



May 27, 2025

Ms. Whitney Burrows  
Board of Medical and Osteopathic Examiners  
101 N Main Ave. Suite 301  
Sioux Falls, SD 57104

Dear Ms. Burrows:

The Legislative Research Council (LRC) received proposed rules from the Board of Medical and Osteopathic Examiners on May 5, 2025. In accordance with SDCL 1-26-6.5, the LRC reviewed the proposed rules for form, style, clarity, and legality, and now returns them with recommendations.

Please find enclosed:

- Proposed Rules Review Checklists;
- The proposed rules with recommended form, style, clarity, and minor legality edits;
- Directions for Submitting the Final Draft of the Rules; and
- The Interim Rules Review Committee Rules Presentation Format.

In addition to the recommendations provided in the enclosed packet, LRC identifies the following substantial legality issues:

- When material is incorporated by reference that is not federal statute or regulation, SDCL 1-26-6.6 requires a statement be attached to the material that includes the agency's name, the section number of the rule that incorporates the material within, and the date the proposed rule was served on LRC. Effective July 1, 2025, there is specific guidance on the form of this statement when the publication is only available as an electronic document (*see*, HB 1051). Please include a statement for the material incorporated by reference in ARSD 20:63:04:01 that aligns with statutory requirements and retain that copy as a record associated with this rulemaking, in accordance with SDCL 1-26-2 and 1-26-7.
- Additionally, SDCL 1-26-6.6 requires that any material incorporated by reference must "describe the exact section or portion of the publication which is being incorporated."
  - In ARSD 20:63:01:01, the rule references Section IV of the 2020 edition of the Commission on Accreditation of Athletic Training Education's *Standards and Procedures for Accreditation of Professional Programs in Athletic Training* to include skills that constitute the practice of athletic training "in addition to SDCL 36-29-1.1". However, it is unclear exactly which listed "skills" from this section are intended to be incorporated for the practice of athletic training, especially given that the document is for the accreditation of educational programs. Moreover, the reference indicates that the skills are "in addition to" those listed in statute, which suggests that the skills go beyond the legislatively established scope. Recommendations are included to address the latter concern, but please more clearly identify or describe the "skills" listed in the document that are being incorporated.
  - ARSD 20:63:04:01 incorporates the "code of ethics" in the Board of Certification's *Standards of Professional Practice*, and ARSD 20:63:04:03 states that the board may utilize the "annotations and opinions" in the Board of Certification's "standards of professional conduct, 2024" when determining whether a licensee has violated professional ethical standards and conduct. The *Standards of Professional Practice* include two sections--"Practice Standards" and a "Code of Professional Responsibility". Please

clarify exactly which section, or both, are being incorporated as the "code of ethics". Additionally, if the second rule is referencing the same document, please use consistent language. Assuming the document is the same, staff was unable to identify the "annotations and opinions" that are being referenced. If this material is truly being incorporated, a reference note should be placed below the rule as well, otherwise these materials are not properly incorporated and may not be able to be referenced, per SDCL 1-26-6.6.

- SDCL 36-4B-35(8)(b) requires the Board promulgate in rule "protocols and supervisory standards" for a paramedic who has been issued a community paramedic endorsement. ARSD 20:61:03:04 appears to largely shift the responsibility to set protocols to the medical director of the ambulance service, instead of establishing protocols in rule. There are unique provisions in the section regarding implementation of a patient care plan. Perhaps these are sufficient to constitute "protocols" per the statute, but the incongruity of shifting the responsibility to establish most protocols to the medical director remains. Similarly, ARSD 20:61:04:04 does not appear to establish unique "supervisory standards," instead reiterating statute or standards found in other rules generally applicable to paramedics.

Under SDCL 1-26-4(4), the Board is required to adopt LRC recommendations, subject to an appeal to the Interim Rules Review Committee for the Committee's final determination. Note, however, that LRC reserves the right to withdraw recommendations if they are resolved via discussion with Board staff.

Please do not hesitate to contact me if you have any questions or to discuss and possibly resolve any of the recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin J. Goetz", with a stylized flourish at the end.

Justin J. Goetz  
Code Counsel  
Enclosures

CC: Melissa Magstadt, Secretary, Department of Health

**Legislative Research Council  
Proposed Rules Research Review Checklist**

Date Proposed Rules Received by LRC: \_\_\_\_\_

Date Public Hearing Scheduled: \_\_\_\_\_

Proposed Rules Reviewed by: \_\_\_\_\_

Fiscal Note Reviewed by: \_\_\_\_\_

"No agency rule may be enforced by the courts of this state until it has been adopted in conformance with the procedures set forth in this chapter." (SDCL 1-26-6.8)

**Staff:**

**Please review the proposed rules and supporting documents and submit them with this completed checklist to the Code Counsel within ten business days from the date the proposed rules are received by the LRC.**

<b>KEY</b>			
<b>ENTRY:</b>	"[Initials]"	"N/A"	"[Initials]**"
<b>MEANING:</b>	Reviewed by	Not applicable	Edit Recommended or Issue
1. Verify the rules packet includes ( <a href="#">SDCL 1-26-4(2)</a> ):			
a. The proposed rules:			
i. Any incorporated material:			
b. Notice of hearing (Form 6):			
2. Verify all documents have correct citations to the proposed rules provided in the packet.			
3. Verify the appropriate departmental secretary, bureau commissioner, public utilities commissioner, or constitutional officer approved the rules process to proceed. ( <a href="#">SDCL 1-26-4(1)</a> )			
<b>4. If the Department of Social Services is promulgating rules that are mandated by federal statute or regulation, use the DSS Federal Regulations Checklist.</b>			
5. Review proposed rules for:			
a. Form, style, and clarity in accordance with the Administrative Rules Drafting Manual (including all existing language, not just amended language).			
i. Verify the most recent rule is used. ( <a href="#">Manual</a> , pg. 5)			
ii. Verify all cross-references in text are current. ( <a href="#">Manual</a> , pg. 6)			
iii. Verify all affected sections are included. For repealed sections, verify all affected sections are amended. ( <a href="#">Manual</a> , pg. 6)			
iv. Verify any renumbering of rules is consistent with Administrative Rules Drafting Manual. ( <a href="#">Manual</a> , pg. 7)			

b. Legality, including:

- i. Verify the General Authority statute provides rule-making authority (i.e., “. . . shall/may promulgate rules to . . .”). ([Manual](#), pg. 8) \_\_\_\_\_
- ii. Verify the Law Implemented statute identifies the policy intended to be implemented. ([Manual](#), pg. 8) \_\_\_\_\_
- iii. If the proposed rule incorporates material by reference, verify the rule describes the exact section or portion of the material. ([SDCL 1-26-6.6](#); [Manual](#), pg. 11) \_\_\_\_\_  
  
For incorporated material that is not CFR, USC, Fed. Reg., Stat.:
  - 1. Verify the proposed rule includes a reference note identifying the publication by title, date of publication, author, version/edition and where and at what cost the publication may be obtained. \_\_\_\_\_
  - 2. Verify there is a statement attached to the material that includes the agency’s name, the section number of the rule that incorporates the material, and the date the proposed rule was served on the LRC. \_\_\_\_\_
- iv. Verify the proposed rule does not incorporate or reiterate any statutory language other than definitions, and that the agency is not publishing or distributing statutory material. ([SDCL 1-26-6.1](#)) \_\_\_\_\_
- v. Verify the proposed rule does not restrict any right or privilege to carry or possess a concealed pistol under SDCL chapter 23-7. ([SDCL 1-26-6.10](#)) \_\_\_\_\_
- vi. Verify the agency does not delegate authority to a private association. (S.D. Const. art. III, §§ [23](#)(9), [26](#)) \_\_\_\_\_
- vii. Verify the rule does not allow the agency to circumvent the SDCL ch. 1-26 rulemaking process (e.g., authorizing it to make its own rules). (See SDCL [1-26-4](#), [1-26-6.5](#), [1-26-6.6](#), [1-26-38](#)(2)) \_\_\_\_\_
- viii. Verify the rule does not contain the agency’s internal processes or policy (e.g., personnel policies) or other matter that is not defined as a rule per [SDCL 1-26-1](#)(8). \_\_\_\_\_
- ix. Verify the rule does not incorporate a future rule or regulation, or incorporate future amendments to an existing rule or regulation, of another state or the federal government. ([State v. Johnson](#), 84 S.D. 556, 173 N.W.2d 894 (1970)) \_\_\_\_\_
- x. Verify only the rules being changed are included in the packet and that chapter indexes are updated as needed. ([Manual](#), pg. 8) \_\_\_\_\_

6. Review Notice of Public Hearing ([SDCL 1-26-4.1](#)):

- a. Verify the LRC received the proposed rules at least 20 days prior to the scheduled public hearing. \_\_\_\_\_

- b. Verify the notice contains a narrative description of the effect of the proposed rule. \_\_\_\_\_
- c. Verify the notice contains the reason for adopting the proposed rule. \_\_\_\_\_
- d. Verify the notice contains the location, date, and time (Central or Mountain) of the hearing. \_\_\_\_\_
- e. Verify the notice contains information about how amendments, data, opinions, and arguments may be presented. \_\_\_\_\_
- f. Verify the notice contains a deadline for submission of comments. \_\_\_\_\_
  - i. If the authority promulgating the rule is a secretary, commissioner, or officer, ensure the deadline is ten days after the public hearing. ([SDCL 1-26-4](#)(6)) \_\_\_\_\_
  - ii. If the authority promulgating the rule is a part-time citizen board, Commission, committee, or task force, ensure the deadline is at least 72 hours before the public hearing (not including hearing day). ([SDCL 1-26-4](#)(6)). \_\_\_\_\_
- g. Verify the notice contains information for how the public may obtain copies of the proposed rules. \_\_\_\_\_
- 7. For any proposed rule regarding professional or regulatory examination or licensing that is to be published in pamphlet form, review the pamphlet for style, form, and clarity in accordance with the Administrative Rules Drafting Manual. ([SDCL 1-26-11](#)) \_\_\_\_\_

Reviewed by Code Counsel on \_\_\_\_\_

**Legislative Research Council  
Proposed Rules Fiscal Note Review Checklist**

Date Proposed Rules Received by LRC: \_\_\_\_\_

Date Public Hearing Scheduled: \_\_\_\_\_

Proposed Rules Reviewed by: \_\_\_\_\_

Fiscal Note Reviewed by: \_\_\_\_\_

"No agency rule may be enforced by the courts of this state until it has been adopted in conformance with the procedures set forth in this chapter." (SDCL 1-26-6.8)

**Staff:**

**Please review the proposed rules and supporting documents and submit them with this completed checklist to the Code Counsel within ten business days from the date the proposed rules are received by the LRC.**

**KEY**

ENTRY:	"[Initials]"	"N/A"	"[Initials]**"
MEANING:	Reviewed by	Not applicable	Edit Recommended or Issue

1. Verify the rules packet includes ([SDCL 1-26-4\(2\)](#)):

- a. Fiscal note (Form 5): \_\_\_\_\_
- b. Small business impact statement (Form 14): \_\_\_\_\_
- c. Housing Cost Impact Statement (Form 16), if applicable: \_\_\_\_\_

2. Indicate whether the proposed rules:

- a. Increase a fee, in which case, initial. If initialed, the agency must submit a completed Form 17 with the final packet provided to the Interim Rules Review Committee and LRC, pursuant to SDCL 1-26-4(8). ([SDCL 1-26-4.8](#)) \_\_\_\_\_
- b. Increase a fee of a professional or occupational licensing board or commission for which no maximum fee is established in statute, in which case, initial. If the fee increases by more than 20%, note the issue. ([SDCL 1-26-6.9](#)) \_\_\_\_\_

3. Review the Fiscal Note ([SDCL 1-26-4.2](#)):

- a. Verify the Fiscal Note states whether the proposed rule will have any effect on the revenues, expenditures, or fiscal liability of the state, agencies, and subdivisions: \_\_\_\_\_
  - i. If there is an effect, verify the Fiscal Note includes an explanation of how the effect was computed? \_\_\_\_\_
  - ii. If there is an effect on subdivisions, is that effect described? \_\_\_\_\_

4. Review Small Business Impact Statement ([SDCL 1-26-2.1](#)):

- a. Verify if the rule change has any small business impact based on readily available info: \_\_\_\_\_
  - i. If only INDIRECT, verify that a brief description of the impact is included. \_\_\_\_\_
  - ii. If DIRECT, review 4.b through 4.h:
- b. Verify the Impact Statement includes a narrative explanation in plain, easy-to-read language. \_\_\_\_\_
- c. Verify the narrative explanation discusses the effect of the proposed rule on small business, including the basis for the rule's enactment and why the rule is needed. \_\_\_\_\_
- d. Verify the narrative explanation includes an identification and estimated number of small businesses subject to the proposed rule. \_\_\_\_\_
- e. Verify the Impact Statement includes the projected reporting and record-keeping required for compliance with the proposed rule. \_\_\_\_\_
- f. Verify the Impact Statement includes the types of professional skills necessary for preparation of required reports or records. \_\_\_\_\_
- g. Verify the Impact Statement includes a statement of the probable effect on impacted small business. \_\_\_\_\_
- h. Verify the Impact Statement includes a description of any less intrusive or less costly alternative methods of achieving the proposed rule's purpose. \_\_\_\_\_

5. Review Housing Cost Impact Statement ([SDCL 1-26-2.3](#)), if applicable:

- a. Verify that the agency has indicated what building sectors will be impacted by the rule change. \_\_\_\_\_
- b. Verify a description of and explanation of necessity for each each standard and requirement is included. \_\_\_\_\_
- c. Verify the statement includes the average estimated cost of each standard and requirement. \_\_\_\_\_
- d. Verify that contact and estimate information is included for three licensed contractors or building trades professionals. \_\_\_\_\_

Reviewed by Code Counsel on \_\_\_\_\_



**CHAPTER 20:63:01**  
**GENERAL PROVISIONS**

Section

20:63:01:01 Definitions.

20:63:01:02 Date of notice, Repealed.

20:63:01:03 Filing of ~~physician's written protocol~~ practice guideline agreement.

20:63:01:04 Revision of ~~physician's written protocol~~ practice guideline agreement.

20:63:01:05 Repealed.

**Commented [A1]:** Form - Note that there are proposed changes to catchlines in the text below. Please update accordingly.

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**Commented [A2]:** Same.

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**20:63:01:01. Definitions.** Terms defined in SDCL 36-29-1 have the same meaning when used in this article. In addition, as used in this article mean:

— (1) "Team physician," a person licensed by the Board of Medical and Osteopathic Examiners to practice medicine or osteopathy in this state and designated by an athletic team as its physician;

Words defined in SDCL 36-29-1 have the same meaning when used in this chapter.

**Commented [A3]:** Style - Content must not be underlined and overstricken. ARSD DM, pg. 6. Recommend removal.

— (2) "Physician's written protocol," a written statement by the team physician indicating the functions and procedures allowed to be performed by the athletic trainer under the direction of the team physician;

— (3) "Athletic training course requirements," course work in the subject matter areas of prevention and care of athletic injuries and illnesses; evaluation of athletic injuries and illnesses; first aid and emergency care; therapeutic modalities; therapeutic exercise; human anatomy; human physiology; exercise physiology; kinesiology and biomechanics; nutrition; psychology; personal and community health; and instructional methods;

— (4) "Athletic, the term, athletic training," means, in addition to ~~the skills listed in SDCL subdivision 36-29-1(1)~~ 36-29-1.1, the practice of athletic training includes the skills as listed in the

**Commented [A4]:** Clarity - See the note below, but this does not make sense with the lead-in language above (Reading altogether: "In addition, as used in this article, the term, athletic training, means, in addition to SDCL 36-29-1.1, the practice of athletic training includes the skills...")

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**Commented [A5]:** Style/form - this citation is no longer to a subdivision.

**Commented [A6]:** Clarity/legality - This is a substantive provision that is incorporating further skills that constitute the practice of athletic training. It should not be included in the general definitions section—it should be in standalone section. ARSD Drafting Manual, pgs. 10-11. Moreover, it is problematic to try to define "athletic training" differently than how it is described in SDCL 36-29-1.1. E.g., what if one of the skills listed in that document conflicts with or goes beyond the statutory scope? Perhaps another way to do this is to have a separate rule that states: "An athletic trainer may perform, within the scope described in SDCL 36-29-1.1, the skills listed in..."

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Commission on Accreditation of Athletic Training Education, ~~Standards, and Procedures for~~  
~~Accreditation of Professional Programs in Athletic Training, 2020, Section IV.~~

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017; 50 SDR  
12, effective August 10, 2023.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-1, ~~36-29-3.~~

**Reference:** ~~Commission on Accreditation of Athletic Training Education, Standards, and~~  
~~Procedures for Accreditation of Professional Programs in Athletic Training, 2020.~~ Copies may be  
obtained at no cost from <https://caate.net/Programs/Professional/Professional-Program-Standards>.

**Commented [A7]:** Clarity - The document does not have a comma following this word.

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**Commented [A8]:** Clarity/legality - I'm having a difficult time understanding what the skills being incorporated by this document are? These standards are for accreditation of educational programs. For something as serious as the scope of a profession, would it be better to incorporate the actual skills that you are trying to reference in this document into the text of the rule? Section IV of this document refers to "Curricular Content" and later gets into "Core Competencies", but it's unclear to me what explicit skills listed there are being incorporated to be included in the practice of athletic training.

**Commented [A9]:** Legality - This does not appear to be an appropriate Law Implemented--I do not see anything that relates to the definitions here.

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**Commented [A10]:** No comma after this word.

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**Commented [A11]:** Style - Recommend the following, per ARSD DM, pg. 20 (note the bolding):

**"Standards and Procedures for Accreditation of Professional Programs in Athletic Training, 2020, Commission on Accreditation of Athletic Training Education. Copies may be obtained...."**

**Commented [A12]:** Style - Remove the hyperlink so that current content does not appear new (i.e., underscored).

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**20:63:01:02. Date of notice.** ~~The date of all notices required to be given to the board, unless otherwise specifically provided in this article, is the date upon which the document is received at the office of the board.~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-1, 36-29-24.~~

DRAFT

20:63:01:03. Filing of physician's ~~written protocol~~ practice guideline agreement, ~~One~~

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copy of the physician's written protocol. ~~An athletic trainer shall practice under the direction of and according to guidelines established by a physician licensed pursuant to SDCL chapter 36-4. A~~  
practice guideline agreement shall be submitted on a form approved by the board and maintained by  
each of the following ~~persons or parties~~:

- (1) The South Dakota ~~Board~~ of Medical and Osteopathic Examiners board;
- (2) The ~~team~~ physician; and
- (3) The athletic trainer.

Source: 13 SDR 9, effective August 4, 1986.

General Authority: SDCL 36-29-17.

Law Implemented: ~~SDCL 36-29-1~~ SDCL 36-29-1.1.

**Commented [A13]:** Legality - This sentence repeats the content in SDCL 36-29.1.1. The statute already makes clear that athletic training may only be practiced under the direction and guidelines of a physician—thus, this sentence is not implementing or administering a policy set forth by the Legislature, it's just reiterating it. Recommend striking this. SDCL 1-26-6.1.

**Commented [A14]:** Clarity - Submitted to who? It is not explicit that the agreement is to be submitted to the board. Additionally, this sentence would benefit from being in the active voice, presuming that the AT has the duty to submit the agreement to the board. E.g., "The athletic trainer shall submit a practice guideline agreement to the board, on a form approved by the board, and signed by the supervising physician. The athletic trainer and physician shall maintain..."

**Commented [A15]:** Clarity - Must they keep it at a place of employment or otherwise? Also, it doesn't really make sense to include the board in the subdivision list—the board has to keep the agreement on file, but it's not necessarily the board's responsibility to keep it "maintained" or updated in the same sense as the AT and physician. (Note the use of "filing" in the catchline.)

**Commented [A16]:** Clarity - Unnecessary verbiage.

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**Commented [A17]:** Style/form - Since we are using the shortened version, this should not be capitalized. But, see comment above.

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**Commented [A18]:** Style/form - Need connector word here. ARSD DM, pg. 14.

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**20:63:01:04. Revision of physician's ~~written protocol~~ practice guideline agreement.** ~~The~~

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~~A~~ physician's ~~written protocol~~ practice guideline agreement ~~for an athletic trainer~~ may be modified ~~from time to time~~ if the ~~team~~ physician determines that, through training or experience, the functions and procedures performed by the athletic trainer should be revised.

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**Commented [A19]:** Clarity - Unnecessary verbiage.

**Source:** 13 SDR 9, effective August 4, 1986.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL ~~36-29-1(2)~~ 36-29-1.1.

**Commented [A20]:** Clarity/Style - Use active voice here. Recommend: "A physician may modify a practice guideline agreement for an athletic trainer if the physician determines that the athletic trainer is competent, through training or experience, to perform a revised scope of athletic training."

As it currently reads, it is unclear whose "training or experience" is being referenced here—the physician's or the athletic trainer's. Moreover, it is unclear what kind of training or experience triggers the revision. Is it training/experience that shows competency? That may be implied, but it is not express.

## CHAPTER 20:63:02

### LICENSURE REQUIREMENTS

#### Section

- 20:63:02:01    Application for licensure by examination, Repealed.
- 20:63:02:02    Application for licensure by reciprocity, Repealed.
- 20:63:02:03    Replacement of license.
- 20:63:02:04    Evidence of change of name.
- 20:63:02:05    Fees for licensure or renewal.
- 20:63:02:06    Examination.

**20:63:02:01. Application for licensure by examination.** ~~An applicant for licensure by examination may apply for the examination following successful completion of athletic training course requirements. The examination shall test for proficiency in the area of knowledge and skill required in SDCL 36-29-1(1). The applicant shall apply on a form provided by the board at least seven weeks before the scheduled date of the examination. The application shall show that the applicant meets the legal requirements for licensing and shall be accompanied by the fee required by § 20:63:02:05. The board or its designated representative shall interview the candidate prior to the written examination. An applicant who has not successfully completed a course in therapeutic modalities must demonstrate competence in therapeutic modalities to a board-approved examiner~~  
Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

— **General Authority:** ~~SDCL 36-29-17.~~

— **Law Implemented:** ~~SDCL 36-29-3.~~

**20:63:02:02. Application for licensure by reciprocity.** ~~An applicant for licensure by reciprocity shall file an application with the board on forms provided by the board. The applicant shall submit a certified copy of the applicant's current valid license from another state or territory or proof of certification from the Board of Certification.~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-5.~~

DRAFT

20:63:02:05. Fees for licensure or renewal. The board shall charge the following

application fees for licensure as an athletic trainer, ~~shall be charged:~~

(1) An ~~applicant applying for the~~ initial license, ~~shall pay a fee of \$100,~~ one hundred dollars;

and

(2) ~~An applicant for reexamination shall pay a fee of \$50;~~

(3) ~~An applicant for A license renewal, of a license upon expiration shall pay a fee of \$50,~~

fifty dollars.

Source: 13 SDR 9, effective August 4, 1986; 23 SDR 70, effective November 11, 1996.

General Authority: SDCL 36-29-6, ~~36-29-10, 36-29-11,~~ 36-29-17.

Law Implemented: SDCL ~~36-29-3,~~ 36-29-6, ~~36-29-10,~~ 36-29-11.

**Commented [A21]:** Clarity - Suggestions for active voice here, and revisions below for conciseness.

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**Commented [A22]:** Clarity - By specifying in the lead-in that the following fees are associated with applications, the subdivisions can be made more concise.

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**Commented [A23]:** Legality - this section was repealed.

**Commented [A24]:** Legality - This section does not contain the clearly expressed legislative will to adopt a rule--i.e., "shall promulgate rules in accordance with chapter 1-26..." ARSD DM, pg. 9.

**Commented [A25]:** Legality - Although this section has the "catchall" language in subdivision (3), it doesn't really specifically pertain to this rule--the first citation should suffice.

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**Commented [A26]:** Legality - This is also an appropriate Law Implemented.

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**CHAPTER 20:63:03**  
**CONTINUING EDUCATION**

Section

- 20:63:03:01 Continuing education requirements.
- 20:63:03:02 Standards for continuing education.
- 20:63:03:03 Reporting continuing education.
- 20:63:03:04 Waiver of continuing education requirements.

**20:63:03:04. Waiver of continuing education requirements.** The board may ~~excuse a~~  
~~licensee from~~ ~~waive~~ the annual continuing education requirements ~~for an athletic trainer~~ if the  
~~licensee athletic trainer~~ submits an affidavit to the board that the ~~licensee athletic trainer~~ was  
prevented from completing the requirements because of illness or undue hardship.

**Source:**

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-14.

**Commented [A27]:** Clarity - Minor suggestion for consistency with the catchline.

**Commented [A28]:** Clarity - Since this is the term defined in 36-29-1, recommend staying consistent.

**Commented [A29]:** Clarity - "attesting that..." ?

**Commented [A30]:** Clarity - The board is expressly authorized to require proof of compliance with the continuing education requirement, per ARSD 20:63:03:03, but a similar authority to request proof of the grounds for waiver is not provided here. Is that problematic? An affidavit is simply a statement sworn to.

20:63:04:01. Ethics. ~~A licensee under SDCL chapter 36-29~~ An athletic trainer shall comply with the following code of ethics in the Board of Certification Standards of Professional Practice, 2024.

**Commented [A31]:** Clarity - Same as previous comment regarding consistent terms.

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**Commented [A32]:** Style/form - Remember to strike this space.

**Commented [A33]:** Legality - There is not a code of ethics in the linked document. There are two different sections for "Practice Standards" and a "Code of Professional Responsibility" (as outlined below in the struck material). It should be clarified what is actually being referenced here. "A rule which incorporates material by reference shall describe the exact section or portion of the publication which is being incorporated." SDCL 1-26-6.6.

## **Practice Standards**

### **Standard 1: Direction**

~~— The Athletic Trainer renders service or treatment under the direction of a physician.~~

### **Standard 2: Prevention**

~~— The Athletic Trainer understands and uses preventive measures to ensure the highest quality of care for every patient.~~

### **Standard 3: Immediate Care**

~~— The Athletic Trainer provides standard immediate care procedures used in emergency situations, independent of setting.~~

### **Standard 4: Clinical Evaluation and Diagnosis**

~~— Prior to treatment, the Athletic Trainer assesses the patient's level of function. The patient's input is considered an integral part of the initial assessment. The Athletic Trainer follows standardized clinical practice in the area of diagnostic reasoning and medical decision making.~~

### **Standard 5: Treatment, Rehabilitation and Reconditioning**

~~— In development of a treatment program, the Athletic Trainer determines appropriate treatment, rehabilitation and/or reconditioning strategies. Treatment program objectives include long and short term goals and an appraisal of those which the patient can realistically be expected to achieve from the program. Assessment measures to determine effectiveness of the program are incorporated into the program.~~

### **Standard 6: Program Discontinuation**

— The Athletic Trainer, with collaboration of the physician, recommends discontinuation of the athletic training service when the patient has received optimal benefit of the program. The Athletic Trainer, at the time of discontinuation, notes the final assessment of the patient's status.

#### **Standard 7: Organization and Administration**

— All services are documented in writing by the Athletic Trainer and are part of the patient's permanent records. The Athletic Trainer accepts responsibility for recording details of the patient's health status.

### **Code of Professional Responsibility**

#### **Code 1: Patient Responsibility**

— The Athletic Trainer or applicant:

— 1.1 Renders quality patient care regardless of the patient's race, religion, age, sex, nationality, disability social/economic status or any other characteristic protected by law

— 1.2 Protects the patient from harm, acts always in the patient's best interests and is an advocate for the patient's welfare

— 1.3 Takes appropriate action to protect patients from Athletic Trainers, other healthcare providers or athletic training students who are incompetent, impaired or engaged in illegal or unethical practice

— 1.4 Maintains the confidentiality of patient information in accordance with applicable law

— 1.5 Communicates clearly and truthfully with patients and other persons involved in the patient's program, including, but not limited to, appropriate discussion of assessment results, program plans and progress

— 1.6 Respects and safeguards his or her relationship of trust and confidence with the patient and does not exploit his or her relationship with the patient for personal or financial gain

— 1.7 Exercises reasonable care, skill and judgment in all professional work

#### **Code 2: Competency**

~~— The Athletic Trainer or applicant:~~

~~— 2.1 Engages in lifelong, professional and continuing educational activities~~

~~— 2.2 Participates in continuous quality improvement activities~~

~~— 2.3 Complies with the most current BOC recertification policies and requirements~~

**Code 3: Professional Responsibility**

~~— The Athletic Trainer or applicant:~~

~~— 3.1 Practices in accordance with the most current BOC Practice Standards~~

~~— 3.2 Knows and complies with applicable local, state and/or federal rules, requirements, regulations and/or laws related to the practice of athletic training~~

~~— 3.3 Collaborates and cooperates with other healthcare providers involved in a patient's care~~

~~— 3.4 Respects the expertise and responsibility of all healthcare providers involved in a patient's care~~

~~— 3.5 Reports any suspected or known violation of a rule, requirement, regulation or law by him/herself and/or by another Athletic Trainer that is related to the practice of athletic training, public health, and patient care or education~~

~~— 3.6 Reports any criminal convictions (with the exception of misdemeanor traffic offenses or traffic ordinance violations that do not involve the use of alcohol or drugs) and/or professional suspension, discipline or sanction received by him/herself or by another Athletic Trainer that is related to athletic training, public health, patient care or education~~

~~— 3.7 Complies with all BOC exam eligibility requirements and ensures that any information provided to the BOC in connection with any certification application is accurate and truthful~~

~~— 3.8 Does not, without proper authority, possess, use, copy, access, distribute or discuss certification exams, score reports, answer sheets, certificates, certificate or applicant files, documents or other materials~~

—— 3.9 Is candid, responsible and truthful in making any statement to the BOC, and in making any statement in connection with athletic training to the public

—— 3.10 Complies with all confidentiality and disclosure requirements of the BOC

—— 3.11 Does not take any action that leads, or may lead, to the conviction, plea of guilty or plea of nolo contendere (no contest) to any felony or to a misdemeanor related to public health, patient care, athletics or education; this includes, but is not limited to: rape, sexual abuse of a child or patient; actual or threatened use of a weapon of violence; the prohibited sale or distribution of a controlled substance, or its possession with the intent to distribute, or the use of the position of an Athletic Trainer to improperly influence the outcome or score of an athletic contest or event or in connection with any gambling activity

—— 3.12 Cooperates with BOC investigations into alleged illegal or unethical activities; this includes but is not limited to, providing factual and non-misleading information and responding to requests for information in a timely fashion

—— 3.13 Does not endorse or advertise products or services with the use of, or by reference to, the BOC name without proper authorization

#### **Code 4: Research**

—— The Athletic Trainer or applicant who engages in research:

—— 4.1 Conducts research according to accepted ethical research and reporting standards established by public law, institutional procedures and/or the health professions

—— 4.2 Protects the rights and well-being of research subjects

—— 4.3 Conducts research activities with the goal of improving practice, education and public policy relative to the health needs of diverse populations, the health workforce, the organization and administration of health systems and healthcare delivery

#### **Code 5: Social Responsibility**

—— The Athletic Trainer or applicant:

~~5.1 Uses professional skills and knowledge to positively impact the community~~

#### **Code 6: Business Practices**

~~The Athletic Trainer or applicant:~~

~~6.1 Refrains from deceptive or fraudulent business practices~~

~~6.2 Maintains adequate and customary professional liability insurance~~

**Source:** 41 SDR 180, effective May 21, 2015.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-19.

**Reference:** Board of Certification Standards of Professional Practice, 2006, 2024, Board

of Certification for the Athletic Trainer. Copies may be obtained at no cost from

<http://www.bocatc.org/resources/standards-of-professional-practice>.

**Commented [A34]:** Legality - This also may be an appropriate Law Implemented.

**Commented [A35]:** Style - ARSD DM, pg. 20.

**Formatted:** Font: Bold

**Commented [A36]:** Style - The Reference note must specify the organization from which the material incorporated by reference derives. ARSD DM, pg. 20.

**Commented [A37]:** Style - See above comment re: removed underline for hyperlinks.

**Formatted:** No underline

**20:63:04:03. Ethical considerations.** The board may utilize the annotations and opinions included in the board of certification standards of professional conduct, ~~2006~~ 2024 as guidance in determining whether a licensee has violated professional ethical standards and conduct.

**Source:** 41 SDR 180, effective May 21, 2015.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL ~~36-29-18(7)~~ 36-29-19.

**Commented [A38]:** Clarity/Legality - Is this the same document as referred to above? If so, the wording and capitalization should be consistent. And, it should have a reference note beneath, since it is incorporated material by reference.

However, what annotations and opinions are in that document? It is unclear.

**Commented [A39R38]:** Clarity/Legality - If those annotations or opinions are in a separate document, that document must be specifically cited here and a Reference note inserted below for that precise publication.

**Commented [A40]:** Legality - It appears necessary to cite this subdivision, as there are only certain grounds in statute for taking adverse action against a licensee, and none of them specifically call out a code of ethics violation. However, if rule adopts a code of ethics, then the violation of the code of ethics means a violation of rule, and thus this ground for adverse action.



## **DIRECTIONS FOR SUBMITTING THE FINAL DRAFT**

**Rules Review Meeting Schedule for the 2025 Interim:** The Interim Rules Review Committee will meet April 8, May 6, June 10, July 15, August 19, September 9, and October 7. Meeting notices will be posted on the LRC website and at the Capitol.

**A. Committee:** The following materials must be served on the Committee at least seven calendar days before the committee meeting via first-class mail, e-mail, or both:

1. Form 12 – Affidavit and all its referenced documents (for final rules, please three-hole punch and number by page the final rules):
  - a. Form 10 – Minutes of Public Hearing;
  - b. A record of written comments;
  - c. Form 14 – Small Business Impact Statement;
  - d. Form 5 – Fiscal Note;
  - e. For any rules that increase a fee, per SDCL 1-26-4.8, a completed Form 17;
  - f. For any rules prescribing new standards or requirements for building or remodeling a residential structure based on a model code, the Form 16 – Housing Cost Impact Statement; and
  - g. The final rules as adopted;
2. Form 15 – Rules Presentation Format;
3. First draft of proposed rules containing LRC recommendations for style, form, clarity, and legality; and
4. Letter from the LRC to the agency.

**B. Legislative Research Council:** The following materials must be submitted to the LRC at least seven calendar days before the committee meeting:

1. Final draft of adopted rules, double-spaced and containing only amended, repealed, or adopted rules, and showing overstrikes and underscores;
2. Original Form 11; and
3. Copies of:
  - a. Form 10 – Minutes of Public Hearing
  - b. A record of written comments;
  - c. Form 12 – Affidavit of Service;
  - d. Form 15 - Rules Presentation Format; and
  - e. Form 17 – Agency Financial Resources, if applicable.

**C. Office of the Secretary of State:** Following Committee hearing, each agency must complete and sign all documents before filing:

1. Form 13 - Certificate of rule completion;
2. Final draft of the adopted rules; and
3. Form 11 (per Secretary's request).

## FORM 15

### Rules Presentation Format

Department/Board/Commission Name \_\_\_\_\_

Please complete these questions to show that the SDCL 1-26 rule-making process is complete.

Use this format to organize your presentation to the Committee.

- Approval to proceed? Yes \_\_\_\_\_ No \_\_\_\_\_ Date \_\_\_\_\_
- Date of public hearing \_\_\_\_\_
- Date proposed rules and supporting documents submitted to the LRC and the Bureau of Finance and Management \_\_\_\_\_
  - any publication incorporated by reference;
  - the fiscal note;
  - the impact statement on small business; and
  - the notice of hearing.
- Date and name of newspapers in which the notice of public hearing was published:
  - Date \_\_\_\_\_ Newspaper \_\_\_\_\_
  - Date \_\_\_\_\_ Newspaper \_\_\_\_\_
  - Date \_\_\_\_\_ Newspaper \_\_\_\_\_
- Summary of how, when, and number of interested persons, if any, were contacted.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Page numbers in the minutes where the agency considered amendments, data, opinions, or arguments regarding the proposed rules, along with any changes and final action.  
\_\_\_\_\_
- For any rule implementing a bill from a preceding session, the number of the bill:  
\_\_\_\_\_
- Date final rules and supporting documents submitted to the LRC and the Committee  
\_\_\_\_\_




GENERAL PROVISIONS

Section




- 20:63:01:01 Definitions.
- 20:63:01:02 Date of notice, Repealed.
- 20:63:01:03 Filing of physician's written protocol practice guideline agreement.
- 20:63:01:04 Revision of physician's written protocol practice guideline agreement.
- 20:63:01:05 Repealed.

**20:63:01:01. Definitions.** Terms defined in SDCL 36-29-1 have the same meaning when used in this article. In addition, as used in this article mean:

—— (1) "Team physician," a person licensed by the Board of Medical and Osteopathic Examiners to practice medicine or osteopathy in this state and designated by an athletic team as its physician;

 (2) "Physician's written protocol," a written statement by the team physician indicating the functions and procedures allowed to be performed by the athletic trainer under the direction of the team physician;

—— (3) "Athletic training course requirements," course work in the subject matter areas of prevention and care of athletic injuries and illnesses; evaluation of athletic injuries and illnesses; first aid and emergency care; therapeutic modalities; therapeutic exercise; human anatomy; human physiology; exercise physiology; kinesiology and biomechanics; nutrition; psychology; personal and community health; and instructional methods;

—— (4) "Athletic, the term, athletic training," means, in addition to the skills listed in SDCL subdivision 36-29-1(1) 36-29-1.1, the practice of athletic  training includes the skills as listed in the  Commission on Accreditation of  Athletic Training Education, Standards, and Procedures for Accreditation of Professional Programs in Athletic Training, 2020, Section IV.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017; 50 SDR 12, effective August 10, 2023.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-1, ~~36-29-3~~.

**Reference:** Commission on Accreditation ~~on~~ of Athletic Training Education, Standards, and Procedures for Accreditation of Professional Programs in Athletic Training, 2020. Copies may be obtained at no cost from <https://caate.net/Programs/Professional/Professional-Program-Standards>.

**20:63:01:02. Date of notice.** ~~The date of all notices required to be given to the board, unless otherwise specifically provided in this article, is the date upon which the document is received at the office of the board~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-1, 36-29-24.~~

DRAFT

**20:63:01:03. Filing of physician's ~~written protocol~~ practice guideline agreement.** ~~One~~

~~copy of the physician's written protocol~~ A practice guideline agreement shall be submitted on a form approved by the board and maintained by each of the following persons or parties:



- (1) ~~The South Dakota Board of Medical and Osteopathic Examiners~~ board;
- (2) ~~The team~~ physician; and
- (3) ~~The athletic trainer.~~

**Source:** 13 SDR 9, effective August 4, 1986.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** ~~SDCL 36-29-1~~ 36-29-1.1.

**20:63:01:04. Revision of physician's ~~written protocol~~ practice guideline agreement.** The

A physician's ~~written protocol~~ practice guideline agreement for an athletic trainer may be modified   
~~from time to time~~ if the ~~team~~ physician determines that, through training or experience, the functions  
and procedures performed by the athletic trainer  should be revised.

**Source:** 13 SDR 9, effective August 4, 1986.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL ~~36-29-1(2)~~ 36-29-1.1.

DRAFT



## CHAPTER 20:63:02

### LICENSURE REQUIREMENTS

#### Section

- 20:63:02:01     Application for licensure by examination, Repealed.
- 20:63:02:02     Application for licensure by reciprocity, Repealed.
- 20:63:02:03     Replacement of license.
- 20:63:02:04     Evidence of change of name.
- 20:63:02:05     Fees for licensure or renewal.
- 20:63:02:06     Examination.

**20:63:02:01. Application for licensure by examination.** ~~An applicant for licensure by examination may apply for the examination following successful completion of athletic training course requirements. The examination shall test for proficiency in the area of knowledge and skill required in SDCL 36-29-1(1). The applicant shall apply on a form provided by the board at least seven weeks before the scheduled date of the examination. The application shall show that the applicant meets the legal requirements for licensing and shall be accompanied by the fee required by § 20:63:02:05. The board or its designated representative shall interview the candidate prior to the written examination. An applicant who has not successfully completed a course in therapeutic modalities must demonstrate competence in therapeutic modalities to a board approved examiner~~  
Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-3.~~

**20:63:02:02. Application for licensure by reciprocity.** ~~An applicant for licensure by reciprocity shall file an application with the board on forms provided by the board. The applicant shall submit a certified copy of the applicant's current valid license from another state or territory or proof of certification from the Board of Certification~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

~~**General Authority:** SDCL 36-29-17.~~

~~**Law Implemented:** SDCL 36-29-5.~~

**20:63:02:05. Fees for licensure or renewal.** The board shall charge the following

application fees for licensure as an athletic trainer ~~shall be charged:~~

(1) ~~An applicant applying for the initial license shall pay a fee of \$100, one hundred dollars;~~

and

(2) ~~An applicant for reexamination shall pay a fee of \$50;~~

(3) ~~An applicant for A license renewal of a license upon expiration shall pay a fee of \$50,~~

fifty dollars.

**Source:** 13 SDR 9, effective August 4, 1986; 23 SDR 70, effective November 11, 1996.

**General Authority:** SDCL 36-29-6, 36-29-10, 36-29-11, 36-29-17.

**Law Implemented:** SDCL 36-29-3, 36-29-6, ~~36-29-10~~, 36-29-11.

**CHAPTER 20:63:03**  
**CONTINUING EDUCATION**

Section

- 20:63:03:01 Continuing education requirements.
- 20:63:03:02 Standards for continuing education.
- 20:63:03:03 Reporting continuing education.
- 20:63:03:04 Waiver of continuing education requirements.

**20:63:03:04. Waiver of continuing education requirements.** The board may waive the annual continuing education requirements for an athletic trainer if the athletic trainer submits an affidavit to the board that the athletic trainer was prevented from completing the requirements because of illness or undue hardship.

**Source:**

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-14.

**20:63:04:01. Ethics.** A licensee under SDCL chapter 36-29 An athletic trainer shall comply with the following code of ethics in the Board of Certification Standards of Professional Practice, 2024.

### **~~Practice Standards~~**

#### **~~Standard 1: Direction~~**

~~— The Athletic Trainer renders service or treatment under the direction of a physician.~~

#### **~~Standard 2: Prevention~~**

~~— The Athletic Trainer understands and uses preventive measures to ensure the highest quality of care for every patient.~~

#### **~~Standard 3: Immediate Care~~**

~~— The Athletic Trainer provides standard immediate care procedures used in emergency situations, independent of setting.~~

#### **~~Standard 4: Clinical Evaluation and Diagnosis~~**

~~— Prior to treatment, the Athletic Trainer assesses the patient's level of function. The patient's input is considered an integral part of the initial assessment. The Athletic Trainer follows standardized clinical practice in the area of diagnostic reasoning and medical decision making.~~

#### **~~Standard 5: Treatment, Rehabilitation and Reconditioning~~**

~~— In development of a treatment program, the Athletic Trainer determines appropriate treatment, rehabilitation and/or reconditioning strategies. Treatment program objectives include long and short-term goals and an appraisal of those which the patient can realistically be expected to achieve from the program. Assessment measures to determine effectiveness of the program are incorporated into the program.~~

#### **~~Standard 6: Program Discontinuation~~**

~~—— The Athletic Trainer, with collaboration of the physician, recommends discontinuation of the athletic training service when the patient has received optimal benefit of the program. The Athletic Trainer, at the time of discontinuation, notes the final assessment of the patient's status.~~

### **Standard 7: Organization and Administration**

~~—— All services are documented in writing by the Athletic Trainer and are part of the patient's permanent records. The Athletic Trainer accepts responsibility for recording details of the patient's health status.~~

## **Code of Professional Responsibility**

### **Code 1: Patient Responsibility**

~~—— The Athletic Trainer or applicant:~~

~~—— 1.1 Renders quality patient care regardless of the patient's race, religion, age, sex, nationality, disability social/economic status or any other characteristic protected by law~~

~~—— 1.2 Protects the patient from harm, acts always in the patient's best interests and is an advocate for the patient's welfare~~

~~—— 1.3 Takes appropriate action to protect patients from Athletic Trainers, other healthcare providers or athletic training students who are incompetent, impaired or engaged in illegal or unethical practice~~

~~—— 1.4 Maintains the confidentiality of patient information in accordance with applicable law~~

~~—— 1.5 Communicates clearly and truthfully with patients and other persons involved in the patient's program, including, but not limited to, appropriate discussion of assessment results, program plans and progress~~

~~—— 1.6 Respects and safeguards his or her relationship of trust and confidence with the patient and does not exploit his or her relationship with the patient for personal or financial gain~~

~~—— 1.7 Exercises reasonable care, skill and judgment in all professional work~~

### **Code 2: Competency**

~~—— The Athletic Trainer or applicant:~~

~~—— 2.1 Engages in lifelong, professional and continuing educational activities~~

~~—— 2.2 Participates in continuous quality improvement activities~~

~~—— 2.3 Complies with the most current BOC recertification policies and requirements~~

### **Code 3: Professional Responsibility**

~~—— The Athletic Trainer or applicant:~~

~~—— 3.1 Practices in accordance with the most current BOC Practice Standards~~

~~—— 3.2 Knows and complies with applicable local, state and/or federal rules, requirements, regulations and/or laws related to the practice of athletic training~~

~~—— 3.3 Collaborates and cooperates with other healthcare providers involved in a patient's care~~

~~—— 3.4 Respects the expertise and responsibility of all healthcare providers involved in a patient's care~~

~~—— 3.5 Reports any suspected or known violation of a rule, requirement, regulation or law by him/herself and/or by another Athletic Trainer that is related to the practice of athletic training, public health, and patient care or education~~

~~—— 3.6 Reports any criminal convictions (with the exception of misdemeanor traffic offenses or traffic ordinance violations that do not involve the use of alcohol or drugs) and/or professional suspension, discipline or sanction received by him/herself or by another Athletic Trainer that is related to athletic training, public health, patient care or education~~

~~—— 3.7 Complies with all BOC exam eligibility requirements and ensures that any information provided to the BOC in connection with any certification application is accurate and truthful~~

~~—— 3.8 Does not, without proper authority, possess, use, copy, access, distribute or discuss certification exams, score reports, answer sheets, certificates, certificate or applicant files, documents or other materials~~



~~—— 3.9 Is candid, responsible and truthful in making any statement to the BOC, and in making any statement in connection with athletic training to the public~~

~~—— 3.10 Complies with all confidentiality and disclosure requirements of the BOC~~

~~—— 3.11 Does not take any action that leads, or may lead, to the conviction, plea of guilty or plea of nolo contendere (no contest) to any felony or to a misdemeanor related to public health, patient care, athletics or education; this includes, but is not limited to: rape, sexual abuse of a child or patient; actual or threatened use of a weapon of violence; the prohibited sale or distribution of a controlled substance, or its possession with the intent to distribute, or the use of the position of an Athletic Trainer to improperly influence the outcome or score of an athletic contest or event or in connection with any gambling activity~~

~~—— 3.12 Cooperates with BOC investigations into alleged illegal or unethical activities; this includes but is not limited to, providing factual and non-misleading information and responding to requests for information in a timely fashion~~

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#### **Code 4: Research**

~~—— The Athletic Trainer or applicant who engages in research:~~

~~—— 4.1 Conducts research according to accepted ethical research and reporting standards established by public law, institutional procedures and/or the health professions~~

~~—— 4.2 Protects the rights and well-being of research subjects~~

~~—— 4.3 Conducts research activities with the goal of improving practice, education and public policy relative to the health needs of diverse populations, the health workforce, the organization and administration of health systems and healthcare delivery~~

#### **Code 5: Social Responsibility**

~~—— The Athletic Trainer or applicant:~~

~~5.1 Uses professional skills and knowledge to positively impact the community~~

**Code 6: Business Practices**

~~The Athletic Trainer or applicant:~~

~~6.1 Refrains from deceptive or fraudulent business practices~~

~~6.2 Maintains adequate and customary professional liability insurance~~

**Source:** 41 SDR 180, effective May 21, 2015.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-19.

**Reference:** Board of Certification Standards of Professional Practice, 2006 2024, Board of Certification for the Athletic Trainer. Copies may be obtained at no cost from <http://www.bocatc.org/resources/standards-of-professional-practice>.

**20:63:04:03. Ethical considerations.** The board may utilize the annotations and opinions included in the board of certification standards of professional conduct, ~~2006~~ 2024 as guidance in determining whether a licensee has violated professional ethical standards and conduct.

**Source:** 41 SDR 180, effective May 21, 2015.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-18(7), 36-29-19.

DRAFT

## CHAPTER 20:63:01

### GENERAL PROVISIONS

#### Section

- 20:63:01:01 Definitions.
- 20:63:01:02 Date of notice, Repealed.
- 20:63:01:03 Filing of physician's ~~written protocol~~ practice guideline agreement.
- 20:63:01:04 Revision of physician's ~~written protocol~~ practice guideline agreement.
- 20:63:01:05 Repealed.

**20:63:01:01. Definitions.** Terms defined in SDCL 36-29-1 have the same meaning when used in this article, ~~mean:~~

—— (1) ~~"Team physician," a person licensed by the Board of Medical and Osteopathic Examiners to practice medicine or osteopathy in this state and designated by an athletic team as its physician;~~

—— (2) ~~"Physician's written protocol," a written statement by the team physician indicating the functions and procedures allowed to be performed by the athletic trainer under the direction of the team physician;~~

—— (3) ~~"Athletic training course requirements," course work in the subject matter areas of prevention and care of athletic injuries and illnesses; evaluation of athletic injuries and illnesses; first aid and emergency care; therapeutic modalities; therapeutic exercise; human anatomy; human physiology; exercise physiology; kinesiology and biomechanics; nutrition; psychology; personal and community health; and instructional methods;~~

—— (4) ~~"Athletic training," in addition to the skills listed in SDCL subdivision 36-29-1(1), the practice of athletic training includes the skills as listed in the Commission on Accreditation of Athletic Training Education, Standards, and Procedures for Accreditation of Professional Programs in Athletic Training, 2020, Section IV.~~

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017; 50 SDR 12, effective August 10, 2023.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-1, ~~36-29-3~~.

**Reference:** ~~Commission on Accreditation on Athletic Training Education, Standards and Procedures for Accreditation of Professional Programs in Athletic Training, 2020. Copies may be obtained from <https://caate.net/Programs/Professional/Professional-Program-Standards>.~~

**20:63:01:02. Date of notice.** ~~The date of all notices required to be given to the board, unless otherwise specifically provided in this article, is the date upon which the document is received at the office of the board~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-1, 36-29-24.~~

DRAFT

**20:63:01:03. Filing of physician's ~~written protocol~~ practice guideline agreement.** ~~One copy of the physician's written protocol~~ The athletic trainer shall submit a practice guideline agreement to the board, on a form approved by the board, and maintained by each of the following persons or parties:

- ~~(1) The South Dakota Board of Medical and Osteopathic Examiners;~~
- ~~(2) (1) The team physician; and~~
- ~~(3) (2) The athletic trainer.~~

**Source:** 13 SDR 9, effective August 4, 1986.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL ~~36-29-1~~ 36-29-1.1.

**20:63:01:04. Revision of physician's ~~written protocol~~ practice guideline agreement.** The

~~A physician's written protocol may modify practice guideline agreement for an athletic trainer may be modified from time to time if the team physician determines that the athletic trainer is competent, through training or experience, to perform a revised scope of athletic training the functions and procedures performed by the athletic trainer should be revised.~~

**Source:** 13 SDR 9, effective August 4, 1986.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL ~~36-29-1(2)~~ 36-29-1.1.



## CHAPTER 20:63:02

### LICENSURE REQUIREMENTS

#### Section

- 20:63:02:01     Application for licensure by examination, Repealed.
- 20:63:02:02     Application for licensure by reciprocity, Repealed.
- 20:63:02:03     Replacement of license.
- 20:63:02:04     Evidence of change of name.
- 20:63:02:05     Fees for licensure or renewal.
- 20:63:02:06     Examination.

**20:63:02:01. Application for licensure by examination.** ~~An applicant for licensure by examination may apply for the examination following successful completion of athletic training course requirements. The examination shall test for proficiency in the area of knowledge and skill required in SDCL 36-29-1(1). The applicant shall apply on a form provided by the board at least seven weeks before the scheduled date of the examination. The application shall show that the applicant meets the legal requirements for licensing and shall be accompanied by the fee required by § 20:63:02:05. The board or its designated representative shall interview the candidate prior to the written examination. An applicant who has not successfully completed a course in therapeutic modalities must demonstrate competence in therapeutic modalities to a board approved examiner~~  
Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

~~— **General Authority:** SDCL 36-29-17.~~

~~— **Law Implemented:** SDCL 36-29-3.~~

**20:63:02:02. Application for licensure by reciprocity.** ~~An applicant for licensure by reciprocity shall file an application with the board on forms provided by the board. The applicant shall submit a certified copy of the applicant's current valid license from another state or territory or proof of certification from the Board of Certification~~ Repealed.

**Source:** 13 SDR 9, effective August 4, 1986; 43 SDR 131, effective April 20, 2017.

~~**General Authority:** SDCL 36-29-17.~~

~~**Law Implemented:** SDCL 36-29-5.~~

**20:63:02:05. Fees for licensure or renewal.** The board shall charge the following application fees for licensure as an athletic trainer ~~shall be charged~~:

(1) ~~An applicant applying for the initial license shall pay a fee of \$100, one hundred dollars;~~  
and

(2) ~~An applicant for reexamination shall pay a fee of \$50;~~

(3) ~~An applicant for A license renewal of a license upon expiration shall pay a fee of \$50,~~  
fifty dollars.

**Source:** 13 SDR 9, effective August 4, 1986; 23 SDR 70, effective November 11, 1996.

**General Authority:** SDCL 36-29-6, ~~36-29-10, 36-29-11, 36-29-17.~~

**Law Implemented:** SDCL 36-29-3, 36-29-6, ~~36-29-10, 36-29-11.~~

**CHAPTER 20:63:03**  
**CONTINUING EDUCATION**

Section

- 20:63:03:01 Continuing education requirements.
- 20:63:03:02 Standards for continuing education.
- 20:63:03:03 Reporting continuing education.
- 20:63:03:04 Waiver of continuing education requirements.

**20:63:03:04. Waiver of continuing education requirements.** The board may waive the annual continuing education requirements for an athletic trainer if the athletic trainer submits an affidavit to the board attesting that the athletic trainer was prevented from completing the requirements because of illness or undue hardship.

**Source:**

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-14.

## CHAPTER 20:63:04

### ETHICS

#### Section

- 20:63:04:01 Ethics.
- 20:63:04:02 Violations.
- 20:63:04:03 Ethical considerations, Repealed.

**20:63:04:01. Ethics.** ~~A licensee under SDCL chapter 36-29~~ An athletic trainer shall comply with the following code of ethics practice standards and code of professional responsibility found in the Board of Certification Standards of Professional Practice, 2024.

#### **Practice Standards**

##### **Standard 1: Direction**

~~— The Athletic Trainer renders service or treatment under the direction of a physician.~~

##### **Standard 2: Prevention**

~~— The Athletic Trainer understands and uses preventive measures to ensure the highest quality of care for every patient.~~

##### **Standard 3: Immediate Care**

~~— The Athletic Trainer provides standard immediate care procedures used in emergency situations, independent of setting.~~

##### **Standard 4: Clinical Evaluation and Diagnosis**

~~— Prior to treatment, the Athletic Trainer assesses the patient's level of function. The patient's input is considered an integral part of the initial assessment. The Athletic Trainer follows standardized clinical practice in the area of diagnostic reasoning and medical decision making.~~

##### **Standard 5: Treatment, Rehabilitation and Reconditioning**

~~—— In development of a treatment program, the Athletic Trainer determines appropriate treatment, rehabilitation and/or reconditioning strategies. Treatment program objectives include long and short term goals and an appraisal of those which the patient can realistically be expected to achieve from the program. Assessment measures to determine effectiveness of the program are incorporated into the program.~~

#### **Standard 6: Program Discontinuation**

~~—— The Athletic Trainer, with collaboration of the physician, recommends discontinuation of the athletic training service when the patient has received optimal benefit of the program. The Athletic Trainer, at the time of discontinuation, notes the final assessment of the patient's status.~~

#### **Standard 7: Organization and Administration**

~~—— All services are documented in writing by the Athletic Trainer and are part of the patient's permanent records. The Athletic Trainer accepts responsibility for recording details of the patient's health status.~~

### **Code of Professional Responsibility**

#### **Code 1: Patient Responsibility**

~~—— The Athletic Trainer or applicant:~~

~~—— 1.1 Renders quality patient care regardless of the patient's race, religion, age, sex, nationality, disability social/economic status or any other characteristic protected by law~~

~~—— 1.2 Protects the patient from harm, acts always in the patient's best interests and is an advocate for the patient's welfare~~

~~—— 1.3 Takes appropriate action to protect patients from Athletic Trainers, other healthcare providers or athletic training students who are incompetent, impaired or engaged in illegal or unethical practice~~

~~—— 1.4 Maintains the confidentiality of patient information in accordance with applicable law~~

~~—— 1.5 Communicates clearly and truthfully with patients and other persons involved in the patient's program, including, but not limited to, appropriate discussion of assessment results, program plans and progress~~

~~—— 1.6 Respects and safeguards his or her relationship of trust and confidence with the patient and does not exploit his or her relationship with the patient for personal or financial gain~~

~~—— 1.7 Exercises reasonable care, skill and judgment in all professional work~~

### **Code 2: Competency**

~~—— The Athletic Trainer or applicant:~~

~~—— 2.1 Engages in lifelong, professional and continuing educational activities~~

~~—— 2.2 Participates in continuous quality improvement activities~~

~~—— 2.3 Complies with the most current BOC recertification policies and requirements~~

### **Code 3: Professional Responsibility**

~~—— The Athletic Trainer or applicant:~~

~~—— 3.1 Practices in accordance with the most current BOC Practice Standards~~

~~—— 3.2 Knows and complies with applicable local, state and/or federal rules, requirements, regulations and/or laws related to the practice of athletic training~~

~~—— 3.3 Collaborates and cooperates with other healthcare providers involved in a patient's care~~

~~—— 3.4 Respects the expertise and responsibility of all healthcare providers involved in a patient's care~~

~~—— 3.5 Reports any suspected or known violation of a rule, requirement, regulation or law by him/herself and/or by another Athletic Trainer that is related to the practice of athletic training, public health, and patient care or education~~

~~—— 3.6 Reports any criminal convictions (with the exception of misdemeanor traffic offenses or traffic ordinance violations that do not involve the use of alcohol or drugs) and/or professional~~

~~suspension, discipline or sanction received by him/herself or by another Athletic Trainer that is related to athletic training, public health, patient care or education~~

~~—— 3.7 Complies with all BOC exam eligibility requirements and ensures that any information provided to the BOC in connection with any certification application is accurate and truthful~~

~~—— 3.8 Does not, without proper authority, possess, use, copy, access, distribute or discuss certification exams, score reports, answer sheets, certificates, certificate or applicant files, documents or other materials~~

~~—— 3.9 Is candid, responsible and truthful in making any statement to the BOC, and in making any statement in connection with athletic training to the public~~

~~—— 3.10 Complies with all confidentiality and disclosure requirements of the BOC~~

~~—— 3.11 Does not take any action that leads, or may lead, to the conviction, plea of guilty or plea of nolo contendere (no contest) to any felony or to a misdemeanor related to public health, patient care, athletics or education; this includes, but is not limited to: rape, sexual abuse of a child or patient; actual or threatened use of a weapon of violence; the prohibited sale or distribution of a controlled substance, or its possession with the intent to distribute, or the use of the position of an Athletic Trainer to improperly influence the outcome or score of an athletic contest or event or in connection with any gambling activity~~

~~—— 3.12 Cooperates with BOC investigations into alleged illegal or unethical activities; this includes but is not limited to, providing factual and non-misleading information and responding to requests for information in a timely fashion~~

~~—— 3.13 Does not endorse or advertise products or services with the use of, or by reference to, the BOC name without proper authorization~~

#### **Code 4: Research**

~~—— The Athletic Trainer or applicant who engages in research:~~



~~—— 4.1 Conducts research according to accepted ethical research and reporting standards established by public law, institutional procedures and/or the health professions~~

~~—— 4.2 Protects the rights and well-being of research subjects~~

~~—— 4.3 Conducts research activities with the goal of improving practice, education and public policy relative to the health needs of diverse populations, the health workforce, the organization and administration of health systems and healthcare delivery~~

#### **~~Code 5: Social Responsibility~~**

~~—— The Athletic Trainer or applicant:~~

~~—— 5.1 Uses professional skills and knowledge to positively impact the community~~

#### **~~Code 6: Business Practices~~**

~~—— The Athletic Trainer or applicant:~~

~~—— 6.1 Refrains from deceptive or fraudulent business practices~~

~~—— 6.2 Maintains adequate and customary professional liability insurance~~

**Source:** 41 SDR 180, effective May 21, 2015.

**General Authority:** SDCL 36-29-17.

**Law Implemented:** SDCL 36-29-17, 36-29-19.

**Reference:** Board of Certification Standards of Professional Practice, 2006 2024, Board of Certification for the Athletic Trainer. Copies may be obtained at no cost from <http://www.bocatc.org/resources/standards-of-professional-practice>.

~~20:63:04:03. Ethical considerations.~~ The board may utilize the annotations and opinions included in the board of certification standards of professional conduct, 2006 as guidance in determining whether a licensee has violated professional ethical standards and conduct. Repealed.

~~Source:~~ 41 SDR 180, effective May 21, 2015.

~~General Authority:~~ SDCL 36-29-17.

~~Law Implemented:~~ SDCL 36-29-19.

DRAFT

## FORM 1

Personal service on Melissa Magstadt, Secretary of Health of:

1. the Board of Medical and Osteopathic Examiners' proposed rules Article 20:63; and
2. All materials incorporated by reference

is admitted at Pierre, South Dakota, this 29 day of April, 2025.

Received by: \_\_\_\_\_

  
Melissa Magstadt, Secretary of Health

**FORM 2**

**AUTHORIZATION TO PROCEED**

In accordance with SDCL 1-26-4(2), I, Melissa Magstadt, Secretary of Health, authorize the Board of Medical and Osteopathic Examiners to proceed with the promulgation of proposed rules Article 20:63.

Dated this 29 day of April, 2025.



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Melissa Magstadt, Secretary of Health

### FORM 3

Personal service on the Legislative Research Council of:

1. Board of Medical and Osteopathic Examiner's proposed rules §§ 20:63;
2. Admission of personal service by the officer authorizing the rulemaking;
3. Authorization to Proceed;
4. Notice of Public Hearing;
5. Fiscal note;
6. Small Business Impact Statement;
7. All materials incorporated by reference; and
8. Where applicable, the housing cost impact statement

is admitted at Pierre, South Dakota, this 5<sup>th</sup> day of May, 2025.

Received by:

Kelly Thies  
Legislative Research Council

Agency contact person:

Whitney Burrows

Name

605-367-7781

Phone Number

whitney.burrows@state.sd.us

E-Mail Address

## FORM 4

Personal service on the Bureau of Finance and Management of:

1. Board of Medical and Osteopathic Examiner's proposed rules §§ 20:63;
2. Notice of Public Hearing;
3. Fiscal note;
4. Small Business Impact Statement; and
5. Where applicable, the housing cost impact statement

is hereby admitted at Pierre, South Dakota, this 5<sup>th</sup> day of May, 2029.

Received by: Morgan Ness  
Bureau of Finance and Management



## DEPARTMENT OF EXECUTIVE MANAGEMENT BUREAU OF FINANCE AND MANAGEMENT

500 East Capitol Avenue Suite 217 | Pierre, South Dakota 57501 | 605.773.3411

# MEMORANDUM

**TO:** Department of Health

**FROM:** Bureau of Finance and Management

**RE:** Fiscal Note

**DATE:** May 13, 2025

The Bureau of Finance and Management has reviewed the proposed rules from the Department of Health and concurs with the department's assumptions and fiscal impact calculations.

YS:mn

Attachment: BFM Fiscal Note

cc: John McCullough, Director  
South Dakota Legislative Research Council

**FORM 5, BFM 50.10****ADMINISTRATIVE PROCEDURES ACT  
FISCAL NOTE  
Prepared by Submitting Agency**

	<b>CODE</b>	<b>NAME</b>	<b>PROPOSED RULES</b> (by §, unless entire ch., art.)
<b>DEPT.</b>	09	Health	Article 20:63
<b>DIVISION</b>	20	Boards	
<b>PROGRAM</b>	500	Board of Medical and Osteopathic Examiners	

**Hearing Date:** June 12<sup>th</sup>, 2020

**IMPACT ON GOVERNMENT SUMMARY:** (Changes to any existing process, schedule, or activity of any state or local gov't entity resulting from the proposed rule change.)

No impact on government due to proposed rule change.

**FISCAL IMPACT STATEMENT:** (Estimate the overall fiscal impact—in terms of increases or decreases because of, or to carry out, the proposed changes. Take into consideration staffing and resource changes (i.e. dollars, employees, equipment, supplies). Include a brief explanation if there is a minimal, incalculable, or no fiscal impact.)

Pursuant to 1-26-4.2, these rules have no fiscal impact to the Board.

**FISCAL IMPACT BASIS:** (Provide the assumptions, any computations, and any statistics that went into this Fiscal Note; and describe the accuracy of the estimated impacts on this form.)

No fiscal impact.


**COST INCREASES (DECREASES)**

<b>State Agencies:</b>	<b>First-Year Impact</b>	<b>Continuous-Yearly Impact</b>
	\$0	\$0
<b>TOTAL</b>	\$0	\$0
<b>Local Gov't Agencies:</b>		
	\$0	\$0
<b>TOTAL</b>	\$0	\$0

**REVENUE INCREASES (DECREASES)**

<b>Revenue Increases (Decreases) State &amp; Local Gov't Agencies:</b>		
	\$0	\$0
<b>TOTAL</b>	\$0	\$0

APPROVED

  
Signature of Constitutional Officer, Commissioner, Department Secretary,  
or Board or Commission Chairman of Agency Administering the Rules

DATE

5/13/2025



## FORM 6

### Board of Medical and Osteopathic Examiners Notice of Public Hearing to Adopt Rules

A public hearing will be held at 101 N. Main Ave., in the First Dakota National Bank building in room 306, Sioux Falls, South Dakota on June 12, 2024 at 9:00 a.m. (CT)/ 8:00 a.m. (MT) to consider the adoption and amendment of proposed Administrative Rules of South Dakota numbered

§§ 20:63

The effect of the rules will be updates to the supervision language, licensure requirements and the Athletic Trainer Code of Ethics.

The reason for adopting the proposed rules is prompted by enacted legislation updates to the Athletic Trainer practice act.

Persons interested in presenting amendments, data, opinions, and arguments for or against the proposed rules may appear in-person at the hearing, or mail or e-mail them to Board of Medical and Osteopathic Examiners, 101 N. Main Ave. Suite 301, Sioux Falls, SD 57104 or SDBMOE@state.sd.us. The deadline to submit any such written comments for consideration must reach the Board by June 6, 2025.

After the written comment period, the Board of Medical and Osteopathic Examiners will consider all written and oral comments it receives on the proposed rules. The Board of Medical and Osteopathic Examiners may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

For Persons with Disabilities: This hearing will be located at a physically accessible place. Please contact the Board of Medical and Osteopathic Examiners at least 48 hours before the public hearing if you have special needs for which special arrangements can be made by calling (605) 367-7781.

Copies of the proposed rules may be obtained without charge from:

Board of Medical and Osteopathic Examiners and/or  
www.rules.sd.gov and/or www.sdbmoe.gov  
101 N. Main Ave. Ste. 301  
Sioux Falls, SD 57104  
SDBMOE@state.sd.us  
(605)367-7781

Published at the approximate cost of \$\_\_\_\_\_.

**FORM 9**

**AFFIDAVIT OF MAILING NOTICE**

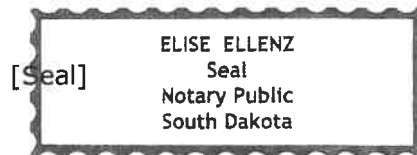
I, Whitney Burrows, under oath, do swear, that on May 5, 2025, I mailed a copy of the notice attached to this affidavit to the list of persons attached to this affidavit.

I further swear that the attached list is a true and correct list of all persons who have requested advance notice of rulemaking proceedings by the Board of Medical and Osteopathic Examiners.

Whitney Burrows  
[Agency Contact Name]

Subscribed and sworn to before me this 5<sup>th</sup> day of May, 2025.

Elise Ellenz  
Notary Public - South Dakota



My Commission expires Sept. 15<sup>th</sup>, 2029.

My Commission Expires  
September 15, 2029

1. Dustin Gebur
2. Trevor Roiger
3. Kaleb Birney
4. Kristen Longville
5. Kim Patrick
6. Linda Young
7. Paula McInerney
8. Barb Smith
9. Tim Engel
10. Amanda Bacon
11. Ann Roemen
12. Tim Rave
13. Dustin Gebur

## FORM 14

### SMALL BUSINESS IMPACT STATEMENT

1. Our agency has determined that the rule(s) we are proposing have the following impact on small businesses (i.e., a business with 25 or fewer full-time employees):
  - ☐ Direct impact (Complete remainder of form, starting on question 2.)
  - ☐ Indirect impact (Explain impact specific to small businesses and how impact is indirect in the space below, then skip to the date and signature at the end of the form.)
  - ☒ No impact (Explain how there is no impact specific to small businesses in the space below, then skip to the date and signature at the end of the form.)

Explain:

These rules come as a result of the updated Athletic Trainer bill (SB 151) that was passed by the legislature in 2024. The rules update language related to supervision, licensure requirements, and the Athletic Trainer Code of Ethics." Just wanted to add a bit more context for LRC.

2. A general narrative and overview of the effect of the rule(s) on small business written in plain, easy to read language (do not repeat the general effect of the proposed rule(s), instead specify the proposal's effects on small business in particular):
  
  
  
  
  
  
  
  
  
  
3. What is the basis for the enactment of the rules(s)?
  - ☐ Required to meet changes in federal law
  - ☐ Required to meet changes in state law
  - ☐ Required solely due to changes in date (i.e., must be changed annually)
  - ☐ Other:
  
  
  
  
  
4. Provide a brief discussion of the necessity of the rule(s):
  
  
  
  
  
  
  
  
  
  
5. Describe the small businesses or types of small businesses that would be subject to the rule(s)?
  
  
  
  
  
  
  
  
  
  
6. Estimate of the number of small businesses that would be subject to the rule(s):
  - ☐ 1-99      ☐ 100-499      ☐ 500-999      ☐ 1,000-4,999      ☐ More than 5,000
  - ☐ Unknown - please explain:

7. Are small businesses required to file or maintain any reports or records under the rule(s)?

☐ Yes      ☐ No

a. If "yes," how many annual reports must a small business submit to the state?

b. If "yes," how much ongoing recordkeeping within the business is necessary?

c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- ☐ The average owner of a small business should be able to complete the reports or records with no assistance.
- ☐ It is likely that a bookkeeper for a small business should be able to complete the reports or records.
- ☐ It is likely that a small business person would need the assistance of a CPA to complete the reports or records.
- ☐ It is likely that a small business person would need the assistance of an attorney to complete the reports or records.
- ☐ Other
- ☐ Unknown - please explain:

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule(s) (i.e., fewer reports, less recordkeeping, lower penalties)?

- ☐ No - please explain:
- ☐ Yes - please explain:

April 14, 2025

[Date]



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[Authorized Signatory]

Board of Medical and Osteopathic Examiners

[Agency Name]

This Small Business Impact Statement must be signed by the head of the agency or the presiding officer of the board or commission empowered to adopt rules.

A general explanation must be provided for each proposed rule or rule amendment. For multiple proposed rules with a single purpose and impact, only one explanation is required.

Agencies must use readily available information and existing resources to prepare this Small Business Impact Statement.

# DOUGHERTY LAW PLLC

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101 N. Phillips Ave., Ste. 403 • P.O. Box 2376  
Sioux Falls, SD 57101-2376  
[tim@ptlawfirm.com](mailto:tim@ptlawfirm.com)  
605-3358586

June 4, 2025

## Sent by Email

South Dakota Board of Medical and Osteopathic Examiners  
101 N. Main Avenue, Suite 301  
Sioux Falls, SD 57104  
[SDBMOE@state.sd.us](mailto:SDBMOE@state.sd.us)

Re: Proposed Amendment to ARSD 20:63:01:01

Dear Board Members:

On behalf of the South Dakota Chapter of the American Physical Therapy Association (SDAPTA), I am writing in opposition to the proposed amendment to ARSD 20:63:01:01.

As amended, ARSD 20:63:01:01 would read as follows:

Terms defined in SDCL 36-29-1 have the same meaning when used in this article. In addition, as used in this article the term athletic training means, in addition to 36-29-1.1, the practice of athletic training includes the skills as listed in the Commission on Accreditation of Athletic Training Education, Standards, and Procedures for Accreditation of Professional Programs in Athletic Training, 2022, Section IV.

An administrative rule cannot “expand upon the statute it purports to implement.” In re Luff Expl., 2015 S.D. 27 ¶ 17, 864 N.W.2d 4, 9 (quoting State Div. of Human Rights, ex rel. Ewing v. Prudential Ins. Co. of Am. 273 N.W. 2d 111, 114 (S.D. 1978)). By incorporating skills listed in a document published by an accrediting organization, the proposed amendment to ARSD 20:63:01:01 adds to, and modifies, the statutory definition of the practice of athletic training in SDCL 36-29-1.1. While the Board of Medical and Osteopathic Examiners has the authority to promulgate rules to “set the standards for the professional practice of athletic training,” it does not have the authority to modify the definition of the practice of athletic training. SDCL 36-29-17.

Moreover, the document cited in the proposed amendment does not contain a list of athletic training skills. It merely provides the standards to be used for the development, evaluation, analysis and maintenance of athletic training programs. In other words, the standards for accreditation of an athletic training educational program. These accreditation standards measure

SDBMOE  
June 4, 2025  
Page 2

the quality of an athletic training educational program. They do not establish the scope of practice of athletic training or the standards of practice.

For these reasons, SDAPTA respectfully urges the Board to reject the proposed amendment to ARSD 20:63:01:01.

Sincerely,

  
Timothy J. Dougherty

cc: SDAPTA