

ARTICLE 20:49

NURSING HOME ADMINISTRATORS

Chapter

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CHAPTER 20:49:01

DEFINITIONS

Section

[20:49:01:01](#) Definitions.

20:49:01:01. Definitions. Terms defined in SDCL [36-28-1](#) have the same meaning when used in this article. In addition, terms used in this article mean:

(1) "Preceptor," a licensed nursing facility administrator who has been licensed for at least four years in South Dakota and approved by the board to train administrators-in-training;

(2) "Administrator-in-training," "(AIT)," a person who is serving in a licensed nursing facility under the supervision of a preceptor and is in the process of completing the administrator-in-training internship in at least 240 hours in six consecutive months.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 86, effective November 17, 1991; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL a36-28-10.

Law Implemented: SDCL [36-28-1](#).

CHAPTER 20:49:02

GENERAL RULES AFFECTING BOARD

Section

[20:49:02:01](#) Meetings.

[20:49:02:02](#) Officers and duties.

[20:49:02:03](#) Chairman.

20:49:02:04 and [20:49:02:05](#) Repealed.

[20:49:02:06](#) Telephone meetings on rules or rulings.

20:49:02:01. Meetings. The board shall meet semiannually or as often as necessary to transact its business. A quorum must be present to transact official business.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-4](#).

20:49:02:02. Officers and duties. An officer may serve no more than two consecutive one-year terms. The board may employ an executive secretary who may not be a member of the board and to whom duties may be delegated as considered proper.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-4](#).

Law Implemented: SDCL [36-28-4](#).

20:49:02:03. Chairman. The chairman shall preside at all meetings of the board. In the absence of the chairman, the vice-chairman shall preside at meetings and perform all duties usually performed by the chairman.

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

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-4](#).

20:49:02:04. Secretary-treasurer. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 36 SDR 27, effective August 25, 2009.

20:49:02:05. Emergency decisions.Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; repealed, 12 SDR 99, effective December 16, 1985.

20:49:02:06. Telephone 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: 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-4](#).

CHAPTER 20:49:03

EXAMINATIONS

Section

20:49:03:01	Examinations.
20:49:03:02	Retention of examinations.
20:49:03:03	Conditional admission to examination.
20:49:03:04	Repealed.
20:49:03:05	Review of application.
20:49:03:06	Repealed.
20:49:03:07	Reexamination.
20:49:03:08 to 20:49:03:12	Repealed.

20:49:03:01. Examinations. An applicant for initial licensure shall take a national and a state examination as follows:

(1) The computer-based Nursing Home Administrators Licensing Examination provided by the National Association of Long Term Care Administrator Boards. An examination fee shall be paid to the provider. A passing score on the examination is a scaled score with a passing point of 113;

(2) A state examination provided by the board covering the rules of the South Dakota Department of Health that govern nursing facilities. The examination shall be held at a time determined by the board and applicant. A nonrefundable fee of \$50 must be submitted to the board prior to the examination date. A passing score on the examination is 75 percent.

An applicant applying for relicensure must have passed the national and state examinations within the four years preceding the date of the application.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1987; 17 SDR 171, effective May 16, 1991; 18 SDR 86, effective November 17, 1991; 22 SDR 74, effective November 27, 1995; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#), [36-28-11](#).

Law Implemented: SDCL [36-28-10](#) to [36-28-12](#).

Cross-Reference: Reciprocal licensure, ch 20:49:06; Medical facilities, art 44:04.

20:49:03:02. Retention of examinations. Examination results for each candidate, shall be kept by the board for a minimum of two years. They may be destroyed only upon approval by the state records destruction board.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 99, effective December 16, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#).

Law Implemented: SDCL [36-28-10](#).

20:49:03:03. Conditional admission to examination. The board may conditionally admit to examination an applicant who, on the date of the scheduled examination, has not fully established qualifications if, in the judgment of the board, it appears that the applicant is otherwise qualified.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#).

Law Implemented: SDCL [36-28-10](#) to [36-28-12](#).

20:49:03:04. Disqualification of applicant. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 86, effective November 17, 1991; repealed, 36 SDR 27, effective August 25, 2009.

20:49:03:05. Review of application. An applicant for examination who has been disqualified may petition the board in writing within 30 days after notification of disqualification for a hearing and a review of the applicant's application.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-4](#), [36-28-24](#).

20:49:03:06. New application after disqualification. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 36 SDR 27, effective August 25, 2009.

20:49:03:07. Reexamination. An applicant who has failed the national or state examination may retake the failed examination if the applicant meets the current requirements for licensure and pays the nonrefundable examination fee as set in § 20:49:03:01 and the reexamination fee of \$50. An applicant who has failed either examination is entitled to reexamination a maximum of three times for each examination upon payment of the applicable fees. If unsuccessful after four attempts, the applicant may petition the board for reconsideration.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1987; 17 SDR 171, effective May 16, 1991; 22 SDR 74, effective November 27, 1995; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#).

Law Implemented: SDCL [36-28-10](#) to [36-28-12](#).

20:49:03:08. Requalification.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 2 SDR 86, effective June 27, 1976.

20:49:03:09. Subjects for examination.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 2 SDR 86, effective June 27, 1976.

20:49:03:10. Grading examinations. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:03:11. Disclosure of ratings. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:03:12. Confidentiality. Repealed.

Source: 2 SDR 86, effective June 27, 1976; repealed, 12 SDR 99, effective December 16, 1985.

CHAPTER 20:49:04

QUALIFICATIONS FOR INITIAL LICENSURE

Section

- [20:49:04:01](#) Requirements for education and training.
- [20:49:04:02](#) Application requirements.
- [20:49:04:03](#) Conviction of felony.
- [20:49:04:04](#) Repealed.
- [20:49:04:05](#) Transferred.
- [20:49:04:06](#) Designation of time and place for interview.
- [20:49:04:07](#) Repealed.
- [20:49:04:08](#) Initial license fee.

20:49:04:01. Requirements for education and training. An applicant for licensure as a nursing facility administrator must meet education and training requirements as follows:

(1) Have at least a baccalaureate degree; and

(2) Have successful service as an administrator-in-training as defined in § 20:49:01:01(2) or have completed a practicum in long term healthcare from a regionally accredited higher education program. Applicants applying for relicensure must have completed an administrator-in-training program or practicum within the four years preceding the date of the application.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 8 SDR 24, effective September 16, 1981; 8 SDR 166, effective June 15, 1982; 9 SDR 108, effective February 21, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 17 SDR 171, effective May 16, 1991; 22 SDR 74, effective November 27, 1995; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#), [36-28-12](#).

Law Implemented: SDCL [36-28-10](#) to [36-28-12](#).

20:49:04:02. Application requirements. An applicant must apply for licensing on forms provided by the board. The applicant must submit letters of recommendation from three individuals engaged in either business or a profession. The applicant must attach to the application a photocopy or certified copy of the applicant's birth certificate or an equivalent birth verification. The applicant must provide a certified transcript of the applicant's education and training. The completed application, the accompanying documents described in this section, and the payment of nonrefundable fees must be received by the board before the examinations required in § 20:49:03:01 and the administrator-in-training program required in subdivision 20:49:01:01(2).

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; transferred from § 20:49:04:05, 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 74, effective November 27, 1995; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-10](#), [36-28-12](#).

Law Implemented: SDCL [36-28-10](#) to [36-28-12](#).

20:49:04:03. Conviction of felony. An applicant for examination for licensure who has been convicted of a felony by any court may not take the examination.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 74, effective November 27, 1995.

General Authority:SDCL [36-28-4](#), [36-28-12](#).

Law Implemented:SDCL [36-28-12](#).

20:49:04:04. Federal qualifications.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:04:05. Transferred to § 20:49:04:02.

20:49:04:06. Designation of time and place for interview. The board may designate a time and place at which an applicant may be required to be present for an interview and oral examination.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-10](#) to [36-28-12](#).

20:49:04:07. No discrimination.Repealed.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 22 SDR 74, effective November 27, 1995.

20:49:04:08. Initial license fee. The fee for initial licensure is \$150.

Source: 12 SDR 99, effective December 16, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 17 SDR 171, effective May 16, 1991; 27 SDR 61, effective December 24, 2000.

General Authority:SDCL [36-28-15](#).

Law Implemented:SDCL [36-28-15](#).

CHAPTER 20:49:05
EMERGENCY PERMIT

Section

[20:49:05:01](#) Emergency permit.

[20:49:05:02](#) Limit on emergency permits at individual nursing facility.

20:49:05:01. Emergency permit. To meet the needs of a nursing facility that has a vacancy in the administrator's position, an emergency permit to practice as a nursing facility administrator may be issued to a person for not more than 180 days, subject to the following:

(1) A person of authority from the facility with the vacancy requests in writing that an emergency permit be issued for their emergency administrator, accompanied by a nonrefundable emergency permit fee of \$100;

(2) The emergency administrator is under the supervision of a certified preceptor;

(3) The preceptor observes the emergency administrator at least two days a month in the facility in which the emergency administrator is serving and keeps a written memorandum of what was accomplished or discussed at each visit. This dated memorandum shall accompany the monthly report required in subdivision (4) of this section; and

(4) The preceptor makes a written report to the board every month on the performance of the emergency administrator.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1987; 17 SDR 171, effective May 16, 1991; 18 SDR 86, effective November 17, 1991; 22 SDR 74, effective November 27, 1995; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-11](#), [36-28-13](#).

Law Implemented: SDCL [36-28-13](#).

20:49:05:02. Limit on emergency permits at individual nursing facility. At the expiration of an emergency permit granted under § 20:49:05:01, the board may, upon application, renew an emergency permit for an additional 180 days provided the individual meets the requirements of § 20:49:05:01. An emergency permit may be renewed only once.

Source: 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 18 SDR 86, effective November 17, 1991.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-13](#).

CHAPTER 20:49:06

RECIPROCAL LICENSURE

Section

[20:49:06:01](#) Reciprocal licensure.

20:49:06:01. Reciprocal licensure. The board may recognize and endorse a nursing facility administrator license issued by the authorities of another political subdivision of the United States if the following requirements are met:

(1) The other political subdivision provides verification of the educational level of the applicant and a passing score on the board approved national examination;

(2) The applicant is familiar with state and local health and safety rules related to nursing facilities, has passed the board's state examination as defined in § 20:49:03:01(2), and has had an orientation under a preceptor covering South Dakota Department of Health rules governing nursing facilities. The preceptor shall file a report on the orientation with the board;

(3) The applicant for reciprocal licensure has never had a license as a nursing facility administrator revoked or suspended;

(4) The applicant has demonstrated at least six consecutive months of service as an administrator of a licensed nursing facility; has served as an administrator-in-training for at least six consecutive months; or has completed a practicum in long term healthcare from a regionally accredited higher education program within four years preceding the date of application for reciprocal licensure; and

(5) The nonrefundable fee for reciprocal licensure is \$150 prorated to the next biennial renewal date.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1987; 17 SDR 171, effective May 16, 1991; 22 SDR 74, effective November 27, 1995; 24

SDR 21, effective August 24, 1997; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-14](#).

Law Implemented: SDCL [36-28-14](#).

Cross-Reference: Medical facilities, art 44:04.

CHAPTER 20:49:07

DISPLAY OF LICENSES

Section

[20:49:07:01](#) Display of licenses.

[20:49:07:02](#) Duplicate licenses.

20:49:07:01. Display of licenses. Each person licensed as a nursing facility administrator shall display the license in a conspicuous place in the licensee's office or place of business.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; repealed, 12 SDR 151, 12 SDR 155, effective July 1, 1986; readopted, 13 SDR 90, effective January 22, 1987; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-18](#).

Law Implemented: SDCL [36-28-18](#).

20:49:07:02. Duplicate licenses. The board may issue a duplicate license upon request.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; repealed, 12 SDR 151, 12 SDR 155, effective July 1, 1986; readopted, 13 SDR 90, effective January 22, 1987; 27 SDR 61, effective December 24, 2000.

General Authority:SDCL [36-28-18.1](#).

Law Implemented:SDCL [36-28-18.1](#).

CHAPTER 20:49:08

RENEWAL OF LICENSE AND CONTINUING EDUCATION

Section

- [20:49:08:01](#) Application for renewal.
- [20:49:08:01.01](#) Fee for renewal.
- [20:49:08:02](#) Inactive status -- Reactivation.
- [20:49:08:03](#) Continuing education requirements.
- [20:49:08:04](#) Criteria for continuing education course approval.
- [20:49:08:05](#) Attendee request for continuing education approval.

20:49:08:01. Application for renewal. Every person who holds a valid license as a nursing facility administrator issued by the board shall apply biennially by December 31 of even-numbered years to the board for a renewal of the license and report any information requested by the board on forms provided for the purpose. A nursing facility administrator whose license has expired may petition the board for consideration of renewal. A nursing facility administrator need not be actively practicing as a nursing facility administrator to be eligible to renew the license.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-18](#).

Law Implemented: SDCL [36-28-19](#).

20:49:08:01.01. Fee for renewal. The biennial nonrefundable fee for renewal of a license is \$150.

Source: 12 SDR 99, effective December 16, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1987; 18 SDR 86, effective November 17, 1991; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-18](#).

Law Implemented: SDCL [36-28-18](#).

20:49:08:02. Inactive status -- Reactivation. The licensee may place the license as inactive upon completion of a form provided by the board and payment of the nonrefundable fee of \$75. A licensee may reactivate the license pursuant to SDCL [36-28-18.2](#). The required fee is the amount of the licensure fee prorated to the next biennial renewal date. To satisfy the continuing education requirement to reactivate a license, the licensee shall provide evidence of 20 hours of approved continuing education earned within the past 12 months.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 18 SDR 86, effective November 17, 1991; readopted, 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-18.2](#), [36-28-21.1](#).

Law Implemented: SDCL [36-28-18.2](#), [36-28-21.1](#).

20:49:08:03. Continuing education requirements. A minimum of 40 clock hours of continuing education pertaining to health care or business administration is required biennially for renewal of license. The board may accept academic courses pertaining to health care or business administration offered through an accredited higher education institution and earned as college credit. The board may approve continuing education programs, programs presented by board-approved providers, programs approved by another state licensing board for nursing facility administrators, and programs by approved continuing education providers of the National Association of Long Term Care Administrator Boards.

Source: SL 1975, ch 16, § 1; 2 SDR 86, effective June 27, 1976; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 90, effective January 22, 1986; 22 SDR 74, effective November 27, 1995; 27 SDR 61, effective December 24, 2000; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-21](#), [36-28-21.1](#).

Law Implemented: SDCL [36-28-21](#), [36-28-21.1](#).

20:49:08:04. Criteria for continuing education course approval. An organization or presenter that desires approval of a continuing education program shall apply on a form provided by the board at least 30 days before or 30 days after the program date. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information. The board shall notify the applicant in writing of its decision.

Source: 13 SDR 90, effective January 22, 1987; 22 SDR 74, effective November 27, 1995; 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-21.1](#).

Law Implemented: SDCL [36-28-21.1](#).

20:49:08:05. Attendee request for continuing education approval. An attendee seeking post approval of a program pertaining to health care or business administration shall submit to

the board, within 30 days after completion of the program, its dates, subject matter, and a copy of the certification of attendance. The board shall advise the attendee in writing whether the program is approved and the number of continuing education hours allowed.

Source: 36 SDR 27, effective August 25, 2009.

General Authority: SDCL [36-28-21.1](#).

Law Implemented: SDCL [36-28-21.1](#).

CHAPTER 20:49:09

ADMINISTRATOR'S NONCOMPLIANCE

(Repealed. 6 SDR 66, effective January 9, 1980)

CHAPTER 20:49:10

PROCEDURES IN CONTESTED CASES AND HEARINGS

Section

20:49:10:01 to [20:49:10:07](#) Repealed.

[20:49:10:08](#) Procedures in contested cases.

[20:49:10:09](#) Procedures in board hearings.

20:49:10:01. Right to counsel.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:02. Procedure without counsel.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:03. Adjournments.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:04. Subpoenas.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:05. Determination of hearing officer.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:06. Findings and conclusions.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:07. Availability of records.Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 66, effective January 9, 1980.

20:49:10:08. Procedures in contested cases. To initiate proceedings to reprimand a nursing facility administrator or to revoke, suspend, deny, or deny renewal of the license or permit of any nursing facility administrator in South Dakota, a member of the board or any other interested person may file with the board a complaint stating the facts of the complaint and the action requested or the board may initiate proceedings by resolution. On the filing of any complaint, the board shall fix a date for hearing and give notice of the hearing. Written notice of the final determination of the board on the complaint shall be given to interested persons, and the date of the notice begins the time within which an appeal of the determination may be taken.

Source: 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-22](#) to [36-28-24](#).

Cross-References: Procedures in contested cases, SDCL [1-26-16](#) to [1-26-29](#);
Appeals from administrative agencies, SDCL 1-26-30 to 1-26-37.

20:49:10:09. Procedures in board hearings. A record of the hearing in a contested case shall be taken by court reporter or recording equipment. If a transcript is requested, the board may require the person requesting it to pay the reasonable cost of preparing the transcript.

Source: 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-23](#), [36-28-24](#).

CHAPTER 20:49:11

APPEAL FROM INFORMAL HEARING

(Repealed. 6 SDR 66, effective January 9, 1980)

CHAPTER 20:49:12

SEVERABILITY PROVISIONS

(Repealed. 6 SDR 66, effective January 9, 1980)

CHAPTER 20:49:13

INITIATION OF RULES

(Superseded)

Commission Note:SDCL 1-26-13 provides a statutory procedure to use for petitioning an agency for amendments to its rules, thus effectively superseding this chapter.

CHAPTER 20:49:14

DECLARATORY RULINGS

Section

[20:49:14:01](#) Petition for declaratory ruling.

[20:49:14:02](#) Board action on petition.

20:49:14:01. Petition for declaratory ruling. Any person wishing the board to issue its ruling as to the applicability to that person of any statutory provision or rule or order of the board may file with the board a petition in substantially the following form:

STATE OF SOUTH DAKOTA

SOUTH DAKOTA STATE BOARD OF EXAMINERS

FOR NURSING HOME ADMINISTRATORS

Petition for Declaratory Ruling

Pursuant to the provisions of SDCL [1-26-15](#), I, (**name of petitioner**), of (**address of petitioner**), am (**title or capacity of petitioner**), and do hereby petition the South Dakota State Board of Examiners for Nursing Home Administrators for its declaratory ruling in regard to the following:

1. The state statute or State Board of Examiners for Nursing Home Administrators rule or order in question is: (**here identify and quote the pertinent statute, rule or order**).

2. The facts and circumstances which give rise to the issue to be answered by the board's declaratory ruling are:

3. The precise issue to be answered by the board's declaratory ruling is:

4. The action requested to be taken by the board is and the reasons for such action are:

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

(Signature of petitioner)

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [1-26-15](#).

20:49:14:02. Board action on petition. Upon receipt of the petition, the board may request from the petitioner any other information that may be required by it for the issuance of its ruling. Within 30 days following receipt of the petition, or within 30 days following receipt of the other information requested, the board shall issue its declaratory ruling and serve a copy by mail upon the petitioner.

Source: SL 1975, ch 16, § 1; 6 SDR 66, effective January 9, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [1-26-15](#).

CHAPTER 20:49:15

REVOCATION, SUSPENSION, OR NONRENEWAL OF LICENSE OR PERMIT

Section

[20:49:15:01](#) Grounds for revocation, suspension, or nonrenewal.

20:49:15:01. Grounds for revocation, suspension, or nonrenewal. The license or emergency permit of a nursing facility administrator may be revoked, suspended, or not renewed by the board for cause upon any of the following grounds:

- (1) The licensee failed to complete continuing education requirements;
- (2) The licensee or permittee is guilty of fraud, bribery, or deceit in procuring a license or permit, in carrying out the duties as a nursing home administrator, or in obtaining renewal of a license;
- (3) The licensee or permittee has been convicted of a felony. The conviction of a felony is the conviction of any offense which would be a felony under the laws of South Dakota if it was committed in the state;
- (4) The licensee or permittee is addicted to the use of intoxicating beverages, narcotics, or any of the drugs or controlled substances set forth in SDCL [34-20B](#) to such an extent that the licensee or permittee cannot perform the duties;
- (5) The physical or mental condition of the licensee or permittee is determined by a competent examiner to jeopardize those who seek the professional services of the licensee or permittee. A majority of the board may demand an examination of the licensee or permittee. If the licensee or permittee fails to submit to the examination, it is immediate grounds for suspension of the license or permit;
- (6) The licensee or permittee is guilty of unprofessional conduct; and
- (7) The licensee or permittee has violated any provision of SDCL [36-28](#) or this article.

Source: 8 SDR 24, effective September 16, 1981; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 22 SDR 74, effective November 27, 1995.

General Authority: SDCL [36-28-4](#).

Law Implemented: SDCL [36-28-17](#), [36-28-19](#), [36-28-22](#).

20:49:15:02. Unprofessional conduct. Unprofessional conduct includes but is not limited to the following:

- (1) Failure to exercise technical competence in carrying out nursing facility administration;
- (2) Failure to follow or enforce policies or procedures necessary to assure patient or resident welfare and safety;
- (3) Failure to safeguard the patient's or resident's dignity and right to privacy;
- (4) Violating the confidentiality of information or knowledge concerning the patient or resident;
- (5) Mental, verbal, or physical abuse of patients or residents;
- (6) Using alcohol or other drugs to the extent that there is significant interference with job performance;
- (7) Misuse of drug supplies, narcotics, or patients' or residents' records;
- (8) Falsifying patients' or residents' records or intentionally charting incorrectly;
- (9) Appropriating medications, supplies, or personal items of the patient or resident or agency;
- (10) Forging prescriptions or making drugs available to self, friends, or family members;
- (11) Falsifying records submitted to the board, to the state department of health, or to any other government agency;
- (12) Delegating nursing facility administrator care, functions, tasks, or responsibilities to others contrary to SDCL [36-28](#) or to the detriment of patient or resident safety;
- (13) Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional;
- (14) Leaving a nursing facility administrator assignment or post without notifying a substitute;

(15) Assisting any other person to violate or circumvent any provision of SDCL [36-28](#) or this article;

(16) Permitting an unlicensed person to use a nursing facility administrator license or permit for any purpose; and

(17) Having a license or certificate in a related health care discipline in the state of South Dakota or in another state denied, refused renewal, revoked, or suspended due to unprofessional conduct as defined in items 1 to 16, inclusive, of this rule.

Source: 8 SDR 24, effective September 16, 1981; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority:SDCL [36-28-4](#).

Law Implemented:SDCL [36-28-17](#), [36-28-22](#).