



South Dakota Board of Funeral Service

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

Phone: (605) 642-1600
E-Mail: office@sdlicensing.com
Home Page: funeralboard.sd.gov

DRAFT **BOARD MEETING AGENDA**

TO: Board Members

FROM: Brooke Tellinghuisen Geddes, Executive Secretary

MEETING DATE: May 7, 2025

MEETING TIME: 2:00pm MDT/3:00pm CDT

MEETING LOCATION: The Lodge at Deadwood- Roosevelt Room
100 Pine Crest Dr.
Deadwood, SD 57732

The meeting will also take place via Microsoft Teams

The public is invited to attend the meeting via Microsoft Teams at the following link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTAzOWYyMmYtMGUxOS00ZmZiLTk0NzItMDEwZTgzM2YzYWQ1%40thread.v2/0?context=%7b%22id%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d

Or by calling: 1-469-770-0416, Passcode: #331723016#

If members of the public would like to be sent the Microsoft Teams invitation to the meeting instead of using the above link, please contact the board office prior to the meeting at office@sdlicensing.com. If you are having issues accessing the link, please contact the board office at 605-642-1600.

Agenda Item Number:

1. Call to order/welcome and introductions-Jones
2. Roll call-Jones
3. Public Hearing to Adopt Proposed Rules
4. Corrections or additions to the agenda
5. Approval of the agenda
6. Public testimony/public comment period
7. Approval of the minutes from February 25, 2025

8. FY financial update
9. Legislative Updates
10. Election of Officers
11. SDFDA FY27 Contract Renewal (Vote)
12. ICFSEB Annual Meeting Report- Jones & Borchert
13. Executive Session-pursuant to SDCL 1-25-2
 - a. Complaints/Investigations- if any
14. Schedule next meeting
15. Any other business coming in between date of mailing and date of meeting
16. Adjourn

FORM 6

South Dakota Board of Funeral Service Notice of Public Hearing to Adopt Rules

A public hearing will be held at The Lodge at Deadwood at 100 Pine Crest Lane, Deadwood, SD 57732, on May 7, 2025, at 2 p.m. (MDT), to consider the amendment of proposed Administrative Rules of South Dakota numbered:

§§ 20:45:03:01, 20:45:03:02, 20:45:03:02.02, 20:45:03:08

The effect of the rules will be to clarify trainee program requirements, clarify trainee program supervision requirements, and to update licensure fees for funeral service licensees and funeral establishments.

The reason for adopting the proposed rules is to ensure the trainee program provides a valuable training opportunity to ensure competent licensees and protect the public. This requires updates to how a trainee is eligible to participate and how a supervisor provides supervision to trainees in the program. Fee updates are being done to comply with HB 1015 which raises licensure fees to ensure financial viability of the board.

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 The South Dakota Board of Funeral Service, 810 N. Main St. #298, Spearfish, SD 57783 or office@sdlicensing.com. The link to join via video conference is: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTAzOWYyMmYtMGUxOS00ZmZiLTk0NzItMDEwZTgzM2YzYWQ1%40thead.v2/0?context=%7b%22Tid%22%3a%22e69efb98-56ef-4797-a76b-e1ec658a639c%22%2c%22Oid%22%3a%22ee0a24e7-6d2c-4495-ade5-4377098865d2%22%7d. The deadline to submit any such written comments for consideration at the hearing is May 4, 2025.

After the written comment period, the South Dakota Board of Funeral Service will consider all written and oral comments it receives on the proposed rules. The South Dakota Board of Funeral Service 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 South Dakota Board of Funeral Service at least 48 hours before the public hearing if you have special needs for which special arrangements can be made by calling 605-773-3361. You may also contact Telecommunication Relay Services for the Deaf at 1-800-877-1113.

Copies of the proposed rules may be obtained without charge from:
The South Dakota Board of Funeral Service
810 N. Main St., #298, Spearfish, SD 57783
office@sdlicensing.com
(605)642-1600

and/or <http://rules.sd.gov>

Published at the approximate cost of \$_____.

20:45:02:08. Definitions. Terms defined in SDCL 36-19-1 have the same meaning when used in this article. As used in this article, the term, sponsor, means a funeral director licensed in accordance with SDCL chapter 36-19 and § 20:45:03:02.02 who is supervising a trainee in funeral service.

Source: 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-1, 36-19-21.

DRAFT

CHAPTER 20:45:03

LICENSING REQUIREMENTS

Section

20:45:03:01	Minimum qualifications of trainee.
20:45:03:02	Traineeship in funeral service.
20:45:03:02.01	Mortuary student trainee, Repealed.
<u>20:45:03:02.02</u>	<u>Qualifications of a trainee sponsor.</u>
<u>20:45:03:02.03</u>	<u>Supervision of trainee.</u>
20:45:03:03	College coursework requirements, Repealed.
20:45:03:03.01	Acceptance of National Board Examination, Repealed.
20:45:03:04	Filing of application, Repealed.
20:45:03:04.01	Incomplete application.
20:45:03:05	Failure to pass examination, Repealed.
20:45:03:06	Repealed.
20:45:03:07	Renewal of lapsed license, Repealed.
20:45:03:08	Fees.

20:45:03:01. Minimum qualifications of trainee. An applicant for registration as a trainee in funeral service shall have a high school education or a high school equivalent education, must be:

- (1) be at least eighteen years of age; and be of
- (2) Of good moral character; and
- (3) Enrolled in or have completed a mortuary science or funeral service program accredited by the American Board of Funeral Service Education.

Source: SL 1975, ch 16, § 1; 9 SDR 59, effective November 14, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-1(5), 36-19-18, 36-19-21(5).

DRAFT

20:45:03:02. Traineeship in funeral service. ~~For purposes of this section, one year's work is twelve months, either consecutive or non-consecutive, and in no event may the traineeship be less than two thousand eighty hours. Although the twelve-month period is not required to be completed in consecutive succession, a trainee must reapply for registration if the trainee seeks to resume duties after being terminated by a sponsor, or if the trainee changes sponsors for any reason. To satisfy the licensing requirement in SDCL 36-19-21, the traineeship must be a minimum of one year and completed within three years from the date of initial registration. An individual shall apply for a license to practice funeral service within five years of completing the traineeship or the traineeship must be repeated to be eligible for licensure.~~

~~The trainee must perform all work under the supervision of the trainee's sponsor. If a trainee is terminated by a sponsor or changes sponsors for any reason, the trainee must reapply for and be granted registration, and a new sponsor must be designated before the trainee resumes work. The traineeship may be served under different funeral service licensees licensed in accordance with SDCL chapter 36-19 sponsors and in different funeral establishments licensed in accordance with SDCL chapter 36-19. The trainee must be a citizen of the United States or a resident of South Dakota. The traineeship must be completed in one-month segments, unless the board finds good cause for shorter segments shall notify the board in writing of any changes in circumstances or supervision within ten days of the event.~~

~~A funeral service licensee may not sponsor more than one trainee at a time. The sponsoring funeral service licensee is fully responsible for the trainee's actions and work in funeral service. The sponsor and the trainee shall notify the board immediately of the termination or temporary discontinuance of supervision of a trainee.~~

~~———— To maintain registration, the trainee must file with the board at least twenty-five acceptable embalming case reports on forms provided by the board, along with twelve monthly report cards. The trainee shall assist in the direction of at least twenty-five funerals and present five sets of arrangements. The trainee must perform all work as a trainee under the supervision of the trainee's funeral service sponsor.~~

~~———— A terminated traineeship may be reinstated if the trainee applies again to the board. A traineeship may be completed before or after completing mortuary college.~~

~~———— Any funeral service licensee, including a sponsor or the owner of a funeral establishment, who allows a person to do the work of a trainee when that person is not registered with the board or when that person has completed the traineeship program, is subject to license revocation or suspension.~~

———— During the traineeship, the trainee must:

- (1) Work at least two thousand and eighty hours;
- (2) Complete twenty-five acceptable embalming case reports on forms provided by the board;
- (3) Complete monthly report cards on forms provided by the board;
- (4) Assist in directing twenty-five funerals; and
- (5) Present five sets of arrangements.

———— An activity being completed for credit towards an accredited mortuary science or funeral service program may not be used to satisfy the trainee requirements described in subdivisions (1) to (5), inclusive, of this section.

———— The trainee must submit all reports and forms to the board prior to the completion of the traineeship.

Failure to comply with this section is grounds for licensure action pursuant to SDCL 36-19-38.

Source: SL 1975, ch 16, § 1; 9 SDR 59, effective November 14, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 19 SDR 35, effective August 27, 1992; 21 SDR 118, effective January 2, 1995; 30 SDR 215, effective July 14, 2004; 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-21(5), 36-19-38(7)(13).

20:45:03:02.02. Qualifications of a trainee sponsor. To qualify as a trainee sponsor, the licensed funeral director must be in good standing, have been licensed for at least five consecutive years immediately preceding becoming a sponsor, and have had no discipline on the license for the past five years.

Source:

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-21(5), 36-19-38(7)(13).

20:45:03:02.03. Supervision of trainee. The sponsor must be physically present in the same funeral establishment as the trainee to directly supervise the trainee's first five embalming cases. Thereafter, if the sponsor determines the trainee has demonstrated competency and professionalism, the trainee may only work if the sponsor is immediately available in person or by telecommunications.

The sponsor must notify the board in writing within ten days if the sponsor terminates the traineeship. If the sponsor is no longer available, the trainee may not perform any work until the trainee has applied for and received registration, and a new sponsor is designated.

The sponsor is responsible for the trainee's actions and work in funeral service, and for ensuring the trainee completes all required reports and forms. The sponsor may not supervise more than one trainee at a time. The sponsor must display the trainee's registration at the funeral establishment.

A sponsor may delegate supervision of a trainee to another funeral service licensee for a up to thirty days to complete the traineeship requirements described in subdivisions (1) to (4), inclusive, of § 20:45:03:02 that a trainee is unable to fulfill at the sponsor's funeral establishment.

Any funeral service licensee may not:

- (1) Allow an individual to do the work of a trainee if the individual is not registered with the board; or
- (2) Allow an individual, who has completed the traineeship, to continue to do the work of a trainee.

Failure to comply with this section is grounds for licensure action pursuant to SDCL 36-19-

38.

Source:

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-21(5), 36-19-38(7)(13).

DRAFT

20:45:03:08. Fees. The fees for licenses and registrations issued by the board are as follows and are nonrefundable:

- (1) Trainee registration fee, twenty-five dollars;
- (2) Funeral director license application fee, ~~one~~ two hundred and twenty-five dollars;
- (3) Annual funeral director license renewal fee; ~~one~~, two hundred and twenty-five dollars;
- (4) Funeral establishment license application fee, ~~two~~ three hundred and fifty dollars;
- and
- (5) Annual funeral establishment license renewal fee, ~~two~~ three hundred and fifty dollars.

Source: 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-25, 36-19-27, 36-19-37, SL 2025, ch 160 §

6.

SPEAKER JON HANSEN, CHAIR | PRESIDENT PRO TEMPORE CHRIS KARR, VICE CHAIR
JOHN MCCULLOUGH, DIRECTOR | JUSTIN GOETZ, CODE COUNSEL
500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



April 16, 2025

Brooke Tellinghuisen Geddes
State Board of Funeral Service
810 N Main Street, #298
Spearfish, SD 57783

Dear Ms. Tellinghuisen Geddes:

The Legislative Research Council (LRC) received proposed rules from the State Board of Funeral Service on March 31, 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 the Form 6 - Notice of Public Hearing submitted by the Board, for future filings by the Board, the link provided to the Microsoft Teams meeting did not work for persons accessing the link from LRC. It also appears impractical for persons using the physically published version of the notice to attempt to reproduce the URL provided for the Teams meeting. Any alternative means for depicting the Teams meeting link, which avoids these issues, is recommended for future submissions.

Note that with the proposed increase in fees, the Board is required to provide the information described in SDCL 1-26-4.8 to the Interim Rules Review Committee. Please complete the Form 17 and provide it to the Committee and LRC with the final packet submission, prior to the Committee meeting date.

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 blue ink, appearing to read "Justin J. Goetz". The signature is written over a horizontal line.

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:	March 31, 2025
Date Public Hearing Scheduled:	May 7, 2025
Proposed Rules Reviewed by:	Anna Madsen
Fiscal Note Reviewed by:	Bill Douglas

"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)):			AM
a. The proposed rules:			N/A
i. Any incorporated material:			AM
b. Notice of hearing (Form 6):			
2. Verify all documents have correct citations to the proposed rules provided in the packet.			AM
3. Verify the appropriate departmental secretary, bureau commissioner, public utilities commissioner, or constitutional officer approved the rules process to proceed. (SDCL 1-26-4(1))			AM
4. If the Department of Social Services is promulgating rules that are mandated by federal statute or regulation, use the DSS Federal Regulations Checklist.			
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).			AM*
i. Verify the most recent rule is used. (Manual , pg. 5)			AM
ii. Verify all cross-references in text are current. (Manual , pg. 6)			AM
iii. Verify all affected sections are included. For repealed sections, verify all affected sections are amended. (Manual , pg. 6)			AM/JG*
iv. Verify any renumbering of rules is consistent with Administrative Rules Drafting Manual. (Manual , pg. 7)			AM

b. Legality, including:

- | | |
|---|--------|
| i. Verify the General Authority statute provides rule-making authority (i.e., ". . . shall/may promulgate rules to . . ."). (Manual , pg. 8) | AM |
| ii. Verify the Law Implemented statute identifies the policy intended to be implemented. (Manual , pg. 8) | AM/JG* |
| 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) | N/A |
| 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. | N/A |
| 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. | N/A |
| 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) | AM |
| 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) | AM |
| vi. Verify the agency does not delegate authority to a private association. (S.D. Const. art. III, §§ 23 (9), 26) | AM |
| 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)) | AM |
| 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). | AM |
| 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)) | AM |
| x. Verify only the rules being changed are included in the packet and that chapter indexes are updated as needed. (Manual , pg. 8) | AM/JG* |

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. | AM |
|---|----|

- | | |
|---|-----|
| b. Verify the notice contains a narrative description of the effect of the proposed rule. | AM |
| c. Verify the notice contains the reason for adopting the proposed rule. | AM |
| d. Verify the notice contains the location, date, and time (Central or Mountain) of the hearing. | AM |
| e. Verify the notice contains information about how amendments, data, opinions, and arguments may be presented. | AM |
| f. Verify the notice contains a deadline for submission of comments. | AM |
| 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)) | N/A |
| 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)). | AM |
| g. Verify the notice contains information for how the public may obtain copies of the proposed rules. | AM |
| 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) | N/A |

Reviewed by Code Counsel on April 8, 2025

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

Date Proposed Rules Received by LRC:

May 7, 2025

Date Public Hearing Scheduled:

Anna Madsen

Proposed Rules Reviewed by:

Bill Douglas

Fiscal Note Reviewed by:

Bill Douglas

"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):

AM

b. Small business impact statement (Form 14):

N/A

c. Housing Cost Impact Statement (Form 16), if applicable:

AM

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](#))

BD

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](#))

AM

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:

AM

i. If there is an effect, verify the Fiscal Note includes an explanation of how the effect was computed?

BD

ii. If there is an effect on subdivisions, is that effect described?

BD

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: | <u>AM*</u> |
| i. If only INDIRECT, verify that a brief description of the impact is included. | <u>AM</u> |
| ii. If DIRECT, review 4.b through 4.h: | |
| b. Verify the Impact Statement includes a narrative explanation in plain, easy-to-read language. | <u>AM</u> |
| 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. | <u>AM/JG*</u> |
| d. Verify the narrative explanation includes an identification and estimated number of small businesses subject to the proposed rule. | <u>AM</u> |
| e. Verify the Impact Statement includes the projected reporting and record-keeping required for compliance with the proposed rule. | <u>AM/JG*</u> |
| f. Verify the Impact Statement includes the types of professional skills necessary for preparation of required reports or records. | <u>N/A</u> |
| g. Verify the Impact Statement includes a statement of the probable effect on impacted small business. | <u>N/A</u> |
| h. Verify the Impact Statement includes a description of any less intrusive or less costly alternative methods of achieving the proposed rule's purpose. | <u>BD</u> |

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. | <u>AM</u> |
| b. Verify a description of and explanation of necessity for each each standard and requirement is included. | <u>AM</u> |
| c. Verify the statement includes the average estimated cost of each standard and requirement. | <u>AM</u> |
| d. Verify that contact and estimate information is included for three licensed contractors or building trades professionals. | <u>AM</u> |

Reviewed by Code Counsel on April 8, 2025

CHAPTER 20:45:03

LICENSING REQUIREMENTS

Commented [AM1]: Style/form - Note that proposed rules should be presented in 12-point Times New Roman font. Please revise throughout. ARSD Drafting Manual, pg. 5.

Section

- 20:45:03:01 Minimum qualifications of trainee.
- 20:45:03:02 Traineeship in funeral service.
- 20:45:03:02.01 Mortuary student trainee, Repealed.
- 20:45:03:02.02 Supervision of ~~trainee in funeral service~~.
- 20:45:03:03 College coursework requirements, Repealed.
- 20:45:03:03.01 Acceptance of National Board Examination, Repealed.
- 20:45:03:04 Filing of application, Repealed.
- 20:45:03:04.01 Incomplete application.
- 20:45:03:05 Failure to pass examination, Repealed.
- 20:45:03:06 Repealed.
- 20:45:03:07 Renewal of lapsed license, Repealed.
- 20:45:03:08 Fees.

Commented [AM2]: Clarity - Since "trainee" is defined in SDCL 36-19-1, and ARSD 20:45:02:08 states that terms used in that section mean the same in Article 20:45, we can use the shortened "trainee."

20:45:03:01. Minimum qualifications of trainee. An applicant for registration as a trainee

~~in funeral service shall have a high school education or a high school equivalent education, must~~
~~be at least eighteen years of age, and be of good moral character, and maintain enrollment in or~~
have completed a mortuary science or funeral service program accredited by the American Board of Funeral Service Education.

Commented [AM3]: Clarity - Same as above.

Commented [AM4]: Style/form - "must be" is used for required condition. ARSD DM, pg. 14.

Commented [AM5]: Clarity - Consider using subdivisions for easier readability since there are now three items in the list, with the last one being fairly long.

Commented [JG6]: Clarity/Legality - Section 3 of SB 80 declares that chapter 36-19 "does not apply to a student enrolled "full-time in a program accredited by the American Board of Funeral Service Education" The authority of the Board to license is entirely contained within chapter 36-19. If a student is exempt from the chapter, how can a student be licensed under the chapter? Wouldn't that provision require an applicant to licensure to complete the program before they could then be registered for the traineeship under chapter 36-19?

Source: SL 1975, ch 16, § 1; 9 SDR 59, effective November 14, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-1(5), 36-19-18, 36-19-21(5).

Commented [JG7]: Legality- The only other reference to a "trainee" in SDCL chapter 36-19 is provided by this section. The fact that serving as a trainee is a prerequisite to licensure appears to be relevant to this section.

20:45:03:02. Traineeship in funeral service. For purposes of this section, one year's work is twelve months, either consecutive or non-consecutive, and in no event may the traineeship be less than two thousand eighty hours. Although the twelve-month period is not required to be completed in consecutive succession, a trainee must reapply for registration if the trainee seeks to resume duties after being terminated by a sponsor, or if the trainee changes sponsors for any reason. ~~The To satisfy the licensing requirement in SDCL 36-19-21, the traineeship must be a~~ minimum of one year, or two thousand eighty hours. After the initial year, the trainee may apply to the board for six-month extensions, which may be granted for good cause. In all cases, the traineeship must be completed within three years from the date of initial registration. A trainee ~~must shall~~ apply for licensure within five years of completing the traineeship, or the traineeship must be repeated to be eligible for licensure.

The trainee must perform all work under the supervision of the trainee's funeral service sponsor. If a trainee is terminated by a sponsor or changes sponsors for any reason, the trainee must reapply for registration before resuming duties. The traineeship may be served under different funeral service licensees licensed in accordance with SDCL chapter 36-19 and in different funeral establishments licensed in accordance with SDCL chapter 36-19. The trainee must be a citizen of the United States or a resident of South Dakota. The traineeship must be completed in one-month segments, unless the board finds good cause for shorter segments shall notify the board of any changes in circumstances or supervision within ten days of the event.

A funeral service licensee may not sponsor more than one trainee at a time. The sponsoring funeral service licensee is fully responsible for the trainee's actions and work in funeral service. The sponsor and the trainee shall notify the board immediately of the termination or temporary discontinuance of supervision of a trainee.

Commented [AM8]: Style/form - Strike space here. (When I try to strike it, the system deletes this comment for some reason).

Commented [JG9]: Clarity - Beginning with "the" suggests that there is a specific concept being referenced here, but it is not clear what "traineeship" this is referencing. Recommend inserting the cross-reference that describes what this traineeship is, as provided to the left.

Commented [AM10]: Clarity - I understand what you are getting at here but think it may need a little refinement—could you just pick one or the other here? Otherwise, the language suggests that a traineeship could last one year, but not necessarily be 2,080 hours. Perhaps the next sentence could read: "If a trainee does not complete two thousand eighty hours within one year of initial registration, the trainee may apply..."

Commented [AM11]: Clarity - "individual"? At this point, they would not be a trainee, since they completed the traineeship.

Commented [JG12]: Style - None of the grounds for using "must" appear to apply here. ARSD DM, pg. 14.

Commented [AM13]: Clarity - "as a funeral director"? Or "a license to practice funeral service"?

Commented [AM14]: Clarity - Since "sponsor" is defined in ARSD 20:45:02:08, no need for this additional language.

Commented [AM15]: Clarity - I presume the trainee could resume duties after successful re-registration, not just upon resubmitting an application? Does this need a slight tweak?

Additionally, to square this with the comment on the following rule, perhaps language regarding the designation of a new sponsor could be added here?

Commented [AM16]: Clarity - "sponsors"? If that indeed means the same thing here, does the previous sentence imply that a traineeship can be completed under different sponsors, making this part redundant? Or are we talking about multiple sponsors at the same time?

Commented [JG17R16]: Clarity - ARSD 20:45:02:08 defines "sponsor" in relevant part as being "a funeral director licensed in accordance with SDCL chapter 36-19".

Commented [AM18]: Clarity - Must this be in writing?

Commented [AM19]: Style/form - The period at the end of this sentence should not be underscored since it is the period for the end of the previous sentence. If you strike it, the period will be lost.

Commented [JG20R19]: Clarity - Doesn't this sentence effectively make the second sentence in this paragraph redundant? Or do "changes in circumstances or supervision" refer to the same thing as "termination or temporary discontinuance of supervision of a trainee"?

—— To maintain registration, the trainee must file with the board at least twenty-five acceptable embalming case reports on forms provided by the board, along with twelve monthly report cards. The trainee shall assist in the direction of at least twenty-five funerals and present five sets of arrangements. The trainee must perform all work as a trainee under the supervision of the trainee's funeral service sponsor.

—— A terminated traineeship may be reinstated if the trainee applies again to the board. A traineeship may be completed before or after completing mortuary college.

—— Any funeral service licensee, including a sponsor or the owner of a funeral establishment, who allows a person to do the work of a trainee when that person is not registered with the board or when that person has completed the traineeship program, is subject to license revocation or suspension.

—— During the traineeship, the trainee must:

- (1) Complete twenty-five acceptable embalming case reports on forms provided by the board;
- (2) Complete monthly report cards on forms provided by the board;
- (3) Assist in directing twenty-five funerals; and
- (4) Present five sets of arrangements.

—— The trainee must submit all reports and forms **to the board** prior to the completion of the traineeship.

—— Failure to comply with this section is grounds for licensure action pursuant to SDCL 36-19-38.

Source: SL 1975, ch 16, § 1; 9 SDR 59, effective November 14, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 19 SDR 35, effective August 27, 1992; 21 SDR 118, effective January 2, 1995; 30 SDR 215, effective July 14, 2004; 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Commented [AM21]: Clarity - Just to be clear, any failure to comply with this section only applies to fully licensed individuals, since trainees are not licensed and 36-19-38 only provides for grounds for action on a license?

Commented [JG22R21]: Clarity/Legality -- To further reinforce Anna's point, initial licensure denial is not one of the permitted actions in response to one of the occurrences in SDCL 36-19-38—only refusal to renew, suspension, or revocation are referenced. Indeed, while SDCL 36-19-21(7) references a "ground for denying . . . under this chapter" a license application, it does not appear that any ground for denying a license is explicitly given in chapter 36-19.

A strained interpretation might be to point to the authority to promulgate rules under chapter 36-19 (i.e., subdivision 36-19-12.1(2)) and assert that these are the "ground[s] for denying" referenced in SDCL 36-19-21.

Law Implemented: SDCL 36-19-18, 36-19-21(5), 36-19-38(7)(13).

DRAFT

20:45:03:02.02. Supervision of trainee in funeral service. To qualify as a sponsoring funeral service licensee sponsor, the licensee must be licensed in good standing, have been licensed for at least five years, and have had no discipline on their license for the past five years to sponsor a trainee.

The sponsoring funeral service licensee sponsor must be physically present in the same funeral establishment as the trainee to directly supervise the trainee's first five embalming cases. If, after the first five embalming cases, [Thereafter, if] the sponsor determines the trainee has demonstrated competency and professionalism, the trainee may practice if the sponsor is immediately available in person or by telecommunications. A trainee may not practice without the sponsor's immediate availability.

The sponsor must notify the board in writing within 10 ten days of terminating the traineeship. If the sponsor is no longer available, the trainee may not perform any tasks until a new sponsor is designated.

The sponsor is duly responsible for ensuring the trainee completes all required reports and forms. The sponsor may not supervise more than one trainee at a time. The sponsor is responsible for the trainee's actions and work in funeral service. The sponsor must display the trainee's registration at the funeral establishment.

A sponsor may delegate supervision of a trainee to another funeral service licensee for a up to thirty days to complete the traineeship reporting requirements that cannot be fulfilled at the sponsor's funeral establishment.

Any funeral service licensee who allows a person an individual to do the work of a trainee when, if that person individual is not registered with the board or when if the trainee individual has completed the traineeship program, is subject to license revocation or suspension. Failure to comply with this section is grounds for licensure action pursuant to SDCL 36-19-38.

Commented [AM23]: Clarity - Since the first paragraph speaks to the qualifications of a sponsor, should that be added to the catchline?

Commented [JG24R23]: Clarity/Style - Recommend instead that this first paragraph be its own new section, and then make the nature of the supervision (the remaining paragraphs) into a new section 20:45:03:02.03. "Keep rule sections and paragraphs within rules sections short." ARSD DM, pg. 13. This change would result in changes to the chapter index above.

Commented [AM25]: Clarity - Since a sponsor must be a licensed funeral director per the definition of "sponsor" could this be "funeral director"?

Commented [JG26R25]: Clarity - I think the modifier "licensed" is necessary to add as the definition of "funeral director" in SDCL 36-19-1 does not assume that the person is in fact licensed. Perhaps, then: "the licensed funeral director must be in good standing, . . ."

Commented [AM27]: Clarity - not consecutively or

Commented [AM28]: Style/form - Singular-plural issue

Commented [JG29R28]: Style - "the"

Commented [AM30]: Clarity - Redundant given the fi

Commented [AM31]: Clarity - This is the term precise

Commented [JG32]: Style - Suggestion to make the

Commented [AM33]: Clarity - By "practice," do we

Commented [JG34R33]: Clarity - Reinforcing Anna's

Commented [JG35]: Clarity - Could this final sentence

Commented [AM36]: Same.

Commented [AM37]: Style/form - Recommend new

Commented [AM38]: Clarity - "if the sponsor

Commented [AM39]: Clarity - in the previous rule, bo

Commented [AM40]: Clarity - The previous rule state

Commented [JG41R40]: Clarity - Agreed. This gets to

Commented [AM42]: Clarity - Extraneous word.

Commented [AM43]: Clarity - Could you combine thi

Commented [AM44]: Clarity - Is this just the "reportin

Commented [AM45]: Clarity - "that a trainee is unabl

Commented [AM46]: Style/form - Use individual whe

Commented [AM47]: Clarity - Not a trainee anymore

Commented [AM48]: Clarity - Isn't this encompassed

Commented [JG49]: Clarity/Legality - Is this sentence

Source:

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-21(5), 36-19-38(7)(13).

DRAFT

20:45:03:08. Fees. The fees for licenses and registrations issued by the board are as follows and are nonrefundable:

- (1) Trainee registration fee, twenty-five dollars;
- (2) Funeral director license application fee, ~~one~~ two hundred and twenty-five dollars;
- (3) Annual funeral director license renewal fee; ~~one~~, two hundred and twenty-five

dollars;

- (4) Funeral establishment license application fee, ~~two~~ three hundred and fifty dollars;

and

- (5) Annual funeral establishment license renewal fee, ~~two~~ three hundred and fifty

dollars.

Source: 50 SDR 157, effective July 2, 2024.

General Authority: SDCL 36-19-12.1.

Law Implemented: SDCL 36-19-18, 36-19-25, 36-19-27, 36-19-37, ~~SL 2025, ch XXX §~~

~~× SL 2025, ch 160, § 6.~~

Commented [AM50]: Style/form - Please be sure this semicolon is struck, as in HB 1015.

Commented [JG51]: Legality - Included the updated session law citation. The 2025 session laws have been organized.

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



Board of Funeral Service

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

Phone: (605) 642-1600
E-Mail: office@sdlicensing.com
Home Page: funeralboard.sd.gov

DRAFT BOARD MINUTES FOR FEBRUARY 25, 2025 BOARD MEETING/TELECONFERENCE

Members Present: James Jones, President
Chad Osthus, Vice-President
Randy Brennick, Secretary/Treasurer
Michael Carlsen, Member
Shawna Flax, Dept. of Health (Non-voting member)

Members Absent: Sharel Delzer, Lay Member

Others Present: Brooke Tellinghuisen Geddes, Executive Secretary
Megan Borchert, General Counsel, Attorney General's Office
Katie Funke, Executive Assistant

Call to Order/Welcome and Introductions: Jones called the meeting to order at 4:00 p.m. CST.

Roll Call: Jones, yes; Osthus, yes; Carlsen, yes; Delzer, absent; Flax, yes; Brennick, yes. A quorum was present.

Corrections or additions to the agenda: None

Approval of the agenda: Carlsen made a motion to approve the agenda. Osthus seconded the motion. **MOTION PASSED** by unanimous voice vote.

Public Comment: None.

Approval of the minutes from October 17, 2024: Osthus made a motion to approve the minutes from October 17, 2024. Carlsen seconded the motion. **MOTION PASSED** by unanimous voice vote.

FY Financial Update: Tellinghuisen Geddes reported fiscal year-end figures as of January 31, 2025: revenue of \$74,745.55; expenditures of \$55,364.53 and a cash balance of \$100,839.07.

Legislative Updates

HB 1015: Tellinghuisen Geddes provided an update on HB 1015, an Act to increase licensure fees related to the practice of funeral service and cremation. It was reported that it passed the House and will be presented to the Senate Health and Human Services committee next week. If passed, the board will need to promulgate rules before the fee can be raised.

SB 80: Tellinghuisen Geddes provided an update on SB 80, an Act to revise provisions regarding students and trainees engaged in the practice of funeral service. It was explained that this bill, brought by the SD Funeral Directors Association, was an effort between SDFDA, Board staff and the Department of Health to address the student practice issue. If passed, it will exempt students who are enrolled in an accredited mortuary program from licensure. It was reported that it passed the Senate and will be presented to the House committee this week.

Other Legislative Updates: Borchert and Tellinghuisen Geddes mentioned SB 74 which will require the board to review open meeting laws at a board meeting, annually.

Administrative Rules Updates:

Fee Increase: Osthus made a motion to ratify the fee amounts in section 6 of HB 1015 and to promulgate rules for those fee amounts. Brennick seconded the motion. **MOTION PASSED** by unanimous voice vote.

Trainee Requirements: The board discussed updating the trainee administrative rules with suggested options provided in their board packets. Borchert clarified that those were suggestions based on other states' requirements, but the board could modify as they see fit. Tellinghuisen Geddes clarified that both options removed the ability for a trainee to complete their traineeship prior to mortuary school. Borchert explained that this could be a public protection issue and that she is not aware of any other states that allow trainees to complete their apprenticeship prior to attending mortuary school. Carlsen agreed that it may not be necessary for someone to do their traineeship prior to mortuary school now that most programs are online, and if they are still allowed to do it during mortuary school. Osthus voiced support for allowing trainees to continue to do their traineeship during or after mortuary school. Carlsen agreed and voiced concerns about requiring direct on-site supervision. He advised that if a trainee has demonstrated competency and professionalism, the sponsor need not be on-site after the initial embalming cases. Following discussion, Brennick made a motion to move forward with promulgating rules for the traineeship with language from option A and B. Carlsen seconded the motion. **MOTION PASSED** by roll call vote: Jones, yes; Osthus, yes; Carlsen, yes; Delzer, absent; Brennick, yes.

Inspection and Renewal Update: Tellinghuisen Geddes reported that all inspections due for 2024 were completed. It was reported that 2 funeral homes and 14 embalmers did not renew their license after the 2024 expiration. Tellinghuisen Geddes and Borchert reminded the board that language was removed in administrative rules during the last cleanup that previously allowed an expired license to be reinstated, and the board may want to address that with a future rule change in away that still ensured public protection.

Executive Session: The board did not have a need to enter executive session.

Complaints/Investigations: None reported.

Executive Secretary Contract Renewal: Carlsen made a motion to renew the executive secretary contract with the cost-of-living increase granted by the state. Brennick seconded that motion. **MOTION PASSED** by unanimous voice vote.

Schedule Next Meeting: The next meeting is scheduled for May 7, 2025 at the Lodge in Deadwood, and in conjunction with the South Dakota Funeral Directors Association Convention. The time will be determined.

Any other business coming in between date of mailing and date of meeting: None.

Osthus made a motion to adjourn the meeting at 4:50p.m. CST. Carlsen seconded the motion.
MOTION PASSED by unanimous voice vote.

Respectfully submitted,



Brooke Tellinghuisen Geddes
Executive Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 03/31/2025

AGENCY 09 HEALTH
BUDGET UNIT 09204 BOARD OF FUNERAL SERVICE - INFO

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO 6503					
COMPANY NAME PROFESSIONAL & LICENSING BOARDS					
092040061812	6503	4293955	FUNERAL LICENSE FEE	100.00-	70,525.00
ACCT: 4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		100.00-	70,525.00 *
ACCT: 42		LICENSES, PERMITS & FEES		100.00-	70,525.00 **
092040061812	6503	4920045	NONOPERATING REVENUES	.00	4,045.55
ACCT: 4920		NONOPERATING REVENUE		.00	4,045.55 *
ACCT: 49		OTHER REVENUE		.00	4,045.55 **
CNTR: 092040061812				100.00-	74,570.55 ***
CNTR: 092040061				100.00-	74,570.55 ****
CNTR: 0920400				100.00-	74,570.55 *****
COMP: 6503				100.00-	74,570.55 *****
B UNIT: 09204				100.00-	74,570.55 *****

BAL409R1

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 03/31/2025

PAGE 137

AGENCY: 09 HEALTH
BUDGET UNIT: 09204 BOARD OF FUNERAL SERVICE - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092000061812	1140000	82,102.05	DR	BOARD OF FUNERAL SERVICES
COMPANY/SOURCE TOTAL 6503 618			82,102.05	DR *	
COMP/BUDG UNIT TOTAL 6503 09204			82,102.05	DR **	
BUDGET UNIT TOTAL 09204			82,102.05	DR ***	