



South Dakota
Department of
Social Services

**South Dakota Board of Addiction
and Prevention Professionals**

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Pierre, SD 57501

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**South Dakota Board of Addiction and Prevention Professionals
Via Teleconference
Friday, August 26, 2022 – 10:00 AM CST**

Join Zoom Meeting

<https://us02web.zoom.us/j/85315355502?pwd=WXYzUXU5L1pqVVhJRlo2UDJ3TjU2UT09>

Meeting ID: 853 1535 5502

Passcode: 435373

Or Call 1-312-626-6799

Proposed Meeting Agenda

- 1) Call to Order
- 2) Approval of Agenda
- 3) Open Forum: *5 minutes for the public to address the Board*
- 4) Approval of Minutes: May 20, 2022
- 5) Approval of Financial Statement: July 31, 2022
- 6) Executive Session (Pursuant to SDCL 1-25-2(3) for consultation with legal counsel for consideration of proposed contested cases or litigation and to prepare for contract negotiations)
- 7) Old Business
 - a. 2023 Legislative Proposal
- 8) New Business
 - a. Office Update
 - b. FY 2022 Annual Report
- 9) Other Business
 - a. DSS Update
- 10) Announcements
 - a. Next Meeting Date: November 18, 2022
- 11) Adjourn

**South Dakota Board of Addiction and Prevention Professionals
Via Videoconference
May 20, 2022**

President Hartman called the meeting to order at 9:03 am central and determined a quorum.

Board Members Present via Videoconference: Nicole Bowen, Kara Graveman, Amy Hartman, Lynne Hagen, Kristi Jacobsma, Tiffany Kashas, Donald McCoy, Kelsey Smith and Jill Viedt

Board Members Absent: None

Others Present via Videoconference: Jennifer Stalley, Executive Secretary; Karen Cudmore, administrative staff; Ryan Loker, Board Legal Counsel, Department of Social Services; Caroline Srstka, Assistant Attorney General and Jeremy Lippert, Department of Social Services.

Tiffany Kashas introduced herself to the Board.

Motion to approve the proposed agenda by Hagen. Seconded by Graveman. **Motion carried.**

Hartman asked for comments from the public. There were no comments offered.

Motion to approve the meeting minutes of February 11, 2022 by Smith. Seconded by Jacobsma. Kashas abstained. **Motion carried.**

Motion to accept the financial report as of April 30, 2022 as presented by Graveman. Seconded by Viedt. **Motion carried.**

Motion to go into executive session for consideration of contested cases and contractual matters at 9:21 am by Bowen. Seconded by Hagen. **Motion carried.**

Hartman declared the Board out of executive session at 9:49 am.

Motion to authorize counsel to offer a proposed settlement agreement for Complaint 2022-02 by Jacobsma. Seconded by Bowen. **Motion carried.** Viedt was recused.

Motion to renew the contract with Midwest Solutions for executive and administrative services with a 6% increase to the contract by Jacobsma. Seconded by Hagen. **Motion carried.**

Stalley provided an update on modifications to the supervision tracking form. Stalley reported that updating the form to reflect discussions at a previous meeting was more difficult than anticipated. Revisions will continue to be considered, but at this time a revised form is not being used to submit verification of work experience and supervision.

Stalley provided an update on the statute and administrative rule changes and the timeline for the process. A working group will present the proposed changes to the Board during the August board meeting. Smith and Hartman agreed to serve on the workgroup.

Stalley provided an office update. Online renewal is live for the ACTs, PSTs, CACs and LACs. The online renewal opens one month prior to the practitioner's birth month. Renewal links are available on the Board's website and emailed to the various licensees who need to renew. Discussions about the Department of Social Services Behavioral Health's peer support specialists proposal occurred with DSS staff. There may be some limitations to the proposal based on current ACT requirements, but

conversations continue. Stalley presented a Board update to the SDAPP Conference to provide information on renewal. This is planned to be an annual event with SDAPP to allow for continued communication with stakeholders.

Lippert reported no additional updates from the Department of Social Services. Lippert noted Marilyn Kinsman is retiring in June and a replacement for her role as Board liaison from the Department will be filled.

The Board's next meeting is scheduled for August 26, 2022 at 10:00 am (central) in Pierre.

Motion to adjourn by Smith. Seconded by Hagen. **Motion carried.** Graveman and Jacobsma were absent.

The Board adjourned at 10:42 am.

Respectfully Submitted,

Nicole Bowen, Secretary

Remaining Authority by Object/Subobject

Expenditures current through 07/30/2022 12:20:04 PM

SOCIAL SERVICES -- Summary

FY 2023 Version -- AS -- Budgeted and Informational

FY Remaining: 92.1%

0894 Board of Addiction & Prevent Prof - Info						PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
EMPLOYEE SALARIES						
5101010 F-t Emp Sal & Wages	4,769	0	0	0	4,769	100.0
5101030 Board & Comm Mbrs Fees	2,866	0	0	0	2,866	100.0
Subtotal	7,635	0	0	0	7,635	100.0
EMPLOYEE BENEFITS						
5102010 Oasi-employer's Share	1,039	0	0	0	1,039	100.0
5102020 Retirement-er Share	519	0	0	0	519	100.0
5102060 Health Insurance-er Share	500	0	0	0	500	100.0
5102080 Worker's Compensation	363	0	0	0	363	100.0
5102090 Unemployment Compensation	31	0	0	0	31	100.0
Subtotal	2,452	0	0	0	2,452	100.0
51 Personal Services						
Subtotal	10,087	0	0	0	10,087	100.0
TRAVEL						
5203030 Auto-priv (in-st.) H/rte	1,500	0	0	0	1,500	100.0
5203100 Lodging/in-state	1,006	0	0	0	1,006	100.0
5203120 Incidentals-travel-in St.	50	0	0	0	50	100.0
5203140 Meals/taxable/in-state	361	0	0	0	361	100.0
5203150 Non-taxable Meals/in-st	300	0	0	0	300	100.0
5203260 Air-comm-out-of-state	1,200	0	0	0	1,200	100.0
5203280 Other-public-out-of-state	125	0	0	0	125	100.0
5203300 Lodging/out-state	1,455	0	0	0	1,455	100.0
5203350 Non-taxable Meals/out-st	475	0	0	0	475	100.0
Subtotal	6,472	0	0	0	6,472	100.0
CONTRACTUAL SERVICES						
5204020 Dues & Membership Fees	2,448	0	0	0	2,448	100.0
5204050 Computer Consultant	625	0	0	0	625	100.0
5204080 Legal Consultant	16,830	0	0	0	16,830	100.0
5204090 Management Consultant	117,825	9,030	103,926	0	4,869	4.1
5204130 Other Consulting	0	0	5,300	0	-5,300	0.0
5204160 Workshop Registration Fee	550	0	0	0	550	100.0
5204201 Central Services	4,726	1,067	0	0	3,659	77.4
5204203 Central Services	20	0	0	0	20	100.0
5204204 Central Services	154	78	0	0	76	49.4
5204207 Central Services	1,788	259	0	0	1,529	85.5

Remaining Authority by Object/Subobject

Expenditures current through 07/30/2022 12:20:04 PM

SOCIAL SERVICES -- Summary

FY 2023 Version -- AS -- Budgeted and Informational

FY Remaining: 92.1%

0894 Board of Addiction & Prevent Prof - Info						PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
5204460 Equipment Rental	2,800	0	0	0	2,800	100.0
5204490 Rents-private Owned Prop.	11,478	0	0	0	11,478	100.0
5204530 Telecommunications Srves	2,100	0	0	0	2,100	100.0
5204550 Garbage & Sewer	120	0	0	0	120	100.0
5204590 Ins Premiums & Surety Bds	1,110	0	0	0	1,110	100.0
5204740 Bank Fees And Charges	0	148	0	0	-148	0.0
5204960 Other Contractual Service	3,200	520	0	0	2,680	83.8
Subtotal	165,774	11,102	109,226	0	45,446	27.4
SUPPLIES & MATERIALS						
5205020 Office Supplies	1,250	178	0	0	1,072	85.8
5205300 Trophies & Awards	155	0	0	0	155	100.0
5205328 Printing-commercial	1,000	0	0	0	1,000	100.0
5205350 Postage	1,900	145	0	0	1,755	92.4
Subtotal	4,305	323	0	0	3,982	92.5
CAPITAL OUTLAY						
5207491 Telephone Equipment	175	0	0	0	175	100.0
Subtotal	175	0	0	0	175	100.0
52 Operating						
Subtotal	176,726	11,425	109,226	0	56,075	31.7
Total	186,813	11,425	109,226	0	66,162	35.4

**BOARD OF ADDICTION AND PREVENTION PROFESSIONALS
REVENUE SUMMARY
FOR MONTH ENDING 07-31-22**

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4293030	0	0	0894000	721		2023	01	\$ 1,750.00	\$ 1,750.00
6503	4293032	0	0	0894000	721		2023	01	\$ 5,200.00	\$ 5,200.00
6503	4293033	0	0	0894000	721		2023	01	\$ 100.00	\$ 100.00
6503	4293034	0	0	0894000	721		2023	01	\$ 2,250.00	\$ 2,250.00
6503	4293035	0	0	0894000	721		2023	01	\$ 275.00	\$ 275.00
6503	4293040	0	0	0894000	721		2023	01	\$ 25.00	\$ 25.00
6503	4293050	0	0	0894000	721		2023	01	\$ 40.00	\$ 40.00
6503	4293051	0	0	0894000	721		2023	01	\$ 100.00	\$ 100.00
6503	4293055	0	0	0894000	721		2023	01	\$ 450.00	\$ 450.00
									\$ 10,190.00	\$ 10,190.00

**BOARD OF ADDICTION AND PREVENTION PROFESSIONALS
REVENUE DETAIL
FOR MONTH ENDING 07-31-22**

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	FUND CENTER	FISCAL SRC	FISCAL MONTH	FISCAL DAY	FISCAL YEAR	SOURCE CODE	DESCRIPTION	AMOUNT
6503	4293030	0	0	0894000	721	01	05	2023	C08230002(BAPP	C	\$ (175.00)
6503	4293030	0	0	0894000	721	01	05	2023	C08230002(BAPP	C	\$ 175.00
6503	4293030	0	0	0894000	721	01	05	2023	C08230002(BAPP	C	\$ 175.00
6503	4293032	0	0	0894000	721	01	01	2023	C082300015(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	01	2023	C082300015(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	01	2023	C082300015(BAPP	C	\$ 400.00
6503	4293034	0	0	0894000	721	01	01	2023	C082300015(BAPP	C	\$ 300.00
6503	4293032	0	0	0894000	721	01	07	2023	C08230005(BAPP	C	\$ (200.00)
6503	4293032	0	0	0894000	721	01	07	2023	C08230005(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	07	2023	C08230005(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	08	2023	C08230006(BAPP	C	\$ (200.00)
6503	4293032	0	0	0894000	721	01	08	2023	C08230006(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	08	2023	C08230006(BAPP	C	\$ 200.00
6503	4293034	0	0	0894000	721	01	08	2023	C08230006(BAPP	C	\$ 300.00
6503	4293040	0	0	0894000	721	01	07	2023	N15234875(J0248756 BAPP CONT PROF KRANZC		\$ 25.00
6503	4293030	0	0	0894000	721	01	11	2023	C08230007(BAPP	C	\$ 175.00
6503	4293032	0	0	0894000	721	01	11	2023	C08230007(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	11	2023	C08230007(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	11	2023	C08230007(BAPP	C	\$ 400.00
6503	4293034	0	0	0894000	721	01	11	2023	C08230007(BAPP	C	\$ 300.00
6503	4293032	0	0	0894000	721	01	12	2023	C08230009(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	12	2023	C08230009(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	12	2023	C08230009(BAPP	C	\$ 400.00
6503	4293030	0	0	0894000	721	01	13	2023	C08230010(BAPP	C	\$ 175.00
6503	4293030	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ (175.00)
6503	4293030	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 175.00
6503	4293030	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 175.00
6503	4293032	0	0	0894000	721	01	13	2023	C08230010(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 600.00
6503	4293032	0	0	0894000	721	01	14	2023	C08230011(BAPP	C	\$ (200.00)
6503	4293032	0	0	0894000	721	01	14	2023	C08230011(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	14	2023	C08230011(BAPP	C	\$ 200.00
6503	4293033	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 100.00
6503	4293034	0	0	0894000	721	01	13	2023	C08230010(BAPP	C	\$ (300.00)
6503	4293034	0	0	0894000	721	01	13	2023	C08230010(BAPP	C	\$ 300.00
6503	4293034	0	0	0894000	721	01	13	2023	C08230010(BAPP	C	\$ 300.00
6503	4293034	0	0	0894000	721	01	14	2023	C08230011(BAPP	C	\$ 150.00
6503	4293050	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 20.00
6503	4293051	0	0	0894000	721	01	14	2023	C08230010(BAPP	C	\$ 100.00
6503	4293030	0	0	0894000	721	01	15	2023	C08230012(BAPP	C	\$ 175.00
6503	4293030	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ 350.00
6503	4293032	0	0	0894000	721	01	15	2023	C08230012(BAPP	C	\$ (200.00)
6503	4293032	0	0	0894000	721	01	15	2023	C08230012(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	15	2023	C08230012(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ (600.00)
6503	4293032	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ 600.00
6503	4293032	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ 600.00
6503	4293032	0	0	0894000	721	01	19	2023	C08230015(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	19	2023	C08230015(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	19	2023	C08230015(BAPP	C	\$ 400.00
6503	4293034	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ 150.00
6503	4293055	0	0	0894000	721	01	15	2023	C08230012(BAPP	C	\$ 150.00
6503	4293055	0	0	0894000	721	01	18	2023	C08230014(BAPP	C	\$ 150.00
6503	4293030	0	0	0894000	721	01	20	2023	C08230016(BAPP	C	\$ (175.00)
6503	4293030	0	0	0894000	721	01	20	2023	C08230016(BAPP	C	\$ 175.00
6503	4293030	0	0	0894000	721	01	20	2023	C08230016(BAPP	C	\$ 175.00
6503	4293034	0	0	0894000	721	01	20	2023	C08230016(BAPP	C	\$ 150.00
6503	4293030	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ (350.00)
6503	4293030	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 350.00
6503	4293030	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 350.00
6503	4293032	0	0	0894000	721	01	21	2023	C08230017(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	21	2023	C08230017(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	21	2023	C08230017(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	22	2023	C08230018(BAPP	C	\$ (200.00)
6503	4293032	0	0	0894000	721	01	22	2023	C08230018(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	22	2023	C08230018(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	22	2023	C08230018(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 200.00
6503	4293032	0	0	0894000	721	01	25	2023	C08230020(BAPP	C	\$ (400.00)
6503	4293032	0	0	0894000	721	01	25	2023	C08230020(BAPP	C	\$ 400.00
6503	4293032	0	0	0894000	721	01	25	2023	C08230020(BAPP	C	\$ 400.00
6503	4293034	0	0	0894000	721	01	21	2023	C08230017(BAPP	C	\$ 150.00
6503	4293034	0	0	0894000	721	01	25	2023	C08230020(BAPP	C	\$ 300.00
6503	4293035	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 275.00
6503	4293050	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 20.00
6503	4293055	0	0	0894000	721	01	25	2023	C08230019(BAPP	C	\$ 150.00
6503	4293034	0	0	0894000	721	01	27	2023	C08230022(BAPP	C	\$ (150.00)
6503	4293034	0	0	0894000	721	01	27	2023	C08230022(BAPP	C	\$ 150.00
6503	4293034	0	0	0894000	721	01	27	2023	C08230022(BAPP	C	\$ 150.00
											\$ 10,190.00

**BOARD OF ADDICTION AND PREVENTION PROFESSIONALS
EXPENDITURE SUMMARY REPORT
FOR MONTH ENDING 07-31-22**

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5204090	0	0	MANAGEMENT CONSULTANT	0894000	721		2023	01	\$ 9,029.61	\$ 9,029.61
6503	5204130	0	0	OTHER CONSULTING	0894000	721		2023	01	\$ -	\$ -
6503	5204201	0	0	BFM CENTRAL SERVICES	0894000	721		2023	01	\$ 1,066.94	\$ 1,066.94
6503	5204204	0	0	RECORDS MGMT SERVICES	0894000	721		2023	01	\$ 78.00	\$ 78.00
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0894000	721		2023	01	\$ 259.02	\$ 259.02
6503	5204740	0	0	BANK FEES AND CHARGES	0894000	721		2023	01	\$ 148.36	\$ 148.36
6503	5204960	0	0	OTHER CONTRACTUAL SERVICE	0894000	721		2023	01	\$ 520.00	\$ 520.00
6503	5205020	0	0	OFFICE SUPPLIES	0894000	721		2023	01	\$ 178.35	\$ 178.35
6503	5205350	0	0	POSTAGE	0894000	721		2023	01	\$ 144.73	\$ 144.73
										\$ 11,425.01	\$ 11,425.01

BOARD OF ADDICTION AND PREVENTION PROFESSIONALS
EXPENDITURE DETAIL REPORT
FOR MONTH ENDING 07-31-22

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	FUND CENTER	SUB SRC	FISCAL MONTH	FISCAL DAY	FISCAL YEAR	SOURCE CODE	VENDOR NUMBER/ INVOICE NUMBER	CHECK NUMBER	VENDOR NAME	AMOUNT
6503	5204740	0	0	0894000	721	01	05	2023	D0823BF004	BAPP BANK FEES C	F22746		\$ 148.36
6503	5204740	0	0	0894000	721	01	05	2023	D0823BF004	BAPP BANK FEES C	F22746		\$ 148.36
6503	5204740	0	0	0894000	721	01	05	2023	D0823BF004	BAPP BANK FEES C	F22746		\$ (148.36)
6503	5204204	0	0	0894000	721	01	05	2023	RM206032	RECORDS MANAGEMENT BILLI		0894	\$ 78.00
6503	5204207	0	0	0894000	721	01	13	2023	PL206042	HUMAN RESOURCE SERVICES B		0894	\$ 259.02
6503	5205350	0	0	0894000	721	01	14	2023	MS206033	CENTRAL MAIL SERVICES C		0894	\$ 144.73
6503	5204090	0	0	0894000	721	01	16	2023	013005	1219990223SC081011-JUN	0M	00100800251	MIDWESTSOL \$ 9,029.61
6503	5204960	0	0	0894000	721	01	16	2023	013131	1220891041573	0M	00100801540	BADGERSTAT \$ 20.00
6503	5204201	0	0	0894000	721	01	21	2023	FM206051	CENTRAL SERVICE BILLINGS		0894	\$ 1,066.94
6503	5204960	0	0	0894000	721	01	22	2023	017910	120199788363	0M	00100801891	ICRCAODAIN \$ 500.00
6503	5205020	0	0	0894000	721	01	22	2023	017924	1212441436080	010M	00100802159	JCOFFICESU \$ 94.39
6503	5205020	0	0	0894000	721	01	22	2023	017925	1212441436060	010M	00100802159	JCOFFICESU \$ 83.96
													\$ 11,425.01

BAPP Revenue Codes

\$25.00	Application Materials	429301000
\$250.00	Application & Testing Fee	429302000
\$200.00	Retest Fee	429302100
\$150.00	Status Upgrade Fee	429302200
\$175.00	Annual Certification Renewal Fee	429303000
	Annual Dual Credentialed Renewal Fee	429303100
\$200.00	Annual Licensure Renewal Fee	429303200
	Annual Retirement Status Fee	429303300
\$150.00	Annual Trainee Renewal Fee	429303400
	Trainee Recognition Initial Fee	429303500
\$25.00	Continuing Educ Service Provider Fee	429304000
\$20.00	IC&RC Certificate	429305000
\$100.00	Mailing Labels	429305100
\$25.00	Portfolio Review Fee	429305400
\$150.00	Reinstatement Fee	429305500
\$15.00	Replacement Certificate	429305600
\$5.00	Replacement ID Card	429305700

CAC/CPS=262.50; LAC/CPS=287.50

CAC/CPS=87.50; LAC=100

PRORATED 12.50 per month

CHAPTER 36-34
ADDICTION AND PREVENTION PROFESSIONALS

- 36-34-1 Definitions.
- 36-34-2 Board of Addiction and Prevention Professionals--Membership.
- 36-34-3 Appointment of board members--Terms.
- 36-34-4 Removal of member by Governor--Vacancy.
- 36-34-5 Meetings of board--Election of officers.
- 36-34-6 Minutes of board meetings.
- 36-34-7 Quorum--Majority vote.
- 36-34-8 Board within Department of Social Services--Functions--Report.
- 36-34-9 Acceptance, deposit, and use of funds--Continuous appropriation.
- 36-34-10 Compensation of board members.
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- 36-34-27 Application of chapter to ongoing recognition, certification, or licensure.

36-34-1. Definitions.

Terms used in this chapter mean:

- (1) "Board," the South Dakota Board of Addiction and Prevention Professionals;
- (2) "Addiction counseling," the clinical evaluation; treatment; treatment planning; referral; service coordination; counseling; client, family, and community education; and documentation related to treating an addiction;
- (3) "Prevention services," services to support the knowledge, attitudes and skills necessary to change behaviors to prevent an addiction;

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- (2) "Practitioner," a person certified, licensed, or recognized under this chapter in the practice of addiction counseling or prevention services who holds oneself out to the public by any title or description of services which uses the words certified addiction counselor, licensed addiction counselor, addiction counselor trainee, certified prevention specialist, prevention specialist trainee, or any derivatives thereof.

Source: SL 2004, ch 253, § 1; SL 2013, ch 183, § 1.

36-34-2. Board of Addiction and Prevention Professionals--Membership.

The South Dakota Board of Addiction and Prevention Professionals consists of nine members, three of whom shall be lay members and six of whom shall be professionals certified or licensed pursuant to this chapter. Each professional member shall be actively engaged in addiction counseling or prevention services and broadly represent a cross section of the profession.

The board consists of nine members appointed by the Governor. Six members shall be professionals actively engaged in addiction counseling or prevention services and be representative of the various disciplines governed by the board. Three members shall be individuals who are not licensed to practice in a discipline governed by the board.

Source: SL 2004, ch 253, § 3; SL 2005, ch 199, § 76; SL 2013, ch 183, § 2.

36-34-3. Appointment of board members--Terms.

The Governor shall appoint the members to the board for terms of three years which shall begin on the thirty-first day of October. The appointee's term shall expire on October thirtieth in the third year of appointment.

The term of office for each board member is three years and begins on October thirty-first. No member of the board may serve for more than three consecutive full terms. If a person is appointed to fill a vacancy, that service is not counted as a term for purposes of this section.

Source: SL 2004, ch 253, § 4; SL 2005, ch 199, § 77; SL 2012, ch 16, § 6.

36-34-4. Removal of member by Governor--Vacancy.

The Governor may remove any member of the board for cause. If there is a vacancy on the board the Governor shall appoint a new member to serve the unexpired term. No member of the board may serve for more than three successive full terms. The appointment to an unexpired term is not considered a full term.

The Governor may remove a board member for cause. The Governor shall appoint a new member to serve out an unexpired term in the case of a vacancy for any reason.

Source: SL 2004, ch 253, § 5; SL 2005, ch 199, § 78.

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36-34-5. Meetings of board--Election of officers.

The board shall annually elect a president, vice president, and a secretary-treasurer from its members. The board shall meet at least once a year at a place and time determined by the president. However, a majority of the board may call a meeting without the assent of the president.

The board shall meet at least annually, at the time and place designated by the president or by a majority of the board.

The board shall annually elect a president and a vice president from among its members.

Source: SL 2004, ch 253, § 6; SL 2013, ch 183, § 3.

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36-34-6. Minutes of board meetings.

The secretary of the board shall provide for taking and keeping the minutes of all board meetings.

Source: SL 2004, ch 253, § 7.

36-34-7. Quorum--Majority vote.

A majority of board members constitutes a quorum. A majority vote of those present constitutes a decision of the entire board.

A majority of the board's members constitutes a quorum for the transaction of business. A majority of those present and voting constitutes a decision of the board.

Source: SL 2004, ch 253, § 8.

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36-34-8. Board within Department of Social Services--Functions--Report.

The board is within the Department of Social Services. The department shall provide all administrative functions other than those of the board member serving as secretary. The board shall submit an annual report and such records, information, and reports in the form and at such times as required by the secretary of social services.

The board exists within the Department of Social Services. The board shall exercise all prescribed functions, including administrative functions. The board shall provide records, information, and reports to the secretary of the Department of Social Services at the time and in the manner requested by the secretary.

Source: SL 2004, ch 253, § 9; SL 2011, ch 1 (Ex. Ord. 11-1), § 163, eff. Apr. 12, 2011; SL 2013, ch 183, § 4.

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36-34-9. Acceptance, deposit, and use of funds--Continuous appropriation.

The board may accept any funds which may be made available to it from any source. All funds received by the board shall be paid to the state treasurer weekly or as prescribed by the state treasurer. The state treasurer shall keep the money in a separate account for the board. The money in that account is continuously appropriated to the board for administering and enforcing this chapter. No expense incurred may exceed the total money collected by the board under the provisions of this chapter.

The board shall forward all moneys received under the provisions of this chapter to the state treasurer for deposit in the Board of Addiction and Prevention Professionals fund hereby created in the state treasury. Moneys in the account are appropriated on a continuing basis to the board for the purpose of carrying out this chapter. Any expenditures shall be paid on warrants drawn by the state auditor and approved by the board or by an officer of the board. The total expenses may not exceed the total moneys collected by the board under the provisions of this chapter. For purposes of this chapter, the board may accept gifts, grants, and donations.

Source: SL 2004, ch 253, § 10; SL 2013, ch 183, § 5.

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36-34-10. Compensation of board members.

The board members shall be paid per diem compensation and allowable expenses pursuant to § 4-7-10.4 for their services on the board.

Each board member shall receive per diem compensation as provided in § 4-7-10.4 and expense reimbursement at the same rate as state employees, while engaged in official duties.

Source: SL 2004, ch 253, § 11; SL 2013, ch 183, § 6.

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36-34-11. Immunity of board and agents from personal liability.

The board, its members, and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies.

The board, board members, and board agents are immune from personal liability for actions taken in good faith in the discharge of the board's duties. The state shall hold the board, board members, and board agents harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which the immunity applies.

Source: SL 2004, ch 253, § 12; SL 2013, ch 183, § 7.

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36-34-12. Duties of board.

The board shall:

- (1) Promulgate rules that set standards for professional practice of addiction counseling and prevention services and other rules as necessary for the administration of this chapter. All rules shall be promulgated pursuant to chapter 1-26;
- (2) Be responsible for all disciplinary proceedings under this chapter;
- (3) Establish, by rules promulgated pursuant to chapter 1-26, education, training and competency, continuing education, and ethical standards governing the examination and practice of practitioners under this chapter;
- (4) Examine, or cause to be examined, for competency, eligible applicants, for certification or licensure to practice addiction counseling and prevention services. Examinations shall be held at least semiannually;
- (5) Issue certificates and licenses to those applicants who successfully complete the certification or licensing requirements and renew the certifications and licenses of those practitioners who continue to meet the standards of this chapter;
- (6) Maintain a record of all practitioners which includes the practitioner's status, certificate or license number, date the certification or licensure was granted, renewal date, and any public record of discipline; and
- (7) Establish and collect, pursuant to rules promulgated pursuant to chapter 1-26, fees for applications, recognition, certification, licensure, dual credentials, examination, upgrades, reciprocity, continuing education, renewal, reinstatement, and all services authorized by this chapter.

The board shall:

- (1) Administer, coordinate, and enforce the provisions of this chapter and chapter 36-34;
- (2) Establish educational, training, examination, and competency standards for addiction counselors and prevention specialists and licensees under this chapter and chapter 36-34;
- (3) Establish standards for the safe and qualified practice of addiction counseling and prevention services;
- (4) Evaluate the qualifications of applicants for licensure and issue and renew licenses and permits under this chapter and chapter 36-34;
- (5) Establish standards and responsibilities for board approved supervision for candidates for certification or licensure under this chapter and chapter 36-34;
- (6) Adopt ethical standards for the practice of addiction counseling and prevention services;
- (7) Maintain the names of persons who meet the qualifications for certification, a license or a permit under this chapter and chapter 36-33 ;
- (8) Conduct all disciplinary proceedings under this chapter and chapter 36-34;
- (9) Maintain a record of each complaint received by the board;
- (10) Establish reasonable requirements regarding reentry into practice of inactive practitioners and the reinstatement of previously licensed practitioners under this chapter and chapter 36-34;
- (11) Establish continuing education and continuing competency requirements for licensees and permit holders under this chapter and chapter 36-34 and the procedures for verifying compliance with the established requirements;
- (12) Establish standards for the practice of distance addictions counseling and prevention services;

- (13) Communicate license and permit actions and status to relevant state and federal governing bodies, as required by law, or as the board determines is appropriate; and
- (14) Employ personnel in accordance with the needs and budget of the board and enter into contracts as necessary to carry out the board's responsibilities under this chapter.

Source: SL 2004, ch 253, § 13; SL 2013, ch 183, § 8.

36-34-13. Promulgation of rules regarding fees--Maximums.

The board may promulgate rules, pursuant to chapter 1-26, to provide fees for all services and charges authorized by this chapter. The fees may not exceed the following maximums:

- (1) Application materials or portfolio reviews, twenty-five dollars;
- (2) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor application and examination fee, two hundred fifty dollars;
- (3) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor retest fee, two hundred dollars;
- (4) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor renewal fee, two hundred dollars;
- (5) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor reinstatement fee, one hundred fifty dollars;
- (6) Status upgrade fee, one hundred fifty dollars;
- (7) Addiction counselor trainee, prevention specialist trainee, certified addiction counselor, certified prevention specialist, or licensed addiction counselor replacement or duplicate certificate, fifteen dollars;
- (8) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor replacement identification card, five dollars;
- (9) Addiction counselor trainee or prevention specialist trainee recognition fee, one hundred fifty dollars;
- (10) Addiction counselor trainee or prevention specialist trainee renewal fee, one hundred fifty dollars;
- (11) Addiction counselor trainee or prevention specialist trainee reinstatement fee, one hundred fifty dollars;
- (12) International certificate fee, twenty dollars;
- (13) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor retirement status practitioner fee, one hundred dollars;
- (14) Dual credential renewal fee, three hundred dollars;
- (15) Examination cancellation or rescheduling fee, twenty-five dollars;
- (16) Examination late cancellation or nonattendance fee, one hundred twenty-five dollars;
- (17) Registration as a continuing education service provider, twenty-five dollars; and
- (18) Mailing labels charge, one hundred dollars.

The board shall promulgate rules in accordance with chapter 1-26, to establish the following:

- (1) An application fee, not to exceed two hundred dollars;
- (2) An examination fee, not to exceed three hundred dollars;
- (3) An annual trainee renewal fee not to exceed one hundred dollars;
- (2) A biennial certification or license renewal fee, not to exceed three hundred dollars;

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- (3) A duplicate license fee, not to exceed fifteen dollars;
- (4) An inactive license fee, not to exceed one hundred dollars;
- (5) A temporary license fee, not to exceed two hundred dollars; and
- (6) A license verification fee, not to exceed twenty-five dollars.

Source: SL 2004, ch 253, § 14; SL 2013, ch 183, § 9.

36-34-13.1. Certification and licensure requirements.

No person may represent oneself as a licensed or certified addiction counselor, addiction counselor trainee, certified prevention specialist, prevention specialist trainee, or any other title that includes such words unless the person is certified or licensed under this chapter.

Unless licensed in accordance with the provisions of this chapter, no person may use the titles: certified addiction counselor, addiction counselor trainee, certified prevention specialist, prevention specialist trainee or any similar title. It is a Class 2 misdemeanor for any person to engage or attempt to engage in the practice of addiction counseling, without a license, unless exempted under the provisions of this chapter.

Source: SL 2008, ch 199, § 2; SL 2013, ch 183, § 11.

36-34-13.2. Disclosure of felony conviction or plea.

Any applicant seeking recognition, certification, or licensure shall disclose to the board whether the applicant has been convicted of, plead guilty to, or plead no contest to any felony in any state, federal, foreign jurisdiction, tribal, or military court. Failure to disclose this information may result in denial, revocation, suspension, or refusal of recognition, certification, or licensure.

Notwithstanding any rules promulgated pursuant to 36-34-12, the board may grant a license to an applicant who has been convicted of or pled guilty to a felony, to any crime involving or relating to the practice of counseling, or to any crime involving dishonesty or moral turpitude if the board determines that the applicant does not constitute a risk to public safety.

Source: SL 2013, ch 183, § 10.

36-34-13.3. Renewal of certificate or license.

Any certificate or license issued by the board shall be renewed annually by payment of a fee to be set by the board in rules promulgated pursuant to chapter 1-26. The failure of a practitioner to renew the certificate or license by the last day of the practitioner's birth month each year constitutes a forfeiture of status. However, any person who has forfeited one's status may have it restored by requesting reinstatement and paying the reinstatement fee and the renewal fee within fifteen days of the forfeiture. Any person who fails to have the status restored within fifteen days shall take the examination as prescribed for an applicant to become certified or licensed and comply with all the provisions applicable to any applicant for certification or licensure.

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Any licensee holding a valid license under this chapter may renew that license by submitting an application for renewal before the date of expiration, paying the required renewal fee, and providing proof of compliance with the continuing education requirements prescribed by the board. If a licensee fails to renew a license on or before the thirtieth day of November in an odd-numbered year, the license is automatically suspended.

The board shall notify the licensee that a renewal application has not been received by the board and that the licensee may not practice counseling. Any person who submits a license renewal application and provides proof of compliance with the continuing education requirements set by the board within thirty days after the expiration date of the license may be granted a license renewal.

Source: SL 2013, ch 183, § 14.

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36-34-13.4. Display of certificate or license.

Each certificate or license shall be conspicuously displayed at the primary place of practice within thirty days after issuance of such certificate or license.

Each license issued by the board under this chapter, shall be conspicuously displayed by the licensee at the licensee's primary place of practice. Each licensee shall post and keep conspicuously displayed the annual renewal certificate issued by the board.

Source: SL 2013, ch 183, § 15.

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36-34-13.5. Certification in another state.

The board may grant a certificate to any person who, at the time of application, is certified in another state or territory of the United States that imposes substantially the same requirements as this chapter, has taken and passed an examination similar to that required under this chapter, and has not been convicted of a felony within five years of the date of application, and if convicted of a felony, has completed all sentencing requirements prior to the date of application.

Notwithstanding any other provisions of this chapter, the board may issue a license to an applicant who is licensed to practice addiction counseling in another state or territory of the United States if the applicant demonstrates that:

- (1) The applicant is currently licensed as a counselor and has been under the jurisdiction of the licensing authority in the other jurisdiction for at least three continuous years prior to the time of submitting an application to the board;
- (2) The applicant is in good standing with the licensing authority in the other jurisdiction;
- (3) The applicant has been in an active practice during the three-year period before the time of submitting an application to the board;
- (4) The applicant passed the standard national examination approved by the board for the specific license; and

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(5) The applicant has no record of unprofessional conduct or any pending disciplinary complaints in the other jurisdiction.
For purposes of this section, the term, active practice, means the applicant accumulated at least one thousand five hundred hours of clinical experience.

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Source: SL 2013, ch 183, § 16.

NEW SECTION: Applicants licensed out-of-state--Temporary license.

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If an addiction counselor licensed in another state or territory of the United States has not passed the national examination required by the board for licensure, the board may provide the applicant with a temporary license to practice for up to ninety days, if the applicant demonstrates that:

- (1) The applicant is currently licensed as an addiction counselor and has been under the jurisdiction of the licensing authority in the other jurisdiction for at least three years before the time of submitting an application to the board;
- (2) The applicant is in good standing with the licensing authority in the other jurisdiction;
- (3) The applicant has been in active practice during the three-year period before the time of submitting an application to the board; and
- (4) The applicant has no record of unprofessional conduct or pending disciplinary complaints in the other jurisdiction.

For purposes of this section, the term, active practice, means at least one thousand five hundred hours of clinical experience.

An applicant for a temporary license shall submit an application on a form approved by the board, along with the application fee and the temporary license fee prescribed by the board. The board shall issue a temporary license as an addiction counselor to an applicant who meets the requirements of this section and pays the required fee. A temporary license automatically expires upon the applicant's passage of the required national examination or at the conclusion of the term for which the temporary license was issued, whichever occurs first. A temporary license may only be renewed once.

Any person practicing under a temporary license is subject to supervision and discipline by the board in the same manner as any other licensee under this chapter. A person practicing under a temporary license is under the jurisdiction of the board.

NEW SECTION: Examination of applicant's physical or mental health.

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If the board suspects that the physical or mental health of any applicant may jeopardize or endanger anyone who seeks assistance from the applicant, the board may require that the applicant be examined by a board-approved health care provider, licensed or authorized to practice pursuant to title 36. The board shall pay all costs of the examination.

If after a hearing in accordance with chapter 1-26 the board finds by clear and convincing evidence that the applicant's physical or mental health may jeopardize or endanger anyone who seeks services from the applicant, the board may deny the license.

NEW SECTION: Inactive license--Reactivation.

The board may place a license on inactive status at the request of the licensee and the payment of a fee prescribed by the board. An inactive license expires four years after the date of issuance. An inactive license may be reactivated by payment of the license renewal fee and proof of having completed at least forty hours of continuing education during the two-year period immediately preceding the reactivation request. If a license is not reactivated before expiration, all provisions applicable to an applicant for licensure also apply in order for the license to be restored to active status.

Any license on retired status as of July 1, 2022, expires on November 30, 2026, unless the licensee meets the requirements for reactivation before that time.

NEW SECTION: Expired license--Reactivation.

An expired license may be reactivated within the four-year period following the expiration of the license, if the applicant:

- (1) Pays any applicable renewal fees required for the period of expiration;
- (2) Provides proof of any continuing education required for the period of expiration; and
- (3) Provides proof of passing a national examination approved by the board after the date the license expired.

NEW SECTION: Inapplicability of chapter to certain activities and services.

The provisions of this chapter do not apply to the activities and services of a person practicing counseling as part of that person's duties if the person is:

- (1) Licensed or certified under this title and acting in a manner consistent with state law regarding the scope of practice;
- (2) Employed by a school, college, university, or other institution of higher learning and is engaged primarily in the education of students;
- (3) Employed by a federal, state, county, or local governmental institution or agency and performing the duties for which the person is employed;
- (4) Employed by a licensed health care facility, an accredited prevention or treatment facility, a community support provider, a nonprofit mental health center, or a licensed or registered child welfare agency;
- (5) A member of the clergy and acting in a ministerial capacity, if the activity is within the scope of the person's regular or specialized duties; or
- (6) A student enrolled in a recognized program of study leading to a counseling degree, if that student practices only under the direct supervision of a counselor educator or a counselor licensed under this chapter.

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36-34-16. Enforcement--Injunction--Hearing.

The board may use its own staff or employ certified or licensed addiction counselors, certified prevention specialists, agents, or investigators to assist in the enforcement of this chapter or any rule promulgated by the board. Any person violating the provisions of this chapter may be enjoined from further violations by an action brought by the state's attorney of the county where the violations occurred or by an action brought by any citizen in the state. The attorney general, the board, or the state's attorney may apply to the circuit court for the county in which a violation of this chapter is alleged to have occurred for an order enjoining or restraining the commission or continuance of the acts. The board may authorize a hearing examiner to conduct the hearing required to determine a violation of this chapter.

The board may use board staff or employ or contract with an agent or investigator to assist in enforcing this chapter or any rule promulgated by the board.

If it appears to the board that a person is violating any provision of this chapter or any rule promulgated under this chapter, the board may, in the board's name or in the name of the state, bring an action in the circuit court of any county in which jurisdiction is proper, to enjoin the action, practice, or violation, and to enforce compliance with this chapter, or any rule promulgated under this chapter. Criminal proceedings shall be prosecuted by the Office of the Attorney General or by a person designated by the attorney general and retained by the board as provided in this chapter.

Source: SL 2004, ch 253, § 17; SL 2013, ch 183, § 17.

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36-34-17. Employment of attorney. Assistance in enforcement--Expenditures--Employment of attorney.

The board may, if it deems best for the enforcement of this chapter or in the conduct of its duties, employ an attorney designated by the attorney general and subject to the supervision, control, and direction of the attorney general. The board shall fix and determine the compensation and period of service of the attorney who shall be paid out of the funds of the board.

The board and board members and officers shall assist any person charged with the enforcement of this chapter. The board, board members, and officers shall furnish evidence to assist in the prosecution of any violation or enforcement, and the board may make a reasonable expenditure for that purpose. The board may employ an attorney designated by the attorney general. The board shall determine the compensation and period of service of the attorney and pay the attorney out of the board's funds.

Source: SL 2004, ch 253, § 18.

36-34-18. Receipt and log of complaints--Investigation--Disciplinary proceeding.

The board shall receive complaints concerning a practitioner's professional practices. Each complaint received shall be logged by the secretary-treasurer, or the board's designee, recording the practitioner's name, name of the complaining party, date of the complaint, a brief statement of the complaint, and its ultimate disposition. The board shall investigate each alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. All disciplinary proceedings held under the authority of this chapter must be conducted in accordance with chapter 1-26.

Complaints regarding any person licensed under this chapter shall be processed pursuant to chapter 36-1C. A record of each complaint shall be maintained in the board office.

Notwithstanding any provision of chapter 36-1C, an investigation may be conducted by a member, agent, or an appointee of the board to determine whether the alleged violation has been committed. The investigator, if a member of the board, may dismiss a complaint if it appears to the member, in consultation with the board president, that no violation has been committed. If the investigator is an agent or an appointee of the board, dismissal of the complaint may only be made by the board president. Any disposition agreed upon between the investigator and the licensee or permit holder shall be made known to and approved by the board.

Any disciplinary proceeding must be conducted in accordance with chapter 1-26. Any decision of the board entered in a contested proceeding may be appealed to the circuit court within thirty days. A license or permit remains in effect during the pendency of an appeal, unless suspended under § 36-32-86.

Testimony or documentary evidence of any kind obtained by the board during the investigation of a complaint is not subject to discovery or disclosure under chapter 15-6 or any other provision of law and is not admissible as evidence in any legal proceeding, unless the complaint becomes a contested case under chapter 1-26. No person who has participated in the investigation of a complaint on behalf of the board may testify as an expert witness or be compelled to testify for any party in any civil action, if the subject matter of the complaint investigated is a basis for the civil action.

Source: SL 2004, ch 253, § 19; SL 2013, ch 183, § 18; SL 2021, ch 168, § 44.

36-34-19. Cancellation, suspension, or revocation of certification or license.

The decision of the board to cancel, suspend, or revoke a certification or licensure or to reissue a cancelled, suspended, or revoked certification or licensure requires a majority vote of all the board members.

Source: SL 2004, ch 253, § 20; SL 2013, ch 183, § 19.

36-34-20. Frivolous or unfounded complaint--Dismissal--Expungement.

If the board determines that any complaint is frivolous or clearly unfounded in fact, the board may dismiss the complaint and, by a separate and unanimous vote of the board, may expunge the complaint from the record of the practitioner.

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Source: SL 2004, ch 253, § 21; SL 2013, ch 183, § 20.

36-34-21. Grounds for disciplinary sanctions--Hearing--Notice.

Any practitioner subject to this chapter shall practice in accordance with the standards established by the board and is subject to the exercise of the disciplinary sanctions enumerated in § 36-34-23 if, after a hearing in the manner provided in chapter 1-26, the board finds that:

- (1) A practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate or license to practice the profession, or has engaged in fraud or material deception in the course of professional services or activities;
- (2) A practitioner has been convicted in any court of a felony;
- (3) A practitioner has engaged in or permitted the performance of unacceptable patient care by the practitioner or by auxiliaries working under the practitioner's supervision due to any deliberate or negligent act or failure to act;
- (4) A practitioner has knowingly violated any provision of this chapter or board rules;
- (5) A practitioner has continued to practice although the practitioner has become unfit to practice due to professional incompetence, failure to keep abreast of current professional theory or practice, physical or mental disability, or addiction or severe dependency upon or use of alcohol or other drugs which endanger the public by impairing a practitioner's ability to practice safely;
- (6) A practitioner has engaged in lewd or immoral conduct in connection with the delivery of addiction counseling or prevention services to consumers;
- (7) A practitioner has or is employing or assisting an uncertified or unlicensed person to hold himself or herself out as a certified or licensed addiction counselor or certified prevention specialist;
- (8) A practitioner submitted false, misleading, or inaccurate information to the board in obtaining issuance or renewal of recognition, certification, or licensure; or
- (9) A practitioner has failed to provide information or documents requested by the board in the investigation or prosecution of a professional or ethical complaint filed with the board.

Each legally required notice shall be sent via ordinary first-class mail to the most recent address that the practitioner has reported to the board. The practitioner has the duty to maintain an accurate and current mailing address with the board.

For purposes of this chapter, "unprofessional or dishonorable conduct" includes a finding that:

- (1) The licensee or permit holder is guilty of fraud in the practice of counseling or of fraud or deceit in the licensee's admission to the practice of counseling;
- (2) The licensee or permit holder has been convicted during the past five years of a felony, or of any crime which, if committed in this state would constitute a felony;
- (3) The licensee or permit holder is engaged in the practice of counseling under a false or assumed name and has not registered that name under chapter 37-11, or is impersonating another practitioner having a like or different name;
- (4) The licensee or permit holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants, to an extent that incapacitates the licensee from the performance of professional duties;

- (5) The physical or mental condition of the licensee or permit holder, as determined by a competent health care provider, poses a risk of jeopardizing or endangering those who seek services from the licensee;
- (6) The licensee or permit holder obtained or attempted to obtain a license, certificate, permit, or renewal through means of bribery or fraudulent representation;
- (7) The licensee or permit holder knowingly made a materially false statement in connection with any application under this chapter;
- (8) The licensee or permit holder knowingly made a materially false statement on any form required by the board in accordance with this chapter or any rules promulgated under this chapter;
- (9) The licensee or permit holder violated any provision of this chapter or any rule promulgated under this chapter; or
- (10) The licensee or permit holder violated ethical standards adopted by the board.

Source: SL 2004, ch 253, § 22; SL 2013, ch 183, § 21.

36-34-22. Physical or mental examination--Summary revocation procedures on failure to comply.

The board may, in a disciplinary proceeding, order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely is at issue. Failure to comply with a board order to submit to a physical or mental examination renders a practitioner liable to the summary revocation procedures described in § 36-34-24.

If the board suspects that the physical or mental health of any applicant may jeopardize or endanger anyone who seeks assistance from the applicant, the board may require that the applicant be examined by a board-approved health care provider, licensed or authorized to practice pursuant to title 36. The board shall pay all costs of the examination.

If after a hearing in accordance with chapter 1-26 the board finds by clear and convincing evidence that the applicant's physical or mental health may jeopardize or endanger anyone who seeks services from the applicant, the board may deny the license.

Source: SL 2004, ch 253, § 23.

36-34-23. Sanctions--Withdrawal of probation--Certification or licensure during appeal.

The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner has violated any part of § 36-34-21:

- (1) Revoke a practitioner's certification or license to practice for an indefinite length of time;
- (2) Suspend a practitioner's certification or license for a specific or indefinite length of time;
- (3) Censure a practitioner;
- (4) Issue a letter of reprimand;
- (5) Place a practitioner on probationary status and require the practitioner to report regularly to the board on the matters which are the basis for probation;

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- (6) Limit the practitioner's practice to areas prescribed by the board and continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of the probation;
- (7) Require the practitioner to reimburse the board in an amount equal to the costs incurred for the investigation and disciplinary hearing including the amount paid by the board for legal expenses, attorney fees, court reporters, and any mediator or hearing officer, provided there is clear and convincing evidence of wrongdoing on the part of the practitioner.

The board may withdraw the probation if the board finds the deficiencies that resulted in disciplinary action have been remedied.

Certification or licensure shall remain in effect during the pendency of an appeal unless suspended under § 36-34-24.

If the board finds that a person, entity, licensee, or permit holder has engaged in any unprofessional or dishonorable conduct, as described in § 36-32-83, or violated any provision of this chapter or any rule promulgated under this chapter, the board may:

- (1) Revoke a license or permit for an indefinite period;
- (2) Suspend a license or permit for a specific or an indefinite period;
- (3) Place a limit or a condition on a license or permit;
- (4) Issue a censure or a letter of reprimand;
- (5) Place a licensee or permit holder on probationary status and require that the licensee or permit holder report regularly to the board on the matters that are the basis for probation, limit the licensee's or permit holder's practice to areas prescribed by the board, and require professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation. The board may withdraw the probation if the board finds the deficiencies that required disciplinary action have been remedied;
- (6) Impose any other sanction that the board determines is appropriate;
- (7) Impose a fee to reimburse the board in an amount equal to some or all of the costs incurred for the investigation and proceedings resulting in disciplinary action, or for the issuance of a cease and desist order; or
- (8) Deny an application for a license or permit.

Source: SL 2004, ch 253, § 24; SL 2013, ch 183, § 22.

36-34-24. Summary suspension--Hearing--Appeal.

The board may summarily suspend a practitioner's recognition, certification, or licensure in advance of a final adjudication or during the appeals process if the board finds that a practitioner would represent a clear and immediate danger to the public health and safety if the practitioner were allowed to continue to practice. A practitioner whose recognition, certification, or licensure is suspended under this section is entitled to a hearing before the board within twenty days after the effective date of the suspension. The practitioner may subsequently appeal the suspension to circuit court in accordance with chapter 1-26.

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The board may suspend a license or permit in advance of a final adjudication or during the appeals process if the board finds that allowing a licensee or permit holder to continue practicing would represent a clear and immediate or imminent danger to public health and safety. A person whose license or permit is suspended under this section is entitled to a hearing before the board within twenty days after the effective date of the suspension. The suspension may subsequently be appealed to the circuit court in accordance with chapter 1-26.

NEW SECTION: Violations reported to law enforcement officials--Prosecution of violations.

The board shall investigate an alleged violation of any provision of this chapter, pursuant to the procedures set forth in chapter 36-1C, and report the alleged violation. The board may employ special counsel subject to the supervision, control, and direction of the attorney general to assist in the prosecution of alleged criminal violations and may expend the necessary funds for this purpose.

NEW SECTION: Action for injunction.

Any person who violates any provision in this chapter may be enjoined from any further violation at the suit of the state's attorney of the county where the violation occurred. In the alternative, suit may be brought by any resident of this state.

Source: SL 2004, ch 253, § 25; SL 2013, ch 183, § 23.

36-34-25. Reinstatement or new recognition, certification, or license--Costs of suspension or revocation.

Any practitioner whose recognition, certification, or license to practice has been suspended or revoked may be reinstated or a new recognition, certification, or license may be issued, as the case may be, if in the discretion of the board, such action is warranted. The board may require the applicant to pay all costs of the proceedings resulting in the applicant's suspension or revocation including the amount paid by the board for legal expenses and attorney fees.

At the board's discretion, the board may reinstate or issue a new license or permit. The board may require the applicant to pay all costs of the proceedings resulting in the suspension, revocation, reinstatement, or issuance of a license or permit.

Source: SL 2004, ch 253, § 26; SL 2013, ch 183, § 24.

36-34-26. Allegations--Burden of proof.

In the prosecution of any person for violation of this chapter, it is not necessary to allege or prove lack of valid recognition, certification, or licensure. Proof of recognition, certification, or licensure is a matter of defense to be established by the defendant.

Source: SL 2004, ch 253, § 27; SL 2013, ch 183, § 25.

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36-34-27. Application of chapter to ongoing recognition, certification, or licensure.

Nothing in this chapter may be construed to limit the ongoing recognition, certification, or licensure of any person at the level of recognition, certification, or licensure and for the time period established under the former South Dakota Chemical Dependency Counselor Certification Board or the Certification Board for Alcohol and Drug Professionals.

Source: SL 2004, ch 253, § 28; SL 2013, ch 183, § 26.

NEW SECTION: Counseling services through electronic means--Requirements.

Any person who practices counseling through electronic means and provides counseling services to a patient located in this state is engaged in the practice of counseling in this state, regardless of the provider's physical location. Any service provided by a person through electronic means shall comply with the provisions of this chapter and rules promulgated under this chapter.

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