

*“A licensed nurse, RN or LPN, is responsible for choosing to delegate medication administration to unlicensed personnel. Unlicensed personnel complement the nurse in the performance of nursing functions, like medication administration, but may not substitute for the nurse. Unlicensed personnel may not re-delegate a delegated task to another person. The delegating nurse is accountable for assessing a situation and making the final decision to delegate.”* (Excerpt from the SD Board of Nursing document Medication Administration Training Program – South Dakota Specific Legal Requirements.)

**Please note:** Avera Education & Staffing Solutions compiled this list of South Dakota Administrative Rules applicable to Delegation of Nursing Tasks from tools available at the South Dakota Legislature – Legislative Research Council website. <http://sdlegislature.gov/Rules/RulesList.aspx>

## **Section 1**

*In South Dakota a nurse may delegate medication administration in accordance to the following rules:*

### **CHAPTER 20:48:04.01**

#### **DELEGATION OF NURSING TASKS**

##### Section

20:48:04.01:01	General criteria for delegation.
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20:48:04.01:17	Qualifications of the registered nurse for delegation of insulin administration by the subcutaneous route to unlicensed assistive personnel.

**20:48:04.01:01. General criteria for delegation.** The registered nurse is responsible for the nature and quality of nursing care that a client receives under the nurse's direction. To achieve full utilization of the services of a registered nurse or a licensed practical nurse, the licensed nurse may delegate selected nursing tasks to unlicensed assistive personnel. Unlicensed assistive personnel may complement the licensed nurse in the performance of nursing functions but may not substitute for the licensed nurse. Unlicensed assistive personnel may not redelegate a delegated act.

A licensed nurse is accountable to practice in accordance with the scope of practice as defined in SDCL chapter 36-9. The delegating nurse is accountable for assessing a situation and making the final decision to delegate. The delegation of nursing tasks to unlicensed assistive personnel must comply with the following criteria:

(1) The nursing task is one that a reasonable and prudent licensed nurse would find within the scope of sound nursing judgment to delegate;

(2) The nursing task is one that, in the opinion of the delegating licensed nurse, can be properly and safely performed by unlicensed assistive personnel without jeopardizing the client's welfare;

(3) The nursing task does not require unlicensed assistive personnel to exercise nursing judgment;

(4) The licensed nurse evaluates the client's nursing care needs before delegating the nursing task;

(5) The licensed nurse verifies that the unlicensed person is competent to perform the nursing task; and

(6) The licensed nurse supervises the performance of the delegated nursing task in accordance with the requirements of § 20:48:04.01:02.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:02. Supervision.** The licensed nurse shall provide supervision of all nursing tasks delegated to unlicensed assistive personnel in accordance with the following conditions:

(1) The licensed nurse determines the degree of supervision required after considering the following:

(a) The stability of the client's condition;

(b) The competency of the unlicensed person to whom the nursing task is delegated;

(c) The nature of the nursing task being delegated; and

(d) The proximity and availability of the licensed nurse to the unlicensed person when the nursing task will be performed;

(2) The delegating licensed nurse or another licensed nurse is readily available either in person or by telecommunication; and

(3) If the unlicensed person is providing care in the client's home, the time interval between supervisory visits and whether the visit is conducted in person or via telecommunication is determined by the licensed nurse in accordance with § 20:48:04.01:01. The visit shall occur no less than once every 60 days to assure client safety.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:07. Nursing tasks that may not be delegated.** The following are nursing tasks that a licensed nurse may not delegate to unlicensed assistive personnel:

- (1) Assessments which require professional nursing judgment, intervention, referral, or follow-up;
- (2) Formulation of the plan or nursing care and evaluation of the client's response to the care rendered;
- (3) Specific tasks involved in the implementation of the plan of care which require nursing judgment or intervention, such as sterile procedures involving a wound or anatomical site which could potentially become infected; nasogastric tube feeding; nasogastric, jejunostomy and gastrostomy tube insertion or removal; tracheostomy care and suctioning and suprapubic catheter insertion and removal, with the exception of urinary foley catheterization;
- (4) Administration of medications, except as permitted by §§ 20:48:04.01:10 and 20:48:04.01:11;
- (5) Receiving telephone orders; and
- (6) Health counseling and health teaching.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:09. Registration required for delegated medication administration.** A licensed nurse may delegate the administration of medications authorized under §§ 20:48:04.01:10 and 20:48:04.01:11 only to unlicensed assistive personnel who have a minimum of a high school education or the equivalent and who are registered with the Board. Registry status expires two years from the date of initial registration.

**Source:** 21 SDR 13, effective August 7, 1994; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:10. Administration of medications.** The licensed nurse may delegate the following medication administration tasks to unlicensed assistive personnel that have successfully completed the curriculum identified in § 20:48:04.01:15:

- (1) Administration of scheduled medications by oral, rectal, topical, vaginal, or inhalation route;
- (2) Measuring of a prescribed amount of liquid medication or crushing a tablet for administration if the licensed nurse has calculated the dose; and
- (3) Administration of schedule II controlled substances listed in SDCL 34-20B-16 and 34-20B-17 which have been prescribed and labeled in a container for a specific client.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:11. Medication administration tasks that may not be routinely delegated and require written protocol.** The following are medication administration tasks that may be delegated to unlicensed assistive personnel only in accordance with § 20:48:04.01:01:

- (1) Administration of the initial dose of a medication that has not been previously administered to the client;
- (2) Administration of medications on an as-needed basis, including schedule II controlled substances listed in SDCL 34-20B-16 and 34-20B-17 as provided in subdivision 20:48:04.01:10(3); and
- (3) Administration of insulin by the subcutaneous route in accordance with §§ 20:48:04.01:16 and 20:48:04.01:17.

A registered nurse shall develop written protocol for the instruction and training of unlicensed assistive personnel and maintain the protocol on file.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:12. Medication administration tasks that may not be delegated.** The licensed nurse may not delegate the following tasks of medication administration:

(1) Administration of schedule II controlled substances listed in SDCL 34-20B-16 and 34-20B-17 from a locked stock supply;

(2) Administration of medications by subcutaneous, intramuscular, intradermal, or intravenous route except as authorized in § 20:48:04.01:11;

(3) Administration of medications by way of a tube inserted in a cavity of the body;

(4) Administration of medications via inhalation route in a complex nursing situation as defined in § 20:48:01:01; and

(5) Calculation of any medication dose.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000; 28 SDR 36, effective September 18, 2001; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21(4).

**Law Implemented:** SDCL 13-33A-1, 36-9-3(2), 36-9-4(4), 36-9-4.1(2), 36-9-21(4).

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**20:48:04.01:13. Approval of training program required for delegated medication administration.** Medication administration as outlined in § 20:48:04.01:10 may be delegated only to those individuals who have successfully completed a training program approved by the board pursuant to §§ 20:48:04.01:14 and 20:48:04.01:15. Approval of the training program must be renewed every two years.

**Source:** 21 SDR 13, effective August 7, 1994; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:14. Standards for approval of medication administration training programs.** An institution or individual desiring to offer a training program for delegated medication administration for unlicensed assistive personnel must submit an application for approval to the board. The board may grant approval to an applicant training program upon proof that the training program meets the following requirements:

(1) The training program is based on the training curriculum outlined in § 20:48:04.01:15 and includes no less than 16 hours of classroom instruction and an additional 4 hours of clinical or laboratory instruction;

(2) The person teaching a training program is a registered nurse who is currently licensed as a registered nurse in South Dakota and has a minimum of two years of clinical nursing experience;

(3) The faculty-to-student ratio does not exceed 1:8 in the clinical setting. A 1:1 ratio is required for skills performance evaluation;

(4) A skills performance evaluation must be conducted utilizing a Board approved competency checklist;

(5) Successful completion of a Board approved written examination. A passing score of 85 percent is required on the test with an opportunity to retake the test one time. If a student fails on retake, additional instruction is required before further testing is allowed;

(6) A completion certificate is awarded to a person who has successfully completed the training program. The certificate must include the name and location of the institution, the length of the program, the date of completion, the full name of the person who completed the program, the signature of the faculty member in charge of the course, and the date the certificate was awarded; and

(7) Records are maintained which include documentation of the following:

- (a) Each person enrolled in the program, including documentation of performance and the date and reason the person withdrew or the date the person failed or completed the program;
- (b) Each faculty member teaching the program, including qualifications and nursing experience;
- (c) The curriculum plan and revisions;
- (d) All tests administered; and
- (e) A list of graduates of the program who were awarded certificates and the date of the award.

The training program must submit an evaluation of the curriculum and program standards for compliance with this section to the board every two years in order to maintain approval.

**Source:** 21 SDR 13, effective August 7, 1994; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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**20:48:04.01:15. Medication administration curriculum.** The training curriculum for delegated medication administration must include:

(1) General information relevant to the administration of medications, including:

- (a) Governmental regulations related to the practice of nursing, the administration of medication, and the storage, administration, and recording of controlled substances;
- (b) Ethical issues;
- (c) Terminology, abbreviations, and symbols;
- (d) Medication administration systems;
- (e) Forms of medication;

- (f) Procedures and routes of medication administration;
- (g) Medication references available;
- (h) The role of unlicensed assistance personnel in administering medications;
- (i) The rights of medication administration: right patient, right medication, right dose, right time, right route, right documentation; and
- (j) Infection control policies and procedures;

(2) An overview of the major categories of medications related to the body systems, including:

- (a) Cardiovascular;
- (b) Endocrine;
- (c) Gastrointestinal;
- (d) Integumentary;
- (e) Musculoskeletal;
- (f) Nervous;
- (g) Reproductive;
- (h) Respiratory;
- (i) Sensory;
- (j) Urinary; and
- (k) Immune;

(3) Additional instruction shall include those categories of medications relevant to the health care setting where the unlicensed person will be employed; and

(4) Clinical or laboratory instruction for the purpose of demonstration of medication administration and evaluation of individual competence.

**Source:** 21 SDR 13, effective August 7, 1994; 26 SDR 174, effective July 4, 2000; 41 SDR 12, effective July 31, 2014.

**General Authority:** SDCL 13-33A-2, 36-9-21.

**Law Implemented:** SDCL 13-33A-1, 36-9-3, 36-9-4, 36-9-4.1, 36-9-21.

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20:48:04.01:16 and 20:48:04.01:17 are not included in this listing as insulin administration by the subcutaneous route requires completion of an additional training program for unlicensed assistive personnel.

These rules can be viewed at this link:

<http://sdlegislature.gov/Rules/DisplayRule.aspx?Rule=20:48:04.01>

Codified Laws referenced in the administrative rules.

[SDCL Chapter 36-9](#): Registered and Practical Nurses

[SDCL 34-20B-16](#): Substances specifically included in Schedule II

[SDCL 34-20B-17](#): Opiates specifically included in Schedule II

## Section 2 Mandatory Reporting for Abuse and Neglect

This information is found at the South Dakota Department of Human Services website, [Long Term Services and Supports – Adult Protective Services](#).

### Definitions:

#### Physical and Emotional Abuse

Physical abuse is defined as physical harm, bodily injury or attempt to cause physical harm or injury, or the fear of imminent physical harm or bodily injury on an elder or a disabled adult. Emotional abuse is defined as a caretaker's willful, malicious and repeated infliction of sexually obscene acts (nudity or simulations) without consent; unreasonable confinement; harm, damage or destruction of property; or verbal harassment or threats to inflict physical, emotional and psychological abuse. For a full definition of physical and emotional abuse see SDCL 22-46-1.

#### Neglect

Neglect is defined as harm to the health or welfare of an elder or an adult with a disability, without reasonable medical justification, caused by a caretaker, within the means available for the elder or adult with a disability, including the failure to provide adequate food, clothing, shelter or medical care.

#### Exploitation

Exploitation is defined as the wrongful taking or exercising of control over property of an elder or adult with a disability with intent to defraud the elder or adult with a disability.

### Indicators:

The following indicators may be helpful when deciding whether abuse, neglect or exploitation may be taking place. This list was compiled from South Dakota Specific Legal Requirements – Medication Administration Training Program – South Dakota Board of Nursing. Indicators are also found at Long Term Services and Supports – Adult Protective Services web page.

#### Physical Indicators

- Injury that has not been cared for properly.
- Injuries that are not compatible with history.
- Frequent use of the emergency room and/or hospital or health provider.
- Evidence of inadequate or inappropriate administration of medication.
- Lack of necessary equipment such as walkers, canes, bedside commode.
- Lack of necessities such as heat, food, water and unsafe conditions in the home.
- Poor hygiene.
- Soiled clothing or bed; untreated bed sores.
- Pain when touched.
- Bruises, welts, black eyes, lacerations, or rope marks.
- Bone fractures, broken bones and skull fractures.
- Cuts, lacerations, punctures, wounds, burns, untreated injuries in various healing stages.
- Dehydration and/or malnourishment without illness-related cause.
- Loss of weight.



### **Behavioral Indicators**

- Agitation, anxiety
- Withdrawal
- Ambivalence
- Fear
- Depression
- Anger
- Isolation
- Resignation
- Hesitation to reply
- Non-responsiveness
- Contradictory statements
- Unusual behavior attributed to dementia

### **Indicators of Financial Exploitation**

- Unusual activity in bank accounts.
- Power of attorney given when the person is unable to comprehend his or her financial situation, and in reality, is unable to give a valid power of attorney.
- Refusal to spend money on the care of the protected person (Numerous unpaid bills and overdue rent are clear signs when someone else is in charge of making payments.)
- Recent change of title of house in favor of a “friend” when the elder is incapable of understanding the nature of the transaction.
- Checks and documents signed when the older person cannot write.
- Signatures on checks or other documents by someone other than the owner of the account or a forged signature.
- Loss of personal belongings such as art, silverware, jewelry, or other valuable property.
- The inclusion of additional names on a bank signature card.

### **Indicators from Family/Caregivers**

- The elder may not be allowed to speak for himself/herself, or to others without the presence of the caregivers.
- Obvious absence of assistance, attitudes of indifference, or anger toward the dependent person.
- Family member or caregiver “blames” the individual (for example, accusation that incontinence is a deliberate act.)
- Failure to provide physical aids such as eyeglasses, hearing aids or dentures.
- Withholding of food and water, or failure to help with personal hygiene.
- Inappropriately leaving an older person alone for long periods of time.
- Aggressive behavior such as threats, insults, or other verbal harassment.
- Previous history of abuse to others.
- Withholding of security and affection.

- Problems with alcohol or drugs.
- Social isolation of the family or isolation or restriction of the older adult's activity in the family unit.
- Conflicting accounts of incidents by the family, supporters, or victim.
- Unwillingness or reluctance to comply with service providers in planning for care.
- Unauthorized withdrawal of an elder's funds using the elder's ATM card.

### **Indicators of Self-Neglect**

- Dehydration, malnutrition, untreated or improperly attended medical conditions and poor personal hygiene.
- Hazardous or unsafe living conditions/arrangements.
- Unsanitary or unclean living quarters.
- Inappropriate and/or inadequate clothing; lack of the necessary medical aids.
- Grossly inadequate housing or homelessness.

### **Mandatory Reporting (as described at [SD DHS – Long Term Services and Supports – Adult Protective Services](#))**

South Dakota law requires individuals in the medical and mental health professions and employees or entities that have ongoing contact with and exposure to elders and adults with disabilities, to report knowledge or reasonable suspicion of abuse or neglect of elders and adults with disabilities. (SDCL 22-46)

#### **Mandatory Reporters**

There are two groups of mandatory reporters and the process for reporting is different for each group.

The **first group** of mandatory reporters of abuse, neglect and exploitation includes:

- Physician, dentist, doctor of osteopathy, chiropractor, optometrist, podiatrist, religious healing practitioner, hospital intern or resident, nurse, paramedic, emergency medical technician, social worker or any health care professional;
- Psychologist, licensed mental health professional or counselor engaged in professional counseling; or
- State, county or municipal criminal justice employee or law enforcement officer.

These individuals must make an oral or written report within twenty-four hours to law enforcement, the state's attorney or DHS.

The **second group** of mandatory reporters of abuse and neglect includes:

- Any staff member of a nursing facility, assisted living facility, adult day care center or community support provider, or any residential care giver, individual providing homemaker services, victim advocate or hospital personnel engaged in the admission, examination, care or treatment of elders or adults with disabilities.
- Any individual in this group must report to the person in charge of the institution where the elderly or adult with a disability resides or is present, or the person in charge of providing the services within twenty-four hours.

The person in charge must also make an oral or written report within twenty-four hours to law enforcement, the state's attorney or DHS.

## **What to Report**

To report abuse, neglect, or exploitation of an elder or an adult with disabilities, please contact your local law enforcement agency, local state's attorney's office or the nearest [Department of Human Services office](#) or email the Division of Long Term Services and Supports. ([adultprotectioncomplaint@state.sd.us](mailto:adultprotectioncomplaint@state.sd.us))

In addition to mandatory reporting, people can make reports on a voluntary basis. Any person who knows or has reason to suspect that an elder or adult who is disabled has been abused, neglected or exploited may report that information. Person who in good faith make a report of abuse, neglect or exploitation of an elderly or adult with a disability are immune from liability.

Facilities or programs that are licensed or regulated by the Department of Health or Department of Human Services will follow department procedures in place for reporting.

A mandatory reporter who knowingly fails to make the required report is guilty of a Class 1 misdemeanor.

Include the following if you know or have reason to believe someone needs protection from abuse, neglect or exploitation.

- The name, age, physical address and contact information of the elder or adult with a disability;
- The name, age, physical address and contact information of the person making the report;
- The name, age, physical address and contact information of the caretaker of the elder or adult with a disability;
- The name, age, physical address and contact information of the alleged perpetrator;
- The nature and extent of the elder or adult with a disability's injury, whether physical or financial, if any;
- The nature and extent of the condition that required the report to be made; and
- Any other pertinent information.

## **Confidentiality**

All reports are confidential. Civil and criminal immunity is available for good faith reports by employees, agents or members of medical or dental staff of facilities regulated by the Department of Health.