44:70:04:12. Memory care units. Each facility with a memory care unit shall comply with the following provisions:

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

(2) Therapeutic programming must be provided to residents by the facility and must be documented by the facility in the overall plan of care;

(3) Confinement may not be used as punishment or for the convenience of ~~the~~ personnel;

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

(5) Each locked door must conform to ~~§ 18.2.2.2.4~~§ 18.2.2.2.5 and ~~§ 19.2.2.2.4~~ 19.2.2.2.5 of NFPA 101 Life Safety Code, 2012 edition; and

(6) Any personnel assigned to the secured unit shall have specific training regarding the unique needs of residents in that unit. At least one caregiver must be on duty on the memory care unit at all times.

Source: 38 SDR 115, effective January 9, 2012; 46 SDR 65, effective November 26, 2019; 50 SDR 19, effective August 30, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained at ~~https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost:

~~$151.50~~ $160.00.

44:70:10:20. Steam and hot water systems. Boilers must have the capacity to supply the normal requirements of all of the facility's systems and equipment. Supply and return mains and risers of space heating and process steam systems must be valved to isolate the various sections of each system. Each piece of equipment must be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping must be insulated with insulation having a flame spread index of twenty-five or less and a smoke emission rating of fifty or less using ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, "Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials", or equivalent test procedures.

Source: 38 SDR 115, effective January 9, 2012; 46 SDR 65, effective November 26, 2019; 50 SDR 19, effective August 30, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: ~~NFPA 255, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

44:70:10:23. Ducts. Each duct must be constructed of iron, steel, aluminum, or other approved metal or materials as defined in NFPA 101 Life Safety Code, 2012 edition, § 32.3.6.2.1. Duct linings, coverings, vapor barriers, and the adhesives used for applying them must have a flame spread ~~classification~~ index of not more than twenty-five and a smoke ~~developed~~ emission rating of not more than fifty using ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, ~~"~~Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials.~~"~~ Each cold air duct must be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source: 38 SDR 115, effective January 9, 2012; 46 SDR 65, effective November 26, 2019; 50 SDR 19, effective August 30, 2023.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13.

Reference: ~~NFPA 255, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained at ~~https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$151.50~~ $160.00.

44:70:10:38. Pipe requirements. Each piping system for potable water must be installed to eliminate any dead-end runs of piping. Before placing any potable water system in service, the piping system must be disinfected in accordance with article 20:54, and certification must be available from the installer showing the method used, date of installation, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Any pipe covering, vapor barrier, and adhesive used must have a flame spread index of not more than twenty-five and a smoke emission factor of not more than fifty when tested in accordance with the ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Material.

Source: 38 SDR 115, effective January 9, 2012; 46 SDR 65, effective November 26, 2019; 50 SDR 19, effective August 30, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: ~~NFPA 255, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be ~~ontained~~ obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

CHAPTER 44:73:01

RULES OF GENERAL APPLICABILITY

Section

44:73:01:01. Definitions. Terms ~~defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms~~ used in this article mean:

(1) "Abuse," ~~an intentional act toward an individual indicating that one or more of the following has occurred~~ a criminal conviction for, or substantial evidence of:

(a) ~~A criminal conviction against a person for mistreatment toward an individual; or~~ Emotional or psychological abuse as defined in SDCL subdivision 22-46-1(4);

(b) ~~In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish;~~

~~(i) Misappropriation of a patient's or resident's property or funds;~~

~~(ii) An attempt to commit a crime against a patient or resident;~~

~~(iii) Physical harm or injury against a patient or resident; or~~

~~(iv) Using profanity, making a gesture, or engaging in any other act made to or directed at a patient or resident~~ Exploitation as defined in SDCL subdivision 22-46-1(5); or

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

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

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

~~(4)~~ "Adequate staff," a sufficient number of qualified personnel to perform the duties required

to meet the performance criteria established by this article;

~~(5)~~(4) "Administrator," a person ~~appointed by the owner or governing body of a facility who is responsible for managing the facility~~ licensed pursuant to SDCL chapter 36-28 and who maintains an office on the premises of the facility;

~~(6)~~(5) "Adult day care," a nonresident program in a licensed facility that provides health, social, and related support services;

~~(7) "Client advocate," any agency responsible for the protection and advocacy of residents, including the department, the state ombudsman, the protection and advocacy network, and the Medicaid fraud control unit;~~

~~(8)~~(6) "Clinical ~~Nurse Specialist~~ nurse specialist," a person who practices the ~~nurse~~ specialty of a clinical nurse specialist ~~as authorized pursuant to~~ and who is licensed pursuant to SDCL chapter 36-9;

~~(9) "Cognitively impaired," a resident with a mental deficiency which result in a diminished ability to solve problems, to exercise good judgment in the context of a value system, to remember, and to be aware of and respond to a safety hazard;~~

~~(10)~~(7) "Department," the South Dakota Department of Health;

~~(11) "Developmental disability," a severe, chronic disability of a person as defined in SDCL 27B-1-18 or a disability which:~~

~~(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;~~

~~(b) Is manifested before the person attains age 22;~~

~~(c) Is likely to continue indefinitely;~~

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

~~(i) Self-care;~~

~~(ii) Receptive and expressive language;~~

~~(iii) Learning;~~

~~(iv) Mobility;~~

~~(v) Self-direction;~~

~~(vi) Capacity for independent living; and~~

~~(vii) Economic self-sufficiency; and~~

~~(e) Reflects the person's need for an array of generic services, met through a system of individual planning and supports over an extended time, including those of a life-long duration~~;

~~(12)~~(8) "Dietary manager," a person who is a dietitian, a graduate of an accredited dietetic technician or dietetic manager training program, a graduate of a course that provides ~~120~~ one hundred twenty or more hours of classroom instruction in food service supervision, or a certified dietary manager recognized by the ~~National~~ Certifying Board ~~of~~ for Dietary Managers and who functions with consultation from a dietitian;

~~(13)~~(9) "Dietitian," a person who is registered with the ~~Academy of Nutrition and Dietetics~~ Commission on Dietetic Registration as a dietitian and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B;

~~(14) "Dining assistant," a person who has successfully completed a dining assistant program approved pursuant to § 44:73:07:17;~~

~~(15) "Direct contact," any activity that requires physically touching a resident;~~

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

~~(17) "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;~~

~~(18)~~(11) "Exploitation," ~~the wrongful taking or exercising of control over property of a person with intent to defraud that person~~ as defined in subdivision 22-46-1(5);

~~(19)~~(12) "Facility," ~~the~~ a place of business licensed ~~by the department as a nursing facility used~~ in accordance with SDCL chapter 34-12 to provide health care for residents;

~~(20)~~(13) "Governing body," an organized body of persons that is ~~ultimately~~ responsible for the quality of care in a health care facility, credentialing ~~of~~ and granting privileges to the medical staff, maintaining the financial viability of the facility, and formulating institutional policy;

~~(21)~~(14) "Healthcare ~~worker~~ personnel," any ~~paid person~~ employee, staff, or individual working in ~~a health care setting~~ a facility;

~~(22) "Hospice services," a coordinated interdisciplinary program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family. The needs arise out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component;~~

~~(23)~~(15) "Interdisciplinary team," a group of persons selected from multiple health disciplines who have a diversity of knowledge and skills and who function as a unit to collectively address the medical, physical, mental or cognitive, and psychosocial needs of a resident;

~~(24)~~(16) "Legend drug," any drug that requires the label bearing the statement ~~"~~", Caution: Federal law prohibits dispensing without prescription~~"~~";

~~(25)~~(17) "Licensed health professional," a physician~~; physician's assistant;~~, physician assistant, nurse practitioner~~;~~, physical therapist, speech-language pathologist, occupational therapist~~;~~, physical or occupational therapy assistant~~;~~, nurse~~;~~, nursing facility administrator~~;~~, dietitian~~;~~, pharmacist~~;~~, respiratory therapist~~;~~, or social worker who holds a current license to practice in ~~South Dakota~~ this state or privilege to practice;

~~(26)~~(18) "Medical staff," ~~an organized staff composed of~~ practitioners that ~~operates~~ operate

under bylaws approved by the governing body and ~~which is~~ are responsible for reviewing the qualifications of practitioners applying for clinical privileges and for the provision of medical care to ~~patients and~~ residents in a health care facility;

~~(27)~~(19) "Memory care unit," a distinct ~~area~~ part of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined ~~unique~~ population, ~~which~~ and is staffed by persons with training to meet the needs of residents admitted to the unit;

~~(28) "Mental disease," a mental condition that causes a person to lack sufficient understanding or capacity to make the responsible decisions to meet the ordinary demands of life, as evidenced by the person's behavior, or that causes a person to be a danger to self or others;~~

~~(29)~~(20) "Misappropriation of resident ~~or patient~~ property," the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's ~~or patient's~~ belongings or money without the resident's ~~or patient's~~ consent;

~~(30)~~(21) "Neglect," ~~harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person~~ as defined in SDCL subdivision 22-46-1(6);

~~(31)~~(22) "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in ~~South Dakota pursuant to~~ this state in accordance with SDCL chapter 36-9;

~~(32)~~(23) "Nurse aide," ~~an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay~~ as defined in subdivision 44:74:01:01(16);

~~(33)~~(24) "Nurse practitioner," a person who practices the specialty of a nurse practitioner ~~as authorized pursuant to~~ in accordance with SDCL chapter 36-9A;

~~(34) "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, and restorative aides;~~

~~(35) "Nursing unit," a patient unit that is limited to one floor of a health care facility and has all patient room entrances and exits within sight or control of nursing personnel;~~

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

~~(37)~~(26) "Physician," a person ~~who is~~ licensed ~~or approved~~ to practice medicine pursuant to SDCL chapter 36-4;

~~(38)~~(27) "Physician assistant," a ~~health care professional qualified and~~ person licensed pursuant to SDCL ~~Chapter~~ chapter 36-4A;

~~(39)~~(28) "Practitioner," one of the following:

(a) A physician ~~or surgeon licensed or approved to practice medicine pursuant to SDCL chapter 36-4~~;

(b) A dentist licensed pursuant to SDCL chapter ~~36-6~~ 36-6A;

(c) A podiatrist licensed pursuant to SDCL chapter 36-8;

(d) An optometrist licensed pursuant to SDCL chapter 36-7;

(e) A chiropractor licensed pursuant to SDCL chapter 36-5;

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

(g) A physical therapist licensed pursuant to SDCL chapter 36-10;

(h) An occupational therapist licensed pursuant to SDCL chapter 36-31;

(i) A nurse practitioner ~~licensed pursuant to SDCL chapter 36-9A~~;

(j) A physician assistant ~~licensed pursuant to SDCL chapter 36-4A~~; or

(k) A speech-language pathologist licensed pursuant to SDCL chapter 36-37;

~~(40) "Protection and advocacy network," agencies responsible for the protection and advocacy of individuals with developmental disabilities or mental illness, established under the~~

~~Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402 (October 30, 2000), codified at 42 U.S.C. § 15041 to 15045, and the Protection and Advocacy for Persons with Mental Illness Act of 2000, Pub. L. No. 106-310 (October 17, 2000), codified at 42 U.S.C. §§ 10801 to 10851, inclusive;~~

~~(41)~~(29) "Qualified personnel," persons with the specific education or training to provide the health service for which they are employed;

~~(42)~~(30) "Regular diet," a nutritionally adequate diet using food items and written recipes that can be prepared and correctly served by a staff person

~~(43)~~(31) "Resident," a person not in need of acute care with a valid order by a ~~practitioner~~ physician, physician assistant, or nurse practitioner for services in a nursing facility;

~~(44) "Respite care," care permitted within the scope of a facility license, with a limited stay no greater than 30 days for any one resident;~~

~~(45) "Restorative nursing," a part of nursing directed toward assisting a resident to achieve and maintain an optimal level of self-care and independence and which offers assistance to a resident in learning or relearning of skills needed in everyday activities;~~

~~(46)~~(32) "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a ~~patient or~~ resident or the movement or normal function of a portion of the resident's body, excluding devices used for specific medical and surgical treatment;

~~(47)~~(33) "Self-administration of medications," the removal of the correct dosage from the pharmaceutical container and the self-injecting, self-ingesting, or self-applying of the medication by the resident with no assistance or with assistance from qualified personnel of the facility for the correct dosage or frequency;

~~(48)~~(34) "Social worker," a person ~~who is~~ licensed pursuant to SDCL chapter 36-26;

~~(49)~~(35) "Social service designee," a person who has a degree in a behavioral science field, two years of previous supervised experience in a behavioral science field, is a licensed nurse, or has

similar qualifications;

~~(50) "Supervised practical training," training in a laboratory or other setting in which the nurse aide performs health-related tasks on a resident while under the direct supervision of a licensed nurse;~~

~~(51) "Supplemental personnel," individuals who assist the primary instructor in the training of nurse aides;~~

~~(52)~~(36) "Therapeutic diet," any diet ~~other than a regular diet that is~~ intervention ordered by a physician, physician assistant, or nurse practitioner or a dietitian authorized by a physician, physician assistant, or nurse practitioner, that provides food, fluid, or nutrients via oral, enteral, or parenteral routes as part of the treatment for a disease or clinical condition to ~~increase, decrease,~~ modify or ~~to~~ eliminate ~~certain substances~~ micro-nutrients and macro-nutrients in the diet, ~~and~~ or to alter food consistency;

~~(53)~~(37) "Transfer" or "discharge," the movement of a resident to a bed outside ~~the~~ a distinct part or outside ~~the~~ a facility;

~~(54)~~(38) "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health; and

~~(55)~~(39) "Unlicensed assistive personnel," a person who is not licensed as a nurse ~~under~~ in accordance with SDCL chapter 36-9 but who is trained to assist a ~~licensed~~ nurse in the provision of nursing care to a resident as delegated by the nurse and authorized by chapter 20:48:04.01.

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

November 7, 2004; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:01:01, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7, 34-12-13.

Law Implemented: SDCL 34-12-13, 34-12-32.

Note: National Certification Council of Activity Professionals, ~~520 Stewart, Park Ridge, IL 60068. Phone (708) 698-4263~~ https://www.nccap.org.

44:73:01:02. Posting of license. ~~The most~~ Each facility shall post the current license issued by the department ~~shall be posted~~ on the premises of the facility in a place conspicuous to the public. ~~Each facility address shall show a current license.~~ The license ~~certificate~~ remains the property of the department.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:01:02, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7.

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

44:73:01:03. Name of facility. Each facility shall ~~be designated by~~ use a pertinent and distinctive name ~~that shall be used~~ in applying for a license. The facility name may not ~~be changed without first notifying the department in writing. No facility may be given a name or advertise in a way that implies~~ imply services ~~rendered are~~ in excess of the facility's licensure classification ~~for which it is licensed or which would indicate an ownership other than actual~~. The governing body of the facility or its designee shall provide prior written notice to the department of any name change for the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:01:03, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7.

Law Implemented: SDCL 34-12-7.

44:73:01:04. Bed capacity. The ~~department~~ facility shall establish the bed capacity ~~of each facility pursuant to the physical plant and space provisions of this article~~ for the facility in accordance with chapter 44:73:12. The resident census may not exceed the bed capacity for which the facility is licensed. A request by the facility for an adjustment in bed capacity because of a change of purpose or construction ~~shall~~ must be approved by the department before any changes are made.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:01:04, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-7.

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

44:73:01:05. ~~Restrictions on acceptance~~ Acceptance and retention of residents. A facility shall accept and retain residents ~~in accordance with the following restrictions~~ based on the facility's capabilities to meet the needs of the residents, the services provided in accordance with the facility classification as determined by the facility's medical director and governing body, and the following policies and procedures:

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

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

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

~~(4) All licensed facilities that accept or retain residents suffering from~~(3) A facility shall provide facilities and programs consistent with the needs of any resident with:

(a) A developmental ~~disabilities~~ disability, as defined in SDCL 27B-1-18; or

(b) A mental ~~diseases~~ condition that causes the resident to lack sufficient understanding or capacity to make responsible decisions to meet the ordinary demands of life, as evidenced by the resident's behavior, or that causes the resident to be a danger to self or others; and

~~(5)~~(4) If ~~persons~~ a person other than ~~residents are~~ a resident is accepted for care or to participate in any ~~programs, services, or activities for the residents, their numbers shall be included~~ nursing service, dietary service, or activity program, the facility must include the person in the evaluation of ~~central use, activity, and dining spaces;~~ staffing of nursing, dietary, and activity programs~~;~~, and the provision of an infection control program. Services or programs provided ~~such~~ to individuals other than residents may not infringe upon the needs of the residents.

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:01:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:01:06. Joint occupancy. The department may approve the use of a portion of a building for a purpose other than that covered by the facility's license ~~may be approved by the department only~~ if ~~it can be shown~~ the facility shows that joint occupancy is not detrimental to the welfare of the residents. The area ~~shall~~ must be open to inspection by the department.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:01:06, 42 SDR 51, effective October 13, 2015.

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

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

44:73:01:07. Reports to the department. Each facility shall ~~fax, email, or mail~~ report the following events to the department ~~the pertinent data necessary to comply with the requirements of all applicable administrative rules and statutes.~~ through the department's online reporting system within twenty-four hours of the discovery of the event:

(1) Any incident or event where there is reasonable cause to suspect abuse or neglect of any resident by any person ~~shall be reported within 24 hours of becoming informed of the alleged incident or event. The facility shall report each incident or event orally or in writing to the state's attorney of the county in which the facility is located, to the Department of Social Services, or to a law enforcement officer. The facility shall report each incident or event to the department within 24 hours, and conduct a subsequent internal investigation and provide a written report of the results to the department within five working days after the event.~~

~~Each facility shall report to the department within 24 hours of the event any;~~

(2) Any death not resulting from ~~other than~~ natural causes ~~originating~~ that originated on facility property ~~such as accidents or suicide. The facility shall conduct a subsequent internal investigation and provide a written report of the results to the department within five working days after the event.~~

~~Each facility shall report a;~~

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

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

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

(5) Any loss of utilities ~~such as electricity, natural gas, telephone~~, an emergency generator, a fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more

than ~~24~~ twenty-four hours~~.~~

~~Each facility shall notify the department of any anticipated closure or discontinuation of service at least 60 days in advance of the effective date.~~

~~Each facility shall report to the department any~~; or

(6) Any unsafe water samples ~~for~~ from pools or spas.

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

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:01:07, 42 SDR 51, effective October 13, 2015.

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

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

44:73:01:07.01. Reports to the Department of Human Services, law enforcement, or state's attorney. In addition to the reporting requirements in § 44:73:01:07, a facility shall report an event involving an attempted suicide at the facility, and any reasonable cause to suspect abuse or neglect of a resident by any person, within twenty-four hours of the discovery of the event or reasonable cause, orally or in writing, to the Department of Human Services, a law enforcement officer, or the state's attorney of the county where the facility is located.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:73:01:08. Plans of correction. Within ~~10~~ ten days of the receipt of ~~the~~ a statement of deficiencies, ~~each~~ the licensed facility ~~shall~~ must submit to the department a written plan of correction for the citation of noncompliance with licensure requirements. The plan of correction ~~shall~~ must be signed, dated, and on the original forms provided by the department. The department may reject the plan of correction if there is no evidence the plan will cause the facility to attain or maintain compliance with SDCL chapter 34-12 and this article.

Source: 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:01:07.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:01:09. Modifications. ~~Modifications~~ The department may approve modifications to the staffing requirements provided in § 44:73:03:02 ~~may be approved by the department~~ for licensed facilities ~~which~~ that are physically combined and jointly operated if:

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

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

~~The~~ To obtain a modification, the facility must submit a request in writing and explain how the modification will not jeopardize the health and safety of the patients or residents in either facility ~~shall not be jeopardized~~.

~~A modification specified by this section may be requested in writing by the facility.~~

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:01:08, 42 SDR 51, effective October 13, 2015.

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

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

44:73:01:10. Scope of article. Nothing in article 44:73 limits or expands the rights of any healthcare ~~worker~~ personnel to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law.

Source: 31 SDR 62, effective November 7, 2004; transferred from § 44:04:01:11, 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:73:02

PHYSICAL ENVIRONMENT

Section

44:73:02:21 Physical plant changes.

44:73:02:22 Location.

44:73:02:23 Heating and cooling.

44:73:02:24 Repealed.

44:73:02:05. Sterilization. ~~Instruments~~ Before sterilization, a facility must decontaminate any instruments, supplies, utensils and equipment ~~which~~ that are not single service ~~shall be decontaminated before sterilization~~ in a manner that will make ~~them~~ the instruments, supplies, utensils, and equipment safe for handling by personnel. Supplies and equipment commercially prepared and sterilized to retain sterility indefinitely are acceptable in lieu of sterilization in the facility. ~~Autoclaves~~ A facility shall bacteriologically monitor autoclaves used for steam sterilization ~~shall be bacteriologically monitored~~ at least weekly. Supplies and equipment sterilized and packaged in the facility ~~shall~~ must have the processing date, the sterilizer number or unique identifier if more than one sterilizer is used, the cycle or load number, a description of the contents, and the identifier of the assembler on the package and ~~shall~~ must be reprocessed in accordance with any specific manufacturer's recommendation for ~~the~~ sterilization and packaging.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:02:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:06. Housekeeping cleaning methods and equipment. The facility shall establish written housekeeping procedures for the cleaning of all areas in the facility and make copies ~~made~~ available to all housekeeping personnel. All parts of the facility ~~shall~~ must be kept clean, neat, and free of visible soil, litter, and rubbish. Equipment and supplies ~~shall~~ must be provided for cleaning of all surfaces. ~~Such~~ The equipment ~~shall~~ must be maintained in a safe, sanitary condition. Hazardous cleaning solutions, chemicals, poisons, and substances ~~shall~~ must be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials. Cleaning of areas designed for resident use ~~shall~~ must be performed by dustless methods that minimize the spread of pathogenic organisms in the facility's atmosphere. Each vacuum used in ~~medical facilities, except adult foster care homes, shall~~ the facility must be equipped to provide effective discharge air filtration of particles larger than 0.3 microns. ~~Cleaning shall include all~~ All environmental surfaces within the facility that are subject to contamination from dust, direct splash, or pathogenic organisms must be cleaned, except medical equipment, supplies, or devices that are the responsibility of other services or departments of the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:02:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:07. Food service. Food service ~~shall~~ must be provided by a ~~licensed~~ facility or food service establishment ~~that is~~ licensed in accordance with SDCL chapter 34-18 and inspected by a local, state, or federal agency. The facility shall meet the safety and sanitation procedures for food service in §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive~~, the Food Service Code. In addition, a mechanical dishwasher shall be provided in all facilities~~. A facility of ~~17~~ seventeen beds or more shall have a mechanical dishwasher. The facility shall have the space, equipment, supplies, and mechanical systems for efficient, safe, and sanitary food preparation if any part of the food service is provided by the facility.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:02:06, 42 SDR 51, effective October 13, 2015.

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

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

~~**Note**~~**Cross-Reference:** ~~Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for $4.14~~ Food service code, chapter 44:02:07.

44:73:02:08. Handwashing facilities. ~~Handwashing facilities consisting~~ A handwashing facility must consist of hot and cold running water dispensed through a mixing faucet controlled with blade handles or ~~other~~ hands-free controls, a towel dispenser with single-service towels or a hand-drying device, and a wall-mounted hand cleanser ~~shall~~ dispenser. A handwashing facility must be located in each dietary ~~areas~~ area, utility ~~rooms~~ room, staff ~~stations~~ station, ~~pharmacies~~ pharmacy, physical therapy ~~rooms~~ room, restorative therapy ~~rooms~~ room, examination and treatment ~~rooms~~ room, laundry, and ~~all~~ toilet ~~rooms not directly connected to resident rooms~~ room. A handwashing facility ~~shall~~ must be provided in each resident room or in a bath or toilet room connected directly to the room. If existing faucets and controls are replaced or changed, ~~they shall~~ the faucets and controls must be replaced with mixing faucets controlled with blade handles or other hands-free controls.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 31 SDR 62 effective November 7, 2004; transferred from § 44:04:02:07, 42 SDR 51, effective October 13, 2015.

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

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

~~**Cross-Reference:** Plumbing fixtures, § 44:73:12:31.~~

44:73:02:09. Linen. The supply of bed linen and towels ~~shall~~ must equal ~~three~~ two times the licensed capacity of the facility. The facility shall ~~have~~ develop and implement written procedures for the storage and handling of soiled and clean linens. The facility ~~shall~~ must contract with a commercial laundry service or the laundry service of another licensed health care facility for all common-use linens if laundry services are not provided on the premises. A facility providing laundry services shall have adequate space and equipment for the safe and effective operation of the laundry service.

~~Commingled~~ The facility must process comingled residents' personal clothing, common-use linen, any isolation clothing, and housekeeping items ~~shall be processed~~ by methods that assure disinfection. The facility ~~shall~~ must process laundry following the laundry equipment and cleaning agent recommendations. If hot water is used for disinfection, minimum water temperatures supplied for laundry purposes ~~shall~~ must be ~~160~~ one hundred sixty degrees Fahrenheit ~~(71~~ or seventy-one degrees centigrade~~)~~. If chlorine bleach is added to the laundry process ~~to provide 100 parts per million or more of free chlorine~~ following the manufacturer's direction, the minimum hot water temperatures supplied for laundry purposes may be reduced to ~~120~~ one hundred twenty degrees Fahrenheit ~~(48.8~~ or forty-nine degrees centigrade~~)~~. The facility may ~~choose to~~ wash commingled residents' personal clothing, common-use linen, and any isolation clothing in water temperatures less than ~~120º F.~~ one hundred twenty degrees Fahrenheit if ~~the following conditions are met~~:

(1) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility;

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

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

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

Any resident's personal clothing that is not commingled may be processed according to manufacturer's recommendations using water temperatures and detergent in a quantity as recommended by the garment or detergent manufacturer.

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

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

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:02:08, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:10. Infection control. ~~The~~ A facility's infection prevention and control program ~~shall~~ must utilize the concept of standard precautions as the basis for infection prevention and control. Bloodborne pathogen control ~~shall~~ must be maintained according to the requirements contained in 29 C.F.R. § 1910.1030, ~~July 1, 2006~~ (July 1, 2023). The facility shall designate ~~an employee~~ healthcare personnel to be responsible for the implementation of ~~the~~ an infection control program ~~including~~ that includes surveillance and reporting activities. ~~There~~ The facility shall ~~be~~ have written procedures that govern the use of aseptic techniques and procedures in all areas of the facility. Each facility shall develop written policies and procedures for the handling and storage of potentially hazardous substances ~~(including lab specimens). There~~ The facility shall ~~be~~ have a method of control used in relation to the sterilization of supplies and a written policy requiring sterile supplies to be reprocessed. The facility shall provide orientation and continuing education to all facility personnel ~~on the facility's staff~~ on the cause, effect, transmission, prevention, and elimination of infections. Each facility shall develop a written policy for evaluation and reporting of any employee with a reportable infectious disease.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:02:09, 42 SDR 51, effective October 13, 2015.

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

Law Implemented: SDCL 34-12-13~~(1)~~, 34-22-9.

44:73:02:11. Plumbing. ~~Facility~~ A facility's plumbing systems ~~shall~~ must be designed and installed in accordance with SDCL 36-25-15 and 36-25-15.1 and article 20:54. Plumbing ~~shall~~ must be sized, installed, and maintained to carry required quantities of water to required locations throughout the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:02:10, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:12. Water supply. ~~The~~ A facility's water supply ~~shall~~ must be obtained from a public water system or, in its absence, from a supply approved by the Department of Agriculture and Natural Resources. ~~Private~~ Each private water ~~supplies shall~~ supply must have a water sample bacteriologically tested at least monthly. The volume of water ~~shall~~ must be sufficient for the needs of the facility, including ~~fire fighting~~ firefighting requirements. The hot water system ~~shall~~ must be capable of supplying the work and resident areas with water at the required temperatures. ~~Maximum~~ The maximum temperature of hot water ~~temperatures at plumbing fixtures used by residents may not exceed 125~~ for resident use is one hundred twenty-five degrees Fahrenheit ~~(52~~, or fifty-two degrees centigrade~~)~~. The minimum temperature of hot water for resident use ~~shall be at least 100~~ is one hundred degrees Fahrenheit ~~(38~~, or thirty-eight degrees centigrade~~)~~. A facility shall monitor water temperatures monthly, and maintain documentation in accordance with facility policy.

~~Each water supply system shall maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method, such as increasing the water temperature range from 122 degrees to 125 degrees Fahrenheit (50-52 degrees centigrade), that has been demonstrated to be equivalent in control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range. The chlorine testing shall be done daily using photocell and light source DPD (N, N, Diethyl-p-phenylenediamine) test kits, and the test results logged. If testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:02:11, 42 SDR 51, effective October 13, 2015; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

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

Cross-References:

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

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

44:73:02:12.01. Water supply -- Control of *Legionella*. A facility shall maintain, for each water supply system in the facility, one part per million free residual chlorine at remote point-of-use fixtures, or another equivalent bacteriological control method for the control of *Legionella*. A facility may increase the water temperature range from one hundred twenty-two degrees to one hundred twenty-five degrees Fahrenheit, or fifty degrees to fifty-two degrees centigrade, for the control of *Legionella*. The facility shall document water temperatures to verify the hot water temperature is being maintained within the acceptable range for the control of *Legionella*. If hot water temperatures are outside the acceptable range, the facility must conduct chlorine testing using photocell and light source N, N, Diethyl-p-phenylenediamine test kits and log the test results. If testing demonstrates that consistent chlorine levels are maintained, the facility may conduct monthly chlorine testing.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:73:02:13. Ventilation. ~~Electrically powered~~ A facility shall provide electrically powered exhaust ventilation ~~shall be provided~~ in all soiled areas, wet areas, toilet rooms, and storage rooms. Clean storage rooms may also be ventilated by supplying and returning air from the building's air-handling system.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:02:12, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:15. Refuse and waste disposal. ~~Garbage~~ A facility shall handle and dispose of garbage, refuse, and waste ~~shall be handled and disposed of~~ in a safe and sanitary manner. Final disposal of all refuse and waste ~~shall~~ must comply with articles 74:27 and 74:28. ~~Putrescible~~ A facility shall remove putrescible garbage ~~shall be removed~~ at a frequency to contain or prevent odors, insects, and vermin.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:02:14, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:18. Occupant protection. Each facility ~~shall~~ must be constructed, arranged, equipped, maintained, and operated to avoid injury or danger to the occupants. The extent and complexity of occupant protection precautions is determined by the services offered and the physical needs of the residents admitted to the facility. The facility shall ~~take at least the following precautions~~:

(1) Develop and implement a written and scheduled preventive maintenance program;

(2) Provide securely constructed and conveniently located grab bars in all toilet rooms and bathing areas used by residents;

(3) Provide a call system for each resident bed and in all toilet rooms and bathing facilities routinely used by residents. The call system ~~shall~~ must be capable of being easily activated by the resident and must register at a staff station serving the unit. A wireless call system may be used;

(4) Provide handrails firmly attached to the walls on both sides of all resident corridors;

(5) Provide grounded or double-insulated electrical equipment or protect the equipment with ground fault circuit interrupters. Ground fault circuit interrupters ~~shall~~ must be provided in wet areas and for outlets within six feet of sinks;

(6) Install an ~~electrically activated~~ electrically-activated audible alarm on all unattended exit doors. Any other exterior doors ~~shall~~ must be locked or alarmed. The alarm ~~shall~~ must be audible at a designated staff station and may not automatically silence when the door is closed;

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

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

(9) ~~Any~~ Ensure any clothes dryer ~~shall have~~ has a galvanized metal ~~vent pipe~~ transition duct for exhaust or UL 218-rated flexible transition duct; and

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

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:02:17, 42 SDR 51, effective October 13, 2015.

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

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

Reference: NFPA 99 Health Care Facilities Code, 2012 edition, National Fire Protection Association. Copies may be obtained ~~from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555~~ at https://www.nfpa.org/product/nfpa-99-code/p0099code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$93.00~~ $149.00.

44:73:02:19. Area requirements for ~~currently~~ licensed resident rooms. Each ~~currently licensed~~ resident multi-bed room ~~shall~~ must have at least ~~75~~ seventy-five square feet ~~(~~, or 6.98 square meters~~)~~, of floor space per bed, with at least three feet ~~(0.91~~, or .91 meters~~)~~, between beds ~~in a multi-bed room~~, exclusive of closets and wardrobes~~; and 95~~. Each resident single room must have ninety-five square feet ~~(~~, or 8.83 square meters~~)~~ ~~in a single room~~, exclusive of closets and wardrobes. Each resident shall have for individual use in the assigned room a bed, a bedside stand, and a chair appropriate ~~to~~ for the needs and comfort of the resident. Each facility shall have ~~10~~ ten square feet ~~(0.93~~, or .93 square meters~~)~~, of general storage for each bed. ~~A~~ Each facility must have a total of ~~37.5~~ thirty-seven and one-half square feet ~~(~~, or 3.48 square meters~~)~~, of recreational, activity, dining, and occupational therapy area for each bed and each adult day care resident ~~shall be provided~~ in ~~a~~ the facility. Each facility ~~shall~~ must be constructed, equipped, and operated to maintain the privacy and dignity of all residents. In a multi-bed room, each bed ~~shall~~ must be able to be separated from the other beds by privacy curtains.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:02:18, 42 SDR 51, effective October 13, 2015.

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

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

~~**Cross-Reference:** Area requirements for new construction or renovations, § 44:73:12:08(2).~~

44:73:02:20. Office required for social services activities. ~~An~~ A facility shall provide an office ~~which~~ for social services activities that is large enough to accommodate private consultation and record keeping and ~~which~~ that is easily accessible to residents ~~shall be provided for social services activities~~.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:02:18.02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:21. Physical plant changes. A facility shall submit to the department any proposed change ~~by~~ due to new construction, remodeling, or change of use of an area ~~to the department~~. Any change ~~shall~~ must have the approval of the department before it is made.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:02:19, 42 SDR 51, effective October 13, 2015.

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

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

44:73:02:22. Location. The location of ~~and access to facilities shall~~ a facility must promote the health, treatment, comfort, safety, and well-being of persons accepted and retained for care. ~~Facilities shall~~ A facility must be served by ~~good,~~ passable roads~~. Easy accessibility for employees~~ and accessible by personnel, visitors, and ~~fire-fighting~~ firefighting services ~~shall be maintained~~.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:02:20, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(3)(14)~~.

Law Implemented: SDCL 34-12-13~~(1)(3)(14)~~.

44:73:02:23. Heating and cooling. ~~The~~ A facility must maintain a temperature in any occupied space ~~in the facility shall be maintained~~ between ~~68~~ sixty-eight and ~~80~~ eighty degrees Fahrenheit during waking hours and not lower than ~~64~~ sixty-four degrees Fahrenheit during sleeping hours. ~~Individual~~ An individual resident's space may be maintained outside the required range when desired by the occupant.

Source: 29 SDR 81, effective December 11, 2002; transferred from § 44:04:02:21, 42 SDR 51, effective October 13, 2015.

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

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

44:73:03:01. Fire safety code requirements. Each facility~~, except an adult foster care home,~~ must meet applicable fire safety standards in NFPA 101 Life Safety Code, ~~2000~~ 2012 edition, chapters 18 and 19.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:03:01, 42 SDR 51, effective October 13, 2015.

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

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

Reference: NFPA 101 Life Safety Code, ~~2000~~ 2012 edition, National Fire Protection Association. Copies may be obtained ~~from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555~~ at https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$151.50~~ $160.00.

44:73:03:02. General fire safety. Each facility ~~covered under this article shall~~ must be constructed, arranged, equipped, maintained, and operated to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the structure in case of fire or other emergency. The ~~fire alarm system shall be sounded each month~~ facility shall conduct fire drills quarterly for each shift. If the facility is not operating with three shifts, the facility must conduct monthly drills to provide training for all personnel. At least two ~~staff members shall~~ healthcare personnel must be on duty at all times. In a multilevel facility, at least one ~~staff member shall~~ healthcare personnel must be on duty on each floor containing occupied beds.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:03:02, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Fire safety code requirements, § 44:73:03:01.

CHAPTER 44:73:04

MANAGEMENT AND ADMINISTRATION

Section

44:73:04:03. Administrator. The governing body shall designate ~~an appropriately licensed and~~ a qualified administrator to represent the ~~owner or~~ governing body and to be responsible for the daily overall management of the facility. The administrator shall designate a qualified person to represent the administrator during the administrator's absence. The governing body shall notify the department in writing of any change of administrator.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:04. Personnel. The facility shall have a sufficient number of qualified personnel to provide effective and safe care. ~~Staff members~~ Healthcare personnel on duty ~~shall~~ must be awake at all times. Any supervisor ~~shall~~ must be ~~18~~ eighteen years of age or older. ~~Written~~ The facility shall make available written job descriptions and personnel policies and procedures ~~shall be made available~~ to personnel of all departments and services. The facility may not knowingly employ any person with a conviction for abusing another person. The facility shall establish and follow policies regarding ~~special duty or staff members~~ healthcare personnel on contract.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998: 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:05. Personnel training. The facility shall have a formal orientation program and an ongoing education program for all healthcare personnel. ~~Ongoing education programs must cover the required subjects annually. These programs~~ All healthcare personnel must complete the orientation program within thirty days of hire and the ongoing education program annually thereafter. The orientation program and ongoing education program must include the following subjects:

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

(2) Emergency procedures and preparedness;

(3) Infection control and prevention;

(4) Accident prevention and safety procedures;

(5) Proper use of restraints;

(6) Resident rights;

(7) Confidentiality of resident information;

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

(9) Care of residents with unique needs;

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

(11) Abuse~~,~~ and neglect~~, misappropriation of resident property and funds, and mistreatment~~; and

(12) Advanced directives.

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

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

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

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:04:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:06. ~~Employee~~ Personnel health program. The facility ~~must~~ shall have ~~an employee~~ a personnel health program for the protection of the ~~patients or~~ residents. ~~All~~ Before assignment to duties or within fourteen days after employment, a licensed health professional must evaluate all personnel ~~must be evaluated by a licensed health professional for freedom from~~ to ensure no personnel is infected with any reportable communicable disease ~~which~~ that poses a threat to others ~~before assignment to duties or within 14 days after employment including~~. The evaluation must include an assessment of previous vaccinations and tuberculin skin tests. The facility may not allow anyone with a communicable disease, during the period of communicability, to work in a capacity that would allow spread of the disease. Personnel absent from duty because of a reportable communicable disease ~~which~~ that may endanger the health of residents~~,~~ and fellow ~~employees~~ personnel may not return to duty until ~~they are~~ the personnel is determined by a physician ~~or the~~, physician's designee, physician assistant, nurse practitioner, or clinical nurse specialist to no longer have the disease in a communicable stage.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:06, 42 SDR 51, effective October 13, 2015.

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

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

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

44:73:04:07. Admissions of residents. The governing body of the facility shall establish and maintain admission, transfer, and discharge policies~~,~~ with written evidence to ~~assure the residents~~ ensure a resident admitted to and retained in the facility ~~are~~ receives care within the licensure classification of the facility or its distinct part. ~~The facility may admit and retain, on the orders of a practitioner, only those residents for whom it can provide care safely and effectively.~~ A nursing facility may admit and retain residents only on the orders of a physician, physician assistant, or nurse practitioner, and if the nursing facility is able to provide care to the resident safely and effectively.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; transfer agreement transferred to § 44:04:04:15, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:07, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:08. Admission of residents with communicable diseases. A facility may admit a resident who is infected with a communicable disease ~~which~~ that is reportable to the department, pursuant to SDCL 34-22-12~~, may be admitted to a nursing facility~~ if the facility provides appropriate infection control measures ~~can be provided by the facility~~ to prevent the spread of the communicable disease. If the facility ~~chooses to admit residents~~ admits a resident with ~~these diseases~~ a communicable disease or ~~antibiotic resistant organisms~~ antibiotic-resistant organism, or after admission, a resident is suspected of having a communicable disease or antibiotic-resistant organism, the ~~following conditions~~ the facility must ~~be met~~:

(1) ~~Facility staff shall complete a training program in~~ Provide training to all healthcare personnel related to infection control ~~applicable to~~ measures and information about the state's reportable diseases list;

(2) ~~The facility shall have~~ Have written procedures and protocols for ~~staff~~ healthcare personnel to follow to avoid exposure to the resident's blood or body fluids ~~of the affected residents~~; and

(3) ~~The facility shall have~~ Have written infection control procedures in ~~place and practiced~~ practice that prevent the spread of ~~antibiotic resistant organisms~~ the communicable disease or antibiotic-resistant organism.

~~If, after admission, a resident is suspected of having a communicable disease that endangers the health and welfare of employees or other residents, the facility shall contact a physician, physician assistant, or nurse practitioner and ensure that measures are taken in behalf of the resident with the communicable disease and the other residents to prevent transmission of the disease.~~

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:07.01, 42 SDR 51, effective October 13, 2015.

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

Law Implemented: SDCL 34-12-13~~(1)(14)~~, 34-22-9.

44:73:04:09. Prevention and control of influenza. Each facility shall arrange for annual influenza ~~vaccination to be completed annually~~ vaccinations for all residents. ~~Each~~ The facility must offer each resident ~~shall be offered~~ an influenza vaccine ~~when he or she is admitted~~ upon admission and annually during the influenza season. ~~Documentation of~~ The facility shall record the vaccination or the resident's refusal ~~shall be recorded~~ to receive the vaccination in the resident's medical record.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:07.03, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(5)(14)~~, 34-22-9~~(8)~~.

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

44:73:04:10. Prevention and control of pneumonia. Each facility shall arrange for immunization for pneumococcal disease. If immunization is lacking and the resident's physician, physician assistant, or nurse practitioner recommends immunization, the nursing facility ~~shall~~ must arrange for an immunization for pneumococcal pneumonia within ~~14~~ fourteen days of the resident's admission. ~~A pneumococcal vaccination may be waived for a resident because of religious beliefs, medical contraindication, or refusal by the resident. Documentation of the vaccination~~ The facility shall record the immunization or ~~its waiver shall be recorded~~ the resident's refusal to receive the immunization in the resident's medical record.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:07.04, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(5)(14)~~, 34-22-9~~(8)~~.

Law Implemented: SDCL 34-12-13~~(1)(5)(14)~~, 34-22-9~~(8)~~.

44:73:04:11. Disease prevention. Each facility shall ~~provide~~ implement an organized infection control program for preventing, investigating and controlling infection. The facility shall establish and implement written policies regarding visitation in the various services and departments of the facility. Any visitor who has an infectious disease, who has recently recovered from ~~such a~~ an infectious disease, or who has recently had contact with ~~such a~~ an infectious disease ~~shall~~ must be discouraged from entering the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:08, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:12. Tuberculin screening and testing requirements. Each facility shall develop criteria to screen healthcare ~~workers or~~ personnel and residents for *Mycobacterium* tuberculosis (TB) based on the ~~guidelines issued by Centers for Disease Control and Prevention~~ Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019. Each facility shall establish policies and procedures for conducting ~~*Mycobacterium* tuberculosis~~ TB risk ~~assessment~~ assessments that include ~~the key components of~~ responsibility, surveillance, and containment~~, and education~~. The frequency of repeat ~~screening shall~~ screenings depend upon annual risk assessments conducted by the facility. Any resident identified as asymptomatic upon admission with an anticipated stay of thirty days or less is not required to have a tuberculin skin test or a TB blood assay test.

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

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

healthcare personnel, or resident, of a previous positive reaction to either test. Any new healthcare ~~worker~~ personnel or resident who has a newly recognized positive reaction to the skin test or TB blood assay test ~~shall~~ must have a medical evaluation and a chest X-ray to determine the presence or absence of the active disease;

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

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

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

Source: 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:04:08.01, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(1)(5)(14), 34-22-9.

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

Reference: ~~Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, 2005. "~~**Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019**. Centers for Disease Control and Prevention Morbidity and Mortality Weekly

Report," ~~December 30, 2005, (RR17)~~ May 17, 2019. Copies may be obtained at no cost at https://www.cdc.gov/mmwr/volumes/68/wr/mm6819a3.htm.

44:73:04:12.01. Tuberculosis education for healthcare personnel. A facility shall provide yearly education to all healthcare personnel on TB risk factors, the signs and symptoms of TB, and the TB infection control policies and procedures of the facility.

Source:

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

Law Implemented: SDCL 34-12-13.

44:73:04:13. Care policies. Each facility shall establish and maintain policies, procedures, and practices that follow accepted standards of professional practice to govern care, and related medical or other services necessary to meet the residents' needs. Each facility shall establish and maintain policies and procedures for the management of adult day care clients and respite care residents if the facility offers those services.

For the purposes of this section, the term "respite care" means care permitted within the scope of a facility license, with a limited stay no greater than thirty days for any one resident.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:04:11, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:14. Memory care units. Each facility with a memory care ~~units~~ unit shall comply with the following provisions:

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

(2) Therapeutic programming ~~shall~~ must be provided to residents of the facility and ~~shall~~ must be documented by the facility in the overall plan of care pursuant to § 44:73:06:05;

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

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

(5) Locked doors must conform to ~~Sections: 18.2.2.2~~ §§ 18.2.2.2.5 and ~~19.2.2.2~~ 19.2.2.2.5 of the NFPA 101 Life Safety Code**,** 2012 edition; and

~~(6)~~ ~~Staff~~(5) Any personnel assigned to the memory care unit shall have specific training regarding the unique needs of residents in that unit. At least one caregiver ~~shall~~ must be on duty ~~on~~ in the memory care unit at all times.

For the purposes of this section, the term "therapeutic programming" means any purposeful activity that fosters social, emotional, physical, cognitive, and mental wellbeing.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:04:11.01; 42 SDR 51, effective October 13, 2015.

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

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

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained ~~from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555~~ at https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$93.00~~ $160.00.

44:73:04:15. Restraints. ~~There shall be~~ Each facility shall have written policies and procedures for all restraint use~~, including emergency restraints, bedrails, and locked doors~~. The use of restraints ~~shall~~ must be based on a comprehensive assessment of the resident's physical and cognitive abilities, evaluation and effectiveness of less restrictive alternatives, and an involvement of the resident in weighing the benefits and consequences. Restraint use requires a physician's, physician assistant's, or nurse practitioner's order ~~including specific~~ that specifies time frames and types of restraints. Continued use of the restraint and reorders may be given only ~~on review of the resident's condition~~ by ~~the~~ an order of a physician, physician assistant, or nurse practitioner and following an assessment of the resident's condition by the interdisciplinary team. Restraints ~~shall~~ must be physically checked as ordered and documented by nursing personnel. Restraints ~~shall~~ may not be used to limit mobility, for convenience of ~~staff~~ personnel, for punishment, or as a substitute for supervision. Restraints ~~shall~~ may not hinder evacuation of the resident during fire or cause injury to the resident.

Source: 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:04:11.02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:16. Transfer agreements. Each facility shall have ~~in effect~~ a transfer agreement with one or more hospitals ~~sufficiently close~~ able to provide prompt inpatient hospital care to the facility's residents when needed. The agreement ~~shall~~ must provide for an interchange of medical and other information necessary or useful in the care and treatment of ~~individuals~~ a resident transferred between the facilities.

Source: Transferred from § 44:04:04:07, 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:04:15, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:17. Quality assessment. Each facility shall ~~provide for on-going evaluation of~~ evaluate the quality of services provided to residents on an ongoing basis. ~~Components of the quality assessment~~ The evaluation ~~shall~~ must include establishment of facility standards~~;~~, interdisciplinary review of resident services to identify deviations from the standards and actions taken to correct deviations~~;~~, resident satisfaction surveys~~;~~, utilization of services provided~~;~~, and documentation of the evaluation and report to the governing body.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:04:16, 42 SDR 51, effective October 13, 2015.

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

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

44:73:04:18. Discharge planning. A facility shall have an effective discharge planning process that includes the discharging resident and the resident's caregiver or support person as an active partner for post-discharge care. The discharge planning process and discharge plan must:

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

(2) Ensure an effective transition of the resident from the facility to discharge care; and

(3) Reduce the factors leading to preventable readmission to the facility.

The facility shall have policies and procedures ~~for~~ to support the discharge planning ~~including~~ process that outline the person responsible for discharge planning, members of the discharge planning team, a list of all area agencies and resources, and a description of the process. ~~Outside caregivers may be included in discharge planning conferences.~~

The facility shall initiate planning with applicable agencies to meet the resident's identified needs, and ~~residents shall~~ the resident must be offered assistance to obtain needed services ~~upon~~ prior to discharge. ~~Information necessary for coordination and continuity of care shall be made available to whomever the resident is discharged and to referral agencies as required by the discharge plan.~~

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:04:17, 42 SDR 51, effective October 13, 2015.

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

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

44:73:05:02. Admissions. ~~Each~~ A facility may admit a resident ~~may be admitted~~ only on the written order of a physician, physician assistant, or nurse practitioner. ~~Prior to or upon admission of a resident, the~~ The attending physician, physician assistant, or nurse practitioner shall provide ~~the staff of~~ the facility with documented information regarding current medical findings and ~~with~~ written orders for the immediate care of the individual. ~~This information shall include~~ that includes a medical evaluation, diagnosis, and rehabilitation potential. ~~The information on the resident shall be based on a physical examination done within 48 hours after admission unless the examination was performed within the five days prior to admission. The~~ A physician, physician assistant, or nurse practitioner shall continue to supervise the resident's health care ~~shall continue under the supervision of a physician, physician assistant, or nurse practitioner~~. If a resident transfers from one nursing facility to another while retaining the same physician, physician assistant, or nurse practitioner, the schedule for physician, physician assistant, or nurse practitioner visits must continue and the requirement for the physical examination ~~shall~~ must be waived~~; however, the schedule for physician, physician assistant, or nurse practitioner visits shall continue~~.

The resident ~~shall~~ must be seen by the attending physician, physician assistant, or nurse practitioner at least once every ~~30~~ thirty days for the first ~~90~~ ninety days following admission. ~~Subsequent to the 90th day following admission~~ After ninety days post-admission, the physician, physician assistant, or nurse practitioner shall visit the resident whenever necessary~~;~~, but the time between visits may not exceed ~~60~~ sixty days.

The facility shall follow the physician visit requirements as outlined in ~~the federal regulations for nursing facilities~~ 42 C.F.R. § 483.30(c) (September 17, 2024). A physician may not delegate a task ~~when~~ if the regulations specify that the physician ~~shall~~ must perform ~~it~~ the task personally, or ~~when the~~ if delegation is prohibited under ~~State~~ state law or by the facility's own policies.

The physician, physician assistant, or nurse practitioner shall review the resident's total care program including medications and treatments ~~must be reviewed~~ during the ~~physician, physician~~

~~assistant, or nurse practitioner~~ physician's, physician assistant's, or nurse practitioner's visit.

Source: 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:05:01.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:05:03. Medical orders. All medical orders, including verbal orders, ~~shall~~ must be in writing or electronic format and signed by ~~the practitioner~~ a physician, physician assistant, or nurse practitioner. ~~Verbal orders are for medications, treatments, interventions, or other resident care that are transmitted as oral, spoken communications between senders and receivers, delivered either face-to-face or via telephone. Verbal orders~~ A verbal order may be taken only when there is an urgent need to initiate or change a medical order. The ~~practitioner~~ physician, physician assistant, or nurse practitioner shall sign or initial ~~the~~ any verbal orders for residents on the physician's, physician assistant's, or nurse practitioner's next visit to the facility. Each ~~resident's practitioner~~ physician, physician assistant, or nurse practitioner is responsible for documenting written orders and progress notes on each resident's clinical record.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:05:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:05:06. Medical director required. A facility shall appoint a physician licensed in South Dakota to serve as a medical director. The medical director shall ~~assure physician~~ ensure all services are provided only by qualified ~~caregivers~~ personnel.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:05:07, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(5)(6)~~.

Law Implemented: SDCL 34-12-13~~(5)(6)~~.

44:73:05:07. Physician services for hospice patients. A facility shall provide or arrange for physician services~~, including emergencies~~ once a resident elects hospice care. Each resident must designate an attending physician upon admission or when they elect hospice care.

Source: 22 SDR 70, effective November 19, 1995; transferred from § 44:04:05:08, 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:73:06

NURSING AND RELATED CARE SERVICES

Section

44:73:06:03. Director of nursing ~~service.~~ ~~There~~ A facility shall ~~be~~ have a full-time registered nurse designated as the director of nursing ~~service~~ who is responsible for the organization of the ~~total~~ entire nursing service and who serves during the day shift. The director may not serve in a dual role as the administrator of the facility and the director of nursing.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, February 24, 1991; 22 SDR 70, effective November 22, 1995; transferred from § 44:04:06:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:06:04. Nursing policies and procedures. The facility shall establish and maintain policies and procedures that ~~provide~~ assist the nursing staff with ~~methods of~~ meeting ~~its administrative and technical responsibilities in providing care. The policies shall include at least~~ the following administrative and technical responsibilities:

(1) The noting of diagnostic and therapeutic orders;

(2) Assigning the nursing care of residents;

(3) Administration and control of medications;

(4) Charting by ~~nursing personnel~~ nurses;

(5) Documentation by healthcare personnel;

~~(5)~~(6) Infection control;

~~(6)~~(7) Resident safety; ~~and~~

~~(7)~~(8) Delineation of orders from nonphysician practitioners; and

(9) Activities of daily living to maintain each resident's physical functioning and personal care.

For the purposed of this section, the term "activities of daily living" means tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:06:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:06:05. Resident care plans and programs. The facility shall provide nursing services that provide safe and effective care from the day of admission through the ~~ongoing~~ development and implementation of a written care ~~plans~~ plan for each resident. The care plan ~~shall~~ must address the medical, physical, mental, and emotional needs of the resident. ~~The facility shall establish and implement procedures for assessment and management of symptoms including pain.~~

The care plan ~~shall~~ must be based on the resident assessments required in § 44:73:06:10 and ~~shall~~ must be developed and approved by ~~the~~;

(1) The resident's physician, physician assistant, or nurse practitioner; ~~the~~

(2) The resident, the resident's family, or the resident's legal representative; ~~the~~ and

(3) An interdisciplinary team consisting of at least a licensed nurse, the facility's social worker or social service designee, the dietary manager or dietitian, the coordinator of the activities ~~coordinator~~ program, and other staff in disciplines determined by the resident's needs.

The care plan ~~shall~~ must describe the services necessary to meet the resident's medical, physical, mental or cognitive, nursing, and psychosocial needs and ~~shall~~ must contain objectives and timetables to attain and maintain the highest level of functioning of the resident. The initial care plan ~~shall~~ must be ~~completed~~ developed and implemented within ~~seven days after~~ forty-eight hours of the completion of ~~each~~ all resident ~~assessment~~ assessments required in § 44:73:06:10.

Each facility shall provide restorative care services to meet resident needs.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 17 SDR 122, effective February 24, 1991; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:06:05, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Record content, ~~§~~ subdivision 44:73:09:04(4).

44:73:06:07 Nursing service staffing. ~~Each~~ A facility shall maintain a licensed nurse in charge of nursing activities during each tour of duty. The director of nursing may not serve as charge nurse in a facility with an average daily occupancy of ~~60~~ sixty or more residents. ~~Adequate~~ The facility shall have adequate staff ~~shall be provided~~ to meet the resident's total care needs at all times. The ratio of ~~registered and~~ licensed ~~practical~~ nurses to aides ~~shall~~ must be sufficient to ~~assure~~ ensure professional guidance and supervision in the nursing care of the residents.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:06:09, 42 SDR 51, effective October 13, 2015.

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

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

44:73:06:08. Intermittent nursing care. ~~The service providing the care shall specify a planned completion date based on the assessments conducted. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from any nonemployed, noncontracted skilled nursing and therapy providers pursuant to SDCL chapters 36-9, 36-10, and 36-31~~ Repealed.

Source: 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:06:11.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:06:09. Hospice services. Each facility offering hospice services, as defined in subdivision 44:79:01:01(14), shall provide services to a terminally ill ~~individuals~~ resident or arrange for ~~such~~ the services by a hospice program under a written plan established and periodically reviewed by the ~~individual's~~ resident's attending physician, physician assistant, or nurse practitioner. The hospice agency shall provide for care and services in the facility. ~~An unlicensed employee~~ Unlicensed personnel of a facility may not accept any delegated skilled tasks from any hospice providers pursuant to SDCL chapter 36-9.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:06:13, 42 SDR 51, effective October 13, 2015.

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

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

44:73:06:10. Resident assessments. Each facility shall make a comprehensive assessment of the functional, medical, mental, nursing, and psychosocial needs of each resident.

The facility shall use the resident assessment instrument described in the Long Term Care Facility Resident Assessment Instrument 3.0 User's Manual, Version 1.19.1 or an instrument substantially equivalent as determined by the department.

Source: 17 SDR 122, effective February 24, 1991, and April 1, 1991; transferred from § 44:04:04:13, 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:06:15, 42 SDR 51, effective October 13, 2015.

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

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

Reference: Long Term Care Facility Resident Assessment Instrument 3.0 User's Manual, Version ~~3.0~~ 1.19.1, October 2024. Copies ~~and manual may be viewed and printed free of charge~~ may be obtained at no cost at ~~http://www.cmsgov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/MDS30RAIManual.html~~ https://www.cms.gov/files/document/finalmds-30-rai-manual-v1191october2024.pdf.

44:73:06:13. Nurse ~~Aides~~ aides. ~~The facility and nurse aide shall meet the provisions of Article 44:74~~ Repealed.

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

~~**General Authority:** SDCL 34-12-29.~~

~~**Law Implemented:** SDCL 34-12-29.~~

CHAPTER 44:73:07

DIETETIC SERVICES

Section

44:73:07:02. Food safety. Hot food ~~shall~~ must be held at or above ~~135~~ one hundred thirty-five degrees Fahrenheit ~~(~~, or 57.2 degrees ~~Centigrade)~~ centigrade, and served promptly after being removed from the temperature holding device. Cold foods ~~shall~~ must be held at or below ~~41~~ forty-one degrees Fahrenheit ~~(5~~, or five degrees centigrade~~)~~, and served promptly after being removed from the holding device. Milk and milk products ~~shall~~ must be from a source approved by the ~~state~~ Department of Agriculture and Natural Resources. Fluid milk ~~shall~~ must be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:02.01, 42 SDR 51, effective October 13, 2015; SL 2021, ch 1, §§ 8, 19, effective April 19, 2021.

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

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

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

~~**Note:** Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 E. Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for $4.14~~ Food service code, chapter 44:02:07.

44:73:07:03. Nutritional adequacy. The dietetic service of the facility shall ~~ensure~~ prepare food ~~prepared~~ that is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the ~~My Plate,~~ Dietary Guidelines for Americans, ~~2010, U.S. Department of Agriculture~~ 2020-2025, in accordance with consideration for individual needs and reasonable preferences.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:07:02.02, 42 SDR 51, effective October 13, 2015.

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

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

Reference: Dietary Guidelines for Americans, ~~2010~~ 2020-2025, United States Department of Agriculture. Copies may be ~~viewed and printed free of charge~~ obtained at no cost at ~~http//:www.dietaryguidelines.gov~~ https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf.

44:73:07:05. Food supply. The facility shall maintain an on-site supply of perishable and nonperishable foods ~~adequate~~ to meet ~~the~~ planned menus for three days. A facility shall maintain an additional supply of nonperishable foods as part of ~~their~~ the facility's emergency preparedness plan. ~~Military~~ A facility may use military meals ready to eat ~~(MRE) are not a substitute for the nonperishable food supply for residents, but may be used to address other emergency food supply needs~~ and dried milk in an emergency event according to the facility's emergency response plan.

Source: 22 SDR 70, effective November 19, 1995; transferred from §44:04:07:02.04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:06. Therapeutic diets. ~~In each facility the~~ The dietetic service of the facility shall provide for the needs of those residents requiring therapeutic diets.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:07:02.05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:07. Social needs and dining arrangements. ~~In each facility the~~ The dietetic service of the facility, in cooperation with other departments or services, shall meet the social and environmental needs of each resident to encourage eating in the common dining area. ~~Social needs include~~ The dietetic service shall provide mutually compatible seating arrangements, a pleasant dining atmosphere, encouragement of interactions between residents, and food service to all residents at a table at approximately the same time. ~~Assistance~~ The facility shall ~~be provided~~ provide assistance for residents in need of help in eating.

Source: 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:07:02.06, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:08. Written dietetic policies. ~~There shall be~~ The facility shall have written policies and procedures that govern all dietetic activities. Policies ~~shall~~ and procedures must include food handling procedures~~, length~~ and lengths of duration for leftovers~~,~~ and opened packages of commercially prepared food in accordance with chapter 44:02:07~~, the Food Service Code. Policies~~ The facility shall review the policies and procedures ~~shall be reviewed~~ yearly and ~~revised~~ revise as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:07:03, 42 SDR 51, effective October 13, 2015.

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

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

~~**Reference**~~ **Cross-Reference:** ~~Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for $4.14 and Food Code, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for $69.00~~ Food service code, chapter 44:02:07.

44:73:07:09. Written menus. Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, ~~shall~~ must be written, prepared, and served as ~~prescribed~~ ordered by each resident's physician, physician assistant, ~~or~~ nurse practitioner, or authorized dietitian. Each menu must be written at least one week in advance. A dietitian shall annually approve, sign, and date each planned menu ~~shall be approved, signed, and dated by the dietitian~~ for ~~each~~ the facility. ~~Any~~ The dietitian shall review any menu changes from month to month ~~shall be reviewed by the dietitian and each menu shall be reviewed and approved by the dietitian at least annually if applicable~~. Each menu as served ~~shall~~ must meet the nutritional needs of the ~~residents~~ resident in accordance with the ~~physician's, physician assistant's, or nurse practitioner's~~ orders of a physician, physician assistant, nurse practitioner, or dietitian and the Dietary Guidelines for Americans, ~~2010~~ 2020-2025. ~~A~~ The facility shall file and retain a record of each menu as served ~~shall be filed and retained~~ for ~~30~~ thirty days.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:08, 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:07:04, 42 SDR 51, effective October 13, 2015.

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

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

Reference: Dietary Guidelines for Americans, ~~2010~~ 2020-2025, United States Department of Agriculture. Copies may be obtained at ~~www.dietaryguidelines.gov~~ no cost at https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf.

44:73:07:11. Director of dietetic services. A ~~full time~~ facility shall have a full-time dietary manager who is responsible to the administrator and who shall direct the dietetic services.

The dietary manager must:

(1) Be a certified dietary manager;

(2) Be a certified food service manager;

(3) Have a similar national certification for food service management and safety from a national certifying body; or

(4) Have an associate's or higher degree in food service management or hospitality from an accredited institution of higher learning that has a course of study in food service or restaurant management.

Any dietary manager ~~that has~~ who does not ~~completed a Dietary Manager's course, approved by the Association of Nutrition & Foodservice Professionals, shall~~ must enroll ~~in a course,~~ within ~~90~~ ninety days of the ~~hire date and complete the course~~ dietary manager's, in programming necessary to achieve on of the qualifications, and achieve the qualifications within ~~18~~ eighteen months of hire. The dietary manager and at least one cook shall ~~successfully complete and~~ possess a current certificate from a ServSafe Manager Food Protection Program offered by various retailers ~~or,~~ the Certified Food Protection Professional's Sanitation Course offered by the Association of Nutrition ~~&~~ and Foodservice Professionals, or ~~successfully completed~~ an equivalent training program as determined by the department. Individuals seeking ServSafe recertification are only required to take the national examination.

The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each resident are met. If the dietary manager is not a dietitian, the facility ~~shall~~ must schedule dietitian consultations onsite at least monthly. The dietitian shall approve each menu, assess the nutritional status of each resident with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits.

~~Adequate staff whose working hours are scheduled~~ The facility shall have sufficient personnel to meet the dietetic needs of the residents ~~shall be on duty daily over a period of 12 or more~~ and provide dietetic services for a minimum of twelve hours ~~in facilities~~ each day.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:07:07, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:12. Diet manual. A ~~current~~ facility shall have a therapeutic diet manual that has been updated within the last five years with a description of ~~all diets~~ each diet served in the facility ~~shall be~~ readily available ~~in the facility~~ to all food service personnel, nursing service personnel, and practitioners.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:09, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:13. Frequency of meals. ~~At~~ A facility shall serve at least three meals ~~shall be served~~ daily at regular times with not more than a ~~14-hour~~ fourteen-hour span between a substantial evening meal and the next day's breakfast. If a facility serves a nourishing snack at bedtime, up to sixteen hours may elapse between the substantial evening meal and the next day's breakfast with the consent of the facility's resident council.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:07:11, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:14. Dining arrangements. ~~The facility shall provide environmental and social accommodations for each resident to encourage eating in the common dining area. Assistance shall be provided for patients or residents in need of help in eating~~ Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from 44:04:07:12, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:15. Nutritional assessments. A registered dietitian shall ensure a nutritional assessment is completed on each ~~new~~ resident ~~upon~~:

(1) Upon admission; ~~any resident having~~

(2) With a significant change in diet, eating ability, or nutritional status; ~~monthly for any resident receiving~~

(3) Receiving tube feedings; and ~~on any resident with~~

(4) With a disease or condition that puts the resident at significant nutritional risk.

A monthly tube feeding assessment ~~shall~~ must include nutritional adequacy of calories, protein, and fluids.

An annual nutrition assessment ~~shall~~ must be completed for each resident.

Source: 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:07:14, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:16. Required dietary inservice training. The dietary manager or the dietitian shall provide ongoing inservice training for all personnel providing dietary and food-handling ~~employees. Topics shall include~~ services. Training must be completed within thirty days of hire and annually for all dietary or food-handling personnel. The training must include the following subjects: ~~food~~

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

(2) Handwashing;

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

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

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

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

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

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

(9) Sanitation requirements.

Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:07:16, 42 SDR 51, effective October 13, 2015.

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

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

44:73:07:17. ~~Nutrition and hydration~~ Dining assistance program. A facility may develop a program to train ~~nutrition and hydration~~ dining assistants. The program ~~shall~~ must be approved by the department. To be approved by the department, the program ~~shall~~ must include instruction from a speech-language pathologist and registered dietitian and consist of ten hours of training and clinical experience.

Source: 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006;; transferred from § 44:04:07:17, 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:73:08

MEDICATION CONTROL

Section

44:73:08:01.01. Policies and procedures. Each facility shall establish and ~~practice methods~~ implement the following policies and procedures for medication control ~~that include the following;~~:

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

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

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

(c) Release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to residents ~~or~~ and visitors with requirements for:

(a) Separate storage of poisons, topical medications, and oral medications;

(b) Each resident's medication to be stored in the container in which it was originally received and not transferred to another container; and

(c) A medication prescribed for one resident that is not to be administered to any other resident;

(3) ~~Self-administration~~ The self-administration of medications ~~to~~ must be accomplished with the supervision of a designated employee of the facility ~~to include~~. The requirement must contain:

(a) A description of the responsibility of the resident, the resident's family members and the facility ~~staff~~ personnel; and

(b) The provision of written educational material explaining to the resident and the resident's family the resident's rights and responsibilities associated with self-administration; and

(4) ~~The~~ Provision for proper disposition of ~~medicines that are discontinued because of the~~ medications due to:

(a) Resident discharge or death ~~of the resident, because the drug is outdated,~~;

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

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

~~Methods and~~ The facility shall establish written policies and procedures ~~shall be established to include~~ for the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

The facility and the facility's pharmacist shall establish a system of records of receipt and disposition for all controlled drugs in sufficient detail to enable an accurate reconciliation. The facility and pharmacist shall ensure the drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled. The facility and pharmacist shall have policies and ~~procedure~~ procedures for the periodic reconciliation of all controlled substances. The policies and ~~procedure shall~~ procedures must minimize the time between the actual loss or diversion and the time of detection and follow-up to determine the extent of the loss.

If a loss or diversion of controlled substances is identified, the facility and pharmacist shall evaluate the residents potentially affected, consistent with ~~their~~ the resident's comprehensive assessment and plan of care. If ~~the systems~~ policies and procedures have not been effective in preventing the loss or diversion of controlled substances, the facility and pharmacist ~~shall~~ must review and revise related controls and procedures as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:08:02, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:73:08:02. Written orders for medication required. All medications ~~or drugs~~ administered to ~~residents shall~~ a resident must be ordered electronically or in writing and signed by the prescriber. Verbal orders for medications ~~or drugs~~ may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse. The prescriber shall sign or initial ~~the~~ any verbal orders for residents on the prescriber's next visit to the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:08:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:03. Medication therapy reviewed monthly. The pharmacist shall review ~~the drug~~ a resident's medication regimen at least monthly. The pharmacist shall review the resident's diagnosis, ~~the drug~~ medication regimen, and any pertinent laboratory findings and dietary considerations. The pharmacist shall report potential ~~drug~~ medication therapy irregularities and make recommendations for improving the ~~drug~~ medication therapy of the ~~residents~~ resident to the attending physician, physician assistant, or nurse practitioner, and the administrator. The pharmacist shall document the review by preparing a monthly report of the potential irregularities and recommendations. The administrator shall retain the report in the facility for one year. A copy of the medication review ~~shall~~ must be in the resident medical record.

The pharmaceutical service ~~shall~~ must be under the supervision of a licensed pharmacist who provides consultation and oversees all aspects of the pharmaceutical ~~services~~ service.

Source: 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:08:03.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:04. Storage and labeling of medications ~~and drugs.~~ ~~All drugs or~~ A facility shall store all medications ~~shall be stored~~ in a ~~well illuminated~~ well-illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for ~~drug~~ medication storage, accessible to those with authority to administer medications, and inaccessible to residents ~~or~~ and visitors at all times. Medications suitable for storage at room temperature ~~shall~~ must be maintained between ~~59~~ fifty-nine and ~~86~~ eighty-six degrees Fahrenheit ~~(15~~, or fifteen and ~~30~~ thirty degrees centigrade~~)~~. Medications that require refrigeration ~~shall~~ must be maintained between ~~36~~ thirty-six and ~~46~~ forty-six degrees Fahrenheit ~~(2~~, or two and ~~8~~ eight degrees centigrade~~)~~. Poisons and medications prescribed for external use ~~shall~~ must be stored separately from ~~internal~~ medications prescribed for internal use, locked, and made inaccessible to residents and visitors.

~~The medications or drugs of each resident for whom medications are~~ Any resident medication that is facility-administered ~~shall~~ must be stored in the ~~containers~~ container in which ~~they were~~ it was originally received and may not be transferred to another container. ~~Special modification of this requirement may be made if~~ Single dose medication received by a resident from a physician, physician assistant, or nurse practitioner must be identified as single dose ~~packaging is used~~. Each prescription ~~drug~~ medication container, including manufacturer's complimentary samples, ~~shall~~ must be labeled with the resident's name~~,~~; the name of the resident's physician, physician assistant, or nurse ~~practitioner's name, drug~~ practitioner; the medication name and strength~~,~~; the directions for use~~,~~; and the prescription date.

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

A ~~nursing~~ facility may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by

qualified personnel.

Any container with a worn, illegible, or missing label ~~shall~~ must be destroyed pursuant to § 44:73:08:06. ~~Licensed pharmacists are~~ A licensed pharmacist is responsible for the labeling, relabeling, or altering of ~~labels~~ a label on a medication ~~containers~~ container.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 5 SDR 29, effective October 22, 1978; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 15 SDR 155, effective April 20, 1989; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:08:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:05. Control and accountability of medications ~~and drugs.~~ ~~Medications~~ A medication brought from a resident's home may be used if ordered by the ~~attending~~ resident's physician, physician assistant, or nurse practitioner and, if prior to administration, is identified as the prescribed ~~drug~~ medication. ~~Medications prescribed for one resident may not be administered to another. Residents~~ No resident may ~~not~~ keep medications on ~~their~~ the resident's person or in ~~their~~ the resident's room without ~~a physician's~~ an order from a physician, physician assistant, or nurse ~~practitioner's order~~ practitioner allowing self-administration. ~~Written~~ The facility must receive written authorization ~~by~~ from the resident's physician, physician assistant, or nurse practitioner ~~shall be secured for the release of~~ before releasing any medication to a resident upon discharge, transfer, or temporary leave from the facility. The release of medication ~~shall~~ must be documented in the resident's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:08:04.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:06. Documentation of ~~drug~~ medication disposal. ~~Legend drugs~~ A facility shall ensure that a legend medication not controlled under SDCL chapter 34-20B ~~shall be~~ is destroyed or disposed of by a nurse and another witness. Destruction or disposal of medication controlled under SDCL chapter 34-20B ~~shall~~ must be witnessed by two persons, both of whom ~~are~~ must be a nurse or pharmacist, as designated by facility policy. ~~Methods~~ The following are authorized methods of destruction or disposal ~~may include~~:

(1) ~~Disposal by using~~ Using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications ~~shall~~ must be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction ~~or dispose~~ according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to resident upon discharge after authorization by the resident's prescribing practitioner.

~~Medications controlled under SDCL chapter 34-20B shall not be returned to the dispensing pharmacy or to an authorized reverse distributor company. Documentation of~~ The facility shall document destruction or disposal of medications ~~shall be included~~ in the resident's record. The documentation ~~shall~~ must include the method of disposition ~~(destruction, disposal, return to pharmacy, or release to resident);~~, the medication name~~,~~ and strength, prescription number ~~(as applicable)~~, quantity, ~~and~~ date of disposition~~;~~, and the name of any person who witnessed the destruction or disposal.

~~Medications~~ A facility may return medication, excluding those controlled under SDCL chapter

34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 ~~may be returned~~ to the dispensing pharmacy for credit and redispensing.

Any medication held for disposal ~~shall~~ must be physically separated from the medications being used in the facility~~,~~ and locked ~~with access limited,~~ in an area ~~with~~ accessible to nursing and pharmacy personnel only. The facility shall establish a system to reconcile, audit, ~~or~~ and monitor ~~them~~ medication held for disposal to prevent diversion.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; transferred from § 44:04:08:04.02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:07. Medication administration. ~~Each medication administered~~ The facility personnel administering medication to a resident shall ~~be recorded~~ record the administration in the resident's medical record ~~and signed by the person responsible~~. Medication errors and drug reactions ~~shall~~ must be reported to the resident's physician, physician assistant, or nurse practitioner and an entry must be made in the resident's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director ~~and the~~. The facility shall make the list ~~is~~ available to ~~the~~ all nursing ~~staff~~ personnel. All medications ~~shall~~ must be administered to residents by personnel acting under the delegation of a licensed nurse, or personnel licensed to administer medications.

~~A person may not~~ No personnel may administer ~~medications that have been~~ a medication prepared by another person~~, other than~~ unless the medication was prepared by a pharmacist.

Medication administration ~~shall~~ must comply with §§ 44:73:08:02 to 44:73:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The supervising nurse shall provide an orientation to ~~the~~ any unlicensed assistive personnel who will administer medications. The orientation ~~shall~~ must be specific to the facility and relevant to the residents receiving administered medications.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:08:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:08. Medication records. ~~Medication~~ A facility shall use medication administration records ~~shall be used~~ and regularly ~~checked~~ check the record against the physician, physician assistant, or nurse practitioner's orders. Each medication administered ~~shall~~ must be recorded in the resident's medical record and signed by the individual ~~responsible~~ administering the medication.

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

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

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

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

Only prepackaged ~~drugs~~ or a ~~single dose unit~~ single-dose-unit medications may be removed from the pharmacy when the pharmacist is not available. ~~These drugs~~ A medication may be removed ~~only~~ by a designated registered nurse or physician, physician assistant, or nurse practitioner in amounts sufficient only for immediate therapeutic needs. A record of ~~such withdrawals shall~~ the removal must be made by the designated nurse or the physician, physician assistant, or nurse practitioner ~~making the withdrawal~~ removing the medication.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; transferred from § 44:04:08:06, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:10. Stock of legend drugs prohibited -- Exception. ~~Legend drugs or~~ A facility with a full-time or part-time pharmacist may stock medications ~~may be stocked~~ in bulk form ~~in nursing facilities which employ a licensed~~. The pharmacist ~~full or part time to~~ shall supervise~~, within the facility,~~ the procurement, storage, and dispensing of ~~such drugs and~~ medications within the facility. ~~Nursing facilities~~ A facility without a pharmacy ~~shall~~ must use ~~the~~ an emergency drug box or a separate locked cabinet kept on the premises pursuant to § 44:73:08:11.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:08:07, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:11. Controlled drugs kept for emergency use. ~~Controlled~~ A facility may keep controlled drugs ~~may be kept~~ for emergency use under the following circumstances:

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

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

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

(4) The facility notifies the pharmacist within ~~36~~ thirty-six hours after the withdrawal of a Schedule II drug and within ~~72~~ seventy-two hours after the withdrawal of a Schedule III ~~and~~ or IV ~~drugs~~ drug and the pharmacist replaces the drugs within ~~72~~ seventy-two hours after notification; and

(5) No more than ~~5~~ five different controlled drugs are stored in the emergency box~~, which~~ or separate locked cabinet. The emergency box or separate locked cabinet may contain no more than ~~6~~ six doses of any Schedule II controlled drug, no more than ~~6~~ six doses of any Schedule III or IV injectable controlled drug, and no more than ~~12~~ twelve doses of any oral Schedule III or IV controlled drug.

Source: 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:08:07.01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:08:12. Self-administration of drugs. A resident with the cognitive ability to perform self-administration may self-administer drugs. At least every three months, a registered nurse, or the resident's physician, physician assistant, or nurse practitioner shall determine and record the continued appropriateness of the resident's ability to self-administer medications. The determination must state whether the resident or healthcare personnel is responsible for storage of the medication and contain documentation of its administration in accordance with this chapter.

Any resident who stores a medication in the resident's room or self-administers a medication must have an order from a physician, physician assistant, or nurse practitioner allowing self-administration.

If a resident is permitted to self-administer medications, the facility's policies and procedures must be in accordance with this chapter. The facility shall provide written educational material explaining the resident's rights and responsibilities associated with self-administration to the resident and the resident's representative.

Source:

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

CHAPTER 44:73:09

MEDICAL RECORD SERVICES

Section

44:73:09:01.01. Medical record. ~~There~~ A facility shall ~~be~~ have an organized medical record system. A facility shall maintain a medical record ~~shall be maintained~~ for each level of care for each resident admitted to the facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:09:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:09:02. Medical record ~~staff~~ personnel. ~~The~~ A facility shall have medical record functions ~~shall be~~ performed by ~~persons~~ personnel trained and equipped to facilitate the accurate processing, checking, indexing, filing, and retrieval of all medical records. The individual responsible for the medical records service shall have knowledge and training in the field of medical records.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:09:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:09:03. Written policies and confidentiality of records. ~~There~~ A facility shall ~~be~~ have written policies and procedures ~~to govern the administration and activities of~~ for the medical record service~~. They shall include policies and procedures pertaining to~~ that address the confidentiality and safeguarding of medical records, the record content, continuity of a resident's medical records during subsequent admissions, requirements for completion of the record, and the entries to be made by various authorized personnel.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:09:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:09:04. Record content. ~~Each~~ The facility must ensure each medical record ~~shall show~~ indicates the condition of the resident from the time of admission until discharge and ~~shall include the following~~ that each medical record contains:

(1) Identification data;

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

(3) History of the resident;

(4) A current overall plan of care;

(5) ~~Report~~ A report of the initial and periodic physical examinations, evaluations, and all plans of care with subsequent changes;

(6) Diagnostic and therapeutic orders;

(7) Progress notes from practitioners of all disciplines~~, including practitioners, physical therapy, occupational therapy, and speech-language pathology~~;

(8) Laboratory and radiology reports;

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

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

(11) A final diagnosis; and

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

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 172, effective May 19, 1993; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:09:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:09:06. Retention of medical records. A facility shall retain medical records for a minimum of ten years from the ~~actual visit~~ date ~~of service or~~ of established resident care. ~~The retention of the record for ten years is not affected by additional and future visit dates. Records~~ The facility shall retain the records of ~~minors shall be retained~~ a minor until the minor reaches the age of majority plus an additional two years, but no less than ten years from the ~~actual visit date of service or~~ date of established resident care. Initial, annual, and significant-change resident assessment records~~, as~~ required ~~in §~~ by § 44:73:06:10 ~~and 44:73:06:11, shall~~ must be retained for ten years from the ~~actual visit~~ date of established resident care. The retention of the record for ten years is not affected by additional and future visit dates.

Source: 19 SDR 172, effective May 19, 1993; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 28 SDR 83, effective December 16, 2001; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:09:08, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Storage of medical records, § 44:73:09:07.

44:73:09:07. Storage of medical records. A facility shall provide for filing, safe storage, and easy accessibility of medical records. The medical records ~~shall~~ must be preserved as original records or in ~~other~~ another readily retrievable and reproducible form. Medical records ~~shall~~ must be protected against access by unauthorized individuals. All medical records ~~shall~~ must be retained by the health care facility upon change of ownership.

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:09:09, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Disposition of medical records on closure of facility or transfer of ownership, § 44:73:09:09.

44:73:09:08. Destruction of medical records. After the ~~minimum~~ required retention period ~~of ten years from the actual visit date of care~~ outlined in § 44:73:09:06, the facility may, at its discretion, destroy the medical record ~~may be destroyed at the discretion of the facility~~. Before the destruction of the medical record, the facility shall prepare and retain a resident index or abstract. The resident index or abstract ~~shall~~ must include the resident's:

(1) Name;

(2) Medical record number;

(3) Date of birth;

(4) Summary of ~~visit dates~~ care dates;

(5) Attending or admitting physician, physician assistant, or nurse practitioner; and

(6) Diagnosis or diagnosis code.

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

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:09:10, 42 SDR 51 effective October 13, 2015.

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

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

44:73:09:09. Disposition of medical records on closure of facility or transfer of ownership. If a facility ceases operation, the facility ~~shall~~ must provide for safe storage and prompt retrieval of medical records and the resident indexes specified in § 44:73:09:06. The facility may arrange storage of medical records with another health care facility of the same licensure classification, transfer medical records to another health care provider at the request of the resident or the resident's legal representative, relinquish medical records to the resident or the resident's ~~parent or~~ legal ~~guardian~~ representative, or arrange storage of remaining medical records with a ~~third party~~ third-party vendor who ~~undertakes such a storage activity~~ provides secure storage of health care records. At least ~~60~~ sixty days before closure, the facility shall notify the department in writing indicating the provisions for the safe preservation of medical records and ~~their~~ the records' location and publish in ~~a local~~ the nearest legal newspaper or share on the facility's website the location and disposition arrangements of the medical records.

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

Source: 19 SDR 172, effective May 19, 1993; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:09:11, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Storage of medical records, § 44:73:09:07.

44:73:10:02. Activities program. ~~A planned~~ The facility shall develop an individualized activities program ~~shall be provided with therapeutic activities designed to meet the needs and interests~~ that holistically meets the individual needs and interest of residents and maintains optimal levels of physical and psychosocial functioning of ~~individual~~ residents. ~~An activities coordinator shall be in charge of the activities program in nursing facilities. Supplies and equipment shall be provided for activities to satisfy the individual interests of patients or residents.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:12:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:10:04. Provision of social services. A facility shall provide or make arrangements to provide social services for each resident as needed. A staff social worker or social service designee ~~shall be designated as~~ is responsible to facilitate the provision of social services. The staff social worker shall be licensed, or the social services designee shall have a degree in a behavioral science field, one year of previous supervised experience in a behavioral science field, or be a licensed nurse. If the staff member is not a licensed social worker, the facility ~~shall~~ must have a written agreement with a licensed social worker ~~for~~ to provide consultation and assistance ~~to be provided on a regularly scheduled basis but~~ at least quarterly.

Source: 14 SDR 81, effective December 10, 1987; transferred from § 44:04:06:12, 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:12:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:10:05. Rehabilitation services. A facility shall provide rehabilitation services based on the needs of residents as identified in the comprehensive resident assessment specified in §§ ~~44~~:73:06:10 ~~and 44:73:06:11~~.

Source: 22 SDR 70, effective November 19, 1995; transferred from § 44:04:12:06, 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:73:11

RESIDENT'S RIGHTS

Section

44:73:11:01. ~~Application of chapter -- Residents'~~ Resident rights ~~policies~~. Each facility shall establish and implement policies consistent with 42 CFR § 483.10 (September 17, 2024) and this chapter to protect and promote the rights of each resident.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:17:01, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:02. Facility to inform resident of rights. Prior to or at the time of admission, a facility shall inform the resident, both orally and in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while living in the facility. The resident shall acknowledge in writing that the resident received the information. During the resident's stay, the facility shall notify the resident or the resident's legal representative, both orally and in writing, of any changes to the original information.

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

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; subdivision (8) transferred from § 44:04:12:03, 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:17:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:03. Facility to provide information on available services, policies, and procedures. A facility shall provide the following information in writing to each resident or resident's legal representative:

(1) A list of items and services available in the facility ~~and,~~ the charges for ~~such~~ those items and services~~. The facility shall specify which~~, and the items and services ~~are included in the services~~ for which the resident may not be charged~~, those other items and services that the facility offers and for which the resident may be charged, and the amount of any such charges~~;

(2) A description of how to apply for and use ~~Medicare~~ medicare and ~~Medicaid~~ medicaid benefits, and the right to establish eligibility for ~~Medicaid~~ medicaid, including the addresses and telephone numbers of the nearest office of the South Dakota Department of Social Services and of the United States Social Security Administration;

(3) A description of the bed-hold policy ~~which~~ that indicates the length of time the bed will be held for the resident, any policies regarding the held bed, and readmission rights of the resident; and

(4) A description explaining the responsibilities of the resident and family members regarding self-administered medication.

A signed and dated admission agreement between the resident or the resident's legal representative and the facility must include information described in subdivisions (1) to (4), inclusive~~, of this section~~. The resident or resident's legal representative and the facility shall complete the admission agreement before or at the time of admission and before the resident has made a commitment for payment for proposed or actual care. The agreement ~~shall~~ must be printed ~~for~~ in a manner to ensure ease of reading by the resident prior to signing. Any change in the ~~information shall be given to~~ admission agreement must be signed and dated by the resident or the resident's legal representative as ~~a signed and dated~~ an addendum to the original agreement.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 24

SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:17:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:08. Privacy and confidentiality. A facility shall provide for privacy and confidentiality for the resident. A facility shall permit residents to ~~perform the following~~:

(1) ~~To visit~~ Visit a spouse or significant other or, if both are residents of the same facility, ~~to~~ share a room with the spouse or significant other within the capacity of the facility, upon the consent of both ~~spouses~~ parties;

(2) ~~Except in an emergency, to have~~ Have room doors closed and to require knocking before entering the resident's room, except in an emergency;

(3) ~~To have~~ Have only authorized ~~staff~~ personnel present during treatment or activities of personal hygiene;

(4) ~~To retire~~ Retire and rise according to the resident's wishes, as long as the resident does not disturb other residents;

(5) ~~To meet~~ Meet, associate, and communicate with any person of the resident's choice in a private place within the facility;

(6) ~~To participate~~ Participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; ~~and~~

(7) ~~To approve~~ Approve or refuse the release of personal and medical records to any individual outside the facility, except when the resident is transferred to another health care facility or when the release of the record is required by law;

(8) Send and receive unopened mail and to have access to stationery, postage, and writing implements at the resident's own expense; and

(9) Access and use a telephone without being overheard.

With the ~~resident's~~ permission of the resident or the resident's legal representative, a facility must allow the state ombudsman or a representative of the ombudsman access to the resident's medical records.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995.;

transferred from § 44:04:17:08, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Written policies and confidentiality of records, § 44:73:09:03.

44:73:11:09. Quality of life. A facility shall provide care and an environment that contributes to the resident's quality of life~~, including~~. The facility shall provide:

(1) A safe, clean, comfortable, and homelike environment;

(2) Maintenance or enhancement of the resident's ability to preserve individuality, exercise self-determination, and control everyday physical needs;

(3) Freedom from physical or chemical restraints imposed for purposes of discipline or convenience;

(4) Freedom from verbal, sexual, physical, and mental abuse ~~and~~;

(5) Freedom from involuntary seclusion, neglect, or exploitation imposed by anyone~~, and~~;

(6) Freedom from theft of personal property;

~~(5)~~(7) Retention and use of personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents; and

~~(6)~~(8) Support and coordination to assure pain is recognized and addressed appropriately.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:17:09, 42 SDR 51, effective October 13, 2015.

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

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

Cross-Reference: Care policies, § ~~44:73:04:12~~ 44:73:04:13.

44:73:11:10. Grievances. A resident's grievance may be in writing or oral and may relate to treatment furnished, treatment that has not been furnished, the behavior of other residents, and infringement of the resident's rights. A facility shall adopt a grievance process and make the process known to each resident and to the resident's immediate family or legal representative. The grievance process ~~shall include~~ must outline the facility's efforts to resolve the grievance and documentation of:

(1) The grievance;

(2) The names of the persons involved;

(3) The disposition of the matter; and

(4) The date of disposition.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:17:10, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:11. Availability of survey results. ~~Survey~~ A facility shall provide a copy of any survey results from a department inspection, along with the corresponding ~~Plan~~ plan of ~~Correction shall be provided~~ correction to ~~residents and individuals~~ a resident or other individual upon request.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; transferred from § 44:04:17:11, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:12. Right to refuse to perform services. ~~A resident may refuse to perform services on behalf of the facility, unless otherwise agreed to in the resident's plan of care. The~~ A resident may perform services for the facility when the following conditions are met:

(1) The plan of care includes documentation of the need or desire for work;

(2) The nature of the services performed is specified, including whether the services are voluntary or paid;

(3) Compensation for paid services is at or above prevailing rates; and

(4) The resident agrees to the work arrangement.

A resident may refuse to perform services on behalf of the facility.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:17:12, 42 SDR 51, effective October 13, 2015.

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

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

44:73:11:13. Self-administration of drugs. ~~A resident may self-administer drugs if the interdisciplinary team consisting of selected healthcare workers and licensed health professionals has determined the practice to be safe. The determination shall state whether the resident or the nursing staff is responsible for storage of the drug and documentation of its administration in accordance with chapter 44:73:08~~ Repealed.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:17:13, 42 SDR 51, effective October 13, 2015.

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

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

~~**Cross-Reference:** Medication control, ch 44:73:08.~~

44:73:11:14 Admission, transfer, and discharge policies. A facility shall establish and ~~maintain~~ implement policies and ~~practices~~ procedures for admission, readmission, discharge, and transfer of residents ~~which~~ that prohibit discrimination based upon payment source. The facility shall notify each resident at or before the time of admission of these policies and procedures. The policies and ~~practices shall~~ procedures must include the following provisions:

(1) The resident may remain in the facility and may not be transferred or discharged unless the resident's needs and welfare cannot be met by the facility, the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, the safety or health of individuals in the facility is endangered by the resident, the resident has failed to pay for allowable billed services as agreed to, or the facility ceases to operate;

(2) The facility must notify the resident ~~and a family member~~ or ~~client advocate~~ the resident's legal representative and state ombudsman in writing at least ~~30~~ thirty days before the transfer or discharge unless a change in the resident's health requires immediate transfer or discharge or the resident has not resided in the facility for ~~30~~ thirty days. The written notice ~~shall~~ must specify the reason for, and effective date of, the transfer or discharge and the location to which the resident will be transferred or discharged;

(3) The conditions under which the resident may request or refuse transfer within the facility; and

(4) A description of how the resident may appeal a decision by the facility to transfer or discharge the resident.

Source: 19 SDR 95, effective January 7, 1993; 22 SDR 70, effective November 10. 1995; transferred from § 44:04:17:14, 42 SDR 51, effective October 13, 2015.

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

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

CHAPTER 44:73:12

CONSTRUCTION STANDARDS

Section

44:73:12:22 Floor surface finish.

44:73:12:23 Wall and ceiling finish.

44:73:12:24 Elevators.

44:73:12:25 Repealed.

44:73:12:26 Steam and hot water systems.

44:73:12:27 Ventilation systems

44:73:12:28 ~~Filters~~Filtration.

44:73:12:29 Ducts.

44:73:12:30 Food service ventilation.

44:73:12:31 Repealed.

44:73:12:32 Plumbing fixtures.

44:73:12:33 Water supply systems.

44:73:12:34 Vacuum breakers.

44:73:12:35 Hot water systems.

44:73:12:36 Drainage systems.

44:73:12:37 Electrical distribution system.

44:73:12:38 Lighting.

44:73:12:39 Emergency electrical service.

44:73:12:40 Receptacles or convenience outlets.

44:73:12:41 Staff call system.

44:73:12:42 Repealed.

44:73:12:43 Submittal of plans and specifications.

44:73:12:44 Pipe requirements.

44:73:12:45 Detached structures.

44:73:12:46 Water ~~recreation~~ therapy facilities.

44:73:12:01. Application of chapter. The provisions of this chapter apply to any new facility and to any renovation, addition, or change in space use of currently ~~approved~~ licensed, existing facility. ~~Accessible and usable accommodations shall be available to the public, staff, and residents with disabilities.~~

Each facility shall comply with NFPA 101 Life Safety Code, 2012 edition.

Each facility providing off-site services shall comply with ~~"Business Occupancy~~ business occupancy standards ~~or~~ and other ~~occupancies~~ occupancy standards as applicable for the use of the facility from~~"~~ NFPA 101 Life Safety Code, 2012 edition ~~for the buildings where these services are offered~~, chapter 38.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:13:01, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-1-17~~(4)(5)~~, 34-12-13~~(3)~~.

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

Reference: **NFPA 101 Life Safety Code**, 2012 edition, National Fire Protection Association. Copies may be obtained ~~from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101. Phone: 1-800-344-3555~~ at https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$93.00~~ $160.00.

44:73:12:02. Administration department. The facility's administration department ~~shall~~ must include space for a business office, an administrator's office, a lobby, public and ~~staff~~ personnel toilet rooms, ~~office for the~~ a director of ~~nurses~~ nursing office, and a social service office.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:15:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:03. Medical records unit. The facility's medical records unit ~~shall include~~ must have a storage area for active and closed ~~record storage~~ records and a work area.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:15:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:04. Storage rooms. ~~There~~ The facility shall ~~be~~ have at least ~~10~~ ten square feet ~~(0.929~~, or .929 square meters~~)~~, of central storage provided for each bed. General storage ~~shall~~ must be concentrated in one area in the facility, but up to ~~50~~ fifty percent of the general storage space may be provided on the ~~premises~~ grounds of the facility.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; transferred from § 44:04:15:04, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:05. Resident dining and recreation area. The facility must have a total ~~areas~~ area set aside for resident dining, recreation, and other central use areas ~~may~~ of not ~~be~~ less than ~~45~~ forty-five square feet ~~(~~, or 4.18 square meters~~)~~, for each bed and each ~~day-care patient~~ adult day care resident. The facility's resident dining space ~~shall~~ must be at least ~~25~~ twenty-five square feet ~~(~~, or 2.32 square meters~~)~~, for each bed. ~~A~~ The facility shall provide a handwashing sink ~~shall be provided~~ in each dining space. ~~Additional~~ The facility shall provide additional space ~~shall be provided~~ for ~~day-care~~ adult day care residents if they participate in ~~a day-care~~ an adult day care program. Storage ~~shall~~ must be provided for recreational equipment and supplies.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:15:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:06. Outside area. Each memory care unit of a facility shall have ~~for the residents access to~~ an outdoor area that is enclosed by a fence for residents to access. The fence ~~shall~~ must extend to a minimum of six feet above grade level and be designed to be safe for resident contact. Hard surface walking paths ~~shall~~ must be provided in the outside area. ~~Space~~ The facility shall ~~be provided~~ provide space for lounging and for gardening. If the access to the outside area is through a required building exit, the area must be large enough to allow movement of all residents away from the building structure a distance of ~~50~~ fifty feet ~~(~~, or 15.24 meters~~),~~ and have a gate to exit the outside area to allow emergency egress and allow access for maintenance.

Source: 29 SDR 81, effective December 11, 2002; transferred from § 44:04:15:07, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(3)(14)~~.

Law Implemented: SDCL 34-12-13~~(3)(14)~~.

44:73:12:07. Memory care unit locations. Any memory care unit ~~shall~~ must be located at grade level ~~and have direct access to an outside area~~.

Source: 31 SDR 62, effective November 7, 2004; transferred from § 44:04:15:08, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:08. Resident rooms. A~~-~~ resident room~~ shall~~ in the facility must meet the following requirements:

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

(2) A minimum area, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules, of ~~120~~ one hundred twenty square feet~~ (~~, or 10.8 square meters~~),~~ in each one-bed room and~~ 200~~ two hundred square feet~~ (~~, or 18.58 square meters~~),~~ in each two-bed room. Any sleeping room designed as part of a suite of rooms~~ shall~~ must have a minimum area of~~ 100~~ one hundred square feet~~ (~~, or 9.29 square meters~~),~~ in each one-bed room and~~ 160~~ one hundred sixty square feet~~ (~~, or 14.86 square meters~~),~~ in each two-bed room. The minimum dimension~~ in~~ of a sleeping~~ rooms may not be less than~~ room is nine feet six inches~~ (~~, or 2.90 meters~~);~~

(3)~~ Each~~ For each bed in a two-bed room~~ shall have~~, cubicle curtains or equivalent built-in devices for full visual privacy that allow access to the toilet room and corridor without entering the ~~roommates~~ roommate's space;

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

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

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

~~(6)~~(7)~~ Have a~~ A toilet room and lavatory. Each resident toilet room~~ shall~~ must be directly accessible~~ for~~ to each resident without going through the general corridor. In a remodeling project, a~~ one toilet~~ one-toilet room with~~ handsink~~ hand sink in a resident room may serve two resident rooms, but not more than four beds. For new construction, a toilet room may not be shared between resident rooms. Each resident toilet room~~ shall include~~ must have a water closet,~~ handsink~~ hand sink, mirror, and private individual storage. In~~ two bed~~ two-bed rooms, a separate~~ handsink shall~~ hand sink must be provided in the resident room. All toilet rooms used by residents~~ shall~~ must be wheelchair accessible;

(7)~~ Have a~~ A wardrobe or closet for each resident with an area of at least five square feet~~ (~~

~~0.465~~, or .465 square meters~~)~~; and

(8) ~~Have each~~ Each resident room door located not more than ~~150~~ one hundred fifty feet ~~(~~, or 45.72 meters~~)~~ from the ~~staff~~ nurse's station.

~~Any modifications of the requirements listed in subdivisions (1) to (8), inclusive, of this section may be approved for any special care room by the department after receipt of a written request.~~

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:13:02, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:09. Service area in care units. ~~Each~~ The facility shall ensure each care unit ~~shall contain a service area which includes the following~~ contains:

(1) ~~Staff~~ A nurse's station with convenient access to handwashing facilities;

(2) ~~Staff~~ Nurse's charting area;

(3) ~~Communications~~ Personnel communications area;

(4) Storage for supplies and ~~staff~~ personnel's personal effects;

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

(6) ~~Nurses'~~ A nurse's office;

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

(8) ~~Soiled~~ A soiled workroom ~~which contains~~, containing a work counter with a handwashing facility, a waste receptacle, soiled linen receptacles, a clinical sink with an exposed water trap seal, siphon jet or blowout action, and a bedpan flushing device;

(9) ~~Medicine~~ A medicine room adjacent to the ~~staff~~ nurse's station ~~with~~, containing a sink, refrigerator, locked storage, and facilities for preparation and administration of medication;

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

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

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

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

(14) ~~Janitor's~~ A janitor's closet with a floor receptor or service sink, for storage of housekeeping supplies and equipment ~~which contains a floor receptor or service sink~~. The janitor's

closet space and equipment may be incorporated into the soiled ~~utility room~~ workroom; and

(15) Multipurpose rooms for ~~staff~~ personnel, residents, and residents' families, for conferences, reports, education, training sessions, and consultation.

If the facility offers outpatient therapy services ~~are offered~~, the therapy unit ~~shall~~ must provide access to outpatient services without traversing ~~inpatient~~ resident areas. The therapy unit ~~shall~~ must be sized and equipped to accommodate the therapy modalities offered and contain locked records storage~~, handsinks;~~, hand sinks located convenient to treatment areas~~, private room with handsink for speech language pathology~~, and cubicle curtains for privacy at treatment areas~~, and the therapy unit shall be sized and equipped to accommodate the therapy modalities offered~~.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; transferred from § 44:04:13:03, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:11. Dietary department. ~~Construction, equipment, and installation of~~ A facility shall construct, equip, and install the dietary department ~~shall comply~~ in compliance with ~~or exceed the minimum standards in~~ §§ 44:02:07:01, 44:02:07:02, and 44:02:07:04 to 44:02:07:95, inclusive~~, the Food Service Code~~. The installation ~~shall~~ of food service equipment must comply with § ~~44:04:13:05~~ 44:73:12:12 unless ~~a commercially prepared dietary service, meals, or disposables are used~~ the facility uses a commercial service. If a commercial service is used, dietary areas and equipment ~~shall~~ must meet the requirements for sanitary storage, processing, and handling.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; transferred from § 44:04:13:04, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-1-17, 34-12-13~~(3)~~.

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

~~**Note**~~**Cross-Reference:** ~~Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for $4.14~~ Food service code, chapter 44:02:07.

44:73:12:12. Food preparation services and equipment. ~~The~~ A facility shall ensure the dietary area ~~shall be~~ is completely cleanable by conventional methods. The location and design of the dietary area ~~shall~~ must enable convenient handling of incoming supplies, preparation of meals, ~~including~~ tray service, and disposal of rubbish and garbage. Equipment and space provided ~~shall~~ must include ~~the following~~:

(1) In a dietary ~~areas~~ area serving ~~20~~ twenty beds or more, a dishwashing area ~~including~~ with a commercial dishwasher supplied with ~~180 degree~~ one hundred eighty degrees Fahrenheit ~~(~~82, or eighty-two degrees centigrade~~),~~ rinse water or a chemical sanitizing cycle~~,~~; a soiled dish table with at least seven feet ~~(~~, or 2.13 meters~~),~~ of work space~~,~~; a garbage disposal~~,~~; a garbage can~~,~~; a clean dish table with room for at least three dish racks~~,~~; and handwashing facilities. ~~Dietary areas~~ A dietary area located in a resident ~~areas~~ area serving ~~16~~ sixteen residents or less may use ~~a~~ an undercounter commercial dishwasher;

(2) A dry food storage area with at least one and one-half linear feet ~~(0.46~~, or .46 meters~~),~~ of shelving ~~20~~ twenty inches ~~(0.51~~, or .51 meters~~),~~ wide for each resident bed and a functional aisle;

(3) Refrigerated storage space providing at least one and one-half cubic feet ~~(0.042~~, or .042 cubic meters~~),~~ of refrigerated space and one-half cubic feet ~~(0.014~~, or .014 cubic meters~~),~~ of freezer space per resident bed with sufficient refrigerated storage space located within the food production area for convenient food preparation;

(4) Aisles within the dietary area not less than three feet ~~(0.91~~, or .91 meters~~),~~ wide. Aisles adjoining equipment locations with doors or aisles utilized for cart traffic ~~shall~~ must be at least four feet ~~(~~, or 1.22 meters~~),~~ wide;

(5) Pot and pan washing facilities~~, including~~ that include a three-compartment sink with ~~18~~ eighteen inch drainboards on both sides and drying and storage facilities for pots and pans;

(6) A vegetable preparation area with a two-compartment sink with drainboards on both sides;

(7) Cart storage areas;

(8) Waste disposal facilities;

(9) Employee dining facilities;

(10) Dietary manager's office or desk;

(11) Janitor's closet with storage for housekeeping supplies and equipment and floor receptor or service sink;

(12) Food production equipment sized and designed to prepare a complete meal for the total bed complement and for personnel, guests, day-care residents, or other catering services;

(13) Appropriate food holding and transportation equipment capable of protecting food from contamination and of maintaining proper food temperatures at ~~41~~ forty-one degrees Fahrenheit ~~(5,~~ or five degrees centigrade~~),~~ or below and hot food at ~~135~~ one hundred thirty-five degrees Fahrenheit ~~(~~, or 57.2 degrees centigrade~~),~~ or above during the total serving period;

(14) Ventilation equipment sized and designed to effectively remove steam, heat, cooking vapors, and grease from food production areas, dishwashing areas, and serving areas;

(15) Handwashing facilities that are convenient to each work area, consisting of hot and cold running water, a towel dispenser with single-service towels or a hand drying device, and ~~wall mounted~~ wall-mounted hand cleanser;

(16) In dietary areas serving ~~17~~ seventeen beds or more, a ~~staff~~ personnel toilet facility convenient to the dietary department; and

(17) In dietary areas serving ~~17~~ seventeen beds or more, an ice maker with bin or self-dispensing ice maker. A built-in dispensing ice maker in a refrigerator may be used in any facility or resident neighborhood with a capacity of less than ~~17~~ seventeen beds. Any ice maker accessible to residents or visitors ~~shall~~ must be self-dispensing.

The facility may request in writing modifications to ~~§ 44:73:12:12~~ to the specifications required by this section if additional kitchen services are provided to residents in a resident neighborhood setting. ~~There~~ The facility shall ~~be~~ have appliances that allow for the storing,

refrigeration, preparation, cooking, and disposal of food products based on the ~~facilities~~ facility's food service plan.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003; 31 SDR 62, effective November 7, 2004; transferred from § 44:04:13:05, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:13. Laundry. ~~The~~ A facility shall provide a laundry ~~shall include the following~~ with:

(1) ~~Soiled~~ A soiled linen holding room with a storage capacity of one and three quarters square feet ~~(0.1626~~, or .1626 square meters~~)~~, of floor area for each bed, to be used for storage, sorting, and weighing of soiled linen;

(2) ~~Linen~~ A linen cart storage;

(3) ~~Janitor's~~ A janitor's closet with storage for housekeeping supplies and equipment and a floor receptor or service sink convenient to the laundry;

(4) Storage for laundry supplies;

(5) ~~Lavatories~~ A lavatory conveniently accessible to soiled, clean, and processing rooms;

(6) ~~Laundry~~ A laundry processing room with separate soiled and clean work areas with commercial equipment. Each clothes dryer ~~shall~~ must have a galvanized metal vent pipe for exhaust; and.

(7) A clinical sink with an exposed water trap seal, siphon jet or blow action, and sprayer device.

The space and equipment layout ~~shall~~ must be sized and designed to produce quality linen with a work flow that minimizes potential for cross-contamination of clean linen by soiled linen, contaminated equipment, contaminated air, or splash. The laundry department ~~shall~~ must be capable of processing ten pounds ~~(~~, or 4.54 kilograms~~)~~, of soiled linen for each bed during a normal work day. ~~Any~~ A facility may request a modification to the standard ~~may be made~~ if the laundry services are contracted to an outside organization. A ~~modification shall be requested~~ request must be in writing ~~by the facility~~ and approved by the department.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:13:06, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:14. ~~Employee~~ Personnel facilities. ~~The locker~~ A facility shall provide a room for ~~employees shall have~~ personnel containing lockers and a separate toilet room with a handwashing facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:13:07, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:15. Engineering service and equipment areas. ~~The requirements for~~ A facility shall have engineering service and equipment areas ~~for each facility are~~ as follows:

(1) A boiler room with two remote doors to the exit or exit access;

(2) An engineer's office ~~which~~ that may be combined with a maintenance shop;

(3) Mechanical and electrical equipment rooms;

(4) A maintenance shop with at least one room;

(5) A storage room for building maintenance supplies;

(6) A refuse room for trash storage ~~which is,~~ conveniently located to the service entrance or exterior trash receptacles; and

(7) A yard equipment storage room or exterior building.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:13:08, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:16. Corridor restrictions. ~~Drinking~~ A facility shall locate drinking fountains, telephone booths, fire extinguisher cabinets, and vending machines ~~shall be located~~ so that they do not project into the required width of exit corridors. Handrails installed in corridors ~~shall~~ must return to the wall at the ends. Handrails ~~shall~~ must be installed with the top ~~34~~ thirty-four to ~~38~~ thirty-eight inches~~, inclusive,~~ from the floor~~. Handrails shall be installed~~ and with one and ~~one half~~ one-half inch spacing between the wall and the handrail.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:13:09, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:19. Ceiling heights. The height of ceilings of corridors, storage rooms, resident toilet rooms, and other minor ~~room~~ rooms in a facility may not be less than seven feet, eight inches ~~(~~, or 2.34 meters~~)~~. The height of ceilings of all other rooms may not be less than seven feet, ten inches ~~(~~, or 2.39 meters~~)~~.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:13:14, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:20. Insulation. ~~Boiler rooms~~ The facility shall insulate and ventilate each boiler room, food preparation ~~centers~~ area, and ~~laundries shall be insulated and ventilated~~ laundry to prevent any floor surface above them from exceeding a temperature of ~~85~~ eighty-five degrees Fahrenheit ~~(~~, or 29.4 degrees centigrade~~)~~. All combustible insulation within the building ~~shall~~ must be covered with a fire-resistive material giving fire protection equivalent to ~~one half~~ one-half inch ~~(0.01~~, or .01 meters~~)~~, gypsum board, unless tested and acceptable by International Building Code, 2012 edition, section 2603.4 for use without a thermal barrier as installed.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:13:15, 42 SDR 51, effective October 13, 2015.

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

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

Reference: International Building Code, 2012 edition. Copies may be obtained ~~from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541~~ at https://shop.iccsafe.org/. Cost: ~~$89.00~~ $132.00.

44:73:12:22. Floor surface finish. ~~Floors shall be~~ The facility shall ensure floors are easily cleanable and ~~shall~~ have the wear resistance appropriate for the location involved. Floors in kitchens and related spaces ~~shall~~ must be water-resistant. In all areas where floors are subject to wetting, ~~they shall~~ the floor must have a nonslip finish. ~~A~~ The facility shall provide a transition for any walking surface that is not flush with an adjacent surface ~~shall be provided be provided with a transition. A change in level up to one eighth inch may be vertical and without edge treatment. Changes in level between one eighth inch and one half inch are to be bevel with a slope no greater than 1:2. A change in level may not exceed one half inch~~. Gaps in the walking surface may not exceed ~~one half~~ one-half inch wide in the direction of travel.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:13:17, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:23. Wall and ceiling finish. ~~Walls~~ The facility shall ~~be~~ ensure all walls are washable~~, and~~. The finish of walls in the immediate area of plumbing fixtures ~~the finish shall~~ must be protected from water damage. Wall bases in dietary areas ~~shall~~ must be free of spaces that can harbor insects. All dietary ceilings ~~shall~~ must be washable or easily cleanable. ~~This requirement~~ This section does not apply to any boiler room, mechanical and building equipment room, shop, or similar space.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:13:18, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:24. Elevators. ~~If~~ A facility shall have an electrical or electrohydraulic elevator if a resident's ~~bed or a service such as~~ room, resident recreation or activity area, resident dining, dietary, laundry, central storage, or therapy ~~rooms,~~ room is located~~,~~ on a floor other than on the first floor~~, the facility shall have an electrical or electrohydraulic elevator~~. Each elevator car and platform ~~shall~~ must be constructed of noncombustible material, except that material treated with fire retardant may be used if each exterior surface of the car is covered with metal. ~~A hospital-type~~ Each elevator car ~~shall have inside dimensions that will~~ must accommodate a resident's bed and ~~attendants~~ an attendant and ~~shall~~ be at least five feet ~~(~~, or 1.52 meters~~)~~, wide by seven feet six inches ~~(~~, or 2.29 meters~~)~~, deep. The car door ~~shall~~ must have a clear opening of not less than three feet eight inches ~~(~~, or 1.12 meters~~)~~. Each elevator ~~shall~~ must have automatic, two-way leveling with an accuracy within plus or minus one-half inch ~~(0.01~~, or .01 meters~~)~~. Each elevator, except freight elevators, ~~shall~~ must be equipped with a two-way special service switch to permit each car to bypass all landing button calls and to be dispatched directly to any floor.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:13:19, 42 SDR 51, effective October 13, 2015.

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

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

44:73:12:26. Steam and hot water systems. Boilers ~~shall~~ must have the capacity to supply the normal requirements of all of the facility's systems and equipment. Supply and return mains and risers of space heating and process steam systems ~~shall~~ must be valved to isolate the various sections of each system. Each piece of equipment ~~shall~~ must be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping ~~shall~~ must be insulated with insulation having a flame spread index of ~~25~~ twenty-five or less and a smoke emission rating of ~~50~~ fifty or less using ~~NFPA 255, 2012~~ ASTM E84-23D, 2010 edition, ~~"~~Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials~~"~~, or equivalent test procedures.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:13:25, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-1-17, 34-12-13~~(1)(3)~~.

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

Reference: ~~NFPA 255, 2012~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

44:73:12:27. Ventilating systems. The facility's ventilating systems ~~shall maintain temperatures, minimum air changes of outdoor air an hour, minimum total air changes, and relative humidities as follows~~ must meet the following requirements:

(1) All occupied areas of the building ~~shall~~ must maintain a minimum humidity level of ~~15%~~ fifteen percent relative humidity provided through the building central ventilation system;

(2) Beauty shops ~~shall~~ must provide a minimum of ~~15~~ fifteen air changes per hour of exhaust ventilation when the room is in use; and

(3) Toilet and bathing rooms ~~shall~~ must provide a minimum of ~~10~~ ten air changes per hour of exhaust ventilation.

For occupied areas, the facility shall ~~be able to~~ maintain a minimum temperature of ~~75~~ seventy-five degrees Fahrenheit ~~(~~, or 23.9 degrees centigrade~~),~~ and at least ~~15~~ fifteen percent humidity ~~at~~ during winter ~~design~~ conditions, with a minimum of at least two total air changes ~~an~~ per hour. All air supply and air exhaust systems ~~shall~~ must be mechanically operated. All fans serving exhaust systems ~~shall~~ must be located at the discharge end of the system. Outdoor ventilation air intakes, other than for individual room units, ~~shall~~ must be located as far away as practicable but not less than ~~25~~ twenty-five feet ~~(~~, or 7.62 meters~~),~~ from plumbing vent stacks and the exhausts from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems ~~shall~~ must be located as high as possible but not less than six feet ~~(~~,or 1.83 meters~~),~~ above the ground level or, if installed through the roof, three feet ~~(0.91~~, or .91 meters~~),~~ above roof level. Each mechanical ventilation system ~~shall~~ must be designed and balanced to provide make-up air and safe pressure relationships between adjacent areas to preclude the spread of infections and assure the health of the occupants. Each room supply air inlet, air recirculation, and exhaust air outlet ~~shall~~ must be located with the grill or diffuser opening not less than three inches ~~(0.08~~, or .08 meters~~),~~ above the floor. A corridor may not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets

opening directly on corridors. Continuous mechanical exhaust ventilation ~~shall~~ must be provided in all soiled areas, wet areas, and storage rooms. In unoccupied service areas, ventilation may be reduced or discontinued when the health and comfort of the occupants are not compromised.

Each cooking appliance, other than a microwave ~~ovens~~ oven, ~~shall~~ must be provided with exhaust ventilation to the exterior of the building that is able to remove cooking odors, heat, and moisture.

Each vehicle parking garage ~~shall~~ must be provided with carbon monoxide detection to activate exhaust ventilation of six air changes each hour or to open the garage door if the area of the garage is under ~~1000~~ one thousand square feet. A sign ~~shall~~ must be posted at the front of each parking space advising the driver to shut off the engine.

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

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:13:26, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13~~(1)(3)(4)~~.

Reference: International Building Code, 2012 edition. Copies may be obtained from the International ~~Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601-2298. Phone: (562) 699-0541~~ Code Council at https://shop.iccsafe.org/. Cost: ~~$89.00~~ $132.00.

44:73:12:28. ~~Filters~~ Filtration. A facility shall have a ventilation system using a recirculated central air system ~~shall be~~ equipped with a minimum of two filter beds. Filter bed number one ~~shall~~ must be located upstream of the conditioning equipment and ~~shall~~ must have a minimum efficiency of ~~30~~ thirty percent. Each supply air unit ~~shall~~ must have ~~a minimum of 30 percent~~ filters that are at least thirty-percent effective ~~filters~~. Each central ventilation system ~~shall~~ must have ~~a minimum of 80 percent~~ filters that are at least eighty-percent effective ~~filters~~. Each common use area~~, i.e., dining, lounge, and corridor, shall~~ must have ~~80 percent~~ filters that are eighty-percent effective ~~filters~~ on an air supply system. Each air supply system serving solely an administrative area ~~shall~~ must have ~~a minimum of 30 percent~~ filters that are at least thirty-percent effective ~~filters~~. These filter efficiencies ~~shall~~ must be warranted by the manufacturer and ~~shall~~ must be based on the ~~ASHRAE 52.2, 2007~~ 2017 edition~~,~~ of the American Society of Heating, ~~Refrigeration~~ Refrigerating, and Air Conditioning Engineers Standard 52.2 dust spot test method with atmospheric dust. Each filter frame ~~shall~~ must be durable and ~~carefully dimensioned and shall~~ must provide an airtight fit with the enclosing duct work. Each joint between filter segments and the enclosing duct work ~~shall~~ must be gasketed or sealed to provide a positive seal against air leakage. A manometer ~~shall~~ must be installed across each filter bed serving a central air system.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:13:27, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13~~(1)(3)(4)~~.

Reference: ASHRAE 52.2, ~~2007~~ 2017 edition, American Society of Heating, ~~Refrigeration~~ Refrigerating and Air Conditioning Engineers. Copies may be obtained ~~from 1791 Tullie Circle, N.E., Atlanta, GA 30329. Phone: 1-800-527-4723. Cost: $39~~ at no cost at

https://www.ashrae.org/File%20Library/Technical%20Resources/COVID-19/52_2_2017_COVID-19_20200401.pdf7.

44:73:12:29. Ducts. ~~Each duct shall be~~ The facility shall ensure its ducts are constructed of iron, steel, aluminum, or other approved metal or materials as defined in NFPA 101 Life Safety Code 2012 edition, section 32.3.6.2.1. Duct linings, coverings, vapor barriers, and the adhesives used for applying them ~~shall~~ must have a flame spread ~~classification~~ index of not more than ~~25~~ twenty-five and a smoke ~~developed~~ emission rating of not more than ~~50~~ fifty using ~~NFPA 255, 2012~~ ASTM E84-23D 2010 edition, ~~"~~Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials.~~"~~ A fire and smoke damper ~~shall~~ must be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. Access for maintenance ~~shall~~ must be provided at all dampers. Each duct system serving hood ~~shall~~ must be constructed of corrosion resistant material. Each cold air duct ~~shall~~ must be insulated wherever necessary to maintain the efficiency of the system ~~or~~ and to minimize condensation problems.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:13:28, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13~~(1)(3)(4)~~.

References: ~~NFPA 255, 2012~~ **ASTM E84-23D**, 2010 edition, ~~"~~Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials.~~"~~ Copies may be ~~obtained from National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101~~ at https://www.astm.org/e0084-23d.html. Cost: ~~$35.00~~ $119.00.

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained ~~from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-~~

~~9101. Phone 1-800-344-3555~~ at https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$93.00~~ $160.00.

44:73:12:30. Food service ventilation. ~~The~~ A facility may use air from dining areas ~~may be used~~ to ventilate the food preparation areas only after it has been passed through a filter with ~~80 percent~~ eighty-percent efficiency. Each exhaust hood in food preparation centers ~~shall~~ must have a minimum exhaust rate of ~~50~~ fifty cubic feet a minute for each square foot ~~(0.25~~, or .25 cubic meters a second for each square meter~~)~~, of hood face area. Each hood over cooking ranges ~~shall~~ must be equipped with fire extinguishing systems that are interconnected to shut off the fuel source. A cleanout opening ~~shall~~ must be provided every ~~20~~ twenty feet ~~(~~, or 6.10 meters~~)~~, in horizontal exhaust duct systems serving hoods.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:13:29, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13~~(1)(3)(4)~~.

44:73:12:33. Water supply systems. ~~Each~~ A facility shall ensure its water supply system ~~shall supply~~ supplies water to the fixtures and equipment on the facility's upper floors at a minimum pressure of ~~15~~ fifteen pounds ~~a~~ per square inch ~~(~~, or 1055.9 kilograms ~~a~~ per square meter~~)~~, during maximum demand periods. Each water service main, branch main, riser, and branch to a group of fixtures ~~shall~~ must be valved. Stop valves ~~shall~~ must be provided at each fixture. Hot, cold, and chilled water piping and waste piping on which condensation may occur ~~shall~~ must be insulated. Insulation of cold and chilled water lines ~~shall~~ must include an exterior vapor barrier.

~~Water supply systems in a health care facility must maintain one part per million free residual chlorine at remote point-of-use fixtures in the facility or may use another bacteriological control method (increasing water temperature range from 122 degrees to 125 degrees Fahrenheit [50-52 degrees centigrade] is acceptable) that has been demonstrated to be equivalent in control of *Legionella*. The facility must document water temperatures to verify the hot water temperature is being maintained within the acceptable range The chlorine testing must be done daily using photocell and light source DPD (N, N, Diethyl p-phenylenediamine) test kits and the test results logged. When testing demonstrates that consistent chlorine levels are maintained, the frequency of testing may be reduced to a level necessary to demonstrate compliance.~~

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; transferred from § 44:04:13:34, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(4)(14)~~.

Law Implemented: SDCL 34-12-13~~(1)(4)(14)~~.

44:73:12:35. Hot water systems. ~~Hot~~ A facility shall ensure any hot water distribution ~~systems~~ system over ~~50~~ fifty feet ~~(~~, or 15.24 meters~~),~~ long ~~shall recirculate~~ recirculates to provide hot water at each fixture at all times. The hot water heating equipment ~~shall~~ must have sufficient capacity to supply water at the temperature of ~~140~~ one hundred forty degrees Fahrenheit ~~(60),~~ or sixty degrees centigrade~~),~~ and amounts indicated in the following:

(1) Three gallons an hour ~~(0.0033~~, or .0033 liters a second~~),~~ for each bed;

(2) Two gallons an hour ~~(0.0020~~, or .0020 liters a second~~),~~ for each bed for dietary; and

(3) Two gallons an hour ~~(0.0020~~, or .0020 liters a second~~),~~ per bed for laundry.

Each storage tank provided ~~shall~~ must be fabricated of noncorrosive metal or lined with noncorrosive material.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:13:36, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(4)(14)~~.

Law Implemented: SDCL 34-12-13~~(1)(4)(14)~~.

44:73:12:36. Drainage systems. ~~Each~~ A facility shall ensure each drain line from ~~sinks~~ a sink in which acid wastes may be poured ~~shall be~~ is fabricated from an ~~acid resistant~~ acid-resistant material. Any piping over a food preparation center, food serving facility, food storage area, and any other critical area ~~shall~~ must be kept to a minimum and may not be exposed. Special precautions ~~shall~~ must be taken to protect these areas from possible leakage of necessary overhead piping systems. The building sewer ~~shall~~ must discharge into a community sewerage system. If ~~such~~ a community sewerage system is not available, ~~a~~ the facility ~~providing~~ must provide sewage treatment ~~which~~ that conforms to applicable local and state regulations ~~is required~~.

Water from roof systems ~~shall~~ must be collected and discharged away from the building foundation. Rain gutters with downspouts and splash blocks ~~shall~~ must be provided for pitched roof systems. ~~Provisions shall be made to~~ The facility shall avoid having water ~~accumulated~~ accumulate on sidewalks and parking areas around the building.

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

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 32 SDR 128, effective January 30, 2006; transferred from § 44:04:13:37, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(1)(4)(14)~~.

Law Implemented: SDCL 34-12-13~~(1)(4)(14)~~.

Cross-Reference: Individual and small on-site wastewater systems, ch 74:53:01.

44:73:12:38. Lighting. ~~Any~~ A facility shall provide artificial lighting approved by the department in any space occupied by people, machinery, or equipment within ~~buildings~~ a building, the ~~approaches~~ approach to the ~~buildings~~ building, and any parking ~~lots shall have artificial lighting approved by the department~~ lot. Each resident bedroom ~~shall~~ must have general lighting of at least ten footcandles ~~(0.929~~, or .929 lumens per square meter~~)~~, and night lighting. If task illumination is required, a light with an intensity of at least ~~30~~ thirty footcandles ~~(~~, or 2.79 lumens per square meter~~)~~, at the work surface ~~shall~~ must be provided for each resident. At least one luminaire for night lighting ~~shall~~ must be switched at the entrance to each resident room. Any resident's reading light and other fixed light not switched at the door ~~shall~~ must have a switch control convenient for use at the luminaire. Each switch for control of lighting in a resident area ~~shall~~ must be of the quiet operating type. Illumination of at least ~~100~~ one hundred footcandles ~~(~~, or 9.29 lumens per square meter~~) shall,~~ must be provided at the medication set-up area. Illumination of at least ~~50~~ fifty footcandles ~~(~~, or 4.65 lumens per square meter~~) shall,~~ must be provided at ~~the~~ an activity room work ~~tables~~ table. Illumination of at least ~~30~~ thirty footcandles ~~(~~, or 2.79 lumens per square meter~~) shall,~~ must be provided in each dining area, physical and restorative therapy area, and at any bathing facility.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 24 SDR 90, effective January 4, 1998; 38 SDR 115, effective January 9, 2012; transferred from § 44:04:13:41, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(3)(4)(14)~~.

Law Implemented: SDCL 34-12-13~~(3)(4)(14)~~.

44:73:12:41. Staff call system. A facility shall provide a staff call system ~~shall be provided~~ for resident use to summon assistance from staff. The system ~~shall~~ must be capable of being easily activated by the resident and ~~shall~~ must register both visually and audibly at the staff station. In a multicorridor nursing ~~units~~ unit, additional visible signals must be installed at each corridor ~~intersections~~ intersection. The system ~~shall~~ must be utilized and maintained in ~~such~~ a ~~manner as to ensure that it~~ way that ensures the system is a consistent and effective means for a resident to alert staff of the need for assistance. ~~The~~ A call ~~stations~~ station convenient for resident use ~~shall~~ must be provided at each bed, resident toilet, and bathing or shower facility used by the resident. ~~Staff call systems which provide~~ A staff call system that provides two-way voice communication ~~shall~~ must be equipped with an indicating light at each calling station ~~which lights and remains~~ and the indicating light must remain lighted as long as the voice circuit is operating. The call system ~~shall~~ must also meet at least one of the following requirements:

(1) The call system ~~utilizing~~ utilizes fixed call stations that are convenient for resident use and activated by a pull cord or other approved device. The fixed system ~~shall~~ must actuate a visual signal at the resident room door, and in the clean workroom, soiled workroom, and nourishment station of the nursing unit. In a multicorridor nursing ~~units~~ unit, additional visible signals ~~shall~~ must be installed at each corridor ~~intersections~~ intersection. For the purpose of this subdivision, the term "nursing unit" means a unit that is limited to one floor of a health care facility and has all resident room entrances and exits within sight or control of nursing personnel;

(2) The call system ~~utilizing~~ utilizes wireless devices that are convenient for resident use and activated by a pull cord or other approved device. The wireless system ~~shall~~ must actuate a visual and audible signal at the staff station and on pocket paging devices carried by all direct care staff. Wireless devices ~~shall~~ must be fully supervised, ~~shall be~~ capable of alarm reset at the source, and transmit low battery alert. Wireless devices ~~shall~~ must utilize batteries that are readily available; or

(3) ~~Another~~ For any other call system ~~that has been~~, the system must be submitted for review

and approved by the department.

A call station or device is not required in the resident room of a cognitively impaired resident, if a nursing assessment determines the resident would not benefit from the availability of a call station or device. ~~There shall be~~ The staff call system must include a method for staff to summon assistance if needed. For the purpose of this section, the term "cognitively impaired" means a deficiency that results in a diminished ability to solve problems, to exercise good judgement in the context of a value system, to remember, and to be aware of and respond to a safety hazard.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; transferred from § 44:04:13:44, 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13~~(4)(14)~~.

Law Implemented: SDCL 34-12-13~~(4)(14)~~.

44:73:12:44. Pipe requirements. ~~Each~~ A facility shall ensure its piping system for potable water ~~shall be~~ is installed to eliminate any dead-end runs of piping. Before placing any potable water ~~systems~~ system in service, the piping system ~~shall~~ must be disinfected in accordance with ~~the South Dakota Plumbing Commission standards in~~ article 20:54 and certification ~~shall~~ must be available from the installer showing the method used, date of installation, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives ~~used for applying them shall~~ must have a flame spread index of not more than ~~25~~ twenty-five and a smoke emission factor of not more than ~~50~~ fifty when tested in accordance with the ~~NFPA 101 Life Safety Code, 2012~~ ASTM E84-23D, 2010 edition, Standard Test Method for Surface Burning Characteristics of Building Materials.

Source: 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 27 SDR 59, effective December 17, 2000; 29 SDR 81, effective December 11, 2002; transferred from § 44:04:13:48, 42 SDR 51, effective October 13, 2015

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

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

Reference: ~~NFPA 101 Life Safety Code, 2012~~ **ASTM E84-23D**, 2010 edition, ~~National Fire Protection Association. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Phone: 1-800-344-3555~~ Standard Test Method for Surface Burning Characteristics of Building Materials. Copies may be obtained at https://www.astm.org/e0084-23d.html. Cost: ~~$93.00~~ $119.00.

44:73:12:46. Water ~~recreation~~ therapy facilities. ~~Each~~ A facility shall ensure each water ~~recreation~~ therapy facility~~, including a swimming pool, spa and water slide~~ operated by ~~a~~ the facility and used by any resident or the public, ~~shall be~~ is designed, constructed, and maintained using the ~~"~~Recommended Standards for Swimming Pool Design and Operation,~~" 1996 edition~~ document available on the department website.~~"~~

The facility shall collect and submit at least one water sample weekly for each swimming pool~~,~~ or spa~~, or other water recreational~~ facility under the ~~owner's or operator's~~ facility's control to an ~~EPA-Certified~~ EPA-certified laboratory for bacteriological analysis. The facility shall report any unsafe water sample test results to the department within three days after receipt of ~~such~~ the test results. Upon the receipt of ~~a positive~~ an unsafe water sample, the facility ~~shall~~ must submit two consecutive negative samples to the department to confirm treatment procedures have eliminated the contamination. If a resample test is positive, the facility ~~shall~~ must close the affected water ~~recreational~~ therapy facility and submit two consecutive negative samples prior to allowing ~~guest~~ resident use of the affected water ~~recreational~~ therapy facility. ~~A~~ The facility shall use a colorimetric test kit ~~is required~~ for the monitoring and adjusting of disinfectant levels and pH in swimming pool, spa, or other water ~~recreational~~ therapy facilities. ~~A~~ The facility shall maintain a daily log of disinfectant levels and pH ~~shall be maintained for each water recreation facility~~.

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

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

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

Collateral Reference: ~~"~~Recommended Standards for Swimming Pool Design and Operation,~~"~~ ~~1996 edition, Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers~~, April 2019. Copies available at no cost ~~from the Office of Health Protection, South Dakota Health Department, 615 East 4th Street, Pierre, SD 57501~~ at https://doh.sd.gov/topics/food-lodging-safety/food-and-lodging-licensure-and-codes/lodging-

licensure-and-codes/.

44:75:03:01. Fire safety code requirements. ~~Each~~ A facility shall meet applicable fire safety standards in NFPA 101 Life Safety Code, 2012 edition ~~in chapter 32 or 33~~, chapters 18 and 19.

Source: 42 SDR 51, effective October 13, 2015; 50 SDR 62, effective ~~Novemer~~ November 27, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained at ~~https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.nfpa.org/product/nfpa-101-code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: ~~$151.50~~ $160.00.

44:75:04:11. Secured units. ~~Each~~ A facility shall ~~ensure compliance~~ comply with the following provisions:

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

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

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

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

(5) Locked doors ~~shall~~ must conform to ~~Sections: 18.2.2.2~~ §§ 18.2.2.2.5 and ~~19.2.2.2~~ 19.2.2.2.5 of NFPA 101 Life Safety Code, 2012 edition; and

(6) Staff assigned to the secured unit must have specific training regarding the unique needs of patients in that unit. The facility shall ensure ~~sufficient personnel~~ adequate staff are on duty at all times to safely provide care and services to the patients.

For the purposes of this section, the term, secured unit, means a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined, unique population and ~~which~~ that is staffed by persons with training to meet the needs of patients admitted to the unit.

Source: 42 SDR 51, effective October 13, 2015; 50 SDR 62, effective November 27, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained at ~~https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.nfpa.org/product/nfpa-101-

code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: $~~151.50~~ $160.00.

44:75:13:22. Steam and hot water systems. ~~Each~~ A facility shall have the capacity to supply steam and hot water to meet the normal requirements of all the facility's systems and equipment. Supply and return mains and risers of space heating and process steam systems must be valved to isolate the various sections of each system. Each piece of equipment must be valved at the supply and return end. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping must be insulated with insulation having a flame spread index of twenty-five or less and a smoke emission rating of fifty or less using ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials or equivalent test procedures.

Source: 42 SDR 51, effective October 13, 2015; 50 SDR 62, effective November 27, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: ~~NFPA 255, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

44:75:13:25. Ducts. ~~The~~ A facility shall ensure its ducts are constructed of iron, steel, aluminum, or other approved metal or materials as defined in NFPA 101 Life Safety Code 2012 edition, section 32.3.6.2.1. Duct linings, coverings, vapor barriers, and the adhesives used for applying them must have a flame spread ~~classification~~ index of not more than twenty-five and a smoke ~~developed~~ emission rating of not more than fifty using ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. A fire and smoke damper must be provided on each opening through each required two-hour or greater fire-resistive wall or floor and on each opening through the walls of a vertical shaft, unless the shaft has a fire and smoke damper at the floor level. Access for maintenance must be provided at all dampers. Duct systems serving hoods must be constructed of corrosion resistant material. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used must be constructed of stainless steel for a minimum distance of ten feet, or 3.05 meters, from the hood and ~~shall~~ must be equipped with washdown facilities. Each cold air duct must be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

Source: 42 SDR 51, effective October 13, 2015; 50 SDR 62, effective November 27, 2023.

General Authority: SDCL 34-12-13~~(1)(3)(4)~~.

Law Implemented: SDCL 34-12-13.

Reference: ~~NFPA 255, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~of Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.

NFPA 101 Life Safety Code, 2012 edition, National Fire Protection Association. Copies may be obtained at ~~https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.nfpa.org/product/nfpa-101-

code/p0101code?Edition=2012&Language=English&Format=Softbound&type=digital. Cost: $150.50.

44:75:13:37. Pipe requirements. A facility shall ensure all piping systems for potable water are installed to eliminate any dead-end runs of piping. Before placing any potable water ~~systems~~ system in service, the piping system must be disinfected in accordance with article 20:54 and certification must be available from the installer showing the method used, date of installation, test procedure used to verify chlorine concentrations, and date the system was flushed and placed in service.

Pipe covering, vapor barriers, and adhesives used must have a flame spread index of not more than twenty-five and a smoke emission factor of not more than fifty when tested in accordance with the ~~NFPA 255, 2006~~ ASTM E84-23D, 2010 edition, Standard Test Method ~~Test~~ for Surface Burning Characteristics of Building Material.

Source: 42 SDR 51, effective October 13, 2015; 50 SDR 62, effective November 27, 2023.

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

Law Implemented: SDCL 34-12-13.

Reference: ~~**NFPA 255**, 2006~~ **ASTM E84-23D**, 2010 edition, Standard Test Method ~~Test~~ for Surface Burning Characteristics of Building Materials. Copies may be obtained at ~~https://nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards~~ https://www.astm.org/e0084-23d.html. Cost: ~~$60.50~~ $119.00.