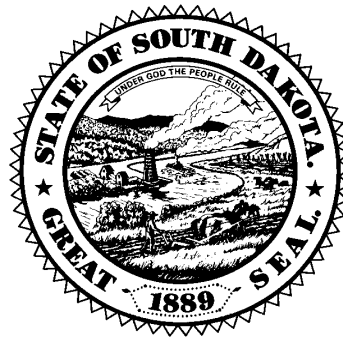


South Dakota Dental Practice Act

Reprinted from the
South Dakota Codified Law
and
Administrative Rules
2012



Issued by
**The South Dakota State
Board of Dentistry**

Reprinted from the South Dakota Codified Laws.

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South Dakota Board of Dentistry's mission is to protect the health and safety of the consumer public from the services of unqualified dentists, hygienists, and dental assistants by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of dentistry, including the inspection of facilities and appropriate resolutions of complaints.

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Title 36. Professions and Occupations.

Chapter 6A. Dentists, Dental Hygienists and Dental Auxiliaries

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36-6A-1. Board of Dentistry--Number of members--Qualifications. The State Board of Dentistry shall consist of seven members. Five members shall be dentists in active practice in South Dakota for at least five years immediately preceding appointment. One member shall be a lay person and a resident of this state at least five years. One member shall be a dental hygienist in active practice in South Dakota at least five years.

Source: SDC 1939, § 27.0602; SL 1971, ch 213, § 2; SL 1981, ch 275, § 1; SL 1992, ch 269, § 1.

36-6A-2. Repealed by SL 2005, ch 199, § 16.

36-6A-3. Appointment and term of lay member. The lay member shall be appointed by the Governor and shall have the same term of office as other members of the Board of Dentistry.

Source: SL 1973, ch 2, § 58; SL 1981, ch 275, § 1[3].

36-6A-4. Terms of office--Vacancies. No member of the board may serve more than three consecutive full terms. However, appointment of a person to an unexpired term is not considered a full term for this purpose. The Governor shall make appointments to the board for terms of three years. Each member shall hold office until a successor is appointed and qualified. The Governor shall, by appointment, fill any vacancy for the balance of the unexpired term. The Governor may stagger terms to enable the board to have different terms expire each year.

The terms of members shall begin on October thirty-first of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The appointee's term shall expire on October thirtieth in the third year of appointment.

Source: SDC 1939, § 27.0602; SL 1971, ch 213, § 4; SL 1992, ch 269, § 3; SL 2005, ch 199, § 17; SL 2012, ch 16, § 11.

36-6A-5. Officers of board. The board shall elect from its members a president, vice-president, and a secretary-treasurer.

Source: SDC 1939, § 27.0603; SL 1971, ch 213, § 5; SL 1989, ch 322; SL 1992, ch 269, § 4.

36-6A-6. Board continued within Department of Health--Records and reports. The Board of Dentistry shall continue within the Department of Health, and shall retain all its prescribed functions, including administrative functions. The board shall submit such records, information, and reports in the form and at such times as required by the secretary of health. However, the board shall report at least annually.

Source: SL 1973, ch 2, § 56 (h); SL 1992, ch 269, § 5; SL 2003, ch 272, § 35.

36-6A-7. Acceptance of funds by board--Separate fund--Payments from fund--Expense limited by revenue. The board may accept any funds which may be made available to it from any source. All funds received by the board shall be paid to the secretary-treasurer thereof, or his staff assistant, who shall deposit such funds each month, to be kept in a separate fund for the sole use and under the sole control of the board carrying out the provisions of this chapter. Payments out of the fund shall be made only upon authorization by the president of the board or the secretary-treasurer thereof. The board may expend the necessary funds for its offices and furniture, fixtures, and supplies. No expense may be incurred by the board in excess of the revenue derived from all sources.

Source: SDC 1939, § 27.0603; SL 1971, ch 213, § 6; SL 1992, ch 269, § 6.

36-6A-8. Compensation and expenses of board members--Salary of secretary-treasurer--Payment for services. Out of the funds coming into the possession of the Board of Dentistry, the board members may receive the compensation and reimbursement of expenses provided by law. The secretary-treasurer shall in addition thereto be paid a salary to be set by resolution of the board. The board may expend funds in accordance with chapter 3-6A for administrative, consultant, secretarial, clerical, and stenographic services for the board, the amount of the expenditures to be set by the board. Any member, if serving as a regional or national dental examiner, may receive compensation from the examining agency.

Source: SDC 1939, § 27.0603; SL 1971, ch 213, § 7; SL 1981, ch 275, § 2[4]; SL 1992, ch 269, § 7.

36-6A-9. Affiliation with American Association and Central Regional Dental Testing Service--Dues--Delegates to meetings. The board may affiliate with the American Association of Dental Examiners and the Central Regional Dental Testing Service as active members, pay regular annual dues to such associations, and send members of the board as delegates to the meetings of such associations. Such delegates may receive the per diem and reimbursement of expenses provided by law for members of the board.

Source: SDC 1939, § 27.0603; SL 1971, ch 213, § 8; SL 1992, ch 269, § 8.

36-6A-10. Seal of board--Meetings--Examinations. The board shall have a common seal. The board shall hold two regular meetings each year at times to be fixed by the board and shall give examinations to applicants at either a regular meeting, a special meeting, or at such other times as may be necessary and as the board may determine. All regular meetings shall be held at such places within this state as the board shall determine. A quorum of the board may hold special meetings for the purpose of conducting examinations. However, the cost of the examinations shall be borne entirely by those persons wishing to have the State Board of Dentistry conduct the examinations.

Source: SDC 1939, § 27.0603; SL 1971, ch 213, § 9; SL 1992, ch 269, § 9.

36-6A-11. Quorum--Majority required for decision--Meeting on call of majority of members. A majority of board members constitutes a quorum. A majority vote of those

present shall constitute a decision of the entire Board of Dentistry. A majority of the board may call a meeting without the call of the president.

Source: SL 1981, ch 275, § 5; SL 1992, ch 269, § 10.

36-6A-12. Removal of member--Disqualification of member subject to disciplinary proceedings. A member of the Board of Dentistry may be removed from office for cause, or if he is physically or mentally unable to carry out his duties as a board member, or if found guilty of a violation of any provision of § 36-6A-59. A board member subject to disciplinary proceedings shall disqualify himself from board business until the charge is adjudicated.

Source: SL 1981, ch 275, § 6; SL 1992, ch 269, § 11.

36-6A-13. Immunity of members from civil liability. Any member of the Board of Dentistry is immune from individual civil liability while acting within the scope of his duties as a board member.

Source: SL 1981, ch 275, § 7; SL 1992, ch 269, § 12.

36-6A-14. Powers and duties of board. The Board of Dentistry shall:

- (1) Through its policies and activities, and by rules promulgated pursuant to chapter 1-26, establish standards for, and promote, the safe and qualified practice of dentistry;
- (2) Be responsible for all disciplinary proceedings under this chapter;
- (3) By rules promulgated pursuant to chapter 1-26, establish educational, training and competency standards governing the examination and practice of practitioners under this chapter using national accrediting agencies and accepted nationally established standards;
- (4) Examine, or cause to be examined, for competency, eligible applicants, eligible by virtue of graduation from an American Dental Association Commission on Dental Accreditation accredited dental or dental hygiene formal educational program, for licenses to practice dentistry or dental hygiene;
- (5) Issue licenses to those applicants who successfully complete the licensure examination and renew the licenses of those practitioners who continue to meet the licensure standards of this chapter;
- (6) Register, pursuant to rules promulgated pursuant to chapter 1-26, those applicants who successfully complete the registration requirements for dental radiography;

(7) Register, pursuant to rules promulgated pursuant to chapter 1-26, those applicants who successfully complete certain educational, training and competency requirements for a dental assistant;

(8) Establish, pursuant to rules promulgated pursuant to chapter 1-26, reasonable requirements governing the reentry into practice of inactive practitioners;

(9) Establish and collect, pursuant to rules promulgated pursuant to chapter 1-26, fees for licensure, registration, examination, continuing education, license renewal, reinstatement, satellite office, corporations, corporation renewals, limited liability companies, limited liability company renewals, registration renewals and fines, permits and permit renewals; and

(10) Permit dental hygienists and dental assistants to perform, under the supervision of a dentist, additional procedures established by rules promulgated pursuant to chapter 1-26.

The board may authorize a hearing examiner to conduct the hearing required to determine a violation of § 36-6A-22 or 36-6A-59.

Source: SL 1981, ch 275, § 8; SL 1984, ch 250, § 2; SL 1988, ch 297, § 1; SL 1992, ch 269, § 13; SL 1993, ch 344, § 39Q.

36-6A-15. Restrictions on rule-making power of board. The Board of Dentistry may not promulgate a rule which:

(1) Is not authorized by this chapter or which does not relate to the protection of the public from unsafe dental practices;

(2) Discriminates between licensees of the same class;

(3) Has as its primary purpose the promotion or protection of the economic interests of practitioners;

(4) Restricts the number of licensees for reasons other than their qualifications;

(5) Discriminates between programs approved under this chapter which train prospective licensees or registrants, whether in or out of the state.

Source: SL 1992, ch 269, § 14.

36-6A-16. Enforcement of chapter. The duty of the Board of Dentistry shall be to carry out the purposes and enforce the provisions of this chapter.

Source: SDC 1939, §§ 27.0602, 27.0604; revised pursuant to SL 1972, ch 15, § 4; SL 1992, ch 269, § 16.

36-6A-17. Employment of assistance in enforcement--Action for injunction--Election of remedies--Legal representation of board. The Board of Dentistry may use its own staff or employ licensed dentists, agents or investigators to assist in the enforcement of this chapter or any rule promulgated by the board. If it appears to the board that a person is violating any provision or rule of this chapter, the board may, in its own name, bring an action for an injunction as an alternate to criminal proceedings, and the commencement of one proceeding by the board constitutes an election. Such proceedings shall be prosecuted by the attorney general's office or person designated by the attorney general and retained by the board as provided in § 36-6A-18.

Source: SDC 1939, § 27.0616; SL 1971, ch 213, § 11; SL 1981, ch 275, § 9; SL 1992, ch 269, § 17.

36-6A-18. Assistance in enforcement proceedings--Expenditure of funds--Employment of attorney. The board and its members and officers shall assist any person charged with the enforcement of this chapter, and the board, its members and officers shall furnish such person with evidence to assist in the prosecution of any violation or enforcement of this chapter, and the board may, for that purpose, make a reasonable expenditure. The board may, if it deems best for the enforcement of this chapter or in the conduct of its duties, employ an attorney designated by the attorney general. The board shall fix and determine the compensation and period of service of such attorney who shall be paid out of the funds of the board.

Source: SL 1971, ch 213, § 12; SL 1992, ch 269, § 18.

36-6A-19. Subpoena power of board--Administration of oaths. In all matters pending before it the board has the powers provided by § 1-26-19.1.

Source: SDC 1939 § 27.0605; SL 1971, ch 213, § 13; revised pursuant to SL 1972, ch 15, § 4; SL 1992, ch 269, § 20.

36-6A-20. Depositions. Any deposition may be taken as provided by § 1-26-19.2.

Source: SDCL 1967, § 36-6-12 as added by SL 1971, ch 213, § 13; revised pursuant to SL 1972, ch 15, § 4; SL 1992, ch 269, § 21.

36-6A-21. Dental radiography--Requirements for practice. The Board of Dentistry may, by rule promulgated pursuant to chapter 1-26, establish minimum educational and training requirements and continuing education requirements to practice dental radiography.

Source: SL 1984, ch 250, § 1; SL 1992, ch 269, § 31.

36-6A-22. Complaints filed with board--Records maintained--Investigation--Dismissal--Appeal--Disciplinary procedure. The Board of Dentistry shall receive complaints from its members, dentists, dental groups, third party carriers providing financial reimbursement for dental services, or the public concerning a practitioner's professional practices. Each

complaint received shall be logged by the secretary-treasurer recording the practitioner's name, name of the complaining party, date of the complaint, a brief statement of the complaint and its ultimate disposition. An investigation shall be conducted by a member or an appointee of the board to determine whether an alleged violation has been committed. The investigator, if a member of the board, may dismiss a complaint if it appears to the member, either with or without the consultation of the board, that no violation has been committed or the member may transfer the complaint to a peer review committee duly appointed by a state or local professional society comprised of dentists licensed to practice their profession in the State of South Dakota, or the member may request the board to fix a date for hearing on the complaint. If the investigator is an appointee of the board, dismissal of the complaint or transferal to peer review may only be made by the president. Any agreed disposition made between the investigator and the practitioner shall be made known to and approved by the board. The complaining party shall be notified promptly of the dismissal or the agreed disposition. The complaining party may appeal the dismissal to the board. The decision of the board may be appealed to the circuit court in accordance with chapter 1-26. A license shall remain in effect during the pendency of an appeal unless suspended under § 36-6A-24. All disciplinary proceedings held under the authority of this chapter shall be conducted in accordance with chapter 1-26.

Source: SL 1981, ch 275, § 27; SL 1986, ch 305, § 2; SL 1992, ch 269, § 56.

36-6A-23. Sanctions authorized in disciplinary proceedings. The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner has violated any part of § 36-6A-59:

- (1) Revoke a practitioner's license to practice for an indefinite period;
- (2) Suspend a practitioner's license for a specific or indefinite length of time;
- (3) Censure a practitioner;
- (4) Issue a letter of reprimand;
- (5) Place a practitioner on probationary status and require the practitioner to report regularly to the board on the matters which are the basis for probation, limit his practice to areas prescribed by the board and continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of the probation;
- (6) Other sanctions which the board finds appropriate;
- (7) Require the practitioner to reimburse the board in an amount equal to the costs incurred for the investigation and disciplinary hearing.

The board may withdraw the probation if it finds the deficiencies which require disciplinary action have been remedied.

Source: SL 1981, ch 275, § 28; SL 1986, ch 305, § 3; SL 1992, ch 269, § 57.

36-6A-24. Summary suspension of license--Grounds--Hearing--Appeal. The board may summarily suspend a practitioner's license in advance of a final adjudication or during the appeals process if the board finds that a practitioner would represent a clear and immediate danger to the public health and safety if he were allowed to continue to practice. A practitioner whose license is suspended under this section is entitled to a hearing before the board within twenty days after the effective date of the suspension. The practitioner may subsequently appeal the suspension to circuit court in accordance with chapter 1-26.

Source: SL 1981, ch 275, § 29; SL 1992, ch 269, § 58.

36-6A-25. Reinstatement of suspended or revoked license or registration. Any practitioner, dental radiographer, or advanced dental assistant whose license or registration to practice has been suspended or revoked may be reinstated or a new license or registration may be issued to him, as the case may be, when in the discretion of the board such action is warranted. The board may require the applicant to pay all costs of the proceedings resulting in his suspension or revocation of license or registration and reinstatement or new license or registration. In addition, the board may, by rule promulgated pursuant to chapter 1-26, require a fee for reinstatement.

Source: SDC 1939, § 27.0607; SL 1971, ch 213, § 38; SL 1992, ch 269, § 59.

36-6A-26. Definition of terms. Terms used in this chapter mean:

- (1) "Board," the Board of Dentistry;
 - (1A) "Collaborative agreement," a written agreement between a supervising dentist and a dental hygienist authorizing the preventive and therapeutic services that may be performed by the dental hygienist under collaborative supervision;
 - (1B) "Collaborative supervision," the supervision of a dental hygienist requiring a collaborative agreement between a supervising dentist and dental hygienist;
- (2) "Commercial dental laboratory," an enterprise engaged in making, providing, repairing, or altering oral prosthetic appliances and other artificial materials and devices which are returned to a dentist and inserted into the human oral cavity or which come in contact with its adjacent structures and tissues;
- (3) "Complete evaluation," an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution;
- (4) "Dental," pertaining to dentistry;

(5) "Dental assistant," a person performing acts authorized under this chapter, who, under the supervision of a dentist or dental hygienist, renders assistance to a dentist, dental hygienist, dental technician, or other dental assistant in the manner described in § 36-6A- 41;

(6) "Dental auxiliary," a dental hygienist, a dental assistant or a dental technician, employed by a licensed dentist;

(7) "Dental hygienist," a person licensed pursuant to this chapter, who, under the supervision of a dentist, renders the educational, preventive, and therapeutic dental services authorized by § 36-6A-40, as well as any related extra-oral procedure required in the practice of those services;

(8) "Dental radiographer," a person who has been authorized by the Board of Dentistry to perform dental radiography;

(9) "Dental radiography," the application of X- radiation to human teeth and supporting structures for diagnostic purposes only;

(10) "Dental specialist," a dentist who has graduated from a postdoctoral specialty program recognized and approved by the American Dental Association Commission on dental accreditation;

(11) "Dental technician," a person performing acts authorized under this chapter, who, at the authorization of a dentist, makes, provides, repairs, or alters oral prosthetic appliances and other artificial materials and devices which are returned to a dentist and inserted into the human oral cavity or which come in contact with its adjacent structures and tissues;

(12) "Dentist," a person licensed pursuant to this chapter, who performs any intra-oral or extra- oral procedure required in the practice of dentistry and to whom is reserved the responsibilities specified in § 36-6A-31;

(13) "Dentistry," the healing art which is concerned with the examination, diagnosis, treatment, planning, and care of conditions within the human oral cavity and its adjacent tissues and structures, including the use of laser or ionizing radiation as authorized by rule by the board pursuant to chapter 1-26 to operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums, or jaw or adjacent or associated structures;

(14) "Direct supervision," the supervision of a dental hygienist or dental assistant requiring that a dentist diagnose the condition to be treated, a dentist authorize the procedure to be performed, a dentist remain in the dental office while the procedures are performed, and before dismissal of the patient a dentist has approved the work performed by the dental hygienist or dental assistant;

(15) "General supervision," the supervision of a dental hygienist requiring that a dentist authorize the procedures to be carried out, and that the patient to be treated is a patient of record of the supervising dentist and has had a complete evaluation within the previous thirteen months of the delegation of procedures;

(16) "Indirect supervision," the supervision of a dental hygienist or dental assistant requiring that a dentist authorize the procedure and a dentist be in the dental office while the procedures are performed by the dental assistant or dental hygienist;

(17) "Lay member," a person who is not a health professional, and who is not a parent, spouse, sibling or child of a health professional or health professional student. For purposes of board membership, a person with a significant financial interest in a health service or profession may not be a lay member;

(18) "Patient of record," a patient who has undergone a complete evaluation performed by a licensed dentist;

(19) "Personal supervision," a level of supervision indicating that the dentist or dental hygienist is personally treating a patient and authorizes the dental hygienist or dental assistant to aid his treatment by concurrently performing a supportive procedure;

(20) "Practitioner," a licensed dentist or dental hygienist;

(21) "Satellite office," an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on his annual registration certificate.

Source: SL 1971, ch 213, § 1; SL 1981, ch 275, § 10; SL 1984, ch 250, § 3; SL 1992, ch 269, § 15; SL 1995, ch 209, § 2; SL 2005, ch 200, § 1.

36-6A-27. Immunity from liability for acts of members of professional committees--Confidentiality of committee communications. There may be no monetary liability on the part of, and no cause of action for damages may arise against, any member of a duly appointed committee of a state or local professional society, comprised of dentists or dental hygienists licensed to practice their profession in the State of South Dakota, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain facts. "Professional society" includes dental organizations having as members at least a majority of the eligible licensees in the area served by the particular society. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation. No communications either to or from any such committee or its members or its proceedings, if acting as a peer review committee concerning the ethical or professional practices of any licensed dentist are discoverable for any purpose in any civil or criminal action. However, such

communication is discoverable in an administrative proceeding as contemplated by chapter 1- 26. All such communications are confidential. The committee shall transfer all documentation material to a complaint to the State Board of Dentistry upon subpoena by the board or upon filing a complaint. The confidentiality provided in this section shall cease upon transfer of the material to the board.

Source: SL 1975, ch 233; SL 1981, ch 276; SL 1986, ch 305, § 1; SL 1992, ch 269, § 19.

36-6A-28. Unauthorized practice or representation as dentist, dental hygienist, dental radiographer, or dental specialist as misdemeanor. Every person who practices or attempts to practice dentistry, dental hygiene, or dental radiography, or to function as a dental hygienist, or who purports to be a dentist or dental hygienist in this state without being licensed or without being registered for that purpose or without being exempted from this chapter is guilty of a Class 1 misdemeanor.

A dentist who implies, purports or leads his patients to believe that he is a dental specialist, unless he has met the educational requirements adopted by the Board of Dentistry before listing or identifying himself to the public as a dental specialist, is guilty of a Class 1 misdemeanor.

No person who is not licensed to practice dentistry in this state may sell, offer, or advertise any dental service including the furnishing, constructing, reproduction, relining, or repair of dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth. However, the mere delivery of products to an ultimate consumer or person acting in his behalf for the purpose of transporting products to the licensed dentist who provided the work order does not violate this section. This section does not apply to mailings, displays, and advertisements, the primary distribution of which is to the dental profession or its ancillary trades.

Source: SDC 1939, § 27.9918; SL 1977, ch 190, § 147; SL 1981, ch 275, § 12; SL 1984, ch 250, § 4; SL 1992, ch 269, § 22.

36-6A-29. Restrictions on advertising--Violation as misdemeanor. No person licensed by this chapter may engage in advertising pertaining to the practice of dentistry which may be fraudulent or misleading. A violation of this section is a Class 1 misdemeanor.

Source: SDC 1939, § 27.0614; SL 1943, ch 104; SL 1971, ch 213, § 25; SL 1983, ch 269; SL 1992, ch 158, § 74; SL 1992, ch 269, § 40.

36-6A-30. Sale, offer, or advertising of dental services by unlicensed person prohibited-- Violation as misdemeanor. A person not licensed to practice dentistry in this state may not sell, offer, or advertise any dental service including the furnishing, constructing, reproduction, relining, or repair of dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth. A violation of this section is a Class 1 misdemeanor.

The mere delivery of products to an ultimate consumer or person acting in his behalf for the purpose of transporting products to the licensed dentist who provided the work order is not a violation of this section. This section does not apply to mailings, displays, and advertisements, the primary distribution of which is to the dental profession or its ancillary trades.

Source: SL 1971, ch 213, § 26; SL 1981, ch 275, § 20; SL 1992, ch 158, § 75.

36-6A-31. Authorization required to practice dentistry--Exclusive responsibility of dentists. Only a dentist licensed or otherwise permitted to practice under this chapter may carry on the profession of dentistry in this state. Dentists have the exclusive responsibility for:

- (1) The diagnosis of conditions within the human oral cavity and its adjacent tissues and structures;
- (2) The treatment plan of a dental patient;
- (3) The prescribing of drugs which are administered to patients in the practice of dentistry;
- (4) The overall quality of patient care which is rendered or performed in the practice of dentistry, regardless of whether the care is rendered personally by a dentist or dental auxiliary;
- (5) The supervision of dental auxiliaries and authorization of procedures to be performed by dental auxiliaries;
- (6) The review, reading, and evaluation of dental radiographs;
- (7) The delegation of procedures to a dental hygienist under general supervision. The dentist shall have completed the last evaluation of the patient within thirteen months of the delegation of procedures. The written treatment plan contained within the patient's record shall accompany any delegation of treatment procedures; and
- (8) Any other specific services within the scope of dental practice.

Source: SL 1981, ch 275, § 11; SL 1992, ch 269, § 23; SL 2005, ch 200, § 2.

36-6A-32. Scope of dental practice defined. A person shall be deemed to be practicing dentistry within the meaning of this chapter:

- (1) Who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby he represents himself as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures; or

- (2) Who is a manager, proprietor, operator, or conductor of a place where dental operations are performed; or
- (3) Who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, either to himself or to another person or agency; or
- (4) Who uses a roentgen or X-ray machine for dental treatment, or roentgenograms for dental diagnostic purposes; or
- (5) Who extracts a human tooth or corrects or attempts to correct malpositions of the human teeth or jaws; or
- (6) Who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws; or
- (7) Who takes impressions of the human teeth or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture, or other appliance; or
- (8) Who furnishes, supplies, constructs, reproduces, or repairs, or offers to furnish, supply, construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; or
- (9) Who performs any clinical operation included in the curricula of recognized dental schools and colleges.

Source: SDC 1939, § 27.0601; SL 1965, ch 118; SL 1971, ch 213, § 14; SL 1992, ch 269, § 24.

36-6A-32.1. Exemption for certain community-based primary health organizations. The provisions of subdivision 36-6A-32(2) do not apply to the practice of dentistry by dentists licensed pursuant to this chapter who are providing dental services for patients under the auspices of a community-based primary health care delivery organization, which is operating as a community health center or migrant health center, receiving funding assistance under § 329 or 330 of the United States Public Health Service Act.

Source: SL 1999, ch 193, § 1.

36-6A-32.2. Exemption for mobile or portable dental unit operated by certain nonprofit organizations. The provisions of subdivision 36-6A-32(2) do not apply to the practice of dentistry provided by any mobile or portable dental unit operated by any nonprofit organization affiliated with a nonprofit dental service corporation organized under chapter 58-39.

Source: SL 2004, ch 246, § 1.

36-6A-33. Acts excluded from practice of dentistry. Section 36-6A-32 does not apply to:

(1) Any dentist licensed in another state making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution;

(2) Any individual enrolled in any accredited dental educational program who works under the direct supervision of a licensed instructor, whether within a formal education facility or at a practice site remote from that educational facility;

(3) Any dental or dental auxiliary instructor, whether full-time or part-time, while engaged in teaching activities while employed in accredited dental or dental auxiliary educational institutions;

(4) Any dentist licensed in another state who provides emergency care to any person so in need;

(5) Any dental auxiliary who is acting in accordance with § 36-6A-40, 36-6A-41, or 36-6A-43.

Source: SL 1981, ch 275, § 13; SL 1992, ch 269, § 25.

36-6A-34. Out-of-state dentist's acts not considered practice of dentistry. Section 36-6A-32 does not apply to the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists.

Source: SDC 1939, § 27.0601 (4); SL 1971, ch 213, § 15; SL 1992, ch 269, § 27.

36-6A-35. Federal officers' acts not considered practice of dentistry. Section 36-6A-32 does not apply to the practice of dentistry by full-time dentists in the discharge of their official duties in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans' Administration.

Source: SDC 1939, § 27.0601 (6); SL 1971, ch 213, § 16; SL 1992, ch 269, § 28.

36-6A-36. Dental appliance work on dentist's order not considered practice of dentistry. Section 36-6A-32 does not apply to the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, if performed pursuant to an order from a licensed dentist in accordance with § 36-6A-43.

Source: SDC 1939, § 27.0601 (1); SL 1971, ch 213, § 18; SL 1992, ch 269, § 29; SL 2004, ch 247, § 2.

36-6A-37. Use of X-rays not considered practice of dentistry. Section 36-6A-32 does not apply to the use of roentgens or other rays for making roentgenograms or similar records of dental or oral tissues in a hospital or under the supervision of a physician or dentist.

Source: SDC 1939, § 27.0601 (8) as added by SL 1967, ch 96; SL 1971, ch 213, § 19; SL 1992, ch 269, § 30.

36-6A-38. Religious practitioners' acts not considered practice of dentistry. Section 36-6A-32 does not apply to any person who ministers or treats the sick or suffering or who treats for the purpose of preventing sickness or suffering by mental or spiritual means exclusively.

Source: SDC 1939, § 27.0601 (7); SL 1992, ch 269, § 32.

36-6A-39. Fee-splitting as misdemeanor--Partnerships and employment excepted. Except as permitted by chapter 47-12, it is a Class 2 misdemeanor for any dentist to divide fees with, or to promise to pay a part of his fee to, or to pay a commission to any dentist or any other person, who calls him in consultation or who sends patients to him for treatment or operation. However, nothing in this section prohibits licensed dentists from forming a bona fide partnership for the practice of dentistry, nor the actual employment of a licensed dentist or a licensed dental hygienist.

Source: SDC 1939, §§ 27.0615, 27.9916; SL 1971, ch 213, § 27; SL 1977, ch 190, § 150; SL 1992, ch 269, § 41.

36-6A-40. Employment of hygienist--Scope of permitted practice--Preventive and therapeutic services. Any licensed dentist, public institution, or school authority may use the services of a licensed dental hygienist. Such licensed dental hygienist may perform those services which are educational, diagnostic, therapeutic, or preventive in nature and are authorized by the Board of Dentistry, including those additional procedures authorized by subdivision 36-6A-14(10). Such services may not include the establishment of a final diagnosis or treatment plan for a dental patient. Such services shall be performed under supervision of a licensed dentist.

As an employee of a public institution or school authority, functioning without the supervision of a licensed dentist, a licensed dental hygienist may only provide educational services.

A dental hygienist may perform preventive and therapeutic services under general supervision if all individuals treated are patients of record of a licensed dentist and all care rendered by the hygienist is completed under the definition of patient of record. A dental hygienist may perform preventive and therapeutic services under collaborative supervision if the requirements of § 36-6A-40.1 are met. However, no dental hygienist may perform preventive and therapeutic services under collaborative supervision for more than thirteen months for any person who has not had a complete evaluation by the supervising dentist.

Source: SDC 1939, § 27.0608; SL 1943, ch 102; SL 1949, ch 107; SL 1965, ch 120; SL 1971, ch 213, § 34; SL 1992, ch 269, § 51; SL 2011, ch 178, § 3.

36-6A-40.1. Hygienist requirements for preventative and therapeutic services under collaborative supervision. A dental hygienist may provide preventive and therapeutic services under collaborative supervision of a dentist if the dental hygienist has met the following requirements:

- (1) Possesses a license to practice in the state and has been actively engaged in the practice of clinical dental hygiene in two of the previous three years;
- (2) Has a written collaborative agreement with a licensed dentist; and
- (3) Has satisfactorily demonstrated knowledge of medical and dental emergencies and their management; infection control; pharmacology; disease transmission; management of early childhood caries; and management of special needs populations.

Source: SL 2011, ch 178, § 1.

36-6A-40.2. Evidence of hygienist requirements--Fee--Promulgation of rules. A dental hygienist seeking to provide preventive and therapeutic services under collaborative supervision shall submit evidence, as prescribed by the board, of meeting the requirements of § 36-6A-40.1 and a fee not to exceed thirty dollars. The board shall, by rules promulgated pursuant to chapter 1-26, establish the required fee, the minimum requirements for a collaborative agreement, the preventive and therapeutic services that may be performed, the location or facilities where services may be performed, and the evidence required to demonstrate the active practice and knowledge required pursuant to § 36-6A-40.1.

Source: SL 2011, ch 178, § 2.

36-6A-41. Dental auxiliaries--Education and training--Dentist's responsibility--Unauthorized practice. The Board of Dentistry may set educational and training requirements for dental assistants, including the practice of dental radiography and the monitoring of nitrous oxide administration by dental assistants. Every licensed dentist who uses the services of a dental assistant to assist him in the practice of dentistry is responsible for the acts of the dental assistant while engaged in such assistance. The dentist shall permit the dental assistant to perform only those acts which he is authorized under this chapter to delegate to a dental assistant. The acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. Any licensed dentist who permits a dental auxiliary to perform any dental or dental hygiene service other than that authorized by the board shall be deemed to be enabling an unlicensed person to be practicing dentistry or dental hygiene, and commission of the act by a dental auxiliary is a violation of this chapter.

Source: SL 1971, ch 213, § 35; SL 1981, ch 275, § 30; SL 1984, ch 250, § 7; SL 1992, ch 269, § 52.

36-6A-42. Dental assistants--Education and training. The Board of Dentistry may, by rule promulgated pursuant to chapter 1-26, establish minimum educational and training requirements and continuing education requirements to perform as a dental assistant. The board may also require, or substitute, clinical experience in addition to, or in lieu of, educational and training requirements.

Source: SL 1988, ch 297, § 3; SL 1992, ch 269, § 54.

36-6A-43. Dental technicians to work in dental laboratory or under dentist's supervision-- Dental appliance work on dentist's order--Intra-oral services. Dental technicians may work either in commercial dental laboratories or under the supervision of a dentist. Technicians, when not working under the supervision of a dentist, may not provide for dental patients' use any prosthetic appliances, materials, or devices which are inserted in the human oral cavity unless ordered by a licensed dentist. Technicians may not provide intra-oral services to patients. A technician or dental laboratory shall maintain a record of work orders for a period of two years.

Source: SL 1971, ch 213, § 36; SL 1981, ch 275, § 25; SL 1992, ch 269, § 53; SL 2004, ch 247, § 1.

36-6A-44. Application for license to practice dentistry or dental hygiene--Requirements- Examination. Any person not already a licensed dentist or dental hygienist of this state desiring to practice dentistry or dental hygiene may apply to the secretary-treasurer of the Board of Dentistry for licensure. Unless otherwise provided:

(1) Each application for a license to practice dentistry or dental hygiene shall be in writing and signed by the applicant;

(2) An application for a license without examination shall be made in accordance with the provisions of § 36-6A-47 or 36-6A-48;

(3) The applicant must be a graduate from a dental or dental hygiene school which is accredited by the American dental association commission on dental accreditation and shall be examined for a license to practice dentistry or dental hygiene;

(4) Foreign-trained and other graduates from nonaccredited dental and dental hygiene programs may apply for a dental or dental hygiene license. The board, by rule promulgated pursuant to chapter 1-26, shall establish requirements to reasonably assure that an applicant's training and education are sufficient for licensure;

(5) The board may require a laboratory examination as a prerequisite to the clinical examination of an applicant if it has reason to believe the applicant cannot practice safely on a clinical patient due to a difference in the applicant's curriculum or

any other bona fide reason;

(6) All applicants who are admitted to the examination process shall be evaluated by the same standards in examinations. Skill and performance standards required in the written, laboratory and clinical examinations shall be the same for all applicants;

(7) All applicants shall provide satisfactory evidence showing that they are of good moral character;

(8) Every applicant for a license to practice dentistry or dental hygiene, whether by examination or reciprocity, shall produce evidence satisfactory to the board that he is a citizen of the United States or lawfully admitted alien, or he shall file an affidavit with the board indicating his intent to become a citizen of the United States. However, if citizenship has not been attained within eight years from the filing of such affidavit, he forfeits the right to be licensed under this chapter.

Source: SDC 1939, § 27.0606; SL 1965, ch 119; SL 1967, ch 97; SL 1971, ch 213, § 20; SL 1981, ch 275, § 15; SL 1992, ch 269, § 33.

36-6A-44.1. Criminal background investigation of applicants for licensure as dentist and licensees under disciplinary investigation--Fees. Each applicant for licensure as a dentist in this state shall submit to a state and federal criminal background investigation by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. Upon application, the board shall submit completed fingerprint cards to the Division of Criminal Investigation. Upon completion of the criminal background check, the Division of Criminal Investigation shall forward to the board all information obtained as a result of the criminal background check. This information shall be obtained prior to permanent licensure of the applicant. The board may require a state and federal criminal background check for any licensee who is the subject of a disciplinary investigation by the board. Failure to submit or cooperate with the criminal background investigation is grounds for denial of an application or may result in revocation of a license. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal background investigation.

Source: SL 2012, ch 193, § 3.

36-6A-45. Examination required--Scope and nature. Every applicant for licensure who does not qualify for an exception to licensure under this chapter, or for exemption from examination under §§ 36-6A-47 and 36-6A-48 is subject to examination by the Board of Dentistry. The examination shall include an examination of the applicant's knowledge of the laws of South Dakota relating to dentistry and the rules of the South Dakota State Board of Dentistry. The board may administer written, laboratory, and clinical examinations to test professional knowledge and skills, or may require the successful completion of a standardized national comprehensive test selected by the board.

Source: SDC 1939, § 27.0606; SL 1971, ch 213, § 21; SL 1981, ch 275, § 16; SL 1992, ch 269, § 34.

36-6A-46. Examination requirements satisfied by results of a national standardized test. All or any part of the written examination for dentists or dental hygienists, required by § 36-6A-45, except that pertaining to the law of South Dakota relating to dentistry and the rules of the Board of Dentistry, may, at the discretion of the board, be satisfied by the results of a national standardized comprehensive test selected by the board.

Source: SDC 1939, § 27.0606; SL 1967, ch 97; SL 1971, ch 213, § 23; SL 1981, ch 275, § 17; SL 1992, ch 269, § 36.

36-6A-47. Licensing of dentist or hygienist from another state--Proof of character and professional standing--Examination on South Dakota rules. If an applicant for licensure is already licensed in another state to practice dentistry or dental hygiene, the Board of Dentistry may issue the appropriate dental or dental hygienist license to the applicant upon evidence that:

- (1) The applicant is currently an active, competent practitioner;
- (2) The applicant has passed a standardized national comprehensive test selected by the board, and has practiced at least three years out of the five years immediately preceding his application;
- (3) The applicant currently holds a valid license in another state;
- (4) No disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this state;
- (5) The licensure requirements in the other state are in the judgment of the board the same as or higher than those required by this state;
- (6) The applicant is of good moral character; and
- (7) The applicant successfully passes an examination concerning the laws of the State of South Dakota relating to dentistry and the rules of the board.

Source: SDC 1939, §§ 27.0606, 27.0609; SDCL, § 36-6-40; SL 1971, ch 213, § 24; SL 1981, ch 275, § 18; SL 1992, ch 269, § 37.

36-6A-48. Issuance or renewal of licenses--Inactive practitioners--Fees for licensing and testing. The Board of Dentistry shall, upon applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under this chapter and upon receipt of the requisite fees, issue or renew the appropriate dental or dental hygiene license.

Source: SL 1981, ch 275, § 19; SL 1992, ch 269, § 38.

36-6A-49. Temporary registration--Requirements. Any dentist or dental hygienist licensed in a state or territory of the United States whose licensure requirements are equivalent or higher than those of this state and who has passed a national comprehensive test selected by the Board of Dentistry within five years or who has been in active practice three years immediately preceding his application, with all licenses in good standing, may be granted a temporary registration to practice only until a date set by the board. The dentist or dental hygienist may receive the temporary registration on presentation of evidence that he has passed such test or evidence of his active practice for three years immediately preceding his application and payment of a fee to be set by the board.

Source: SL 1981, ch 275, § 31; SL 1992, ch 269, § 39.

36-6A-50. Fees payable to board. The Board of Dentistry shall promulgate fees, by rule pursuant to chapter 1-26, provided for in this chapter, within the following limits:

- (1) Examination fee for dentists, not more than three hundred dollars;
- (2) Examination fee for dental hygienists, not more than one hundred fifty dollars;
- (3) Annual registration fee for dentists, not more than two hundred dollars;
- (4) Annual registration fee for dental hygienists, not more than one hundred dollars;
- (5) Duplicate license or duplicate annual registration certificate fee for dentists or dental hygienists, not less than five dollars nor more than fifteen dollars;
- (6) Reinstatement fee, an amount equal to the examination fee;
- (7) Continuing education program annual fee of not more than twenty dollars;
- (8) Registration certificate for satellite offices, not more than ten dollars;
- (9) Temporary registration fee, not more than three hundred fifty dollars;
- (10) Annual registration fee for persons practicing dental radiography, not more than fifty dollars;
- (11) Examination fee for dental radiographers, not more than fifty dollars;
- (12) General anesthesia, parenteral sedation, and nitrous oxide permits, not more than fifty dollars;

- (13) Initial registration fee for persons practicing dentistry, not more than two hundred dollars;
- (14) Initial registration fee for persons practicing dental hygiene, not more than two hundred dollars;
- (15) Initial registration fee for persons practicing expanded duties, not more than fifty dollars;
- (16) Initial registration fee for persons practicing dental radiography, not more than fifty dollars;
- (17) Annual registration for persons practicing expanded duties, not more than fifty dollars;
- (18) Repealed by SL 2003, ch 199, § 1.
- (19) Endorsement or credentials fee, not more than six hundred dollars.

Source: SDC 1939, § 27.0610; SL 1943, ch 103; SL 1967, ch 98; SL 1971, ch 213, § 28; SL 1981, ch 275, § 21; SL 1984, ch 250, § 5; SL 1992, ch 269, § 42; SL 2003, ch 199, § 1; SL 2008, ch 191, § 12.

36-6A-51. Fraud in securing license or annual registration as misdemeanor. Any person employing fraud or deception in applying for or securing a license to practice dentistry or dental hygiene or a registration to practice dental radiography or in registering annually under this chapter, is guilty of a Class 1 misdemeanor.

Source: SDC 1939, § 27.9917; SL 1971, ch 213, § 29; SL 1977, ch 190, § 151; SL 1992, ch 269, § 43.

36-6A-52. Annual renewal of license--Notice--Information and fee required--Suspension. As a condition of annual renewal of a license, each licensee shall, on or before the first day of July each year, transmit to the secretary-treasurer of the Board of Dentistry, upon a form prescribed by the board, information as determined by rule, reasonably related to the administration of a licensure system in the interest of public health and safety, together with the fee established by the board. Failure of a licensee to renew a license on or before the first day of July constitutes a suspension of the license held by the licensee. At least thirty days before July first, the board shall cause a written notice stating the amount and due date of the fee and the information to be provided by the licensee, to be sent to each licensee. Each licensee shall report the information as a condition of licensure renewal, except a change in home or office address shall be reported in accordance with § 36-6A-58.

Source: SDC 1939, §§ 27.0609, 27.0610; SL 1943, ch 103; SDCL § 36-6-41; SL 1971, ch 213, § 30; SL 1981, ch 275, § 22; SL 1992, ch 269, § 44; SL 2010, ch 188, § 1.

36-6A-53. Annual renewal of registration--Notice--Information and fee required--Suspension. As a condition of annual renewal of a registration, each registrant shall, on or before the first day of July, transmit to the secretary-treasurer of the Board of Dentistry, upon a form prescribed by the board, information reasonably related to the administration of a registration system in the interest of public health and safety, together with the fee established by the board. Failure of a registrant to renew a registration on or before the first day of July constitutes a suspension of the registration held by the registrant. At least thirty days before the first day of July, the board shall cause a written notice stating the amount and due date of the fee and the information to be provided by the registrant to be sent to each registrant. Each registrant shall report the information as a condition of registration renewal, except change in home or office address shall be reported in accordance with § 36-6A-58.

Source: SL 1992, ch 269, § 45; SL 2003, ch 199, § 2; SL 2010, ch 188, § 2.

36-6A-54. Display of certificates--Names on office door. Every licensed dentist or dental hygienist and every registered dental radiographer shall post and keep conspicuously his name, license certificate, and annual registration certificate in every office in which he practices, in plain sight of his patients. If there is more than one dentist or dental hygienist or registered dental radiographer practicing or employed in any office the manager or proprietor of the office shall post and display the name, license certificate and registration certificate of each dentist, dental hygienist, or registered dental radiographer practicing or employed therein. In addition there shall be posted or displayed near or upon the entrance door to every office in which dentistry is practiced, the name of each dentist practicing therein and the names shall be the name of the person inscribed upon the license certificate and annual registration certificate of each dentist.

Source: SDC 1939, §§ 27.0611, 27.9912; SL 1971, ch 213, § 32; SL 1992, ch 269, § 46.

36-6A-55. Proof of continuing education required. Every five years from original date of licensure or upon becoming registered as an advanced dental assistant, each person licensed to practice dentistry or dental hygiene or perform duties as an advanced dental assistant in this state shall provide the State Board of Dentistry evidence, of a nature suitable to the board that a licensed person or advanced dental assistant has attended, or participated in an amount of continuing education in dentistry as shall be required by the board. However, for dentists this requirement may not be less than twenty hours during the preceding five years of licensure, for dental hygienists this requirement may not be less than ten hours during the preceding five years of licensure, and for advanced dental assistants this requirement may not be less than ten hours during the preceding five years of registration as an advanced dental assistant.

Source: SL 1971, ch 213, § 31; SL 1981, ch 275, § 23; SL 1984, ch 250, § 6; SL 1992, ch 269, § 47.

36-6A-56. Acceptable proof of continuing education. The board may accept, for compliance with the requirements of § 36-6A-55, any of the following which, in the

opinion of the board, contributes directly to the dental education of the licensee:

- (1) Attendance at lectures, study clubs, college post-graduate courses, or scientific session of conventions;
- (2) Research, graduate study, teaching, or service as a clinician; and
- (3) Any other evidence of continuing education the board may approve.

Source: SL 1971, ch 213, § 31; SL 1992, ch 269, § 48.

36-6A-57. Reexamination on failure to continue education--Suspension of license. Any licensed person who fails to comply with the requirements of § 36-6A-55 shall, at the discretion of the board, be reexamined to determine his competency to continue licensure. If, in the opinion of the board, a licensed person does not qualify for further licensed practice, the board shall, in compliance with chapter 1-26, suspend the license until the time the dentist or dental hygienist shall provide acceptable evidence to the board of his competency to practice.

Source: SL 1971, ch 213, § 31; revised pursuant to SL 1972, ch 15, § 4; SL 1992, ch 269, § 49.

36-6A-58. Notice to board of change of address--Replacement of lost or destroyed license. Every licensed dentist, dental hygienist, or registered dental radiographer upon changing his or her home or place of business shall, within ten days thereafter, furnish the secretary-treasurer of the Board of Dentistry with the new address. In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof being furnished to the board, the latter may issue a duplicate license, charging a fee, not to exceed twenty dollars, set by the board by rule promulgated pursuant to chapter 1-26.

Source: SDC 1939, § 27.0610; SL 1943, ch 103; SL 1971, ch 213, § 33; SL 1981, ch 275, § 24; SL 1992, ch 269, § 50; SL 2008, ch 191, § 13.

36-6A-59. Grounds for disciplinary action--Hearing--Physical and mental examinations. Any practitioner subject to this chapter shall conduct his practice in accordance with the standards established by the Board of Dentistry under provisions of §§ 36-6A-14 and 36-6A-16, and is subject to the exercise of the disciplinary sanctions enumerated in § 36-6A-23 if, after a hearing in the manner provided in chapter 1-26, the board finds that:

- (1) A practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a license to practice the profession, or has engaged in fraud or material deception in the course of professional services or activities;
- (2) A practitioner has been convicted in any court of a felony, or other crime which affects the practitioner's ability to continue to practice competently and safely;
- (3) A practitioner has engaged in or permitted the performance of unacceptable patient care by himself or by auxiliaries working under his supervision due

to his deliberate or negligent act or acts or failure to act;

(4) A practitioner has knowingly violated any provision of this chapter or board rules;

(5) A practitioner has continued to practice although he has become unfit to practice his profession due to professional incompetence, failure to keep abreast of current professional theory or practice, physical or mental disability, or addiction or severe dependency upon or use of alcohol or other drugs which endanger the public by impairing a practitioner's ability to practice safely;

(6) A practitioner has engaged in lewd or immoral conduct in connection with the delivery of dental services to patients;

(7) A practitioner has or is employing, assisting, or enabling in any manner an unlicensed person to practice dentistry, dental hygiene, or to function as a dental hygienist;

(8) A practitioner has failed to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board, promulgated pursuant to chapter 1-26;

(9) A practitioner has engaged in false or misleading advertising.

Suspension or revocation may not be based on a judgment as to therapeutic value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern or trend of treatment resulting in unexpected or unacceptable results.

No sanctions may be authorized based on monetary concerns or business practices.

The board may order a practitioner to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue in a disciplinary proceeding. Failure to comply with a board order to submit to a physical or mental examination shall render a practitioner liable to the summary revocation procedures described in §§ 36-6A-23 and 36-6A-24.

Source: SDC 1939, § 27.0607; SL 1971, ch 213, § 37; SL 1981, ch 275, § 26; SL 1992, ch 269, § 55.

36-6A-60. Burden of proof as to valid license in prosecution for violations. In the prosecution of any person for violation of this chapter, it is not necessary to allege or prove lack of a valid license to practice dentistry or dental hygiene or a valid registration of dental radiography but such proof of licensure or registration is a matter of defense to be established by the defendant.

Source: SDCL, § 36-6-48 as added by SL 1971, ch 213, § 39; SL 1992, ch 269, § 61.

ARTICLE 20:43

DENTISTS

Chapter	
20:43:01	Administration.
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20:43:05	Professional conduct.
20:43:06	Corporate practice.
20:43:07	Dental radiography.
20:43:08	Dental assistants.
20:43:09	Anesthesia and analgesia.
20:43:10	Collaborative supervision.

CHAPTER 20:43:01

ADMINISTRATION

Section	
20:43:01:01	Petition for declaratory rulings.
20:43:01:02	Agency action on petition for declaratory ruling.
20:43:01:03	Board meetings on rules or rulings.
20:43:01:05	Board hearings -- Procedure.

20:43:01:01. Petition for declaratory rulings. Any person who wishes the Board of Dentistry to make a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the Board of Dentistry may initiate such action by filing a petition with the president of the board or with the Division of Professional and Occupational Licensing of the Department of Commerce and Regulation containing the following information:

- (1) The name of the person, agency, or group submitting the petition;
- (2) The requested action and the reason for the action;
- (3) The specific rule, if any, referred to;
- (4) The signature of the person or the authorization of a group or agency making the petition; and
- (5) The notarization of the signature or authorization.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 1-26-15.

Cross-Reference: Procedure to initiate rules, SDCL 1-26-13.

20:43:01:02. Agency action on petition for declaratory ruling. Upon receipt of a petition for a declaratory ruling, the president shall immediately mail one copy to each board member and set a meeting to be held within 90 days to act on the petition. The board's action on the petition is the final order of the board in the matter and starts the time running within which an appeal may be taken on its action.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 1-26-15.

20:43:01:03. Board meetings on rules or rulings. The board may hold a meeting by telephone conference call to decide on any petitions filed pursuant to SDCL 1-26-13 or 1-26-15.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 1-26-13, 1-26-15.

20:43:01:05. Board hearings -- Procedure. A record of the hearing in a contested case shall be taken by court reporter or recording equipment. All disciplinary proceedings and procedures to deny renewal of the license or registration of a licensed dentist or dental hygienist or of a registered dental radiographer shall be conducted in accordance with SDCL 1-26.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 23, effective September 3, 1986; 18 SDR 132, effective February 17, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

CHAPTER 20:43:02

APPLICATIONS AND EXAMINATIONS

Section

- 20:43:02:01 Requirements for jurisprudence examinations.
- 20:43:02:01.01 Repealed.
- 20:43:02:02 Application for exams.
- 20:43:02:05 Repealed.

20:43:02:01. Requirements for jurisprudence examinations. An applicant for a license to practice dentistry or dental hygiene must pass a written examination given by the board on its administrative rules and SDCL chapter 36-6A. A score of 70 percent or higher is considered passing.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 19 SDR 32, effective September 6, 1992; 20 SDR 166, effective April 11, 1994; 26 SDR 37, effective September 20, 1999; 27 SDR 57, effective December 12, 2000; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-45, 36-6A-47(7).

Law Implemented: SDCL 36-6A-45, 36-6A-47(7).

20:43:02:01.01. Requirements for dental hygiene license examinations. Repealed.

Source: 18 SDR 132, effective February 17, 1992; 19 SDR 32, effective September 6, 1992; 20 SDR 166, effective April 11, 1994; 26 SDR 37, effective September 20, 1999; 27 SDR 57, effective December 12, 2000; repealed, 38 SDR 172, effective April 25, 2012.

20:43:02:02. Application for exams. All jurisprudence examinations must be submitted to the board together with the examination fee of \$225 for a dentist or \$115 for a dental hygienist.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 8 SDR 95, effective February 15, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 20 SDR 166, effective April 11, 1994; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-45, 36-6A-47(7), 36-6A-50(1) and (2).

Law Implemented: SDCL 36-6A-45, 36-6A-47(7), 36-6A-50(1) and (2).

20:43:02:05. Reexamination. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 20 SDR 166,

effective April 11, 1994; 27 SDR 57, effective December 12, 2000; repealed, 38 SDR 172, effective April 25, 2012.

CHAPTER 20:43:03

LICENSING

Section

20:43:03:01	Applicants for license -- Requirements.
20:43:03:04	Requirements for licensure of dentists and dental hygienists by credential verification.
20:43:03:04.01	Requirements for foreign-trained dentists and dental hygienists.
20:43:03:04.02	Requirements for temporary registration of dentists and dental hygienists.
20:43:03:06	Certificate of registration -- Renewal fees.
20:43:03:07	Continuing education requirements -- Dentists.
20:43:03:07.01	Continuing education requirements -- Dental hygienists.
20:43:03:07.02	Continuing education requirements -- Advanced dental assistants.
20:43:03:11	Lost or destroyed license -- Replacement.

20:43:03:01. Applicants for license -- Requirements. An applicant for a license to practice dentistry or dental hygiene must be a graduate of a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation. The applicant shall submit the following:

(1) A completed application form and a fee of \$150 for dentists and \$100 for dental hygienists;

(2) A copy of the diploma or a certified letter from a dental or dental hygiene school official verifying that the applicant has graduated;

(3) A copy of the applicant's passing National Board Examination grades or certificate;

(4) A copy of the applicant's passing Central Regional Dental Testing Service examination or Western Regional Examining Board examination grades or certificate. The applicant must have passed the Central Regional Dental Testing Service or Western Regional Examining Board examination within the five years preceding application:

(a) If an applicant fails any part of the Central Regional Dental Testing Service examination or the Western Regional Examining Board examination twice, the applicant must receive remedial education from a school accredited by the American Dental Association Commission on Dental Accreditation before taking the regional examination a third time. An applicant who fails a third time is not eligible for licensure in South Dakota;

(5) A certified letter verifying the license number and status of such license from the Board of Dentistry in each state in which the applicant is or has been licensed, if applicable;

- (6) A copy of the applicant's birth certificate;
 - (7) A recent notarized photograph; and
 - (8) A copy of the applicant's current cardiopulmonary resuscitation (CPR) card.
- The board accepts only the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 20 SDR 166, effective April 11, 1994; 26 SDR 37, effective September 20, 1999; 27 SDR 57, effective December 12, 2000; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(3), 36-6A-44(3), 36-6A-50(13) and (14).
Law Implemented: SDCL 36-6A-14(3), 36-6A-44(3).

20:43:03:04. Requirements for licensure of dentists and dental hygienists by credential verification. To receive South Dakota licensure as a dentist or dental hygienist under credential verification, an applicant must meet the requirements of SDCL 36-6A-47. An applicant for a license to practice dentistry or dental hygiene must be a graduate of a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation. In addition, the candidate shall submit the following at least 30 days before the board meeting:

- (1) A completed application form and fee of \$500 for dentists and \$200 for dental hygienists;
- (2) A physician's statement attesting to the applicant's physical and mental condition;
- (3) A copy of the applicant's passing National Board Examination grades or certificate;
- (4) A copy of the applicant's passing Regional Board Examination grades or certificate;
- (5) A certified letter verifying the license number and status of such license from the board of dentistry in each state in which the applicant is or has been licensed;
- (6) A copy of the diploma or a certified letter from a dental or dental hygiene school official verifying that the applicant has graduated;
- (7) A copy of the applicant's birth certificate;
- (8) A copy of the applicant's current cardiopulmonary resuscitation (CPR) card. The board accepts only the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board; and

(9) A recent notarized photograph.

If requested, an applicant for licensure by credential verification must appear for a personal interview conducted by the board on a date set by the board.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 8 SDR 95, effective February 15, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 19 SDR 32, effective September 6, 1992; 26 SDR 37, effective September 20, 1999; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(3), 36-6A-50(19).

Law Implemented: SDCL 36-6A-47, 36-6A-50(19).

Cross-References: Dentists, dental hygienists, and dental auxiliaries, SDCL ch 36-6A; Dental corporations, SDCL ch 47-12.

20:43:03:04.01. Requirements for foreign-trained dentists and dental hygienists. A foreign-trained dentist or dental hygienist that has not graduated from a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation must meet the following requirements:

(1) Meet all requirements of § 20:43:03:01 or 20:43:03:04 for a dentist or a dental hygienist; and

(2) In lieu of graduation from a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation, the applicant must submit certification from a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation stating that the applicant has been tested and received the training necessary for the school to certify, in writing, that the applicant is equal in knowledge and ability to a graduate of a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation in the United States or Canada within the five years preceding the date of application.

Source: 18 SDR 132, effective February 17, 1992; 26 SDR 37, effective September 20, 1999; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(3), 36-6A-44(4).

Law Implemented: SDCL 36-6A-44(4), 36-6A-47.

20:43:03:04.02. Requirements for temporary registration of dentists and dental hygienists. The board may issue a temporary registration for a specified period of time and location if an applicant meets all requirements of § 20:43:03:01 or 20:43:03:04 for a dentist or a dental hygienist and submits a fee of \$50.

Source: 18 SDR 132, effective February 17, 1992; 20 SDR 166, effective April 11, 1994; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(3), 36-6A-47, 36-6A-50(9).

Law Implemented: SDCL 36-6A-47, 36-6A-49, 36-6A-50(9).

20:43:03:06. Certificate of registration -- Renewal fees. Each person licensed to practice dentistry or dental hygiene in South Dakota must procure a certificate of registration from the board by July 1 each year. Dentists must pay an annual registration fee of \$150 plus a continuing education fee of \$20, and dental hygienists must pay an annual registration fee of \$75 plus a continuing education fee of \$20.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 8 SDR 95, effective February 15, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 164, effective May 10, 1987; 16 SDR 133, effective February 15, 1990; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-50(3), (4) and (7), 36-6A-52.

Law Implemented: SDCL 36-6A-50(3), (4) and (7), 36-6A-52.

Cross-Reference: Reinstatement of suspended or revoked license, SDCL 36-6A-25.

20:43:03:07. Continuing education requirements -- Dentists. A dentist must take 100 hours of board approved continuing education in each five-year licensure cycle. Twenty-five hours of the required one hundred hours must be university-based. A university-based course must be taken physically at a dental school accredited by the American Dental Association Commission on Dental Accreditation or the course presenter must be affiliated with a dental school accredited by the American Dental Association Commission on Dental Accreditation.

A dentist must maintain a current cardiopulmonary resuscitation (CPR) card. The board accepts only the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board.

The remaining hours may be obtained in the following manner:

(1) Five hours of credit may be earned for each attendance at state, regional, and national meetings;

(2) One hour of credit may be earned for each hour of attendance at lectures or courses given at local, state, regional, or national dental meetings.

Credit for nutrition is limited to 15 hours per five year licensure cycle. Credit for practice management is limited to 10 hours per five year licensure cycle. Credit for home study courses is limited to 30 hours per five year licensure cycle. Credit for CPR is limited to 15 hours per five year licensure cycle.

Dentists holding a general anesthesia and deep sedation or moderate sedation permit must complete an additional 25 hours of continuing education in anesthesia related topics per five-year licensure cycle.

Source: SL 1975, ch 16, § 1; 5 SDR 68, effective February 13, 1979; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 23, effective September 3, 1986; 18 SDR 132, effective February 17, 1992; 20 SDR 166, effective April 11, 1994; 26 SDR 37, effective September 20, 1999; 35 SDR 67, effective September 25, 2008; 37 SDR 131, effective January 6, 2011; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(1), 36-6A-55.

Law Implemented: SDCL 36-6A-55.

20:43:03:07.01. Continuing education requirements -- Dental hygienists. A dental hygienist must earn 75 hours of board approved continuing education in each five-year licensure cycle.

A dental hygienist must have documented at least five hours of continuing education in dental radiography per five year licensure cycle which must meet the course requirements in § 20:43:07:10.

A dental hygienist must maintain a current cardiopulmonary resuscitation (CPR) card. The board accepts only the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board.

The remaining hours may be earned in the following manner:

(1) Five hours of credit may be earned for each attendance at state, regional, and national meetings;

(2) One hour of credit may be earned for each hour of attendance at lectures or courses given at local, state, regional, or national dental meetings.

Credit for nutrition is limited to 15 hours per five year licensure cycle. Credit for practice management is limited to 10 hours per five year licensure cycle. Credit for home study courses is limited to 30 hours per five year licensure cycle. Credit for CPR is limited to 15 hours per five year licensure cycle.

Source: 13 SDR 23, effective September 3, 1986; 18 SDR 132, effective February 17, 1992; 20 SDR 18, effective August 16, 1993; 20 SDR 166, effective April 11, 1994; 26 SDR 37, effective September 20, 1999; 35 SDR 67, effective September 25, 2008; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(1), 36-6A-55.

Law Implemented: SDCL 36-6A-55.

20:43:03:07.02. Continuing education requirements -- Advanced dental assistants. Advanced dental assistants must earn 60 hours of board approved continuing education in each five-year licensure cycle.

Advanced dental assistants must maintain a current cardiopulmonary resuscitation (CPR) card. The board accepts only the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board.

The remaining hours may be earned in the following manner:

(1) Five hours of credit may be earned for each attendance at state, regional, and national meetings;

(2) One hour of credit may be earned for each hour of attendance at lectures or courses given at local, state, regional, or national dental meetings.

Credit for nutrition is limited to 15 hours per five year licensure cycle. Credit for practice management is limited to 10 hours per five year licensure cycle. Continuing education through home study courses is limited to 30 hours per five year licensure cycle. Credit for CPR is limited to 15 hours per five year licensure cycle.

Source: 19 SDR 32, effective September 6, 1992; 20 SDR 166, effective April 11, 1994; 35 SDR 67, effective September 25, 2008; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(1), 36-6A-55.

Law Implemented: SDCL 36-6A-55.

20:43:03:11. Lost or destroyed license -- Replacement. A fee of \$15 is required for replacement of a lost or destroyed license.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 20 SDR 166, effective April 11, 1994.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-58.

CHAPTER 20:43:04

AUTHORIZED PRACTICE

Section

20:43:04:01	Recognized specialty practice -- Qualifications.
20:43:04:03	Inspections for safety and sanitation.
20:43:04:04	Dental hygienist -- Practice -- Supervision.
20:43:04:05 and 20:43:04:05.01	Transferred.
20:43:04:06	Additional duties of dental hygienist.
20:43:04:07	Mobile office or unit--Authority to operate.
20:43:04:08 to 20:43:04:12	Transferred.

20:43:04:01. Recognized specialty practice -- Qualifications. Dentists may advertise services in recognized specialty areas or advertise specialty practices if they have completed postdoctoral training which is recognized and approved by the American Dental Association Commission on Dental Accreditation. Only the following specialties are recognized by the Board of Dentistry:

- (1) Dental public health;
- (2) Endodontics;
- (3) Oral and maxillofacial pathology;
- (4) Oral and maxillofacial radiology
- (5) Oral and maxillofacial surgery;
- (6) Orthodontics and dentofacial orthopedics;
- (7) Pediatric dentistry;
- (8) Periodontics; and
- (9) Prosthodontics.

Dentists that meet the qualifications of this section must disclose in all advertisements the specialty area in which they practice. Dentists that do not meet the qualifications of this section must disclose in all advertisements that they are a general dentist. This disclaimer shall be clearly legible with print equal to or larger than the print advertising the service or clearly audible with speech volume and pace equal to the advertisement.

This section does not apply to those dentists who began limiting their practices to a recognized specialty prior to April 20, 1972. Declaration to the public of a specialty practice or the inference of specialty status in any other area is a violation of SDCL 36-6A-29 and this section.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1), 36-6A-28, 37-6A-29.

Law Implemented: SDCL 36-6A-14.

References: Report of National Certifying Boards for Special Areas of Dental Practice, January 1979 edition, Council on Dental Education, American Dental Association. Copies may be obtained from American Dental Association, Council on Dental Education, 211 East Chicago Avenue, Chicago, Illinois 60611. \$5.00.

20:43:04:03. Inspections for safety and sanitation. The board may suspend or revoke any license issued, after opportunity for hearing as provided in SDCL 1-26, for failure of a dentist to maintain the dentist's entire dental office in a clean and sanitary condition without any accumulation of trash, debris, or filth. The dental office must be maintained in full compliance with all health requirements of the city or county, or both, in which it is located. The dentist must maintain the office in compliance with the Guidelines for Infection Control in Dental Health Care Settings, 2003, of the Center for Disease Control and Prevention. The dentist must permit inspection of the dental office at any time by anyone authorized by the board.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 10 SDR 75, effective January 23, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 26 SDR 37, effective September 20, 1999; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-59.

Reference: Guidelines for Infection Control in Dental Health Care Settings, 2003, Center for Disease Control and Prevention. Copies may be obtained from the Center for Disease Control and Prevention free of charge at <http://www.cdc.gov/>.

20:43:04:04. Dental hygienist -- Practice -- Supervision. A licensed hygienist may practice dental hygiene as allowed by SDCL 36-6A-40 and may perform a hygienist's duties in a public or private institution under general supervision of a licensed dentist. A licensed dental hygienist may in addition perform preliminary examination of the oral cavity and surrounding structures, including periodontal screenings; complete prophylaxis; placement of sealants; and polishing of restorations. This section does not apply to licensed dental hygienists employed by the United States Public Health Service.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992.

General Authority: SDCL 36-6A-14.
Law Implemented: SDCL 36-6A-59.

20:43:04:05. Transferred to § 20:43:08:10.

20:43:04:05.01. Transferred to § 20:43:08:11.

20:43:04:06. Additional duties of dental hygienist. In addition to the duties prescribed in SDCL chapter 36-6A and § 20:43:04:04, a dental hygienist, under direct supervision of a dentist, may perform all services permitted other advanced dental assistants and dental assistants.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 10 SDR 75, effective January 23, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 19 SDR 32, effective September 6, 1992; 26 SDR 37, effective September 20, 1999; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(10).
Law Implemented: SDCL 36-6A-40.

References: Accredited Program Listing: Dental Assisting, Dental Hygiene, and Dental Laboratory Technology Educational Programs, Accredited Dental Listing: Dental Education Programs, the January 1999 editions, American Dental Association, Commission on Dental Accreditation. Copies may be obtained from the American Dental Association, Commission on Dental Accreditation, 211 East Chicago Avenue, Chicago, Illinois 60611.

20:43:04:07. Mobile office or unit -- Authority to operate. Authorization to operate a mobile dental office or unit shall be secured from the Board of Dentistry.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.
Law Implemented: SDCL 36-6A-14.

20:43:04:08. Transferred to §§ 20:43:09:01 and 20:43:09:03.

20:43:04:09. Transferred to § 20:43:09:11.

20:43:04:10. Transferred to § 20:43:09:01.

20:43:04:11. Transferred to § 20:43:09:04.

20:43:04:12. Transferred to § 20:43:09:05.

CHAPTER 20:43:05

PROFESSIONAL CONDUCT

Section

20:43:05:01

Advertising.

20:43:05:08

Institutional advertising.

20:43:05:01. Advertising. Fraudulent or misleading advertising is not allowed.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-29.

20:43:05:08. Institutional advertising. Institutional advertising, promoting dentistry generally, by dental associations and groups is approved.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-29.

CHAPTER 20:43:06

CORPORATE PRACTICE

Section

- 20:43:06:01 Application for registration.
- 20:43:06:02 Procedure after application.
- 20:43:06:03 Applicant required to pay expenses for special meeting.
- 20:43:06:04 Professional corporation -- Admitting shareholder.
- 20:43:06:05 Renewal of certificate of registration.

20:43:06:01. Application for registration. Initial applications for registration for professional corporations must be in compliance with SDCL 47-12 and shall include the following:

- (1) Name and address of the corporation;
- (2) A copy of its certificate of incorporation;
- (3) A copy of its articles of incorporation;
- (4) A copy of the minutes of its organizational meeting;
- (5) A registration fee of \$100; and
- (6) A sworn statement from the president stating that the corporation will not hold itself out to the public as possessing any skills or expertise not possessed by dentists in noncorporate practice.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 47-12-7.

20:43:06:02. Procedure after application. Applicants for registration shall be afforded the following:

- (1) The opportunity to consult with the board informally when appropriate to attempt to resolve conflicts on issues;
- (2) Notice of hearing and fair opportunity to prepare for it; and
- (3) A disinterested and objective decision supported by substantial evidence from the record.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 47-12-8.

20:43:06:03. Applicant required to pay expenses for special meeting. A request for action prior to the quarterly board meeting shall require agreement to pay all additional expenses incurred by that action.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 47-12-7.

20:43:06:04. Professional corporation -- Admitting shareholder. Whenever a professional corporation intends to admit to the corporation a new shareholder or member, the corporation shall, at least 30 days prior to the action, notify the board in writing of its intention, indicating the identity, licensure status, and residence address of the proposed shareholder or member.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 47-12-8.

20:43:06:05. Renewal of certificate of registration. Each registered corporation shall submit, on or before December 31 of each year, an application for renewal of its certificate of registration. The application shall be accompanied by the required renewal fee of \$25.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 47-12-12.

Law Implemented: SDCL 47-12-12.

CHAPTER 20:43:07

DENTAL RADIOGRAPHY

Section

20:43:07:01	Definition of terms.
20:43:07:02	Minimum eligibility requirements.
20:43:07:03	Training requirements.
20:43:07:05	Qualification by endorsement.
20:43:07:06	Approval of programs -- Application.
20:43:07:07	Application for registration.
20:43:07:08	Examination and proficiency evaluation.
20:43:07:09	Fee for certificate of registration -- Renewal.
20:43:07:10	Continuing education requirements.
20:43:07:11	License registration.
20:43:07:12	Prohibited use of radiation.
20:43:07:13	General safety provisions to protect persons from radiation exposures.
20:43:07:14	Requirements of x-ray film processing and darkroom.

20:43:07:01. Definition of terms. Terms used in this chapter mean:

(1) "Dental radiography," the application of X-radiation to human teeth and supporting structures for diagnostic purposes only;

(2) "Approved program or course of study," didactic and clinical training that meets the requirements specified in § 20:43:07:03;

(3) "Clinical experience," direct and personal participation of a student in radiographic procedures incident to patient diagnosis;

(4) "Student," a person enrolled in or participating in an approved program or course of study.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14, 36-6A-21.

Law Implemented: SDCL 36-6A-14, 36-6A-21.

20:43:07:02. Minimum eligibility requirements. The minimum requirements for a dental radiographer are graduation from high school or its equivalent and attainment of eighteen years of age.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 19 SDR 32, effective September 6, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

20:43:07:03. Training requirements. An applicant for registration as a dental radiographer must have successfully completed a 16-hour board approved program or course of study within six months of application in dental radiography which includes the following training:

(1) Practice in placement techniques and exposing radiographs on a training manikin;

(2) Fundamentals of radiation safety: characteristics of radiation, unit of radiation measurement, hazards of exposure to radiation, levels of radiation from source, and methods of controlling radiation dose;

(3) Familiarization with equipment: identification of controls, function of each control, how each control affects the radiographic image, and the requirements for and use of a technique chart;

(4) Film processing: film speed as it relates to patient exposure, film processing with automatic processors, manual film processing, factors affecting film processing quality, and identification of common errors in processing;

(5) Anatomy and positioning relative to scope of practice to include patient preparation and correct method for performing procedures and identification of common technique errors; and

(6) Familiarization with federal and state regulations pertaining to services offered.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14, 36-6A-21.

Law Implemented: SDCL 36-6A-14, 36-6A-21.

20:43:07:05. Qualification by endorsement. A person who has a current certificate in dental radiography issued by another state, jurisdiction, agency, or recognized professional registry may, upon presentation of the certificate to the board, be considered to meet the requirements of § 20:43:07:08 provided that the board finds that the standards and procedures for qualification in the state, jurisdiction, agency, or recognized professional registry which issued the certificate are equivalent to the standards in this chapter.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14, 36-6A-21.

Law Implemented: SDCL 36-6A-14, 36-6A-21.

20:43:07:06. Approval of programs -- Application. A program of learning may be approved by the board if the program meets the following requirements:

(1) It constitutes an organized program of learning which contributes to the proficiency and skills of an individual operating radiation emitting equipment or otherwise engaged in dental radiography;

(2) It is conducted by individuals who are qualified by special education, training, and experience to conduct the program in dental radiography; and

(3) It meets the requirements in § 20:43:07:03.

Application for approval of a program of learning shall be made to the board.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-6A-14, 36-6A-21.

Law Implemented: SDCL 36-6A-14, 36-6A-21.

20:43:07:07. Application for registration. Each person desiring to engage in dental radiography except a licensed dentist or dental hygienist shall apply for registration to the board prior to engaging in dental radiography. The application shall be made on a form furnished by the board and shall be filled out completely. The application shall contain a statement that the requirements of this chapter of rules have been read and understood by the applicant and shall document the training, experience, and education that qualify the applicant to engage in dental radiography.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992.

General Authority: SDCL 36-6A-14, 36-6A-50.

Law Implemented: SDCL 36-6A-14.

20:43:07:08. Examination and proficiency evaluation. An applicant for registration as a dental radiographer must pass a written examination administered by the board or the Dental Assisting National Board or any substantially similar test approved by the board.

An applicant must complete the hands-on film placement and exposure as specified in § 20:43:07:03(1).

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 132, effective February 17, 1992; 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14, 36-6A-21.

20:43:07:09. Fee for certificate of registration -- Renewal. When an applicant successfully passes the examination, the board shall issue a certificate of registration

upon payment of a fee of \$40 for initial registration. By July 1 of each year a dental radiographer shall submit a renewal fee of \$20. The registrant shall display the registration in the office.

Source: 11 SDR 73, effective November 27, 1984; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(6), 36-6A-50(10) and (16).

Law Implemented: SDCL 36-6A-14(6), 36-6A-50(10) and (16).

20:43:07:10. Continuing education requirements. A dental hygienist or any person certified in dental radiography must earn continuing education which shall include radiation safety, equipment operation, film processing, emergency procedures, anatomy and positioning of relevant procedures, radiographic quality assurance, correcting and identifying technique and processing errors, and recognition and identification of radiographic information, such as procedures for enhancing interpretation of radiographic information including disease. A dental hygienist or a person who is certified in dental radiography must have documented at least five hours of continuing education in dental radiography in a five-year period. Documentation of the training must include dates, the name of the instructor, and the subjects covered.

Source: 26 SDR 37, effective September 20, 1999; 32 SDR 188, effective May 15, 2006.

General Authority: SDCL 36-6A-14(1), 36-6A-21.

Law Implemented: SDCL 36-6A-14(1), 36-6A-21, 36-6A-55.

20:43:07:11. License registration. An annual license granted by the Department of Health is required to house dental radiographic machines in a dental office. The location, number, and type of machine shall be reported on forms supplied by the Department of Health. The licensee shall notify the Department of Health in writing within 30 days after any change in the location or other information about radiography machines, devices, or other radiation sources.

Source: 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

20:43:07:12. Prohibited use of radiation. Only persons who are certified in dental radiography or are licensed dentists or dental hygienists shall operate radiography machines. The following precautions shall be taken:

(1) No person may be exposed to the useful beam except for dental purposes and only if exposure has been authorized by a licensed dentist. No person may be exposed to the useful beam for non-healing arts training, instruction, or demonstration;

(2) Dental intraoral radiography with kilovoltage less than 60kVp may not be used;

(3) The exposure switch shall be arranged so that operator can stand at least 6 feet from the useful beam unless sufficient shielding is provided to protect the operator from stray radiation;

(4) The target to skin distance shall be at seven inches and the machine may not have a pointed cone.

Source: 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

20:43:07:13. General safety provisions to protect persons from radiation exposures. The following safety provisions shall be followed to protect persons from radiation exposures:

(1) Any person operating an x-ray machine must be instructed in the proper procedures for patient and operator safety and shall be competent in the safe use of the equipment commensurate with the size, scope, and nature of the service. Any such person shall be instructed and demonstrate competence in subjects outlined in § 20:43:07:03;

(2) A manual must be provided in the vicinity of the control panel of each machine that specifies the routine views for all procedures done with each machine; and

(3) The patient's record shall contain the type of radiographic examination, date the examination was performed, and the identity of the machine operator.

Source: 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

20:43:07:14. Requirements of x-ray film processing and darkroom. A dental office using radiographic x-ray machines shall have available suitable equipment for handling and processing radiographic film in accordance with the manufacturer's directions.

Source: 26 SDR 37, effective September 20, 1999.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

CHAPTER 20:43:08

DENTAL ASSISTANTS

Section

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20:43:08:01. Definitions. Terms used in this chapter mean:

(1) "Advanced dental assistant," a dental employee who is competent to perform expanded functions;

(2) "Expanded functions," reversible procedures which require professional proficiency and specific training, performed under the direct supervision of a dentist;

(3) "Certificate of competency," a certificate attesting that a dental assistant is qualified to perform expanded functions by successfully completing an advanced dental assistant examination as described in § 20:43:08:06.

Source: 19 SDR 32, effective September 6, 1992.
General Authority: SDCL 36-6A-14, 36-6A-26.
Law Implemented: SDCL 36-6A-14, 36-6A-41.

20:43:08:02. Dental assistant -- Requirements. The minimal requirements for a dental assistant are graduation from high school or its equivalent and attainment of eighteen years of age.

Source: 19 SDR 32, effective September 6, 1992.
General Authority: SDCL 36-6A-14.
Law Implemented: SDCL 36-6A-14.

20:43:08:03. Advanced dental assistant -- Requirements. In addition to the minimum requirements in § 20:43:08:02, an advanced dental assistant must meet one of the following requirements:

- (1) Successfully complete a dental assisting program approved by the board pursuant to § 20:43:08:05;
- (2) Hold current credentials as a nationally certified dental assistant; or
- (3) Hold a certificate of competency from the board.

Source: 19 SDR 32, effective September 6, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-41, 36-6A-42.

20:43:08:04. Qualifications by endorsement. A person who has a current certificate to perform expanded functions issued by another state, jurisdiction, agency, or recognized professional registry may, upon presentation of the certificate to the board be considered to meet the requirements of § 20:43:08:03 if the board finds that the standards and procedures for qualification in the state, jurisdiction, agency, or recognized professional registry which issued the certificate are equivalent to the standards of this chapter.

Source: 19 SDR 32, effective September 6, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14, 36-6A-41, 36-6A-42.

20:43:08:05. Approval of programs -- Application. A program of learning leading to a certificate of competency or registration as an advanced dental assistant as required by § 20:43:08:03 may be approved by the board if the program meets the following standards:

- (1) It constitutes an organized program of learning which contributes to the proficiency and skills of the individual in training to become registered as an advanced dental assistant performing expanded functions; and

- (2) It is conducted by individuals who are qualified by special education, training, and experience to conduct the program of learning in expanded functions.

Application for approval of programs of learning shall be made to the board.

Source: 19 SDR 32, effective September 6, 1992.

General Authority: SDCL 36-6A-14.

Law Implemented: SDCL 36-6A-14.

20:43:08:06. Certificate of competency -- Examination. An applicant for a certificate of competency must pass a written examination on expanded functions administered by the board or the dental assisting national board or any substantially similar test. The applicant must also present to the board written documentation from a South Dakota dentist attesting to the clinical proficiency of the applicant who has performed expanded functions under personal supervision of the dentist for at least 180 days. The passing grade for the examination is 75.

Source: 19 SDR 32, effective September 6, 1992.

General Authority: SDCL 36-6A-14, 36-6A-41.
Law Implemented: SDCL 36-6A-14, 36-6A-42.

20:43:08:08. Application for registration. Each person desiring to engage in performing expanded functions, except a licensed dentist or dental hygienist, shall apply for registration to the board before engaging in such expanded functions. The application shall be made on a form furnished by the board and shall be filled out completely. The application shall contain a statement that the requirements of this chapter has been read and understood by the applicant and shall document the training, experience, and education that qualify the applicant to engage in performing expanded functions.

Source: 19 SDR 32, effective September 6, 1992.
General Authority: SDCL 36-6A-14, 36-6A-41, 36-6A-42.
Law Implemented: SDCL 36-6A-14, 36-6A-41, 36-6A-42.

20:43:08:09. Fee for registration -- Renewal. If an applicant meets the requirements of § 20:43:08:03, the board shall issue a registration as an advanced dental assistant upon payment of a fee of \$40 for initial registration. By July 1 of each year, an advanced dental assistant shall submit a renewal fee of \$20. An advanced dental assistant shall display the registration in the office.

Source: 19 SDR 32, effective September 6, 1992; 38 SDR 172, effective April 25, 2012.
General Authority: SDCL 36-6A-14(7), 36-6A-50(15) and (17).
Law Implemented: SDCL 36-6A-14(7), 36-6A-50(15) and (17).

20:43:08:10. Delegation of duties -- Supervision. Subject to the dentist exercising full responsibility, a dental assistant may perform duties and procedures incidental to patient treatment while under the direct or indirect supervision of a licensed dentist or under personal supervision of a licensed dental hygienist. An advanced dental assistant may perform expanded function procedures only under the direct supervision of a dentist.

Source: SL 1975, ch 16, § 1; 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 118, effective March 24, 1988; transferred from § 20:43:04:05, 19 SDR 32, effective September 6, 1992.
General Authority: SDCL 36-6A-14, 36-6A-26.
Law Implemented: SDCL 36-6A-14, 36-6A-41.

20:43:08:11. Procedures that may not be delegated. The following list of procedures may not be delegated by a dentist or dental hygienist to either a dental assistant or an advanced dental assistant:

- (1) The cutting of hard or soft tissue;
- (2) Intraoral procedures that will be used directly in the fabrication of a dental prosthesis;
- (3) Irreversible procedures;
- (4) The injection of medication;

- (5) The administration of nitrous oxide analgesia;
- (6) The placing, finishing, and adjusting of final restorations; and
- (7) Those procedures allocated by SDCL 36-6A-40 and by §§ 20:43:04:04 and 20:43:04:06 to dental hygienists with the exception of placement of sealants and coronal polishing following a prophylaxis by a dentist or dental hygienist.

Notwithstanding subdivision (5), a dentist may delegate the administration of nitrous oxide analgesia to an advanced dental assistant who holds a permit issued pursuant to § 20:43:09:06.

Source: 6 SDR 87, effective March 2, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:43:04:05.01, 19 SDR 32, effective September 6, 1992; 32 SDR 188, effective May 15, 2006.

General Authority: SDCL 36-6A-14(10).

Law Implemented: SDCL 36-6A-40.

CHAPTER 20:43:09

ANESTHESIA AND ANALGESIA

Section

- 20:43:09:01 Definitions.
- 20:43:09:02 Prohibitions.
- 20:43:09:03 General anesthesia and deep sedation permit requirements.
- 20:43:09:04 Moderate sedation permit requirements.
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- 20:43:09:05 Nitrous oxide inhalation permit requirements -- Dentists.
- 20:43:09:06 Nitrous oxide inhalation permit requirements -- Dental hygienists and advanced dental assistants.
- 20:43:09:06.01 Local anesthesia permit requirements – Dental Hygienists.
- 20:43:09:06.02 Minimal sedation.
- 20:43:09:07 Noncompliance.
- 20:43:09:08 Application for permits -- Renewal.
- 20:43:09:09 Reports of adverse conditions.
- 20:43:09:10 Permit requirements for monitoring patients under general anesthesia and deep sedation or moderate sedation.
- 20:43:09:11 Inspection of facilities.
- 20:43:09:12 Requirements of inspection.
- 20:43:09:13 Equipment – General anesthesia and deep sedation or moderate sedation.
- 20:43:09:14 Clinical guidelines.
- 20:43:09:15 Intravenous line.
- 20:43:09:16 Anesthesia credentials committee.

20:43:09:01. Definitions. Terms used in this chapter mean:

(1) "Minimal sedation," a minimally depressed level of consciousness, produced by a single enteral drug administered in a dose appropriate for the unsupervised treatment of anxiety, insomnia, or pain that does not exceed the maximum recommended dose. Incremental dosing may be utilized. Patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected;

(2) "Nitrous oxide inhalation analgesia," the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that

retains the patient's ability to independently and continuously maintain an airway and respond purposefully to physical or verbal command;

(3) "Moderate sedation," a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Moderate sedation can be administered either orally or parenterally;

(4) "Deep sedation," a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to maintain ventilatory function independently may be impaired. Reflex withdrawal from a painful stimulus is not considered a purposeful response. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained;

(5) "General anesthesia," a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilatory function independently is often impaired. Patients frequently require assistance maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired;

(6) "Incremental dosing," administration of multiple doses of a drug until a desired effect is reached;

(7) "Maximum recommended dose," maximum FDA-recommended dose of a drug, as printed in FDA-approved labeling for unmonitored home use;

(8) "Accredited," a program accredited by the American Dental Association Commission on Dental Accreditation.

Source: 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from §§ 20:43:04:08 and 20:43:04:10, 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-14.

20:43:09:02. Prohibitions. A dentist licensed in this state may not administer general anesthesia and deep sedation, moderate sedation, or nitrous oxide inhalation analgesia unless the dentist has obtained the permit required in § 20:43:09:03, 20:43:09:04, or 20:43:09:05.

Any dentist who advertises sedation using terms other than minimal sedation or nitrous oxide inhalation analgesic must have a general anesthesia and deep sedation or moderate sedation permit.

Source: 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.
General Authority: SDCL 36-6A-14(1).
Law Implemented: SDCL 36-6A-14, 36-6A-16.

20:43:09:03. General anesthesia and deep sedation permit requirements. The board may issue a permit to a licensed dentist to use general anesthesia and deep sedation for dental patients on an outpatient basis if the dentist meets the following requirements:

(1) Has completed an accredited advanced dental education program that provides comprehensive and appropriate training necessary to administer general anesthesia or deep sedation as evidenced by:

(a) Designation as a diplomate of the American Board of Oral and Maxillofacial Surgery;

(b) Designation as a member of the American Association of Oral and Maxillofacial Surgeons;

(c) Designation as a fellow of the American Dental Society of Anesthesiology;

(d) Completion of an accredited residency in oral and maxillofacial surgery; or

(e) Completion of an accredited residency in dental anesthesia.

Subdivisions 20:43:09:03(1)(a) through (e) do not apply to a dentist who has maintained a general anesthesia permit in South Dakota and has been administering general anesthesia in a dental office prior to October 22, 2010;

(2) Meets the requirements of §§ 20:43:09:12 and 20:43:09:13;

(3) Is certified in administering advanced cardiac life support by the American Heart Association or an equivalent program approved by the board; and

(4) Employs auxiliary personnel who hold a permit pursuant to § 20:43:09:10.

This permit precludes the need for moderate sedation and nitrous oxide permits as these skills are part of general anesthesia and deep sedation training. A qualified dentist may not administer general anesthesia or deep sedation or monitor a patient without the presence and assistance of qualified auxiliary personnel. A dentist shall apply the current standard of care to continuously monitor and evaluate the patient's blood pressure, pulse, respiratory function, and cardiac activity.

Source: 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:43:04:08, 19 SDR 32, effective September 6, 1992; 26 SDR 37, effective September 20, 1999; 37 SDR 131, effective January 6, 2011.
General Authority: SDCL 36-6A-14(1) (3).
Law Implemented: SDCL 36-6A-14, 36-6A-16.

20:43:09:04. Moderate sedation permit requirements. The board may issue a permit to a licensed dentist to use moderate sedation for dental patients on an outpatient basis if the dentist meets the following requirements:

(1) Has completed a board approved course that meets the objectives and content as described in Part 5 of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students. A board approved course must include a minimum of 60 hours of instruction plus management of at least 20 patients and clinical experience in management of the compromised airway and establishment of intravenous access.

Section 20:43:09:04(1) does not apply to a dentist who has maintained a parenteral sedation permit in South Dakota and has been administering parenteral sedation in a dental office prior to October 22, 2010;

(2) Meets the requirements in §§ 20:43:09:12 and 20:43:09:13;

(3) Is certified in administering advanced cardiac life support by the American Heart Association or an equivalent program approved by the board; and

(4) Employs auxiliary personnel who hold a permit pursuant to § 20:43:09:10.

A dentist using a parenteral route of administration must limit the use of pharmacological agents to those for which there are reversal agents.

A dentist providing moderate sedation to a child under 12 years of age must also document appropriate training in pediatric sedation techniques, according to the Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures, and in pediatric resuscitation, including the recognition and management of pediatric airway and respiratory problems and must sign an affidavit certifying that the dentist understands the requirements of the Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

Any dentist using moderate sedation must adhere to the standards of the Guidelines for the Use of Sedation and General Anesthesia by Dentists. Any dentist intending to produce a given level of sedation must be able to rescue a patient whose level of sedation becomes deeper than initially intended, which means the dentist must be proficient in airway management and advanced life support and capable of providing intravenous access. A dentist shall apply the current standard of care to continuously monitor and evaluate the patient's blood pressure, pulse, respiratory function, and cardiac activity.

A dentist may not administer moderate sedation or monitor a patient without the presence and assistance of qualified dental auxiliaries. If moderate sedation results in a general anesthetic state, the requirements in § 20:43:09:03 for general anesthesia and deep sedation apply.

This permit precludes the need for a nitrous oxide permit as these skills are part of moderate sedation training.

Source: 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:43:04:11, 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) (3).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

References: "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," October 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge. "Guidelines for the use of Sedation and General Anesthesia by Dentists," 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge. "Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures: An Update," December 2006 Edition, American Academy of Pediatrics. Copies may be obtained from the American Academy of Pediatrics at www.aapd.org free of charge.

20:43:09:04.01. Employing or contracting with licensed anesthesiologist providing general anesthesia and deep sedation or moderate sedation in dental office. If a dentist employs or contracts with an anesthesiologist that provides general anesthesia and deep sedation or moderate sedation for dental patients in a dental office on an outpatient basis, the dentist must:

(1) Have a contract with a licensed anesthesiologist stating that the licensed anesthesiologist must continuously be present during the administration of the anesthetic and remain on the premises of the facility until the anesthetized patient is fully recovered and discharged from the facility to a responsible adult;

(2) Notify the board that general anesthesia and deep sedation or moderate sedation services are being provided and the location of the facility where such services are being provided;

(3) Employ auxiliary personnel that are certified in administering basic life support by the American Health Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board;

(4) Meet the requirements of § 20:43:09:13;

(5) Hold a moderate sedation permit pursuant to § 20:43:09:04;

(6) Ensure that the anesthesiologist holds a license in good standing in South Dakota; and

(7) Ensure that the anesthesiologist is on staff at a licensed ambulatory surgery center or licensed hospital.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

20:43:09:04.02. Utilizing licensed anesthesia provider for general anesthesia and deep sedation or moderate sedation in ambulatory surgery center or hospital. No permit is required if a dentist utilizes the services of a licensed anesthesia provider for dental patients in an ambulatory surgery center or hospital.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

20:43:09:05. Nitrous oxide inhalation permit requirements -- Dentists. The board may issue a permit to a dentist to use inhalation analgesia sedation for dental patients on an outpatient basis if the dentist meets the following requirements:

(1) Meets one of the following educational requirements:

(a) Has successfully completed a board approved course that meets the objectives and content as described in Part 4 of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(b) Has taken a course in nitrous oxide inhalation sedation while a student in an accredited school of dentistry;

(2) Has equipment for administering nitrous oxide with fail-safe features and a 20 percent minimum oxygen flow;

(3) Is certified in administering basic life support by the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board; and

(4) Employs dental auxiliaries who are certified in administering basic life support by the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board.

Nitrous oxide may be used in combination with a single enteral drug to achieve a minimally depressed level of consciousness so long as the maximum recommended dose of the enteral drug is not exceeded. Incremental dosing may be utilized. Nitrous oxide may not be used in combination with more than one enteral drug or by dosing a single enteral drug in excess of the maximum recommended dose unless the dentist holds a general and deep sedation permit pursuant to § 20:43:09:03 or meets the requirements of

§ 20:43:09:03.01 or holds a moderate sedation permit pursuant to § 20:43:09:04 or meets the requirements in § 20:43:09:04.01.

A dentist who has been administering nitrous oxide inhalation analgesia in a dental office for the 12 months preceding September 6, 1992, may continue the use if the dentist meets all requirements of subdivisions (2), (3), and (4) of this section.

Source: 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:43:04:12, 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) and (3).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

Reference: "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," October 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge.

20:43:09:06. Nitrous oxide inhalation permit requirements -- Dental hygienists and advanced dental assistants. The board may issue a permit to a dental hygienist or an advanced dental assistant to use nitrous oxide inhalation analgesia for dental patients on an outpatient basis under the direct supervision of a dentist if the dental hygienist or advanced dental assistant has met the following requirements:

(1) Is certified in administering basic life support by the American Heart Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board; and

(2) Has successfully completed a board approved educational course that substantially meets the objectives and content as described in Part 4 of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and either:

(a) Completed the course within six months of application; or

(b) Completed the course more than six months prior to application and has been registered by a dental licensing board to use nitrous oxide inhalation analgesia continuously since completion of the course or for the three years preceding application.

Source: 19 SDR 32, effective September 6, 1992; 32 SDR 188, effective May 15, 2006; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(7) (10).

Law Implemented: SDCL 36-6A-14(7) (10), 36-6A-16.

Reference: "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," October 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge.

20:43:09:06.01. Local anesthesia permit requirements -- Dental hygienists. The board may issue a permit to a dental hygienist to administer local anesthesia to dental patients on an outpatient basis under the direct supervision of a dentist if the dental hygienist has met the following requirements:

(1) Is certified in administering basic life support by the American Health Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board; and

(2) Has successfully completed a course that has been approved by the board on local anesthesia from an accredited dental or dental hygiene school and either:

(a) Completed the course within six months of application; or

(b) Completed the course more than six months prior to application and has been registered by a dental licensing board to use local anesthesia continuously since completion of the course or for the three years preceding application.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(10).

Law Implemented: SDCL 36-6A-40.

20:43:09:06.02. Minimal sedation. A permit is not required for minimal sedation. A dentist utilizing minimal sedation must have appropriate access to oxygen and suction and emergency drugs and must meet the standards of the Guidelines for the Use of Sedation and General Anesthesia by Dentists. A dentist may not administer or prescribe for self-administration more than the maximum recommended dose of a single enteral drug for a patient at the same setting unless the dentist has a general anesthesia and deep sedation or moderate sedation permit pursuant to § 20:43:09:03 or 20:43:09:04.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) (3).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

Reference: "Guidelines for the Use of Sedation and General Anesthesia by Dentists," 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge.

20:43:09:07. Noncompliance. Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or in other disciplinary measures.

Source: 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(2).

Law Implemented: SDCL 36-6A-16.

20:43:09:08. Application for permits -- Renewal. The application for a permit to administer general anesthesia and deep sedation and moderate sedation must include a fee

of \$50. The application for a permit for a dentist, dental hygienist or advanced dental assistant to administer nitrous oxide inhalation analgesia must include a fee of \$40. The application for a permit for a dental hygienist to administer local anesthesia must include a fee of \$40.

The board may issue a temporary permit to the applicant that has met the applicable requirements of this chapter, but before all processing and any applicable inspection have been completed. The duration of this temporary permit shall be determined by the board, but may not exceed one year. The temporary permit of an applicant who fails an inspection is automatically suspended. Upon suspension, the applicant may request another inspection.

A general anesthesia and deep sedation permit and moderate sedation permit must be renewed annually. The annual fee for a general anesthesia and deep sedation permit or a moderate sedation permit is \$50. A re-evaluation of the credentials and facility of the permit holder may be conducted for permit renewal.

A nitrous oxide inhalation analgesia permit, local anesthesia permit, and permit to monitor patients under general anesthesia and deep sedation or moderate sedation must be renewed annually. The annual fee for a nitrous oxide inhalation analgesia permit for a dentist is \$40. The annual fee for a nitrous oxide inhalation analgesia permit for a dental hygienist is \$20. The annual fee for a nitrous oxide inhalation analgesia permit for an advanced dental assistant is \$20. The annual fee for a permit to administer local anesthesia for a dental hygienist is \$20. There is no annual fee for a permit to monitor patients under general anesthesia and deep sedation or moderate sedation.

Failure to properly renew a general anesthesia and deep sedation permit, moderate sedation permit, nitrous oxide inhalation analgesia permit, local anesthesia permit, or a permit to monitor patients under general anesthesia and deep sedation or moderate sedation constitutes an automatic suspension of the permit.

Source: 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011; 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-14(9), 36-6A-50(12)

Law Implemented: SDCL 36-6A-14(9), 36-6A-16.

20:43:09:09. Reports of adverse conditions. All dentists must notify the board within 72 hours after any death or any incident which results in temporary or permanent physical or mental injury requiring medical treatment of the patient during, or as a result of, general anesthesia, and deep sedation, moderate sedation, or nitrous oxide inhalation analgesia. A complete written report of the incident must be submitted to the board within 30 days. The report shall be submitted on a form provided by the board.

Failure to comply with reporting requirements constitutes an automatic suspension of the permit to administer general anesthesia and deep sedation, moderate sedation, or nitrous oxide inhalation analgesia.

Source: 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) (2).

Law Implemented: SDCL 36-6A-14.

20:43:09:10. Permit requirements for monitoring patients under general anesthesia and deep sedation or moderate sedation. The board may issue a permit to dental hygienists, advanced dental assistants, and dental assistants to monitor patients under general anesthesia and deep sedation or moderate sedation while under the direct supervision of a dentist who has been authorized to administer general anesthesia and deep sedation or moderate sedation if the dental hygienist, advanced dental assistant, or dental assistant has met the following requirements:

(1) Is certified in administering basic life support by the American Health Association for the Healthcare Provider, the American Red Cross for the Professional Rescuer, or an equivalent program approved by the board; and

(2) Has successfully completed at least an eight-hour board approved course in anesthetic assisting and either:

(a) Completed the course within six months of application; or

(b) Completed the course more than six months prior to application and has been registered by a dental licensing board to monitor patients receiving analgesic or anesthetic agents continuously since completion of the course or for the three years preceding application.

Source: 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(10).

Law Implemented: SDCL 36-6A-14, 36-6A-16.

20:43:09:11. Inspection of facilities. The board may at any time require an on-site inspection of the facility, equipment, and personnel to determine if the requirements of this chapter are being met. The dentist is responsible for all costs associated with an inspection. The on-site inspection should be performed by two board approved inspectors. However, if utilizing two board approved inspectors presents a hardship, the board may allow the inspection to be performed by one board approved inspector.

Each dentist who applies for a general anesthesia and deep sedation or moderate sedation permit must have an on-site inspection conducted at the primary office within twelve months of application or prior to expiration of the temporary permit, whichever is earlier. The board may require inspection of a dentist's satellite office at any time. If the dentist does not have a primary office located in South Dakota, the on-site inspection may be conducted at a satellite office located in South Dakota.

Following the initial inspection, each dentist must have an on-site inspection conducted at the primary office at least once every five years. If the dentist does not have

a primary office located in South Dakota the dentist may submit, subject to board approval, a report from a successful inspection conducted at the primary office located in a different state. An on-site inspection of the satellite office may also be required by the board.

If a dentist holds a general anesthesia permit as of October 22, 2010, the dentist, in lieu of the initial primary office inspection, may submit, subject to board approval, a report from a successful inspection conducted at the primary office within the prior 24 months.

Failing an on-site inspection constitutes an automatic suspension of the permit and may subject the permit holder to disciplinary proceedings.

Source: 9 SDR 49, effective October 25, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:43:04:09, 19 SDR 32, effective September 6, 1992; 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) (2).

Law Implemented: SDCL 36-6A-16.

20:43:09:12. Requirements of inspection. An inspection shall be completed using an inspection form approved by the board and shall include an evaluation of the following:

(1) The office facilities, records, and emergency medications, including all equipment and the physical facility;

(2) A live dental procedure performed by the dentist whose facility is being examined utilizing the type of anesthesia or sedation for which the dentist is applying for a permit;

(3) Any anesthesia or sedation technique that is routinely employed during the administration of anesthesia or sedation;

(4) The appropriate monitoring of a live patient during anesthesia or sedation;

(5) The observation of a patient during recovery and the time allowed for recovery;
and

(6) Simulated emergencies in the surgical areas of the dental office with participation by members of the staff that are trained to handle emergencies. Emergencies shall be listed on the board approved inspection form.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-16.

20:43:09:13. Equipment -- General anesthesia and deep sedation or moderate sedation. Any dentist who administers general anesthesia and deep sedation or moderate sedation or who provides dental services to patients under general anesthesia and deep sedation or moderate sedation must ensure that the office in which the work is performed:

(1) Has an operatory of the appropriate size and design to permit access of emergency equipment and personnel and to permit appropriate emergency management;

(2) Has the following equipment:

(a) An automated external defibrillator for full function defibrillator that is immediately accessible;

(b) A positive pressure oxygen delivery system and a backup system;

(c) A functional suctioning device and a backup suction device;

(d) Auxiliary lighting;

(e) A gas storage facility;

(f) A recovery area. Recovery may take place in the surgical suite. If a separate recovery area is utilized, it must be of the appropriate size for emergency access and management and must have resuscitative equipment present;

(g) A method to monitor respiratory function, electrical activity of the heart, and heart function; and

(h) A board approved emergency cart that must be available and readily accessible and includes the necessary and appropriate drugs and equipment to resuscitate a non-breathing and unconscious patient and provide continuous support while the patient is transported to a medical facility. There must be documentation that all emergency equipment and drugs are checked and maintained on a prudent and regularly scheduled basis.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1).

Law Implemented: SDCL 36-6A-16.

20:43:09:14. Clinical guidelines. A dentist who provides any level of sedation must meet the standards of the Guidelines for the Use of Sedation and General Anesthesia by Dentists for thorough patient assessment, pre-operative preparation, recovery and discharge, and management of emergencies.

Source: 37 SDR 131, effective January 6, 2011.

General Authority: SDCL 36-6A-14(1) (3).

Law Implemented: SDCL 36-6A-16.

Reference: "Guidelines for the Use of Sedation and General Anesthesia by Dentists," 2007 Edition, American Dental Association. Copies may be obtained from the American Dental Association at www.ada.org free of charge.

20:43:09:15. Intravenous line. A dental hygienist, advanced dental assistant or dental assistant may start an intravenous line if he or she has met the following requirements:

- (1) Taken a board approved anesthesia assisting course; and
- (2) Received intravenous line training.

Source: 37 SDR 131, effective January 6, 2011.
General Authority: SDCL 36-6A-14(10).
Law Implemented: SDCL 36-6A-40, 36-6A-41.

20:43:09:16. Anesthesia credentials committee. The anesthesia credentials committee is a peer review committee appointed annually by the board president to assist the board in the administration of this chapter. The committee shall include at least one member of the board and up to six additional members who are licensed to practice dentistry in South Dakota and hold general anesthesia and deep sedation or moderation sedation permits. The board president shall appoint the chair.

The anesthesia credentials committee shall perform the following duties at the request of the board:

- (1) Review all permit applications and make recommendations to the board regarding those applications;
- (2) Review inspector candidates and make recommendations to the board regarding those candidates; and
- (3) Other duties as delegated by the board or board president.

Source: 37 SDR 131, effective January 6, 2011.
General Authority: SDCL 36-6A-14(1).
Law Implemented: SDCL 36-6A-16.

CHAPTER 20:43:10

COLLABORATIVE SUPERVISION

Section

20:43:10:01	Practice settings.
20:43:10:02	Qualifications.
20:43:10:03	Application for registration.
20:43:10:04	Collaborative agreement.
20:43:10:05	Reporting requirements.
20:43:10:06	Termination of agreement.

20:43:10:01. Practice settings. A dentist may provide collaborative supervision to a dental hygienist pursuant to a collaborative agreement if the dentist holds a license in good standing in the state of South Dakota and the following services are provided:

- (1) In a school as defined in § 24:43:01:01(38);
- (2) In a nursing facility as defined in SDCL 34-12-1.1;
- (3) Under the auspices of a Head Start program or Early Head Start program being operated by an agency designated pursuant to section 641 or 645A of the Head Start Act;
- (4) Under the auspices of a mobile or portable dental unit operated by any nonprofit organization affiliated with a nonprofit dental service corporation organized under SDCL chapter 58-39;
- (5) Under the auspices of a community based primary health care delivery organization, which is operating as a community health center or migrant health center, receiving funding assistance pursuant to section 329 or 330 of the United States Public Health Service Act;
- (6) Through a program administered by the South Dakota Department of Health;
- (7) Through a program administered by the South Dakota Department of Social Services;
- (8) Through a program administered by the South Dakota Department of Human Services; or
- (9) Through a program administered by the South Dakota Department of Corrections.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.1, 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.1, 36-6A-40.2.

24:43:10:02. Qualifications. A dental hygienist providing services under collaborative supervision must hold a license in good standing in the state of South Dakota and meet the following requirements:

- (1) Completion of three years of clinical practice in dental hygiene; and
- (2) Completion of a minimum of 4,000 practice hours. A minimum of 2,000 of those hours must have been completed within two of the three years preceding application.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.1, 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.1, 36-6A-40.2.

20:43:10:03. Application for registration. A dental hygienist registering to provide services under collaborative supervision must submit the following:

- (1) A completed application form;
- (2) A completed board approved collaborative agreement;
- (3) A fee of \$20;
- (4) Verification of completion of three years of clinical practice in dental hygiene;
- (5) Verification of completion of a minimum of 4,000 practice hours; and
- (6) Verification of completion of a minimum of 2,000 practice hours within two of the three years preceding application.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.1, 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.1, 36-6A-40.2.

20:43:10:04. Collaborative agreement. When working together in a collaborative supervision relationship, a dentist and dental hygienist shall enter into a written board approved collaborative agreement that specifies the following responsibilities:

- (1) A dentist providing collaborative supervision must:
 - (a) Provide appropriate communication and consultation with the dental hygienist;
 - (b) Have age and procedure specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;
 - (c) Specify a period of time, no more than 13 months, in which an examination by a dentist must occur prior to providing further hygiene services; and
 - (d) Limit the number of dental hygienists that he or she has a collaborative agreement with to four or less;

(2) A dental hygienist providing services under collaborative supervision may provide all preventative and therapeutic services that a hygienist is allowed to provide pursuant to SDCL chapter 36-6A and this chapter, except for the administration of local anesthesia and nitrous oxide inhalation analgesia, and must:

(a) Maintain appropriate contact and communication with the dentist providing collaborative supervision;

(b) Practice according to age and procedure specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(c) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;

(d) Have each patient sign a consent form that notifies the patient that the services that will be provided do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and

(e) Specify a procedure for creating and maintaining dental records for patients that are treated by the dental hygienist, including where these records are to be located;

(3) A copy of the collaborative agreement shall be filed with the board. If any changes are made to the collaborative agreement, an updated copy of the agreement shall be filed with the board and must be approved;

(4) If the agreement is terminated by the dentist or dental hygienist, the board shall be notified in writing within 30 days. A termination of the collaborative agreement constitutes a suspension of the registration;

(5) The collaborative agreement must be maintained by the dentist and the dental hygienist in each location where collaborative supervision is provided and must be made available to the board upon request. The dentist and dental hygienist must review the agreement annually.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.2.

20:43:10:05. Reporting requirements. Each dental hygienist who has rendered services under collaborative supervision must complete a summary report and submit the information to the board at the completion of a program or, in the case of an ongoing program, annually.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.2.

20:43:10:06. Termination of agreement. If any provision of the collaborative agreement is violated, the registration may be suspended or revoked by the Board.

Source: 38 SDR 172, effective April 25, 2012.

General Authority: SDCL 36-6A-40.2.

Law Implemented: SDCL 36-6A-40.2.

RELATED STATUTES

Title 47 Corporations
Chapter 12 Dental Corporations

- 47-12-1 Dental corporations authorized--Formation and purposes of corporation--
Limited liability companies authorized.
- 47-12-1.1 Definition of terms.
- 47-12-2 Corporate name.
- 47-12-3 Dental license required for officers, directors, and shareholders--
Appointed secretary or treasurer.
- 47-12-3.1 Revocable trust as shareholder--Conditions.
- 47-12-4 Death of shareholder--Computation of book value.
- 47-12-5 Contracts for personal services with licensed persons.
- 47-12-6 Employees subject to Dental Practice Act.
- 47-12-7 Certificate of registration required--Application for certificate--Contents.
- 47-12-8 Action on application--Conditions to issuance of certificate--Duration of
certificate.
- 47-12-9 Posting of certificate required.
- 47-12-10 Amending certificate upon change of location.
- 47-12-11 Certificate not assignable.
- 47-12-12 Annual renewal of certificate--Conditions.
- 47-12-13 Suspension or revocation of certificate--Grounds.
- 47-12-14 Notice and hearing required--Contents of notice.
- 47-12-15 Appeal from denial of certificate--Power of court on appeal.
- 47-12-16 Service of notice of appeal.
- 47-12-17 Dentist-patient relationship unaffected.
- 47-12-18 Private corporations law as applicable.
- 47-12-19 Severability and saving clause.
- 47-12-20 Conflict with Dental Practice Act.
- 47-12-21 Citation of chapter.

47-12-1. Dental corporations authorized--Formation and purposes of corporation--
Limited liability companies authorized. One or more persons licensed pursuant to chapter
36-6A, hereinafter referred to as the Dental Practices Act, may associate to form a
corporation pursuant to the provisions of law pertaining to private corporations to own,
operate, and maintain an establishment for the study, diagnosis, and treatment of dental
ailments and injuries and to promote dental and scientific research and knowledge; and
for any other purpose incident or necessary thereto; provided such treatment,
consultation, or advice may be given by employees of the corporation only if they are
licensed pursuant to the Dental Practices Act.

Persons licensed pursuant to the Dental Practices Act may associate to form a limited
liability company pursuant to the provisions of law pertaining to limited liability
companies to own, operate, and maintain an establishment for the study, diagnosis, and
treatment of dental ailments and injuries and to promote dental and scientific research
and knowledge and for any other purpose incident or necessary thereto; provided such

treatment, consultation, or advice may be given by employees of the limited liability company only as they are licensed pursuant to the Dental Practices Act.

Source: SL 1963, ch 35, § 2; SL 1970, ch 255, § 1; SL 1993, ch 344, § 39N.

47-12-1.1. Definition of terms. Terms used in this chapter mean:

- (1) "Articles of incorporation," includes the articles of organization of a limited liability company;
- (2) "Corporation," both corporations under the South Dakota Business Corporations Act and limited liability companies under the South Dakota Limited Liability Company Act;
- (3) "Director" or "officer," includes any manager of a limited liability company or the members of a limited liability company that does not have managers;
- (4) "Incorporation," includes the members of a limited liability company;
- (5) "Shareholders," includes the members of a limited liability company;
- (6) "Shares" or "stock," includes membership interests in a limited liability company.

Source: SL 1993, ch 344, § 39O.

47-12-2. Corporate name. Should the corporation or limited liability company consist of no more than two shareholders or members, the name shall include the surnames of all shareholders or members.

The corporate name, in any event, shall end with the word "incorporated," or the abbreviation "Inc.," "chartered," or, the word "limited," or the abbreviation "Ltd.," or the words "professional association," or the abbreviation "P.C." Corporations that were utilizing the designation "P.A." on July 1, 1974, but no others, may continue to use that designation.

The name of a limited liability company, in any event, shall contain the words "professional limited liability company" or the abbreviation "Prof. L.L.C."

Source: SL 1963, ch 35, § 4; SL 1970, ch 255, § 2; SL 1974, ch 295, § 1; SL 1993, ch 344, § 39P.

47-12-3. Dental license required for officers, directors, and shareholders--Appointed secretary or treasurer. All of the officers, directors, and shareholders of a corporation subject to this chapter shall at all times be persons licensed pursuant to the Dental Practice Act, provided, however, that should the corporation consist of no more than two shareholders, the duties of the secretary and/or the duties of the treasurer may be

performed by an appointed person who is not licensed pursuant to the Dental Practice Act and in which event such appointed person and such office shall be entitled "appointed secretary" and/or "appointed treasurer" and such appointed person shall not be deemed to be an officer under the provisions of this chapter. No person who is not licensed pursuant to the Dental Practice Act shall have any part in the ownership, or control of such corporation, except as appointed secretary or appointed treasurer as herein provided, nor may any proxy to vote any shares of such corporation be given to a person who is not so licensed.

Source: SL 1963, ch 35, § 14; SL 1970, ch 255, § 3.

47-12-3.1. Revocable trust as shareholder--Conditions. Notwithstanding any other provisions of this chapter, a revocable trust may be a shareholder in a corporation or limited liability company organized under this chapter, for so long as the grantor of the revocable trust is living and is eligible to be a shareholder of a corporation organized under this chapter. After the death of the grantor, the shares owned by a revocable trust are subject to any divestiture and redemption provisions of this chapter as if the shares were directly owned by the grantor of the trust.

Source: SL 2002, ch 205, § 7.

47-12-4. Death of shareholder--Computation of book value. If the articles of incorporation or bylaws of a corporation subject to this chapter fail to state a price or method of determining a fixed price at which the corporation or its shareholders may purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in the corporation, then the price for such shares shall be the book value as of the end of the month immediately preceding the death or disqualification of the shareholder. Book value shall be determined from the books and records of the corporation in accordance with the regular method of accounting used by the corporation.

Source: SL 1963, ch 35, § 17.

47-12-5. Contracts for personal services with licensed persons. Notwithstanding any provision of the statute to the contrary, any dental corporation licensed under this chapter may enter into contracts for personal services with persons licensed pursuant to the Dental Practice Act for such duration as is agreed to between the parties.

Source: SL 1963, ch 35, § 18.

47-12-6. Employees subject to Dental Practice Act. Each individual employee licensed pursuant to the Dental Practice Act who is employed by a corporation subject to this chapter shall remain subject to reprimand or discipline for his conduct under the provisions of the Dental Practice Act.

Source: SL 1963, ch 35, § 16.

47-12-7. Certificate of registration required--Application for certificate--Contents. No corporation shall open, operate, or maintain an establishment for any of the purposes set forth in § 47-12-1 without a certificate of registration from the State Board of Dentistry, hereinafter referred to as the board. Application for such registration shall be made to said board in writing and shall contain the name and address of the corporation and such other information as may be required by the board.

Source: SL 1963, ch 35, § 5.

47-12-8. Action on application--Conditions to issuance of certificate--Duration of certificate. Upon receipt of an application under § 47-12-7, the State Board of Dentistry shall make an investigation of the corporation. If the board finds that the incorporators, officers, directors, and shareholders are each licensed pursuant to the Dental Practice Act and if no disciplinary action is pending before the board against any of them, and if it appears that the corporation will be conducted in compliance with law and the regulations of the board, the board shall issue, upon payment of a registration fee of one hundred dollars, a certificate of registration which shall remain effective until January first following the date of such registration.

Source: SL 1963, ch 35, § 5; SL 1970, ch 255, § 4.

47-12-9. Posting of certificate required. The certificate of registration shall be conspicuously posted upon the premises to which it is applicable.

Source: SL 1963, ch 35, § 7.

47-12-10. Amending certificate upon change of location. In the event of a change of location of the registered establishment, the State Board of Dentistry, in accordance with its regulations, shall amend the certificate of registration so that it shall apply to the new location.

Source: SL 1963, ch 35, § 8.

47-12-11. Certificate not assignable. No certificate of registration shall be assignable.

Source: SL 1963, ch 35, § 9.

47-12-12. Annual renewal of certificate--Conditions. Upon written application of the holder, accompanied by a fee of twenty-five dollars, the State Board of Dentistry shall annually renew the certificate of registration if the board finds that the corporation has complied with its regulations and provisions of this chapter.

Source: SL 1963, ch 35, § 6; SL 1970, ch 255, § 5.

47-12-13. Suspension or revocation of certificate--Grounds. The State Board of Dentistry may suspend or revoke any certificate of registration for any of the following

reasons:

- (1) The revocation or suspension of the license to practice dentistry of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;
- (2) Unethical professional conduct on the part of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;
- (3) The death of the last remaining shareholder; or
- (4) Upon finding that the holder of a certificate has failed to comply with the provisions of this chapter or the regulations prescribed by the board.

Source: SL 1963, ch 35, § 10.

47-12-14. Notice and hearing required--Contents of notice. Before any certificate of registration is suspended or revoked, the holder shall be given written notice of the proposed action and the reasons therefor, and shall be given a public hearing by the State Board of Dentistry with the right to produce testimony concerning the charges made. The notice shall also state the place and date of the hearing which shall be at least five days after service of said notice.

Source: SL 1963, ch 35, § 11.

47-12-15. Appeal from denial of certificate--Power of court on appeal. Any corporation whose application for a certificate of registration has been denied or whose registration has been suspended or revoked may, within thirty days after notice of such action by the State Board of Dentistry, appeal to the circuit court for the county where such corporation has its principal place of business. The court shall inquire into the cause of the board's action and may affirm, or reverse such decision and order a further hearing by the board, or may order the board to grant appellant a certificate of registration.

Source: SL 1963, ch 35, § 12.

47-12-16. Service of notice of appeal. Notice of appeal shall be served upon any member of the State Board of Dentistry by leaving with such member, or at his usual place of abode, an attested copy thereof within thirty days after the board has notified such appellant of its decision.

Source: SL 1963, ch 35, § 13.

47-12-17. Dentist-patient relationship unaffected. This chapter does not alter any law applicable to the relationship between a dentist furnishing dental service and a person receiving such service, including liability arising out of such service.

Source: SL 1963, ch 35, § 15.

47-12-18. Private corporations law as applicable. The provisions of the law governing private corporations shall be applicable to corporations formed under this chapter, including their organization, and they shall enjoy the powers and privileges and be subject to the duties, restrictions, and liabilities of other corporations, except so far as the same may be limited or enlarged by this chapter.

Source: SL 1963, ch 35, § 3.

47-12-19. Severability and saving clause. If any provision of this chapter or the application thereof to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Source: SL 1963, ch 35, § 19.

47-12-20. Conflict with Dental Practice Act. If any provision of this chapter conflicts with the Dental Practice Act, the Dental Practice Act shall take precedence.

Source: SL 1963, ch 35, § 3; SL 1971, ch 213, § 41.

47-12-21. Citation of chapter. This chapter may be cited as "The Dental Corporation Act."

Source: SL 1963, ch 35, § 1.

RELATED ADMINISTRATIVE RULES

- Title 44. Department of Health.
- Article 3. Radiation Safety
- Chapter 1. Radiation Control Section
- 44:03:01:01 Definitions.
- 44:03:01:02 Licensing of radiation-producing devices and materials.
- 44:03:01:03 Transferred.
- 44:03:01:04 Application for license.
- 44:03:01:05 Repealed.
- 44:03:01:06 Annual license renewal.
- 44:03:01:06.01 Exemption from radiation licensing.
- 44:03:01:06.02 Annual license fee.
- 44:03:01:07 Repealed.
- 44:03:01:07.01 Licensing of radiation producing devices for temporary use.
- 44:03:01:08 Prohibited uses of radiation.
- 44:03:01:08.01 Repealed.
- 44:03:01:08.02 Equipment standards for medical diagnostic X ray machines.
- 44:03:01:08.03 Equipment standards for medical fluoroscopic X ray machines.
- 44:03:01:08.04 Equipment standards for medical fluoroscopic spot film devices.
- 44:03:01:08.05 Periodic measurement of medical fluoroscopic spot film devices.
- 44:03:01:08.06 Equipment standards for dental X ray machines.
- 44:03:01:08.07 Equipment standards for mobile X ray equipment.
- 44:03:01:08.08 Equipment standards for computed tomography systems.
- 44:03:01:08.09 Hand-held intra-oral radiographic imaging device reporting.
- 44:03:01:09 Evaluation and correction of hazards.
- 44:03:01:10 General safety provisions to protect persons from radiation exposures.
- 44:03:01:10.01 Requirements for personal protective devices.
- 44:03:01:10.02 Operator protection requirements.
- 44:03:01:10.03 Reports of incidents involving radiation sources.
- 44:03:01:10.04 Requirements of X ray film processing and darkroom.
- 44:03:01:10.05 Quality assurance program requirements.
- 44:03:01:11 Repealed.
- 44:03:01:11.01 Shielding plan review prior to installation of radiation facilities or equipment.
- 44:03:01:11.02 Installation requirements of all radiation equipment.
- 44:03:01:11.03 Notification of installation of radiation equipment.
- 44:03:01:11.04 Licensee requirements after installation of radiation equipment.
- 44:03:01:11.05 Installation, maintenance, and operation of radiation equipment.
- 44:03:01:12 Repealed.
- 44:03:01:12.01 Radiation producing equipment calibration.
- 44:03:01:12.02 Surveys of radiation producing facilities and radiation equipment.
- 44:03:01:13 Transferred.
- 44:03:01:14 Repealed.
- 44:03:01:14.01 Operator requirements for X ray equipment.
- 44:03:01:14.02 Operator training requirements for diagnostic radiation equipment.
- 44:03:01:14.03 Operator continuing education requirements.
- 44:03:01:15 Disposal of radioactive materials.

44:03:01:16 Loss or theft of radioactive material.
44:03:01:17 Amendment, suspension, or revocation of license.

44:03:01:01. Definitions. Terms defined by SDCL 34-21-2 have the same meaning when used in this chapter. In addition, the terms used in this chapter mean:

- (1) "Added filtration," any filtration that is in addition to the inherent filtration;
- (2) "Aluminum equivalent," the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question;
- (3) "Assembler," any person engaged in the business of assembling, replacing, or installing one or more components into an X ray system or subsystem. The term includes the owner of an X ray system or the owner's employee or agent who assembles components into an X ray system that is subsequently used to provide professional or commercial services;
- (4) "Automatic exposure control (AEC)," a device that automatically controls one or more technique factors in order to obtain at a preselected location a required quantity of radiation. The term includes devices such as phototimes and ion chambers;
- (5) "C-arm X ray system," and X ray system where the image receptor and X ray tube housing assembly are connected by a common mechanical support system in order to maintain a desired spatial relationship and which is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient;
- (6) "Certified components," components of X ray systems that are subject to regulations by the Food and Drug Administration under the Radiation Control for Health and Safety Act of 1968, Pub. L. No. 90-602;
- (7) "Certified system," any X ray system that has one or more certified components;
- (8) "Computed tomography" or "CT," the production of a tomogram by the acquisition and computer processing of X ray transmission data;
- (9) "Control panel," that part of the X ray control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors;
- (10) "Cooling curve," the graphical relationship between heat units stored and cooling time;
- (11) "CRT," cathode ray tube in which cathode rays are used to produce an image on a fluorescent screen;

(12) "Dead-man switch," a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator;

(13) "Department," the Department of Health;

(14) "Diagnostic X ray system," an X ray system designed for irradiation of any part of the human or animal body for the purpose of diagnosis or visualization;

(15) "Diagnostic X ray imaging system," an assemblage of components for the generation, emission, and reception of X ray and the transformation, storage, and visual display of the resultant X ray image;

(16) "Dose," a quantity of radiation exposure to the whole anatomy or any portion of the human or animal body;

(17) "Exposure survey," an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radiation. When appropriate, such an evaluation includes a physical survey of materials and equipment and measurements of levels of radiation or concentration of radioactive material present;

(18) "Fluoroscopy imaging assembly," a subsystem in which X ray photons produce a visible image. The term includes the image receptor such as the image intensifier, spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly;

(19) "Gonad shield," a protective barrier for the testes or ovaries;

(20) Half-value layer," the thickness of specified material that attenuates the beam of radiation to an extent such that the exposure rate is reduced by one-half. For the purpose of this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded;

(21) "Health arts," those professional disciplines authorized by the laws of South Dakota (SDCL chapter 36-2) to use X ray or radioactive material in the diagnosis or treatment of human or animal disease;

(22) "Heat unit," a unit of energy equal to the product of the peak kilovoltage, milliamps, and seconds, i.e. kVp x mA x second;

(23) "Image intensifier," a device, installed in its housing, that instantaneously converts an X ray pattern into a corresponding light image of higher intensity;

(24) "Image receptor," any device, such as a fluorescent screen or radiographic film, that transforms incident X ray photons either into a visible image or into another form that can be made into a visible image by further transformations;

- (25) "Inherent filtration," the filtration of the useful beam provided by the permanently installed components of the tube housing assembly;
- (26) "kVp," the maximum value in kilovolts of the potential difference of an X ray generator;
- (27) "Lead equivalent," the thickness of lead affording the same attenuation as the material in question;
- (28) "Leakage radiation," any radiation coming from within the source housing except for the useful beam and radiation produced when the exposure switch or timer is not activated;
- (29) "Licensed practitioner of the healing arts," health professionals for diagnostic or healing treatment of human and animal maladies licensed by the state of South Dakota (SDCL chapter 36-2) for the lawful practice of medicine;
- (30) "Light field," that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection;
- (31) "mA," milliamperere;
- (32) "mAs," milliamperere second;
- (33) "Patient," an individual or animal subjected to healing arts examination, diagnosis, or treatment;
- (34) "Peak tube potential," the maximum value of the potential difference across the X ray tube during an exposure;
- (35) "Personnel monitoring," the use of film badges, pocket chambers, or other devices worn or carried on individuals for the monitoring of personnel exposures to radiation;
- (36) "Positive beam limitation," the automatic or semi-automatic adjustment of an X ray beam to the size of the selected image receptor, whereby exposures cannot be made without such adjustment;
- (37) "Protective apron," an apron made of radiation absorbing materials used to reduce radiation exposure;
- (38) "Protective glove," a glove made of radiation absorbing material used to reduce radiation exposure;

(39) "Qualified expert," an individual who possess the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs including health physicists;

(40) "Qualified instructor," an individual who possess the knowledge, training, and experience in the field of radiation to teach fundamentals of radiation safety, equipment operation, film processing, emergency procedures, personnel dosimetry, anatomy and physiology, and radiographic positioning;

(41) "Rad," the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram;

(42) "Radiation hazard," a condition under which a person might receive radiation in excess of the maximum permissible dose;

(43) "Rem," the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad;

(44) "Scattered radiation," radiation that, during passage through matter, has been deviated in direction;

(45) "Services," may include calibration of radiation-producing machines or instruments, radiation protection surveys, shielding design, radiological health consultations, and personnel dosimetry;

(46) "Shielding," a protective barrier used to reduce radiation exposure to the required degree. For the purpose of this term, a primary protective barrier is the material, excluding filters, placed in the useful beam and a secondary protective barrier is the material that attenuates stray radiation;

(47) "Source-image receptor distance" or "SID," the distance from the source to the center of the input surface of the image receptor;

(48) "Spot film," a radiograph that is made during a fluoroscopic examination to permanently record conditions that exist during that fluoroscopic procedure;

(49) "Spot-film device," a device intended to transport or position, or both, a radiographic image receptor between the X ray source and fluoroscopic image receptor. The term includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph;

(50) "Stray radiation," the sum of leakage and scattered radiation;

(51) "Target," the point at which an X ray is produced;

(52) "Technique factors," the following conditions of operation:

- (a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;
- (b) For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of X ray pulses;
- (c) For CT X ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, X ray pulse width in seconds, and the number of X ray pulses per scan, or the product of tube current, X ray pulse width, and the number of X ray pulses in mAs;
- (d) For CT X ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current and exposure time in mAs and the scan time if the scan time and exposure time are equivalent; and
- (e) For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs;
- (53) "Tube," an X ray tube;
- (54) "Variable-aperture beam-limiting device," a beam-limiting device that has capacity for stepless adjustment of the X ray field size at a given SID;
- (55) "X ray exposure control," a device, switch, button, or other similar by which an operator initiates or terminates, or both, the radiation exposure. The term may include such associated equipment as timers and back-up timers;
- (56) "X ray equipment," an X ray system, subsystem, or component of the system;
- (57) "X ray field," that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection;
- (58) "X ray system," an assemblage of components for the controlled production of X rays. The term includes minimally an X ray high-voltage generator, an X ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Any additional component, which functions with the system, is considered an integral part of the system; and
- (59) "X ray tube," any electron tube which is designed for the conversion of electrical energy into X ray energy.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-11, 34-21-18.

44:03:01:02. Licensing of radiation-producing devices and materials. Licensing of radiation sources or materials is required for the production, transport, transfer, receipt, acquisition, possession, use, storage, or disposal of radiation sources or materials used in the healing arts. Licensing shall be accomplished using procedures and forms required by the department.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-11, 34-21-12, 34-21-18, 34-21-20.

44:03:01:03. Transferred to § 44:03:01:06.01.

44:03:01:04. Application for license. Each person having a radiation source, a radiation device, or a radioactive material facility shall apply for licensure with the department within 30 days after the installation of the equipment or purchase of material. The license shall be obtained before the equipment is operated. The application for license shall be completed on forms furnished by the department and shall contain all the information required by the form and accompanying instructions. A copy of the current United States Nuclear Regulatory Commission license must accompany the application if applying for a radioactive material license.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-11, 34-21-18.

44:03:01:05. Renewal of registration.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

44:03:01:06. Annual license renewal. The licensee shall notify the department in writing within 30 days after any change which makes the location or other information on machines, devices, or other radiation sources no longer accurate. The license shall be renewed annually during the month of January on forms supplied by the department.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-22.

44:03:01:06.01. Exemption from radiation licensing. Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from licensing if the radiation dose equivalent rate averaged over an area of ten square centimeters does not

exceed 0.5 millirem per hour at five centimeters from any accessible surface of the equipment. Domestic television receivers and CRTs are exempt from the licensing requirement.

Source: SL 1975, ch 16, § 1; transferred from § 44:03:01:03, 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-20.

44:03:01:06.02 Annual license fee. The annual license fee is \$75 for each facility regardless of the number of x-ray units installed or operated. The fee shall be submitted with the application. Fees are non-refundable and may not be prorated.

Source: 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-21-18.

Law Implemented: SDCL 34-21-18.

44:03:01:07. Out-of-state registrable items.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

44:03:01:07.01. Licensing of radiation producing devices for temporary use. Before any radiation machine is brought into the state for any temporary use, the person proposing to bring such machine into the state shall give written notice to the department at least ten working days before such machine is to be used in the state. A license is required and the person shall comply with the provisions of this chapter. The notice shall include:

- (1) The type of radiation machine;
- (2) The nature, duration, and scope of use; and
- (3) The exact location or locations where the radiation machine is to be used.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-20.

44:03:01:08. Prohibited uses of radiation. No person may be exposed to diagnostic or therapeutic radiation except for healing arts purposes and only if the exposure has been authorized by a licensed practitioner of the healing arts. No person may be exposed to the useful beam for non-healing arts training, instruction, or demonstration, or other purposes. The following radiation producing equipment may not be used and the following specified procedures may not be performed:

- (1) Fluoroscopic devices for fitting shoes;
- (2) Photofluorographic equipment;

- (3) Dental fluoroscopic imaging assemblies;
- (4) Hand-held radiographic or fluoroscopic imaging devices, except for intra-oral radiographic imaging devices;
- (5) The use of fluoroscopy for positioning a patient for general radiographic imaging, except for radiation therapy simulators;
- (6) The use of fluoroscopy and c-arm fluoroscopes by a person other than a licensed practitioner of the healing arts unless under the supervision of a licensed practitioner of the healing arts;
- (7) The use of direct exposure X ray film (without intensifying screens) for routine diagnostic procedures other than intraoral dental radiography, therapeutic portal imaging, and industrial radiography;
- (8) Nonimage intensified fluoroscopic X ray equipment; or
- (9) The use of X ray equipment for mammography unless specifically designed by the manufacturer for the imaging of the breast.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000; 35 SDR 47, effective September 8, 2008.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-23.

44:03:01:08.01. Equipment standards.Repealed.

Source: SL 1975, ch 16, § 1; transferred from § 44:03:01:13, 6 SDR 93, effective July 1, 1980; repealed, 26 SDR 96, effective January 23, 2000.

44:03:01:08.02. Equipment standards for medical diagnostic X ray machines. The standards for any medical diagnostic X ray machine are as follows:

- (1) The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This X ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed.";

- (2) If the machine contains a battery-powered X ray generator, a visual means shall be provided on the control panel to indicate if the battery is in a state of charge adequate for proper operation;

- (3) Any leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source may not exceed 100 milliroentgens in one hour;

(4) The filtration or beam quality is considered adequate if the total filtration in the beam is not less than the following table:

Operating Voltage vs. Total Filtration Required	
(Total filtration = inherent plus added)	
Operating Voltage	
(Peak kilovolt) (kVp)	(Millimeters aluminum equivalent)
Below 50	0.5 millimeters
50 -- 70	1.5 millimeters
Above 70	2.5 millimeters

(5) A variable, positive beam limitation with rectangular area and a light-defining device shall be provided for all fixed X ray machines. The X ray beam dimensions may not exceed the size of film used by greater than two percent of SID on any side. The machine shall include a means to align the center of the X ray field with respect to the center of the image receptor to within two percent of the SID. If a light localizer is used to define the X ray field, it shall provide an average illumination of not less than 160 lux (15.0 foot-candles) at 100 centimeters or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field. Exempt is any X ray machine that is designed with all parameters fixed, including alignment, source-to-distance, and technique factors;

(6) The machine shall include a device to terminate the exposure after a preset time. The accuracy of such a device shall be within five percent of the time set for machines manufactured on or after August 1, 1974, and within ten percent of the time set for machines manufactured before August 1, 1974;

(7) Any deviation of a measured technique factor from an indicated value of kVp may not exceed any limit specified for that system by its manufacturer or, in the absence of any manufacturer's specifications; the deviation may not exceed ten percent of the indicated value for kVp;

(8) The coefficient of variation may not exceed 0.10 when all technique factors are held constant. This requirement is met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (E max) minus the minimum exposure (E min), i.e., $E > 5(E \text{ max} - E \text{ min})$;

(9) MA/mAs linearity requirements apply if the equipment is being operated on a power supply as specified by the manufacturer for any fixed X ray tube potential within the range of 40 percent to 100 percent of the maximum rated:

(a) For equipment having independent selection of X ray tube current (mA), the average ratios (X_1) exposure to the indicated milliampere-seconds product, in units of coulombs per kilograms per milliampere second (or milliroentgen per milliampere-

seconds), obtained at any two consecutive tube current settings may not differ by more than ten hundredths times their sum:

$$X_1 - X_2 < 0.10 (X_1 + Z_2)$$

where X_1 and X_2 are the average values obtained by two mAs selector settings, or at two settings differing by no more than a factor of two where the mAs selector provides continuous selection;

(b) For equipment having a combined X ray tube current-exposure time product (mAs) selector, but not a separate tube current (mA) selector, the average ratios (X_1) of exposure to the indicated milliamperere-seconds product, in units of coulombs per kilogram per milliamperere second (or mR/mAs), obtained at any two consecutive mAs selector settings may not differ by more than ten hundredths times their sum:

$$X_1 - X_2 < 0.10 (X_1 + Z_2)$$

where X_1 and X_2 are the average values obtained by two mAs selector settings, or at two settings differing by no more than a factor of two where the mAs selector provides continuous selection;

(10) If two or more radiographic tubes are controlled by one exposure switch, the tube that has been selected shall be clearly indicated prior to initiation of the exposure. This indication shall be on the X ray control panel and also at or near the tube housing assembly which has been selected;

(11) The tube housing assembly supports shall be adjusted so that the tube housing assembly remains stable during an exposure unless tube housing movement is a designed function of the X ray system;

(12) Any diagnostic X ray system and its associated components used on humans and certified pursuant to the Federal X Ray Equipment Performance Standard (21 C.F.R. Part 1020) as of January 1, 1998, shall be maintained in compliance with applicable requirements of that standard; and

(13) All position locking, holding, and centering devices on the machine shall function as intended by the manufacturer.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL [34-21-4.1](#), [34-21-15](#).

Law Implemented: SDCL [34-21-4.1](#), [34-21-15](#).

44:03:01:08.03. Equipment standards for medical fluoroscopic X ray machines. Fluoroscopic X ray equipment shall be image intensified and the standards are as follows:

(1) The filtration or beam quality is considered adequate if the total in the beam is not less than the table below:

Operating Voltage vs. Total Filtration Required	
(Total filtration = inherent plus added)	
Operating Voltage	
(Peak kilovolt) (kVp)	(Millimeters aluminum equivalent)
Below 50	0.5 millimeters
50 -- 70	1.5 millimeters
Above 70	2.5 millimeters

(2) A manually reset, cumulative timing device shall be used which must either indicate elapsed time by an audible signal or turn off the apparatus if the total exposure exceeds a predetermined limit in one or a series of exposures. The device shall have a maximum range of five minutes;

(3) Any exposure to the operator's eyes above the screen and to the operator's waist behind the leaded drapes may not exceed 50 milliroentgens per hour;

(4) For routine fluoroscopy, the tabletop exposure may not exceed:

(a) Ten roentgens per minute with automatic exposure rate control;

(b) Twenty roentgens per minute with optional high level control provided. A continuous signal audible to the operator shall indicate that the high level control is being employed; or

(c) Five roentgens per minute with fluoroscopic equipment without automatic exposure control;

(5) The fluoroscopic X ray field may not exceed the visible area of the image receptor by more than four percent of the SID; and

(6) A dead-man switch shall control the fluoroscopic device.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:08.04. Equipment standards for medical fluoroscopic spot film devices. Any medical fluoroscopic spot film device shall meet the following requirements:

(1) The device shall provide for the adjustment to the size of the spot film selected that is between the source and the patient. Such an adjustment shall be automatically accomplished except when the X ray field size is smaller than the selected portion of the film; and

(2) The center of the X ray field shall be aligned with the center of the selected portion of the film to within two percent of the SID.

Source: 26 SDR 96, effective January 23, 2000.
General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:08.05. Periodic measurement of medical fluoroscopic spot film devices. Periodic measurement of the entrance radiation exposure rate shall be performed by a qualified expert for both typical and maximum values. Such measurements shall be made triennially or after any maintenance of the system which might affect the radiation exposure rate. Results of these measurements shall be posted where any operator may have ready access to such results while using the fluoroscope. Results of the measurements shall include the roentgen per minute, as well as the technique factors used to determine such results. The name of the person performing the measurements and the date the measurements were performed shall be included in the results.

Source: 26 SDR 96, effective January 23, 2000.
General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:08.06. Equipment standards for dental X ray equipment. The standards for dental X-ray equipment are as follows:

- (1) The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source may not exceed 100 milliroentgens in one hour;
- (2) The filtration or beam quality is considered adequate if the total in the beam is not less than the table below:

Operating Voltage vs. Total Filtration Required	
(Total filtration = inherent plus added)	
Operating Voltage	(Millimeters aluminum equivalent)
Below 70	1.5 millimeters
Above 70	2.5 millimeters

- (3) Collimation of the beam shall be restricted to a maximum of three inches in diameter and may not have a pointed cone;
- (4) Time accuracy shall be within five percent of the time set for any X ray equipment installed on or after August 1, 1974, and ten percent of time set for any equipment installed before August 1, 1974;
- (5) Any deviation of a measured technique factor from an indicated value for kVp may not exceed any limit specified for that system by its manufacturer or, in the absence

of any manufacturer's specifications, the deviation may not exceed ten percent of the indicated value for kVp;

(6) The exposure switch shall be located so the operator can stand at least six feet from the useful beam. If sufficient shielding is provided to protect the operator from stray radiation, the exposure switch may be located closer;

(7) The target to skin distance shall be at least seven inches;

(8) Any dental X ray equipment must operate with a kilovoltage of 60 kVp or higher;

(9) Any dental X ray machine must be maintained within manufacturer's specifications and recommendations.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:08.07. Equipment standards for mobile X ray equipment. Mobile X ray equipment shall meet the standards of § 44:03:01:08.02 and as follows:

(1) The exposure switch shall be located so the operator can stand at least six feet from the useful beam. If sufficient shielding is provided to protect the operator from stray radiation, the exposure switch may be located closer; and

(2) Any mobile medical radiographic equipment shall have a spacer to limit the target-to-skin distance to at least 12 inches.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:08.08. Equipment standards for computed tomography systems. The standards for computed tomography systems are as follows:

(1) A visible signal must indicate when the X ray exposure has been terminated. The operator must be able to terminate the X ray exposure at any time during a scan or series of scans under CT X ray system control of greater than one-half second duration;

(2) For any single slice tomogram system, a means must be provided to permit visual determination of the tomographic plane or a reference plane offset from the tomographic plane. For any multiple slice tomogram system, a means must be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic planes. If a device using a light source is used to satisfy this subdivision, the light source must provide illumination levels of not less than 160 lux (15.0 foot-candles) above the room ambient illumination level;

(3) The X ray control and gantry must visually indicate whenever X rays are produced and, if applicable, whether the shutter is open or closed. Any emergency button or switch must be clearly labeled as to its function. A means shall be provided to require operator initiation of each individual scan or series of scans;

(4) The CT X ray system shall be designed to indicate the CT conditions of operation to be used during a scan or a scan sequence prior to the initiation of a scan or a scan sequence. On equipment having any of these conditions of operation at fixed values, this requirement may be met by permanent markings. Indication of CT conditions of operation shall be visible from any position from which scan initiation is possible;

(5) The system shall perform in such a manner that the radiation produced adjacent to the tube housing assembly, including the tube port, during periods of time scans are not being performed does not exceed 100 milliroentgen in one hour;

(6) For CT X ray systems containing a gantry manufactured after September 3, 1985:

(a) The total error in the indicated location of the tomographic plane or reference plane may not exceed five millimeters;

(b) If the X ray production period is less than one-half second, the indication of X ray production shall be actuated for at least one-half second. Any indicator at or near the gantry shall be discernible from any point external to the patient opening where insertion of any part of the human body into the primary beam is possible; and

(c) The deviation of indicated scan increment versus actual increment may not exceed plus or minus one millimeter with any mass from 0 to 100 kilograms, inclusive, resting on the support device. The patient support device shall be incremented from a typical starting position to the maximum incremented distance or 30 centimeters, whichever is less, and then returned to the starting position. Measurement of actual versus indicated scan increments may be taken anywhere along this line travel;

(7) The system must provide for two-way oral communication between the patient and the operator at the control panel;

(8) Leaded windows, mirrors, closed-circuit television, or an equivalent shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator can observe the patient from the control panel;

(9) If the primary viewing system is by electronic means, an alternate viewing system, which may be electronic, shall be available for use in the event of failure of the primary viewing system.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL [34-21-4.1](#), [34-21-15](#).

Law Implemented: SDCL [34-21-4.1](#), [34-21-15](#).

44:03:01:08.09. Hand-held intra-oral radiographic imaging device reporting. If any hand-held intra-oral radiographic device is damaged or lost, licensee shall notify the department of the damage or loss within 48 hours. If a device is damaged, licensee shall take the device immediately out of service and may not return the device to service until the device is repaired and tested for proper operation. Licensee shall maintain documentation at the facility that the device has been repaired, tested, and is safe to be placed back in operation.

Source: 35 SDR 47, effective September 8, 2008.
General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-4.1, 34-21-23.

44:03:01:09. Evaluation and correction of hazards. Subsequent to the evaluation of radiation hazards, the department may issue orders for correction of these hazards.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.
General Authority: SDCL 34-21-4.1, 34-21-15.
Law Implemented: SDCL 34-21-12.

44:03:01:10. General safety provisions to protect persons from radiation exposures. The licensee shall be responsible for directing the operation of any X ray system under the licensee's administrative control. The licensee or the licensee's agent shall provide that:

- (1) No X ray system may be operated for diagnostic purpose unless the system meets the provisions of this chapter;
- (2) Any person who is operating the X ray system is adequately instructed in the safe operating procedures and competent in the safe use of the equipment commensurate with the size, scope, and nature of the service. Any such person shall be instructed and demonstrate competence in subjects outlined in § 44:03:01:14.01;
- (3) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information is utilized. The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations. The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality;
- (4) A technique chart or manual is located in the vicinity of the control panel of each machine that specifies, for all diagnostic examinations performed with that system, the following information:
 - (a) The technique factors to be used that are specific to a patient's anatomical part, size, or age (for pediatrics), except for any system that has only automatic exposure controls;
 - (b) The type of film-screen combination to be used;

- (c) The type of grid to be used, if any;
 - (d) The SID to be used, except for dental and all other fixed SID radiographic equipment;
 - (e) The type and placement of patient shielding to be used;
 - (f) The routine views for all procedures done with each machine; and
 - (g) For mammography, an indication of kVp/target/filter combination;
- (5) A written operating and safety procedure must be available to each individual who operates radiation machines. These procedures shall include restrictions for the safe operation of each radiation machine. The operator shall be able to demonstrate familiarity with these procedures;
- (6) Except for veterinary facilities, each facility maintains a record containing the patient's name, the type of examination, the date the examination was performed, and equipment operator;
- (7) Except for patients who cannot be moved out of the room, only the staff, ancillary personnel or other persons required for the medical procedure shall be in the room during the radiographic exposure;
- (8) Personnel monitoring of radiation exposures and records must be maintained by the licensee of the radiation source. Monitoring with dosimetry devices shall be required for all persons routinely exposed to radiation in their occupation. Dental and podiatry offices are exempt from this requirement. Exposures should not exceed 300 millirems per calendar quarter. Maximum occupation exposures shall not exceed the limits specified in the following table:

Rems per Calendar Quarter

Whole body; head and trunk; active		
blood-forming organs; lenses of eyes; gonads	3 3/4	
Hands and forearms; feet and ankles		18 3/4
Skin of whole body		7 1/2

(9) Radiation sources shall be labeled and caution signs posted to provide a warning to all persons within the exposure area.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL [34-21-4.1](#), [34-21-15](#).

Law Implemented: SDCL [34-21-4.1](#), [34-21-25](#), [34-21-26](#).

44:03:01:10.01. Requirements for personal protective devices. Special personal protective devices shall be used to protect eyes, skin, bone, and certain organs from unnecessary radiation exposure when possible. These protective devices must be readily accessible and in good working condition.

A gonad shield of not less than 0.5 millimeters lead equivalent material must be used for human patients who have not passed the reproductive age during radiographic procedure in which the gonads are in the useful beam, unless the shield would interfere with the diagnostic procedure.

Protective equipment including aprons, gloves, and shields shall be checked annually for defects, such as holes, cracks, and tears to assure reliability and integrity. A record of this test shall be made and maintained. If such defect is found, equipment shall be replaced or removed from service until repaired;

Mechanical-holding devices shall be used when the technique permits. The individual holder shall be protected and no individual may be used routinely to hold film or patients. Written safety procedures shall indicate the requirements for selecting an individual to be a holder and the procedure the holder shall follow.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL [34-21-4.1](#), [34-21-15](#).

Law Implemented: SDCL [34-21-4.1](#), [34-21-15](#), [34-21-25](#).

44:03:01:10.02. Operator protection requirements. Operators of fixed medical radiographic units shall be within a shielded area large enough to provide protection from unattenuated scatter or stray radiation originating from the table or upright cassette holder.

Operators of dental radiographic units must comply with § 44:03:01:08.06.

A lead glass patient-viewing window, mirrors, closed circuit television, or an equivalent system must be available to permit the operator to continuously observe the patient during exposure. If a patient-viewing window is used, it must be a minimum of one square foot and must be located at least eighteen inches from the edge of the control booth for any new construction and any renovation, addition or change in space use of existing facilities. The exposure switch must be permanently mounted so that it cannot be conveniently operated outside the shielded area.

For mobile and portable X ray systems to be used less than one week in the same location, the control must be positioned so that the operator is at least six feet away from the tube housing and the patient during an exposure and is not exposed to greater than two millirems in any one hour.

For mobile and portable X ray systems to be used more than one week in the same location, the operator must be provided with a movable protective barrier at least 6.5 feet high, 30 inches wide, and a lead glass viewing window.

Source: 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:10.03. Reports of incidents involving radiation sources. Any radiation incident considered a potential hazard shall be reported to the department by the licensee within 24 hours by telephone or fax at the number shown on the license during normal business hours or the first workday following a holiday or weekend.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15, 34-21-30.

44:03:01:10.04. Requirements of X ray film processing and darkroom. Each installation using a radiographic X ray system and using radiographic film shall have available suitable equipment for handling and processing radiographic film in accordance with the following:

(1) Any manual processing tank shall be constructed of mechanically rigid corrosion resistant material. The temperature of solutions in a tank shall be maintained within the range of 60 to 80 degrees Fahrenheit, inclusive. Film shall be developed in accordance with the time-temperature relationship recommended by the film manufacturer. A thermometer and timer shall be utilized to indicate the actual temperature of the developer and signal the passage of a preset time appropriate to the developing time required.

(2) Automatic processing of the film shall be in accordance with the time-temperature relationships recommended by the film and processor manufacturers. A control program to maintain the automatic processor operating parameters according to manufacturer's recommendations must be used;

(3) Film storage shall be provided and the film stored according to manufacturer's recommendations as to protection of radiation, heat, humidity, and storage position;

(4) Safelighting in the film processing-loading area shall be with the filter, bulb wattage, and distances recommended by the film manufacturer for film emulsion used by the facility. The safelighting shall prevent a pre-exposed film from increasing in density greater than 0.10 when exposed for two minutes with the safelights on;

(5) Pass boxes, if provided, shall be so constructed as to exclude light from the darkroom when cassettes are placed in or removed from the boxes, and shall incorporate adequate shielding from stray radiation to prevent exposure of undeveloped film.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:10.05. Quality assurance program requirements. The licensee shall have a written, on-going quality assurance program specific to the equipment and procedures that are performed in the facility to ensure consistent high-quality images with minimum patient exposure. The tests performed for quality control purposes shall be included in a log containing acceptability limits, results of tests, date, initials of operator or testing individual, and corrective action taken, if needed. Tests for film processing shall include temperature, chemical replacement, processor operating parameters, and darkroom fog, and be performed on a routine basis. Any quality control test done on diagnostic tubes shall be done annually and include SID accuracy, X ray and light field alignment, X ray and bucky alignment, and collimator dial accuracy. All dental intraoral, panoramic, tomography, and machines that have fixed SID and collimator are excluded from SID accuracy, X ray and light field alignment, X ray and bucky alignment, and collimator dial accuracy.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL [34-21-4.1](#), [34-21-15](#).

Law Implemented: SDCL [34-21-4.1](#), [34-21-15](#).

44:03:01:11. Installation of radiation facilities or equipment.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

44:03:01:11.01. Shielding plan review prior to installation of radiation facilities or equipment. Prior to construction, the floor plans, shielding specifications, and equipment arrangement of any new installation or any modification of existing installations utilizing ionizing radiation machines shall be submitted to the department for review and approval. The plans shall show at a minimum the following:

(1) The normal location of the system's radiation port, the general direction of the useful beam, the location of any windows and doors or other openings, the location of the operator's booth, and the location of the control panel;

(2) The structural composition and thickness or lead equivalent of all walls, doors, partitions, floor, and ceiling of the room concerned;

(3) The dimensions of any room concerned;

(4) The type of occupancy of any adjacent areas inclusive of space above and below the room concerned. If there is an exterior wall, the plans must show distance to the closest area where it is likely that individuals may be present;

(5) The make and model of the equipment, the maximum technique factors, and the energy waveform (single phase, three phase, etc.); and

(6) The type of examinations or treatments which will be performed with the equipment and the anticipated workload of the system in mA-minutes per week.

The department may require the applicant to utilize the services of a health physicist to determine the shielding requirements prior to the plan review and approval. The approval of such plans may not preclude the requirement for additional modifications should a subsequent change of operating conditions create the possibility of an individual receiving a dose in excess of the limits.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-17.

44:03:01:11.02. Installation requirements of all radiation equipment. No person may make, sell, lease, transfer, lend, assemble, or install any radiation machine or any supplies used in connection with such a machine unless such supplies and equipment meet the requirements of this chapter when placed in operation.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-17.

44:03:01:11.03. Notification of installation of radiation equipment. Any assembler who installs radiation machines in this state shall report to the department within 15 days the following information:

- (1) The name and address of the persons who have received these machines;
- (2) The manufacturer, model, and serial number of each radiation machine and major components transferred;
- (3) The date of transfer of each radiation machine; and
- (4) The date of installation of each radiation machine.

In the case of diagnostic X ray systems which contain certified components, a copy of the assembler's report, Form FDA 2579 (6/95), prepared in compliance with requirements of the Federal Diagnostic X Ray Standard, 21 C.F.R. 1030.30(d), as of January 1, 1998, shall be submitted to the department within 15 days following completion of the assembly.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-17.

44:03:01:11.04. Licensee requirements after installation of radiation equipment. After completion of construction and installation of radiation equipment, the licensee shall maintain for inspection:

(1) Model and serial number of all major components and user's manuals for those components;

(2) Records of surveys, calibrations, maintenance, and modifications performed on the X ray systems;

(3) The maximum rated technique factors of each machine with tube rating and cooling curves charts; and

(4) Scale drawing of the room in which a stationary radiation machine system is located with such drawing indicating the use of areas adjacent to the room and an estimation of the extent of occupancy by an individual in such areas; the results of a survey for radiation levels present at the operator's position and at pertinent points outside the room; and the type and thickness of materials, or lead equivalency, in each protective barrier used in the room.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-1-17, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-17.

44:03:01:11.05. Installation, maintenance, and operation of radiation equipment. Equipment shall be installed, maintained, and operated according to the manufacturer's specifications.

Source: 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-1-17, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-17.

44:03:01:12. X ray machine calibration exposure surveys, posted date, waivers.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

44:03:01:12.01. Radiation producing equipment calibration. The licensee shall provide that calibrations are performed on a diagnostic radiographic system if that system does not meet the minimum performance criteria specified in §§ 44:03:01:08.02 to 44:03:01:08.07, inclusive, and if there is any change or replacement of components that could cause a change in the radiation output of that system.

The calibration may not exceed three months after any change or replacement of components that could cause a change in the radiation output. The calibration of the radiation output of the X ray system shall be performed by or under the direction of a qualified expert. Calibration of the radiation output of an X ray system shall be performed with a calibrated dosimetry system. Any X ray machine shall be calibrated at least every three years unless it meets the standards of this chapter. Any computed tomography system shall be calibrated or surveyed by a medical physicist on an annual basis.

Source: 26 SDR 96, effective January 23, 2000; 32 SDR 128, effective January 30, 2006.

General Authority: SDCL 34-1-17, 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:12.02. Surveys of radiation producing facilities and radiation equipment. Any new radiation producing facility and any existing radiation producing facility shall have a survey made by a qualified expert or the department. The survey shall be done after any change in the facility or equipment that might cause a significant increase in radiation hazard. The licensee shall obtain a written report of the survey from a qualified expert. The licensee shall transmit a copy of the report to the department within 30 days of receipt of the report. The survey and report shall indicate all instances where the installation, in the opinion of the qualified expert or department, is in violation of the regulations.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:13. Transferred to § 44:03:01:08.01(4).

44:03:01:14. X ray equipment to be operated by trained individuals.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 93, effective July 1, 1980.

44:03:01:14.01. Operator requirements for X ray equipment. Any person who is certified by the American Registry of Radiological Technologists, by the American Registry of Clinical Radiological Technologists, by another state, or who has documented 40 hours of orientation and training in the operation of radiation producing equipment by a qualified instructor may operate any radiation producing device. Dental radiographers shall have a minimum of 16 hours of training.

Source: 26 SDR 96, effective January 23, 2000; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-15.

44:03:01:14.02. Operator training requirements for diagnostic radiation equipment. A qualified instructor must do all training for operators of diagnostic radiation equipment. Documentation of the training must include the dates, instructor, and subjects covered. Continuing education credits would qualify as part of the training. The following are areas in which an individual must have documented training for the operation of X ray equipment:

(1) Fundamentals of radiation safety must cover characteristics of radiation, units of radiation measurement, hazards of exposure to radiation, levels of radiation from sources, and methods of controlling radiation dose;

(2) Familiarization with equipment must cover identification of controls, function of each control, how each control affects technique chart, and utilization of technique chart;

(3) Film processing must cover film speed as related to patient exposure, film processing with automatic processors, film processing manually, and factors affecting film processing quality;

(4) Anatomy and positioning relative to scope of practice, including patient preparation, and correct method for performing procedures; and

(5) The requirement of federal and state regulations pertinent to the services offered.

Source: 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-14.

44:03:01:14.03. Operator continuing education requirements. Any operator of a radiation producing device shall have five hours of documented continuing education over a three-year period containing information on radiation safety, equipment operation, film processing, emergency procedures, anatomy, positioning of film and body parts, orientation or training in new developed procedures, infection control, or rules pertinent to the services offered. Excluded from the five hours of continuing education are any licensed practitioner of the healing arts and any employee of a dental facility.

Source: 26 SDR 96, effective January 23, 2000; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-21-4.1, 34-21-15.

Law Implemented: SDCL 34-21-4.1, 34-21-14.

44:03:01:15. Disposal of radioactive materials. No licensee may dispose of any medical radioactive material without prior written approval of the department unless under license of the Nuclear Regulatory Commission. Data regarding the potential radium or other radiation hazard are required.

Source: SL 1975, ch 16, §1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-21-15.

Law Implemented: SDCL 34-21-31.

44:03:01:16. Loss or theft of radioactive material. Each licensee shall report by telephone fax, or electronic mail and followed up with a written report to the department

the loss or theft of any source of radiation immediately after the occurrence becomes known.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-1-17, 34-21-15.

Law Implemented: SDCL 34-21-11.

44:03:01:17. Amendment, suspension, or revocation of license. Any amendment to a license shall be made by issuing a new license. Any suspension or revocation proceeding, in accordance with SDCL chapter 1-26, can be initiated only after exposure surveys are conducted by the department and a serious hazard to public health and safety is determined.

Source: 6 SDR 93, effective July 1, 1980; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-1-17, 34-21-15.

Law Implemented: SDCL 34-21-19.