yet making progress, but has the capacity to resolve his or her problems. ~~He or she~~ The client is actively working toward the goals articulated in the individualized treatment plan. Continued treatment at the present level of care ~~is~~ must be assessed, as necessary, to permit the client to continue ~~to work~~ working toward his or her treatment goals; or

(3) ~~New problems have been identified~~ A new problem or priority that ~~are~~ is appropriately treated at the present level of care has been identified. The new problem or priority requires services, the frequency and intensity of which can only ~~safely~~ be delivered safely by ~~continued~~ continuing to stay ~~in~~ at the current level of care. The client's level of care ~~in which the client is receiving treatment is therefore,~~ must be the least intensive level at which the client's new ~~problems~~ problem or priority can be addressed effectively.

The individualized plan of action to address the reasons for retaining the individual ~~in~~ at the present level of care ~~shall~~ must be documented every:

(a) Two calendar days for~~:~~

~~(i) Clinically-managed~~ clinically-managed, residential detoxification;

(b) ~~14~~ Fourteen calendar days for~~:~~

~~(i) Early~~ early intervention services;

~~(ii) Intensive~~ intensive outpatient services;

~~(iii) Day~~ day treatment services; and

~~(iv) Medically-monitored~~ medically-monitored, intensive inpatient treatment; and

(c) ~~30~~ Thirty calendar days for~~:~~

~~(i) Outpatient~~ outpatient treatment ~~program~~ programs~~;~~ and

~~(ii) Clinically-managed~~ clinically-managed, low-intensity residential treatment.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:07:08. Progress notes. ~~All programs, except prevention programs, shall record and maintain a minimum of one progress note weekly, when services are provided~~ The direct care provider must record at least one progress note in the client's clinical record each week when services are provided for any program, other than a prevention program.

Progress notes ~~are~~ must be included in the client's ~~file~~ clinical record and substantiate all services provided. ~~Individual progress~~ Progress notes must document counseling sessions with the client, summarize significant events ~~occurring, and~~, reflect goals and problems relevant ~~during~~ to the session, and reflect any progress in achieving those goals and addressing the problems. Progress notes must include attention to any co-occurring disorder, as ~~they relate~~ it relates to the client's substance use disorder.

A progress note must be included in the ~~file~~ client's clinical record for each billable service provided. ~~Progress notes must include the following for the services~~ In order for a service to be billed, the progress note must contain:

(1) Information identifying the client receiving the ~~services~~ service, including the client's name and unique identification number;

(2) The date, location, time met, the units of service of the counseling session, and the duration of the session;

(3) The service activity code or the title describing the service code ~~or both~~;

(4) A brief assessment of the client's functioning;

(5) A description of what occurred during the session, including the specific action taken or plan developed to address unresolved issues for the purpose of achieving identified treatment goals or objectives;

(6) A brief description of what the client and ~~provider~~ the clinician plan to work on

during the next session, ~~including~~ and work that may occur between sessions, if applicable; and

(7) The signature and credentials of the staff providing the service.

Source: 43 SDR 80, effective December 5, 2016; 46 SDR 50, effective October 10, 2019.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:09. Transfer or discharge criteria. It is appropriate to transfer or discharge ~~the~~ a client from ~~the~~ a present level of care if ~~he or she meets the following criteria~~:

(1) The client has achieved the goals articulated in his or her individualized treatment plan, ~~thus~~ by resolving each problem that justified admission to the present level of care~~.~~ ~~Continuing~~, or continuing the chronic disease management of the client's condition at a less intensive level of care is indicated; ~~or~~

(2) The client has been unable to resolve each problem that justified admission to the present level of care, despite amendments to the treatment plan~~. The~~; the client is determined to have achieved the maximum possible benefit from engagement in services at the current level of care~~. Treatment~~; or treatment at another level of care, either more or less intensive, in the same type of service, or discharge from treatment, is therefore indicated; ~~or~~

(3) The client has demonstrated a lack of capacity due to diagnostic or co-occurring conditions that limit ~~his or her~~ the client's ability to resolve each problem~~. Treatment~~; or treatment at a qualitatively different level of care or type of service, or discharge from treatment, is therefore indicated; or

(4) The client has experienced an intensification of a problem, or has developed a new problem, and can be treated effectively only at a more intensive level of care.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:10. Transfer or discharge summary. An addiction counselor or an addiction counselor trainee shall complete a transfer or a discharge summary for ~~any~~ a client, within five working days after the client is transferred or discharged, regardless of the reason for the transfer or discharge. A transfer or a discharge summary of the client's problems, course of treatment, and progress toward planned goals and objectives identified in the treatment plan ~~is~~ must be maintained in the ~~client~~ client's case record. A process ~~shall~~ must be in place to ensure that the transfer or discharge summary is completed in the ~~MIS~~ management information system.

When a client prematurely discontinues services, reasonable attempts ~~shall~~ must be made and documented by the agency to re-engage the client, ~~into services~~ if appropriate.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:11. Admission of returning clients. The agency shall ~~have written policies~~ establish a policy and procedures to promote the continuity of care ~~to facilitate the re-admission of~~ for a client who is readmitted. ~~This includes~~ The procedures ~~for~~ must include completing a new ~~agency~~ client case record and new admission record in the ~~MIS~~ management information system for each client who ~~re-enter services~~ is readmitted.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(3)(4)(6)~~.

67:61:07:12. Tuberculin screening requirements. A designated staff member shall conduct tuberculin screening for the absence or presence of symptoms with each client newly admitted to outpatient treatment, intensive outpatient, day treatment, clinically-managed, low-intensity residential treatment, clinically-managed detoxification, ~~and~~ or intensive inpatient treatment, within ~~24~~ twenty-four hours of admission, to determine if the client has had any of the following symptoms within the previous three months:

(1) Productive cough for a ~~two to three week duration~~ duration of two-three weeks;

(2) Unexplained night sweats;

(3) Unexplained fevers; or

(4) Unexplained weight loss.

Any client determined to have had one or more of the ~~above~~ listed symptoms within the last three months ~~shall~~ must be immediately referred to a licensed physician for a medical evaluation to determine the absence or presence of active ~~disease~~ tuberculosis. A physician, physician assistant, nurse practitioner, or clinical nurse specialist may request that a Mantoux skin test ~~may or may not~~ be ~~done during this evaluation based on the opinion of the evaluating physician~~ conducted. Any client confirmed or suspected to have infectious tuberculosis ~~shall be excluded from~~ may not be admitted for services until the client is determined to no longer be infectious by the physician. ~~Any client in which~~ If infectious tuberculosis is ruled out ~~shall~~, the evaluating physician must provide a written statement ~~from the evaluating physician~~ confirming the client does not have tuberculosis before ~~being allowed entry~~ the client may be admitted for services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Reference: Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005, December, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Recommendations and Reports," December 30, 2005/Vol. 54/No.RR-17. Copies are available free of charge from the following website: ~~www.cdc.gov/mmwr~~ https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm.

CHAPTER 67:61:08

MEDICATION CONTROL IN RESIDENTIAL PROGRAMS

Section

67:61:08:01. Definitions. Terms used in this chapter mean:

(1) "Controlled ~~drugs~~ drug," any drug, substance, or chemical whose possession and use are regulated under the Federal Controlled Substances Act, 21 U.S.C. ~~§§~~ § 801 et seq. ~~as~~, in effect ~~July 1, 2016~~ on July 1, 2021;

(2) "Nasogastric tube," a tube ~~which~~ that is inserted, nonsurgically, through the nose and extends into the stomach; and

(3) "Parenteral route," the administration of medication by ~~injection including interdermal~~ intradermal, subcutaneous, intramuscular, or intravenous injection~~;~~

~~(4) "UAP," unlicensed assistive personnel~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:02. Control, accountability, and storage of medications and controlled drugs. Each residential ~~programs shall~~ program must meet the following requirements for the control, accountability, and safe storage of medications and controlled drugs:

(1) Any client on medications for a substance use disorder, mental health issue, or a medical ~~conditions~~ condition shall surrender all medications and controlled drugs ~~on~~, upon admission to the agency ~~per agency policy~~, and be educated about how to take ~~his or her~~ the client's prescribed medication ~~as prescribed~~, while in the program;

(2) Each client shall receive a formal orientation to the ~~agency's~~ program's medication ~~policies~~ policy and procedures upon admission;

(3) All ~~drugs or~~ medications ~~shall~~ and controlled drugs must be ~~stored~~ kept in a locked medication storage area that is inaccessible to all persons at all times ~~with the exceptions as specified~~, except as provided in ~~§~~ subdivision 67:61:08:02(5), and §§ 67:61:08:08 and § 67:61:08:10;

(4) All controlled drugs ~~shall~~ must be ~~stored~~ kept in a separate locked box or drawer ~~in~~ within the medication storage area;

(5) Poisons, disinfectants, and medications prescribed for external use ~~shall~~ must be stored separately from each other and from internal medications, with each in a separate locked area that is inaccessible to clients and visitors;

(6) Biologicals and medications, requiring refrigeration or other storage requirements as identified by the manufacturer's labeling ~~shall~~, must be stored separately, including during refrigeration, freezing, and protection from the light, in an area that is inaccessible to clients and visitors. If these biologicals and medications are stored in a refrigerator containing items other than the biologicals and medications, the biologicals and

medications ~~shall~~ must be kept in a separate, secured compartment;

(7) Each client's prescription medications ~~shall~~ must be stored in the medication's originally received ~~containers~~ container and may not be transferred to another container;

(8) Any container with a worn, illegible, or missing label ~~shall~~ must be destroyed, along with the medication or drugs in the container, in accordance with § 67:61:08:05;

(9) Only a licensed pharmacist may label, relabel, or alter labels on medication containers;

(10) Any medication or drug prescribed for one client may not be administered to another client;

(11) If a client brings his or her own medications or controlled drugs into the program, the client's medications or controlled drugs may not be administered unless the client can be identified and written orders for the administration of the medications or controlled drugs ~~administration~~ is received from a licensed physician;

(12) Each program ~~shall~~ must have a procedure for contacting the client's identified pharmacies and physicians, as soon as possible after each client is admitted to the program;

(13) If medications or controlled drugs brought by a client into the program are not used, the medications or controlled drugs ~~shall~~ must be packaged, sealed, stored, and returned to the client, parent if the client is under the age of eighteen, guardian if applicable, or significant other, at the time of discharge, if the return of the medications or controlled drugs is approved by a program physician~~; the~~. The return of the medications or controlled drugs ~~shall~~ must be documented in the client's case record, with the name, strength, and quantity of the medication or controlled drug, and signed by the ~~appropriate~~ staff member identified to manage client medication; and

(14) The telephone number of the regional poison control center, the local ~~hospitals~~ hospital, the medical director, and the ~~agency~~ program administrator ~~shall~~ must be posted in all medication or controlled drug storage and preparation areas.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Cross-Reference: Administration of medications and controlled drugs, § 67:61:08:08.

67:61:08:03. Storage of Schedule II, III, or IV drugs. A residential program may have a limited supply of Schedule II, III, and IV drugs in storage, if the ~~residential~~ program meets the following requirements:

(1) The drugs are owned by a licensed pharmacy or licensed physician and stored in ~~a sealed~~ an emergency box, sealed by a supplying pharmacy with a seal of such a nature that it can be easily identified if it has been broken;

(2) The agency and the providing Drug Enforcement Agency ~~(DEA)~~ registrant maintain a complete and accurate inventory of the drugs stored in the emergency box and of the ~~drugs~~ drugs' disbursement. The inventory ~~shall~~ must be conducted personally by the ~~DEA~~ Drug Enforcement Agency registrant at least once every six months;

(3) There are no more than five different controlled drugs~~,~~; no more than five doses of ~~an~~ each injectable Schedule II, III, or IV drug, if any; and no more than ~~12~~ twelve doses of ~~an~~ each oral Schedule III or IV drug, if any, stored in the emergency box at one time;

(4) The use of the controlled drugs in the emergency box is limited to those times when no pharmacy is available; and

(5) Any standing or verbal order for the medication is verified in writing by the physician within ~~72~~ seventy-two hours after the first administration.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Cross-Reference: Administration of medications and drugs, § 67:61:08:08.

67:61:08:04. Records of receipt, administration, and disposition of scheduled drugs. Each residential program shall maintain a separate log book to record the receipt and disposition of all Schedule II drugs. A residential program shall maintain a record of the receipt and administration of Schedule II, III, and IV drugs in a client's case ~~records~~ record.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:05. ~~Drug~~ Medication and controlled drug destruction and disposal. ~~All agencies~~ Each agency shall establish ~~written policies~~ a policy and procedures ~~addressing~~ for the destruction and disposal of medication and controlled drugs in accordance with § 44:73:08:01.01.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:06. Medication administration defined. Medication administration in a residential program is the ~~administration~~ giving of medications, other than by the parenteral route or nasogastric tube, under the supervision of a licensed registered nurse. ~~The steps in medication administration include~~ The person administering medicine shall:

(1) ~~Removing~~ Remove an individual dose from a previously dispensed, labeled container, including a unit dose container;

(2) ~~Verifying~~ Verify the dose with the physician's order or medication administration record;

(3) ~~Giving~~ Give the individual dose to whom it is prescribed; and

(4) ~~Documenting~~ Document the date, time, ~~person's~~ the name ~~giving~~ of the person administering the dose, and the dose given.

A copy of a physician's order or prescription for each medication being administered ~~shall~~ must be kept in the client's ~~case file~~ clinical record.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:07. Delegation of nursing tasks. Delegation is the transfer of the authority to perform a specific nursing or medication administration task from a licensed registered nurse to ~~a UAP~~ unlicensed assistive personnel, pursuant to §§ 20:48:04.01:01, 20:48:04.01:02, and 20:48:04.01:07.

~~The UAP~~ Unlicensed assistive personnel may only perform the nursing task or medication administration task for a specific ~~participant~~ client through delegation. ~~The UAP~~ Unlicensed assistive personnel may not re-delegate a delegated task.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:08. Administration of medications and controlled drugs. All medications and controlled drugs ~~shall~~ must be administered ~~in accordance with~~ in a non-prohibited manner as set forth in SDCL 36-9-28. Each agency shall establish written policies concerning the administration of all medications, including Schedule II, III, and IV drugs, and shall ensure that Schedule II, III, and IV drugs are administered only in accordance with those policies and only when authorized by a licensed physician.

Only a ~~RNs~~ registered nurse, ~~LPNs~~ a licensed practical nurse, or ~~UAPs~~ an unlicensed assistive personnel who ~~are~~ is trained and qualified, in accordance with chapter 20:48:04, may administer medications. ~~The RN, LPN, or UAP~~ Any person administering the medication shall record the name of the medication, the strength and quantity administered, and the time of administration in the client's case ~~record~~ file, and ~~must~~ shall sign the case record. ~~No~~ A person may not administer ~~medications~~ medication that ~~have~~ has been prepared for administration by another person.

The agency shall maintain a procedure for the immediate reporting of drug reactions and medication errors to the physician responsible for the client~~, which~~. The procedure must comply with the confidentiality of records requirements ~~of the Substance Abuse and Mental Health Services Administration~~, as set forth in 42 U.S.C. §§ 290-dd-2 ~~(January 7, 2011)~~, in effect on March 27, 2020, ~~the confidentiality of alcohol and drug abuse patient records,~~ and 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017. The ~~individual~~ person responsible for ~~any~~ a medication error shall complete and sign an entry in the client's case record and complete and sign an incident report form.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:09. Assistance with self-administration of ~~medications~~ medication or controlled drugs. Assistance with self-administration of ~~medications~~ medication or controlled drugs is the act of assisting a client with one or more steps in the process of taking ~~medications~~ medication or controlled drug, but not the actual administration of ~~medications~~ medication or controlled drug. Assistance with self-administration of ~~medications may include the following~~ medication or controlled drug involves:

(1) Opening the medication or controlled drug container;

(2) Reminding the client of the proper time to take the medication or controlled drug;

(3) Helping to remove the medication or controlled drug from the container; and

(4) Returning the medication or controlled drug container to storage.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:08:10. Self-administration of medication or controlled drugs. A residential treatment program not employing a ~~RN~~ registered nurse, a ~~LPN~~ licensed practical nurse, or ~~UAP shall~~ an unlicensed assistive personnel must make the controlled drug or medication available to a client for self-administration in accordance with the instructions of a licensed physician. The client shall self-administer the drug or medication, under the supervision of a designated employee who enters the name, strength, and quantity of the medication, and the time of self-administration, in the client's case record.

Clinically-managed, low-intensity residential treatment programs are exempt from the requirement of supervising the self-administration of over-the-counter ~~remedies~~ drugs or medications. If the reasonable safety of all program clients is ensured, residential programs may allow clients to possess and self-administer, without supervision, those prescription medications that have been identified as allowable medications on a list developed specifically for the individual, in consultation with a licensed physician. The list of allowable medications ~~shall~~ must be reviewed at least annually, by a licensed physician. Any medication not identified on the list ~~shall~~ must be administered under supervision.

Each residential treatment program utilizing self-administration processes ~~shall~~ must establish ~~policies~~ a policy and procedures that outline these processes.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:09:01. Planned dietetic services required. Each residential program shall ~~establish~~ develop and implement a written plan for meeting the basic nutritional needs, as well as any special dietetic needs, of each client. The program shall provide at least three meals a day. Any snacks provided by the program ~~shall~~ must be ~~a~~ part of the overall dietary plan. Each meal ~~shall~~ must include foods from the ~~following~~ basic food groups, according to the Dietary Guidelines for Americans, as released by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Reference: Dietary Guidelines for Americans, ~~2015-2020~~ 2020-2025, (December 29, 2020), ~~Eigth~~ Ninth Edition, published by the U.S. Department of Health and Human Services and U.S. Department of Agriculture. ~~Available at http://health.gov/dietaryguidelines/2015/guidelines/~~ Copies are available at no cost from the following website: https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf.

67:61:09:02. Sanitation and safety standards. Each residential program shall meet the sanitation and safety standards for food service, as set forth in chapter 44:02:07. An agency that provides dietary services, by agreement or contract with a second party, shall ensure that the provider of dietary services has ~~demonstrated compliance with chapter 44:02:07, by passing~~ passed an annual, documented sanitation inspection conducted by the Department of Health.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~, 34-20A-44.

67:61:10:01. Safety and sanitation plan. For each setting in which the agency provides services, there ~~shall~~ must be a health, safety, sanitation, and disaster plan that ensures the health and safety of the individuals served. The plan ~~shall include~~ must provide procedures for:

(1) ~~Specific procedures for responding~~ Responding to medical emergencies;

(2) ~~Procedures for responding~~ Responding to fire and natural disasters, including evacuation plans~~, training, and regularly scheduled drills~~;

(3) Training and regularly scheduled drills for fire and natural disasters;

~~(3)~~(4) ~~Procedures for responding~~ Responding to communicable diseases; and

~~(4)~~(5) ~~Procedures to ensure~~ Ensuring sanitation of all settings in which services are provided.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:10:02. Life safety codes. Each building ~~that the treatment or prevention program~~ an agency owns, rents, or leases ~~which provides~~, to provide residential services ~~shall~~ must comply with applicable fire safety standards, as set forth in the ~~2000~~ 2012 edition of the NFPA 101 Life Safety Code. An automatic sprinkler system is not required in an existing facility unless significant ~~renovations~~ renovation or remodeling occurs~~; however, any~~. An existing automatic sprinkler system ~~shall~~ must remain in service.

New construction, renovations, additions, and changes of space ~~shall~~ must comply with NFPA 101 Life Safety Code, 2012 edition. Each facility ~~shall also~~ must comply with the building construction standards of the International Building Code, 2012 edition.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Reference: NFPA 101 Life Safety Code, ~~2000~~ 2012, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9904; Phone: 1-800-344-3555. Cost $~~93.00~~ 171.00;

International Building Code, 2012 edition. Copies may be obtained from International Conference of Building Officials, Phone 1-800-786-4452. Order@iccsafe.org. Cost: $89.00.

67:61:10:03. Rules of general applicability. Each residential facility ~~providing Level 3.7~~ seeking accreditation or providing services ~~shall~~ must be ~~established~~ licensed pursuant to article 44:78. ~~Other residential facilities seeking accreditation after July 1, 2016, shall be established pursuant to article 44:78.~~

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(2)(6)~~.

67:61:11:01. Purpose and scope of prevention ~~progarms~~ programs. A prevention program ~~shall~~ must encompass current research, theory, and practice-based strategies and activities, implemented through structured prevention strategies. An agency providing a primary prevention or diversion service shall delineate a work plan ~~to outline~~ that outlines the scope of services to be offered. The programming being implemented ~~shall~~ must be found on the ~~state supported evidence based~~ state-supported, evidence-based programming list. The plan ~~shall~~ must be approved by the agency's board of directors and documented in board minutes, or approved by the agency director and be made available to the public and agency staff.

An agency that conducts classroom or group educational programs shall use a structured, evidence-based curriculum for prevention education.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:11:02. Prevention program classifications. Prevention programming is divided into the following population classifications:

(1) Universal prevention programming~~: Activities~~, or the following activities targeted to the general public or a whole population that has not been identified on the basis of individual risk~~;~~:

(a) ~~Direct:~~ Interventions that directly serve~~ an identifiable~~ a group of individuals who are identifiable, but who have not been identified on the basis of individual risk; and

(b) ~~Indirect:~~ Interventions that indirectly support population-based programs and environmental strategies;

(2) Selective prevention programming~~: Activities~~, or activities targeted to individuals or a subgroup of the population whose risk in developing a disorder is significantly higher than average; and

(3) Indicated prevention programming~~: Activities~~, or activities targeted to individuals identified as having minimal, but detectable signs or symptoms foreshadowing a disorder, or biological markers indicating predisposition, but have not yet met diagnostic level.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:11:03. Description of services provided. A prevention program ~~shall~~ must offer at least one ~~or more~~ of the following ~~services~~:

(1) Information dissemination services~~, including~~ or activities that involve one-way communication from the source to the audience, with limited contact between the two;

(2) Education services~~, including~~ or activities that involve two-way communications and are based on an interaction between the educator and the participants;

(3) Alternative services~~, including~~ or activities that provide the opportunity to participate in healthy, positive, and constructive activities;

(4) Problem identification and referral services~~, including~~ or activities that ~~aim~~ are designed to identify a person who has indulged in the illegal use of alcohol or drugs in order to assess if the person's behavior can be reversed through education. This activity does not include any services designed to determine if an individual is in need of treatment services;

(5) Community-based services~~, including~~ or activities that ~~aim~~ are designed to enhance the ability of the community to more effectively provide prevention services for alcohol or drug abuse; ~~and~~ or

(6) Environmental services~~, including~~ or activities that ~~aim~~ are designed to establish or change community standards, codes, and attitudes, thereby influencing the incidence and prevalence of alcohol and drug abuse in the general population.

A written description of the services provided ~~shall~~ must be available to all staff members, individuals, the public, and the ~~division~~ department. The description ~~includes the following information:~~ must include target populations for primary prevention and diversion services~~,~~; program goals including the scope of services~~,~~; measurable objectives~~,~~; program evaluations and intended outcomes~~,~~; and programming that complies with these standards.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:11:04. Review of materials. The agency's program director shall review and approve all electronic, written, and printed materials, intended for public distribution, for validity, relevancy, and appeal. ~~Additionally an agency that conducts classroom or group educational programs shall use a structured evidence-based curriculum for prevention education.~~ The ~~review of all~~ public distribution materials and prevention curriculums being implemented ~~shall~~ must be made available for review by agency staff, the public, and the ~~division~~ department, in an electronic or printed format.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:11:05. Criteria for determining evidence-based intervention. ~~Evidence based~~ An intervention is ~~defined by inclusion under one or more of three public resources as follows~~ determined to be evidence-based if:

(1) ~~Federal lists or registries~~ It is included in a federal list or registry of evidence-based interventions;

(2) ~~Reported positively in peer reviewed journals~~ It is reported positively in a peer-reviewed journal; or

(3) ~~Documented~~ There is documented effectiveness ~~based on four~~ in accordance with the following guidelines for evidence ~~which are~~:

(a) The intervention is based on a theory of change that is documented in a clear logic or conceptual model;

(b) The intervention is similar in content and structure to interventions that appear in ~~registries~~ a federal list or registry or ~~the peer reviewed~~ in peer-reviewed literature ~~or both~~;

(c) The intervention is supported by documentation that it has been effectively implemented ~~in the past, and~~ multiple times, in a manner attentive to scientific standards of evidence and with results that show a consistent pattern of credible and positive effects; and

(d) The intervention is reviewed and deemed appropriate by a panel of ~~informed~~ prevention experts ~~that includes well-qualified~~, including prevention researchers who are experienced in evaluating prevention interventions similar to those under review.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:11:06. Staff knowledge of resources. The staff of each prevention program shall ~~be able to demonstrate~~ have knowledge of regional alcohol, drug, mental health promotion, suicide prevention, and recovery support programs available for prevention or treatment services. An agency shall ~~document that~~:

(1) ~~It maintains~~ Maintain a current database of information and referral resources on alcohol, tobacco, and other drugs~~,~~; on substance abuse services~~,~~; and on prevention and treatment resources;

(2) ~~The information is either posted~~ Post or publicly ~~distributed~~ distribute the information and resources; and

(3) ~~The~~ Document that agency staff ~~has~~ have reviewed the information and resources.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(5)~~.

67:61:11:07. Record of activities. An agency conducting prevention services shall maintain a record of all prevention activities provided in accordance with the described program content. Each record ~~shall~~ must include:

(1) A list of presenters ~~and~~;

(2) A list of participants involved using non-identifiable information;

~~(2)~~(3) Demographic characteristics of participants, including:

(a) Age;

(b) ~~Race/ethnicity~~ Race or ethnicity;

(c) Gender;

(d) Type of prevention populations, such as universal, selective, or indicated; and

(e) Any other information as requested by the ~~division~~ department;

~~(3)~~(4) ~~Record~~ A description of all program activities; and

~~(4)~~(5) A copy of the programmatic materials.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)(6)~~.

67:61:11:08. Quality assurance and evaluation. An agency shall conduct a quality assurance review of its prevention programming to monitor, protect, and enhance the quality and appropriateness of its programming and to identify qualitative problems and recommend plans for correcting each problem. The agency shall conduct ~~the following~~:

(1) Annual satisfaction surveys of all individuals or stakeholders who requested and participated in prevention services;

(2) Participant evaluations, after each prevention presentation the agency provides; and

(3) Pre- and post-tests for all ~~evidence based~~ evidence-based curricula presented to individuals.

A summary of ~~these reports shall~~ the quality assurance review must be made available to the board of directors or agency staff annually, and to the ~~division~~ department and community members, upon request.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(2)(4)~~.

67:61:12:01. Eligibility criteria. To be eligible for early intervention services ~~the~~ a client ~~is~~:

(1) May not be at risk ~~for~~ of withdrawal~~, has~~;

(2) Must have no emotional, behavioral, or cognitive conditions or have very stable biomedical conditions~~,~~; or either has no or has very stable emotional, behavioral, or cognitive conditions~~,~~; and ~~meets~~

(3) Must meet one of the following:

~~(1) The client needs~~ (a) Lack an understanding of, or lack the skills to change, current substance use patterns or high-risk behaviors ~~or both; or~~;

~~(2) The client's~~ (b) Have an increased risk of ~~initiation of, or progression~~ initiating or progressing in substance use patterns or high-risk behaviors ~~or both is increased by~~ due to substance use or values about substance use; or

~~(3) The client's~~ (c) Have a social support system or significant others ~~or both~~ who increase the risk of a substance use.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:12:02. Services provided. ~~The~~ An early intervention program ~~may provide each individual with a variety of services, but it must provide the following services, at a minimum~~ shall provide:

(1) ~~Initial~~ An initial screening and planning that occurs within ~~48~~ forty-eight hours of the initial contact~~. The initial screening shall be~~ and results in the following being recorded in the client's case record ~~and include~~:

(a) ~~The~~ A description of the client's current problems and needs;

(b) ~~The~~ A description of the client's emotional and physical state ~~including,~~ as determined through a screening for the presence of any cognitive disability, mental illness, and medical disorders, together with any collateral information~~,~~ and prescribed medications;

(c) ~~The~~ A description of the client's drug and alcohol use, including the types of substances used, ~~including~~ whether prescribed or over the counter medications, the age of first use, the amount used, the frequency of use, the date of last use, and the duration of use; and

(d) A statement of the intended course of action;

(2) Crisis intervention;

(3) Individual or family counseling ~~which may include:~~

~~(a) Education regarding alcohol and drug abuse and dependence, including biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process; and~~

~~(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted and how to safeguard against transmission~~;and

(4) Discharge planning ~~which may include~~ providing:

(a) Continued care planning ~~and discharge planning~~;

(b) Referral to and liaison with other resources that offer education, vocational, medical, legal, social, psychological, employment, and other related alcohol and drug services, where applicable; and

(c) Referral to and coordination of medical services ~~shall include the~~, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

Note: Individual or family counseling may include education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process. Individual or family counseling may also include education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission.

67:61:12:04. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Services ~~which~~ that are solely recreational in nature;

(2) Time spent preparing paperwork from client assessments or clinical documentation; and

(3) Time spent traveling.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:13:01. Eligibility criteria. To be eligible for an outpatient treatment program ~~the client shall meet the following criteria~~:

(1) The client ~~has~~ must have no or only a minimal risk ~~for~~ of severe withdrawal;

(2) The client ~~has~~ must either have no or very stable biomedical conditions, or ~~is~~ be receiving concurrent medical monitoring;

(3) The client's emotional, behavioral, or cognitive conditions ~~are causing~~ may not cause more than minimal interference with substance use recovery, difficulties in social functioning, and the ability for the client to care for ~~self~~ himself or herself;

(4) The client ~~is~~ must be willing to engage in treatment, ~~but~~ even if the client needs motivational and monitoring strategies to promote progress through the stages of change;

(5) The client ~~is~~ must be able to maintain abstinence or control substance use and pursue recovery or motivational goals with minimal support; ~~and~~

(6) The client's recovery environment ~~is~~ must be supportive; and ~~the~~

(7) The client ~~has~~ must have the skills to cope with stressful or high risk situations.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:13:02. Services provided. The outpatient treatment program ~~may provide its clients with a variety of treatment services, but it~~ shall provide ~~the following services~~:

(1) An integrated assessment, pursuant to § 67:61:07:05;

(2) Crisis intervention;

(3) Any combination of individual, group, and family counseling ~~which may include the following~~ providing:

(a) Education regarding substance abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process; and

(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(4) Discharge planning ~~to include~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including educational, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~which includes~~, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:13:03. Intensity of services. The outpatient treatment program may provide to each client any combination of individual, group, or family counseling services, of any intensity and frequency, as required by the continued service criteria, pursuant to § 67:61:07:07. If counseling is provided for adults, these services ~~shall~~ must be less than nine hours in a one-week period ~~for adults~~. Services for ~~adolescents~~ adolescent clients ~~shall~~ must be less than six hours in a one-week period.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:13:05. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(2) Services ~~which~~ that are solely recreational in nature;

(3) Time spent preparing paperwork from client assessments or clinical documentation;

(4) Time spent traveling; and

(5) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:14:01. Eligibility criteria. To be eligible for intensive outpatient program services ~~the client shall meet the following criteria~~:

(1) The client ~~is~~ must be at minimal risk of severe withdrawal;

(2) The client ~~has~~ must either have no or very stable biomedical conditions ~~which are not a distraction from treatment~~;

(3) ~~The client has mild~~ Any of the client's emotional, behavioral, or cognitive conditions, which may distract from the client's recovery and ~~need~~ require monitoring, must be mild; and

(4) The client ~~shall~~ must meet one of the following:

(a) ~~The client has~~ Have a variable engagement in treatment, ambivalence, or a lack of awareness of the substance use or mental health problem, and ~~requirement of~~ require a structured program to promote progress through the stages of change; ~~or~~

(b) ~~The client's~~ Have substance use or mental health symptoms ~~or both~~ that have intensified and indicate a ~~high likelihood~~ high likelihood of relapse or continued use, without close monitoring or support; or

(c) ~~The client has~~ Have a non-supportive recovery environment, but ~~the client is~~ be able to cope with structure and support.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:14:02. Services provided. The intensive outpatient program ~~may provide its clients with a variety of treatment services, but it~~ must provide ~~the following services~~:

(1) An integrated assessment, pursuant to § 67:61:07:05;

(2) Crisis intervention;

(3) Individual, group, and family counseling ~~which may include the following~~ providing:

(a) Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process; and

(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(4) Discharge planning ~~which must include the following~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~to include~~, including information detailing the availability of tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:14:03. Intensity of services. ~~The~~ An intensive outpatient program shall provide any combination of individual, group, or family counseling, two or more times per week, to each client. Each adult client ~~shall~~ must be provided with a minimum of nine hours of these services per week. Each adolescent client ~~shall~~ must be provided with a minimum of ~~6~~ six hours of these services per week.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:14:05. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(2) Services ~~which~~ that are solely recreational in nature;

(3) Time spent preparing paperwork from client assessments or clinical documentation;

(4) Time spent traveling; and

(5) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:15:01. Eligibility criteria. To be eligible for day treatment program services ~~the client shall meet the following criteria~~:

(1) ~~The~~ A client ~~is~~ must be experiencing mild withdrawal or ~~is~~ be at risk ~~for~~ of withdrawal;

(2) ~~The~~ The client ~~has~~ must either have no or very stable biomedical conditions ~~which are not a distraction from treatment~~;

(3) ~~The client has mild~~ Any of the client's emotional, behavioral, or cognitive conditions, which may distract from recovery and ~~needs~~ require stabilization, must be mild; and

(4) The client ~~shall~~ must meet one of the following:

(a) ~~The client requires~~ Require a structured program to promote progress through the stages of change; ~~or~~

(b) ~~The client is~~ Be at a high risk of relapse or continued use, and deterioration in the level of functioning; or

(c) ~~The client's~~ Have an environment that renders recovery unlikely, without structured monitoring and support.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:15:02. Services provided. The day treatment program shall provide its clients with ~~a variety of~~ the following treatment services~~, but the program shall provide the following services~~:

(1) An integrated assessment, pursuant to § 67:61:07:05;

(2) Individual, group, and family counseling ~~which may include the following~~ providing:

(a) Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(3) Education programming for ~~adolescents~~ adolescent clients; and

(4) Discharge planning ~~which must include the following~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~to include~~, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Additional services provided by residential day treatment programs ~~shall~~ must include housing and dietary services, and medical care~~, which must include the following~~ including:

tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:15:03. Intensity of services. The day treatment program for adults and adolescents shall provide a minimum of ~~15~~ fifteen hours of any combination of individual, group, or family counseling services per week, to each client. A day treatment program for adults shall provide a minimum of five hours of additional services per week, on specialized topics ~~which~~ that address the specific needs of the client. The additional services ~~shall~~ must be identified on the client's treatment plan or continued stay review. These services ~~shall~~ must be provided by an individual trained in the specific topic presented.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:15:04. Reimbursable services. Reimbursable day treatment program services are limited to face-to-face contacts, for the purpose of providing services, pursuant to § 67:61:15:02. Services are reimbursed through a per diem rate and are not eligible to be reimbursed through a ~~15 minute~~ fifteen-minute unit.

Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:15:05. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Billing for a client that exceeds the accredited bed capacity established by the ~~Division~~ department for clients residing in a residential day treatment program;

(2) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(3) Services ~~which~~ that are solely recreational in nature;

(4) Time spent preparing paperwork from client assessments or clinical documentation;

(5) Time spent traveling; and

(6) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:16:01. Eligibility criteria. To be eligible for clinically-managed, low-intensity residential treatment program services ~~the client shall meet the following criteria~~:

(1) The client ~~is~~ must be at risk of or ~~is~~ experiencing minimal withdrawal;

(2) The client ~~has~~ must have either no or very stable biomedical conditions;

(3) The client ~~has~~ must have either no or very stable emotional, behavioral, or cognitive conditions;

(4) The client ~~requires~~ must require a structured environment to promote progress through the stages of change;

(5) The client ~~needs~~ must require structure to reinforce recovery and relapse prevention skills; and

(6) The client's recovery environment poses a threat to safety or engagement in treatment ~~or both~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:16:02. Services provided. ~~The~~ A clinically-managed, low-intensity residential treatment program ~~may provide its clients with a variety of treatment services, but it shall~~ must provide ~~the following services~~:

(1) An integrated assessment, pursuant to § 67:61:07:05;

(2) Individual, group, and family counseling ~~may include the following~~ providing:

(a) Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(3) Arts and crafts or work therapy~~. However~~, provided clients may not be required to participate in more than ~~40~~ forty hours of work therapy per week;

(4) Housing and dietary services;

(5) Medical care~~, to include the following~~ including~~:~~

~~(a) Tuberculosis~~ tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016; and

(6) Discharge planning ~~to include the following~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~to include~~, including

information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:16:03. Intensity of services. A clinically-managed, low-intensity residential treatment program ~~shall~~ must provide each client a minimum of five hours of any combination of individual, group, or family counseling each week.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:16:04. Admission medical examination. A person admitted to a clinically-managed, low-intensity residential treatment program shall have received a medical examination conducted by or under the supervision of a licensed physician, within the three months before admission. The agency shall require that the results of the examination be provided to the program, before or at the time of admission.

If an examination has not been conducted or the results are not available, the program shall ~~assure~~ ensure that a medical examination occurs within five calendar days after admission. The results of all medical examinations ~~shall~~ must be placed in the case record. The program staff shall consider the client's medical health in the development of the treatment plan.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:16:06. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Billing for a client that exceeds the accredited bed capacity established by the ~~Division~~ department;

(2) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(3) Services ~~which~~ that are solely recreational in nature;

(4) Time spent preparing paperwork from client assessments or clinical documentation;

(5) Time spent traveling; and

(6) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:17:01. Eligibility criteria. To be eligible for clinically-managed, residential detoxification program services ~~the client shall meet one of the following criteria~~:

(1) The client ~~is~~ must be experiencing signs and symptoms of a withdrawal that is manageable ~~in~~ at this level of care; or

(2) There ~~is~~ must be evidence that withdrawal is imminent, based on ~~history~~ the client's:

(a) History of substance intake~~, previous~~;

(b) Previous withdrawal history~~, present~~;

(c) Present symptoms~~, physical conditions,~~;

(d) Physical condition; or ~~emotional~~

(e) Emotional, behavioral, or cognitive condition.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:17:02. Information required to be obtained at time of admission. ~~The~~ An agency admitting ~~the~~ a client to a clinically-managed, residential detoxification program ~~shall~~ must obtain the information required by ~~§~~ subdivision 67:61:17:07(1), and record the following observations and information in the client's case record:

(1) Blood pressure, pulse, and respiration;

(2) ~~Presence~~ The presence of bruises, lacerations, cuts, ~~or~~ and wounds;

(3) Medications the client is currently taking~~, particularly sedative use~~;

(4) Medications carried by the client or found on the client's person;

(5) Any history of ~~diabetes, seizure~~:

(a) Diabetes;

(b) Seizure disorders, including epilepsy~~, delirium~~;

(c) Delirium tremens~~,~~; and ~~any client history of convulsive~~;

(d) Convulsive therapies~~, e.g., electroconvulsive or insulin shock treatments, and any~~;

(6) Any history of exposure to tuberculosis and any current signs or symptoms of the disease;

~~(6)~~(7) Any history of medical, psychological, or psychiatric treatment; and

~~(7)~~(8) Any symptoms of mental illness ~~currently present~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:17:03. Agreement with hospital for emergency care. ~~The~~ An agency shall have a written affiliation agreement ~~to provide emergency, inpatient, and ambulatory medical services,~~ with a licensed hospital serving the area in which the clinically-managed, residential detoxification program is located, for the provision of emergency, inpatient, and ambulatory medical services. The agreement ~~shall~~ must specify that the hospital consents to accept all transfers for prompt medical evaluation. Documentation of the reason for the transfer ~~shall~~ must accompany all transferred clients, as well as the documented history of each client's vital signs. Disclosure of information about clients to the hospital ~~shall comply~~ must be in compliance with the requirements of ~~the Substance Abuse and Mental Health Services Administration,~~ 42 U.S.C. §§ ~~290dd-3~~ 290dd-2, ~~ee-3,~~ in effect on March 27, 2020; 42 C.F.R. Part 2 ~~(January 7, 2011),~~ in effect on January 18, 2017; and ~~the security and privacy of HIPAA~~, 45 C.F.R. ~~Part~~ Parts 160 and 164 ~~(~~, in effect on September 26, 2016~~)~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:17:04. Availability of medical director. ~~The agency shall~~ An agency's clinically-managed, residential detoxification program must have a written agreement with a licensed physician, physician assistant, or certified nurse practitioner to serve as the medical director, or employ a licensed physician who is primarily responsible for providing medical care to clients to serve as medical director. The medical director's responsibilities to the clinically-managed, residential detoxification program ~~include the following~~ are:

(1) ~~The provision of~~ Providing advice on ~~health related~~ health-related policies and issues;

(2) ~~The provision of~~ Providing emergency medical care to admitted clients; and

(3) ~~The supervision of~~ Supervising the medical treatment provided to the clients.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:17:05. Monitoring and documentation of client's condition. The clinically-managed, residential detoxification program shall establish a ~~written~~ policy and procedure concerning the steps staff shall take when assessing and monitoring a client's physical condition and responding to medical complications throughout the detoxification process.

Staff shall closely monitor the condition of each client during detoxification and document the following information in the client's case record:

(1) Blood pressure, pulse, and respiration~~; at~~:

(a) At admission ~~by staff trained to perform these tests, a minimum of two additional~~;

(b) At least two times in the first eight hours after admission~~, or~~ and at a greater frequency ~~dependent~~ depending on the degree of the client's hypertension or hypotension~~,~~; and ~~at~~

(c) At least once every eight hours thereafter;

(2) Physical, mental, and emotional state, including presence of confusion, anxiety, depression, hallucinations, restlessness, sleep disturbances, tremors, ataxia, or excessive perspiration; and

(3) Type and amount of fluid intake.

Any staff member who assesses, monitors, or responds to a client's condition, must be trained to perform those functions.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:17:06. Emergency first aid training. ~~Any counseling~~ Counseling and client supervisory staff of ~~the~~ a clinically-managed, residential detoxification program ~~shall~~ must be ~~trained~~ certified in emergency first aid and ~~CPR~~ cardiopulmonary resuscitation, and trained to respond to fires and other natural disasters. ~~Current certificates verifying successful completion~~ The certifications and verification of the training ~~shall~~ must be kept in the staff member's personnel file.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(5)~~.

67:61:17:07. Services provided. The clinically-managed, residential detoxification program ~~may provide its clients with a variety of treatment services, but it~~ must provide ~~the following services~~:

(1) Initial assessment and planning within ~~48~~ forty-eight hours of admission. The initial assessment ~~shall~~ must be recorded in the client's case record and ~~includes~~ describe:

(a) The client's current problems and needs;

(b) The client's emotional and physical state, including screening for the presence of cognitive disability, mental illness, medical disorders, collateral information, and prescribed medications;

(c) The client's drug and alcohol use, including the types of substances used, ~~including~~ both prescribed ~~or~~ and over the counter medications, the age of first use, the amount used, the frequency of use, the date of last use, the duration of use, and the criteria met for a diagnosis of use disorder for each substance; and

(d) A statement of the intended course of action;

(2) Individual, group, and family counseling ~~may include the following~~ providing:

(a) ~~Provide information~~ Information about alcohol and drug abuse programs whose capabilities most nearly match the client's needs, based on completion of the initial assessment;

(b) ~~Encourage~~ Encouragement to the client to use alcohol and drug abuse programs for ~~long range~~ long-term rehabilitation;

(c) Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

(d) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(3) Housing and dietary services;

(4) Medical care ~~shall include the following:~~

~~(a) Tuberculosis~~, including tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016; and

(5) Discharge planning ~~to include the following~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~to include~~, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:17:08. Intensity of services. ~~The~~ A clinically-managed, residential detoxification program shall provide a minimum of ~~30~~ thirty minutes of any combination of the services listed in ~~subdivisions~~ § subsections 67:61:17:07(2)(a)(b)(c) and (d), within ~~48~~ forty-eight hours of admission, with an additional ~~30~~ thirty minute minimum for each subsequent ~~24~~ twenty-four hour period.

Source: 43 SDR 80, effective December 5, 2016; 46 SDR 50, effective October 10, 2019.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:17:10. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(2) Services ~~which~~ that are solely recreational in nature;

(3) Time spent preparing paperwork from client assessments or clinical documentation;

(4) Time spent traveling; and

(5) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:18:01. Eligibility criteria. To be eligible for medically-monitored, inpatient treatment ~~the client shall meet the following criteria~~:

(1) The client ~~shall meet one of the following:~~

~~(a) The client is~~ must be experiencing moderate to severe withdrawal or is at risk of severe withdrawal based on previous withdrawal history;

~~(b) The~~ the client's continued substance use causes imminent risk to biomedical conditions; or

~~(c) The~~ the client's continued substance use causes imminent risk to emotional, behavioral, and cognitive conditions; and

(2) The client ~~shall meet one of the following:~~

~~(a) The client~~ requires intensive monitoring and support to promote progress through the stages of change;

~~(b) The~~ the client is in immediate danger of continued severe substance use or relapse and such behaviors present significant risk of serious adverse consequences to the client, ~~or~~ to others~~, or both~~; or

~~(c) The~~ the client's recovery environment poses a threat to safety or engagement in treatment or both.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(3)(4)~~.

67:61:18:02. Medical evaluations and vital signs. ~~At a minimum, the~~ A medically-monitored, inpatient treatment program ~~shall complete~~ must meet the following requirements:

(1) At the time of admission, each client's blood pressure, pulse, and respiration ~~shall~~ must be evaluated ~~and recorded in the client's case record~~ by staff trained to perform these tests and recorded in the client's case record;

(2) Within ~~8~~ eight hours after admission, each client ~~shall~~ must receive a medical evaluation conducted by ~~an RN~~ a registered nurse or ~~an LPN~~ a licensed practical nurse. The results of this medical evaluation ~~shall~~ must be provided to the program physician ~~for the purpose of determining~~. The program physician shall assess whether the client needs an immediate and ~~a~~ more extensive examination ~~to determine~~ before determining the appropriateness of the admission ~~and the~~. The program physician's approval ~~shall~~ must be documented in the client's case record~~:~~.

~~(a)~~ The medical evaluation ~~includes~~ requires:

~~(i)~~(a) A second reading of the client's blood pressure, pulse, and respiration;

~~(ii)~~(b) ~~Mental~~ An assessment of the client's mental and emotional status;

~~(iii) Any~~(c) The identification of bruises, lacerations, cuts, wounds, ~~or~~ and other medical conditions;

~~(iv) Current~~(d) Documentation of current medication use~~, particularly sedative use~~ and medications being carried by the client; and

~~(v) Any~~(e) Documentation regarding any history of diabetes~~,~~; seizure

disorders, including epilepsy,; delirium tremens,; and any history of having undergone convulsive therapies, e.g., electroconvulsive or insulin shock treatments; and

(3) Within 72 seventy-two hours after admission, each client shall the program must have:

(a) A complete completed the client's blood count and urinalysis tests; and

(b) A provided the client with a complete physical examination by, or under the supervision of, a licensed physician, who shall also evaluate the results of the tests conducted.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27(1)(4)(6).

67:61:18:03. Availability of medical director. ~~The agency shall~~ An agency's medically-monitored, inpatient treatment program must have a written agreement with a licensed physician, physician assistant, or certified nurse practitioner to serve as the medical director, or employ a licensed physician who is primarily responsible for providing medical care to the clients to serve as the medical director. The medical director's responsibilities to the medically-monitored, inpatient treatment program ~~includes the following~~ are:

(1) ~~The provision of~~ Providing advice on health-related policies and issues;

(2) ~~The provision of~~ Providing emergency medical care to admitted clients;

(3) ~~The supervision of~~ Supervising the performance of the medical examination and laboratory tests required upon the ~~clients~~ client's admission to the program; and

(4) ~~The supervision of~~ Supervising the medical treatment provided to the clients.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:18:04. Services provided. The medically-monitored, inpatient treatment program ~~may provide its clients with a variety of treatment services, but it shall~~ must provide ~~the following services~~:

(1) An integrated assessment, pursuant to § 67:61:07:05;

(2) Individual, group, and family counseling ~~may include the following~~ providing:

(a) Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

(b) Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

(3) Housing and dietary services;

(4) Education programing for ~~adolescents~~ adolescent clients;

(5) Recreation and leisure time activities for ~~adolescents~~ adolescent clients;

(6) Medical care, ~~to include:~~

~~(a) Tuberculosis~~ including tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016; and

(7) Discharge planning ~~to include the following~~ providing:

(a) Continued care planning and counseling;

(b) Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

(c) Referral to and coordination of medical services ~~to include~~, including

information detailing the availability of tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24 ~~(Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992)~~, in effect on December 13, 2016.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)(6)~~.

67:61:18:05. Intensity of services. A medically-monitored, intensive inpatient treatment program for adults ~~shall~~ must provide daily, to each client, a combination of individual, group, or family counseling, which ~~shall~~ must total a minimum of ~~21~~ twenty-one hours per week.

The program ~~shall also~~ must provide a minimum of nine hours of additional services on specialized topics that address the specific needs of the client. The additional services ~~shall~~ must be identified on the client's treatment plan or continued stay review. These services ~~shall~~ must be provided by an individual trained in the specific topic presented.

A ~~medically monitored~~ medically-monitored, intensive inpatient treatment program for ~~adolescents shall~~ adolescent clients must include at least ~~15~~ fifteen hours per week of any combination of individual, group, or family counseling services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:18:06. Reimbursable services. Reimbursable medically-monitored, intensive inpatient treatment program services are limited to face-to-face contacts for the purpose of providing services, pursuant to § 67:61:18:04. Services are reimbursed through a per diem rate and are not eligible to be reimbursed through a ~~15 minute~~ fifteen-minute unit.

Documentation that the client was at the facility at the time of the daily census must be available to support billing.

Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

67:61:18:07. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Billing for a client that exceeds the accredited bed capacity established by the ~~Division~~ department;

(2) Driving ~~Under~~ under the ~~Influence~~ influence and ~~Driving While Intoxicated~~ driving while intoxicated education courses;

(3) Services ~~which~~ that are solely recreational in nature;

(4) Time spent preparing paperwork from client assessments or clinical documentation;

(5) Time spent traveling; and

(6) Community ~~12 step~~ twelve-step programs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 34-20A-27.

Law Implemented: SDCL 34-20A-27~~(1)(4)~~.

ARTICLE 67:62

MENTAL HEALTH

Chapter

CHAPTER 67:62:02

ACCREDITATION

Section

67:62:02:01. Definitions. Terms used in this chapter mean:

(1) "Comprehensive survey," a planned, on-site survey of the center, by a team of representatives from the ~~division~~ department, for the ~~purpose~~ purposes of evaluating compliance with standards for accreditation renewal and assessing the quality of services provided;

(2) ~~"Division director," the individual appointed by the secretary of the Department of Social Services to oversee the activities of the Division of Behavioral Health;~~

~~(3)~~ "Plan of correction," a plan created by ~~the~~ a center to organize the process of making improvements in clinical or administrative practice, in order to address issues that are identified by the ~~division that~~ department and require corrective action~~,~~ or improvement to meet the requirements of this article;

~~(4)~~ (3) "Probation," a status of restricted accreditation of a center that fails to follow the requirements for accreditation;

~~(5)~~ (4) "~~Revoke~~Revocation," the permanent ~~withdrawal~~ withdrawing of a center's accreditation by the ~~division~~ department;

~~(6)~~ (5) "Root cause analysis," a process to identify the fundamental reason for a failure or inefficiency of process that allowed for a mistake, including the occurrence~~,~~ or possible occurrence~~,~~ of a sentinel event, to determine how to change procedures so mistakes are less likely, and then make the change;

~~(7)~~ (6) "Suspension," the temporary ~~withdrawal~~ withdrawing of a center's accreditation by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(5)~~.

Law Implemented: SDCL ~~1-36A-1.6,~~ 27A-3-1, 27A-5-1~~(5)~~.

67:62:02:02. Access by ~~division~~ the department. The ~~division~~ department shall monitor each center for continued compliance with this article, regardless of the term of a center's accreditation certificate. A center is subject to review, without notice, by the ~~division~~ department. ~~The division's rights include~~ ~~complete~~ A center shall provide the department with access to all clients and staff, and to all ~~clients, staff,~~ financial, and administrative program records needed to determine whether the center meets the requirements of SDCL title 27A and this article. The ~~division~~ department may review and copy records in compliance with this article.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:03. Application for accreditation. ~~An agency~~ A center seeking to operate as an accredited community mental health center ~~shall~~ must submit an application for accreditation to the ~~division~~ department. The ~~division~~ department shall make accreditation application forms available upon request. ~~An incomplete application will be returned and will not be considered~~ The department shall return and may not consider an incomplete application submitted by a center.

The ~~division~~ department shall provide the necessary application forms to a center seeking renewal of accreditation at least ~~60~~ sixty days before the expiration of the center's current accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-5-1~~(2)~~.

67:62:02:04. ~~Policies~~ Policy and procedures subject to approval. All center ~~policies,~~ policy and procedures~~, and other~~ must comply with and carry out the requirements of article 67:62 and are subject to the approval of the~~ division~~ department as part of the~~ accredit~~ accreditation process.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL~~ 1-36-25,~~ 27A-5-1.

67:62:02:05. Provisional accreditation and comprehensive survey. The ~~division~~ department may grant provisional accreditation to ~~an agency~~ a center seeking accreditation for the first time or to ~~an agency~~ a center previously accredited to regain accreditation. A provisional accreditation certificate may only be issued upon submission of a completed application and a preliminary comprehensive survey by the ~~division to determine~~ department finding compliance with this article and the requirements of SDCL title 27A.

A provisional accreditation expires after six months and may not be extended, except with the approval of the ~~division~~ department to accommodate ~~division~~ department scheduling delays, not to exceed an additional three months. A follow-up, comprehensive survey ~~on-site review shall~~ must be conducted prior to the expiration of the provisional accreditation, to determine if the requirements of SDCL title 27A and this article have been met ~~at which time the division~~. At that time, the department shall ~~take one of the following actions~~:

(1) Grant a one year accreditation certificate for a new center;

(2) Grant accreditation up to the end date of the original certification for a currently accredited center; or

(3) Deny accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(1)~~, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(1),~~ 27A-5-1.

67:62:02:06. Extension of accreditation period. The ~~division director~~ department may extend the period of accreditation to accommodate ~~division~~ department on-site scheduling delays. ~~The division shall document and maintain the reason for the extension.~~ No extension ~~shall~~ may exceed a period of one year beyond the certificate expiration date.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(1)~~, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(1),~~ 27A-5-1.

67:62:02:07. Renewal of accreditation -- Comprehensive survey. ~~Any~~ Each center currently accredited by the ~~division~~ department shall participate in a comprehensive survey to determine compliance with the requirements of this article and SDCL title 27A prior to the renewal of accreditation. The ~~division~~ department shall notify the center of the date of the comprehensive survey.

The ~~division~~ department shall ~~make a decision regarding compliance~~ determine whether, based on the survey, the center complied with SDCL title 27A and this article, within ~~90~~ ninety days of the ~~on-site review~~ comprehensive survey. The determination must be based on the evaluation of each component of the accreditation application and materials reviewed ~~and either~~. As a result, the department shall:

(1) Issue a three-year accreditation certificate, if a center is in compliance with ~~90~~ ninety percent or more of the requirements and submits a plan of correction that is approved by the ~~division that~~ department and addresses all areas of noncompliance;

(2) Issue a two-year accreditation certificate, if a center is in compliance with ~~70~~ seventy to ~~89~~ eighty-nine percent of the requirements and submits a plan of correction that is approved by the ~~division that~~ department and addresses all areas of noncompliance;

(3) Place a center on probation for ~~not~~ no more than six months, if the center is in compliance with less than ~~70~~ seventy percent of the requirements. If the center successfully completes a plan of correction approved by the ~~division~~ department, addresses all areas of noncompliance, and attains at least ~~70~~ seventy percent compliance, the ~~division shall~~ department must issue a one-year accreditation certificate; or

(4) Deny accreditation, if the center fails to ~~meet~~ substantially comply with the requirements of SDCL title 27A and this article or fails to submit a plan of correction approved by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(1)~~, 27A-5-1.

Law Implemented: SDCL~~ 1-36-25(1),~~ 27A-5-1.

67:62:02:08. Comprehensive survey report -- Plan of correction. The ~~division~~ department shall ~~provide a report to the center,~~ within ~~30~~ thirty days following the ~~on-site~~ comprehensive survey ~~regarding the~~, report its findings ~~of the survey~~ to the center. If a center is not in compliance with ~~the requirements of~~ this article and SDCL title 27A, the ~~division shall~~ department must notify the center of the areas of noncompliance in the accreditation report. ~~The~~ In response to any areas of noncompliance, the center shall submit a plan of correction to the ~~division~~ department, within ~~30~~ thirty days of ~~receipt of~~ receiving the accreditation report. The plan ~~shall~~ must include the action to be taken to correct the areas of noncompliance and the date the action is to be completed. The plan of correction is subject to acceptance or rejection in whole or in part by the ~~division~~ department. The ~~division~~ department shall ~~notify the center,~~ within ~~30~~ thirty days of ~~receipt of~~ receiving the plan of correction, notify the center of the ~~division's~~ department's decision regarding approval or disapproval of the plan of correction and the accreditation status of the center. The ~~division~~ department may conduct a follow-up review of the center to evaluate the corrections made. Failure to submit a plan of correction or failure to have the plan of correction approved by the ~~division~~ department will result in probation, suspension, or revocation of accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(1)~~, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(1),~~ 27A-5-1.

67:62:02:09. Reasons for placing a center on probation. The ~~division~~ department may place ~~the~~ a center on probation if:

(1) The center is in compliance with less than ~~70~~ seventy percent of the requirements of this article and SDCL title 27A;

(2) The center ~~fails~~ failed to complete the plan of correction to address the areas of noncompliance noted by the ~~division within~~ department in the accreditation report;

(3) The center has serious infractions of this article that affect the overall continuity of care or safety of clients;

(4) The center ~~falsifies~~ falsified information provided to the ~~division~~ department for accreditation or funding purposes;

(5) The center ~~participates~~ participated in, ~~condones~~ condoned, or ~~permits~~ permitted illegal acts;

(6) The center ~~is associated with~~ participated in, condoned, or permitted fraud, deceit, or coercion;

(7) The department determined the center fails to comply with licensing and other standards that are required by federal or state laws, rules, or regulations; state and federal confidentiality laws; ~~and~~ or this article, ~~that may result~~ and the noncompliance results in practices that are detrimental to the welfare of a client; or

(8) The center ~~refuses~~ refused to allow the ~~division~~ department access for a comprehensive survey, a complaint review, or any necessary follow-up review.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:10. Probation procedures. If the ~~division~~ department determines ~~that the division has~~ there is sufficient cause to place a center on probation~~, the following shall occur~~:

(1) The ~~division shall~~ department must send the center written notice of probationary status and areas of noncompliance;

(2) The center ~~shall~~ must develop and submit a plan of correction, pursuant to § 67:62:02:08, within ~~30~~ thirty days of receiving the notice of probationary status;

(3) ~~Upon receipt of~~ Within five business days after receiving the plan of correction, the ~~division shall~~ department must notify the center ~~within five business days~~ of the ~~division's~~ department's decision to approve or deny the plan of correction~~; and~~.

~~(4) The division may~~ The department must conduct a site visit, at least once during the probationary period, to monitor the center's progress on the plan of correction ~~items~~.

At the end of the probationary period, the ~~division~~ department shall conduct a comprehensive survey of the center and ~~may~~:

~~(a) Grant~~ grant a one year accreditation certificate ~~if~~, provided the agency has ~~successfully~~ obtained at least ~~70~~ seventy percent compliance during the final comprehensive survey;

~~(b) Suspend~~ suspend the center's accreditation; or

~~(c) Revoke~~ revoke the center’s accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:11. Suspension or revocation procedures. The ~~division~~ department shall provide written notice to the center of the ~~division's~~ department's intent to suspend or revoke the center's accreditation.

The suspension or revocation is effective ~~15~~ fifteen days after receipt of the notice. The notice ~~shall~~ must contain the reason for the ~~division's~~ department's action, ~~the opportunity for~~ describe the process by which the center ~~to~~ may request reconsideration by the ~~division~~ department, and describe the appeal process.

A center's request for reconsideration ~~shall~~ must be in writing and be received by the ~~division~~ department within ~~15~~ fifteen days ~~of receipt of notification~~ from the date the agency received the notice of suspension or revocation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

Cross-Reference: Acceptance of new clients prohibited, § 67:62:02:12.

67:62:02:12. Acceptance of new clients prohibited. A center that has been placed on probation, or whose accreditation has been suspended, is prohibited from accepting new clients until the ~~division~~ department approves the plan of correction.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:13. Delay in meeting requirements. The ~~division~~ department may grant the center a delay in meeting the requirements of this article to avoid undue hardship on the center if the ~~division~~ department determines that allowing a delay would be in the best ~~interests~~ interest of the center's clients.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(5)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(5)~~.

67:62:02:14. Denial of accreditation. If the ~~division~~ department denies the accreditation to ~~the~~ a center, the ~~division shall~~ department must send notice of the denial to the center by certified mail, return receipt requested, within ~~60~~ sixty days of the final review. The notice of denial ~~shall also~~ must inform the center that the denial is effective ~~15~~ fifteen days after receipt of the notice.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(1)~~, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(1),~~ 27A-5-1.

67:62:02:15. Reconsideration of application for accreditation. A center may request that the ~~division~~ department reconsider an application. The request ~~shall~~ must be in writing and sent within ~~15~~ fifteen calendar days after receipt of the denial of accreditation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1.

67:62:02:16. Appeal procedure. A center may appeal to the secretary of the department any denial, revocation, or suspension of ~~certification~~ accreditation, or placement on probation by the ~~division~~ department. An appeal ~~to the department shall~~ under this section must be sent by certified mail within ~~15 calendar~~ fifteen days ~~of~~ after receipt of the notification of the ~~division's~~ department's action and must include a request for a fair hearing pursuant to SDCL chapter 1-26.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1.

Cross-Reference: Fair hearings, chapter 67:17:02.

67:62:02:18. Changes requiring notification. An accredited center shall notify the ~~division director~~ department before~~:~~ a change in the center director, a reduction in services provided by the center, or the impending closure of the center ~~for.~~ Upon receiving a notification under this section, the department must make a determination on the center's continued accreditation.

An accredited center shall give the ~~division 30 days~~ department thirty days' written notice of closure. The center shall provide the ~~division~~ department with written documentation ~~which ensures~~ outlining the manner in which safe storage of financial records will be provided, for at least six years from the date of closure, and safe storage of client case records will be provided, for ~~a minimum of~~ at least six years from the date of closure, as required by 42 C.F.R. § 2.19 ~~(June 9, 1987)~~, in effect on October 1, 1999~~, disposition of records by discontinued programs~~.

The ~~division~~ department may assist in making arrangements for the provision of services ~~for~~ to clients by another accredited ~~agency~~ center, prior to the closing.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:19. Sentinel event notification. Each accredited center shall make a report to the ~~division~~ department within ~~24~~ twenty-four hours of any ~~sentinel event including;~~: death not primarily related to the natural course of the client's illness or underlying condition, permanent harm to a client, or severe temporary harm to a client, and any intervention required to sustain life to a client.

The center shall submit a follow-up report to the ~~division~~ department within ~~72~~ seventy-two hours of ~~any sentinel event and the report shall~~ and must include:

(1) A written description of the event;

(2) The client's name and date of birth; and

(3) Immediate actions taken by the center.

Each center shall develop a root cause analysis ~~policies~~ policy and procedures to utilize in response to ~~sentinel events~~ any event requiring notification.

Each center shall ~~also~~ report to the ~~division~~ department, as soon as possible~~:~~, any fire with structural damage or ~~where~~ in which injury or death occurs~~,~~; any partial or complete evacuation of the ~~facility~~ agency resulting from natural disaster~~, or~~; any loss of utilities, ~~such as~~ including electricity, natural gas, ~~telephone,~~ and phone lines; and any loss of an emergency generator, fire ~~alarm~~ alarms, sprinklers, and other critical equipment necessary for operation of the ~~facility~~ agency for more than ~~24~~ twenty-four hours.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(1)(2)(5)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1.

67:62:02:20. Approval needed for receipt of government funds. ~~No~~ Any funds generated through the provisions of SDCL chapter 27A-5 ~~nor~~, or any federal funds administered pursuant to SDCL chapter 28-1, may only be granted to ~~any~~ an agency ~~that~~ if the agency is ~~not~~ accredited by the department pursuant to this article.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(2)~~.

67:62:02:21. Center application for state or federal assistance. ~~Any~~ A center ~~submitting an application~~ applying for state or federal assistance, to supplement services ~~provided~~ required under ~~a purchase~~ the provisions of a service agreement with the department, shall submit a copy of the application to the department for review. A ~~purchase of~~ service agreement is a ~~contractual agreement~~ contract, between the department and a center, in which the center agrees to provide diagnosis, evaluation, treatment, consultation, and other necessary direct assistance ~~in providing~~ required for comprehensive mental health care.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-5-1~~(2)~~.

CHAPTER 67:62:04

CORE SERVICE RESPONSIBILITIES

Section

67:62:04:01. Required range of services. Community mental health centers shall serve the counties ~~designated~~ assigned to them by the ~~division~~ department, and provide services to clients with acute mental health issues or serious mental health difficulties, including those with co-occurring disorders ~~as defined in subdivision 67:62:01:01(12)~~. A center shall provide services to children, youth, adults, and elderly residents of the ~~catchment~~ area assigned to the center, either directly or by affiliation with another agency. ~~The following services shall be available~~ Each community mental health center must provide:

(1) Emergency services ~~available 24~~, twenty-four hours per day, seven days a week;

(2) Assessment services, to determine the best service match, for a client;

(3) Outpatient services, pursuant to chapter 67:62:10;

(4) Specialized outpatient services for children or youth, pursuant to chapter 67:62:11; and

(5) Specialized outpatient services for adults, pursuant to chapter 67:62:12.

~~Optional services may include room and board, as defined in subdivision 67:62:01:01(33) and IMPACT team pursuant to chapter 67:62:13.~~

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~, 27A-5-7.

Note: Optional services may include room and board, as defined in subdivision 67:62:01:01(30) and individualized and mobile programs of assertive community treatment team pursuant to chapter 67:62:13.

67:62:04:03. Refusal to serve a child with a ~~SED~~ serious emotional disturbance or an adult with a ~~SMI~~ serious mental illness -- Alternate provider. A center shall serve any client who meets ~~SED~~ the serious emotional disturbance or ~~SMI~~ serious mental illness criteria, pursuant to § 67:62:11:01 or 67:62:12:01, and the financial eligibility criteria. If a center refuses services to a client who meets these criteria, ~~the division has the authority to~~ the department may reduce the contract for the center, in order to purchase necessary services from an ~~alternative~~ alternate provider. ~~A center may not refuse services to any child with a SED or an adult with a SMI unless~~

In order for a center to refuse services to any client who meets the above criteria without an impact to the center's contract, a center must:

(1) ~~The center provides~~ Provide written notice of the refusal to the ~~division~~ department, within ~~72~~ seventy-two hours of ~~this~~ the action;

(2) ~~The center offers~~ Offer emergency services to the client, until the client can be relocated to another service area or ~~alternative~~ alternate services are arranged; and

(3) ~~The center arrange~~ Arrange for appropriate mental health services for the client, with another provider.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(3)(4)(5)~~.

67:62:04:04. Center's right to appeal. Within ~~30~~ thirty days of the refusal to serve, the center's director may submit a letter of appeal to the ~~division director~~ department, stating the center's cause for maintaining its contract funds. The ~~division director~~ department shall make a determination and respond to the center within ~~two weeks~~ fourteen days of receiving the letter of appeal.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(4)(5)~~.

CHAPTER 67:62:05

GENERAL MANAGEMENT REQUIREMENTS

Section

67:62:05:01. ~~Policies~~ Policy and procedures manual. Each center ~~shall~~ must have a policy and ~~procedure~~ procedures manual to ~~establish~~ ensure compliance with this article and have procedures for reviewing and updating the manual.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(2)~~.

67:62:05:02. Statistical data. Each center shall submit ~~accurate~~ to the department statistical data on each client receiving services ~~to the division~~, at the time and in ~~a~~ the manner agreed upon by the ~~division~~ department and the center. ~~The~~

Each center shall provide statistical data on all services, in accordance with the state ~~Management Information System (MIS)~~ management information system, and ~~the center shall provide~~ any other data required by the ~~division and state and federal laws and regulations~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL 1-36-25~~(3)~~, 27A-3-1, 27A-5-1~~(2)~~.

67:62:05:05. Accounting system, cost reporting, and annual audit. ~~An accredited~~ Each center shall maintain an accounting system pursuant to generally accepted accounting principles. If requested by the department, ~~the~~ a center ~~shall~~ must submit to the department a copy of an annual entity-wide, independent financial audit. The audit ~~shall~~ must be completed and filed with the department by the end of the fourth month following the end of the fiscal year being audited.

~~Audits shall~~ Each audit must contain, as part of the supplementary information, a cost report, as outlined by the department. If applicable, the audit ~~shall~~ must be conducted in accordance with ~~the Federal Office of Management and Budget (OMB) Circular A-133 by an auditor approved by the Auditor General~~ 2 C.F.R. Part 200 Subpart F, in effect on August 13, 2020.

~~For either~~ In the case of an entity-wide, independent financial audit or ~~an A-133 audit~~ a single audit, the center shall ~~assure~~ ensure the resolution of all interim audit findings. The center shall facilitate and aid any ~~such~~ reviews, examinations, and agreed-upon procedures the department or any contractor may perform.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

~~**Reference:** Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", March 2008. Copies are available at no cost from the following website: https://www.whitehouse.gov/omb/circulars_a133_compliance_08_08toc.~~

Cross-Reference: Single audit, 2 C.F.R. § 200.501(b).

67:62:05:06. Fees for services. ~~Each center's~~ The board of a center shall adopt a schedule of fees for services. ~~Each center shall base~~ The fees must be based on ~~the~~ a client's ability to pay. ~~The~~ A center shall provide its clients, referral resources, the public, and the department with up-to-date fees for services, including the fee per unit of service and any standard fee not included in the unit rate charged by the center.

A center shall ~~make every effort~~ attempt to collect ~~payment~~ from clients payments for services, in accordance with ~~its~~ the adopted fee schedule. ~~The center shall make every effort~~ A center shall attempt to collect ~~reimbursement for costs of services for all clients,~~ from ~~other~~ third-party sources~~.~~

~~The center shall provide its clients, referral resources, the public, and the division with up-to-date fees for services. The information shall include the fee per unit of service and any standard fees not included in the unit rate charged by the center~~ reimbursement for the cost of services provided to a client.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:62:05:07. Client orientation. ~~The agency~~ Each center shall ~~develop policies~~ establish a policy and procedures to ensure that a new client is provided with orientation to the program ~~is provided to a new client~~, at or before the time of admission, or as soon thereafter as possible. The orientation ~~shall include~~ must provide:

(1) ~~The~~ A description of the center's purpose and ~~a description of~~ the treatment process;

(2) ~~All~~ A review of relevant center policies;

(3) The hours during which services are available;

(4) The fees for services and the responsibility for payment for those fees; and

(5) ~~The~~ Information regarding the right to confidentiality, in accordance with ~~the confidentiality of records requirements of the Substance Abuse and Mental Health Services Administration,~~ 42 U.S.C. §§ 290-dd-2 ~~(January 7, 2011), the confidentiality of alcohol and drug abuse patient records~~, in effect on March 27, 2020; 42 C.F.R. Part 2 ~~(June 9, 1987)~~, in effect on January 18, 2017; and ~~the security and privacy of HIPAA~~, 45 C.F.R. ~~Part~~ Parts 160 and 164 ~~(~~, in effect on September 26, 2016~~)~~; and

(6) The rights of the client while receiving services, in accordance with §§ 67:62:07:01 and 67:62:07:02.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL ~~34-20A-27~~ 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~34-20A-27(3)(4)(6)~~ 27A-5-1.

67:62:05:08. Participation in state plan. Each center shall participate in the state's comprehensive mental health service plan and submit information to the ~~division~~ department, as required.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1~~(2)~~.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:62:06:03. Requirements for staff providing direct services and supports to clients. ~~Staff, hired after December 31, 2010, providing~~ Qualifications to provide direct mental health services and supports to clients~~, shall have one of the following qualifications~~ are as follows:

(1) ~~At least an associate's degree in the social sciences or human services field to~~ A staff member who has at least a high school diploma or a high school equivalency may, if supervised by a clinical supervisor, provide:

(a) Intake services;

(b) Case management;

(c) Family education and support;

(d) Liaison services;

(e) Direct assistance;

(f) Psychosocial rehabilitative services; and

(g) Recovery support services;

(2) ~~At~~ A staff member who has at least a master's degree in psychology, social work, counseling, or nursing; a staff member who has a social work license, as defined in SDCL 36-26-15; or a staff member who holds a bachelor's degree in a human services field and has two years of related experience ~~to~~ may provide ~~any of the services~~:

(a) Any service listed in subdivision (1) ~~or any~~; and

(b) Any other mental health ~~services~~ service;

(3) A ~~licensed~~ physician ~~or psychiatrist, or~~, a resident operating within guidelines established by the Board of Medical and Osteopathic Examiners ~~guidelines, or~~, a licensed physician assistant, or licensed certified nurse practitioner practicing within ~~his or her~~ the individual's scope of practice, ~~to~~ may provide psychiatric services; ~~or~~ and

(4) A registered nurse or a licensed practical nurse ~~to~~ may provide psychiatric nursing services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL 1-36-25~~(5)~~, 27A-3-1, 27A-5-1~~(1)~~.

67:62:06:07. Organizational chart. Each center shall have ~~an up-to-date~~ a current organizational chart ~~indicating~~ that indicates lines of authority from the board of directors and lines of authority for all job classifications. The organizational chart ~~shall~~ must be made available to all staff members, the board of directors, and the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(5)~~.

67:62:06:08. Workforce development and training. ~~The~~ Each center shall provide for ongoing training and consultation to enable staff and supervisors to carry out their responsibilities effectively.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(1)(2)(3)~~.

67:62:07:01. Clients' rights. A center shall ensure that ~~clients'~~ the rights of a client are fully protected. ~~The~~ A center shall give each client, the client's parent if the client is under ~~18 years of age~~ the age of eighteen, or the client's guardian or advocate, if any, a copy of the ~~clients'~~ client's rights and responsibilities in writing, or in an accessible format, during the intake process and shall discuss the rights and responsibilities with the client or the client's parent, guardian, or advocate.

~~The clients'~~ Each center shall post the rights and responsibilities ~~statement shall be posted~~ of a client in a place accessible to clients. Copies ~~shall also~~ must be available in locations where clients can access them, without making a request to center staff. ~~In addition, the~~

Each center shall make a copy of the ~~clients'~~ rights and responsibilities ~~statements~~ available to the ~~division~~ department. ~~A~~

Each center shall provide services ~~to each client~~ in a manner that is responsive to ~~the~~ a client's ~~need in the areas of~~ needs, considering the client's age, gender, social support, cultural orientation, psychological characteristics, sexual orientation, physical situation, and spiritual beliefs.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

67:62:07:02. Guaranteed rights. A client has rights guaranteed under the constitution and laws of the United States and ~~the~~ this state ~~of South Dakota,~~ including:

(1) The right to refuse ~~extraordinary~~ prohibited treatment, as provided in SDCL 27A-12-3.22;

(2) The right to be free of any exploitation or abuse;

(3) The right to seek and have access to legal counsel;

(4) ~~To~~ The right to have access to an advocate ~~as defined in subdivision 67:62:01(2)~~ or an employee of the state's designated protection and advocacy system;

(5) ~~The~~ Information regarding the right to confidentiality of all records, correspondence, and information relating to assessment, diagnosis, and treatment, pursuant to SDCL 27A-12-26 and ~~the security and privacy of HIPAA,~~ 45 C.F.R.~~,~~ Parts 160 and 164 ~~(~~, in effect on September 26, 2016~~)~~; and

(6) The right to participate in ~~decision making,~~ decision-making related to treatment, to the greatest extent possible.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~, 27A-12-3.22, 27A-12-26.

67:62:07:03. Policy on abuse, neglect, and exploitation. Each center shall establish a policy ~~which prohibits~~ to prohibit abuse, neglect, and exploitation of a client. The policy ~~shall~~ must contain:

(1) Definitions of abuse, neglect, and exploitation, pursuant to SDCL 22-46-1;

(2) A requirement to report to the ~~division~~ department any incidents of abuse, neglect, or exploitation;

(3) A requirement to report to the department, pursuant to SDCL 26-8A-3 and 26-8A-8;

(4) A procedure for disciplinary action to be taken, if staff engages in abusive, neglectful, or exploitative behavior;

(5) A ~~procedure~~ requirement to make immediate efforts to inform the guardian, or the parent if the client is under ~~18 years of age~~ the age of eighteen, of ~~the~~ an alleged incident or an allegation of abuse, neglect, or exploitation; and

(6) ~~Upon substantiation of the incident, a~~ A requirement to document the actions to be implemented, upon substantiation of an alleged incident or an allegation of abuse, neglect, or exploitation, to reduce the likelihood of, or ~~prevention of, repeated~~ to prevent future incidents of, abuse, neglect, or exploitation.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(1)(2)(4)(5)~~.

Cross-References:

Persons required to report child abuse or neglected child -- Intentional failure as

misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

67:62:07:04. Grievance procedures. Each center shall ~~have written grievance policies~~ establish a policy and procedures for ~~hearing~~ receiving, considering, and responding to client grievances.

The center shall ~~inform~~ provide, to the client~~,~~ and the client's parent or guardian~~, in writing or in an accessible format,~~ if the client is under the age of eighteen, a copy of the ~~grievance~~ policy and procedures, in writing or in an accessible format, during ~~the~~ intake ~~process~~ services. Verification by the client of receipt of the ~~grievance procedure shall~~ policy and procedures must be placed in the client's ~~file~~ clinical record. The grievance ~~procedure shall~~ policy and procedures must be ~~posted in a place accessible to~~ available in locations where it can be accessed by a client ~~and a copy shall be available in locations where a client can access them,~~ without making a request to center staff. The ~~grievance procedure shall~~ policy and procedures must be available to former clients, upon request.

The ~~procedure shall~~ policy and procedures must include the ability to appeal the center's decision regarding ineligibility or the termination of services to the ~~division~~ department, as provided in § 67:62:07:05, and ~~shall~~ must include the telephone number and address of the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

67:62:07:05. Appeal of ineligibility or termination of services. A client, a client's parent ~~if~~ in the case of a client ~~is~~ under ~~18 years of age~~ the age of eighteen, or a client's guardian, may appeal to the ~~division~~ department the center's decision regarding the ineligibility or termination of services. An appeal ~~shall~~ must be made in writing, to the ~~division~~ department, within ~~30~~ thirty days of ~~receipt of~~ receiving the notice regarding ineligibility or termination of services. The ~~division~~ department shall provide a determination within ~~30~~ thirty days of receipt of a request for appeal. If the client or the client's parent or guardian is dissatisfied with the ~~division's~~ department's decision regarding ineligibility or termination of services, the client ~~or~~, the client's parent, or the client's guardian may request a fair hearing by notifying the department, in writing, within ~~30~~ thirty days of ~~receipt of~~ receiving the ~~division's~~ department's decision.

~~When~~ While a termination is being appealed, the ~~client~~ center shall continue to ~~receive~~ provide services ~~from the center~~ to the client, until a decision is reached, after a hearing pursuant to SDCL chapter 1-26.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

67:62:07:06. Time and place of hearing. A fair hearing, by an impartial hearing officer, ~~shall~~ must be held within ~~90~~ ninety days after ~~receipt for~~ receiving a request by the client, ~~or~~ the client's parent in the case of a client under the age of eighteen, or the client's guardian, if applicable. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. Time extensions may be provided by the impartial hearing officer upon order of the hearing officer or at the request of any of the parties involved ~~and upon agreement of both parties to a specific extension of time~~ if there is no objection to a time extension from any other party involved.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-5-1~~(4)~~.

67:62:08:01. Client identification data. ~~The~~ Each center shall establish a policy and ~~procedure~~ procedures to collect and record client identification data, at the time of admission or as soon after admission as possible, and on an annual basis thereafter. Client identification data ~~shall~~ must be kept in the clinical record ~~and includes~~. Client identification data is ~~the following information~~:

(1) Name, street address, and telephone number of the client;

(2) Date of birth, gender, and race or ethnic origin of the client;

(3) ~~Client's unique~~ Unique identification number of the client;

(4) Referral source;

(5) Service start date;

(6) Outcome measures;

(7) Data for the state management information system; and

(8) Any other client information ~~as~~ required by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:62:08:02. Client review of case records. ~~A~~ Each center shall ~~have~~ establish a written ~~policies~~ policy and procedures to govern a client's access to the client's case records. The ~~policies~~ policy and procedures ~~shall~~ must specify any conditions or restrictions on client access and ~~shall~~ must be available to the client, upon request.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:62:08:03. Closure and storage of case records. The ~~agency~~ center shall ~~have written policies~~ establish a policy and procedures to ensure the closure and storage of case records ~~at~~ upon the completion or termination of a treatment program ~~including~~. The policy and procedures must:

(1) ~~The identification of staff positions or titles~~ Identify, by position or title, the staff members who are responsible for the closure of case records within the agency and the ~~MIS~~ management information system;

(2) ~~Procedures~~ Provide for the closure of case records ~~for inactive clients, that are~~ belonging to clients who have had no contact, by phone or by person, with the agency for a time period ~~of~~ no longer than six months; and

(3) ~~Procedures~~ Provide for the safe storage of ~~client~~ case records for at least six years from the closure.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)~~.

67:62:08:04. Admission of returning clients. The ~~agency~~ center shall ~~have written policies~~ establish a policy and procedures to promote the continuity of care ~~to facilitate the re-admission of clients~~ for a client who is readmitted. ~~This shall include procedures for completing~~ The procedures must show staff how to complete a new agency case record and new admission record in the ~~MIS~~ management information system ~~for clients who re-enter services~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(4)~~.

67:62:08:05. Integrated assessment. A mental health staff member shall meet with the client and, if appropriate, the client's family ~~if appropriate~~, to complete an integrated assessment, within ~~30~~ thirty days of the first day the intake process begins. The integrated assessment ~~includes~~ must include both functional and diagnostic components. For ~~children~~ a client under ~~18 year of age~~ the age of eighteen, the mental health ~~shall~~ must obtain permission from the parent or guardian to meet with the child, and at least one parent or guardian ~~shall~~ must participate in the assessment. The assessment ~~includes the following components~~ must contain:

(1) Strengths of the client and the client's family, if appropriate, as well as previous periods of success ~~and~~, the strengths that contributed to that success~~. Identification~~, and the identification of potential resources within the family, if applicable;

(2) Presenting problems or issues that indicate a need for mental health services;

(3) Identification of readiness for change ~~for~~ regarding problem areas, including motivation and supports for making such changes;

(4) Current substance use and relevant treatment history~~, including attention to~~ of any previous mental health and substance use disorder or gambling treatment, and periods of success, psychiatric hospital admissions, psychotropic and other medications, relapse history or potential for relapse, physical illness, and hospitalization;

(5) Relevant family history, including family relationship dynamics and family psychiatric and substance abuse history;

(6) Family and relationship issues, along with social needs;

(7) Educational history and needs;

(8) Legal issues;

(9) Living environment or housing;

(10) Safety needs and risks with ~~regards~~ regard to physical acting out, health conditions, acute intoxication, or ~~risk of~~ withdrawal;

(11) Past or current indications of trauma or domestic violence ~~or both if applicable~~;

(12) Vocational and financial history and needs;

(13) Behavioral observations or mental status~~, for example, a description of whether affect and mood are congruent or whether any hallucinations or delusions are present~~;

(14) Formulation of a diagnosis, including documentation of co-occurring medical, developmental disability, mental health, substance use disorder, or gambling issues, or a combination of these based on integrated screening;

(15) Eligibility determination for ~~SMI~~ mental health services based on a serious mental illness or ~~SED for mental health services or~~ serious emotional disturbance, and a level of care determination for substance use services, or both ~~if applicable~~;

(16) Clinician's signature~~,~~ and credentials, and the date; and

(17) Clinical supervisor's signature~~,~~ and credentials, and the date ~~verifying~~, to verify review of the assessment and if there is agreement with ~~the~~:

(a) The initial diagnosis; or ~~the~~

(b) The formulation of the initial diagnosis ~~in cases where~~, if the staff member conducting the integrated assessment does not have the education or training to make a diagnosis.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)(5)~~.

67:62:08:06. On-going assessment. ~~On-going~~ The center shall maintain and document an on-going assessment and ~~identifications of~~ identify any changes in the client's needs and strengths ~~shall occur~~ throughout treatment ~~and shall~~. The on-going assessment must be documented in the client's progress notes or ~~other clinical documentation~~ case record.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:08:07. Treatment plan. The initial treatment plan ~~shall~~ must be completed within ~~30~~ thirty days of the first day the intake process begins and ~~shall~~ must include the mental health staff's signature~~,~~ and credentials, ~~and~~ the date of the signature, and the clinical supervisor's signature and credentials, if the mental health staff member does not meet the criteria of a clinical supervisor, as defined in ~~subdivision~~ § 67:62:01:01~~(8)~~. Evidence of the client's or the client's parent or guardian's participation and meaningful involvement in formulating the plan ~~shall~~ must be documented in the ~~file~~ client's clinical record. ~~This may include their signature on the plan or other methods of documentation.~~

The treatment plan ~~shall~~ must:

(1) Contain ~~either~~ goals or objectives~~, or both, that~~ which are individualized, clear, specific, and measurable ~~in the sense~~, so that both the client and the mental health staff can ~~tell~~ determine when progress has been made;

(2) ~~Include treatment for~~ Address multiple client needs, if applicable, ~~such as co-occurring disorders~~ that are relevant to the client's mental health treatment;

(3) Include interventions that match the client's readiness for change ~~for~~ with respect to identified issues; and

(4) Be understandable by the client and the client's ~~family~~ parent or guardian, if applicable.

A copy of the treatment plan ~~shall~~ must be provided to the client, and to the client's parent or guardian, if applicable.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(2)(3)(4)(5)~~.

67:62:08:08. Treatment plan review -- Six month review. ~~Treatment plans shall be reviewed in at least~~ A mental health staff member shall review the treatment plan at least once every six ~~month intervals~~ months and ~~updated~~ update, if needed. ~~Treatment~~ The treatment plan ~~reviews shall~~ review must include ~~a written review~~ documentation of any progress made toward treatment goals or objectives, significant changes to the treatment goals or objectives, and a justification for ~~the continued need for~~ a continuation of mental health services. Treatment plan reviews may be documented in the progress notes or ~~other clinical documentation; however, any changes~~ case record. Changes in the client's treatment plan goals or objectives ~~shall~~ must be documented in the treatment plan. Treatment plan reviews ~~shall~~ must include the mental health staff's signature~~,~~ and credentials, and the date.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:08:09. Supervisory reviews. Staff meeting clinical supervisory criteria as defined in ~~subdivision~~ § 67:62:01:01~~(8)~~, shall annually conduct at least one of the client's treatment plan ~~review at least annually~~ reviews. This review ~~shall~~ must include documentation of:

(1) Progress made toward treatment goals or objectives;

(2) Significant changes to the treatment goals or objectives;

(3) Justification for the ~~continued need for~~ continuation of mental health services; and

(4) Assessment of the need for additional services or changes in services, if applicable.

This review qualifies as a six month review, pursuant to § 67:62:08:08. The annual supervisory review ~~shall~~ must include the clinical supervisor's signature~~,~~ and credentials, and the date.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(1)(2)(5)~~.

67:62:08:10. Crisis intervention plans. Crisis intervention planning ~~shall~~ must be provided to any client who has safety issues or risks, or has frequent crisis situations or recurrent hospitalizations. Crisis intervention planning ~~shall~~ must be offered to any client who may need ~~such planning~~ assistance to prevent ~~the following~~:

(1) Hospitalization;

(2) Out of home placement;

(3) Homelessness;

(4) ~~Danger~~ Becoming a danger to ~~self~~ oneself or others; or

(5) Involvement with the criminal justice system.

Crisis intervention plans ~~shall~~ must be developed in partnership with the client, if possible, in partnership with the client's parent, if the client is under ~~18 years of age~~ the age of eighteen, or in partnership with the client's guardian, if any~~, and include~~. Crisis intervention plans must include interventions specific to the client, and address issues relative to ~~cooccurring~~ co-occurring disorders.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(4),~~ 27A-3-1, 27A-5-1~~(3)(5)~~.

67:62:08:11. Transition planning. Transition planning ~~shall~~ must be provided to clients moving to a different service, leaving services, or for youth nearing adulthood. Goals related to transition planning ~~shall~~ must be included in the clinical documentation, either as part of the treatment plan or as a separate transition plan.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:08:12. Progress notes. ~~Progress~~ A mental health staff member must record progress notes ~~shall be included~~ in the client's ~~file~~ case record ~~and shall~~ that substantiate all services provided. ~~Individual progress notes shall~~ A mental health staff member must document the counseling sessions with the client, summarize significant events occurring, and reflect goals and problems relevant during the session, and any progress in achieving those goals and addressing the problems in the progress notes. ~~Progress notes shall~~ A mental health staff member must also include attention to any co-occurring disorder as ~~they relate~~ it relates to the client's mental disorder in the progress notes.

A progress note ~~shall~~ must be included in the ~~file~~ client's clinical record for each billable service provided. Progress notes ~~shall~~ must include the following for the services to be billed:

(1) Information identifying the client receiving services, including the client's name and unique identification number;

(2) The date, location, time met, the units of service of the ~~counseling~~ session, and the duration of the session;

(3) The service activity code or the title describing the service code ~~or both~~;

(4) A brief assessment of the client's functioning;

(5) A description of what occurred during the session, including the specific action taken or plan developed to address unresolved issues ~~to achieve identified~~ for the purpose of achieving treatment goals or objectives;

(6) A brief description of what the client and the provider plan to work on during the next session ~~, including~~ and work that may occur between sessions, if applicable; and

(7) The signature and credentials of the staff providing the service.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:08:13. Group therapy progress notes. One progress note ~~can~~ may be ~~used~~ recorded for each group therapy session, if the note includes specific information for each client participating in the group. Group progress notes ~~shall include~~ must contain:

(1) Information identifying ~~the~~ each client receiving services, including the client's name and unique identification number;

(2) The date, location, time met, the units of service of the counseling session, and the duration of the session;

(3) The service activity code or the title describing the service code ~~or both~~;

(4) A brief assessment of ~~the~~ each client's functioning;

(5) A description of what occurred during the session, including the specific action taken or plan developed to address unresolved issues ~~to achieve identified~~ for the purpose of achieving treatment goals or objectives for each client;

(6) A brief description of what ~~the~~ each client and the provider plan to work on during the next session~~, including~~ and any work that may occur between sessions, if applicable; and

(7) The signature and credentials of the staff providing the service.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:08:14. Transfer or discharge summary. A transfer or discharge summary ~~shall~~ must be completed ~~upon~~ within five working days after termination or discontinuation of services ~~within five working days~~. A transfer or discharge summary of the client's problems, course of treatment, and progress toward planned goals and objectives identified in the treatment plan ~~shall~~ must be maintained in the client case record. A ~~process shall~~ policy and procedures must be in place to ensure that the transfer or discharge is completed in the ~~MIS~~ management information system.

If a client prematurely discontinues services, reasonable attempts ~~shall~~ must be made ~~and~~ by the center to re-engage the client into services, if appropriate. The attempts made must be documented ~~by the center to re-engage the client into services if appropriate~~ in the client's clinical record.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(2)(5)~~.

67:62:09:01. Safety and sanitation plan. For each setting in which the center provides services, there ~~shall~~ must be a health, safety, sanitation, and disaster plan that ensures the health and safety of the individuals served. The plan ~~shall include~~ must provide procedures for:

(1) ~~Specific procedures for responding~~ Responding to a medical emergency;

(2) ~~Procedures for responding~~ Responding to fire and natural disasters, including evacuation plans~~, training, and regularly scheduled fire drills~~;

(3) Training and regularly scheduled drills for fire and natural disasters;

~~(3)~~(4) ~~Procedures for responding~~ Responding to communicable diseases; and

~~(4)~~(5) ~~Procedures to ensure~~ Ensuring sanitation of all settings in which services are provided.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(2),~~ 27A-3-1, 27A-5-1~~(5)~~.

67:62:09:02. Life safety codes. Each building ~~that~~ the center owns, rents, or leases ~~shall~~ must comply with applicable fire safety standards, as set forth in the ~~2000~~ 2012 edition of the NFPA 101 Life Safety Code. An automatic sprinkler system is not required in an existing facility, unless significant ~~renovations~~ renovation or remodeling occurs~~; however, any~~. An existing automatic sprinkler system ~~shall~~ must remain in service.

New construction, renovations, additions, and changes of space ~~shall~~ must comply with NFPA 101 Life Safety Code, 2012 edition. Each facility ~~shall also~~ must comply with the building construction standards of the International Building Code, 2012 edition.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(2),~~ 27A-3-1, 27A-5-1~~(5)~~.

Reference: NFPA 101 Life Safety Code, ~~2000~~ 2012, National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, ~~P.O. Box 9101~~ 1 Batterymarch Park, Quincy, MA ~~02269-9904~~ 02169-7471; https://catalog.nfpa.org/NFPA-101-Life-Safety-Code-P1220.aspx; Phone: 1-800-344-3555. Cost $~~93.00~~171.00;

International Building Code, 2012 edition. Copies may be obtained from International Conference of Building Officials, Phone 1-800-786-4452. Order@iccsafe.org Cost: $89.00.

67:62:10:01. Eligibility criteria. Individuals are eligible for outpatient clinic services if they have a mental disorder, with the exception of ~~substance~~;

(1) Substance-related and addictive disorders ~~as well as developmental~~; and

(2) Developmental disabilities~~, which are excluded,~~ unless they co-occur with another diagnosable mental disorder.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~.

67:62:10:02. Services provided. ~~The~~ Each center shall make the following outpatient services ~~shall be provided by the center~~ available to clients:

(1) Integrated assessment, evaluation, and screening;

(2) Individual therapy;

(3) Group therapy;

(4) Family therapy;

(5) Psychiatric services, with the primary purpose of prescribing, or reviewing a client's use of, pharmaceuticals, including psychiatric assessments, treatment, and prescription of pharmacotherapy; and

(6) Collateral contacts.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~.

67:62:10:04. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Vocational counseling and vocational training ~~at~~ in a classroom or at a job site;

(2) Academic educational services;

(3) Services that are solely recreational in nature;

(4) Services provided to clients who are in psychiatric residential treatment facilities or institutions for mental disease;

(5) Services provided to clients who are in detoxification centers~~.~~;

(6) Services provided to clients who are incarcerated in a correctional facility;

(7) Services provided to clients who are in juvenile detention facilities; and

(8) Transportation services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)~~.

CHAPTER 67:62:11

CHILD OR YOUTH AND FAMILY ~~(CYF)~~ SERVICES

Section

67:62:11:01. Eligibility criteria. To be eligible for services under § 67:62:11:02, the clinical record ~~shall~~ must contain documentation that indicates:

(1) At least one child in the family under the age ~~18~~ of eighteen meets the criteria of ~~SED~~ serious emotional disturbance, as ~~defined~~ provided in SDCL 27A-15-1.1; or

(2) At least one youth ~~18 through 21~~ who is eighteen years of age or older, but less than twenty-one years of age ~~who~~, needs a continuation of services started before the age of ~~18~~ eighteen, in order to realize specific goals, or assist in the transition to adult services, and meets the criteria of ~~SED~~ serious emotional disturbance, ~~defined~~ provided in SDCL subdivisions 27A-15-1.1(2)(3)(4) and (5).

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)~~.

67:62:11:02. Services provided. Services ~~should~~ may be provided in a location preferred by the child or youth and the child or youth's parent or guardian, including settings outside of the center.

Services ~~should~~ may be provided within an integrated system of care. The parents or guardian and family, of the child or youth with ~~SED should~~ serious emotional disturbance, may be full participants in the planning, delivery, and evaluation of services.

Services ~~shall~~ must be provided according to the individualized needs and strengths of the child or youth and the child or youth's family or guardian, and ~~shall~~ must be responsive to cultural differences and special needs of the child, youth, or family. The following ~~CYF~~ child or youth and family services ~~shall~~ must be provided by the center according to the individualized needs of each child or youth:

(1) Integrated assessment, evaluation, and screening;

(2) Case management;

(3) Individual therapy;

(4) Group therapy;

(5) Parent or guardian group therapy;

(6) Family education, support, and therapy;

(7) Crisis assessment and intervention services ~~available 24 hours~~, with twenty-four hour per day~~,~~ and seven ~~days~~ day per week availability;

(8) Psychiatric services with the primary purpose of prescribing, or reviewing a client's use of, pharmaceuticals, including psychiatric assessments, treatment, and prescription of pharmacotherapy;

(9) Psychiatric nursing services, including components of physical assessment, medication assessment and monitoring, and medication administration for clients unable to

self-administer their medications;

(10) Collateral contacts; and

(11) Liaison services, to facilitate treatment planning and coordination of services between mental health and other entities.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25(4),~~ 27A-3-1, 27A-5-1~~(3)~~.

67:62:11:04. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Vocational counseling and vocational training ~~at~~ in a classroom or at a job site;

(2) Academic educational services;

(3) Services that are solely recreational in nature;

(4) Services for a client, other than an eligible child or youth with ~~SED~~ serious emotional disturbance and the child or youth's family;

(5) Services provided to clients who are in psychiatric residential treatment facilities;

(6) Services provided to clients who are in inpatient psychiatric hospitals;

(7) Services provided to clients who are in detoxification centers;

(8) Services provided to clients who are incarcerated in a correctional facility;

(9) Services provided to clients who are in juvenile detention facilities; and

(10) Transportation services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)~~.

CHAPTER 67:62:12

COMPREHENSIVE ASSISTANCE WITH RECOVERY AND EMPOWERMENT ~~(CARE)~~

Section

67:62:12:01. Eligibility criteria. To be eligible for ~~CARE~~ comprehensive assistance with recovery and empowerment services ~~the~~, a client ~~shall~~ must be ~~18~~ at least eighteen years of age ~~or older~~ and ~~shall meet the following SMI criteria~~:

(1) The client ~~shall meet at least~~ must have one of the following:

(a) ~~The client has undergone~~ Undergone psychiatric treatment more intensive ~~then~~ than outpatient care and more than once in ~~a~~ the client's lifetime~~, such as, emergency services, alternative residential living, or inpatient psychiatric hospitalization~~;

(b) ~~The client has experienced~~ Experienced a single episode of psychiatric hospitalization with a diagnosis of a major mental disorder;

(c) ~~The client has been~~ Been treated with psychotropic medication for at least one year; or

(d) ~~The client has~~ Had frequent crisis contact with a community mental health center, or another mental health provider, for more than six months as a result of a mental illness; and

(2) ~~The client shall meet at least~~ Meet three of the following ~~criteria~~:

(a) The client ~~is~~ must be unemployed or ~~has~~ have markedly limited job skills or poor work history;

(b) The client ~~exhibits~~ must exhibit inappropriate social behavior that results in concern by the community or requests for mental health or legal intervention;

(c) The client ~~is~~ must be unable to obtain public services without assistance;

(d) The client ~~requires~~ must require public financial assistance for out-of-hospital maintenance ~~or has~~, must have difficulty budgeting public financial assistance, or ~~requires~~ must require ongoing training in budgeting skills or ~~needs~~ require a payee;

(e) The client ~~lacks~~ must lack social support systems in a natural environment,

~~such as close friends and family, or the client lives~~ live alone, or ~~is~~ be isolated; or

(f) The client ~~is~~ must be unable to perform basic daily living skills without assistance.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~.

67:62:12:02. Services provided. Services ~~should~~ may be provided in a location preferred by the client, including settings outside of the center.

Services ~~should~~ may be provided within an integrated system of care. Services ~~shall~~ must be provided according to the individualized needs and strengths of the client and ~~shall~~ must be responsive to cultural differences and special needs of the client. The following ~~CARE~~ comprehensive assistance with recovery and empowerment services ~~shall~~ must be provided by the center according to the individualized needs of the client:

(1) Integrated assessment, evaluation, and screening;

(2) Crisis assessment and intervention services ~~available 24 hours~~, with twenty-four hour per day~~,~~ and seven ~~days~~ day per week availability;

(3) Case management services;

(4) Psychiatric services, with the primary purpose of prescribing or reviewing a client's use of pharmaceuticals, including psychiatric assessments, treatment, and prescription of pharmacotherapy;

(5) Psychiatric nursing services, including components of physical assessment, medication assessment and monitoring, and medication administration;

(6) Symptom assessment and management, including medication monitoring and education;

(7) Individual therapy or counseling;

(8) Group therapy;

(9) Recovery support services;

(10) Direct assistance to ensure ongoing opportunities for the client to obtain the basic necessities of daily life and perform basic daily living activities;

(11) Psychosocial rehabilitation services provided on an individual or group basis, to

assist the client ~~to gain or relearn~~ with gaining or relearning self-care, interpersonal, and community living skills needed to live independently, sustain psychiatric stability, and progress towards recovery;

(12) Liaison services, to facilitate treatment planning and coordination of services between mental health and other entities;

(13) Encouragement for the active participation of family and a supportive social network; and

(14) Collateral contacts.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-5-1~~(3)~~.

67:62:12:04. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Vocational counseling and vocational training ~~at~~ in a classroom or at a job site;

(2) Academic educational services;

(3) Services that are solely recreational in nature;

(4) Services ~~with~~ for individuals other than eligible clients;

(5) Services delivered by telephone or through other non-face-to-face contact;

(6) Services provided in an institution for mental disease;

(7) Services provided to clients who are in detoxification centers;

(8) Services provided to clients who are incarcerated in ~~a~~ correctional ~~facility~~ facilities; and

(9) Transportation services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)~~.

CHAPTER 67:62:13

~~COMMUNITY SUPPORT SERVICES PROGRAM --~~ INDIVIDUALIZED MOBILE PROGRAMS OF ASSERTIVE COMMUNITY TREATMENT ~~(IMPACT)~~

Section

67:62:13:01. Eligibility criteria. To be eligible for ~~IMPACT~~ individualized and mobile program of assertive community treatment (IMPACT) services ~~the~~, a client ~~shall~~ must be ~~18~~ eighteen years of age or older ~~and~~, meet the ~~SMI~~ serious mental illness criteria pursuant to § 67:62:12:01, and the following:

(1) The client ~~has~~ must have a medical necessity to receive IMPACT services, as determined by a clinical supervisor;

(2) The client ~~is~~ must be approved by the ~~division~~ department to receive IMPACT services;

(3) The client ~~understands~~ must understand the IMPACT model and voluntarily ~~consents~~ consent to receive IMPACT services or, ~~is~~ must be under a transfer of commitment from ~~HSC~~ the Human Services Center;

(4) No other appropriate community-based mental health service is available for the client; and

(5) The client ~~meets at least~~ must meet four of the following ~~criteria~~:

(a) ~~Has~~ Have persistent or recurrent difficulty performing daily living tasks, except with significant support or assistance from ~~others such as~~ friends, family, relatives, ~~or~~ community mental health providers, or others;

(b) ~~Has~~ Have frequent psychiatric inpatient hospitalizations within the past year;

(c) ~~Has~~ Have constant or cyclical turmoil with family, social, or legal systems or inability to integrate successfully into the community;

(d) ~~Is residing~~ Reside in an inpatient facility, jail, prison, or residential facility and be clinically assessed ~~to be~~ as able to live in a more independent living situation, if intensive services are provided;

(e) ~~Has~~ Have an imminent threat of losing housing or becoming homeless; or

(f) ~~Is~~ Be likely to need residential or institutional placement if more intensive community-based services are not provided.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~.

67:62:13:02. Services provided by ~~the~~ a center. ~~Services should be provided~~ A center may provide services in a location preferred by ~~the~~ a client, including settings outside the center.

~~Services should be provided~~ A center may provide services within an integrated system of care. ~~Services should be provided~~ A center must provide services according to the individualized needs and strengths of the client and ~~shall~~ must be responsive to cultural differences and special needs of the client. The following ~~IMPACT~~ individualized and mobile program of assertive community treatment (IMPACT) services ~~shall~~ must be provided according to the individualized needs of the client;

(1) Integrated assessment, evaluation, and screening;

(2) Crisis assessment and intervention services ~~available 24 hours~~, with twenty-four hour per day~~,~~ and seven ~~days~~ day per week availability;

(3) Case management;

(4) Psychiatric services, with the primary purpose of prescribing or reviewing a client's use of pharmaceuticals, including psychiatric assessments, treatment, and prescription of pharmacotherapy;

(5) Psychiatric nursing services, including components of physical assessment, medication assessment and monitoring, and medication administration;

(6) Symptom assessment and management, including medication monitoring and education;

(7) Individual therapy or counseling;

(8) Group therapy;

(9) Recovery support services;

(10) Direct assistance to ensure ongoing opportunities for the client to obtain the basic

necessities of daily life and perform basic daily living activities;

(11) Psychosocial rehabilitative services provided on an individual or group basis, to assist the client ~~to gain or relearn~~ with gaining or relearning self-care, interpersonal, and community living skills needed to live independently, sustain psychiatric stability, and towards recovery;

(12) Liaison services, to facilitate treatment planning and coordination of services between mental health and other entities;

(13) Encouragement for the active participation of family and a supportive social network; and

(14) Collateral contacts.

For IMPACT services ~~may not exceed a ratio of~~, there must be at least one primary therapist for every ~~12~~ twelve clients served. A center ~~shall~~ must provide clients with an annual average of ~~16~~ sixteen contacts per month with IMPACT staff and more ~~often~~, if clinically appropriate.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(1)(3)~~.

67:62:13:03. Requirement for designation and duties of primary provider. A primary provider ~~shall~~ must be designated for each client in the ~~IMPACT~~ individualized and mobile program of assertive community treatment (IMPACT) program. The designation ~~shall~~ must be made by the clinical supervisor, be in writing, and be included in the client's ~~file~~ clinical record. The designation ~~shall~~ must be updated as client or personnel needs require. Each IMPACT program ~~shall~~ must have a backup policy to be implemented when a primary provider is not available to serve a client's needs. The primary provider duties include:

(1) ~~Maintain~~ Maintaining an orderly and complete clinical ~~file~~ clinical record for the client that contains:

(a) Documentation showing that written assessments for the client are completed;

(b) A current case service plan; and

(c) Documentation of services and client responses to treatments; and

(2) ~~Conduct and participate~~ Conducting and participating in treatment planning and case conferences with other staff of the IMPACT program and with others authorized by the client.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(1)(2)(3)~~.

67:62:13:04. ~~IMPACT~~ Individualized and mobile program of assertive community treatment team duties. The duties of the ~~IMPACT~~ individualized and mobile program of assertive community treatment (IMPACT) team include:

(1) ~~Maintain~~ Maintaining a therapeutic alliance with the client;

(2) ~~Refer and link~~ Referring and linking the client to all needed services provided outside of the IMPACT program;

(3) ~~Follow up to ensure~~ Ensuring that all needed services provided outside of the IMPACT program are received and ~~monitor~~ monitoring the benefit of those services to the client;

(4) ~~Coordinate~~ Coordinating face-to-face meetings with the client, at least one time per week, and ~~a~~ an annual minimum average of ~~16~~ sixteen contacts per month with IMPACT team members;

(5) ~~Coordinate~~ Coordinating the provision of IMPACT emergency services and hospital liaison services, if the client is in a crisis;

(6) ~~Coordinate~~ Coordinating overall independent living assistance services, and ~~work~~ working with community agencies to develop needed resources, including housing, employment options, and income assistance;

(7) ~~Support and consult~~ Supporting and consulting with the client's family or other support network; and

(8) ~~Act~~ Acting as a client advocate.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-5-1.

Law Implemented: SDCL 27A-3-1, 27A-5-1~~(3)~~.

67:62:13:05. ~~IMPACT~~ Individualized and mobile program of assertive community treatment team meetings. The ~~IMPACT~~ individualized and mobile program of assertive community treatment team shall meet, at a minimum, two times per week, to review client contacts and client status, and to plan for ~~additional response~~ responses to additional client needs as they arise. The clinical supervisor, or other staff designated by the clinical supervisor, shall lead ~~such~~ the meetings, and keep a written log of meeting discussions, dates, and participants.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(2)(3)(5)~~.

67:62:13:06. Monthly treatment planning and review meetings. ~~The IMPACT~~ An individualized and mobile program of assertive community treatment team shall meet monthly to conduct treatment planning and review meetings. The clinical supervisor, or other staff designated by the clinical supervisor, shall lead the monthly meetings, keep a written log of meeting dates and participants, and maintain a schedule of upcoming meetings.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(1)(2)(5)~~.

67:62:13:08. Nonreimbursable services. ~~Nonreimbursable~~ The following are nonreimbursable ~~services include~~ under this chapter:

(1) Vocational counseling and vocational training ~~at~~ in a classroom or at a job site;

(2) Academic educational services;

(3) Services solely recreational in nature;

(4) Services ~~with~~ for individuals other than eligible clients;

(5) Services delivered by telephone or through other non-face-to-face contact;

(6) Services provided in an institution for mental disease;

(7) Services provided to clients who are in detoxification centers;

(8) Services provided to clients who are incarcerated in ~~a~~ correctional ~~facility~~ facilities; and

(9) Transportation services.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25, 27A-5-1.

Law Implemented: SDCL ~~1-36-25,~~ 27A-3-1, 27A-5-1~~(3)~~.

CHAPTER 67:62:14

QUALIFIED MENTAL HEALTH PROFESSIONAL ~~(QMHP)~~

Section

67:62:14:01. Training required for commitment process. ~~All QMHPs~~ A qualified mental health professional, except ~~physicians~~ a physician licensed pursuant to SDCL chapter 36-4, shall participate in training and pass an examination, in order to complete examinations ~~as~~ that are part of the commitment process under SDCL 27A-10-6, in accordance with SDCL 27A-1-7.

Training and examinations may be held in person or via an online course available through the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-3, 27A-1-7, 27A-1-9.

67:62:14:02. Registration for training -- Fee. A ~~QMHP~~ qualified mental health professional (QMHP) shall register with the ~~division~~ department for training ~~on completing,~~ prior to performing the examination of a detained person, in accordance with SDCL 27A-10-6, ~~examinations~~ and submit a fee to be determined by the ~~division~~ department. ~~Registration shall include the following~~ The registration must contain:

(1) The QMHP's name and address;

(2) ~~Current~~ The QMHP's employer, or place of practice, with address and telephone number;

(3) Verification of the hours, duration, setting, and content of the supervision for their professional licensure level to demonstrate their qualifications as a QMHP, as ~~specified~~ listed in SDCL 27A-1-3; and

(4) A copy of the QMHP's ~~current~~ South Dakota professional license or certificate.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-9.

67:62:14:05. Continued eligibility contingent upon ~~QMHP~~ qualified mental health professional status. An individual who has completed the required commitment process training ~~shall~~ must continue to meet the requirements of a ~~QMHP~~ qualified mental health professional, in accordance with SDCL 27A-1-3, in order to ~~continue to be~~ remain eligible to ~~complete~~ perform the examination of a detained person, in accordance with SDCL 27A-10-6 ~~examinations~~.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-3, 27A-1-9, 27A-10-6.

67:62:14:06. Renewal of eligibility -- Fee. A ~~QMHP~~ qualified mental health professional (QMHP) shall register with the ~~division~~ department for renewal of eligibility. A QMHP may register for renewal anytime ~~within one~~ during the year before the QMHP's current eligibility ends. A renewal registration ~~shall include the following~~ must contain:

(1) The QMHP's name and address;

(2) ~~Current~~ The QMHP's employer, or place of practice, with address and telephone number;

(3) A copy of the QMHP's ~~current~~ South Dakota professional license or certificate; and

(4) ~~Renewal~~ The renewal fee, as determined by the ~~division~~ department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-9.

67:62:14:07. Reinstatement of lapsed eligibility. A ~~QMHP~~ qualified mental health professional who fails to register for a renewal of eligibility before the end of the current eligibility period, may register for a reinstatement of eligibility by ~~submitting~~:

(1) Submitting a copy of the ~~current~~ individual's South Dakota professional license or certificate ~~and~~;

(2) Paying the renewal fee, as determined by the ~~division, by taking~~ department; and

(3) Completing the training and passing the examination, pursuant to § 67:62:14:01.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-3, 27A-1-9.

67:62:14:08. Notice of ~~division~~ department action. The ~~division~~ department shall either approve or deny the registration for eligibility or the registration for renewal of eligibility. The ~~division~~ department shall notify the ~~QMHP~~ professional applying for registration of the ~~division's~~ department's action, within an annual average of ten working days, following the registration, eligibility examination, or receipt of the registration for renewal. If the ~~division~~ department denies eligibility of renewal, the ~~division shall state the~~ specific reasons for denial must be stated in the notice.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-9.

67:62:14:09. Appeal of ~~division~~ department decision. A ~~QMHP~~ qualified mental health professional whose eligibility renewal is denied may request a fair hearing by notifying the department, by certified mail, within ten calendar days of receipt of the ~~division's~~ department's decision. The hearing ~~shall~~ must be conducted pursuant to SDCL chapter 1-26.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 27A-1-9.

Law Implemented: SDCL 27A-1-9.

CHAPTER 67:62:15

PREADMISSION SCREENING AND RESIDENT ~~REVIEWS (PASRR)~~ REVIEW

Section

67:62:15:01. Definitions. Terms used in this chapter mean:

(1) "Active treatment," the implementation of a program of specialized and generic training, treatment, health services, and related services ~~that~~, which lead to the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible, and to prevent regression or loss of current optimal functional status;

(2) "Dementia," disorders characterized by the development of multiple cognitive deficits, including memory impairment, ~~that~~ which are due to the direct physiological effects of a general medical condition, to the persisting effects of a substance, or to multiple etiologies ~~such as the combined effects of cerebrovascular disease and Alzheimer's disease~~;

(3) "Nursing facility," ~~as defined in subdivision 67:45:01:01(9)~~ a facility licensed as a nursing facility by the Department of Health and maintained and operated for the express or implied purpose of providing care to one or more persons, whether for consideration or not, who are not acutely ill but require nursing care and related medical services of such complexity as to require professional nursing care under the direction of a physician twenty-four hours a day;

(4) "Preadmission screening and resident review~~" or "PASRR~~," a process made up of a Level I screening completed by the department, and a Level II review completed by the ~~division~~ department, to determine eligibility when an individual with a mental disorder, as defined in ~~subdivision~~ § 67:62:01:01~~(27)~~, applies to reside in a Medicaid certified swing bed or nursing facility;

(5) "Specialized mental health services," psychiatric services ~~resulting~~ that result in the continuous and aggressive implementation of an individualized plan of care ~~that is~~ developed by an interdisciplinary team ~~which includes~~ consisting of a physician, ~~QMHP~~ a qualified mental health professional, and other professionals, which prescribes specific

therapies and activities for the treatment of individuals experiencing an acute episode of ~~SMI~~ serious mental illness, requiring supervision by trained mental health professionals, to obtain improvement in function ~~that would permit~~ thereby permitting a reduction in the level of intensity to ~~below~~ less than the level of specialized services at the earliest possible time; and

(6) "Swing bed," ~~as defined in subdivision 67:45:01:01(12)~~ a licensed hospital bed approved by the Department of Health to provide short-term nursing facility care pending the availability of a nursing facility bed.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:03. Level II review exemptions. An individual is exempt from a Level II review if ~~at least one of the following occurs~~:

(1) The diagnosis of mental illness is unsubstantiated;

(2) The individual is readmitted to a Medicaid certified swing bed or nursing facility from a hospital to which the individual was transferred for the purpose of receiving care;

(3) The individual is transferred from one Medicaid certified swing bed or nursing facility to another, and a ~~PASRR~~ preadmission screening and resident review has previously been completed;

(4) The physician identifies the need for convalescent care following hospitalization, for a duration of less than ~~100~~ one hundred days;

(5) The physician orders a respite stay of ~~30~~ thirty days or less;

(6) The individual has a diagnosis of situational depression that ~~is~~:

(a) Is of short duration ~~and~~;

(b) Is in direct relation to an occurrence in an individual's life; and ~~does~~

(C) Does not appear to be a chronic disability;

(7) The individual is using psychotropic medication in the absence of a major mental illness diagnosis; or

(8) The individual has a diagnosis of an anxiety disorder that is not identified as severe and does not appear to be leading to a chronic disability.

The department shall complete a Level I screening form to notify appropriate parties of the determination of the exemption.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:04. Exempt hospital discharge. An individual is exempt from a ~~PASRR~~ preadmission screening and resident review (PASRR) following a hospital discharge if ~~the following conditions are met~~:

(1) The individual is admitted to a Medicaid certified swing bed or nursing facility, directly from a hospital, after receiving acute inpatient care at the hospital;

(2) The individual requires Medicaid certified swing bed or nursing facility services for the condition that required care ~~was received~~ in the hospital; and

(3) The individual's attending physician has certified, before admission to the Medicaid certified swing bed or nursing facility, that the individual is likely to require less than ~~30~~ thirty calendar days of Medicaid certified swing bed or nursing facility services.

If an individual enters a Medicaid certified swing bed or nursing facility as an exempt hospital discharge and is later found to require more than ~~30~~ thirty days of nursing care, the facility ~~shall~~ must request a PASRR prior to the expiration of that ~~30~~ thirty days.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:06. Level II review. The ~~division~~ department shall conduct a Level II review that consists of determining the appropriateness of a Medicaid certified swing bed or nursing facility, and possible mental health services, including specialized mental health services~~,~~ for individuals identified in the Level I screening.

Each individual is reviewed for appropriateness of placement, regardless of the source of payment for the swing bed or nursing facility services. A determination whether or not an individual requires the level of services provided by the facility and whether or not an individual can benefit from mental health services is made.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:08. Determination of services. The ~~division~~ department shall determine if the individual requires the level of services provided by a Medicaid certified swing bed or nursing facility due to the individual's physical or mental condition. If the ~~division~~ department determines that an individual requires a Medicaid certified swing bed or nursing facility services, the facility may admit or retain the individual. If the ~~division~~ department determines that an individual does not require Medicaid certified swing bed or nursing facility services, the individual may not be admitted.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:09. Determination of specialized mental health services. If the ~~division~~ department determines that the individual requires Medicaid certified swing bed or nursing facility services, the ~~division shall~~ department must also determine whether the individual may benefit from mental health services.

If the ~~division~~ department determines that an individual requires both Medicaid certified swing bed or nursing facility services and specialized mental health services as defined in ~~subdivision~~ § 67:62:15:01~~(5)~~, the facility may admit or retain the individual and the state shall provide or arrange for the provision of the specialized mental health services needed by the individual in the Medicaid certified swing bed or nursing facility.

If the ~~division~~ department determines that the individual does not require Medicaid certified swing bed or nursing facility services, but may benefit from mental health services, the ~~division~~ department shall provide the individual with information regarding service options.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25~~(4)~~.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:10. Timeliness of determinations of Level II review. The ~~division~~ department shall make each Level II determination within an annual average of seven-to-nine business days of receipt of the Level I screening and all of the data required in § 67:62:15:07.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:11. Notification of Level II determination. The ~~division~~ department shall issue a written notification of the Level II review determination. The notification ~~shall include~~ must contain:

(1) The name of each professional who performed an evaluation used to make the Level II determination;

(2) The date each portion of the evaluation was administered; and

(3) Any other information used to make the Level II determination.

~~A~~ The department shall provide a copy of ~~this~~ the notification ~~shall be sent~~ to the individual on whom the Level II review was completed~~,~~; the individual's legal representative, if applicable~~,~~; the Medicaid certified swing bed or nursing facility~~,~~; and any other party affected by the Level II determination.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:12. Determination may not be countermanded. A Level II determination made by the division may not be countermanded by the department.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:16. Significant change. A significant change is a decline or improvement in an individual's status that:

(1) Will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions~~, is not "a self-limiting"(for decline only)~~;

(2) Impacts more than one area of the individual's health status; and

(3) Requires interdisciplinary review or revision of the care plan.

A self-limiting decline is not considered a significant change. If a significant change occurs for an individual known or suspected to have a mental illness, the Medicaid certified swing bed or nursing facility ~~shall~~ must make a referral to the ~~division~~ department for a possible Level II review. This referral ~~shall~~ must occur as soon as evidence of the significant change is identified.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:17. New admission and readmission. A new admission occurs if an individual is admitted to a Medicaid certified swing bed or nursing facility for the first time, or when an admission does not qualify as a readmission. ~~With the exception of certain exempt hospital discharges listed in~~ Unless excepted under § 67:62:15:04, a new ~~admissions are~~ admission is subject to a ~~PASRR~~ preadmission screening and resident review (PASRR).

A readmission occurs when an individual is readmitted to a Medicaid certified swing bed or nursing facility, from a hospital to which the individual, who was in a facility, had been transferred ~~from a facility,~~ for the purpose of receiving medical care. ~~This type of~~ A readmission that meets the criteria set forth in this section does not require a PASRR.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:18. Interfacility transfers. An interfacility transfer occurs if the individual is transferred from one Medicaid certified swing bed or nursing facility to another, with or without an intervening hospital stay. ~~Interfacility transfers are~~ An interfacility transfer is not subject to a ~~PASRR~~ preadmission screening and resident review. If an individual transfers from a Medicaid certified swing bed or nursing facility to a hospital, or to another Medicaid certified swing bed or nursing facility, the transferring facility ~~is responsible for ensuring~~ must ensure that copies of the individual's ~~PASRR~~ preadmission screening and resident review findings accompany the individual.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

67:62:15:19. Out of state placement. The ~~state where the individual is a state resident or would be a state resident at the time Medicaid eligibility is obtained shall make the~~ required ~~PASRR~~ preadmission screening and resident review determination must be conducted by the state in which the individual:

(1) Resides; or

(2) Will reside at the time Medicaid eligibility is obtained.

Source: 43 SDR 80, effective December 5, 2016.

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-36-25~~(4)~~.

Cross-Reference: Out-of-State arrangements, 42 C.F.R. § 483.110.