FORM 10

MINUTES OF PUBLIC HEARING

South Dakota Board of Nursing

The South Dakota Board of Nursing convened at 9:00 A.M. (Central) on August 5, 2025, in the Conference Room at the Holiday Inn Express & Suites, 3821 W Avera Dr, Sioux Falls, SD.

Hearing Officer: Christi Keffeler, Board President

Members of the Board in Attendance: Carla Borchardt, Denise Buchholz, Debra Felton, Kristin Gabriel, Nathan Hinker, Carena Jarding, Christi Keffeler, Lori Koenecke, Jenna VandenBos.

Board Staff in Attendance: Linda Young, Executive Director, Megan Borchert, General Council, Glenna Burg, Erin Matthies, Francie Miller, Lindsay Olson, Bryan Wermers.

Others in Attendance: Jennifer Maeschen, SD Department of Health (DOH); Ryan Sailor, SD Association of Healthcare Organizations (SDAHO); Michella Sybesma, SDAHO; Melissa Magstadt, SD DOH; DeeAndra Sandgren, Sanford Good Samaritan; Thomas Syverson, Sanford Good Samaritan; Grace Gill, SD Alzheimer's Association; Danielle Pierotti, Mount Marty University.

President Keffeler called the public hearing to order at 9:00 A.M. on August 5, 2025, and stated that this was the time and place for the Public Hearing on the proposed rules of the South Dakota Board of Nursing numbered §§ 20:48:01:01; 20:48:03:18; 20:48:03.01:03; 20:48:04.01:07; 20:48:04.01:20; 20:48:04.01:21; 20:48:04.01:22; 20:48:04.01:23; 20:48:05:07; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12, adopted under the authority of SDCL 36-9-21, 36-9-86, and 36-9A-41.

Keffeler noted that statements made during the hearing are being recorded and in the minutes; she outlined the procedure for the Rules Hearing.

Young provided a report on the Legislative Research Council's recommended corrections to the proposed rules to conform with form, style, clarity, and legality. As required under SDCL 1-26-4(4), she advised the Board to accept the corrections.

Written Testimony in Support of Rules: Ten letters of support were received and entered into the record as follows:

1. Valerie Johnson
    - Proponent
    - Residence: Mitchell, SD
    - Date Testimony Received: June 28, 2025
    - Rules Testified To: §§ 20:48:04.01:07; 20:48:04.01:20; 20:48:04.01:21; 20:48:04.01:22
    - Mrs. Johnson's husband has a tracheostomy tube; she and her family provide his care in their home. "I am absolutely relieved to hear of the proposed change to the rules which would allow routine trach cares."
    - No discussion or action was taken in response to testimony.

The following nine individuals provided letters of support for the following rules: §§ 20:48:01:01; 20:48:04.01:23; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12.

2. Brandy Knebel, Sundial Manor
    - Proponent
    - Residence: Bristol, SD
    - Date Testimony Received: July 22, 2025
    - Stated, “I think the change could be very beneficial. The current system in place is inefficient and confusing to all parties involved.”
    - No discussion or action was taken in response to testimony.
3. Anthony Timanus, Avera Gregory Hospital and Rosebud Country Care Center
    - Proponent
    - Residence: Gregory, SD
    - Date Testimony Received: June 23, 2025
    - “We feel this is a good change that will simplify the certification process and reduce redundancy in the certification process.”
    - No discussion or action was taken in response to testimony.
4. Mark Schmidt, Monument Health’s Sturgis Hospital & Clinic; & Sturgis Care Center
    - Proponent
    - Residence: Sturgis, SD
    - Date Testimony Received: June 23, 2025
    - “Moving the CNA training solely under the SD Board of Nursing’s oversight will improve efficiency and ensure clarity in the training and regulation process.”
    - No discussion or action was taken in response to testimony.
5. Anthony Erickson, Avera Sacred Heart Majestic Bluffs
    - Proponent
    - Residence: Yankton, SD
    - Date Testimony Received: June 23, 2025
    - “From my perspective this move makes perfect sense to move CNA Training and regulation under the BON. The objectives to model similarly to the LPN/RN education and licensure, to promote consistency in training with common curriculum, and ensure compliance with federal regulations.”
    - No discussion or action was taken in response to testimony.
6. Jeremy Schultes, Fall River Health Services
    - Proponent
    - Residence: Hot Springs, SD
    - Date Testimony Received: June 24, 2025
    - “Transitioning the oversight of the CNA training program and regulation to the SD BON is a strategic and beneficial step forward for healthcare in our state.”
    - No discussion or action was taken in response to testimony.
7. Josh Hofmeyer, Dow Rummel Village
    - Proponent
    - Residence: Sioux Falls, SD
    - Date Testimony Received: June 24, 2025
    - “We believe this change will establish consistent standards for CNA training across the state and ensure that all programs, whether delivered online or in-person, offer the same content. Additionally, replacing the current skills exam with a competency-based evaluation better reflects a student’s ability to perform tasks safely and effectively. We also support the introduction of site coordinators, which helps prevent training lockouts and ensures program continuity.”
    - No discussion or action was taken in response to testimony.

8. Scott Eisenbeisz, Bethesda
    - Proponent
    - Residence: Aberdeen, SD
    - Date Testimony Received: July 28, 2025
    - "Centralizing responsibilities within the board of Nursing could reduce administrative redundancies and enhance responsiveness to stakeholders, including healthcare employers, educators, and CNAs themselves. I urge decision-makers to consider the long-term benefits of this change for both the healthcare workforce and the public we serve. Supporting this transition is a step toward strengthening the infrastructure of our healthcare system and ensuring a competent, well-regulated nursing assistant workforce."
    - No discussion or action was taken in response to testimony.
9. Tim Rave, SDAHO
    - Proponent
    - Residence: Sioux Falls, SD
    - Date Testimony Received: June 29, 2025
    - "this move would create a perfect alignment for the management of all nursing-related professionals."
    - No discussion or action was taken in response to testimony.
10. Leslie Morrow, SD Alzheimer's Association
    - Proponent
    - Residence: Sioux Falls, SD
    - Date Testimony Received: July 29, 2025
    - "This new addition to our state's CNA training standards will undoubtedly empower CNAs across our state with the knowledge to understand and support those with Alzheimer's and dementia. I firmly believe that this improvement in training standards will foster a more humane and effective care environment for both residents and their families."
    - No discussion or action was taken in response to testimony.

Written testimony in Opposition of Rules: Eleven emails and letters were received and entered into the record from the following individuals:

1. Email from Teresa Dame, Walworth Care, Selby SD. Received: July 24, 2025;
2. Email from Carmen Davis, Redfield, SD. Received: July 28, 2025;
3. Letter from Mark Deak, Representing SD Health Care Association (SDHCA), Sioux Falls, SD. Received: July 28, 2025;
4. Email from Michelle Dick, Tieszen Home, Marion, SD. Received: July 25, 2025;
5. Email from Heather Hamann, Avantara Clark, Raymond, SD. Received: July 24, 2025;
6. Email from Jason Hanssen, Estelline, SD. Received: July 25, 2025;
7. Email from Corey Lehrman, Diamond Care SD, Spencer, SD. Received: July 22, 2025;
8. Email from Ethel Martin, Bennett County Hospital, Martin, SD. Received: July 23, 2025;
9. Letter from Erica DeBoer, Sanford Good Samaritan, Sioux Falls, SD. Received: July 29, 2025;
10. Email from Kristi Schulz, Avera Wessington Springs, SD. Received: July 24, 2025;
11. Email from Hunter Winklepleck, Bethany Lutheran Home, Sioux Falls, SD. Received: July 28, 2025.

Written testimony from the eleven individuals was on proposed rules: §§ 20:48:01:01; 20:48:04.01:23; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12.

A summary of the testimony and the Board's action in response to address the eleven individuals concerns was read aloud and entered into the record:

1. *Concern*: Abuse and neglect content is no longer required in first 16 hours of program.

   Action in Response: Specific content was added to the drafted curriculum rule, § 20:48:18:09, before the hearing.

2. *Concern*: Change of language from "Supervised Practical Training" to "clinical experience in a nursing facility". The federal regulations include at least 16 hours of supervised practical training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of nurse. The rules should keep the supervised practical training as defined by federal regulations.

   Action in Response: "Supervised practical training" and "skills laboratory" was added to the drafted curriculum rule, § 20:48:18:09, before the hearing. This rule was also amended to increase to 43 hours for the required hours to teach theoretical content and supervised practical training in a laboratory, nursing facility, or comparable nursing practice setting, this amendment adds flexibility for training programs. The required supervised practical training in a nursing facility was also amended to 16 hours and added allowing a comparable setting.

3. *Concern*: No Residents' Rights section in curriculum; rules should include a specific sub-point indicating that residents' rights training should align with federal regulations.

   Action in Response: Specific content, very similar to the federal regulations, was added before the hearing to the drafted curriculum rule, § 20:48:18:09.

4. *Concern*: Move to a single common curriculum and textbook is concerning because providers invested significant resources in current training resources.

   Action in Response: None, no amendment. Section 20:48:18:09 does not require a specific text or resource. A response was sent by letter to the eleven individuals to inform them that resources that meet curriculum requirements will be approved and training programs that invested significant resources in current learning materials will be allowed to use those resources.

5. *Concern*: Adequate timeline for providers to ensure CNA testing and training programs are following the new rules, with an implementation date of one year after finalization of rules.

   Action in Response: None, no amendment. A response was sent by letter to the eleven individuals to inform them that a specific deadline was not included because the Board wants to ensure flexibility to allow a program more than one year if needed to successfully transition.

6. *Concern*: CNA programs were renewed through the DOH annual survey process. Will this still be the case, or will BON be conducting an additional survey on providers?

   Action in Response: None, no amendment. A response was sent by letter to the eleven individuals to inform them that the Board has always approved training programs, not the DOH. The Board explained that the Board must conduct a site visit to comply with federal regulations prior to renewing a training program. The Board needs to conduct the visit because the DOH's survey of a facility does not always coincide with renewal of a training program and the DOH does not conduct site visits for all training programs. The proposed rule in § 20:48:18:10 provides flexibility to perform an onsite or virtual visit.

7. *Concern*: The new rules may result in terminating SDHCA's role in CNA testing. SDHCA has worked to ensure more than 100 authorized test sites across SD; students do not have to travel to test; providers do not have to arrange or pay for transportation and time away from a facility.

Each year we [SDHCA] host in-person meetings between stakeholders to modify the CNA exam to ensure students are appropriately trained and tested. SDHCA's role has ensured direct, local support for test observers, instructors, resident actors, test sites, and students. If there are testing-related issues, we [SDHCA] provide live support from dedicated staff.

Action in Response: None, no amendments. The Board sent a letter to the eleven individuals to inform them of the following information. The Board must issue a request for proposal (RFP) to allow all interested parties to apply for the knowledge exam contract. The proposed rules move the skills evaluation to training programs, this promotes a similar process to that of RN/LPN students. The CNA skills evaluation will be randomly assigned by the Board from a pool of tasks, as required federally. The new rules allow a training program to evaluate a student in the skills laboratory, nursing facility, or comparable nursing practice setting. The proposed rules do not limit the number of locations to take the online knowledge exam or skills evaluation, do not require resident actors, and CNA applicants will not be required to travel away from a facility. The Board may hold focus sessions with interested stakeholders and may convene representatives to evaluate the knowledge exam and skills evaluation. The Board has adequate staff to support training and regulation of CNAs. The Board currently employs a full-time RN who has experience in nursing education to support CNA training and testing, two program assistants who processes CNA applications, exam results, and assist with approval of training programs, and the Board received the Legislature's approval to hire a half-time RN to support complaints and discipline processes.

Oral Testimony: Keffeler took oral testimony from three individuals:

1. Jennifer Maeschen, Assistant Administrator, SD DOH
   - Proponent
   - Residence: Mitchell, SD
   - Rules Testified To: §§ 20:48:01:01; 20:48:04.01:23; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12.
   - Summary of Testimony: Maeschen stated that she attended most of the focus sessions held by the Board in April and May 2025; that the board and the DOH have worked together to support positive changes to the regulations of CNAs. She supports the rules as written.
   - No discussion or action was taken in response to her testimony.
2. Michella Sybesma, SDAHO
   - Proponent
   - Residence: Sioux Falls, SD
   - Rules Testified To: §§ 20:48:01:01; 20:48:04.01:23; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12.
   - Summary of Testimony: Sybesma expressed support of the rules and the move to transfer CNA regulation from the DOH to the Board.
   - No discussion or action was taken in response to her testimony.
3. Melissa Magstadt, Secretary, SD DOH
   - Proponent

- Residence: Castlewood, SD
- Rules Testified To: §§ 20:48:01:01; 20:48:04.01:23; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12.
- Summary of Testimony: Very supportive of rules as written; the DOH supports the transition of CNA regulation moving from the DOH to the Board. The DOH supports regulatory responsibility of facilities and the Boards support regulatory responsibility of individuals. Having one state agency regulate CNAs will allow greater efficiency of regulatory processes. The move to have CNAs under the Board of Nursing elevates the profession of CNAs.
- No discussion or action was taken in response to her testimony.

Summary of Changes to Proposed Rules Because of the Public Hearing or Comment
President Keffeler called for questions; no questions were asked. No additional changes to the proposed rules were made at the public hearing.

Hearing Adjournment: 10:14 A.M (Central)

President Keffeler called the Board of Nursing meeting to order at 10:14 A.M. and asked for Board action.

Board Action: Motion by Buchholz to adopt the proposed rules, numbered: §§ 20:48:01:01; 20:48:03:18; 20:48:03.01:03; 20:48:04.01:07; 20:48:04.01:20; 20:48:04.01:21; 20:48:04.01:22; 20:48:04.01:23; 20:48:05:07; 20:48:16:01; 20:48:16:02; 20:48:16:03; 20:48:16:04; 20:48:16:07; 20:48:16:08; 20:48:16:09; 20:48:16:10; 20:48:16:11; 20:48:16:12; 20:48:16:13; 20:48:16:14; 20:48:18:01; 20:48:18:02; 20:48:18:03; 20:48:18:04; 20:48:18:05; 20:48:18:06; 20:48:18:07; 20:48:18:08; 20:48:18:09; 20:48:18:10; 20:48:18:11; and 20:48:18:12, as revised by the LRC for form, style, clarity, and legality. Second by Borchardt. Motion carried.

Borchardt	Yes	Felton	Yes	Hinker	Yes	Tilton	Absent
Bowar	Absent	Gabriel	Yes	Keffeler	Yes	VandenBos	Yes
Buchholz	Yes	Jarding	Yes	Koenecke	Yes	Yes Votes: 9	

Respectfully submitted,

Linda Young

Linda Young
Executive Director, South Dakota Board of Nursing