



South Dakota DENTAL ASSOCIATION

A constituent society of the American Dental Association

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February 5, 2024

Dr. Nicholas Renemans, Chairman
South Dakota State Board of Dentistry
PO Box 1079
Pierre, SD 57501

Dear Dr. Renemans:

The South Dakota Dental Association (SDDA) has reviewed the proposed rules concerning dental patient records, as drafted by the Board of Dentistry, and we are writing to you in support of the proposed rules.

Sincerely,

A handwritten signature in black ink that reads "Paul Knecht". The signature is written in a cursive style with a horizontal line at the end.

Paul Knecht
Executive Director

February 2, 2024

South Dakota Board of Dentistry
PO Box 1079
Pierre, SD 57501

Re: proposed Administrative Rules of South Dakota numbered §§ 20:43:11:01; 20:43:11:02; 20:43:11:03; and 20:43:11:04 which address maintenance, timelines, transfer, and destruction of records maintained by dentists and dental entities.

Dear Members of the Board:

Delta Dental of South Dakota (DDSD) is the state's largest and most experienced dental benefits company, processing more than 750,000 claims for coverage annually. The Delta Dental of South Dakota Foundation provides direct care through our Mobile Program to kids who don't otherwise have access to dental care.

In both instances, we support the Board of Dentistry's goals to specify the content, retention, and provision of medical records. The proposed rules provide clarity that supports quality of care for patients, accurate and timely adjudication of claims, and integrity of care provided in our public health outreach program.

Citations noted in the following comments refer to the version titled, "Draft Administrative Rules with LRC Form and Style Changes Incorporated"

Specific to proposed rule 20:43:11:01. Content. DDSD offers the following items for consideration, listed in sequential reading order:

- A. The second sentence of the proposed rule, on lines 2 & 3 on page 3 says, "The medical record must contain the patient's clinical and financial record." The proposed rule then specifies in detail what must be included in the clinical record. However, there is no similar guidance for what the financial record should include. Would it be helpful if there were also specific requirements for financial records?

[Type here]

- B. Does subdivision (1) (b) on lines 7 & 8 of page 3 include other providers administering treatment? For example, would this subdivision require the name and signature, initials, or electronic verification of a CRNA who provided sedation services to the clinical record entry? Or should the services delivered by a CRNA be noted elsewhere in the clinical record?
- C. On line 11 of page 4, we suggest that subdivision (10) (a) be amended to read, “Notation of informed consent, including communication of potential risks...” as the word communication is more broadly inclusive of methods to exchange information on topics listed in the subdivision.

11 (a) Notation of the informed consent ~~discussion~~, including ~~a discussion of potential~~ ^{communication}

For twenty years, our Mobile Program has provided care to kids in a non-traditional setting that often necessitates that such information be exchanged in advance in writing instead of a verbal conversation as could be inferred by the current wording.

Specific to proposed rule 20:43:11:03. Retention and destruction. DDSD offers the following suggestion: on lines 3 and 6 of page 6, that subdivisions (1) and (2) be amended to require that records be retained for ten years from the starting point dates noted.

3 (1) If a patient is an adult, the dentist must retain the medical records for ~~seven~~ ^{ten} years from
4 the date of the last treatment, examination, or prescription;

5 (2) If a patient is a minor, the dentist must retain the medical records for one year after the
6 patient reaches the age of eighteen or ~~seven~~ ^{ten} years from the date of the last treatment,
7 examination, or prescription, whichever is longer;

A ten-year requirement would align with other record retention requirements for dental healthcare that already apply to dentists and dental entities in South Dakota. For example:

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- Federal rule 45 C.F.R. § 156.705 requires that Qualified Health Plans (QHPs) in a Federally-facilitated Exchange must maintain records for ten years. Such QHPs that include coverage of pediatric dental services are offered in South Dakota.
- Federal rule 42 C.F.R. § 422.504(e) requires that Medicare Advantage organizations retain records for ten years for audit purposes by the US Dept. of Health & Human Services. Medicare Advantage plans that include dental benefits are offered in South Dakota.

These federal rules apply to dentists who provide care to patients covered by such health plans as delegated services under the plans. Insurance carriers who administer specific benefits of such plans - like dental - are likewise required to maintain records for the same ten-year period as downstream entities of the health plan entities.

A uniform ten-year retention term would ensure other common medical record requirements are met, such as retaining Medicaid medical and financial records for six years pursuant to ARSD 67:16:34:05. It would also align with other healthcare medical record requirements in South Dakota, such as ARSD 44:75:09:06 that requires hospitals to maintain medical records for a minimum of ten years from actual visit date of service or patient care.

Thank you for the opportunity to comment on the proposed rules and for your consideration of our suggestions.

Sincerely,



Ann Schwartz

Vice President of Government Programs and Professional Services