

20:50:02:04.03. Licensure by endorsement. An applicant for licensure by endorsement shall submit the application and fingerprints required by § 20:50:02:02 and pay the application fee for initial licensure pursuant to § 20:50:02:03.01. The application must be supported by written evidence satisfactory to the ~~board~~ South Dakota Board of Examiners in Optometry that the applicant:

(1) Is licensed in good standing to practice optometry in a state or territory under ~~U.S.~~ United States jurisdiction that required passage of a written, entry-level examination certified by the National Board of Examiners in Optometry at the time of initial licensure;

(2) Has either passed the Treatment and Management of Ocular Disease ~~(TMOD) portion of the national examinations~~ examination or ~~has~~ is authorized to use therapeutic pharmaceutical privileges agents; and

(3) Has been ~~actively and routinely~~ engaged in the practice of optometry, ~~including the use of therapeutic pharmaceutical agents~~, for at least five consecutive years immediately preceding application under this section.

The applicant shall request any optometry licensing agency of any ~~U.S.~~ United States jurisdiction in which the applicant is licensed, or has ever been licensed to practice optometry, to provide reports directly to the ~~board~~ South Dakota Board of Examiners in Optometry describing the applicant's current standing and any past or pending actions taken with respect to the applicant's authority to practice optometry in those jurisdictions, ~~including any investigations, entrances into consent agreements, suspensions, revocations, or refusals to issue or renew a license. The board shall review, on a case-by-case basis, any application received from an optometrist who has had a license revoked by another optometric licensing jurisdiction.~~

~~The board may require additional education, testing, or training before granting licensure under SDCL 36-7-13 if the competency of any applicant is in question. Any applicant who has previously been denied a license by the board shall apply for and meet all initial licensure requirements.~~

Source: 6 SDR 66, effective January 8, 1980; 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 21 SDR 35, effective August 30, 1994; 31 SDR 101, effective January 19, 2005; 32 SDR 225, effective July 5, 2006; 34 SDR 323, effective July 2, 2008; 46 SDR 119, effective May 4, 2020; 49 SDR 12, effective August 14, 2022.

General Authority: ~~SDCL 36-7-13(1)~~, 36-7-15(2).

Law Implemented: SDCL 36-7-12.2, 36-7-13, 36-7-15(5).

20:50:02:06. National board examinations required. ~~An~~ To obtain licensure, an applicant must pass the following examinations certified by the National Board of Examiners in Optometry:

- (1) Part I ~~(Applied Basic Science);~~
- (2) Part II ~~(Patient Assessment and Management);~~
- (3) Part III ~~(Clinical Skills, Patient Encounters and Performance Skills);~~ and
- (4) Treatment and Management of Ocular Disease ~~(TMOO).~~

The application must indicate when the applicant took the ~~national board~~ examinations ~~and the subjects covered~~. The applicant must have passed the examinations ~~within the~~ no more than five years before the date of application, licensure in this state unless the applicant is licensed pursuant to § 20:50:02:04.03 in another United States jurisdiction and is seeking licensure by endorsement.

~~The board may require additional education, testing, or training before granting a new application for licensure if the competency of any applicant is in question.~~

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 8, 1980; 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 17 SDR 199, effective June 30, 1991; 46 SDR 119, effective May 4, 2020; 49 SDR 12, effective August 14, 2022.

General Authority: SDCL 36-7-15(2).

Law Implemented: SDCL 36-7-11(6), 36-7-12.1, 36-7-15(5).

CHAPTER 20:50:04**CODE OF ETHICS**

Section

- 20:50:04:01 Confidential communications.
- 20:50:04:02 Advising patient.
- 20:50:04:03 Serving as optician prohibited.
- 20:50:04:04 Maintenance of office.
- 20:50:04:05 Use of word "doctor."
- 20:50:04:05.01 Repealed.
- 20:50:04:06 Optometrist to write and release prescription -- Requests for medical records.
- 20:50:04:07 Claims of superiority.
- 20:50:04:08 Repealed.
- 20:50:04:09 Division of fees -- Payments to employees.
- 20:50:04:10 Repealed.
- 20:50:04:11 Improper business relationships.
- 20:50:04:12 Scope of practice -- Procedural codes, Repealed.
- 20:50:04:13 Delegation to unlicensed personnel.
- 20:50:04:14 Telehealth.

Appendix A Procedural Code List, Repealed.

20:50:04:13. Delegation to unlicensed personnel. An optometrist may delegate tasks to trained, unlicensed personnel under the supervision of an optometrist. The unlicensed personnel may not perform any task that requires the exercise of professional clinical judgment or interpretation.

An optometrist who delegates tasks to unlicensed personnel is responsible for the outcomes and quality of care provided by the unlicensed personnel. An optometrist shall ensure the unlicensed personnel:

- (1) Is appropriately trained to maintain necessary equipment and supplies; and
- (2) Has demonstrated sufficient proficiency for, and is competent to perform, tasks to be completed.

The optometrist must be immediately available to respond to any question or issue that may arise during the provision of delegated tasks by the unlicensed personnel.

Failure to comply with this section is unprofessional conduct pursuant to SDCL 36-7-25.

Source:

General Authority: SDCL 36-7-15.

Law Implemented: 36-7-25(8), 36-7-25(18).

20:50:04:14. Telehealth. The same standard of care applies to the practice of optometry, whether provided in-person or via telehealth. An optometrist may not provide telehealth services unless the optometrist has established a provider-patient relationship with the patient in compliance with SDCL 34-52-3 and this section.

To provide telehealth services, an optometrist must have provided services to the patient at an in-person consultation no more than three years prior to the date when telehealth services are provided. An optometrist may provide telehealth services in the absence of a provider-patient relationship when, in the professional clinical judgment of the optometrist, the patient requires emergency care.

Before providing telehealth services, the optometrist must:

- (1) Disclose to the patient the methods of telehealth delivery and treatment, and any limitations; and
- (2) Obtain written consent from the patient to receive telehealth services.

An optometrist treating a patient through telehealth shall perform a comprehensive optometric examination, as described in § 20:50:07:01, before prescribing eyeglasses or contact lenses to the patient.

An optometrist providing telehealth services shall establish protocols for referrals for emergency services.

An optometrist providing telehealth services may not issue a prescription for any controlled substance to the patient for whom telehealth services are provided.

Failure to comply with this section is unprofessional conduct pursuant to SDCL 36-7-25.

Source:

General Authority: SDCL 36-7-15(2).

Law Implemented: SDCL 34-52-2, 34-52-3, 36-7-25(8).

CHAPTER 20:50:06

OFFICE AND EQUIPMENT REQUIREMENTS

Section

20:50:06:01 Minimum office equipment.

20:50:06:01.01 Telehealth office equipment.

20:50:06:02 Inspection of office for a new applicant.

20:50:06:02.01 Inspection of office for new establishments.

20:50:06:01. Minimum office equipment. A licensed optometrist's office must ~~include~~ contain the following equipment, ~~which must be kept~~ maintained in good condition:

- (1) Ophthalmic chair and instrument unit;
- (2) Retinoscope;
- (3) ~~Ophthalmoscope~~ Direct ophthalmoscope;
- (4) Binocular indirect ophthalmoscope;
- (5) Phoropter;
- (~~5~~)(6) Keratometer;
- (~~6~~)(7) Trial lens set;
- (~~7~~)(8) Trial frame;
- (~~8~~)(9) Transilluminator;
- (~~9~~)(10) Projector chart or other luminous acuity chart;
- (~~10~~)(11) Biomicroscope;
- (~~11~~)(12) Instrument to evaluate intraocular pressure;
- (~~12~~)(13) Permanent patient record system;
- (~~13~~)(14) Visual fields instrument;
- (~~14~~)(15) Color vision test equipment; and
- (~~15~~)(16) Sanitary lavatory basin.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 8, 1980; 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 101, effective October 18, 2007; 49 SDR 12, effective August 14, 2022.

General Authority: SDCL 36-7-15(2).

Law Implemented: SDCL ~~36-7-15(2)~~ 36-7-25(8).

20:50:06:01.01. Telehealth office equipment. In addition to the equipment in § 20:56:06:01, an optometrist providing telehealth services shall maintain an office containing the following equipment, maintained in good condition:

- (1) Anterior segment video recording system; and
- (2) Full field imaging system or fundus camera.

Source:

General Authority: SDCL 36-7-15(2).

Law Implemented: SDCL 36-7-25(8).

20:50:06:02. Inspection of office for a new applicant. ~~A licensee shall inform the board within 60 days following the establishment of a new practice of optometry in this state. The board may conduct an inspection of the office facility and procedures.~~

The board shall conduct an office inspection, in accordance with SDCL 36-7-30, prior to the issuance of a license, unless the applicant:

(1) Indicates on the initial license application that the applicant has arranged a bona fide association with a licensed optometrist at an office that has been inspected by the board within the past two years and meets the requirements of §§ 20:50:06:01 and 20:50:06:01.01; or

(2) Is entering the military or other governmental service.

The applicant shall appear in person for a board inspection.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 8, 1980; 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 21 SDR 35, effective August 30, 1994; 34 SDR 101, effective October 18, 2007; 49 SDR 12, effective August 14, 2022.

General Authority: SDCL 36-7-15(2).

Law Implemented: ~~SDCL 36-7-15(2)~~ 36-7-25(8), 36-7-30.

Cross-Reference: Issuance of license, § 20:50:02:07.

20:50:06:02.01. Inspection of office for new establishments. A licensed optometrist shall inform the board within sixty days of establishing a new practice of optometry in this state for purposes of inspection in accordance with SDCL 36-7-30.

The licensee shall appear in person for a board inspection.

Source:

General Authority: SDCL 36-7-15(2).

Law Implemented: SDCL 36-7-25(8), 36-7-30.

CHAPTER 20:50:11
CORPORATE PRACTICE

Section

- 20:50:11:01 Application for registration.
- 20:50:11:02 Professional corporation -- Admitting shareholder.
- 20:50:11:03 Renewal of certificate of registration.

20:50:11:01. Application for registration. ~~Initial applications~~ An initial application for registration for of a professional corporations shall include the following optometric corporation must contain, in addition to the information specified in SDCL 47-11B-8, the following:

- ~~(1)~~ ~~Name and address of the corporation;~~
- ~~(2)~~(1) A copy of ~~its~~ the corporation's certificate of incorporation;
- ~~(3)~~(2) A copy of ~~its~~ the corporation's articles of incorporation;
- ~~(4)~~(3) A copy of the minutes of ~~its~~ the corporation's organizational meeting;
- ~~(5)~~(4) A copy of the corporation's insurance binder;
- ~~(6)~~(5) A registration fee of ~~\$50~~ required by SDCL 4-11B-9; and
- ~~(7)~~(6) A sworn statement from the president of the corporation stating that the corporation

will not hold itself out to the public as possessing any skills or expertise not possessed by optometrists in noncorporate practice.

Source: 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 47-11B-23.

Law Implemented: SDCL 47-11B-8, 47-11B-9, ~~47-11B-18~~.

20:50:11:03. Renewal of certificate of registration. Each registered optometric corporation shall submit to the board by December 1 of each year an application for renewal of its certificate of registration. ~~The application fee as required by SDCL 47-11B-13 shall accompany the application.~~

Source: 12 SDR 78, effective November 10, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 47-11B-23.

Law Implemented: SDCL 47-11B-13.