



Board of Podiatry Examiners

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DRAFT BOARD MEETING AGENDA **Dakota Digital Network Video Conferencing-DDN**

TO: Board Members

FROM: Carol Tellinghuisen, Executive Secretary

DATE: September 17, 2018

MEETING DATE: October 19, 2018

LOCATION: **DDN: Dakota Digital Network Video Conferencing. The Board will be meeting at the following locations:**

Pierre-CAP B Room B12- 500 E. Capitol
Sioux Falls, SFUC FADM 145 – 4801 N. Career Ave.
Spearfish-BHSU, LIB 011- 1200 University St
Rapid City-UC113, 4300 Cheyenne Blvd.

MEETING TIME: **12:00 PM CT / 11:00 AM MT Business Meeting Convenes**

Persons interested in joining the meeting may do so by appearing in person for the video conference meeting at the location listed above or by calling 605-642-1600 by October 18, 2018 to arrange for a dial in number for the videoconference.

Rules Hearing Meeting will convene immediately following vote on rules changes. At the conclusion of the rules hearing meeting, the regular business meeting will resume.

Agenda Item Number

1. Call to Order/Welcome and introductions-Stansberry
2. Roll Call-Stansberry
3. Corrections or additions to the agenda
4. Approval of the agenda
5. Public Comment at 11:05AM-5 minutes for the public to address the Board
6. Vote on rules changes
7. **Adjourn to rules hearing meeting**
8. **Resume regular business meeting**

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SD Board of Podiatry Examiners

Meeting Agenda

October 19, 2018

9. Approval of Minutes from April 6, 2018
10. FY Financial Update
11. Executive Session-Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations
12. Code of Conduct
13. Any other business coming in between date of mailing and meeting
14. Schedule next meeting
15. Adjourn

ARTICLE 20:55

PODIATRISTS

Chapter

- 20:55:01 Licensing -- Generally.
- 20:55:02 Written examinations.
- 20:55:03 ~~Licensure by reciprocity~~ Application by applicants holding out of state license.
- 20:55:04 Certificates and licenses.
- 20:55:05 Board and officers.
- 20:55:06 License revocation and suspension.
- 20:55:07 Amendment of rules, Repealed.

CHAPTER 20:55:01

LICENSING -- GENERALLY

Section

- 20:55:01:01 Methods of licensure.
- 20:55:01:02 Repealed.
- 20:55:01:03 Recognized podiatry schools.
- 20:55:01:04 Foreign podiatry schools.
- 20:55:01:05 Diploma requirement.
- 20:55:01:06 and 20:55:01:07 Repealed.
- 20:55:01:08 Continuing education requirements.

20:55:01:08. Continuing education requirements. Each licensee shall, prior to July 1, 2001, and every two years thereafter, provide written verification to the Board of Podiatry Examiners of the completion of 30 hours of continuing medical education. The program hours must be approved

and certified by the Council of Podiatric Medical Education of the American Podiatric Medical Association or approved by the Board of Podiatry Examiners. The necessary verification shall accompany each application for licensure renewal. If satisfactory verification is not received, the board shall deny the renewal application or take action to revoke or suspend the license of an individual not in compliance.

A licensee may apply for a waiver of the continuing education requirement if the licensee presents proof of special circumstances with documentation subject to board approval.

Up to 30 additional hours of satisfactory continuing medical education can be carried over for two years only.

Source: 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-23.

CHAPTER 20:55:02

WRITTEN EXAMINATIONS

Section

20:55:02:01	Application and fees.
20:55:02:02	Time for filing <u>Fees nonrefundable.</u>
20:55:02:03	Conduct of examinations, <u>Repealed.</u>
20:55:02:04	Basic requirement.
20:55:02:05	Repealed.
20:55:02:06	Time and place of examination, <u>Repealed.</u>

20:55:02:07 and 20:55:02:08 Repealed.

20:55:02:02. ~~Time for filing Fees nonrefundable.~~ ~~No fee is returnable. fee will be refunded.~~

~~All applications and fees must be filed with the secretary of the board at least 12 weeks before the date set for examination.~~

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-9.

20:55:02:03. ~~Conduct of examinations.~~ ~~Examinations of applicants shall be conducted by two or more proctors designated by the board Repealed.~~

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989; 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-9.

20:55:02:04. Basic requirement. Except as provided in chapter 20:55:03, no person may be licensed to practice podiatry unless he the person has passed ~~an examination established and administered by the board.~~ the national standardized examinations, parts I, II and III of the National Board of Podiatric Medical Examiners. However, part III may be waived if the applicant graduated from a school of podiatric medicine before January 2001, and the applicant is currently licensed as

a podiatric physician in another state and has been in active licensed practice for at least five continuous years.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-9, 36-8-12.

~~20:55:02:06. Time and place of examination. Examinations shall be held annually at a time and place to be established by the board~~ Repealed.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-10.

CHAPTER 20:55:03

LICENSURE BY RECIPROCITY APPLICATION BY APPLICANTS HOLDING OUT OF STATE LICENSE

Section

- 20:55:03:01 Repealed.
- 20:55:03:02 Application for licensure by reciprocity by applicants holding out of state license.
- 20:55:03:03 Supplemental examination, Repealed.
- 20:55:03:04 License fee.
- 20:55:03:05 Certified documentation.
- 20:55:03:06 Repealed.

20:55:03:07 No temporary licenses.

20:55:03:02. Application for licensure by reciprocity applicants holding out of state

license. An applicant for licensure by reciprocity who is an out of state licensee must hold a valid current, unrevoked, and unsuspended license to practice podiatry ~~which~~ that has been issued by another state or territory of the United States. ~~that extends reciprocity to South Dakota licensees~~ and that, in the opinion of the board, maintains licensing requirements equivalent to those of South Dakota.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-12.

~~**20:55:03:03. Supplemental examination.** The board may require a supplemental oral or written examination if it considers either necessary to determine the qualifications of an applicant for licensure by reciprocity. Such an oral or written examination shall be conducted by two or more members of the board at a time and place convenient to the board and shall cover subjects listed in SDCL 36-8-9 Repealed.~~

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-9, 36-8-12.

20:55:03:05. Certified documentation. Applicants ~~file a certified copy of the subjects and the grades obtained by and proof written examination in some other state or territory or through the national board of podiatry examiners~~ An applicant for licensure under this chapter shall ~~provide official transcripts sent directly from the school to the board and proof of passing the national standardized examinations, parts I, II and, if applicable, part III of the National Board of Podiatric Medical Examiners. Test scores shall be sent directly from the examination services to the board.~~ provide official transcripts sent directly from the school to the board and proof of passing the national standardized examinations, parts I, II and, if applicable, part III of the National Board of Podiatric Medical Examiners. Test scores shall be sent directly from the examination services to the board. Proofs must be submitted that the applicant meets the requirements of this chapter.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 143, effective May 7, 2000.

General Authority SDCL 36-8-3.

Law Implemented: SDCL 36-8-8, 36-8-12.

CHAPTER 20:55:04

CERTIFICATES AND LICENSES

Section

20:55:04:01 ~~Certificate of registration~~ License renewal -- Fee -- Annual renewal.

20:55:04:02 Repealed.

20:55:04:01. ~~Certificate of registration~~ License renewal -- Fee -- Annual renewal. Each person licensed to practice podiatry within this state shall secure a ~~certificate of registration~~ license from the board and shall renew the ~~certificate~~ license annually by July 1. The renewal fee is \$350. Failure to secure a ~~renewal certificate~~ license renewal shall result in a suspension of license. If a licensee fails to timely renew the license prior to renewal being granted, the applicant shall show satisfactory evidence of 30 hours of continuing medical education as provided in § 20:55:01:08.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 198, effective June 30, 1989; 26 SDR 143, effective May 7, 2000; SL 2018, ch 228, § 14, effective July 1, 2018.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-15.

CHAPTER 20:55:05
BOARD AND OFFICERS

Section

- 20:55:05:01 President's duties -- Meetings, Repealed.
- 20:55:05:02 Repealed.
- 20:55:05:03 Secretary-treasurer -- Bond requirements, Repealed.
- 20:55:05:04 Secretary-treasurer -- Duties.
- 20:55:05:05 Quorum.
- 20:55:05:06 Repealed.

~~**20:55:05:01. President's duties -- Meetings.** The president of the board shall call and preside at all meetings of the board. He shall call meetings of the board upon the written request of two members of the board, stating the reason therefor, sign the minutes of each meeting when approved by the board, and act generally in accordance with the requirements of his office to carry out the duties of the board. Upon the president's unavoidable absence from any meeting of the board, the members may choose one of their number to act as president pro tem at any meeting called in accordance with this section and § 20:55:05:05 Repealed.~~

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-3.

~~20:55:05:03. Secretary-treasurer — Bond requirements. The secretary shall be the treasurer of the board. The secretary-treasurer shall carry out the duties of the office and account for and pay over to the board all moneys received~~ Repealed.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-3.

20:55:05:04. Secretary-treasurer -- Duties. The duties of the secretary-treasurer are as follows:

- (1) Conduct the correspondence of the board;
- (2) Keep a true record of all its proceedings;
- ~~(3) On advice of the president, notify all members of the board of the time and place of meetings at least twenty-four hours in advance;~~

(4) Keep a register of all persons granted licenses together with their addresses and qualifications and furnish a list of the licenses to any member of the board upon request;

(5)(4) Keep books of record and account as required by the board and permit any member of the board to inspect them at any time;

(6)(5) Receive all moneys payable to the board and deposit them with the state treasurer;

(7)(6) Keep a record of the results of all examinations; and

(8)(7) Under the direction of the board, take all necessary steps and proceedings to enforce the provisions of SDCL chapter 36-8.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-3.

Cross References: Moneys may not be placed in local banks without permission of state auditor and state treasurer, SDCL 4-4-3; Monthly payment of receipts into treasury, SDCL 36-8-4.

CHAPTER 20:55:06

LICENSE REVOCATION AND SUSPENSION

Section

20:55:06:01 Generally.

20:55:06:02 Additional grounds.

20:55:06:02. Additional grounds. ~~Additional grounds for the revocation or suspension of the license by the board are as follows:~~ A license may also be revoked or suspended by the board if
the:

(1) The licensee willfully failed to abide by the principles of ethics promulgated by the American Podiatric Medical Association as in effect on ~~July 1, 1999~~ March 1, 2017.

Source: SL 1975, ch 16, § 1; 12 SDR 122, effective January 30, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 143, effective May 7, 2000.

General Authority: SDCL 36-8-3.

Law Implemented: SDCL 36-8-14, 36-8-16 to 36-8-20.

Reference: Copies of the 2017 Code of Ethics of the American Podiatric Medical Association may be obtained from the American Podiatric Medical Association, 9312 Old Georgetown Road, Bethesda, Maryland 20814-1621. No charge.



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OFFICIAL BOARD MINUTES

April 6, 2018

Teleconference

Members Present: Carolyn Stansberry, DPM, President
Michael McGowan, DPM, Secretary/Treasurer
Neil Skea, DPM, Member
Mark Gebbie, DPM, Member

Others Present: Carol Tellinghuisen, Executive Secretary
Jill Lesselyoung, Executive Assistant

Members Absent: John Morris, Lay Member

Stansberry called the meeting to order at 11:08 AM MDT.

Corrections or additions to the agenda: None

Election of Officers: Skea moved and Gebbie seconded to continue with the current slate of officers with Stansberry serving as President and McGowan as Secretary/Treasurer. Motion carried by unanimous roll call vote.

Approval of Minutes from November 16, 2017 and December 8, 2017: Skea moved and McGowan seconded to approve the minutes from November 16, 2017 and December 8, 2017. Motion carried by unanimous roll call vote.

FY Financial Update: Lesselyoung reported fiscal yearend figures as of June 30, 2017; revenue of \$8,531.21 expenditures of \$15,477.41 and cash balance of \$23,811.80 and fiscal year to date figures as of February 28, 2018: year to date revenue of \$2,544.71; expenditures of \$13,125.60 and cash balance of \$13,214.63. The Board discussed and accepted the financials as presented.

Complaints/Investigations: None

South Dakota Board of Podiatry Examiners Board Meeting Minutes

April 6, 2018

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Executive Secretary Contract: Tellinghuisen requested to renew the contract commensurate with a state cost of living increase of 1.2% (\$11.10 per month). Skea moved and Stansberry seconded to renew the contract at 1.2% increase per services as requested by Tellinghuisen. Motion carried by unanimous roll call vote.

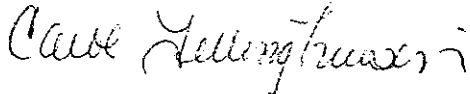
Licensure Compact Update: The Board was advised the licensure compact legislation did not pass during legislative session.

Legislation Update: Tellinghuisen advised the Podiatry legislation passed. Skea and Stansberry testified before the subcommittees as well as Tellinghuisen and Lesselyoung. Tellinghuisen thanked Skea and Stansberry for their assistance and time commitment to help facilitate the passage of the legislation. There was no opposition by members of the profession. Stansberry suggested and the Board agreed to include a copy of the final bill as passed in the seal renewal letter to licensees.

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

Schedule next meeting: The next meeting is scheduled for teleconference on October 26, 2018 at 11:00AM MT/12:00PM CT. Stansberry moved and Gebbie seconded to adjourn at 11:34 AM MDT. Motion carried by unanimous roll call vote.

Respectfully submitted,



Carol Tellinghuisen
Executive Secretary

Carolyn Stansberry, DPM
President

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: 06/29/2018

AGENCY	BUDGET UNIT	09	HEALTH	BOARD OF PODIATRY EXAMINERS					
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE				
COMPANY NO	6503								
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS								
092100061821	6503	4293959	PODIATRY EXAM LIC FEE	4,570.00	20,900.00				
ACCT:	4293		BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	4,570.00	20,900.00	*			
ACCT:	42		LICENSES, PERMITS & FEES	4,570.00	20,900.00	**			
092100061821	6503	4920045	NONOPERATING REVENUES	.00	318.43				
ACCT:	4920		NONOPERATING REVENUE	.00	318.43	*			
ACCT:	49		OTHER REVENUE	.00	318.43	**			
CNTR:	092100061821			4,570.00	21,218.43	***			
CNTR:	092100061			4,570.00	21,218.43	****			
092100062401	6503	4920045	NONOPERATING REVENUES	.00	16.28				
ACCT:	4920		NONOPERATING REVENUE	.00	16.28	*			
ACCT:	49		OTHER REVENUE	.00	16.28	**			
CNTR:	092100062401			.00	16.28	***			
CNTR:	092100062			.00	16.28	****			
CNTR:	0921000			4,570.00	21,234.71	*****			
COMP:	6503			4,570.00	21,234.71	*****			
B UNIT:	09210			4,570.00	21,234.71	*****			

AGENCY: 09 HEALTH
BUDGET UNIT: 09210 BOARD OF PODIATRY EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061821	1140000	27,350.51	DR	BOARD OF PODIATRY EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			27,350.51	DR *	
COMP/BUDG UNIT TOTAL 6503 09210			27,350.51	DR **	
BUDGET UNIT TOTAL 09210			27,350.51	DR ***	

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STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 08/31/2018

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AGENCY	BUDGET UNIT	09	HEALTH	BOARD OF PODIATRY EXAMINERS				
CENTER	COMP	ACCT	DESCRPTION	CURRENT MONTH	YEAR-TO-DATE			
092100061821	6503	4293	PROFESSIONAL & LICENSING BOARDS					
092100061821	6503	4293959	PODIATRY EXAM LIC FEE	.00	1,560.00	*		
092100061821	6503	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	.00	1,560.00	*		
092100061821	6503	42	LICENSES, PERMITS & FEES	.00	1,560.00	**		
092100061821	6503	4920045	NONOPERATING REVENUES	247.69	247.69			
ACCT: 4920			NONOPERATING REVENUE	247.69	247.69	*		
ACCT: 49			OTHER REVENUE	247.69	247.69	**		
CNTR: 092100061821				247.69	1,807.69	***		
CNTR: 092100061				247.69	1,807.69	****		
CNTR: 0921000				247.69	1,807.69	*****		
COMP: 6503				247.69	1,807.69	*****		
B UNIT: 09210				247.69	1,807.69	*****		

BA0215V1 09/01/2018

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 08/31/2018

AGENCY BUDGET CENTER-5	09	HEALTH BOARD OF PODIATRY EXAMINERS	09210	BOARD OF PODIATRY EXAMINERS	09210										
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE										
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS													
COMPANY NAME	6503	PROFESSIONAL & LICENSING BOARDS													
092100061821	6503	520409000000000000	MANAGEMENT CONSULTANT	3,462.48	3,856.38										
092100061821	6503	520418000000000000	COMPUTER SERVICES-STATE	.00	10.82										
092100061821	6503	520420000000000000	CENTRAL SERVICES	.00	239.98										
092100061821	6503	520420400000000000	RECORDS MGMT SERVICES	.00	45.60										
ACCT: 5204	6503	CONTRACTUAL SERVICES		3,462.48	4,152.78				*						
092100061821	6503	520532000000000080	PRINTING-COMMERCIAL	.00	6.48										
ACCT: 5205		SUPPLIES & MATERIALS			6.48				*						
ACCT: 52		OPERATING EXPENSES		3,462.48	4,159.26				**						
COMP: 6503		PROFESSIONAL & LICENSING BOARDS		3,462.48	4,159.26				***						
CENTER: 092100061821				3,462.48	4,159.26				****						
B UNIT: 09210				3,462.48	4,159.26				*****						

BA1409R1

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 08/31/2018

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AGENCY: 09 HEALTH
BUDGET UNIT: 09210 BOARD OF PODIATRY EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061821	1140000	24,998.94	DR	BOARD OF PODIATRY EXAMINERS
COMPANY/SOURCE TOTAL		6503 618	24,998.94	DR *	
COMP/BUDG UNIT TOTAL		6503 09210	24,998.94	DR **	
BUDGET UNIT TOTAL		09210	24,998.94	DR ***	

Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members

Purpose

The purpose of this code of conduct and conflict of interest policy ("Code") is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. With the exception of those under the purview of the Unified Judicial System, this Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter "Boards" and "Board member(s)"). A Board may add provisions to, or modify the provisions of, the Code. However, any change that constitutes a substantive omission from the Code must be approved by the State Board of Internal Control.

Conflict of Interest for Board Members

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

General Restrictions on Participation in Board Actions

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board's official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member's interest or relationship creates a potential to influence the member's impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board's administrative staff. To the extent Board members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

"Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

Contract Restrictions

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may

contact the attorney for the Board. However, because the attorney for the Board does not represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.

Consequences of Violations of Conflict of Interest Laws

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30-46.

Retaliation for Reporting

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

Anti-Harassment/Discrimination Policy

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging, or touching;

- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

Confidential Information

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

Reporting of Violations

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to SDCL § 1-56-6.