

2017 LAW BOOK UPDATE INSTRUCTIONS

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2. Replace current *Contents Page*
3. Replace Chapter 34-20D with revised version
4. Replace Chapter 44:75:08 with revised version
5. Add Chapter 36-2A if your law book does not have it **(or)**

Replace Chapter 36-2A with version reformatted for clarity; there were no updates or changes to this section's content

**Laws and Rules
Related to the
Practice of Pharmacy
in
South Dakota**

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South Dakota Board of Pharmacy
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Current statement.

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CHAPTER 34-20D

PRODUCTS CONTAINING PSEUDOEPHEDRINE, EPHEDRINE, OR
PHENYLPROPANOLAMINE

- 34-20D-1 Sale of packages containing pseudoephedrine or ephedrine--Number in single transaction limited--Exception--Misdemeanor.
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- 34-20D-11 Real-time electronic record-keeping system--Calculation of purchase limitations--Private vendor.
- 34-20D-12 Law enforcement access to electronic record-keeping system.

34-20D-1. Sale of packages containing pseudoephedrine or ephedrine--Number in single transaction limited--Exception--Misdemeanor. No retailer may sell, in a single transaction, more than two packages containing pseudoephedrine or ephedrine as an active ingredient. For purposes of this chapter, the term, retailer, means any person who sells merchandise at retail and from whom original packages of nonprescription drugs are sold or taken to be sold at retail and who is licensed by the Board of Pharmacy to sell nonprescription drugs. This restriction does not apply to any sale made pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority. Any retailer or any employee of a retailer who sells packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

Source: SL 2005, ch 178, § 1; SL 2006, ch 181, § 1.

34-20D-2. Purchase of packages containing pseudoephedrine or ephedrine--Number in single transaction limited--Exception--Misdemeanor. No person may purchase, in a single transaction, more than two packages containing pseudoephedrine or ephedrine as an active ingredient. This restriction does not apply to purchases made with a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority. Any person who purchases packages containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

Source: SL 2005, ch 178, § 2; SL 2006, ch 181, § 2.

34-20D-3. Requirements for display and offer of product containing pseudoephedrine or ephedrine as active ingredient. Any retailer who offers for sale a product containing pseudoephedrine or ephedrine as an active ingredient shall display and offer the product for sale, except as otherwise provided, behind a counter where the public is not permitted or in a locked case so that a customer wanting access to the package must ask a store employee for assistance. The retailer may display or offer for sale without restriction a product containing pseudoephedrine or ephedrine as an active ingredient if the product is displayed using any type of anti-theft device system including an electronic anti-theft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

Source: SL 2005, ch 178, § 3; SL 2006, ch 181, § 3.

34-20D-4. Repealed by SL 2006, ch 181, § 4.

34-20D-5. Posting of notice. A retailer shall post notice at the location where a product containing pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the following:

South Dakota law prohibits the sale or purchase of more than two packages containing pseudoephedrine or ephedrine as an active ingredient unless sold or purchased with a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.

Source: SL 2005, ch 178, § 5; SL 2006, ch 181, § 5.

34-20D-6. Civil liability for sale of product. No employee or retailer is civilly liable to any injured person or the person's estate for any injury suffered, including any wrongful death, or property damage suffered due to the sale of any pseudoephedrine or ephedrine product in violation of § 34-20D-1.

Source: SL 2005, ch 178, § 6.

34-20D-7. County or municipality prohibited from establishing higher requirements or penalties. No county or municipality may establish requirements or establish a penalty that is higher or more stringent than the requirements or penalties established by this chapter.

Source: SL 2005, ch 178, § 7.

34-20D-8. Identification and record of buyer of product containing pseudoephedrine, ephedrine, or phenylpropanolamine--Reporting--Stop-sale alert. If offering for sale a product containing pseudoephedrine, ephedrine, or phenylpropanolamine as an active ingredient, a retailer shall, before making such a sale, require and make a record of the identification of the person purchasing the product. For purposes of this section, the term, identification, means a document issued by a governmental agency that contains a description of the person or a photograph of the person, and gives the person's date of birth, such as a tribal

identification card, driver license, state-issued identification card, passport, or military identification card. The retailer shall electronically submit the record of identification, including the purchaser's name, date of birth, address of purchaser, the product name, the quantity sold, the date and time of the sale, and unique identification number relating to the electronic record into the electronic record-keeping system prior to completing the sale of a product containing pseudoephedrine, ephedrine, or phenylpropanolamine unless a waiver has been granted. If a waiver is granted, the retailer shall submit written records to the Office of the Attorney General no later than the fifth day of every month. The retailer shall maintain the record of identification required by this section for two years, after which the record shall be destroyed. No retailer may use or maintain the record for any private or commercial purpose or disclose the record to any person, except as authorized by law. If the sale generates a stop-sale alert, the seller may not complete the sale unless the seller has a reasonable fear of imminent bodily harm if he or she does not complete the sale. The electronic record-keeping system shall contain an override function to the stop-sale alert for the seller to use in a situation in which a reasonable fear of imminent bodily harm is present.

Source: SL 2006, ch 181, § 6; SL 2012, ch 184, § 1; SL 2014, ch 166, § 1.

34-20D-8.1. Waiver of electronic reporting--Disclosure of record to law enforcement. The attorney general may grant a retailer a waiver pursuant to § 34-20D-8 if the retailer demonstrates that the electronic reporting will cause the retailer an undue economic hardship or that the retailer does not have the technological ability to report electronically. If a waiver is granted, the retailer shall disclose the record, upon request, to a law enforcement agency for a law enforcement purpose.

Source: SL 2014, ch 166, § 3.

34-20D-9. Immunity from civil liability for good faith release of information to law enforcement. Any retailer who in good faith releases information governed by this chapter to a law enforcement agency for a law enforcement purpose is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

Source: SL 2006, ch 181, § 7.

34-20D-10. Possession of product, mixture, or preparation containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base restricted--Exception--Misdemeanor. No person may possess, receive, or otherwise acquire more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in any product, mixture, or preparation within any thirty-day period. This restriction does not apply to any quantity of product, mixture, or preparation obtained pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.

Possession of more than nine grams of a drug product containing more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. This rebuttable presumption does not apply to:

Codified Law 34-20D

- (1) A retail distributor of drug products;
- (2) A wholesale drug distributor, or its agents;
- (3) A manufacturer of drug products, or its agents;
- (4) A pharmacist licensed by the Board of Pharmacy; or
- (5) A licensed health care professional possessing the drug products in the course of carrying out the profession.

Any violation of this section is a Class 1 misdemeanor.

Source: SL 2006, ch 181, § 8.

34-20D-11. Real-time electronic record-keeping system--Calculation of purchase limitations--Private vendor. The Office of the Attorney General may provide retailers of chemical products containing pseudoephedrine, ephedrine, or phenylpropanolamine access to a real-time electronic record-keeping system to enter into the record system any transaction required by § 34-20D-8. The real-time electronic record-keeping system shall be maintained in a central repository and shall have the capability to calculate state and federal ephedrine base, pseudoephedrine base, and phenylpropanolamine base purchase limitations. The electronic record-keeping system shall include a record of all the information obtained under § 34-20D-8 and the unique identification number, type, and state of issue. The Office of the Attorney General may contract with a private vendor to implement this section. A contractor shall comply with the confidentiality requirements of this chapter and is subject to sanctions for violation of confidentiality requirements, including termination of the contract. No cost may be assessed to the retailer associated with the implementation, access, continuation, or maintenance of the electronic record-keeping system.

Source: SL 2014, ch 166, § 2.

34-20D-12. Law enforcement access to electronic record-keeping system. The attorney general may grant other South Dakota law enforcement agencies access to the electronic record-keeping system for the purpose of investigating any violation of this chapter.

Source: SL 2014, ch 166, § 4.

CHAPTER 44:75:08

MEDICATION CONTROL

Section

44:75:08:01	Policies and procedures.
44:75:08:02	Written orders for medication required.
44:75:08:03	Medication therapy review - Repealed.
44:75:08:04	Storage and labeling of medications and drugs.
44:75:08:05	Control and accountability of medications and drugs.
44:75:08:06	Documentation of drug disposal.
44:75:08:07	Medication administration.
44:75:08:08	Medication records.
44:75:08:09	Administration of facility pharmacy.

44:75:08:01. Policies and procedures. Each facility shall establish and practice methods and procedures for medication control that include the following:

(1) A requirement that each patient's prescribing physician, physician assistant, or nurse practitioner provide to the facility electronic or written signed orders for any medications taken by the patient; authorization for medications or drugs kept on the person or in the room of the patient; and release of medications;

(2) Provisions for proper storage of prescribed medications so that the medications are inaccessible to patients or visitors with requirements for:

- (a) Separate storage of poisons, topical medications, and oral medications;
- (b) Each patient's medication to be stored in the container in which it was originally received and not transferred to another container; and
- (c) A medication prescribed for one patient not to be administered to any other patient;

(3) Self-administration of medications to be accomplished with the supervision of a licensed nurse to include:

- (a) A description of the responsibilities of the patient, the patient's family members, and the facility staff; and
- (b) The provision of written educational material explaining to the patient and the patient's family the patient's rights and responsibilities associated with self-administration; and

(4) The proper disposition of medicines that are discontinued because of the discharge or death of the patient, because the drug is outdated, or because the prescription is no longer appropriate to the care of the patient.

Methods and written policies and procedures shall be established to include the manner of issuance, proper storage, control, accountability, and administration of medications or drugs in accordance with pharmaceutical and nursing practices as well as professional standards.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

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44:75:08:02. Written orders for medication required. All medications or drugs administered to patients shall be ordered electronically or in writing and dated, timed, and authenticated by the prescriber. Verbal orders for medications or drugs may be taken only when there is an urgent need to initiate or change an order and accepted only by a pharmacist or licensed nurse in hospitals. The prescriber shall date, time, and authenticate the orders for hospital patients on the next visit to the facility. The practitioner shall date, time, and authenticate the orders for patients promptly. A policy on stop orders for antibiotics, anticoagulants, and controlled drugs shall be established based on recommendations of the medical staff.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:03. Medication therapy review. Repealed.

Source: 42 SDR 51, effective October 13, 2015; 42 SDR 173, effective June 21, 2016

44:75:08:04. Storage and labeling of medications and drugs. All drugs or medications shall be stored in a well illuminated, locked storage area that is well ventilated, maintained at a temperature appropriate for drug storage, and inaccessible to patients, or visitors at all times. Medications suitable for storage at room temperature shall be maintained between 59 and 86 degrees Fahrenheit (15 and 30 degrees centigrade). Medications that require refrigeration shall be maintained between 36 and 46 degrees Fahrenheit (2 and 8 degrees centigrade). Poisons and medications prescribed for external use shall be stored separately from internal medications, locked and made inaccessible to patients.

Locked storage does not apply to drugs and medications needed for emergency use in intensive care, emergency room, neonatal intensive care, pediatric intensive care, or coronary care units. Drugs and medications utilized in these care units shall be in a storage area that is readily available to the professional staff but inaccessible to patients or visitors.

The medications or drugs of each patient for whom medications are facility-administered shall be stored in the containers in which they were originally received and may not be transferred to another container. Special modification of this requirement may be made if single dose packaging is used. Each prescription drug container, including manufacturer's complimentary samples, shall be labeled with the patient's name, physician, physician assistant, or nurse practitioner's name, drug name and strength, directions for use, and prescription date.

Containers with contents that will not be used within 30 days of issue or with contents that expire in less than 30 days of issue shall bear an expiration date. If a single dose system is used, the drug name and strength, expiration date, and a control number shall be on the unit dose packet.

A co-located hospital and assisted living center may procure and stock, including in bulk form, nonlegend medications and administer them in accordance with written policies and procedures that provide for oversight by qualified personnel.

If a stock bottle system is used in a facility with a licensed pharmacy, the container shall be labeled with the drug name and strength, expiration date, and a control number. Any container with a worn, illegible, or missing label shall be destroyed pursuant to § 44:73:08:06. Licensed

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pharmacists are responsible for the labeling, relabeling, or altering of labels on medication containers.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:05. Control and accountability of medications and drugs. Medications brought from home may be used if ordered by the attending physician, physician assistant, or nurse practitioner, and, if prior to administration, is identified as the prescribed drug. Medications prescribed for one patient may not be administered to another. Patients may not keep medications on their person or in their room without a physician's, physician assistant, or nurse practitioner's order allowing self-administration. Written authorization by the patient's physician, physician assistant, or nurse practitioner shall be secured for the release of any medication to a patient upon discharge, transfer, or temporary leave from the facility. The release of medication shall be documented in the patient's record, indicating quantity, drug name, and strength. The facility shall maintain records that account for all medications and drugs from their receipt through administration, destruction, or return.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:06. Documentation of drug disposal. Legend drugs not controlled under SDCL chapter 34-20B shall be destroyed or disposed of by a nurse and another witness. Destruction or disposal of medications controlled under SDCL chapter 34-20B shall be witnessed by two persons, both of whom are a nurse or pharmacist, as designated by facility policy. Methods of destruction or disposal may include:

(1) Disposal by using a professional waste hauler to take the medications to a permitted medical waste facility or by facility disposal at a permitted municipal solid waste landfill. Prior to disposal all medications shall be removed from original containers and made unpalatable by the addition of adulterants and alteration of solid dosage forms by dissolving or combination into a solid mass;

(2) Return to the dispensing pharmacy for destruction or dispose according to federal and state regulations;

(3) Return to an authorized reverse distributor company licensed by the South Dakota Board of Pharmacy; or

(4) Release to patient upon discharge after authorization by the patient's prescribing practitioner.

Documentation of destruction or disposal of medications shall be included in the patient's record. The documentation shall include the method of disposition (destruction, disposal, return to pharmacy, or release to patient); the medication name, strength, prescription number (as applicable), quantity, and date of disposition; and the name of any person who witnessed the destruction or disposal.

Medications, excluding those controlled under SDCL chapter 34-20B, contained in unit dose packaging meeting the requirements of § 20:51:13:02.01 may be returned to the dispensing pharmacy for credit and redispensing.

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Any medication held for disposal shall be physically separated from the medications being used in the facility, locked with access limited, in an area with a system to reconcile, audit, or monitor them to prevent diversion.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:07. Medication administration. Each medication administered shall be recorded in the patient's medical record and signed by the person responsible. Medication errors and drug reactions shall be reported to the patient's physician, physician assistant, or nurse practitioner and an entry made in the patient's medical record. Orders involving abbreviations and chemical symbols may be carried out only if the facility has a standard list of abbreviations and symbols approved by the medical staff or, in the absence of an organized medical staff, by the medical director and the list is available to the nursing staff. All medications shall be administered to patients by personnel acting under delegation of a licensed nurse, or licensed to administer medications.

A person may not administer medications that have been prepared by another person, other than a pharmacist.

Medication administration shall comply with §§ 44:75:08:02 to 44:75:08:05, inclusive, and with the requirements for training in §§ 20:48:04.01:14 and 20:48:04.01:15 and for supervision in § 20:48:04.01:02. The supervising nurse shall provide an orientation to the unlicensed assistive personnel who will administer medications. The orientation shall be specific to the facility and relevant to the patients receiving administered medications.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:08. Medication records. Medication administration records shall be used and regularly checked against the practitioner's orders. Each medication administered shall be recorded in the patient's medical record and signed by the individual responsible.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

44:75:08:09. Administration of facility pharmacy. The pharmaceutical service of each facility with a licensed full or part-time pharmacy shall be directed by a licensed pharmacist accountable to the administration of the facility. Only prepackaged drugs or a single dose unit may be removed from the pharmacy when the pharmacist is not available. These drugs may be removed only by a designated registered nurse or physician, physician assistant, or nurse practitioner in amounts sufficient only for immediate therapeutic needs. A record of such withdrawals shall be made by the designated nurse or the physician, physician assistant, or nurse practitioner making the withdrawal.

Source: 42 SDR 51, effective October 13, 2015.

General Authority: SDCL 34-12-13(9).

Law Implemented: SDCL 34-12-13(9).

CHAPTER 36-2A

HEALTH PROFESSIONALS ASSISTANCE PROGRAM

<u>36-2A-1</u>	Definitions.
<u>36-2A-2</u>	Joint health professionals assistance program.
<u>36-2A-3</u>	Program service committee--Duties.
<u>36-2A-4</u>	Evaluation committees.
<u>36-2A-5</u>	Duties of evaluation committee.
<u>36-2A-6</u>	Application to program--Admission evaluation.
<u>36-2A-7</u>	Eligibility for program.
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<u>36-2A-9</u>	Program participation components.
<u>36-2A-10</u>	Fees and costs.
<u>36-2A-11</u>	Termination of participation in program--Report to board.
<u>36-2A-12</u>	Confidentiality of program participants' records.
<u>36-2A-13</u>	Immunity from liability for reports and actions related to duties.
<u>36-2A-14</u>	Promulgation of rules.
<u>36-2A-15</u>	Determination of expenses to be borne by participating boards.

36-2A-1. Definitions. Terms used in this chapter mean:

(1) "Health professionals assistance program," a confidential program designed to monitor the treatment and continuing care of any regulated health professional who may be unable to practice with reasonable skill and safety, if the professional's mental health issues or substance use disorder is not appropriately managed;

(2) "Impaired," the inability of a licensee to practice his or her health-related profession with reasonable skill and safety as a result of mental health issues or substance use related disorders;

(3) "Participating board," a health-related licensing board listed in Title 36 which agrees with other health-related licensing boards to jointly conduct a health professionals assistance program. The program is available to participating health-related licensing boards in conjunction with, or as an alternative to, other sanctions which a health-related board may impose upon its licensees pursuant to disciplinary actions within its jurisdiction;

(4) "Program personnel," persons or contracted entities employed by, or contracted with, the health professionals assistance program service committee to provide services for the health professionals assistance program.

Source: SL 1996, ch 227, § 1; SL 2013, ch 171, § 1.

36-2A-2. Joint health professionals assistance program. Health-related licensing boards listed under Title 36 may jointly conduct a health professionals assistance program to protect the public from impaired persons regulated by the boards. The health professionals assistance program does not affect a board's authority to discipline violators of a board's practice act.

Source: SL 1996, ch 227, § 2; SL 2013, ch 171, § 2.

36-2A-3. Program service committee--Duties. The participating boards shall establish a program service committee consisting of one representative appointed by each participating board from its board membership or staff. The committee shall meet at least annually or as often as necessary to transact its business. The duties of the committee include:

- (1) Establishing the annual health professionals assistance program budget and the pro rata share of program expenses to be borne by each participating board;
- (2) Determining the qualifications, duties, and compensation for program personnel;
- (3) Hiring program personnel or contracting with entities;
- (4) Approving policies and procedures for the health professionals assistance program and providing guidance to the program personnel;
- (5) Annually approving members of the health professionals assistance program evaluation committees as outlined in this chapter;
- (6) Approving treatment facilities and services to which health professionals assistance program participants may be referred; and
- (7) Conducting an annual evaluation of the health professionals assistance program.

Source: SL 1996, ch 227, § 3; SL 2013, ch 171, § 3.

36-2A-4. Evaluation committees. The health professionals assistance program service committee shall establish one or more evaluation committees. Each evaluation committee shall include one actively practicing licensed health care professional with demonstrated expertise in the field of mental health or substance use disorder from each health-related profession participating in the health professionals assistance program.

Source: SL 1996, ch 227, § 4; SL 2013, ch 171, § 4.

36-2A-5. Duties of evaluation committee. Duties of an evaluation committee include:

- (1) Evaluate each applicant for admission to the health professionals assistance program according to criteria established pursuant to § 36-2A-14;
- (2) Develop individual participation agreements for health professionals assistance program participants;
- (3) Evaluation of any program participant for discharge according to criteria established pursuant to § 36-2A-14;
- (4) Review participant progress and recommend amendments for participation agreements as indicated;
- (5) Maintain the confidentiality of the names, identities, and treatments of applicants and participants considered by the committees; and

(6) Report any applicant who has been denied admission to the health professionals assistance program to the applicable participating licensing board.

Source: SL 1996, ch 227, § 5; SL 2013, ch 171, § 5.

36-2A-6. Application to program--Admission evaluation. Any applicant may access the health professionals assistance program by self-referral, board referral, or referral from another person or agency, such as an employer, coworker, or family member. An evaluation of the admission application shall be conducted by program personnel. The health professionals assistance program personnel shall advise the applicant of the program requirements and the implications of noncompliance and shall secure the cooperation of the applicant with the health professionals assistance program. Any applicant who refuses to cooperate with the program admission evaluation shall be reported to the applicable participating board or entity.

Source: SL 1996, ch 227, § 6; SL 2013, ch 171, § 6.

36-2A-7. Eligibility for program. Admission to the health professionals assistance program is available to any person who is impaired and:

- (1) Holds licensure as a health care professional in this state;
- (2) Is eligible for and in the process of applying for licensure as a health care professional in this state; or
- (3) Is enrolled as a student in a program leading to licensure as a health care professional.

Source: SL 1996, ch 227, § 7; SL 2013, ch 171, § 7.

36-2A-8. Denial of admission to program. The evaluation committee may deny admission to the health professionals assistance program if the applicant:

- (1) Is not eligible for licensure in this state;
- (2) Diverted controlled substances for other than personal use;
- (3) Creates too great a risk to the public by participating in the health professionals assistance program as determined by the evaluation committee and program personnel;
- (4) Has engaged in sexual misconduct that meets the criteria for denial of admission established by the participating boards; or
- (5) Has been terminated from any health professional assistance program.

Source: SL 1996, ch 227, § 8; SL 2013, ch 171, § 8.

36-2A-9. Program participation components. The health professionals assistance program participation components may include requirements for treatment and continuing care, work-site monitoring, practice restrictions, random drug screening, support group participation, filing of reports, and other requirements as necessary for successful completion of the health professionals assistance program.

Source: SL 1996, ch 227, § 9; SL 2013, ch 171, § 9.

36-2A-10. Fees and costs. Each health professionals assistance program participant shall pay an initial participation fee set pursuant to § 36-2A-14 as well as all costs associated with physical, psychosocial, or other related evaluations, treatment, and random drug screens.

Source: SL 1996, ch 227, § 10; SL 2013, ch 171, § 10.

36-2A-11. Termination of participation in program--Report to board. The health professionals assistance evaluation committee may terminate a person's participation in the program based upon:

- (1) Failure to cooperate or comply with the individualized participation agreement; or
- (2) Violation of the practice act of the applicable health care profession during participation in the program.

The evaluation committee shall report terminations to the applicable participating board.

Source: SL 1996, ch 227, § 11; SL 2013, ch 171, § 11.

36-2A-12. Confidentiality of program participants' records. All records of health professionals assistance program participants are confidential and are not subject to discovery or subpoena. Only authorized program personnel and health professionals assistance evaluation committee members may have access to participant records unless the participant voluntarily provides for written release of the information. A participating board may only have access to records of participants who were referred by the board, who refused to cooperate with the health professionals assistance program, or who have been terminated by the health professionals assistance program in accordance with § 36-2A-11. Records shall be maintained in accordance with § 36-2A-14.

Source: SL 1996, ch 227, § 12; SL 2013, ch 171, § 12.

36-2A-13. Immunity from liability for reports and actions related to duties. Any person, agency, institution, facility, or organization making reports to the participating board or health professionals assistance program regarding an individual suspected of practicing while impaired or reports of a participant's progress or lack of progress in the health professionals assistance program is immune from civil liability for submitting a report in good faith to the health professionals assistance program. Members and staff of the participating boards, health professionals assistance program evaluation committees, and health professionals assistance

program personnel acting in good faith are immune from civil liability for any actions related to their duties under this chapter.

Source: SL 1996, ch 227, § 13; SL 2013, ch 171, § 13.

36-2A-14. Promulgation of rules. The Board of Nursing and the Board of Medical and Osteopathic Examiners, with the approval of the other participating boards, may jointly promulgate rules pursuant to chapter 1-26 for implementation of the health professionals assistance program, including:

- (1) Committee structure and program personnel;
- (2) Admission criteria;
- (3) Criteria for denial of admission;
- (4) Required participation components;
- (5) Termination of participation and discharge criteria;
- (6) Confidentiality and retention of program records;
- (7) Annual evaluation of effectiveness of the program;
- (8) Participation fees; and
- (9) Procedures for establishing the annual budget and prorating program expenses.

Source: SL 1996, ch 227, § 14; SL 2013, ch 171, § 14.

36-2A-15. Determination of expenses to be borne by participating boards. The health professionals assistance program expenses to be borne by each participating board shall be determined by the health professionals assistance program service committee in accordance with § 36-2A-14.

Source: SL 1996, ch 227, § 15; SL 2013, ch 171, § 15.

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