

CHAPTER 44:04:07

DIETETIC SERVICES

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44:04:07:01. Dietetic standards for all facilities. All facilities must comply with §§ 44:04:07:02 to 44:04:07:05, inclusive.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:02. Dietetic services. There must be an organized dietetic service that meets the daily nutritional needs of patients or residents and ensures that food is stored, prepared, distributed, and served in a manner that is safe, wholesome, and sanitary in accordance with § 44:04:02:06.

Source: SL 1975, ch 16, § 1; 4 SDR 14, effective September 14, 1977; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995;

28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:02.01. Food safety. The dietetic service must ensure that food is prepared and served in a manner that is safe and palatable. Hot food must be held at or above 140 degrees Fahrenheit (60 degrees Centigrade) and served promptly after being removed from the temperature holding device. Cold foods must be held at or below 41 degrees Fahrenheit (5 degrees centigrade) and served promptly after being removed from the holding device. Milk and milk products must be from a source approved by the state Department of Agriculture. Fluid milk must be Grade A, and only fluid milk may be used for drinking purposes. Grade A pasteurized dried milk may be used to fortify nutritional supplements only if consumed within four hours of preparation.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-Reference: Permit required to produce or process milk and milk products, § 12:05:03:01.

Note: Article 44:02, Lodging and Food Service, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 E. Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30.

44:04:07:02.02. Nutritional adequacy. The dietetic service must ensure that food prepared is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the **Food Guide Pyramid**, 1996, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Reference: **Food Guide Pyramid**, 1996, Center for Nutrition Policy and Promotion, United States Department of Agriculture, 1120 20th Street, NW, Suite 200, North Lobby, Washington DC 20036-3475. Phone: 1-202-606-8000. **Recommended Dietary Allowances**, Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington DC 20055. Cost: \$19.95. Phone: 1-800-624-6242.

44:04:07:02.03. Food substitutions. Reasonable substitutions of equal nutritional value shall be offered to patients or residents who refuse or are unable to eat the food served.

Source: 22 SDR 70, effective November 19, 1995; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:02.04. Food supply. An on-site supply of nonperishable foods adequate to meet the requirements of planned menus for three days must be maintained.

Source: 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:02.05. Therapeutic diets. In licensed facilities the dietetic service must provide for the needs of those patients or residents requiring therapeutic diets.

Source: 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Cross-Reference: Requirements for assisted living centers, § 44:04:04:12.01.

44:04:07:02.06. Social needs. In nursing facilities and assisted living centers the dietetic service, in cooperation with other departments or services, must meet the social needs of the residents in the dining setting. Social needs include mutually compatible seating arrangements, pleasant dining atmosphere, encouragement of interactions between residents, and food service to all residents at a table at approximately the same time.

Source: 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:03. Written dietetic policies. There must be written policies and procedures that govern all dietetic activities. Policies must include food handling procedures, length of duration for leftovers, and opened packages of commercially prepared food in accordance with chapter 44:02:07, the Food Service Code. Policies and procedures must be reviewed yearly and revised as necessary.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Reference: Article 44:02, **Lodging and Food Service**, Administrative Rules of South Dakota, contains the Food Service Code and may be obtained from Legislative Mail, 1320 East Sioux Avenue, Pierre, South Dakota 57501, telephone (605) 773-4935, for \$3.30 and **Food Code**, U.S. Public Health Service, FDA, 1999, and may be obtained from U.S. Department of Commerce Technology Administration National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, 1-800-553-6847 for \$45.

44:04:07:04. Written menus. Any regular and therapeutic menu, including therapeutic diet menu extensions for all diets served in the facility, must be written, prepared, and served as

prescribed by each patient's or resident's physician. Each menu must be written at least one week in advance. Each planned menu must be approved, signed, and dated by the dietitian for all facilities except assisted living centers without therapeutic diet services. Any menu changes from month to month must be reviewed by the dietitian and each menu must be reviewed and approved by the dietitian at least annually where applicable. Each menu as served must meet the nutritional needs of the patients or residents in accordance with the physician's orders and the Recommended Dietary Allowances of the National Research Council, Tenth Edition, 1989. Records of menus as served must be filed and retained for 30 days.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000; transferred from § 44:04:07:08, 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

Reference: Recommended Dietary Allowances, Tenth Revised Edition, 1989, National Research Council, National Academy of Sciences. Copies may be obtained from National Academy Press, 2101 Constitution Avenue, NW, Box 285, Washington, DC 20055. Cost: \$19.95. Phone: 1-800-624-6242.

44:04:07:05. Preparation of food. Food must be wholesome and prepared by methods that conserve nutritive value, flavor, and appearance and must be attractively served at the temperature applicable to the particular food in a form to meet the individual patient's or resident's needs.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:06. Additional dietetic standards for hospitals and nursing facilities. In addition to §§ 44:04:07:02 to 44:04:07:05, inclusive, hospitals and nursing facilities must comply with §§ 44:04:07:07 to 44:04:07:09, inclusive. Nursing facilities must also comply with §§ 44:04:07:11, 44:04:07:12, 44:04:07:14, 44:04:07:16, and 44:04:07:17.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 29 SDR 81, effective December 11, 2002; 31 SDR 62, effective November 7, 2004.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:07. Director of dietetic services. A full time dietary manager who is responsible to the administrator shall direct the dietetic services. Any dietary manager that has not completed a Dietary Manager's course, approved by the Dietary Managers Association, must enroll in a course within 90 days of the hire date and complete the course within 18 months. The dietary manager and at least one cook must successfully complete and possess a current certificate from a ServSafe Food Protection Program offered by various retailers or the Certified Food Protection Professional's Sanitation Course offered by the Dietary Managers Association, or successfully completed equivalent training as determined by the Health Department. The dietary manager shall monitor the dietetic service to ensure that the nutritional and therapeutic dietary needs for each

patient or resident are met. If the dietary manager is not a dietitian, the facility shall schedule dietitian consultations onsite at least monthly. The dietitian must approve all menus, assess the nutritional status of patients or residents with problems identified in the assessment, and review and revise dietetic policies and procedures during scheduled visits. Adequate staff whose working hours are scheduled to meet the dietetic needs of the patients or residents must be on duty daily over a period of 12 or more hours in nursing facilities or 10 or more hours in hospitals.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 28 SDR 83, effective December 16, 2001; 29 SDR 81, effective December 11, 2002.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:07.01. Hospitals without in-house dietary departments. Each hospital without an in-house dietary department must develop and maintain a written contract or agreement for dietary services for the patients. The facility must have a person responsible to the administrator who monitors the receiving, storage, and service of the food to patients in accordance with § 44:04:07:02. The facility must have at least one full-time person who has completed the ServSafe Food Protection Program and possesses a current certificate.

Each hospital without an in-house dietary department must employ or contract a qualified dietitian and schedule a minimum of monthly on-site consultations. The facility's dietitian shall review the facility's food contract agreement and make recommendations. The facility's dietitian shall review, sign, and approve menus annually. The facility's dietitian shall review menus served monthly, oversee the operation of the dietetic services, assess the nutritional status and needs of patients, and review and revise the dietetic service policies and procedures.

Source: 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:08. Transferred to § 44:04:07:04.

44:04:07:09. Diet manual. A current therapeutic diet manual with description of all diets served in the facility must be readily available in the facility to food service personnel, nursing service personnel, and practitioners.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:10. Additional dietetic standards for assisted living centers. In addition to §§ 44:04:07:02 to 44:04:07:05, inclusive, assisted living centers must comply with §§ 44:04:07:11 to 44:04:07:13, inclusive, 44:04:07:15, and 44:04:07:16.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:11. Frequency of meals. At least three meals must be served daily at regular times with not more than a 14-hour span between a substantial evening meal and breakfast.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:12. Dining arrangements. The facility must provide environmental and social accommodations for each patient or resident to encourage eating in the common dining area. Assistance must be provided for patients or residents in need of help in eating.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995; 26 SDR 96, effective January 23, 2000.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:13. Diet manual in assisted living centers. A current diet manual including basic nutrition information must be available in all assisted living centers.

Source: SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 22 SDR 70, effective November 19, 1995.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:14. Nutritional assessments. A registered dietitian shall ensure a nutritional assessment is completed on each new resident upon admission; any resident having a significant change in diet, eating ability, or nutritional status; monthly for any resident receiving tube feedings; and on any resident with a disease or condition that puts the resident at significant nutritional risk. A monthly tube feeding assessment must include nutritional adequacy of calories, protein, and fluids. An annual assessment shall be completed for each resident.

Source: 26 SDR 96, effective January 23, 2000; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:15. Person-in-charge of dietary services in assisted living centers. The person-in-charge of dietary services in assisted living centers shall possess a current certificate from a ServSafe Food Protection Course, the Certified Food Protection Professional's Sanitation Course from the Dietary Managers Association, or equivalent training determined by the Health Department.

Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:16. Required dietary inservice training. The dietary manager or the dietitian in hospitals and nursing facilities, and the person-in-charge of dietary services or the dietitian in assisted living centers shall provide ongoing inservice training for all dietary and food-handling employees. The person-in-charge of any hospital without an in-house dietary department that uses a contracted dietary service shall provide ongoing inservice training for all dietary and food-handling employees. Topics shall include: food safety, handwashing, food handling and preparation techniques, food-borne illnesses, serving and distribution procedures, leftover food handling policies, time and temperature controls for food preparation and service, nutrition and hydration, and sanitation requirements.

Source: 29 SDR 81, effective December 11, 2002; 30 SDR 84, effective December 4, 2003.

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.

44:04:07:17. Nursing facility dining assistance program. A nursing facility may develop a program to train dining assistants. The program must be approved by the department. To be approved by the department, the program must include instruction from a speech therapist and registered dietitian and consist of ten hours of training and clinical experience.

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

General Authority: SDCL 34-12-13.

Law Implemented: SDCL 34-12-13.