

CHAPTER 67:42:01

PROVISIONS AND SCOPE OF SERVICES

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67:42:01:01. Definitions. Terms used in this article mean:

(1) "Alternative care," care provided in adult foster care homes, family day care homes, family foster homes, group care centers for minors, group care centers meeting the qualifications of residential treatment centers as defined in § 67:42:08:01, day care centers, group family day care homes, before and after school day care, maternity homes, and intensive residential treatment centers;

(2) "Applicant," an individual, agency, institution, or organization which submits to the department an application for a license or a registration certificate as provided in this article;

(3) "Case service plan," a plan written in cooperation with a client which explains the client's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedule to resolve the problems;

(4) "Client," a person receiving assistance or service from the department;

(5) "Department," the Department of Social Services;

(6) "Employee applicant," an individual applying to a provider for employment;

(7) "Facility," a family foster home, family day care home, group care center for minors, residential treatment center, child placement agency, day care center, group family day care home, before and after school day care, maternity home, or intensive residential treatment center licensed or registered under the provisions of this article;

(8) "Food guide pyramid," a food guide which calls for eating a variety of foods from five major food groups to get the nutrients and calories needed to maintain a healthy weight. The five major food groups and the recommended daily servings include: breads, cereals, rice, and pasta (6-11 servings); vegetables (3-5 servings); fruits (2-4 servings); milk, yogurt, and cheese (2-3 servings); and meat, poultry, fish, dry beans, eggs, and nuts (2-3 servings);

(9) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children placed in the facility;

(10) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this article;

(11) "Provider," an individual, agency, institution, or organization providing any of the services covered in this article;

(12) "Provider applicant," an individual, agency, institution, or organization applying to be a provider under this article;

(13) "Registration certificate," the document described in SDCL 26-6-15 which certifies that a provider meets the family day care registration standards contained in chapter 67:42:03;

(14) "Staff member" or "staff person," an employee or volunteer of a facility including a teacher, secondary child care worker, supervisor, helper, and auxiliary staff member;

(15) "Substitute provider," a person who meets the personal qualities of a licensed or registered provider and who, upon request of a licensed or registered provider, substitutes for the provider to care for a client, normally for no more than 12 hours a week; and

(16) "Volunteer applicant," an individual applying to provide voluntary services for a provider.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:02. Application of chapter 67:42:01. The provisions of chapter 67:42:01 apply to alternative care homes regulated by chapters 67:42:03 to 67:42:05, inclusive; 67:42:07 to 67:42:10, inclusive; and 67:42:12 to 67:42:15, inclusive, unless otherwise specified.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:03. Development of resources for Title XX services. Repealed.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 10 SDR 48, effective November 21, 1983.

67:42:01:04. Application for license or registration certificate. An individual wishing to apply for either a license or a registration certificate must apply on forms provided by the department. The individual must sign the application form.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 21 SDR 206, effective June 4, 1995.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:04.01. Documentation of need. Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 14 SDR 98, effective January 18, 1988; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 32 SDR 33, effective August 31, 2005; repealed, 34 SDR 200, effective January 30, 2008.

67:42:01:05. Initial evaluation and approval -- Renewal of license or registration certificate. The department's initial evaluation of the applicant based on references includes reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits. The applicant must provide three references.

Based on the evaluation, the department shall determine whether to issue a license or registration certificate. Renewal of a license is based on the department's annual evaluation of the facility and care provided.

Renewal of a registration certificate is based on the department's biennial evaluation of the facility and care provided.

For family day care, group family day care, day care centers, and before and after school care programs, the issuance or renewal of a license or registration certificate is subject to the provisions of SDCL 25-7A-56.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16, 26-6-23.2.

Cross-References:

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Notice to absent parent before restricting issuance of licenses, § 67:18:01:61.

Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

67:42:01:05.01. Criminal record check. The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective foster parent as well as any other adult living in the prospective foster home. An individual is not eligible to receive a foster home license if the individual or any other adult living in the prospective foster home has a conviction for any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state; or
- (4) Within the preceding five years, a conviction for any other felony.

If an individual is seeking licensure from another child-placement agency, the department shall obtain the criminal record check for the child-placement agency if the child-placement agency is unable to obtain the record check on its own. If the criminal record check reveals a conviction for any of the crimes listed in this section, the department shall notify the child-placement agency of the existence of the conviction.

For family day care and all other child welfare agencies, the department shall review the provider's records to ensure that the criminal records are being secured to detect convictions for any of the crimes listed in this section.

Source: 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 27 SDR 63, effective December 31, 2000; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-14.3, 26-6-16.

Law Implemented: SDCL 26-6-14.3, 26-6-14.11, 26-6-16.

Cross-References:

Persons to whom criminal record requirement applies, SDCL 26-6-14.4.

Waiver, fingerprinting and declaration as condition of employment -- Time -- Notification of licensee by department, SDCL 26-6-14.5.

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Information from another state's central registry or national crime database to be used only for background check for approval of foster or adoptive placement, SDCL 26-6-14.13.

Required criminal records checks, 42 U.S.C. § 671(a)(20).

67:42:01:05.02. Screening for substantiated reports of abuse and neglect. The department shall screen a provider applicant, family members and other household members who are at least ten years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine if the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse

or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found. The hearing shall follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of his or her name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of his or her name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

Source: 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16, 26-6-23.2.

Cross-References:

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

Central registry background checks on employees, SDCL 26-6-23.2.

Substantiated reports, § 67:14:39:04.

67:42:01:05.03. Notice to facility. The department shall notify the facility that the name of the facility's employee, employee applicant, volunteer, or volunteer applicant was located through the screening process when one of the following occurs:

(1) Thirty days have lapsed since the department notified the individual that the name was located and the individual has not requested a review;

(2) Thirty days have lapsed since a review was held which upheld the department's action and the individual has not requested a fair hearing;

(3) A fair hearing was held and the decision upheld the department's action; or

(4) A screening in a state other than South Dakota resulted in a finding as outlined in SDCL 26-6-23.1.

Source: 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:06. Ability to provide care. An applicant shall demonstrate the ability to provide care to a client which meets the client's intellectual, physical, social, and emotional needs. The applicant's ability shall be determined by the capacity to provide the following:

- (1) An understanding of, and encouragement and emotional support to, the client;
- (2) Social and recreational activities and opportunities for participation of the client in community activities;
- (3) Assistance to the client in coping with daily living experiences; and
- (4) Supervision of the client.

The applicant shall also be able to participate with the department or a responsible party in devising and executing a case service plan for a client.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:07. Physical health standards required of applicant and applicant's family. An applicant for family foster care or family day care must have a physical examination. A physical examination completed within the 12 months preceding the date of the application is acceptable. The applicant may obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department.

The applicant must also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations against measles, mumps, and rubella (MMR); diphtheria, tetanus, and pertussis (DTP); Haemophilus Influenzae Type b (Hib); Hepatitis B (Hep B); and polio.

The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member, indicates that an additional medical statement is desirable.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 15 SDR 94, effective January 1, 1989; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16

Law Implemented: SDCL 26-6-11, 26-6-16.

67:42:01:08. Handicaps of applicant or provider. Repealed.

Source: 4 SDR 2, effective July 25, 1977; 4 SDR 66, 4 SDR 89, effective July 1, 1981; repealed, 23 SDR 191, effective May 22, 1997.

67:42:01:09. Validity of license or registration certificate. A license or registration certificate is valid only when the regulations of this article are complied with and pertains only to the provider and to the residence described in the license or registration certificate.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-15, 26-6-16.

67:42:01:10. Limitations on combining types of care. A combination of adult care and child care or various types of child care licenses or registration certificates is permitted only if the applicant meets the applicable licensing standards.

A combination of a family day care home, a group family day care home, a day care center, or a before and after school care program is permitted only if each operation remains separate and distinct. The combination is not allowed in a single-family dwelling.

For purposes of this rule, separate and distinct means that the operations are divided from one another with each operation maintaining its own enrollment, policies, files, and daily program. Each operation must maintain compliance with the rules applicable to that type of facility.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-15, 26-6-16, 28-1-39.

67:42:01:11. On-site visits to determine compliance and evaluate activities. To determine continuing compliance with this article and to evaluate the activities of the provider, the department shall conduct a minimum of one on-site visit to each licensed facility per year and a minimum of one on-site visit to each registered facility every two years.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:12. Reporting of incidents or changes in circumstances. The provider shall report a change in circumstance that may affect the provider's ability to comply with the requirements of the provider's license or registration certificate or ability to provide adequate care. A change in circumstance includes items such as a change of director or provider, a change of address, a change in the household size, a change in the household composition, a change in the condition of the facility or home, or involvement with the Office of Child Protection Services or law enforcement concerning allegations of child abuse or neglect. The report must be made to the provider's licensing worker or agency within 24 hours after the change in circumstance occurs.

The provider shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement officials.

A family foster home, group care center for minors, residential treatment center, intensive residential treatment center, child placement agency, maternity home, and independent living preparation program must report to the placing worker the occurrence of an unusual incident such as fire, death, client runaway, client/provider incompatibility, or serious injury to or serious illness of a client. The provider must make the report to the placing worker immediately after ensuring that children in care are safe.

A family day care home, group family day care home, day care center, and before and after school center must notify the department within 24 hours after the occurrence of an unusual incident such as fire or serious injury to a child or serious illness that results in the hospitalization of the child or the death of a child while the child is in care.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 31 SDR 40, effective September 29, 2004; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16, 28-1-39.

Law Implemented: SDCL 26-6-16, 28-1-39.

Cross-References:

Foster home services, § 67:42:09:18.

Foster home record, § 67:42:09:25.

Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

67:42:01:13. Civil rights. A provider shall not discriminate in the provision of services to any eligible individual by reason of race, color, creed, religion, sex, ancestry, handicap, or national origin. A statement of compliance with the Civil Rights Act of 1964

and SDCL 20-13 shall be submitted by a provider to the department prior to issuance of the license or certificate of approval.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References: 42 U.S.C. 2000d, SDCL 20-13.

67:42:01:14. Provisional license or registration certificate -- Reasons for issuing -- Time limits. The department may issue a provisional license or registration certificate if the need for a provisional license or registration certificate has been documented and the care and protection can be provided without meeting the remaining standards required for a license or registration certificate and if:

(1) The provider or provider applicant for family foster care and family day care homes meets the requirements of § 67:42:01:07;

(2) The provider or provider applicant for family foster care meets the requirements of § 67:42:05:03; or

(3) The group care center, residential treatment center, group family day care home, independent living preparation program, day care center, before and after school care program, maternity home, or intensive residential treatment center meets the requirements of §§ 67:42:04:09, 67:42:04:15, 67:42:07:11, 67:42:10:17, 67:42:10:18, 67:42:12:14, 67:42:13:07, 67:42:14:26, 67:42:14:27, and 67:42:14:28, as applicable.

A provisional license or registration certificate may not be issued for more than three consecutive years.

If the provider or provider applicant of a family day care, group family day care, a day care center, or a before and after school care program meets the applicable requirements specified in this section but has child support arrearages which total \$1,000 or more, a provisional license or registration certificate may only be issued on recommendation from the Office of Child Support Enforcement.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; transferred from § 67:42:01:14.01, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 25-7A-56, 26-6-12, 26-6-16.

Cross-References: Notice to absent parent before restricting issuance of licenses, § 67:18:01:61; Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

67:42:01:14.01. Transferred to § 67:42:01:14.

67:42:01:15. Renewal of family foster home license. Repealed.

Source: 4 SDR 2, effective July 25, 1977; 6 SDR 31, effective September 30, 1979; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981.

67:42:01:16. Refusal of license or registration certificate. The department may refuse to grant or renew a license or registration certificate to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care or that the applicant for family day care, group family day care, day care center, or a before and after school care program has child support arrearages which total \$1,000 or more and has not made satisfactory arrangements with the Office of Child Support Enforcement for payment of the accumulated arrearages.

Within 120 days after application, the applicant shall receive a written notice of approval or refusal to issue a license or to grant a registration certificate. If the application is refused, the department shall make a full disclosure to the provider giving the reasons why the department believes the standards for care have not been met. An applicant may reapply when the applicant has taken corrective action related to the reasons for the original rejection of the license or registration certificate.

For family day care, group family day care, day care centers, and before and after school care programs, the 120-day period begins on the date the department receives the completed application.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 11, 1983; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Notice to absent parent before restricting issuance of licenses, § 67:18:01:61.

Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

Grounds for revocation or refusal to issue or renew child welfare agency license or registration, SDCL 26-6-23.

Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1.

67:42:01:17. Withdrawal of license or registration certificate. A provider may request that the provider's license or registration certificate be withdrawn, or a provider and the department may mutually agree that the provider's license or registration certificate be withdrawn. A 30-day oral or written notice to the department shall be required before the license or the registration certificate is withdrawn.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:18. Revocation of license or registration certificate. Violation of the provisions of this article are grounds for revocation of a license or registration certificate. Before a license or registration certificate is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make a full disclosure of the reasons for revocation. The 30-day written notice is not required when, in the opinion of the department, the revocation is necessary to prevent danger to the life, health, or safety of a client.

The provider may not reapply for a license or registration certificate for at least one year after the date of revocation.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 21 SDR 206, effective June 4, 1995.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-23, 26-6-24.

Cross-References: Notice to absent parent before restricting issuance of licenses, § 67:18:01:61; Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

67:42:01:19. Receipt and investigation of complaint. Repealed.

Source: 4 SDR 2, effective July 25, 1977; repealed, 7 SDR 66, 7 SDR 89, effective July 1, 1981.

67:42:01:20. Fair hearing. A provider applicant, an employee applicant, a volunteer, a volunteer applicant, or a provider is entitled to a fair hearing if aggrieved or dissatisfied with any action or inaction on the part of the department. Fair hearings are conducted under the provisions of chapter 67:17:02.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-24, 28-1-39.

Cross-Reference: Administrative review and fair hearing before restricting issuance of licenses, § 67:18:01:62.

67:42:01:21. Maintenance of records. A record shall be maintained by the provider on each client. That record shall include the client's name, date of placement, date of removal, special needs, the names and telephone numbers of the client's social worker, doctor, dentist, parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider. A family day care home, a day care center, and a group family day care home must maintain these records for a period of six months after the child ceases receiving care.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 31 SDR 40, effective September 29, 2004.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:01:22. Confidentiality. The files and records of the provider shall be kept confidential. No information may be released from the files or records to anyone outside of the licensed or registered facility unless written authorization for the release of information is obtained from parties that may be affected by this action. This may include the department, the provider, a client served by the provider, or legal representatives of any of the parties. The provider shall make its files and records available for inspection by the department for licensing purposes.

A provider shall maintain in confidence all information concerning a client. Details of a client's life or that of the client's family may not be shared with unauthorized individuals.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:01:23. Location. The location of a group care center, residential treatment center, day care center, before and after school care program, maternity home, and intensive residential treatment center must conform with local zoning ordinances and must meet the annual approval of fire and health authorities. If a county or municipality exempts a before and after school care program from the county's or municipality's zoning, building, fire, or life safety code, the facility must continue to meet the applicable standards contained in this article.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Before and after school day care exempt from zoning, uniform building and safety provisions, SDCL 26-6-14.12.

67:42:01:24. Transportation. A vehicle used for transportation may not carry more people than its stated passenger capacity. Except when transporting children to and from school, the required staff-child ratio must be maintained when children are in transport.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 15 SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 31 SDR 40, effective September 29, 2004.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Staff-child ratio, Group family day care homes, § 67:42:04:03.

Staff-child ratio, Group care centers for minors, § 67:42:07:03.

Staff-child ratio, Residential treatment centers, § 67:42:08:03.

Staff-child ratio, Day care centers, § 67:42:10:07.

Staff-child ratio, Maternity homes, § 67:42:12:13;

Staff-child ratio, Before and after school care program, § 67:42:14:17.

Use of system required -- Violation as petty offense, SDCL 32-37-1.

Operator to assure that passengers between ages five and eighteen wear seatbelts, SDCL 32-37-1.1.

67:42:01:27. Selection of governing board. Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 14 SDR 98, effective January 18, 1988.

67:42:01:28. Agency responsibility for building and equipment needs and funding. A group care center, residential treatment center, maternity home, intensive residential treatment center, or child placement agency must provide for the building and equipment needs of the organization and ensure that there are funds available to meet the requirements for licensure and to carry out the stated purpose of the agency.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 14 SDR 98, effective January 18, 1988; 24 SDR 76, effective December 11, 1997; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16(2), 26-6-16(7).

Law Implemented: SDCL 26-6-16(2), 26-6-16(7).

Cross-Reference: Documentation of need, § 67:42:01:04.01.

67:42:01:32. Proprietary facilities -- Financial records. Repealed.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; repealed, 10 SDR 48, effective November 21, 1983.

67:42:01:33. Accounting system. Group care centers, residential treatment centers, child placement agencies, day care centers, maternity homes, and intensive residential treatment centers shall maintain an accounting system, which enables the facility to identify clearly the cost of services and other expenses of operation.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:34. Annual audit. Each group care center, residential treatment center, child placement agency, maternity home, and intensive residential treatment center must provide for an annual audit of its accounts by a certified public accountant who is not an employee of the facility, a member of the board of directors, or an employee of the department. The report of the audit shall be made a part of the facility records.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 13 SDR 197, effective July 1, 1987; 14 SDR 20, effective August 13, 1987; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:35. Insurance. Each group care center, residential treatment center, day care center, group family day care home, before and after school care program, maternity home, intensive residential treatment center, and child placement agency shall carry liability insurance. Each vehicle used for transporting clients shall have liability insurance that covers the clients being transported.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 15 SDR 94, effective January 1, 1989; 27 SDR 63, effective December 31, 2000; 32 SDR 33, effective August 31, 2005.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:01:36. Final inspection reports -- Required posting. A family day care home, group family day care home, day care center, and before and after school care program must post, in a visible location within the facility, a copy of the results of the facility's latest inspection. If the inspection resulted in a plan of correction, the facility must maintain a copy of the plan and make it available to individuals on request. The

facility must also post the department's telephone number and address for individuals desiring more information concerning the facility's inspection.

Source: 27 SDR 63, effective December 31, 2000.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11.

67:42:01:37. Telephones. Each home or facility must provide one working, nonpay telephone which can be used for general and emergency uses.

Source: 31 SDR 40, effective September 29, 2004.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.