

ARTICLE 20:62

NURSE PRACTITIONERS AND MIDWIVES

Chapter

- 20:62:01 General rules affecting ~~boards~~ board.
 - 20:62:02 Licensure and licenses.
 - 20:62:03 ~~Collaborative practice~~ Practice.
 - 20:62:04 Prescriptive authority, Repealed.
 - 20:62:05 Declaratory rulings.
 - 20:62:06 ~~Disciplinary proceedings,~~ Repealed.
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CHAPTER 20:62:01

GENERAL RULES AFFECTING ~~BOARDS~~ BOARD

Section

- 20:62:01:01 Notice to and filing with ~~boards~~ board.
- 20:62:01:02 ~~Annual meetings,~~ Repealed.
- 20:62:01:03 ~~Special meetings,~~ Repealed.
- 20:62:01:04 ~~Notice of meetings,~~ Repealed.
- 20:62:01:05 ~~Presiding officer and secretary,~~ Repealed.
- 20:62:01:06 ~~Duties of presiding officer,~~ Repeal.
- 20:62:01:07 ~~Duties of secretary,~~ Repealed.
- 20:62:01:08 ~~Vacaney in offices,~~ Repealed.
- 20:62:01:09 ~~Absence of officers from meetings,~~ Repealed.
- 20:62:01:10 ~~Action by boards~~ Board business.

- 20:62:01:11 Fees.
- 20:62:01:12 ~~Handling of finances, Repealed.~~
- 20:62:01:13 ~~Administrative duties, Repealed.~~
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20:62:01:01. Notice to and filing with boards board. Notice to or filing with the ~~boards~~ board as required by this article shall be done in writing. The written document shall be addressed to the executive ~~secretary~~ director of the South Dakota Board of Nursing and shall be delivered in person, electronically, or mailed to the office of the South Dakota Board of Nursing.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-5.

20:62:01:02. Annual meetings. ~~An annual meeting of the boards shall be held each year at a place designated by the presiding officer of the boards. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 43 SDR 57, effective October 20, 2016.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:03. Special meetings. ~~Special meetings of the boards may be called by the presiding officer or by a resolution passed by a majority of the membership of either separate board requesting a special meeting and specifying the purposes for the special meeting. Only~~

~~those subjects specified in the notice may be acted upon. The resolution shall be certified by the executive secretary of the board calling the special meeting and mailed to the secretary of the boards. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:04. Notice of meetings. ~~Notice of annual or special meetings shall be given by the secretary of the boards to each member of the boards at least 10 days before the meeting. If any matter requires the prompt attention of the boards, a special meeting may be noticed and held on less than 10 days' notice. The notice shall state the time and place of the meeting. The notice of a special meeting shall also specify the purpose for that meeting. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:05. Presiding officer and secretary. ~~At the annual meeting of the boards, the last order of business shall be to elect a presiding officer and a secretary of the boards to serve through the next annual meeting. One officer shall be elected from each of the two separate boards. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:06. Duties of presiding officer. ~~The presiding officer shall preside at meetings of the boards, sign all instruments which the boards have authorized to be executed, and perform other duties that may be prescribed by the boards from time to time. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:07. Duties of secretary. ~~The secretary shall keep minutes of all meetings of the boards, mail a copy of those minutes to each member of the boards within 30 days after every meeting, give all notices required by this article, keep a record of all applications made pursuant to this article and SDCL 36-9A, and perform other duties that may be prescribed by the boards from time to time.~~

~~The joint boards' secretary may delegate, upon approval by resolution of the joint boards, any or all duties set forth in this section to an executive secretary. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-11.~~

~~**Law Implemented:** SDCL 36-9A-5.~~

~~**20:62:01:08. Vacancy in offices.** If there is a vacancy in either the office of presiding officer or secretary, the remaining officer shall perform the functions of both offices until the next meeting of the board. At that time an election shall be held to fill the vacancy. Repealed.~~

~~**Source:** 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.~~

~~**General Authority:** SDCL 36-9A-41.~~

~~**Law Implemented:** SDCL 36-9A-5.~~

~~**20:62:01:09. Absence of officers from meetings.** If either the presiding officer or the secretary of the boards is absent from any meeting, the first order of business of the boards shall be to elect one of its members to serve as presiding officer or secretary at that meeting. Repealed.~~

~~**Source:** 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.~~

~~**General Authority:** SDCL 36-9A-41.~~

~~**Law Implemented:** SDCL 36-9A-5.~~

~~**20:62:01:10. Action by boards Board business.** Actions of the boards may be taken at meetings of the boards. Actions may also be taken in accordance with the concurrent majority vote of each board made at a separate meeting of each board. Meetings, business, handling of finances, approval of education programs, disciplinary proceedings, action of the board and~~

delegation of duties to the executive director, pursuant to this article, shall be conducted as provided in SDCL Chapter 36-9 and Article 20:48.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-5.

20:62:01:11. Fees. The ~~boards~~ board shall collect in advance the following nonrefundable fees from applicants:

- (1) For initial licensure or endorsement from another state, \$100;
- (2) For issuing a temporary permit, \$25;
- (3) For biennial renewal of a license, ~~\$70~~ 95;
- (4) For reinstatement of a lapsed license, the current renewal fee plus \$50;
- (5) For providing a transcript, \$5;
- (6) For endorsement to another state, territory, or foreign country, \$25;
- (7) For effecting a name change on the records of the license holder, \$10;
- (8) For issuance of a duplicate license, \$20; and
- (9) For placing the license on inactive status, \$10.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 29 SDR 163, effective June 8, 2003.

General Authority: SDCL 36-9A-26.

Law Implemented: SDCL 36-9A-26.

20:62:01:12. Handling of finances. ~~At their annual meeting the boards shall designate the banks or other depositories in which the moneys received by the boards in connection with their administration of SDCL 36-9A are to be deposited. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-5.~~

20:62:01:13. Administrative duties. ~~The executive secretary of the South Dakota Board of Nursing shall perform the administrative duties required of the boards and may approve expenditures of funds for that purpose. Repealed.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-8.~~

CHAPTER 20:62:02

LICENSURE AND LICENSES

Section

20:62:02:01 Repealed.

20:62:02:01.01 ~~Approved education programs~~ Education requirements.

20:62:02:02 Application for licensure.

20:62:02:03 Temporary permit prior to licensure.

20:62:02:03.01 Temporary permit by endorsement.

20:62:02:04 Repealed.

20:62:02:05 Expiration date of licenses.

20:62:02:06 Renewal of license.

20:62:02:07 Reinstatement of lapsed licenses.

20:62:02:08 Inactive status.

20:62:02:09 Reactivation of inactive license.

20:62:02:01.01. ~~Approved education programs~~ Education requirements. An applicant for licensure as a nurse practitioner or nurse midwife must file with the board a written application that contains evidence that the applicant has completed an advanced practice program in nursing that awards or confers a graduate degree, post graduate degree, or post graduate certificate, with a major in a role and population focus area of advanced nursing practice, and is accredited by a nationally recognized nursing accrediting agency approved by the United States Department of Education. If the program does not have national accreditation, the program must be board approved in order to meet licensure requirements. ~~The education program must specifically prepare the nurse to function in the advanced practice role of nurse practitioner or nurse midwife.~~

Source: 22 SDR 179, effective June 26, 1996; 28 SDR 92, effective December 31, 2001.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-4.

20:62:02:02. Application for licensure. An applicant for licensure as a nurse practitioner or nurse midwife shall file with the ~~executive director of the~~ Board of Nursing an application containing the following:

(1) Evidence that the applicant has completed an approved educational program that meets the requirements of § 20:62:02:01.01. An applicant who does not meet the requirements in § 20:62:02:01.01 who holds an active, unencumbered license as a nurse practitioner or nurse midwife in another state may request review of educational qualifications to meet licensure qualifications in this state;

(2) An official transcript documenting date of completion, credential received, advanced practice registered nurse role and population focus area, completion of 500 clinical hours in the role and population focus area, and completion of advanced graduate level courses in physiology and pathophysiology, health and physical assessment, and pharmacology;

(3) Evidence that the applicant has passed a nationally recognized certification examination approved by the ~~boards~~ board which is specific to the applicant's advanced practice registered nurse role and educational preparation, and maintains current certification; ~~and~~

~~(3)~~ (4) The fee required ~~by~~ in subdivision 20:62:01:11(1);

(5) Evidence of holding an unencumbered South Dakota registered nurse license or privilege to practice;

(6) A set of fingerprints on a standard card provided by the board for the purpose of obtaining a state and federal criminal background check through the Division of Criminal Investigation. An authorization and release form must be signed by the applicant authorizing the criminal background check and must accompany the application for licensure. A permanent license may not be issued until the criminal background check is complete; and

(7) Verification of having completed one thousand forty practice hours as a licensed nurse practitioner or nurse midwife in the preceding five years; or submission of a collaborative agreement with a nurse practitioner, nurse midwife, or physician licensed in South Dakota for the applicant's first one thousand forty hours of practice. The collaborator shall hold an unencumbered license to practice and have a minimum of two years of licensed practice in a comparable area of practice as the applicant's role and educational preparation. Upon meeting the required one thousand forty hours of licensed practice, a licensee may submit evidence to the Board of Nursing to request inactivation of the agreement.

The title, Certified Nurse Practitioner, or Certified Nurse Midwife, shall be designated on the new license. For the certified nurse practitioner, the focus area of practice shall be designated on the renewal certificate and in the licensure verification database.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 26 SDR 67, effective November 21, 1999; 43 SDR 57, effective October 20, 2016.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-4, 36-9A-9, 36-9A-9.1, 36-9A-26, 36-9A-29.

20:62:02:03. Temporary permit prior to licensure. An applicant for a temporary permit prior to licensure as a nurse practitioner or nurse midwife shall file with the ~~executive secretary of the~~ Board of Nursing an application containing the following information:

(1) ~~Proof~~ Verification of current licensure, privilege to practice, or temporary permit as a registered nurse in South Dakota;

(2) Verification of completing a nurse practitioner or nurse midwife education program that meets the requirements of § 20:62:02:01.01;

(3) Written evidence that the applicant is an accepted candidate to write the required certification examination, or is awaiting the results of the first examination for which the applicant is eligible after graduation from a program for nurse practitioners or nurse midwives;

~~(3)~~(4) A copy of the applicant's supervisory agreement in the form prescribed by the ~~boards~~ board. The supervisor shall hold an unencumbered nurse practitioner, nurse midwife, or physician license and have a minimum of two years of licensed practice in a comparable area of practice as the applicant's role and educational preparation; and

(5) A set of fingerprint cards required in subdivision 20:62:02:02 (6); and

~~(4)~~ (6) The fee fees required by subdivision in subdivisions 20:62:01:11(1) and (2).

The supervisory agreement expires when the temporary permit expires. The temporary permit is ~~nonrenewable~~ expires 120 days following issuance and is renewable. The holder of a temporary permit must use the title, certified nurse practitioner applicant (CNP App), or, certified nurse midwife applicant (CNM App), whichever pertains. If the holder of a permit is notified by the board that licensure by examination has been denied to the holder, the permit is invalid on the date the notice is received by the holder.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 26 SDR 67, effective November 21, 1999.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-2.1, 36-9A-2.3, 36-9A-4, 36-9A-9.1, 36-9A-26.

20:62:02:03.01 Temporary permit by endorsement. An applicant for a temporary permit prior to licensure as a nurse practitioner or nurse midwife by endorsement from another state or territory shall file with the Board of Nursing an application containing the following information:

(1) Verification of current licensure, privilege to practice, or temporary permit as a registered nurse in South Dakota;

(2) Verification of current unencumbered licensure as a nurse practitioner or nurse midwife in another state or territory;

(3) Verification of holding current national certification in role of nurse practitioner or nurse midwife;

(4) Verification of practice or collaborative agreement as required in subdivision 20:62:02:02 (7);

(5) A set of fingerprint cards as required in subdivision 20:62:02:02 (6); and

(6) The fees required in subdivisions 20:62:01:11(1) and (2).

The temporary permit expires 120 days following issuance and is not renewable. The holder of a temporary permit must use the title, certified nurse practitioner applicant (CNP App), or certified nurse midwife applicant (CNM App), whichever pertains. If the holder of a permit is notified by the board that licensure by endorsement has been denied to the holder, the permit is invalid on the date the notice is received by the holder.

Source:

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-2.1, 36-9A-2.3, 36-9A-4, 36-9A-9.1, 36-9A-26.

20:62:02:05. Expiration date of licenses. Initial licenses issued under the provisions of SDCL chapter 36-9A shall expire as follows:

(1) For a licensee actively licensed as a registered nurse in South Dakota, the expiration date shall be consistent with the expiration date of the registered nurse license renewal period; or

(2) For a licensee practicing on a privilege granted on a multistate registered nurse license issued by another party state, the expiration date shall be on the licensee's second birthday after the date of issuance.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 28 SDR 92, effective December 31, 2001.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-22, 36-9A-23, ~~36-9-92(III)(d)(e)~~.

20:62:02:06. Renewal of license. Licensure as a nurse practitioner or nurse midwife must be renewed biennially according to the expiration dates provided in § 20:62:02:05. The licensee shall complete the application for renewal as provided by the boards, including:

(1) Evidence of holding an unencumbered South Dakota registered nurse license or privilege to practice;

~~(1)(2) Written evidence~~ Evidence of current certification as set forth in subdivision 20:62:02:02 ~~(2)~~ (3);

~~(2)(3)~~ An affidavit that the licensee has committed no act of misconduct as set forth by SDCL 36-9A-29 and 36-9A-30; and

~~(3)(4)~~ The fees required by subdivision 20:62:01:11 (3).

The title, "Certified Nurse Practitioner," or, "Certified Nurse Midwife," and the ~~specialty~~ focus area of practice for the ~~CNP~~ certified nurse practitioner shall be designated on the current renewal certificate and in the licensure verification database.

Any person licensed pursuant to SDCL 36-9A-4 before June 26, 1996, is exempt from subdivision ~~(1)~~ (2) of this section.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 23 SDR 118, effective January 28, 1997; 26 SDR 67, effective November 21, 1999; 28 SDR 92, effective December 31, 2001; 43 SDR 57, effective October 20, 2016.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-22, 36-9A-23, 36-9A-26, 36-9A-29, ~~36-9A-30~~, 36-9A-35, 36-9A-36.

20:62:02:07. Reinstatement of lapsed licenses. A licensee who fails to renew the license may be reinstated by filing an application and a written explanation for failure to renew with the Board of Nursing. The applicant for reinstatement of licensure must provide ~~written~~ evidence of current certification as set forth ~~by~~ in subdivision 20:62:02:02 ~~(2)~~ (3), and evidence of holding an unencumbered South Dakota registered nurse license or privilege to practice. The licensee must submit an affidavit that the applicant has committed no act of misconduct as set forth by SDCL 36-9A-29 ~~and 36-9A-30~~, and the fees required ~~by~~ in subdivision ~~§~~20:62:01:11(4). ~~If the licensee intends to perform the overlapping scope of advanced practice nursing and medical functions set forth in SDCL 36-9A-12 and 36-9A-13, the applicant must also submit a collaborative agreement pursuant to § 20:62:03:06.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 26 SDR 67, effective November 21, 1999; 43 SDR 57, effective October 20, 2016.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL ~~36-9A-15~~, 36-9A-24, 36-9A-26, 36-9A-29, ~~36-9A-30~~, 36-9A-35, 36-9A-36.

20:62:02:08. Inactive status. The ~~boards~~ board may not grant inactive status to a person during the pendency of disciplinary proceedings against that person.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-25, 36-9A-29, ~~36-9A-30~~.

20:62:02:09. Reactivation of inactive license. The holder of an inactive license may reactivate the license by filing an application with the Board of Nursing. The applicant must submit written evidence of current certification as set forth in subdivision 20:62:02:02-~~(2)~~ (3), an affidavit that the applicant has committed no act of misconduct as set forth in SDCL 36-9A-29 ~~and 36-9A-30~~, evidence of holding an unencumbered South Dakota registered nurse license or privilege to practice, and the renewal fee required by subdivision 20:62:01:11(3) for the current biennial period. ~~If the licensee intends to perform the overlapping scope of advanced practice nursing and medical functions set forth in SDCL 36-9A-12 and 36-9A-13, the applicant must also submit a collaborative agreement pursuant to § 20:62:03:06.~~

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996; 26 SDR 67, effective November 21, 1999; 43 SDR 57, effective October 20, 2016.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL ~~36-9A-15~~, 36-9A-25, 36-9A-26, 36-9A-29, ~~36-9A-30~~, 36-9A-35, 36-9A-36.

CHAPTER 20:62:03

~~COLLABORATIVE PRACTICE~~

Section

<u>20:62:03:01</u>	Repealed
<u>20:62:03:02</u>	Repealed.
<u>20:62:03:03</u>	Collaboration with a licensed physician or physicians, Repealed.
<u>20:62:03:04</u>	Direct personal contact, Repealed.
<u>20:62:03:05</u>	Repealed.
<u>20:62:03:06</u>	Identification of secondary physician, Repealed.
<u>20:62:03:07</u>	Temporary collaborating physician, Repealed.
<u>20:62:03:08</u>	Collaborative agreement, Repealed.
<u>20:62:03:09</u>	<u>Management of patient records.</u>
<u>20:62:03:10</u>	<u>Out-of-hospital birth practice.</u>
<u>20:62:03:11</u>	<u>Prescribing.</u>

20:62:03:03. Collaboration with a licensed physician or physicians. ~~A nurse practitioner or nurse midwife may perform the overlapping scope of advanced practice nursing and medical functions defined in SDCL 36-9A-12 and 36-9A-13, in collaboration with a physician or physicians licensed under SDCL chapter 36-4. Collaboration must occur by direct personal contact. Repealed.~~

Source: 26 SDR 67, effective November 21, 1999; 35 SDR 166, effective December 26, 2008; 43 SDR 57, effective October 20, 2016.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-12, 36-9A-13, 36-9A-15, 36-9A-17.~~

20:62:03:04. Direct personal contact. ~~For purposes of this chapter, the term, direct personal contact, means that both the collaborating physician and the nurse practitioner or nurse midwife are physically present or available by means of electronic communication for the purposes of collaboration. Repealed.~~

Source: 26 SDR 67, effective November 21, 1999; 43 SDR 57, effective October 20, 2016.

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-15, 36-9A-17.~~

20:62:03:06. Identification of secondary physician. ~~If the primary collaborating physician is not available to meet the standard of collaboration by direct personal contact, a secondary physician or physicians may be identified in the collaborative agreement. Repealed.~~

Source: 26 SDR 67, effective November 21, 1999.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-17.

20:62:03:07. Temporary collaborating physician. ~~If no secondary physician is named in the collaborative agreement and the primary collaborating physician will be temporarily unavailable to collaborate with the nurse practitioner or nurse midwife by direct personal contact, the nurse practitioner or nurse midwife must file a temporary written collaborative agreement with the Board of Nursing. The temporary collaborative agreement shall be signed by the temporary collaborating physician, the nurse practitioner or nurse midwife, and the primary collaborating physician. The temporary written collaborative agreement must specify the time of substitution and any modifications to the functions which may be performed by the nurse practitioner or nurse midwife during the time of substitution. Repealed.~~

Source: 26 SDR 67, effective November 21, 1999.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-17, 36-9A-17.1, 36-9A-20.

20:62:03:08. Collaborative agreement. ~~The nurse practitioner or nurse midwife shall submit all collaborative agreements for review and approval by the boards, prior to performing the overlapping scope of advanced practice nursing and medical functions set forth in SDCL 36-9A-12 and 36-9A-13. Modifications to any collaborative agreement on file with the boards must be submitted in writing for review and approval by the boards prior to implementation of the modifications requested. The nurse practitioner or nurse midwife shall maintain current status of all collaborative agreements on file with the boards. Repealed.~~

Source: 26 SDR 67, effective November 21, 1999.

General Authority: SDCL 36-9A-41.

Law Implemented: ~~SDCL 36-9A-12, 36-9A-13, 36-9A-15, 36-9A-17, 36-9A-17.1, 36-9A-20.~~

20:62:03:09. Management of patient records. For patient information controlled by a licensee or licensee's estate, a licensee shall:

(1) Provide copies of all medical records, reports, and x-rays upon the request of a patient or designee pursuant to SDCL Chapter 36-2;

(2) Have a plan in place to allow the transfer of active patient records to the patient or the patient's designee, legal guardian, a health care facility licensed under chapter 34-12 or a corporation organized for the purpose of owning and operating a health care clinic. If active patient records cannot be so transferred, they shall be retained by the licensee or estate in possession of them or destroyed. Prior to any transfer or destruction of active patient records, reasonable notice of at least thirty days shall be given by mail to the patient, legal guardian, or the patient's designee at the last known address stating the proposed disposition of the records and giving a deadline prior to which the records may be claimed.

Nothing in SDCL 36-9A or this article prevents a licensee from destroying records which have become inactive or for which the whereabouts of the patient is no longer known to the licensee.

Source:

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-12, 36-9A-13, 36-9A-13.1.

20:62:03:10. Out-of-hospital birth practice. Prior to performing out-of-hospital birth services, a nurse midwife shall submit to the board a signed agreement to:

(1) Follow board approved out-of-hospital birth practice guidelines;

(2) Provide quality review data on out-of-hospital births to the board;

(3) Follow all state requirements, including providing birth registration data to the South Dakota Department of Health or, upon operating a birth center, agree to comply with requirements in Article 44:69.

Source:

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-13, 34-25-8.

20:62:03:11. Prescribing. A nurse practitioner or nurse midwife may request, receive, and provide prepackaged drug samples which the nurse practitioner or nurse midwife is authorized to prescribe. A drug sample means a prepackaged unit of a prescription drug supplied by the manufacturer and provided at no charge to the patient. A nurse practitioner or nurse midwife may provide prepackaged, labeled drug samples to the nurse practitioner's or nurse midwife's patients for conditions being treated by the nurse practitioner or nurse midwife. Each sample drug shall be accompanied by written administration instructions.

Prior to prescribing any controlled substances listed in SDCL chapter 34-20B, a nurse practitioner or nurse midwife, that meets state and federal controlled substance registration requirements, shall register with the state's prescription drug monitoring program (PDMP) and

meet requirements in chapter 34-20E. The standards for documentation of patient care when prescribing controlled substance drugs for the treatment of chronic, non-cancer pain include:

(1) Documentation of results of physical examinations, diagnostic or laboratory tests;

(2) Documentation of a patient's medical and psychosocial history;

(3) Documentation that appropriate state PDMPs were accessed;

(4) Documentation of a patient's treatment agreement, if used;

(5) Documentation of having provided instructions to the patient, or patient's

representative, of the benefits and risks of controlled substances, proper use and storage of drugs, and proper disposal of unused drugs;

(6) When prescribing opioid drugs, documentation of instructions including the risk of addiction, overdose, and death, and use of naloxone products to reverse overdose, as defined in SDCL Chapter 34-20A;

(7) Progress or lack of progress of pain management and functional improvement; and

(8) Consultation with other health care providers or specialists.

Source:

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 34-20A, 34-20B, 34-20E, 36-9A-12, 36-9A-13, 36-9A-29

(5)(9).

CHAPTER 20:62:05

DECLARATORY RULINGS

Section

20:62:05:01 Petition for declaratory ruling.

20:62:05:02 Action by ~~boards~~ board on petition.

20:62:05:01. Petition for declaratory ruling. A person wishing the ~~boards~~ board to issue ~~their~~ the board's rulings as to the applicability to the person of statutory provision or rule or order of the ~~boards~~ board may file with the ~~boards~~ board a petition in substantially the following form:

State of South Dakota

~~Board of Medical and Osteopathic Examiners and Board of Nursing~~

Petition for Declaratory Ruling

Pursuant to the provisions of SDCL 1-26-15, I, (**name of petitioner**), of (**address of petitioner**), am (**title or capacity of petitioner**), and do hereby petition the ~~South Dakota Board of Medical and Osteopathic Examiners and the South Dakota Board of Nursing~~ for their declaratory ruling in regard to the following:

1. The state statute, rule, or order in question is as follows: (here identify and quote the pertinent statute, rule, or order).
2. The facts and circumstances which give rise to the issue to be answered by the ~~boards'~~ board's declaratory ruling are as follows: (here set forth the facts).
3. The precise issue to be answered by the ~~boards'~~ board's declaratory ruling is as follows: (here state the question to be answered).

Dated at (**city and state**), this _____ day of _____, 19____.

(**signature of petitioner**)

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 1-26-15.

20:62:05:02. Action by ~~boards~~ board on petition. Upon receipt of the petition, the ~~boards~~ board may request from the petitioner any other information they may require for the issuance of their ruling. Within 90 days following the receipt of the petition or within 90 days following receipt of the requested information, the ~~boards~~ board shall issue their declaratory ruling and serve a copy of it by mail upon the petitioner.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 1-26-15.

CHAPTER 20:62:06

DISCIPLINARY PROCEEDINGS

(Repealed)

Section

~~20:62:06:01 — Notice to boards of claimed misconduct.~~

~~20:62:06:02 — Dismissal of claim of misconduct.~~

~~20:62:06:03 — Informal proceeding.~~

~~20:62:06:04 — Investigation.~~

~~20:62:06:05 — Action following informal proceeding.~~

~~20:62:06:06 — Answer.~~

20:62:06:01. Notice to boards of claimed misconduct. ~~A person claiming that an applicant or licensee has engaged or is engaging in misconduct constituting grounds for disciplinary action as provided in SDCL 36-9A-29 or 36-9A-30 may contact the office of either board verbally or in writing stating that person's name and address, the name and address of the applicant or licensee claimed to be guilty of misconduct, and full details of the claimed misconduct. Staff representatives of the boards who are assigned to handle such matters may require the person claiming misconduct to file with the boards a written complaint, verified on oath.~~

Source: ~~9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.~~

General Authority: ~~SDCL 36-9A-41.~~

Law Implemented: ~~SDCL 36-9A-29, 36-9A-30.~~

20:62:06:02. Dismissal of claim of misconduct. ~~If staff representatives of the boards determine that the charge of misconduct is frivolous, would not constitute grounds for disciplinary action, is outside the jurisdiction of the boards, or is otherwise inappropriate for action by the boards, the representatives shall advise in writing the person claiming the misconduct and the affected applicant or licensee that the boards will not pursue the matter and shall state the grounds for that decision.~~

Source: ~~9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.~~

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-29 to 36-9A-31.

20:62:06:03. Informal proceeding. If staff representatives of the boards determine that the charge of misconduct, if proved to be true, could constitute grounds for disciplinary action by the boards, the representatives shall notify in writing the applicant or licensee claimed to be guilty of misconduct of the time and place for an informal meeting. The informal meeting may be conducted by staff representatives or by one or more designated members of the boards who shall report fully to the boards regarding the meeting for further action pursuant to § 20:62:06:05.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-29 to 36-9A-31.

20:62:06:04. Investigation. The boards' staff representatives or another person designated by the boards may conduct an investigation of the claimed misconduct either before or after the informal proceeding.

Source: 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-9A-41.

Law Implemented: SDCL 36-9A-29 to 36-9A-31.

~~**20:62:06:05. Action following informal proceeding.** After the informal proceeding, the boards may take one of the following actions:~~

~~(1) Notify in writing the person claiming misconduct, the applicant or licensee claimed to be guilty of misconduct, and all other interested or affected parties that the boards will not pursue the matter further, stating the grounds for that decision;~~

~~(2) Make an informal disposition of the case as provided under SDCL 1-26-20; or~~

~~(3) Serve by mail upon the applicant or licensee claimed to be guilty of misconduct and all other interested or affected parties a formal complaint together with a notice of hearing issued pursuant to SDCL 1-26-17.~~

~~**Source:** 9 SDR 126, effective April 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.~~

~~**General Authority:** SDCL 36-9A-41.~~

~~**Law Implemented:** SDCL 1-26-20, 36-9A-29 to 36-9A-31.~~

~~**Cross-Reference:** Contents of notice of hearing, SDCL 1-26-17.~~

~~**20:62:06:06. Answer.** The applicant or licensee must file with the executive secretary of the Board of Nursing within 30 days after receiving a copy of the complaint an answer admitting, denying, qualifying, or explaining any of the matters contained in the complaint or notice of hearing.~~

~~**Source:** 9 SDR 126, effective April 13, 1983; 12 SDR 113, effective January 9, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 179, effective June 26, 1996.~~

~~**General Authority:** SDCL 36-9A-41.~~

~~**Law Implemented:** SDCL 36-9A-31.~~

~~20:62:06:07. Publication of final action.~~ The Board of Nursing shall publish at least annually the final actions of all disciplinary proceedings with the exception of dismissed claims of misconduct as outlined in § ~~20:62:06:02~~ and subdivision ~~20:62:06:05(1)~~.

~~Source:~~ ~~22 SDR 179, effective June 26, 1996.~~

~~General Authority:~~ ~~SDCL 36-9A-41.~~

~~Law Implemented:~~ ~~SDCL 1-26-20, 36-9A-29, 36-9A-30, 36-9A-31.~~