

CHAPTER 20:48:01

DEFINITIONS

Section 20:48:01:01 Definitions.

20:48:01:01. Definitions. Terms defined in SDCL chapter 36-9 have the same meaning when used in this article. In addition, terms used in this article mean:

- (1) "Clinical enrichment program," a program designed to provide supervised clinical experience based on the nursing process and offered by an employing institution or agency to nursing students outside a formal educational program;
- (2) "Complex nursing situation," a situation in which the client's clinical and behavioral state is not predictable and rapid change in that state is reasonably anticipated;
- (3) "Delegation," the transfer of the authority to a trained individual to perform a specific nursing task in a specific situation;
- (4) "Direct supervision," supervision given by a registered nurse, advance practice registered nurse, licensed physician, or other licensed health care provider approved by the board, who is physically present in the immediate area where the client is being provided nursing service;
- (5) "Licensee," a person who holds a license issued by the board or privilege to practice as a registered nurse, licensed practical nurse, certified registered nurse anesthetist, or clinical nurse specialist;
- (6) "Nursing assistant," ~~a~~ an unlicensed person trained to assist a licensed nurse and function in a supportive role, regardless of title, and to whom a nursing task may be delegated;
- (7) "Registrant," a ~~person-nursing assistant~~ who is registered by the board as ~~an unlicensed nursing assistant~~ a certified nurse aide or a registered medication aide under chapter 20:48:16; and
- (8) "Stable nursing situation," a situation in which the client's clinical and behavioral state is known and predictable and no rapid change in that state is reasonably anticipated.

Source: SL 1975, ch 16, § 1; 3 SDR 35, effective November 11, 1976; 4 SDR 26, effective November 1, 1977; 6 SDR 88, effective March 3, 1980; 12 SDR 109, effective January 9, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 175, effective May 28, 1987; 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000; 41 SDR 12, effective July 31, 2014; 44 SDR 81, effective November 6, 2017; 45 SDR 9, effective July 30, 2018; 49 SDR 51, effective November 27, 2022; 50 SDR 69, effective December 10, 2023.

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29, 36-9-1.1, 36-9-3(7)(11), 36-9-4(9), 36-9-21(5), 36-9-67.1.

CHAPTER 20:48:03

LICENSING AND LICENSES

Section

- 20:48:03:01 Application for licensure by examination.
- 20:48:03:02 Repealed.
- 20:48:03:03 Applicant from another state, territory, or foreign country.
- 20:48:03:04 The examination and its administration.
- 20:48:03:05 Proctoring the examination.
- 20:48:03:06 Examination results -- Retaking examination.
- 20:48:03:07 Application for license by endorsement.
- 20:48:03:08 Temporary permits.
- 20:48:03:09 Renewal of license.
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- 20:48:03:11 Inactive status and reactivation of license.
- 20:48:03:12 Lapse and reinstatement of license.
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- 20:48:03:14 Name change requirements.
- 20:48:03:14.01 Licensure reporting requirements.
- 20:48:03:14.02 Emergency suspension of license.
- 20:48:03:15 Repealed.
- 20:48:03:16 Eligibility for active status licensure -- Reentry standards.
- 20:48:03:17 Criteria for refresher course.

20:48:03:14.02. Emergency suspension of license. Upon authorization from the board's compliance committee, the board's executive director may issue an order of emergency suspension to an individual who holds a South Dakota nursing license, temporary permit, or privilege to practice when continued practice of the individual constitutes an imminent threat to the public's welfare. The order of emergency suspension shall:

- (1) Take effect upon written notice to the individual;
- (2) Remain in effect until retracted, modified, or superseded by a final action by the board or upon agreement between the board and the individual; and
- (3) Become effective as a final order if no response by the individual is received within twenty days of the notice, in accordance with SDCL chapters 1-26 and 36-1C.

Source:

General Authority: SDCL 36-9-21, 36-9A-41.

Law Implemented: SDCL 36-9-1.1, 36-9-15, 36-9-49, 36-9-41.1, 36-9A-5, 36-9A-32.

CHAPTER 20:48:04.01

DELEGATION OF NURSING TASKS

Section

20:48:04.01:01	General criteria for delegation.
20:48:04.01:02	Supervision.
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20:48:04.01:04	Repealed.
20:48:04.01:05	Repealed.
20:48:04.01:06	Repealed.
20:48:04.01:07	Nursing tasks that may not be delegated.
20:48:04.01:08	Repealed.
20:48:04.01:09	Requirements for delegated medication administration to a nursing assistant.
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20:48:04.01:10	Delegation of additional medication administration tasks to a medical assistant.
20:48:04.01:11	Medication administration tasks that require a written protocol.
20:48:04.01:12	Medication administration tasks that may not be delegated.
20:48:04.01:13	Approval of training program required for delegated medication administration.
20:48:04.01:14	Requirements for approval of medication administration training programs.
20:48:04.01:14.01	Standards for medication administration training programs.
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20:48:04.01:16	Written protocol required for the delegation of insulin administration by the subcutaneous route to a nursing assistant.
20:48:04.01:17	Qualifications of the registered nurse for delegation of insulin administration by the subcutaneous route to a nursing assistant.
20:48:04.01:18	Delegation of specific medication administration.
20:48:04.01:19	Training required for the delegation of specific medication administration.
<u>20:48:04.01:20</u>	<u>Requirements for the delegation of tracheostomy care and suctioning to a nursing assistant.</u>
<u>20:48:04.01:21</u>	<u>Tracheostomy care and suctioning tasks that may be delegated - - Written protocol required.</u>
<u>20:48:04.01:22</u>	<u>Training required for the delegation of tracheostomy care and suctioning.</u>
<u>20:48:04.01:23</u>	<u>Certified nurse aide registration required.</u>
<u>20:48:04.01:24</u>	<u>Application for nurse aide training program approval.</u>

- 20:48:04.01:25 Nurse aide training program standards for approval.
- 20:48:04.01:26 Nurse aide training program clinical faculty agreement required.
- 20:48:04.01:27 Nurse aide training program -- Program director qualifications -- Notification to the board.
- 20:48:04.01:28 Nurse aide training program -- Program director duties.
- 20:48:01.01:29 Nurse aide training program - - Primary nurse instructor qualifications and duties.
- 20:48:04.01:30 Nurse aide training program - - Supplemental personnel.
- 20:48:04.01:31 Nurse aide training program curriculum requirements.
- 20:48:04.01:32 Re-approval of a nurse aide training program -- Site visit.
- 20:48:04.01:33 Denial or withdrawal of approval of a nurse aide training program.
- 20:48:04.01:34 Reinstatement of a nurse aide training program.
- 20:48:04.01:35 Certified nurse aide competency evaluation program.
- 20:48:04.01:36 Certified nurse aide knowledge exam standards.
- 20:48:04.01:37 Certified nurse aide skills evaluation standards.
- 20:48:04.01:38 Certified nurse aide skills evaluator qualifications -- Duties.

20:48:04.01:07. Nursing tasks that may not be delegated. A licensed nurse may not delegate to a nursing assistant:

- (1) Assessments that require professional nursing judgment, intervention, referral, or follow-up;
- (2) Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
- (3) Tasks involved in the implementation of the plan of care that require nursing judgment or intervention, including:
 - (a) Sterile procedures involving a wound or anatomical site that could become infected, except urinary catheterization;
 - (b) Nasogastric tube feeding; and
 - (c) Nasogastric, jejunostomy, and gastrostomy tube insertion or removal; and
 - (d) Tracheostomy care and suctioning, except as permitted by §§ 20:48:04.01:20 to 20:48:04.01:22, inclusive;
- (4) Administration of medications, except as permitted by §§ 20:48:04.01:09 to 20:48:04.01:11, inclusive, and § 20:48:04.01:18;
- (5) Acceptance of medical orders; and
- (6) Health counseling and health teaching.

Source: 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000; 49 SDR 51, effective November 27, 2022.

General Authority: SDCL 13-33A-2, 36-9-21.

Law Implemented: SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

20:48:04.01:20. Requirements for the delegation of tracheostomy care and suctioning to a nursing assistant. A

registered nurse may delegate tracheostomy care and suctioning tasks to a nursing assistant, for a specific client, pursuant to §§ 20:48:04.01:21 and 20:48:04.01:22, in a stable nursing situation, as that term is defined in § 20:48:01:01, if:

- 1) The client resides in a shared living home, as outlined in chapter 46:04:01;
- 2) A registered nurse has determined that the performance of tracheostomy care and suctioning by a nursing assistant will allow the client to remain in the shared living home;
- 3) A licensed nurse is not available to perform the tracheostomy care and suctioning for the client;
- 4) The client's plan of care includes performing tracheostomy care or suctioning on a routine, scheduled basis;
- 5) The client's tracheostomy care or suctioning has been routinely performed without complications;
- 6) The registered nurse assessed the client's tracheostomy stoma and determined that the stoma is stable with no known or anticipated complications;
- 7) The delegation complies with the general criteria for delegation and supervision set forth in §§ 20:48:04.01:01 and 20:48:04.01:02, respectively; and
- 8) The nursing assistant has met the training requirements set forth in § 20:48:04.01:22.

The registered nurse must assess the client's condition monthly and must perform an annual comprehensive assessment as defined in SDCL 36-9-1.

Source:

General Authority: SDCL 36-9-21.

Law Implemented: SDCL 36-9-3(3)(5)(6)(7)(8)(11), 36-9-21(4)(4).

20:48:04.01:21. Tracheostomy care and suctioning tasks that may be delegated - - Written protocol required. A

registered nurse may only delegate the following tracheostomy care and suctioning tasks to a nursing assistant:

- 1) Inspecting, cleaning, and changing the dressing for an established tracheostomy site;
- 2) Changing or cleaning the inner cannula; and
- 3) Suctioning the tracheostomy.

The registered nurse must develop and maintain on file a written protocol on the tracheostomy care and suctioning tasks that may be performed by the nursing assistant. The protocol must include the procedures the nursing assistant must follow when performing the assigned tasks.

Source:

General Authority: SDCL 36-9-21.

Law Implemented: SDCL 36-9-3(7)(8)(11)(13), 36-9-21(4)(5).

20:48:04.01:22. Training required for the delegation of tracheostomy care and suctioning. A registered nurse must provide training to the nursing assistant on the specific tracheostomy care and suctioning to be performed for a specific client, prior to delegating the tasks to the nursing assistant. The training must include a skills lab to allow the nursing assistant to practice and demonstrate competence on performing the assigned tasks. The training must include content on:

- (1) Airway anatomy;
- (2) The purpose and function of a tracheostomy;
- (3) The type of tracheostomy tube used by the client;
- (4) Inspecting the stoma site;
- (5) Applying infection control procedures;
- (6) Cleaning the stoma site;
- (7) Changing the dressing;
- (8) Changing or cleaning the inner cannula;
- (9) Suctioning the client's tracheostomy;
- (10) Identify and responding to tracheostomy related complications and emergencies;
- (11) Circumstances when the registered nurse should be contacted, including:
 - (a) The client requires suctioning outside of the client's expected, routine suctioning schedule;
 - (b) The identification of complications relating to the tracheostomy; and
 - (c) Emergency care provided; and
- (12) Documenting tracheostomy care and suctioning provided.

After the nursing assistant completes the training, the registered nurse must be present onsite to directly observe the nursing assistant performing the tasks on the client. If the nursing assistant performs the tasks safely, the registered nurse may delegate the tasks to the nursing assistant to perform independently for that client according to the written protocol, pursuant to § 20:48:04.01:21.

The registered nurse must evaluate the competency of the nursing assistant annually and shall provide additional training to the nursing assistant if the medical orders for the care of the tracheostomy change or if the nursing assistant requires further instruction.

The registered nurse shall document the training provided and shall maintain the documentation according to agency policy. Documentation on the training shall be submitted to the board upon request.

Source:

General Authority: SDCL 36-9-21.

Law Implemented: SDCL 36-9-3(7)(8)(11)(13), 36-9-21(4)(5).

20:48:04.01:23. Certified nurse aide registration required. A licensed nurse may delegate nursing tasks, in accordance with §§ 20:48:04.01:01 and 20:48:04.01:02, to a nursing assistant in a nursing facility, licensed pursuant to SDCL chapter 34-12, if the nursing assistant:

- (4) Is registered with the board as a certified nurse aide in accordance with chapter 20:48:16; or
- (5) Has worked less than four months in the facility and is enrolled as a student in a board-approved nurse aide training program; or
- (6) Has worked less than four months in the facility and is awaiting registration by the board after completing a board-approved nurse aide training program.

Source:

General Authority: SDCL 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-3(7), 36-9-4(9), 36-9-21(4)(5).

20:48:04.01:24. Application for nurse aide training program approval. An individual or institution desiring to offer a nurse aide training program shall apply to the board for approval. An institution that provides nurse aide training in multiple affiliated locations shall apply on one application for all locations. The board shall advise the applicant of the approval status within ninety days of receipt of the application. The board shall grant approval to an applicant upon meeting the requirements in §§ 20:48:04.01:25 to 20:48:04.01:31, inclusive. An applicant may not enroll students prior to approval of the program.

Source:

General Authority: SDCL 34-12-29, 36-9-2.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

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20:48:04.01:25. Nurse aide training program standards for approval. The board shall approve an applicant's nurse aide training program if the application demonstrates that the applicant meets the following standards:

- (1) Is licensed or approved by a state agency or governing body;
- (2) Does not have a federal or state sanction or a deficiency on a state survey that prohibits the applicant from providing a nurse aide training program;
- (3) Has written admission criteria that includes screening students for findings of abuse and neglect, as defined in SDCL subdivisions 22-46-1(4), (6), and (7), and misappropriation of property, as defined in subdivision 44:73:01:01(20).
- (4) Prohibits enrollment of students with convictions listed in subdivision (3);
- (5) Uses the board's curriculum as outlined in § 20:48:04.01:31;
- (6) Appoints a registered nurse, who meets the qualifications in § 20:48:04.01:27, to serve as the program director;
- (7) Appoints a primary nurse instructor who meets the qualifications in § 20:48:04.01:29;
- (8) Uses supplemental instructors who meet the requirements in § 20:48:04.01:30;
- (9) Uses classrooms, laboratories, and equipment in the number and size to provide a safe and effective learning environment for the number of students enrolled;
- (10) Uses licensed nurses to directly supervise students in the clinical setting and lab; and
- (11) Maintains and provides the following documentation to the board upon request:
 - (a) A list of students enrolled in the program;
 - (b) Student performance in the program;
 - (c) Date a student completed the program, failed the program, or withdrew from the program, including the reason for withdrawing from the program; and
 - (d) A list of the individuals teaching the program, including qualifications and experience.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1)(2), 36-9-21(5).

20:48:04.01:26. Nurse aide training program clinical facility agreement required. A nurse aide training program that is not affiliated with a nursing facility, as defined in SDCL subdivision 34-12-1.1(12), must have a written affiliation agreement in place between the training program and a nursing facility to meet the clinical training required in § 20:48:04.01:28. The agreement must include descriptions on:

- (1) How the training program will provide clinical experience in the facility; and
- (2) How the students will be directly supervised by a licensed nurse when performing direct client care.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1)(2), 36-9-3(11)(12), 36-9-4(8)(9), 36-9-21(5).

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20:48:04.01:27. Nurse aide training program -- Program director qualifications -- Notification to the board. The

program director of an approved nurse aide training program must meet the following qualifications:

- (1) Hold an unencumbered registered nurse license or privilege to practice in this state;
- (2) Have a minimum of one year of clinical registered nursing experience; and
- (3) If serving as a primary nurse instructor, meet the qualifications in § 20:48:04.01:29.

Written notification of a change in the program director and the appointment of a new program director, including documentation to support the new program director's qualifications, must be received by the board within sixty days. A training program may not enroll new students until a qualified program director is appointed.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1)(2), 36-9-3(12), 36-9-21(5).

20:48:04.01:28. Nurse aide training program -- Program director duties. The duties and responsibilities of the

board-approved program director of a nurse aide training program include:

- (1) Providing general supervision of the nurse aide training program in compliance with this chapter;
- (2) Selecting qualified primary nurse instructors, in accordance with the requirements in § 20:48:04.01:29;
- (3) Ensuring that the students enrolled in the program were screened in accordance with subdivision

20:48:04.01:25(3);

- (4) Creating and maintaining an environment conducive to teaching and learning;
- (5) Ensuring that the training program meets the curriculum requirements in § 20:48:04.01:31;
- (6) Selecting qualified supplemental personnel, in accordance with the requirements in § 20:48:04.01:30, to assist

with teaching the course;

- (7) Selecting qualified registered nurses to administer the skills evaluation in accordance with the requirements in §

20:48:04.01:38;

- (8) Ensuring that a student is competent to perform a nursing task prior to the student performing the task on a client

without direct supervision as defined in § 20:48:01:01;

- (9) Coordinating the clinical practice sites to ensure a licensed nurse is available to supervise the student in the

immediate areas when the student is providing client care;

- (10) Verifying a student's completion of the nurse aide training program to the board;
- (11) Submitting a student's skills evaluation checklists to the board;
- (12) Coordinating the student's completion of the certified nurse aide knowledge exam.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1)(2), 36-9-3(8)(11)(12)(13), 36-9-21(5).

20:48:04.01:29. Nurse aide training program - - Primary nurse instructor qualifications and duties. The program

director of an approved nurse aide training program shall appoint qualified primary nurse instructors to teach the required curriculum content in § 20:48:04.01:31. Primary nurse instructors must meet the following qualifications:

- (1) Hold a registered nurse or licensed practical nurse license or privilege to practice in this state;
- (2) Have a minimum of two years of clinical licensed nursing experience;
- (3) Have a minimum of one year of licensed nursing experience in a nursing facility, as defined in SDCL subdivision

34-12-1.1(12);

- (4) Have experience instructing adult students or completed a training course on adult instruction; and
- (5) Not be employed as the director of a nursing in a nursing facility as defined in SDCL subdivision 34-12-1.1(12).

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(2), 36-9-3(11)(12)(14), 36-9-4(8)(9)(10), 36-9-21(5).

20:48:04.01:30. Nurse aide training program – Supplemental personnel. An approved nurse aide training program's program director may appoint supplemental personnel to assist with teaching the curriculum content in §

20:48:04.01:31. Supplemental personnel must meet the following qualifications:

- (1) Hold a license or privilege to practice in this state as a health care professional;
- (2) Have a minimum of one year experience in area of expertise;
- (3) Not be employed as the director of nursing in a nursing facility, as defined in SDCL subdivision 34-12-1.1(12);

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(2), 36-9-3(11)(12), 36-9-21(5).

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20:48:04.01:31. Nurse aide training program curriculum requirements. A nurse aide training program's curriculum must use board-approved teaching resources and shall require students to complete a minimum of seventy-five hours of instruction. The training program must:

- (1) Provide an initial sixteen hours of theoretical and skills instruction, prior to a student having direct contact with a client, on the following topics:
 - (a) Communication and interpersonal skills;
 - (b) Mental health and social service needs including content on behavior modification, developmental tasks associated with aging, personal choice, client dignity, using the client's family to provide emotional support;
 - (c) Care of cognitively impaired clients including communication techniques to address the needs and behaviors of individuals with dementia or Alzheimer's disease;
 - (d) Infection control standards and procedures;
 - (e) Safety and emergency procedures, including back blows, abdominal thrusts, and Heimlich maneuver;
 - (f) Promoting client independence and self-care; and
 - (g) Respecting client rights;
- (2) After the student completes the initial sixteen hours of instruction, provide a minimum of eight hours of clinical experience in a nursing facility, as defined in SDCL subdivision 34-12-1.1(12), under the direct supervision of a licensed nurse, as defined in § 20:48:01:01;
- (3) Provide thirty-five hours of theoretical and skills instruction on the following content:
 - (a) Recognizing and reporting abnormal findings in body functioning;
 - (b) Transferring, positioning, and turning, including use of assistive devices;
 - (c) Performing and recording vital signs;
 - (d) Performing and recording height and weight;
 - (e) Caring for the client's environment;
 - (f) Caring for a client when death is imminent;
 - (g) Skin care;
 - (h) Bathing;
 - (i) Grooming, including oral care;
 - (j) Dressing and use of assistive devices;
 - (k) Toileting, including bowel and bladder training;
 - (l) Feeding techniques and assisting with eating and hydration, including assistive eating devices;
 - (m) Range of motion; and

(n) Care and use of prosthetic and orthotic devices; and

(4) Provide a minimum of sixteen hours of clinical experience in a licensed nursing facility, as defined in SDCL subdivision 34-12-1.1(12), under the direct supervision of a licensed nurse, as defined in § 20:48:01:01.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

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20:48:04.01:32. Re-approval of a nurse aide training program -- Site visit. An individual or institution that has an approved nurse aide training program shall apply for renewal biennially and shall submit an annual report in the format and by the deadline prescribed by the board. The board shall conduct an onsite or teleconference visit of the training program prior to renewing the program to determine compliance with the requirements in §§ 20:48:04.01:25 to 20:48:04.01:31, inclusive, and shall grant re-approval to an applicant who meets the requirements.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

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20:48:04.01:33. Denial or withdrawal of approval of a nurse aide training program. In accordance with SDCL chapter 1-26, the board may withdraw approval of an individual's or institution's nurse aide training program if:

- (1) Program personnel refuse to permit a site visit or review by a state agency;
- (2) The program fails to meet the nurse aide training program standards required in § 20:48:04.01:25; or
- (3) A program fails to maintain a seventy percent pass rate on the certified nurse aide knowledge exam from the previous two consecutive years.

A nurse aide currently enrolled in a program whose approval is withdrawn may complete that program's training program.

An individual or institution whose program is denied or withdrawn may apply for reinstatement of the program pursuant to § 20:48:04.01:34.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

20:48:04.01:34. Reinstatement of a nurse aide training program. The board may reinstate approval of a nurse aide training program if:

- (1) The program director submits to the board evidence of meeting the requirements in § 20:48:04.01:25; or
- (2) The program director submits an action plan to the board outlining measures to improve student performance on the certified nurse aide competency evaluation program's knowledge exam.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

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20:48:04.01:35. Certified nurse aide competency evaluation program. The board shall require an applicant who is applying to be registered as a certified nurse aide under chapter 20:48:16 to pass a board-approved competency evaluation program consisting of a knowledge exam and a skills evaluation that are administered in accordance with §§ 20:48:04.01:36 and 20:48:04.01:37. The competency evaluation shall measure the applicant's knowledge, skills, and abilities on the content listed in § 20:48:04.01:31.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

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20:48:04.01:36. Certified nurse aide knowledge exam standards. The board may contract with a testing agency to develop and administer a certified nurse aide knowledge exam to board-approved certified nurse aide applicants. The following standards must be met by the testing agency:

- (1) Provide a pool of written questions for use in the exam;
- (2) Administer the exam to an applicant using only a portion of the pool of questions;
- (3) Approve proctors to administer the exam in accordance with a security policy;
- (4) Administer the exam orally upon request by an applicant. The exam must be read by an approved proctor from a prepared text in a neutral manner;
- (5) Advise the applicant, prior to administering the exam, that the board will be notified of the applicant's results on the exam;
- (6) Score the exam and require a passing score of seventy-five percent;
- (7) If an applicant fails the exam, advise the applicant of the areas not passed and allow the applicant to apply to retake the exam two times;
- (8) Safeguard the confidentiality of the exam and secure from tampering; and
- (9) Report any known or suspected breach in the security of the exam to the board in a timely manner.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

20:48:04.01:37. Certified nurse aide skills evaluation standards. The following skills evaluation standards must be met to qualify for initial registration as a certified nurse aide in accordance with subdivision 20:48:16:08(4). A board-approved nurse aide training program will:

- (1) Use a pool of skills evaluation checklists approved by the board;
- (2) Use a skills evaluator, who meets the qualifications in § 20:48:04.01:38, to evaluate a certified nurse aide applicant's ability to safely demonstrate the performance of a minimum of four skills selected at random by the board from the pool of skills;
- (3) Require the skills evaluator to advise the applicant, prior to administering the evaluation, that the completed skills evaluation forms will be provided to the board for scoring;
- (4) Submit the completed skills evaluation checklist forms to the board for scoring.

Upon receipt of the skills evaluation forms, the board will score as pass or fail. If an applicant fails, the applicant may retake the skills evaluation.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

20:48:04.01:38. Certified nurse aide skills evaluator qualifications - - Duties. A certified nurse aide skills evaluator

must:

- (1) Hold a registered nurse license or privilege to practice in South Dakota;
- (2) Have a minimum of one-year clinical experience caring for older adults or the chronically ill of any age;
- (3) Not be employed as the director of nursing in the nursing facility, as defined in SDCL subdivision 34-12-1.1(12);
- (4) Advise a nurse aide applicant, prior to administering the skills evaluation, that the results of the evaluation will be

scored by the board and successful completion of the evaluation will be placed on the board's certified nurse aide registry;

and

- (5) Submit completed skills evaluation checklists to the training program director.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-3(11)(12), 36-9-21(5).

CHAPTER 20:48:16

REGISTRATION OF NURSING ASSISTANT PERSONNEL

Section

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20:48:16:01. Operation of registry. The board shall operate the nursing assistive personnel registry. The registry must contain the following information for each person who has gained registry status as a certified nurse aide or medication aide:

- (1) Full name of the registrant, including maiden name and any surnames used;
- (2) Last known home address;
- (3) Registration number;
- (4) Date the registry status expires;
- (5) Date of birth;
- (6) Most recent employment;
- (7) Date of successful completion of the board-approved training program and examination or evaluation results; and
- (8) Disciplinary proceedings including investigative findings for an allegation of, and evidence that supports a finding of, abuse, neglect, or misappropriation of resident property, including the nature of the incident.

Source: 44 SDR 81, effective November 6, 2017; 49 SDR 51, effective November 27, 2022.

General Authority: SDCL 34-12-29, 36-9-21(5).

Law Implemented: SDCL 24-12-29(1)(3)(4), 36-9-21(5).

20:48:16:02. Application for registration as a medication aide -- Title used. ~~A person~~ The board shall register an individual seeking initial registration shall as a medication aide if the applicant meets the following requirements:

- (1) ~~Apply~~ Applies on the form provided by the board;
- (2) ~~Hold~~ Holds a high school diploma or equivalent;
- (3) Successfully ~~complete~~ completes a board-approved training program in accordance with § 20:48:04.01:13. An applicant who completed education that was not approved by the board shall make a request for an equivalency determination on a form provided by the board; ~~and~~
- (4) ~~Provide~~ Provides evidence of having passed a board-approved examination with a minimum score of seventy-five percent; and
- (5) Is otherwise qualified under § 20:48:16:04.

If the applicant does not meet the registration requirements, the board shall deny the application.

A person registered as a medication aide in this state may use the title registered medication aide abbreviated RMA.

Source: 44 SDR 81, effective November 6, 2017; 49 SDR 1, effective July 6, 2022; 49 SDR 51, effective November 27, 2022.

General Authority: SDCL 36-9-21(5).

Law Implemented: SDCL 36-9-21(5).

20:48:16:03. Renewal or reinstatement of registration as a medication aide. A registrant shall renew ~~the~~ registration as a medication aide biennially. The board shall send a notice for renewal to the last known address of each current registrant at least 90 days before the registrant's expiration date. Failure to receive the notice for renewal does not relieve the registrant of the responsibility for renewing within the prescribed time. Any renewal received by the board after the filing date indicated in the notice must be listed as lapsed on the registry.

The board shall renew or reinstate a registrant if the registrant:

- (1) Applies on the form provided by the board;
- (2) Submits an affidavit that the applicant has committed no act of misconduct as set forth in § 20:48:16:04; and
- (3) Provides a verified statement that indicates whether the applicant was employed to administer medications to clients in a nursing facility, assisted living center, or hospital for a minimum of 12 hours during the preceding 24 months.

An applicant who does not meet the employment requirement must repeat the training program and examination requirements listed in § 20:48:16:02.

If an applicant fails to meet the requirements the board shall remove the applicant from the registry.

Source: 44 SDR 81, effective November 6, 2017; 49 SDR 1, effective July 6, 2022; 49 SDR 51, effective November 27, 2022.

General Authority: SDCL 36-9-21(5).

Law Implemented: SDCL 36-9-21(5).

20:48:16:04. Grounds for denial of application or removal from registry. The board, in compliance with SDCL chapters 1-26 and 36-1C, may deny an applicant or remove a registrant, or may take other disciplinary or corrective action the board considers appropriate in addition to or in lieu of such an action upon proof that the applicant or registrant has:

- (1) Committed fraud, deceit, or misrepresentation in procuring or attempting to procure registration;
- (2) Been convicted of a ~~felony. The conviction of a felony means the conviction of any offense that, if committed within this state, would constitute a felony under its laws~~ crime that directly relates to the practice of nursing;
- (3) Committed an alcohol or drug related act or offense that interferes with the ability to practice as a registrant safely;
- (4) Negligently, willfully, or intentionally acted in a manner inconsistent with the health or safety of a person entrusted to the registrant's care;
- (5) Had any license or registration denied, revoked, or suspended or had other disciplinary action taken;
- (6) Violated any provision of chapter 36-9 or this article;
- (7) Practiced during a time the registrant's registration is lapsed;
- (8) Engaged in unsafe practice, substandard care, or unprofessional or dishonorable conduct;
- (9) Violated confidentiality, patient privacy, consent, or disclosure of patient information; ~~or~~
- (10) Engaged in sexual harassment, sexual contact, or exercised influence within the registrant-patient relationship for the purpose of engaging a patient in sexual activity;
- (11) Had a finding of abuse or neglect, as defined in SDCL subdivisions 22-46-1(4), (6), or (7); or
- (12) Misappropriated property, as defined in subdivision 44:73:01:01(20).

Source: 44 SDR 81, effective November 6, 2017; 49 SDR 1, effective July 6, 2022.

General Authority: SDCL 34-12-29, 36-9-21(5).

Law Implemented: SDCL 34-12-29(3)(4), 36-9-21(5).

20:48:16:07. Emergency suspension of registration. Upon authorization from the board's compliance committee, the board's executive director may issue an order of emergency suspension to an individual who is registered by the board when the continued practice of the individual constitutes an imminent threat to the public's welfare. The order of emergency suspension shall:

- (1) Take effect upon written notice to the individual;
- (2) Remain in effect until retracted, modified, or superseded by a final action by the board or upon agreement between the board and the individual; and
- (3) Become effective as a final order if no response by the individual is received within twenty days of the notice, in accordance with SDCL chapters 1-26 and 36-1C.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(3)(4), 36-9-1.1, 36-9-15, 36-9-21(5).

20:48:16:08. Application for initial registration as a certified nurse aide - - Title used. The board shall register an individual seeking initial registration as a certified nurse aide if the applicant meets the following requirements:

- (1) Applies on the form provided by the board;
- (2) Submits an affidavit that the applicant has committed no act of misconduct as set forth in § 20:48:16:04;
- (3) Provides verification of having completed a board-approved nurse aide training program. An applicant who completed education that was not approved shall make a request for an equivalency determination on a form provided by the board;
- (4) Passes a board-approved skills evaluation in accordance with § 20:48:04.01:37; and
- (5) Provides evidence of passing a board-approved certified nurse aide knowledge exam with a minimum score of seventy-five percent.

If the applicant does not meet the registration requirements, the board shall deny the application.

A person registered as a certified nurse aide in this state may use the title certified nurse aide abbreviated CNA.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).

20:48:16:09. Application for registration as a certified nurse aide by endorsement. The board shall register an individual seeking registration as a certified nurse aide by endorsement from another state if the applicant meets the following requirements:

- (1) Applies on the form provided by the board;
- (2) Submits an affidavit that the applicant has committed no act of misconduct as set forth in § 20:48:16:04; and
- (3) Holds active registration as a certified nurse aide on another state's registry.

If the applicant does not meet the registration requirements, the board shall deny the application.

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1)(3), 36-9-21(5).

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20:48:16:10. Renewal or reinstatement of registration as a certified nurse aide. A certified nurse aide shall renew registration biennially. The board shall send a notice for renewal to the last known address of each current registrant at least 90 days before the registrant's expiration date. Failure to receive the notice for renewal does not relieve the registrant of the responsibility for renewing within the prescribed time. Any renewal received by the board after the filing date indicated in the notice must be listed as lapsed on the registry. The board shall renew or reinstate a lapsed registration if the registrant:

- (1) Applies on the form provided by the board;
- (2) Submits an affidavit that the applicant has committed no act of misconduct as set forth in § 20:48:16:04;
- (3) Submits evidence to support providing a minimum of 12 hours of nursing or nursing-related services for monetary compensation during the preceding 24 months; and
- (4) Submits evidence to support completing a minimum of 12 hours of in-service education annually during the preceding two years. Education content that must be completed includes:
 - (a) Dementia management;
 - (b) Client abuse, neglect, exploitation, misappropriation of property, and procedures to report incidents; and
 - (c) Areas of weakness identified on the certified nurse aide's performance review by the long term care facility employer.

An applicant who does not meet the requirements in subsection (3) or (4) must meet the requirements in subdivisions 20:48:16:08(4) and (5).

Source:

General Authority: SDCL 34-12-29, 36-9-21.

Law Implemented: SDCL 34-12-29(1), 36-9-21(5).