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& **REGULATION**

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**South Dakota Cosmetology
License Laws & Administrative Rules**

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CHAPTER 36-15
COSMETOLOGISTS, ESTHETICIANS, NAIL TECHNICIANS, AND SALONS

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36-15-1. Definitions. Terms used in this chapter mean:

- (1) "Apprentice," any person licensed by the commission to receive education through an apprenticeship in a salon;
- (2) "Apprentice salon," any salon licensed by the commission to teach apprentices;
- (3) "Booth," any part within a licensed salon that is rented or leased for the purpose of rendering licensed cosmetology services as a separate, independent salon business;
- (4) "Commission," the Cosmetology Commission as established and created in § 36-15-3;
- (5) "Cosmetologist," any person who, for compensation, engages in any of the practices of cosmetology;
- (6) "Cosmetology," any one or any combination of the practices set for in § 36-15-2;
- (7) "Demonstrator," any person licensed to practice cosmetology, nail technology, or esthetics in this state, in another state, or in another country, who demonstrates the various practices of cosmetology, as applicable, in order to inform or educate other licensees or the public;
- (8) "Esthetician," any person who, for compensation, engages in the practices of esthetics, but not in other practices of cosmetology;
- (9) "Esthetics," any one or any combination of the practices set forth in § 36-15-2.2;
- (10) "Instructor," any person who is licensed by the commission to instruct in a school and who meets the requirements set forth in § 36-15-25;
- (11) "Nail technology," any one or any combination of the practices set forth in § 36-15-17.2;
- (12) "Nail technician," any person who, for compensation, engages in the practice of nail technology, but not in other practices of cosmetology;
- (13) "Natural hair braiding," any one or any combination of the practices set forth in § 36-15-1.1;
- (14) "Salon," any place, premise, or building or any part of a building operated for the purpose of engaging in the practice of cosmetology, nail technology, or esthetics, or any combination of these practices;
- (15) "School," any place, premise, or building that is licensed by the commission to provide education to students in the practice of cosmetology, nail technology, or esthetics, or any combination of these practices;
- (16) "School premises," any permanent building or other structures approved by the commission as a school campus under one school license;
- (17) "Student," any person who is licensed by the commission to receive education in a licensed school.

36-15-1.1. Natural hair braiding defined. Natural hair braiding means a form of hair manipulation that results in tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, or hair extensions into a variety of shapes, patterns, and textures and maintenance thereof, by hand or with clips, combs, hairpins, or thread.

Natural hair braiding includes the use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos.

Natural hair braiding does not involve the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents applied to growing human hair.

36-15-2. License required to practice cosmetology – Acts constituting practice of cosmetology. No person may engage in the practice of cosmetology unless the person is licensed by the commission. A person is engaged in the practice of cosmetology if that person, for compensation, a fee, or any valuable consideration, engages in any of the following practices with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

- (1) Hair care by styling, wrapping, arranging, braiding, twisting, weaving, extending, fusing, dressing, curling, waving, permanent waving, singeing, cleansing, shampooing, cutting, bleaching, setting, coloring, straightening, relaxing, fitting, massaging, or similar work upon the hair, scalp, wigs, or hairpieces of a person;
- (2) Nail technology;
- (3) Esthetics; or
- (4) Removal of superfluous hair by nonpermanent means.

36-15-2.1. Acts not constituting practice of cosmetology. None of the following constitute the practice of cosmetology:

- (1) Any person practicing permanent removal of hair by the use of a galvanic or thermalytic needle known as electrolysis;
- (2) Any retailer at a retail establishment who in the ordinary course of business is engaged in the demonstration of make-up if:
 - (a) The make-up is applied only with disposable applicators that are discarded after each customer demonstration;
 - (b) The demonstration is without charge to the person to whom the demonstration is given; and
 - (c) The retailer does not advertise or provide a cosmetology service except the sale of make-up and fragrances.

36-15-2.2. License required for practice of esthetics – Practices constituting esthetics. No person may engage in the practice of esthetics unless the person is licensed by the commission. A person is engaged in the practice of esthetics if that person, for compensation, a fee, or any valuable consideration, engages in any of the following practices with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

- (1) Beautifying, massaging, cleansing, exfoliating, stimulating, or applying oils, creams, cosmetic preparations, make-up, facial treatments, body treatments, body wraps, antiseptics, scrubs, clays, lotions, masks, waxes, or other preparations for the noninvasive care of the skin. For purposes of this subdivision, noninvasive means confined to the nonliving cells of the stratum corneum of the epidermis. Such practices shall be in a superficial mode and not for the treatment of medical disorders, and living cells may never be altered, cut, or damaged;
- (2) Grooming or applying eyebrows or eyelashes, including arching and tinting; or

- (3) Removing superfluous hair by nonpermanent means, including tweezing and waxing.

Esthetics does not include scalp treatments or scalp massage.

36-15-2.3. Application for esthetics examination – Information required. Any person desiring to practice esthetics in this state as an esthetician shall apply to the commission to take the esthetics examination. The application shall:

- (1) Contain the information required by § 36-15-15;
- (2) Contain proof that the applicant is enrolled in or has completed the required hours of education, as established by rules pursuant to § 36-15-13, or equivalent credit hours in an approved and licensed cosmetology or esthetics school or in lieu of such education, is enrolled or has successfully completed a course of apprenticeship in a licensed cosmetology or esthetics salon as provided for in this chapter; and
- (3) Be accompanied by the fee required in this chapter.

36-15-2.4. Terms of licenses – Renewal dates. Any license or permit issued under this chapter or any license issued under prior law may be renewed for periods of one year, but in any event expiring on the renewal date as established by the commission. The commission shall, by rules promulgated pursuant to chapter 1-26, establish the renewal date for any licenses or permits issued under this chapter.

36-15-3. Cosmetology Commission – Appointment and terms of members – Oath of office. The Cosmetology Commission shall perform all functions exercised by the former State Board of Cosmetology. The Cosmetology Commission consists of five members to be appointed by the Governor for a term of three years. No member may serve more than three consecutive full terms. However, appointment to fill an unexpired term is not considered a complete term for this purpose. Not all of the members may be of the same political party. Three members shall be currently licensed as cosmetologists in this state at the time of their appointment. Two members shall be lay people. The Governor may stagger the terms to enable the commission to have different terms expire each year. Any member appointed to the commission prior to July 1, 2005, shall serve the four-year term to which the member was originally appointed. Any member appointed to the commission after July 1, 2005, shall serve a three-year term. Each member of the commission shall take the oath of office as provided by law for public officials.

36-15-4. Qualifications of professional commission members – School affiliation prohibited. Each professional member of the commission shall be:

- (1) A resident of this state;
- (2) At least twenty-five years of age;
- (3) Actively engaged in the practice of cosmetology for the three years immediately preceding the appointment; and
- (4) Currently licensed as a cosmetologist in this state at the time of the appointment and while serving on the commission.

No member of the commission may be a member of or affiliated with or have an interest in any school while in office.

36-15-4.1. Lay members of commission – Appointment and terms of office. The membership of the Cosmetology Commission shall include two lay persons who are users of the services regulated by the commission. The term lay persons who are users refers to persons who are not licensed by the commission but where practical use the services licensed, and the meaning shall be liberally construed to implement the purpose of this section. The lay members shall be

appointed by the Governor and shall have the same terms of office as other members of the commission.

36-15-5. Annual election of officers of commission – Meetings – Quorum. The commission shall organize at its first meeting after July first of each year by electing from its membership a president, a vice-president, and a secretary-treasurer. The commission shall meet at such times and places as shall be designated by the commission. Any three members of the commission constitute a quorum for the transaction of business.

36-15-5.1. Commission continued within Department of Labor and Regulation – Records and reports. The Cosmetology Commission shall continue within the Department of Labor and Regulation, and shall retain all its prescribed functions, including administrative functions. The commission shall submit such records, information, and reports in the form and at such times as required by the secretary of labor and regulation, except that the commission shall report at least annually.

36-15-6. Employment of personnel by commission – Expenses – School affiliation prohibited. The commission may employ personnel as it deems necessary to administer and enforce the provisions of this chapter. The commission may pay the travel and subsistence expenses of each employee pursuant to the provisions of § 3-9-2. However, no employee of the commission may be connected or associated in any manner with any school.

36-15-7. Repealed.

36-15-8. Omitted.

36-15-9. Fees paid in advance – Use by commission. All fees provided for in this chapter shall be paid in advance to the secretary-treasurer of the State Cosmetology Commission, and shall be kept by the commission to pay its necessary expenses including the paying of any additional assistance required by the commission in performing its functions as set forth in this chapter.

36-15-10. Repealed.

36-15-11. General duties of commission members. The duties of the members of the commission include:

- (1) Inspecting salons, booths, schools, nail technicians, estheticians, and cosmetologists;
- (2) Conducting examinations for applicants for licenses under this chapter;
- (3) Approving continuing education courses;
- (4) Investigating violations and enforcing provisions of this chapter and the rules established by the commission pursuant to this chapter;
- (5) Maintaining an office for the keeping of records; and
- (6) Doing all things necessary for the proper administration of this chapter.

36-15-12. Repealed.

36-15-12.1. Repealed.

36-15-13. Scope of rules. The commission may adopt rules pursuant to chapter 1-26 pertaining to the following:

- (1) Application requirements for any license or permit issued pursuant to this chapter;
- (2) Examinations;
- (3) Reports of students' education and work performed;

- (4) Minimum standards and requirements for cosmetology, nail technology, and esthetics salons and schools;
- (5) Minimum standards for plumbing, electrical, physical, and sanitary conditions for the health and safety of persons utilizing cosmetology, nail technology, or esthetics salons or schools;
- (6) The professional conduct of licensees;
- (7) The reinstatement of lapsed licenses and lapsed renewal pursuant to § 36-15-20.1;
- (8) The fee for a lapsed license and lapsed renewal pursuant to § 36-15-20.1;
- (9) The course and education requirements received by transfer students pursuant to § 36-15-34;
- (10) The textbooks, educational material, and the general course of study for schools and for cosmetology salons and nail salons having apprentices pursuant to § 36-15-46;
- (11) The progress and education received by an apprentice pursuant to § 36-15-48;
- (12) The fees for all licenses, permits, and renewals;
- (13) Minimum standards for the use of chemicals or any mechanical or electrical apparatus or appliance;
- (14) Amount of work experience of an out-of-state licensed applicant that may be used as a substitute for the education requirement pursuant to §§ 36-15-17, 36-15-17.1, and 36-15-2.3;
- (15) Inspection and reinspection of individual licensees, salons, and schools;
- (16) Administration and duties of the commission; and
- (17) Minimum hours of education for esthetics licensing.

36-15-13.1. Repealed.

36-15-13.2. Continuing education for licensees – Commission authorized to adopt rules

– Scope. The commission may adopt rules pursuant to chapter 1-26 pertaining to continuing education for licensees on health issues, safety issues, and services that require the use of chemicals or electrical or mechanical apparatus. The commission may provide, by rule promulgated pursuant to chapter 1-26, the kinds and subjects of education and the number of hours of education required. The commission may also substitute experience in addition to or in lieu of educational requirements. The commission may waive any of the education requirement in case of certified illness or undue hardship. The commission may establish a fee by rules adopted pursuant to chapter 1-26 to cover the cost of verifying the required continuing education. The commission may offer a course and charge a registration fee to cover the costs.

36-15-14. Access of authorities to salons or schools for inspection and enforcement

purposes. The commission, any state or local board of health, or any officer or employee thereof, may enter during the business hours, any salon or school licensed under the provisions of this chapter and any other place where the practice of cosmetology is followed, practiced, or taught for the purpose of inspection and enforcement of this chapter and the rules adopted pursuant to this chapter.

36-15-15. Application for license or permit – Evidence of qualifications.

An applicant for any license or permit shall first submit evidence, satisfactory to the commission that the applicant:

- (1) Is at least eighteen years of age or older, except as otherwise provided in this chapter; and
- (2) Has complied with all the rules adopted by the commission as to the qualifications, standards, and requirements required for the license and application.

36-15-16. Persons exempt from chapter. This chapter does not apply to services rendered by regularly licensed physicians, physician assistants, nurses, podiatrists, chiropractors, physical therapists, occupational therapists, morticians, barbers, or licensed demonstrators when exclusively engaged in the practice of their respective professions.

36-15-16.1. Natural hair braiding exempt from chapter. Any person engaging solely in natural hair braiding as set forth in § 36-15-1.1 is exempt from the provisions of this chapter.

36-15-17. Application for cosmetologist examination – Information required. Any person desiring to practice cosmetology in this state as a cosmetologist shall make application to the commission to take the examination. The application shall:

- (1) Contain the information required pursuant to § 36-15-15;
- (2) Contain information satisfactory to the commission that the applicant is enrolled in or has completed fifteen hundred hours of education or equivalent credit hours in an approved and licensed cosmetology school, or in lieu of such education, is enrolled in or has successfully completed a course of apprenticeship in a licensed cosmetology salon as provided for in this chapter; and
- (3) Be accompanied by the fee required in this chapter.

36-15-17.1. Application for nail technician examination – Information required. Any person desiring to practice nail technology in this state as a nail technician shall apply to the commission to take the nail technician examination. The application shall:

- (1) Contain the information required by § 36-15-15;
- (2) Contain proof that the applicant is enrolled in or has completed four hundred hours of education or equivalent credit hours in an approved and licensed cosmetology or nail school or, in lieu of such education, is enrolled in or has successfully completed a course of apprenticeship in a licensed cosmetology salon or nail salon, as provided in § 36-15-45; and
- (3) Be accompanied by the fee required in this chapter.

36-15-17.2. License required to practice nail technology – Practices constituting nail technology. No person may engage in the practice of nail technology unless the person is licensed by the commission. A person is engaged in the practice of nail technology if that person, for compensation, a fee, or any valuable consideration, engages in any of the following practices with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

- (1) Cutting, filing, trimming, shaping, polishing, coloring, removing polish, tinting, air-brushing, decorating, cleansing, or otherwise beautifying a person's fingernails or toenails;
- (2) Applying and removing artificial nails; or
- (3) Massaging, cleansing, and exfoliating a person's hands, arms, feet, and legs.

Nail technology does not include hair removal, cutting nail beds, treating corns or calluses, or any medical treatment involving the feet, hands, or nails.

36-15-18. Repealed.

36-15-19. Number, time, and place of examinations. The commission shall conduct at least six examinations in the practice of cosmetology, at least two examinations in the practice of nail technology, and at least two examinations in the practice of esthetics each year. The commission shall set the times and places for the conduct of the examination.

36-15-19.1. Cosmetologist's examination – Issuance of license – Annual expiration and renewal. Each applicant for a cosmetologist license who has complied with § 36-15-17, shall take the prescribed examination in the practice of cosmetology. The commission shall determine the contents of the examination. Upon successful completion of the required education, passing the examination to the satisfaction of the commission and the receipt of the fee required in this chapter, the applicant shall be licensed as a cosmetologist in the practice of cosmetology. Any cosmetologist license issued by the commission pursuant to this chapter expires annually on a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable annually.

36-15-19.2. Licensure by reciprocity – Requirements. The commission may waive the examination required in § 36-15-19.1, 36-15-19.3, or in 36-15-19.5 upon application made to the commission that the applicant possesses the qualifications required pursuant to § 36-15-15, and that:

- (1) The applicant holds a currently valid license issued by another state, district, or foreign country and the requirements of that state, district, or foreign country at the time of the examination were equal to or not less than those required by this state;
- (2) The applicant has passed an examination acceptable to the commission in cosmetology, nail technology, or esthetics, as applicable;
- (3) The applicant shall take the prescribed written examination on the provisions of this chapter and rules adopted pursuant to this chapter. The commission shall determine the contents of the examination; and
- (4) The application is accompanied by the fee provided for in this chapter.

36-15-19.3. Nail technician's examination – Issuance of license – Annual expiration and renewal. Each applicant for a nail technician license who has complied with § 36-15-17.1 shall take the prescribed examination in the practice of nail technology. The commission shall determine the contents of the examination. Upon successful completion of the required education, passing the examination to the satisfaction of the commission and the receipt of the fee required in this chapter, the applicant shall be licensed as a nail technician. Any nail technician license issued by the commission pursuant to this chapter expires annually on a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable annually.

36-15-19.4. Repealed.

36-15-19.5. Esthetician's examination – Issuance of license – Annual expiration and renewal. Each applicant for an esthetician license who has complied with § 36-15-2.3 shall take the prescribed examination in the practice of esthetics. The commission shall determine the contents of the examination. Upon successful completion of the required education, passing the examination to the satisfaction of the commission and the receipt of the fee required in this chapter, the applicant shall be licensed as an esthetician in the practice of esthetics. Any esthetician license issued by the commission pursuant to this chapter expires annually on a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable annually.

36-15-20. Fees for licenses, permits, and renewals. The fees promulgated in rules by the commission pursuant to chapter 1-26 for all examinations, licenses, permits, and renewals required by this chapter may not exceed the following maximums:

- (1) Examination fee which includes the initial license, one hundred dollars;
- (2) Examination retake fee, one test, sixty dollars; two tests, seventy dollars; three tests, eighty dollars;
- (3) Cosmetologist, nail technician, or esthetician license renewal fee, twenty-five dollars;

- (4) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;
- (5) Instructor initial license fee and license renewal fee, thirty-five dollars;
- (6) Reciprocity, initial license, and waiver of examination fee, one hundred dollars;
- (7) For certification of a license issued under this chapter for a South Dakota licensee to obtain licensure in another state, or furnishing of other papers to another state or school, twenty dollars;
- (8) Apprentice license fee, twenty-five dollars;
- (9) Apprentice salon initial license and renewal fee, two hundred fifty dollars;
- (10) School initial license fee and renewal fee, three hundred dollars;
- (11) Student license fee, six dollars;
- (12) Salon or booth initial permit license fee, sixty dollars;
- (13) Salon or booth license renewal fee, forty dollars;
- (14) Reinspection fee for failed salon, fifty dollars for each reinspection;
- (15) License duplicate or replacement fee, five dollars.

Any license, permit, or renewal fee which is collected by the commission shall be the same for each respective license, permit, or renewal regardless of the time remaining before the expiration date.

36-15-20.1. Reinstatement of lapsed licenses and renewals – Fee. The commission shall promulgate reasonable rules pursuant to chapter 1-26 concerning the reinstatement of lapsed licenses and lapsed renewals required by this chapter. The commission shall by rules promulgated pursuant to chapter 1-26 establish the fee, which may not be greater than twenty-five dollars for each year that the license or renewal has lapsed. The commission shall also collect the fee for the license and renewal as otherwise required by this chapter.

36-15-21. Repealed.

36-15-21.1. Repealed.

36-15-21.2. Repealed.

36-15-21.3. Repealed.

36-15-22. Temporary permit for out-of-state cosmetologist, nail technician or esthetician – Duration of permit. Any person who holds a current valid license from another state or foreign country in the practices of cosmetology, nail technology, or esthetics may apply to the commission for a temporary permit to practice cosmetology, nail technology, or esthetics, as applicable. The application shall be accompanied with evidence satisfactory to the commission that the applicant possesses those qualifications required pursuant to §§ 36-15-15 and 36-15-19.2. The application shall be accompanied by the fee required in this chapter. A temporary permit is valid until the date of the next regular scheduled examination in cosmetology, nail technology, or esthetics, as applicable. If the holder of a temporary permit takes the examination at the scheduled time, the commission shall extend the temporary permit until the result of the examination is mailed to the applicant. If an applicant is not excused from the examination by the commission or fails the examination, the temporary permit is invalid and may not be extended or reissued.

36-15-23. Repealed.

36-15-24. Repealed.

36-15-25. Instructor license required to teach – Application – Conditional license – Areas of instruction. No person may teach in a school unless that person is licensed by the commission as an instructor. Any person may qualify and be licensed by the commission as an instructor for cosmetology, nail technology, or esthetics, as applicable, upon application made to the commission. The application shall be accompanied by satisfactory evidence that the applicant:

- (1) Possesses the qualifications required by § 36-15-15;
- (2) Currently holds a valid cosmetologist, nail technician, or esthetician license, as applicable;
- (3) Has complied with any instructor education as prescribed by § 36-15-26.2 or has at least one year of teaching experience as a licensed instructor from another state in cosmetology, nail technology, or esthetics, as applicable; and
- (4) Has passed an examination prescribed by the commission.

However, the applicant may receive the license conditionally, dependent on completing instructor education and passing the examination as prescribed by the commission in rules adopted pursuant to chapter 1-26.

An instructor with a cosmetologist license may instruct in any practice of cosmetology. An instructor with a nail technician license may only instruct in the practice of nail technology. An instructor with an esthetician license may only instruct in the practice of esthetics.

The commission may promulgate rules, pursuant to chapter 1-26, to establish education and experience requirements for a person to serve as a substitute instructor.

36-15-25.1. Annual expiration and renewal. Any instructor license issued by the commission pursuant to this chapter expires annually on a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable annually. The application shall be accompanied by the fee required in this chapter and proof of completion of any required commission-approved instructor education pursuant to § 36-15-26.2.

36-15-25.2. Repealed.

36-15-26. Repealed.

36-15-26.1. Repealed.

36-15-26.2. Education for instructors. The commission may adopt rules pursuant to chapter 1-26 pertaining to educational requirements for instructor licenses and the renewal of instructor licenses including the kinds and subjects of education and the number of hours of education required. The commission may also substitute experience in addition to or in lieu of educational requirements. The commission may set a fee through rules adopted pursuant to chapter 1-26 to cover the cost of verifying the required continuing education. The commission may offer a course and charge a registration fee to cover the costs.

36-15-27. Repealed.

36-15-28. Repealed.

36-15-29. License required for school of cosmetology, nail technology or esthetics – Requirements for license. No person may conduct a cosmetology, nail technology, or esthetics school for any of the practices of cosmetology, as applicable, unless that person is licensed as a school by the commission. The commission shall issue the license if the applicant meets the following requirements:

- (1) The applicant completes the application and provides any required documentation;

- (2) The application is accompanied by the fee required in this chapter;
- (3) The applicant has no violations with another cosmetology board;
- (4) The education offered is a complete program of not less than fifteen hundred hours for a cosmetology program or a complete program of not less than four hundred hours for a nail technician program or a complete program of not less than the hours established by rules pursuant to § 36-15-13 for an esthetician license or the respective equivalent credit hours; and
- (5) The applicant meets all requirements established by rules adopted pursuant to this chapter.

36-15-29.1. School license restricted to premises – Exceptions – Transfer prohibited.

The license issued pursuant to § 36-15-29 authorizes the cosmetology, nail technology, or esthetics school holding a license to transact a school in this state only on the premises approved by the commission, subject to the rules of the commission. The license is not transferable to any other person. If the holder of the school license proposes to conduct a complete or partial education program on premises other than those licensed by the commission, the licensee shall obtain an additional license for the newly proposed premises as a school pursuant to § 36-15-29 or pursuant to § 36-15-29.3 as applicable. However, the commission may approve limited field trips supervised by instructors.

36-15-29.2. Repealed.

36-15-29.3. Branch school – Requirements for license. No school may conduct an education program at a separate school premises unless the school premises is licensed by the commission as a branch school. The commission shall issue a license for a branch school if the applicant meets the following requirements:

- (1) The applicant holds a school license under § 36-15-29 that is accredited by a nationally recognized accrediting agency approved by the commission;
- (2) The applicant completes the application and provides any required documentation;
- (3) The application is accompanied by the fee required in this chapter;
- (4) The applicant has no violations with another cosmetology board;
- (5) The branch school offers at least twenty-five percent of the required hours for cosmetology education, nail technology education, or esthetics education or equivalent credit hours; and
- (6) The applicant meets all requirements established by rules adopted pursuant to this chapter.

36-15-30. School license – Annual expiration and renewal. A school license issued pursuant to § 36-15-29 or pursuant to § 36-15-29.3 expires one year from date of issuance and is renewable annually. The renewal application shall be accompanied by the fee required in this chapter.

36-15-31. Repealed.

36-15-32. Repealed.

36-15-33. Student license application – Requirements and issuance of license – Withdrawal or transfer. Any person entering or enrolling in a licensed school for education in the practice of cosmetology, nail technology, or esthetics shall apply to the commission for a student license within ten days after the date of enrollment. The applicant for a student license shall be at least seventeen years of age. The application shall contain the information required pursuant to

§ 36-15-15 and the name and location of the school being attended. Upon receipt of the application and the fee provided for in this chapter, the commission shall issue to the applicant a student license which entitles the student to complete the course of education in which the student is enrolled without additional license fees. If the student withdraws from the school or course in cosmetology, nail technology, or esthetics for which the fee was paid and later enrolls in the same or a different school or course, the student shall pay the student license fee again. If at any time a student transfers schools, the student shall submit an application, and pay the applicable license fee, for a student license.

36-15-34. Students transferring from out-of-state school – Credit allowed. Any person who wishes to transfer from an out-of-state school of cosmetology to a licensed school in this state for the purpose of meeting the requirements of the state for commission examination in cosmetology, nail technology, or esthetics shall apply for a student license pursuant to § 36-15-33. The commission may adopt rules pursuant to chapter 1-26, establishing requirements relating to courses and education received by such transfer students. Transfer students shall be given South Dakota credit hours for their out-of-state education as determined and allowed by the commission.

36-15-35. Repealed.

36-15-36. Repealed.

36-15-37. Separation of salon and school required. No owner, employer, manager, or any other person may conduct simultaneously a salon and a school, unless the salon is conducted separately from the school so as not to be construed by the public as one enterprise.

36-15-38. School to indicate status in advertising and on school premises. Any school shall use the word "school" or words indicating an institution of learning in any advertisement, sign, display, or directory. Each school shall clearly indicate in a location conspicuous to the general public that cosmetological services and practices performed in the school and premises are by students.

36-15-39. Repealed.

36-15-40. Repealed.

36-15-41. Repealed.

36-15-42. Apprentice license required for apprenticeship – Requirements and term of license. A person may receive apprenticeship education in cosmetology, esthetics, and nail technology. However, no person may receive apprenticeship education unless that person is licensed as an apprentice. Any person may apply to the commission to be licensed as an apprentice if the applicant:

- (1) Submits evidence satisfactory to the commission that the applicant possesses those qualifications, except for age, required pursuant to § 36-15-15;
- (2) Is at least seventeen years of age or older; and
- (3) The cosmetology, esthetics, or nail salon in which the apprentice will receive education is currently licensed as an apprentice salon and is adequately equipped to teach the profession of cosmetology, esthetics, or nail technology, as applicable.

Any apprentice license issued pursuant to this chapter is valid for the full period of the apprenticeship as defined in § 36-15-45 and is not renewable. The application shall be accompanied by the fee required in this chapter.

36-15-42.1. Apprentice salon license required to offer apprenticeship education – Requirements and term of license. No salon may offer apprenticeship education without obtaining an apprentice salon license. The owner of the salon may apply to the commission to be licensed as an apprentice salon if:

- (1) The salon meets the applicable requirements of this chapter and rules promulgated pursuant to this chapter;
- (2) The salon has passed the annual inspection for the current year; and
- (3) The application is accompanied by the fee required in this chapter.

The apprentice salon license is valid for the length of the apprenticeship as stated in § 36-15-45. If the apprenticeship period extends longer than the length of hours in § 36-15-45, as applicable, then the apprentice salon license shall be renewed. The commission may grant an extension of the license for good cause. The commission shall define good cause by rules promulgated pursuant to chapter 1-26.

36-15-43. Repealed.

36-15-44. Maximum number of apprentices in salon. An apprentice salon may have up to eight apprentices not to exceed two apprentices per instructor during any one period of time.

36-15-45. Required period of apprenticeship – Transfer to another salon – Break in apprenticeship period – Promulgation of rules. A licensed apprentice in cosmetology shall receive education in the practice of cosmetology as required by this chapter in the same cosmetology salon for fifteen hundred consecutive hours. A licensed apprentice in esthetics shall receive education in the practice of esthetics as required by this chapter for six hundred consecutive hours. A licensed apprentice in nail technology shall receive education in the practice of nail technology as required by this chapter for four hundred consecutive hours in the same cosmetology salon or nail salon. The commission may permit an apprentice to transfer to another cosmetology, esthetics, or nail salon, as applicable, for completion of the apprenticeship if the apprentice applies for the transfer in writing to the commission and shows good cause for the request. The commission may permit a break in the consecutive period of the apprenticeship if the apprentice applies for the break in writing to the commission and shows good cause for the request. The commission shall define good cause by rules promulgated pursuant to chapter 1-26.

36-15-46. Textbooks and course of study for schools and apprenticeship training. The commission may prescribe textbooks, educational material, and the general course of study required for schools and for salons having one or more apprentices. Such textbooks and educational material shall be furnished without charge for use by apprentices.

36-15-46.1. General Coursework – Credit – Promulgation of rules. Notwithstanding any other provision of this chapter, the commission shall allow credit for general coursework in areas not specific to the practice of cosmetology, nail technology, or esthetics, that is completed in other programs or institutions, to be applied to any course of study required for licensure under this chapter.

The commission may promulgate rules, pursuant to chapter 1-26, establishing criteria for accepting and applying the credit allowable under this section.

36-15-47. Apprentice to practice in licensed salon – Supervision and time required for study and practice. Any apprentice licensed pursuant to this chapter may practice cosmetology if the practice is performed only in a cosmetology, esthetics, or nail salon, as applicable, licensed pursuant to this chapter; the apprentice is under the constant supervision, control, and direction of a

licensed instructor at all times; and the apprentice is actually engaged in the study and practice of cosmetology, esthetics, or nail technology at least forty hours a week.

36-15-47.1. Licensed instructors to teach apprentices – Fee for education prohibited.

Only an instructor licensed under this chapter may teach an apprentice in any of the practices of cosmetology. The instructor, the salon, or anyone connected with the apprenticeship may not charge, receive, or accept any fee or anything of value except services for the education.

36-15-48. Instructor's report on apprentice. The commission may adopt reasonable rules pursuant to chapter 1-26 pertaining to a report on the progress and education received by any apprentice required of the licensed instructor under whom the apprentice is being supervised.

36-15-49. Repealed.

36-15-50. Temporary license issued on completion of apprenticeship – Duration of license. Any person who successfully completes the term of apprenticeship pursuant to this chapter may apply to the commission for a temporary license which will authorize the applicant to perform all the practices of a regularly licensed cosmetologist, esthetician, or nail technician, as applicable. The temporary license application shall be accompanied with:

- (1) Evidence satisfactory to the commission that the applicant possesses the qualifications required pursuant to § 36-15-15;
- (2) Evidence satisfactory to the commission that the apprenticeship period has been completed;
- (3) The fee for a temporary license as provided in this chapter; and
- (4) The application and fee for the cosmetologist or nail technician examination, as applicable.

A temporary license issued by the commission is valid until the date of the next scheduled examination in cosmetology, esthetics, or nail technology, as applicable. If the holder of a temporary license takes the applicable examination at that time, the commission shall extend the temporary license until the result of the examination is mailed to the person. If a person is not excused from the examination by the commission or fails the examination, the temporary license is invalid and may not be extended or reissued.

36-15-50.1. Temporary license to school graduate – Duration of license. Any person who successfully completes a course of education in an approved and licensed school in this state, or in any other licensed cosmetology, nail technology, or esthetics school, as applicable, not located within this state that is shown to the satisfaction of the commission to be comparable, may apply to the commission for a temporary license which will authorize the applicant to perform all the practices of a regularly licensed cosmetologist, nail technician, or esthetician, as applicable. The application shall be accompanied by:

- (1) Evidence satisfactory to the commission that the course of education has been successfully completed;
- (2) The fee for a temporary license as provided in this chapter; and
- (3) The application and fee for a cosmetologist, nail technician, or esthetician examination, as applicable.

A temporary license issued by the commission is valid until the date of the next scheduled examination in cosmetology, nail technology, or esthetics, as applicable. If the holder of a temporary license takes the applicable examination at that time, the commission shall extend the temporary license until the result of the examination is mailed to the person. If a person is not

excused from the examination by the commission or fails the examination, the temporary license is invalid and may not be extended or reissued.

36-15-51. License required to operate salon or booth – Types of licenses – Annual expiration and renewal – Violation as misdemeanor. No person may operate a salon or booth without a license. Any person who desires to operate a salon or booth where:

- (1) All of the practices of cosmetology are provided shall apply to the commission for a cosmetology salon or booth license, as applicable;
- (2) Only nail technology is practiced, shall apply to the commission for a nail salon or booth license, as applicable;
- (3) Only esthetics is practiced, shall apply to the commission for an esthetics salon or booth license, as applicable;
- (4) Cosmetology is limited to one or a few of the practices specified in § 36-15-2, shall apply to the commission for a limited salon or booth license. The application for a limited license shall state the practices of cosmetology desired to be provided.

The application shall be accompanied by the license fee provided for in this chapter. Any salon or booth license expires annually on a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable annually. No person may practice cosmetology, nail technology, or esthetics beyond the limits specified in the license. A violation of this section is a Class 2 misdemeanor.

36-15-51.1. Changing location or ownership of salon or booth – New license required – Temporary permit authorized – Notice to commission. The owner of a salon or booth shall apply to the commission for a new license pursuant to § 36-15-51 if:

- (1) A salon or booth address is changed;
- (2) Sole ownership is changed;
- (3) A partnership has a change in any partner; or
- (4) The controlling ownership in a corporation is transferred or a corporation is reorganized.

The application shall be accompanied by the license fee provided for in this chapter. The commission may issue a temporary permit to the applicant which is valid for ninety days. During that time, the commission shall inspect the premises. The owner or manager of a salon or booth that changes location or ownership or is closed shall immediately notify the commission of that fact.

36-15-51.2. Licensed nursing facilities and assisted living centers. Any licensed nursing facility or licensed assisted living center that permits cosmetology services only to its residents and does not advertise as a salon is not required to have a salon license.

36-15-52. Repealed.

36-15-53. Repealed.

36-15-53.1. Repealed.

36-15-54. Practice outside licensed salon or booth prohibited – Exceptions.

Cosmetology, nail technology, and esthetics may only be practiced in a licensed salon or booth, notwithstanding the following exceptions:

- (1) Demonstrations: a demonstrator may perform a demonstration of cosmetology services for compensation, fee, or any other remuneration;

- (2) Limited mobility clients: a licensee may practice cosmetology services on persons unable to come to the salon because of imprisonment, disabling sickness, or other disability so long as the licensee documents the service through a salon or booth; and
- (3) Special events: a licensee may practice limited services within the scope of the license for special events, such as weddings, fashion shows, school dances, professional photography sessions, or other events approved by the commission, so long as the licensee documents the service through a salon or booth. The limited services that may be performed at such special events are the following: the nonpermanent manipulation of the hair, such as styling, wrapping, arranging, braiding, twisting, weaving, extending, fusing, dressing, curling, setting, and straightening; the application of nail polish to the nails; and the application of makeup to the skin.

36-15-55. Repealed.

36-15-55.1. Repealed.

36-15-55.2. Ground for disciplinary action as basis for refusal, revocation or suspension of license. The commission may, in compliance with chapter 1-26, either refuse to issue, revoke, or suspend a license which is required by this chapter on any of the grounds for disciplinary action provided in this chapter.

36-15-56. Grounds for disciplinary action. The grounds for disciplinary action are:

- (1) Fraud or deception in procuring a license required by this chapter;
- (2) Failure of any person to comply with any of the requirements of this chapter or rules adopted pursuant to this chapter;
- (3) Publication or use of any untruthful or improper statement or representation, with a view of deceiving the public, or any patron or customer in connection with the practice or education in cosmetology;
- (4) Habitual drunkenness or drug addiction affecting the licensee's practice of the profession, or conviction of a violation of any federal or state law relating to narcotic drugs;
- (5) Failure to furnish to the commission, any report or information which is required by this chapter or rules adopted pursuant to this chapter;
- (6) The employment of any unlicensed person to perform work which under this chapter can lawfully be done only by licensed persons;
- (7) Failure to publicly display any license required by this chapter;
- (8) Willfully making any false oath or affirmation whenever any oath or affirmation is required in this chapter or by rules adopted pursuant to this chapter;
- (9) Conviction of a felony affecting the licensee's practice of the profession, as shown by a certified copy of the record of the court of conviction;
- (10) Continued practice by persons knowingly having an infectious or contagious disease; and
- (11) Practice of any cosmetology services for which the commission requires additional continuing education when the education has not been completed.

36-15-57. Subpoena power of commission – Administration of oaths – Depositions. The Cosmetology Commission shall have the powers granted by §§ 1-26-19.1 and 1-26-19.2 at any hearing of any matter over which the commission has jurisdiction.

36-15-58. Initiation of proceedings for cancellation, revocation or suspension of license. The proceedings for cancellation, revocation, or suspension of a license may be initiated

when the cosmetology commission has information that any person may have been guilty of any misconduct as provided in § 36-15-56, or is guilty of incompetence, negligence, or unprofessional or dishonorable conduct.

36-15-58.1. Repealed.

36-15-58.2. Omitted.

36-15-58.3. Quorum of commission at hearing on cancellation, revocation or suspension. All proceedings relative to the cancellation, revocation or suspension of a license, or relative to reissuing a license which has been revoked or suspended shall only be held when a majority of the members of the commission are present at such hearings.

36-15-58.4. Majority vote required to suspend, revoke or cancel license. The decision of the commission to suspend, revoke or cancel a license requires a majority vote of the commission members.

36-15-58.5. Reinstatement of suspended or revoked license – Procedure – Conditions. By majority vote, the commission may reinstate or reissue a suspended or revoked license upon:
(1) Written application establishing compliance with existing licensing requirements; or
(2) Testimony by witnesses.

The commission may impose conditions for the reinstatement of a license. One of the conditions may provide for an automatic reinstatement of the license after a fixed period of time.

36-15-59. Appeal from commission decision. An appeal may be taken from orders or decisions of the Cosmetology Commission acting pursuant to this chapter as provided by chapter 1-26.

36-15-60. Certain acts prohibited – Misdemeanor. No person may:

- (1) Practice cosmetology, nail technology, or esthetics without a license;
- (2) Intentionally make any false oath or affirmation whenever an oath or affirmation is required by this chapter or rules promulgated to this chapter;
- (3) Fail to display any license in a conspicuous place in the salon, booth, or school;
- (4) Fail to comply with the plumbing, electrical, physical, or sanitary requirements as stated in the rules promulgated by the commission;
- (5) Charge or receive compensation for teaching an apprentice any of the practices of cosmetology;
- (6) Operate a school without a license as provided for in this chapter;
- (7) Employ or allow any unlicensed person to perform work which under this chapter may lawfully be done only by licensed persons;
- (8) Operate a salon, booth, or school for any of the practices of cosmetology without having first obtained the applicable license as provided in this chapter;
- (9) Practice any cosmetology services for which the commission requires additional continuing education in which the education has not been completed; and
- (10) Do any act prohibited by this chapter.

A violation of this section is a Class 2 misdemeanor.

36-15-61. Injunction against violations – Expenditure of moneys authorized. The commission or any resident of this state may bring an action in circuit court for an injunction to:

- (1) Restrain any person or corporation from the practice of or education in cosmetology without a valid license;
- (2) Restrain the operation of any salon or school without a valid license;
- (3) Restrain the violation of any of the provisions or requirements of this chapter or rules adopted pursuant to this chapter.

The commission may employ counsel and expend moneys from its treasury for such purposes.

36-15-62. Citation of chapter. This chapter shall be known and cited as the Cosmetology Act.

CHAPTER 36-1C

UNIFORM COMPLAINT AND DECLARATORY RULING PROCEDURES

Section

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36-1C-1. Definitions.

Terms used in this chapter mean:

- (1) "Administrator," the executive director, executive secretary, or other person designated as being responsible for a professional or occupational licensing's board, commission, or agency operation;
- (2) "Agency," a professional or occupational licensing board, commission, or agency set forth in title 36;
- (3) "Complaint," an allegation of a violation of the laws or rules of a professional or occupational licensing board, commission, or agency set forth in title 36;
- (4) "Investigative committee," one or more persons employed or contracted by a professional or occupational licensing board, commission, or agency set forth in title 36 to review and investigate complaints;
- (5) "License," any certification, license, permit, or other authorization related to the practice of any profession or occupation regulated under title 36.

36-1C-2. Complaints – Jurisdiction.

Any person claiming that a licensee or an applicant for a license under title 36 has engaged in or is engaging in conduct constituting grounds for disciplinary action, as enumerated in the laws or rules of the agency, may file with the agency a written complaint. The agency shall require the complaining party to file a complaint stating the name of the applicant or licensee against whom the complaint is made and setting out, in full detail, the conduct that is alleged to be in violation and may prescribe the form on which a written complaint is made.

The administrator shall request the complainant provide additional information if the complaint does not state a claim within the jurisdiction of the agency.

Failure of the complainant to comply with this section is basis for the administrator to reject the complaint without further action.

36-1C-3. Receipt of complaint – Time to respond – Failure to respond.

Upon receipt of a properly submitted complaint within the agency's jurisdiction, the administrator shall serve a copy of the complaint by mail or electronic mail upon the applicant or licensee complained against.

The applicant or licensee complained against shall send a response to the complaint to the administrator of the agency within twenty business days after service of the complaint on the applicant or licensee. Upon receipt of the response of the applicant or licensee, or upon expiration of the time for the applicant or licensee complained against to respond, the administrator shall assign an investigative committee to determine if the complaint has probable cause and constitutes grounds for disciplinary action or lacks probable cause and should be dismissed.

The twenty business days may be extended by the administrator for good cause.

Failure to respond to the complaint is grounds for disciplinary action.

36-1C-4. Investigation – Dismissal permitted.

Upon completion of the investigation, the investigating committee shall recommend to the agency whether the complaint should be dismissed for lack of probable cause, resolved by informal disposition, or settled by a formal hearing. The failure of an applicant or licensee to comply with the investigation is grounds for denial of the application or disciplinary action.

An agency may allow the investigative committee to dismiss a complaint. Any dismissal by the investigative committee must be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

An investigative committee includes the agency's legal counsel.

36-1C-5. Option to authorize limited administrative fines for specified violations.

The agency may authorize the administrator to impose an administrative fine upon proof of a violation of specified statutes or rules without additional prior approval. Any action taken pursuant to this section shall be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

Any administrative fine issued under this section may be appealed by requesting a contested case under chapter 1-26. Notice of appeal must be submitted to the administrator within twenty calendar days of service of the fine.

Any fine issued under this section may not exceed five hundred dollars.

36-1C-6. Informal disposition – Notice.

The agency may accept an informal disposition regarding a violation of the laws or rules under the agency's jurisdiction. The agreed upon disposition must be in writing and is subject to the approval of the agency.

Failure to comply with the terms of an informal disposition is grounds for disciplinary action or allows the agency to institute or reinstitute formal proceedings.

The administrator shall notify, in writing, any complaining party of the results of the informal disposition of a complaint and the action taken, if any.

36-1C-7. Formal complaint.

If an alleged violation has probable cause constituting grounds for disciplinary action, the legal counsel for the agency may commence formal proceedings by serving a formal complaint by mail or electronic mail upon the applicant or licensee complained against.

The formal complaint must include the name of the applicant or licensee complained against, and a statement of facts setting forth the nature of the violations being charged that constitute grounds for disciplinary action.

36-1C-8. Response to formal complaint.

The applicant or licensee shall file an answer with the administrator within twenty calendar days after service of the complaint admitting, denying, qualifying, or explaining all facts alleged in the formal complaint and all defenses of the applicant or licensee or mitigating factors.

36-1C-9. Notice of hearing.

After the receipt of the response in § 36-1C-8, the agency's counsel shall file a notice of hearing pursuant to § 1-26-17. The notice of hearing must be served no later than twenty calendar days prior to the hearing date.

The agency may continue the date of the hearing as necessary. The agency's counsel shall serve notice of any new date by electronic mail to the applicant or licensee's address on file with the agency. If the applicant or licensee does not have electronic mail, communication shall be sent to the mailing address on file with the agency.

36-1C-10. Appearance required of applicant or licensee.

The applicant or licensee appearing before the agency at a formal hearing shall appear in person unless otherwise waived by the agency. If an applicant or licensee fails to appear, the hearing may proceed without the applicant or licensee.

36-1C-11. Board or commission member disqualified.

If an alleged violation against an applicant or licensee is filed by a member of the agency's board or commission, or if a member of the agency's board or commission participates in the investigation of a violation by an applicant or licensee, that agency's board or commission member is disqualified from participating in the final decision rendered by the agency board or commission.

36-1C-12. Written waiver of procedures.

An applicant for a license or licensee may, in writing, waive any procedure granted to the applicant or licensee under this chapter.

Notwithstanding any other provision of law, nothing in this chapter shall be construed to limit an agency's authority for emergency action under § 1-26-29.

36-1C-13. Promulgation of rules.

The Departments of Agriculture and Natural Resources, Health, Labor and Regulation, and Social Services shall promulgate rules, pursuant to chapter 1-26, to make any consistent addition to the procedures in this chapter in order to comply with any federal statutes, rules, and regulations regarding a profession or occupation within their respective department.

36-1C-14. Petition for declaratory ruling.

A person seeking a ruling as to the applicability to that person of a law, rule, or order of an agency under title 36 may file with the agency a petition for declaratory ruling in substantially the following form:

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 professional or occupational board or commission of (state name of body) for its declaratory ruling in regard to the following:

(1) The statutes or rules or order in question is: (here identify and quote the pertinent statute, rule, or order.):

(2) The facts and circumstances that give rise to the issue to be answered by the professional or occupational board or commission's declaratory ruling:

(3) The precise issue to be answered by the professional or occupational board or commission's declaratory ruling:

Dated at (city and state), this _____ day of _____, _____.

(Signature of Petitioner)

36-1C-15. Action on petition.

Upon receipt of the petition, the administrator may request from the petitioner any information that may be required for the issuance of its ruling. At the agency's next regularly scheduled meeting following the receipt of the petition or following receipt of requested information, or within ninety days, whichever is shorter, the agency shall issue its declaratory ruling and serve a copy of it by mail or electronic mail upon the petitioner.

36-1C-16. Appeal of declaratory ruling.

Any person seeking a declaratory ruling hereunder, is considered aggrieved if, within thirty days of the agency's declaratory ruling, a request is made for the agency to conduct a formal hearing. The hearing must be held at the earliest convenience of the agency following the receipt of the request. A hearing under this section is a contested case under chapter 1-26.

ARTICLE 20:42

COSMETOLOGISTS, ESTHETICIANS, AND NAIL TECHNICIANS

Chapter

20:42:01	Definitions.
20:42:02	Organization of commission.
20:42:03	Licensure and licensure renewal.
20:42:04	Salon and booth requirements.
20:42:05	Individual licensee requirements.
20:42:06	School requirements.
20:42:07	Apprentices.
20:42:08	Instructor education and license specific education requirements.
20:42:09	Inspections.
20:42:10	Disciplinary proceedings.

CHAPTER 20:42:01

DEFINITIONS

Section

20:42:01:01	Definitions.
20:42:01:02	Manicuring.

20:42:01:01. Definitions. Terms defined in SDCL 36-15-1 have the same meaning when used in this article. In addition, as used in this article:

- (1) "Body wraps," means body treatments utilizing products or equipment to enhance and maintain the texture, contour, and integrity, and that promote the beauty of, the skin and body;
- (2) "Chemical exfoliation," means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum;
- (3) "Clean," "cleaned," or "cleaning," the rendering free of dust and foreign material by first removing the foreign material and then, as appropriate, washing with hot water and soap;
- (4) "Dermaplane," means the use of a scalpel or sharp, bladed instrument to remove the upper layers of the stratum corneum;

- (5) "Direct supervision," means the physical presence in the salon or school where services requiring licensure are being performed by a licensee or student, and includes on-site communication, direction, and observation on a consistent basis;
- (6) "Disinfect," "disinfected," or "disinfecting," a chemical process using designated disinfectants, that destroys organisms (bacteria, virus, fungus) specified on the manufacturers label when performed in accordance with label instructions. Disinfection is exclusive to non-porous surfaces (glass, metal or plastic) and to be effective, items/surface must be cleaned prior to disinfection and contact time (as listed on label) must be strictly adhered to;
- (7) "Disinfectant," an Environmental Protection Agency (EPA) registered, hospital grade chemical agent of adequate strength that destroys most bactericidal, fungicidal, and virucidal activity when mixed and used in accordance with manufacturer's label;
- (8) "Epidermis," the outermost layer of skin;
- (9) "Eyelash extension application," means applying individual artificial eyelashes with adhesive to the upper or lower eyelids;
- (10) "Infection control," means the processes and protocols that are designed to reduce the risk of spreading pathogens in an environment, and include consideration of all possible modes of transmission within a specified environment, such as cleaning, disinfecting, sterilizing, improving air quality, laundering, and hand washing;
- (11) "Manipulating," means applying a light pressure by the hands for cosmetic purposes only and not for the treatment of disease or physical or mental ailments;
- (12) "Massaging," means applying massage movements by the hands or a machine for cosmetic purposes rather than for therapeutic purposes;
- (13) "Microdermabrasion," means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system;
- (14) "Multi-use item," means an implement or tool that can be cleaned, disinfected, and reused;
- (15) "Non-invasive," means confined to the nonliving cells of the epidermis, specifically the stratum corneum layer;
- (16) "Pedicure," means the cutting, trimming, polishing, coloring, tinting, cleaning, or otherwise beautifying a person's toenails, applying artificial toenails, exfoliating dead skin through non-invasive means, and massaging and cleaning a person's legs and feet;
- (17) "Pedicure foot-spa station," means any basin using circulating or still water;
- (18) "Single-use item," means an implement or tool that cannot be cleaned and properly disinfected and must be thrown away after one use; and
- (19) "Work station," means a work area that includes all necessary equipment for a licensee to perform services on a client.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979; readopted, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13.

Law Implemented: SDCL 36-15-1.

20:42:01:02. Manicuring. Repealed.

Source: 11 SDR 88, effective January 6, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 24 SDR 2, effective July 23, 1997.

CHAPTER 20:42:02
ORGANIZATION OF COMMISSION

Section

20:42:02:01	Duties of board.
20:42:02:02	Election of officers.
20:42:02:03	President's duties.
20:42:02:04	Vice president's duties.
20:42:02:05	Secretary-treasurer duties.
20:42:02:06	Secretary-treasurer – Treasurer's duties.
20:42:02:07	Secretary-treasurer's bond.
20:42:02:08	Employment of executive director – Duties.
20:42:02:09	Quorum for conduct of business.
20:42:02:10	Regular meetings – Time and place.
20:42:02:11	Meetings – How set and place.
20:42:02:12	Notice of special meetings – To whom sent.
20:42:02:13	Conduct of meetings.
20:42:02:14	Open meetings – Closed sessions.
20:42:02:15	Office of the commission.
20:42:02:16	Records of the commission open to public.
20:42:02:17	Request for rules – Interested persons.
20:42:02:18	Declaratory rulings by board – Procedure.
20:42:02:19	Adoption of rules.
20:42:02:20	Board clerk – Duties.
20:42:02:21	Expenditure of board funds – Prior authorization not needed under \$100.
20:42:02:22	Other employees of the board.

20:42:02:01. Duties of board. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:02. Election of officers. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:03. President's duties. The president is the principal executive officer of the commission and is subject to the control of the commission. The president:

- (1) Shall, generally, supervise all of the business of the commission;
- (2) Shall preside, when present, at all meetings of the commission;
- (3) May sign, with any other officer of the commission authorized by the commission, any instruments which the commission has authorized to be executed; and
- (4) Shall perform all duties incident to the office of president and any other duties prescribed by the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 36-15-5, 36-15-11.

20:42:02:04. Vice president's duties. In the absence or disability of the president, the vice president shall perform the duties of the president.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 36-15-5, 36-15-11.

20:42:02:05. Secretary-treasurer duties. The secretary-treasurer shall:

- (1) Keep the minutes of the commission meetings;
- (2) See that all notices are given as required by law;
- (3) Be custodian of the commission records and of the seal of the commission and see that the seal is affixed to all documents authorized to be executed under the seal of the commission;
- (4) Keep a register of the name and address of each licensee which shall be furnished to the secretary-treasurer by each licensee;
- (5) Have general charge of the books of the commission;
- (6) Be responsible for all funds and securities of the commission; receive and give receipts for moneys payable to the commission from any source, and deposit all moneys in the name of the commission with the state treasurer; and
- (7) In general, perform all duties incident to the office of the secretary-treasurer, all duties incident to the Office of Treasurer, and any other duties assigned by the president or by the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 36-15-5, 36-15-11.

Cross-Reference: Public funds maintained in state treasury – Local bank accounts as official accounts – Signatories – Statements required of agencies holding state funds in local bank, SDCL 4-4-3.

20:42:02:06. Secretary-treasurer – Treasurer's duties. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:02:07. Secretary-treasurer's bond. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:08. Employment of executive director – Duties. The commission may provide that any of the duties of the secretary-treasurer be performed by an executive director hired by the commission. The secretary-treasurer shall be relieved of any duties specifically required of such an executive director by the commission. The executive director shall maintain office hours at the office of the commission and perform any other services required by the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 36-15-5, 36-15-6, 36-15-9, 36-15-11.

Cross-Reference: Classification and pay of state employees, SDCL 3-6A-28 to 3-6A-30.

20:42:02:09. Quorum for conduct of business. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:10. Regular meetings – Time and place. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:11. Meetings – How set and place. Meetings of the commission may be called by or at the request of the president or any two members of the commission. Meetings may also be set by action of the commission at any regular or special meeting of the commission. The notice or action of the commission shall establish the time and place for the meeting.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 36-15-5, 36-15-11.

20:42:02:12. Notice of special meetings – To whom sent. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:13. Conduct of meetings. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:02:14. Open meetings – Closed sessions. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:15. Office of the commission. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 23 SDR 25, effective August 26, 1996.

20:42:02:16. Records of the commission open to public. The commission, by majority vote, may classify as confidential materials derogatory to a person, which shall be made available to the person to whom it relates. Otherwise, the records of the commission are subject to SDCL chapter 1-27.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(16).

Law Implemented: SDCL 1-26-2, 36-15-11.

Cross-Reference: Public records open to inspection and copying, SDCL 1-27-1.

20:42:02:17. Request for rules – Interested persons. 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 section.

20:42:02:18. Declaratory rulings by board – Procedure. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:19. Adoption of rules. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:20. Board clerk – Duties. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:21. Expenditure of board funds – Prior authorization not needed under \$100.

Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:02:22. Other employees of the board. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

CHAPTER 20:42:03
LICENSURE AND LICENSURE RENEWAL

Section

20:42:03:01	Application required.
20:42:03:02	Filing of applications for licensure.
20:42:03:03	Fees.
20:42:03:04	Requirements for individual licensure applicants.
20:42:03:05	Subsequent individual license applications.
20:42:03:06	License specific requirements for individual licensure applicants.
20:42:03:06.01	Applicant for licensure by reciprocity allowed credit for work experience.
20:42:03:06.02	Transferred.
20:42:03:06.03	Foreign-educated applicants for licensure.
20:42:03:07	Salon or booth license.
20:42:03:07.01	Booth license requirements.
20:42:03:08	Limited cosmetology salon or booth license.
20:42:03:09	School or branch school license.
20:42:03:10	Bond required of beauty schools.
20:42:03:11	Waiver of beauty school bond.
20:42:03:12	Renewal requirements and renewal dates of licenses.
20:42:03:13	Requirements for renewal of a lapsed license--overrun period.
20:42:03:14	Waiver of exam for reciprocity applicants.

20:42:03:01. Application required. For all licenses and permits required under SDCL chapter 36-15, an application must be made on the appropriate form, be complete, legible and accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information submitted by the applicant is true and correct. An applicant may be required to clarify, expand, or provide additional information as needed to fully evaluate the application. All applications shall be sent to the office of the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(1)(16).

Law Implemented: SDCL 36-15-13(1).

20:42:03:02. Filing of applications for licensure. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 39 SDR 129, effective January 28, 2013.

20:42:03:03. Fees. The fees for licenses, permits, and license renewals are as follows:

- (1) Examination fee which includes the initial license, \$100;
- (2) Examination retake fee, one test, \$60; two tests, \$70; three tests, \$80;
- (3) Cosmetologist, nail technician, or esthetician license renewal fee, \$25;
- (4) Temporary cosmetologist, nail technician, or esthetician license fee, \$6;
- (5) Instructor initial license fee and renewal fee, \$35;
- (6) Reciprocity, initial license, and waiver of examination fee, \$100;
- (7) For certification of a license issued pursuant to SDCL chapter 36-15 for a South Dakota licensee to obtain licensure in another state, or furnishing of other papers to another state or school, \$20;
- (8) Apprentice license fee, \$25;
- (9) Apprentice salon initial license and renewal fee, \$250;
- (10) School initial license fee and renewal fee, \$300;
- (11) Student license fee, \$6;
- (12) Salon or booth initial permit license fee, \$60;
- (13) Salon or booth license renewal fee, \$40;
- (14) Reinspection fee for failed salon, \$50 for each reinspection;
- (15) License duplicate or replacement fee, \$5; and
- (16) Lapsed license penalty, \$20 for each year lapsed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 18 SDR 79, effective November 7, 1991; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 83, effective December 11, 2018 (effective January 1, 2020); 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(12), 36-15-20, 36-15-20.1.

Law Implemented: SDCL 36-15-20, 36-15-20.1.

20:42:03:04. Requirements for individual licensure applicants. All applicants for initial individual licensure shall submit the following in English:

- (1) A certified copy of the person's birth certificate, United States certificate of naturalization, current United States Permanent Resident Card, current United States passport, or a current driver license issued by a state or provincial government of the United States or Canada;
- (2) A personal photograph of the applicant taken within the preceding year;
- (3) Proof in writing, on forms furnished by the commission, that the person possesses the necessary qualifications for the license sought; and
- (4) For an applicant who received an education in cosmetology, esthetics, or nail technology in another state, proof of the education by a transcript from the school attended or a certification of the education from the state's cosmetology licensing agency. The transcript or certification must be transmitted directly to the commission by the school or the state's cosmetology licensing agency. The executive director may reject an

application that does not contain proof of education recognized by another state's cosmetology licensing agency.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 46 SDR 46, effective October 3, 2019; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-15.

20:42:03:05. Subsequent individual license applications. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:03:06. License specific requirements for individual licensure applicants. An applicant for any of the following specific individual licenses shall submit the following additional information on forms provided by the commission:

- (1) Student license: a certificate of admission by the owner or school administrator of a licensed South Dakota school;
- (2) Cosmetologist or nail technician license: information relating to school and education and the number of education hours or equivalent credit hours received;
- (3) Esthetician license: information relating to school and education and that the applicant has completed a minimum of six hundred hours of education or equivalent credit hours in an approved and licensed cosmetology or esthetics school;
- (4) Temporary license: information required for a cosmetologist, esthetician, or nail technician license, a certificate of graduation from a licensed school, and the location where the applicant intends to practice under a temporary license;
- (5) Temporary permit for reciprocity: the salon name and address where the applicant intends to practice under the temporary permit;
- (6) Apprentice license: in addition to the requirements in SDCL 36-15-42, a signed, certified letter from the salon owner stating the name and address of the salon where the apprentice education will be provided and the name and license of the instructor; and
- (7) Instructor license: must meet the requirements of SDCL 36-15-25 and § 20:42:08:03.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 32 SDR 32, effective August 29, 2005; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-2.3, 36-15-13(1), 36-15-26.2.

Law Implemented: SDCL 36-15-2.3, 36-15-17, 36-15-17.1, 36-15-19.2, 36-15-22, 36-15-25, 36-15-33, 36-15-42, 36-15-50, 36-15-50.1.

20:42:03:06.01. Applicant for licensure by reciprocity allowed credit for work experience. An applicant for licensure by reciprocity may be allowed credit for work experience as follows:

- (1) Cosmetologist license: a maximum of 750 hours of the school education hours required in § 20:42:06:09 may be earned through work experience. Two hours of work experience equals one hour of school education. If the applicant obtained the work experience more than five years before the date of the application, the applicant must take a commission-approved safety and infection control procedures course in order to receive credit for the work experience;
- (2) Nail technician license: a maximum of 200 hours of the school education hours required in § 20:42:06:09.01 may be earned through work experience. Two hours of work experience equals one hour of school education. If the applicant obtained the work experience more than five years before the date of the application, the applicant must take a commission-approved safety and infection control procedures course in order to receive credit for the work experience; and
- (3) Esthetician license: a maximum of 300 hours of the school education hours required in § 20:42:06:09.02 may be earned through work experience. Two hours of work experience equals one hour of school education. If the applicant obtained the work experience more than five years before the date of the application, the applicant must take a commission-approved safety and infection control procedures course in order to receive credit for the work experience.

Source: 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(14).

Law Implemented: SDCL 36-15-19.2.

20:42:03:06.02. Transferred to § 20:42:03:13.

20:42:03:06.03. Foreign-educated applicants for licensure. In addition to the requirements of SDCL 36-15-15 and 36-15-19.2, an applicant from a foreign country shall have successfully completed 225 cosmetology education hours, 90 esthetics education hours, or 60 nail technician education hours, as applicable, at a school approved by the commission. The education shall include federal safety requirements (OSHA and FDA) for cosmetology, South Dakota cosmetology safety and infection control procedures, and United States cosmetic products.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-19.2.

20:42:03:07. Salon or booth license. Any application for a salon or booth license shall state that the salon or booth complies with all rules of the commission relating to salons or booths. The premises or location must have a salon license before any booth license is issued to that premises or location. The salon or booth license is not transferable.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-51.

20:42:03:07.01. Booth license requirements. Repealed.

Source: 29 SDR 176, effective July 1, 2003; repealed, 33 SDR 226, effective July 1, 2007.

20:42:03:08. Limited cosmetology salon or booth license. In addition to the requirements of SDCL 36-15-51, any application for a limited salon or booth license shall state the following:

- (1) A list of the facilities and equipment it will have; and
- (2) That the salon or booth complies with all rules of the commission relating to salons or booths.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-51.

20:42:03:09. School or branch school license. Any application to operate a school or branch school shall certify that the school or branch school is in compliance with all provisions of SDCL chapter 36-15 relating to schools.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-13(1), 36-15-13(4), 36-15-29.

20:42:03:10. Bond required of beauty schools. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:03:11. Waiver of beauty school bond. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:03:12. Renewal requirements and renewal dates of licenses. A license renewal application, along with the appropriate renewal fee, shall be submitted to the commission or postmarked by the annual license renewal date for all licenses and permits issued pursuant to SDCL chapter 36-15.

The annual license renewal dates are as follows:

- (1) Cosmetologist, nail technician, esthetician, and instructor: application for renewals shall be submitted on or before the licensee's birth date as shown as the expiration date on the face of the current license; and
- (2) All salons and booths: application for renewals shall be submitted on or before the anniversary date of the initial license as shown as the expiration date on the face of the current license.

A name change request must be accompanied by a legal document showing the previous name and the new legal name.

If a licensee has met the requirements of this section, the licensee may continue to practice pending issuance of the renewed license. Any license that is not renewed pursuant to the requirements of this section shall lapse.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 31 SDR 62, adopted October 15, 2004, effective January 1, 2006; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-2.4, 36-15-13(1).

Law Implemented: SDCL 36-15-2.4, 36-15-13(1).

20:42:03:13. Requirements for renewal of a lapsed license – overrun period. An individual who wishes to renew a lapsed license shall meet the requirements of § 20:42:03:12 and pay the license renewal fee and lapsed license penalty fee required in § 20:42:03:03 for each lapsed year. In addition, an individual whose license has lapsed for more than five continuous years shall complete one of the following:

- (1) Pass the current licensing examinations; or
- (2) Attend at least a two-hour review course on South Dakota cosmetology laws, rules, and safety procedures. The review course must be pre-approved by the commission. After completing the course, the applicant must pass an examination given by the commission on safety and infection control procedures.

Any licensee continuing to perform or offering to perform services, licensed under SDCL chapter 36-15, sixty days or more after license expiration shall be subject to disciplinary proceedings.

Source: 26 SDR 18, effective August 15, 1999; 29 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; transferred from § 20:42:03:06.02, 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017.

General Authority: SDCL 36-15-13(7), 36-15-20.1.

Law Implemented: SDCL 36-15-11(4), 36-15-20.1.

20:42:03:14. Waiver of exam for reciprocity applicants. The examination requirement under SDCL 36-15-19.1, 36-15-19.3, or 36-15-19.5 is waived for an applicant who has successfully passed a state-administered or authorized theory examination in another state.

Source: 46 SDR 46, effective October 3, 2019; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(1)(2), 36-15-19.2.

Law Implemented: SDCL 36-15-19.2.

CHAPTER 20:42:04
SALON AND BOOTH REQUIREMENTS

Section

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20:42:04:01. Salon and booth requirements. Any salon or booth licensed under the provisions of SDCL chapter 36-15 must meet the following minimum requirements:

- (1) Provide a safe and clean place for any of the practices of cosmetology and equip it to provide service in a manner that will protect the health and safety of both employees and clients;
- (2) Each item of equipment used on a client must be clean and disinfected at the time of use. After an item is soiled or used, it must be kept in a separate, closed, labeled container to prevent its reuse until cleaned and disinfected. Compliance with this subdivision requires compliance with all provisions in this chapter;
- (3) Space:
 - (a) Salon license space: 120 square feet of working space for the first licensee and an additional 60 square feet of working space for each additional individual licensee; and
 - (b) Limited salon license space: 120 square feet. Common reception areas and common restrooms are permitted;
- (4) Plumbing: shampoo bowls or sinks shall be connected to a central sewer system and a faucet or outlet for hot and cold running water shall be connected to the bowl or sink;
- (5) Restroom:
 - (a) A restroom shall be within the structure of the building and be available for employee and customer use;
 - (b) The restroom shall contain a toilet and lavatory connected to a central sewer system, liquid soap, and disposable towels or air hand dryer; and
 - (c) The restroom shall be kept clean and in safe condition; and
- (6) Ventilation:
 - (a) For all salons and booths: provide the free flow of air in a room in proportion to the size of the room and the capacity of room;
 - (b) For salons and booths where nail technology services are offered: a mechanical exhaust system to keep the area free from dangerous vapors.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:04:01.01. Salon in licensed nursing facility or assisted living center. A nursing facility or assisted living center licensed by the South Dakota Department of Health does not need a salon license under the following conditions:

- (1) A staff member or volunteer of the facility washes, sets, or trims the hair of any resident;
or
- (2) A cosmetologist provides cosmetology services only to residents of the facility.

Source: 29 SDR 176, effective July 1, 2003; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-54.

20:42:04:01.02. Salon responsible for licensees in salon. A salon must ensure that any individual providing licensed services in the salon has the required booth or individual license, or both.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(6).

Law Implemented: SDCL 36-15-2, 36-15-2.2, 36-15-17.2, 36-15-51, 36-15-56(7).

20:42:04:02. Salon in private residence. A salon may be established in a private residence, if the following conditions are met:

- (1) The salon is not to be used for any residential purposes;
- (2) The salon is completely separated from the residential area with a permanent, solid partition, from floor to ceiling, between the salon and the residential area. Any door in this partition shall be kept closed at all times;
- (3) Any cosmetology service offered by the salon is only available within the salon;
- (4) The salon has a completely separate egress to the outside of the premises; and
- (5) A clean toilet facility is available for clients to use in the structure. The facility shall have a liquid soap dispenser and disposable towels or air hand dryer.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:02.01. Sharing premises with barbers. An individual licensee may work on the same premises as a barber so long as the separate, applicable salon license is posted during working hours.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:04:03. Minimum requirements for premises and facilities. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:04:04. Salon and booth equipment requirements. Each salon or booth must have the following equipment available at all times:

- (1) A first aid kit readily accessible to all persons working in the salon. The kit must contain small adhesive bandages, disposable latex or hypo-allergenic gloves, gauze, and antiseptic;
- (2) A 5-pound ABC fire extinguisher or its equivalent for each 1,500 square feet of space occupied by the salon. Extinguishers must be located in a readily accessible location and must always be in a condition for use;
- (3) A sufficient number of electric outlets so that no cord or other electrical connection constitutes an obstacle or fire hazard to the clients or to persons working in the salon or booth;
- (4) Clean, disinfected combs and brushes available for use on each client;
- (5) A clean towel or linen available to be used on each client;
- (6) Separate closed containers labeled for clean or soiled towels or linens;
- (7) Separate closed containers labeled for used or contaminated implements;
- (8) A station for each working licensee with its own clean, closed, and labeled container for storage of all clean and disinfected implements used in direct contact with clients;
- (9) For each licensee practicing nail technology on a client:
 - (a) One nail table with a lamp;
 - (b) One manicure chair;
 - (c) One pedicure station with chairs for the client and licensee;
 - (d) One covered waste container that is emptied at least daily;
 - (e) A nail applicator brush; and
 - (f) Clean and disinfected buffers and files must be used on each client; and
- (10) For each licensee practicing esthetics on a client:
 - (a) One facial chair;
 - (b) One additional chair; and
 - (c) Clean and disinfected esthetics tools and implements must be used on each client.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 26 SDR 18, effective August 15, 1999; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:04:04.01. Electric file or drill requirements. The requirements for an electric file or drill and the attachments utilized in any nail procedure are as follows:

- (1) The instrument shall be specifically designed for use on the human nail;
- (2) The individual utilizing the instrument and the attachments shall provide documentary proof of compliance with subsection (1) of this section upon demand; and
- (3) Instrument attachments shall be used according to the manufacturer's recommendations.

Source: 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:04:04.02. Microdermabrasion machine requirements. A microdermabrasion machine:

- (1) Must be specifically manufactured and labeled for use in esthetic services;
- (2) May not be modified;
- (3) That uses a crystal or corundum product shall include a closed-loop vacuum system that uses a tissue retention device or a built in cannister with filter;
- (4) Must be kept in a clean, disinfected, and safe manner; and
- (5) May only be used in accordance with specific manufacturer directions that do not result in the removal of the epidermis beyond the stratum corneum.

Source: 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:04:04.03. Prohibited equipment and procedures. The following equipment and procedures are prohibited:

- (1) Knives and straight razors;
- (2) Razor-type callus shavers, credo blades, rasps, graters, and any other implements used to remove corns or calluses capable of cutting below the stratum corneum layer of the skin;
- (3) Dermabrasion procedures and ultrasound equipment; and
- (4) UV sterilizers and light boxes used as infection control devices.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:05. Required equipment – Sanitation. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 26 SDR 18, effective August 15, 1999; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:04:05.01. Infection control and safety procedures. Transferred to Chapter 20:42:05.

20:42:04:06. Care and use of capes. If capes are used in a salon or booth they must be kept clean. If separate clean capes are not used on each client, a separate clean towel, neck strip, or other similar item must be used for each client so that any item coming in contact with the client's neck is not reused from one client to another.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:07. Procedure for handling wigs and hairpieces. If wigs or hairpieces are sold in a salon or booth, the licensee must provide a covering that prevents direct contact of a client's scalp or hair with the hairpiece or wig being demonstrated or displayed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:08. Storage for harmful supplies. Each salon or booth must maintain a cabinet or area for the storage of harmful supplies used in the practice of cosmetology, esthetics, or nail technology. Supplies containing any caustic or other material harmful to humans, either externally or internally, must be kept in a closed cabinet or in a separate room not used by or readily accessible to the public.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:08.01. Prohibited products. A salon or booth may not use the following products:

- (1) Liquid monomer nail products containing methyl methacrylate monomers (MMA);
- (2) Chemicals containing bichloroacetic acid (BCA) or any acid in any concentration level that requires a prescription or acts on living tissue;
- (3) Fumigants, formalin tablets, or formalin liquids; and
- (4) Roll on wax.

Source: 26 SDR 18, effective August 15, 1999; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 43 SDR 176, effective July 3, 2017.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:04:09. Display of licenses. The current salon or booth license must be prominently displayed in the salon or booth, as applicable, during all working hours. The current license of each person practicing cosmetology, esthetics, or nail technology services must be displayed in the licensee's primary working area whenever the licensee is working.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:04:09.01. Display of educational certification. Each licensee practicing eyelash extension services or services that use microdermabrasion machines or electric files shall display the certification of approved education provided by the commission in public view of the salon or booth.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:04:10. Display of health, safety, and infection control rules. Every salon must display in a prominent place a copy of the most current applicable health, safety, and infection control rules of the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:04:10.01. Display of blood exposure rules. The blood exposure rules as outlined in § 20:42:05:06 shall be posted in or near the first aid kit in the salon.

Source: 29 SDR 176, effective July 1, 2003; 43 SDR 176, effective July 3, 2017; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:04:10.02. Display of unregulated services sign in salons. Any service offered within a salon that is not a cosmetology practice must be clearly identified as an unregulated service and listed on a sign conspicuously posted in the reception area. The sign shall state: "Unregulated Services. The following services offered by (name of salon) are not regulated by the South Dakota Cosmetology Commission: _____."

Source: 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:04:11. Transferred to § 20:42:06:19.

20:42:04:12. Transferred to § 20:42:06:20.

20:42:04:12.01. Transferred to § 20:42:06:21.

20:42:04:13. Transferred to § 20:42:06:23.

20:42:04:13.01. Transferred to § 20:42:06:24.

20:42:04:14. Transferred to § 20:42:06:25.

20:42:04:15. Transferred to § 20:42:06:26.

20:42:04:16. Transferred to § 20:42:06:27.

20:42:04:16.01. Transferred to § 20:42:06:28.

20:42:04:17. Transferred to § 20:42:06:29.

20:42:04:18. Transferred to § 20:42:06:30.

CHAPTER 20:42:05
INDIVIDUAL LICENSEE INFECTION CONTROL REQUIREMENTS

Section

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20:42:05:03	Procedure for caring for infected area of patron's skin.
20:42:05:04	Clothing requirements.
20:42:05:05	License displayed.
20:42:05:06	Blood exposure.
20:42:05:07	Pedicure foot spas.
20:42:05:08	Microdermabrasion machines.
20:42:05:09	Waxing services.
20:42:05:10	Paraffin wax.
20:42:05:11	Chemical exfoliation.

20:42:05:01. General infection control requirements for licensees. In addition to all other rules in this article and in SDCL chapter 36-15, individual licensees must comply with the following:

- (1) Deposit all used towels, robes, or linens in a covered container;
- (2) Use clean linens on each client;
- (3) Use disinfected equipment, implements, or instruments on each client;
- (4) Use the disinfectant as required in all salons, booths, and schools;
- (5) Use clean, closed containers for storage of all clean linens and clean and disinfected implements used in direct contact with clients;
- (6) Before providing any services on a client, wash the licensee's hands with soap and water or any equally effective cleansing solution;
- (7) All fluids, semifluids, creams, and powders:
 - (a) Must be kept in clean, closed, and properly labeled containers; and
 - (b) Must be dispensed with a disinfected spatula, shaker, pump, spray dispenser, or single-use item;
- (8) Electrical equipment must be cleaned and disinfected after each service;
- (9) Clean and disinfected electrical equipment must be stored in a separate, clean place such as a hook or stand. When a bucket is used, the bucket must be disinfected daily;
- (10) When a basin or caddy is used to store electrical equipment, it must be disinfected daily;
- (11) Clean and disinfected nonelectrical implements must be stored in a separate, clean, closed, and labeled container;
- (12) Disinfectants must be available in the working area for immediate use at all times;
- (13) Single-use items, such as emery boards, cosmetic sponges, and orangewood sticks, must be disposed of immediately after use in a closed waste container;
- (14) Multi-use items must be thoroughly washed in soap and hot water, rinsed with clean warm water, and disinfected according to disinfectant manufacturer instructions. Contact points of all non-immersible equipment and metal implements must be disinfected by

wiping or spraying with a commission-approved disinfectant. After being disinfected multi-use items must be stored in clean, closed, and labeled containers between use. The use of any multi-use article, tool, or product which cannot be cleaned and disinfected is prohibited;

- (15) All waste containers must be closed and labeled and must be emptied as needed during business hours and emptied at the time of closing;
- (16) The floors in a work station and surrounding area must be made free of hair and other debris after the completion of each service;
- (17) For esthetics, the headrest of chairs and treatment tables must be covered with a clean sheet of examination paper or clean linen for each client;
- (18) Only commercially-available products for the exfoliation of skin for the purpose of beautification may be used. Mixing or combining skin removal products is prohibited except as required by the manufacturer;
- (19) Sanding bands used on electric file mandrels are for single-use purposes and must be discarded immediately after each service. Metal bits for electric files shall be properly disinfected after each service and stored in a clean, closed, and labeled container until use; and
- (20) All nail files are single-use items unless made of metal, glass, or crystal. Ceramic nail files are single-use items unless completely sealed by a glaze.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(5)(6).

Law Implemented: SDCL 36-15-13(4)(5)(6).

20:42:05:02. Procedure for handling hairpiece or wig. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; repealed, 14 SDR 64, effective November 2, 1987.

20:42:05:03. Procedure for caring for infected area of patron's skin. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:05:04. Clothing requirements. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 29 SDR 176, effective July 1, 2003; 46 SDR 46, effective October 3, 2019.

20:42:05:05. License displayed. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:05:06. Blood exposure. For blood exposure involving a client or licensee, the following steps must be followed:

- (1) If the client is bleeding: Stop service; put gloves on; if appropriate, assist client to sink and rinse the injured area under running water; pat dry with a new, clean, disposable towel; offer or apply antiseptic and an adhesive bandage; place all single-use items in a bag and place in a trash receptacle; remove all implements from station and properly clean and disinfect the implements; clean and disinfect work area; remove and dispose of gloves; wash hands; return to service;
- (2) If the licensee is bleeding: Stop service; explain the situation and excuse yourself the service; if appropriate, rinse injured area under running water; pat dry with a new, clean, disposable towel; apply antiseptic and an adhesive bandage; put gloves on; place all single-use items in a bag and place in a trash receptacle; remove all implements from the work area and properly clean and disinfect the implements; clean and disinfect work area; remove and dispose of gloves; wash hands; if necessary, cover injured area with a protective finger cot or new glove; return to service.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:05:07. Microdermabrasion machines. For any microdermabrasion machine:

- (1) Any crystals used in a microdermabrasion machine may not be recycled or reused. Crystals or approved corundum are for single-use purposes only;
- (2) Tips must be cleaned and disinfected after each client and disposed of if any wear is shown; and
- (3) The exterior must be kept clean of crystal dust, and the filters changed as necessary.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5)(13).

Law Implemented: SDCL 36-15-13(5).

20:42:05:08. Pedicure foot-spa stations. Pedicure foot-spa stations must be cleaned and disinfected after each client, including the outside surfaces of the pedicure foot-spa. The following procedures must be observed:

- (1) At the end of each client service:
 - (a) Drain all water and remove all debris from the spa basin;
 - (b) Clean the spa basin with soap or detergent and water;
 - (c) Disinfect the spa basin with a disinfectant; and
 - (d) Wipe the spa basin with a clean towel until dry;
- (2) At the end of each day, clean and disinfect each whirlpool foot spa basin in the following manner:
 - (a) Remove the screen, and clean all debris trapped behind the screen;
 - (b) Wash the screen with soap or detergent and water;
 - (c) Immerse the screen completely in disinfectant;
 - (d) Flush the spa system with low sudsing soap and warm water for at least 10 minutes; and
 - (e) Rinse and drain the spa;

- (3) At least once each week, each whirlpool foot spa must be cleaned and disinfected in the following manner:
 - (a) Fill the spa basin completely with water and add one teaspoon of 5.25 percent bleach or recommended whirlpool disinfectant for each gallon of water. Use according to the manufacturer's instructions;
 - (b) Flush the spa or bath system with bleach or recommended whirlpool disinfectant and water solution for 10 minutes;
 - (c) Soak for at least 6 hours; and
 - (d) Drain and flush the spa with water before use for a client.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:05:09. Waxing services. Equipment used for waxing hair removal services must be kept clean and disinfected at all times, and:

- (1) A clean spatula must be used each time any wax is distributed to the client;
- (2) Wax pots must be kept covered and the exterior must be cleaned daily;
- (3) If debris is found in the wax pot, or if the wax has been contaminated by contact with skin, unclean applicators, or double-dipping, the wax pot must be emptied, the wax discarded, and the pot must be disinfected;
- (4) Each end of a disposable spatula or wooden stick may be dipped in the wax only once and discarded;
- (5) Applicators may be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service; and
- (6) Any surface touched by a used wax stick must be disinfected immediately after service.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:05:10. Paraffin wax. Equipment used for paraffin hydrating services must be kept clean and disinfected at all times:

- (1) Paraffin warmers must be kept covered, the exterior cleaned daily, and the wax must be free of debris;
- (2) A clean scoop or ladle must be used any time paraffin wax is distributed to the client;
- (3) Paraffin wax removed from a client's skin may not be reused and must be discarded immediately; and
- (4) Human tissue may not be dipped directly into the paraffin wax warmer at any time.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:05:11. Chemical exfoliation. Chemical exfoliation in salons or booths must comply with the following practices:

- (1) Salons or booths, within the scope of their practice, may use chemicals or products, natural or synthetic, which act on or affect the epidermis layer of the skin;
- (2) All exfoliant products or formulations shall be of professional grade and used in accordance with the manufacturer's recommendations; and
- (3) Any exfoliation preparation used must not remove tissue below the stratum corneum of the epidermis.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

CHAPTER 20:42:06
SCHOOL REQUIREMENTS

Section

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20:42:06:01. Required basic equipment and educational supplies for all schools. Each school must have the following minimum equipment and educational supplies on hand and in good working condition at all times:

- (1) One current South Dakota Cosmetology Commission law and rule book for each enrolled student;
- (2) One textbook, as applicable, for each enrolled student;
- (3) One closed storage area for required equipment for each enrolled student;
- (4) One time clock or time-keeping software for student hours;
- (5) One or more covered labeled containers for all clean and disinfected tools and implements;
- (6) One or more covered labeled containers for all soiled tools and implements;
- (7) One large wet disinfectant container for use by all students or separate wet disinfectant containers for each student to disinfect implements;
- (8) A covered labeled container for soiled towels and linens; and
- (9) A covered labeled waste receptacle for every five students.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 29

SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-13(4)(10), 36-15-46.

20:42:06:01.01. Required minimum equipment and educational supplies for a cosmetology course. In addition to the equipment required in § 20:42:06:01, each school that offers a cosmetology course must have the following:

- (1) A work station for each student working on clients that includes:
 - (a) A mirror;
 - (b) A table top or counter;
 - (c) A client chair;
 - (d) A clean, covered, and labeled container to store clean tools and implements; and
 - (e) A clean, covered, and labeled container to store used or soiled tools and implements;
- (2) A cosmetology student kit that includes:
 - (a) A simulated human head with real or synthetic hair;
 - (b) One marcel iron; and
 - (c) One hand-held hair dryer;
- (3) General equipment that includes:
 - (a) Chemical wave rods;
 - (b) One properly functioning shampoo bowl per five working students;
 - (c) One hooded hair dryer per fifteen working students;
 - (d) Required equipment in § 20:42:06:01.02 for esthetics instruction;
 - (e) Required equipment in § 20:42:06:01.03 for nail technology instruction; and
 - (f) Combs and brushes so that clean, disinfected combs and brushes are used on each client.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-13(4)(10), 36-15-46.

20:42:06:01.02. Required minimum equipment and educational supplies for an esthetics course. In addition to the basic school equipment required in § 20:42:06:01, each school that offers an esthetics course must have the following:

- (1) Each work station where esthetics services are performed must include:
 - (a) A client chair or massage table;
 - (b) A table top or counter; and
 - (c) A mirror;
 - (d) A clean, covered, and labeled container to store soiled or used tools and implements; and
 - (e) A clean, covered, labeled container to store clean tools and implements;
- (2) At least one steamer;
- (3) At least one magnifying lamp or dermascope;
- (4) Simulated human head forms;

- (5) For hair removal instruction: a wax pot and supplies for waxing and chemical and physical depilatories; and
- (6) At least one working microdermabrasion machine that meets the requirements of § 20:42:04:04.02 for each school offering microdermabrasion instruction.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-13(4)(10), 36-15-46.

20:42:06:01.03. Required minimum equipment and educational supplies for a nail technology course. In addition to the equipment required in § 20:42:06:01, each school that offers a nail technology course must have the following minimum equipment:

- (1) A work station for each student working on clients that includes:
 - (a) A nail technology table;
 - (b) A client chair;
 - (c) A chair for the student;
 - (d) An adjustable light for the table; and
 - (e) A clean, covered, and labeled container to store disinfected tools and implements; and
 - (f) A clean, covered, and labeled container to store used or soiled tools and implements;
- (2) Simulated human hands;
- (3) Pedicure foot-spas that includes a foot bath large enough to completely immerse both feet of the client; and
- (4) At least one electric file or drill with appropriate attachments. The file or drill must meet the requirements of § 20:42:04:04.01.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 32 SDR 32, effective August 29, 2005; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-13(4)(10), 36-15-46.

20:42:06:01.04. Branch school exception. If a school is teaching theory classes only, the branch school is exempt from the requirements of §§ 20:42:06:01.01 to 20:42:06:01.03, inclusive.

Source: 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-13(4)(10), 36-15-46.

20:42:06:02. Classrooms. In each school, classrooms for the teaching of theory and for classroom demonstrations must be separate from areas used by the general public. Each classroom must contain:

- (1) An instruction board or chalkboard;
- (2) Tables or desks and chairs to meet the instructional needs of scheduled students; and

(3) Lesson plans relating to the subjects taught.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 29 SDR 176, effective July 1, 2003; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4)(10)

Law Implemented: SDCL 36-15-46.

20:42:06:03. Projection equipment. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:06:04. Library. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:06:05. Approved textbooks for basic course of study. Textbooks to be used to teach students must be listed in the school application and renewal application each year for approval by the commission.

Other materials and books may be used to supplement the textbooks.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 24 SDR 2, effective July 23, 1997; 26 SDR 18, effective August 15, 1999; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:06. Requirements for classroom education. School classroom education requirements are as follows:

- (1) A school may not require a student to work, be instructed, or earn credit for more than eight hours in a day at the school. However, a school may offer students the option to earn credit for more than eight hours in a day;
- (2) Cosmetology students must spend 225 hours in classrooms, demonstrations, and practice before performing service on any client of the school;
- (3) Esthetic students must spend 110 hours in classrooms, demonstrations, and practice before performing service on any client of the school;
- (4) Nail technology students must spend 60 hours in classrooms, demonstrations, and practice before performing service on any client of the school;
- (5) A school may not deduct earned clock hours; and
- (6) A student may not be required to do, or allowed to earn credit for, cleaning unrelated to normal salon duties or maintenance such as washing walls, washing windows, or shoveling snow.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:07. Student services to be checked. All clients receiving services from a student must be checked by a licensed instructor before, during, and after the performance of the services.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:08. Identification of instructors. All instructors providing instruction of students in a school must be readily identifiable at all times while instructing.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-46.

20:42:06:08.01. Demonstrators in a classroom. Schools may use a person qualified and trained in a particular profession for special instruction of students in the field of that person's specialty. A demonstrator shall be readily identifiable as a demonstrator at all times of the demonstration. A licensed instructor from the school shall be present during any demonstration.

Source: 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4)(10).

Law Implemented: SDCL 36-15-46.

20:42:06:09. Required minimum curriculum for cosmetology course. Each licensed cosmetology school offering a complete cosmetology program, totaling a minimum of 1500 hours, shall meet the following minimum curriculum requirements:

- (1) General infection control and professional standards, including infection control in a licensed facility; infection control standards and guidelines; infection control for implements and equipment; first aid; blood exposure standards; professional development; effective communication; human relations; business management/ownership; and state law: 150 hours;
- (2) The science of cosmetology, hair, skin and nails, including health safety and infection control; general anatomy and physiology; skin diseases, disorders and structure; properties of the hair and scalp; nail structure, growth, diseases and disorders; basics of

- chemistry; product chemistry; understanding the basics of electricity; and basic nutrition: 200 hours;
- (3) General cosmetology, including principles of hair design, scalp care, shampooing and conditioning; haircutting; hairstyling; braiding and extensions; and wigs and hair additions: 300 hours;
 - (4) Chemical hair services, including chemical texture services; and hair coloring: 280 hours
 - (5) Esthetics and skin sciences, including physiology and histology of the skin; skin analysis; skin care products: chemistry, ingredients and selection; the treatment room; basic facial; facial massage, hair removal; advance topics and treatments; and makeup: 200 hours;
 - (6) Nail technology, including pre and post service procedures; performing basic manicures and pedicures; hand, lower arm, foot and lower leg massage; wraps, tips and paraffin wax treatments; polishing, light-cured gel polish and design; electric nail filing (8 hours); monomer liquid and polymer powder nail enhancement; light-cured gel enhancements; and creative design: 120 hours.

A minimum of 250 hours of the curriculum set forth in this section shall be in theory classes. In addition to the hours set forth in this section, each student must receive an additional 250 hours of education. The additional hours may be in areas that the school feels are necessary to supplement the basic course requirements for an individual student.

Any school curriculum in excess of 1500 hours shall satisfy the hours set forth in this section prior to providing education in other areas.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:09.01. Required minimum curriculum for nail course. Each licensed cosmetology or nail technology school offering a complete nail technology program, totaling a minimum of 400 hours, shall meet the following minimum curriculum requirements:

- (1) Infection control and safety procedures regarding cleaning, disinfection, hygiene, infections, hazards, disorders, and diseases, including cosmetology laws and rules: 60 hours;
- (2) Scientific concepts to include chemistry, bacteriology, anatomy, and physiology: 60 hours;
- (3) Manicure, pedicure, and hand, lower arm, feet, and lower leg massage manipulations: 90 hours;
- (4) Artificial nails to include electric files and attachments, sculptured nails, nail tips, nail wraps, and gel nails: 130 hours, eight of which must be education in electric files and attachments; and
- (5) Business practices regarding salon management, booth management, communications, salesmanship, and ethics, including cosmetology laws and rules: 60 hours.

A minimum of 50 hours of the curriculum set forth in this section shall be in theory classes.

Source: 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:09.02. Required minimum curriculum for esthetics course. Each licensed cosmetology or esthetic school offering a complete esthetician program, totaling a minimum of 600 hours, shall meet the following minimum curriculum requirements:

- (1) Infection control and safety procedures regarding cleaning, disinfection, hygiene, infections, hazards, disorders, and diseases, including cosmetology laws and rules: 90 hours;
- (2) Scientific concepts and products to include skin histology, skin dermatology (analysis), nutrition, chemistry, bacteriology, anatomy, physiology, and aromatherapy: 90 hours;
- (3) Skin treatments to include consultations, analysis, chemical facial treatments, electrical and mechanical facial treatments, and body treatments: 240 hours;
- (4) Massage manipulations to include facial and body: 30 hours;
- (5) Make-up and eyelash applications: 30 hours;
- (6) Hair removal and eyebrow shaping to include chemical and physical: 30 hours; and
- (7) Business practices regarding salon management, booth management, salesmanship, and ethics, including cosmetology laws and rules: 60 hours.

A minimum of 90 hours of the curriculum set forth in this section shall be in theory classes. In addition to the hours set forth in this section, each student must receive an additional 30 hours of education. The additional hours shall be in areas that the school feels are necessary to supplement the basic course requirements for an individual student.

Source: 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(10)(17).

Law Implemented: SDCL 35-15-29, 36-15-46.

20:42:06:09.03. Branch school curriculum requirement for a partial program. Each licensed branch school offering a partial cosmetology, nail technology, or esthetician program shall meet the following minimum curriculum requirements:

- (1) At least one hour of theory curriculum for every seven hours of clinical curriculum at the branch school site; and
- (2) For each program: at least 25 percent of the required hours in each curriculum area under §§ 20:42:06:09 to 20:42:06:09.02, inclusive, as applicable.

A branch school may be approved to teach theory courses only.

Source: 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:06:10. Minimum number of instructors. All students must be under direct supervision of an instructor while earning clock hours. Each instructor may supervise a maximum of 15 students at any one time, except an instructor may teach any number of students in the theory classroom.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:06:11. Restrictions on instructor's services. A person in the capacity of an instructor in a school may not receive any form of compensation other than the compensation as an instructor for performing cosmetology, esthetics, or nail services for the purpose of class demonstrations. Demonstrations in a school may not be conducted in areas other than a classroom.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:06:12. Required records and reports. Schools shall submit the following records and reports to the commission office:

- (1) The total clock or credit hours of education for each student. The clock hour report must be submitted no later than the 10th day of each month following the education and the credit hour report must be submitted no later than ten days after the end of the quarter or semester; and
- (2) Notification of any student who leaves school before completing the education, submitted not later than 30 days from the date of termination.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 33 SDR 226, effective July 1, 2007; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(3).

Law Implemented: SDCL 36-15-13(3).

20:42:06:13. Student's workbooks. Repealed.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:06:14. School records. For clock hour programs the schools shall keep a daily record of each student, showing actual number of hours of attendance and time devoted to each subject. For credit hour programs the schools shall keep a record showing daily attendance, the number of credits earned in each subject, the total number of credits earned, and the dates the credits were complete. The records shall be kept on file in the school for up to one year after the student leaves the school.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 33 SDR 226, effective July 1, 2007.

General Authority: SDCL 36-15-13(3).

Law Implemented: SDCL 36-15-13(3).

20:42:06:15. Failure of school to comply – Students lose credits. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:06:16. Transfer of student from out-of-state. A student transferring to a school in this state from a school outside this state may transfer credits or hours earned in the foreign state to any school in this state. The transferred hours shall be credited toward the 1,500 hours for cosmetology, 600 hours for esthetics, or 400 hours for nail technology, as applicable, required to be completed in this state if the course of study in the foreign school is substantially equivalent to the course of study in this state. The school shall evaluate and determine the subjects, hours, and practice services of the transfer student's prior course of education which conforms to the curriculum requirements in chapter 20:42:06 and shall give the students credit for those subjects, hours, and practice services.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(9), 36-15-34.

Law Implemented: SDCL 36-15-34.

20:42:06:17. Field trips. A student may receive a maximum of 32 hours credit for cosmetology educational field trips, 16 hours credit for esthetic educational field trips, or 4 hours credit for nail technology educational field trips if the trip has been approved by the commission. For approval the school must complete a field trip form and attach a lesson plan. The students shall be accompanied by an instructor. One licensed instructor shall accompany no more than 15 students.

Source: 29 SDR 176, effective July 1, 2003; 32 SDR 32, effective August 29, 2005; 33 SDR 226, effective July 1, 2007; 40 SDR 39, effective September 9, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-29.1.

20:42:06:18. General safety requirements for all schools. Repealed.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013; 46 SDR 46, effective October 3, 2019.

20:42:06:19. School minimum requirements for premises and facilities. All licensed schools must meet the following minimum requirements for premises and facilities:

- (1) Space:

- (a) Cosmetology school floor space equal to 3,000 square feet for the first 25 students and an additional 50 square feet for each additional student, which may include a locker room and office space;
 - (b) Cosmetology branch school floor space equal to 1,500 square feet of floor space for up to 15 students and an additional 50 square feet for each additional student;
 - (c) Esthetics school or course floor space of at least 900 square feet for the first 10 students and 90 square feet for each additional student, which may include a locker room and office space; and
 - (d) Nail school or course floor space of at least 450 square feet for the first 10 students and 45 square feet for each additional student, which may include a locker room and office space;
- (2) Plumbing: shampoo bowls for cosmetology courses and sinks for all courses that are connected to a central sewer system and a faucet or outlet for hot and cold running water connected to each bowl;
 - (3) Restrooms: a minimum of two restrooms with a liquid soap dispenser and disposable towels or an air hand dryer. If the school has personnel or students of both sexes, the school must provide separate restrooms for each sex. The restrooms must be available to the personnel, students, and clients within the structure of the school. Each must contain at least one toilet and one sink with hot and cold running water, connected to a central sewer system;
 - (4) Supply dispensary: a complete supply dispensary with a sink located within easy access to the student work area; and
 - (5) Provide ventilation: to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; transferred from § 20:42:04:11, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:06:20. School equipment requirements. All licensed schools must comply with the equipment requirements of § 20:42:04:04.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 24 SDR 2, effective July 23, 1997; 26 SDR 18, effective August 15, 1999; 28 SDR 24, effective August 28, 2001; transferred from § 20:42:04:12, 29 SDR 176, effective July 1, 2003; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:06:21. Electric nail file or drill requirements. All licensed schools utilizing an electric file or drill and the attachments utilized in any nail procedure must comply with the requirements of § 20:42:04:04.01.

Source: 26 SDR 18, effective August 15, 1999; transferred from § 20:42:04:12.01, 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:21.01. Microdermabrasion machine requirements. All licensed schools utilizing a microdermabrasion machine must comply with the requirements of § 20:42:04:04.02.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:22. Prohibited equipment and procedures. All licensed schools must comply with § 20:42:04:04.03.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:23. Required school equipment – Sanitation. Repealed.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; transferred from § 20:42:04:13, 29 SDR 176, effective July 1, 2003; repealed, 39 SDR 129, effective January 28, 2013.

20:42:06:24. Required school infection control and safety procedures. All licensed schools must comply with the infection control and safety procedures of § 20:42:04:05.01.

Source: 24 SDR 2, effective July 23, 1997; transferred from § 20:42:04:13.01, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:06:25. Care of capes and towels in schools. All licensed schools must comply with the requirements of § 20:42:04:06.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 18, effective August 15, 1999; transferred from § 20:42:04:14, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:26. Procedure for handling wigs and hairpieces in cosmetology schools. All licensed schools must comply with the requirements of § 20:42:04:07.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; transferred from § 20:42:04:15, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:27. Storage for harmful supplies. All licensed schools must comply with the requirements of § 20:42:04:08.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; transferred from § 20:42:04:16, 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4)(5).

20:42:06:28. Prohibited products. No school may use any products prohibited by § 20:42:04:08.01.

Source: 26 SDR 18, effective August 15, 1999; transferred from § 20:42:04:16.01, 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(5).

20:42:06:29. Display of licenses. The school license shall be prominently displayed in the school during all working hours. The instructor license and the cosmetologist, nail technician, or esthetician license, as applicable, of each person instructing students in the school shall be prominently displayed.

Student licenses must be displayed at the student's primary work station.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; transferred from § 20:42:04:17, 29 SDR 176, effective July 1, 2003; 33 SDR 266, effective July 1, 2007; 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:06:30. Display of student prices. All charges made for cosmetology, esthetic, or nail technology services by students must be prominently displayed in a place visible to all clients using those services.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; transferred from § 20:42:04:18, 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:06:31. Display of health, safety, and infection control rules. Every school shall display in a prominent place in the reception area a copy of the most current applicable health, safety, and infection control rules of the commission.

Source: 29 SDR 176, effective July 1, 2003; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(4).

Law Implemented: SDCL 36-15-13(4).

20:42:06:32. Display of blood exposure rules. The blood exposure rules as outlined in § 20:42:05:06 shall be posted in the dispensary of the school.

Source: 29 SDR 176, effective July 1, 2003; 43 SDR 176, effective July 3, 2017; 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(5).

20:42:06:33. Display of unregulated services sign in school clinics. Any service offered within a school clinic that is not a cosmetology practice must be clearly identified as an unregulated service and listed on a sign conspicuously posted in the reception area. The sign shall state: "Unregulated Services. The following services offered by (school name) are not regulated by the South Dakota Cosmetology Commission: _____."

Source: 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(4)(5).

Law Implemented: SDCL 36-15-13(4).

20:42:06:34. School responsible for students. A school is responsible for the conduct of the school's students.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-13(5).

20:42:06:35. Terminated students who restart education. A former student who wishes to reapply to complete the student's education, or a former student who completed the student's education but did not obtain a license will receive the following credit from the last date of previous enrollment as follows:

- (1) 100 percent credit of hours if less than three years has passed;
- (2) 50 percent credit of hours if more than three but less than seven years has passed;
- (3) No credit for hours will be allowed if more than seven years has passed.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(1)(16).

Law Implemented: SDCL 36-15-17, 36-15-17.1.

20:42:06:36. Credit for hours from other institutions. Any individual seeking credit for coursework completed at an institution not teaching the practices of cosmetology, nail technology, or esthetics, shall submit an official transcript from that institution.

For education earned in a credit hour program, each credit hour is equal to 30 clock hours.

Source: 47 SDR 8, effective August 3, 2020.

General Authority: SDCL 36-15-46.1.

Law Implemented: SDCL 36-15-46.1.

CHAPTER 20:42:07
APPRENTICES

Section

20:42:07:01	Inspection of salons offering training of apprentices.
20:42:07:02	Facilities and equipment required for salons offering training of cosmetologist or nail technician apprentices.
20:42:07:03	Notice to public – Price list.
20:42:07:04	Person eligible for apprentice training.
20:42:07:05	Approved textbooks.
20:42:07:06	Apprentice training in cosmetology.
20:42:07:06.01	Apprentice training in nail technology.
20:42:07:06.02	Apprentice training in esthetics.
20:42:07:07	Apprentice curriculum.
20:42:07:07.01	Apprentice curriculum in nail technology.
20:42:07:08	Apprentice curriculum – Additional instruction.
20:42:07:09	Apprentice records and reports available for inspection by the commission.
20:42:07:10	Apprentice records and reports mailed to the commission.
20:42:07:11	Apprentice training inspection.

20:42:07:01. Inspection of salons offering training of apprentices. Any salon in which apprentice training is to be given must comply with the following:

- (1) Be inspected, approved, and licensed as an apprentice salon by the commission before beginning any apprentice training;
- (2) Submit to regular inspection by the commission or its employees as the commission considers necessary. All records and other information pertaining to the apprentice must be made available to the commission at the time of inspection; and
- (3) Comply with all health and safety rules relating to premises, facilities, and equipment for licensed salons and provide all equipment required for cosmetologists or nail technicians in the salon for each apprentice working there.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 76, effective July 1, 2003; 31 SDR 62, effective November 4, 2004.

General Authority: SDCL 36-15-13(5).

Law Implemented: SDCL 36-15-42.1.

20:42:07:02. Facilities and equipment required for salons offering training of cosmetologist or nail technician apprentices. In addition to the equipment required in

§§ 20:42:06:01 to 20:42:06:01.03, inclusive, any salon in which apprentice training is to be given must furnish a classroom separate from all rooms used by clients and staff that is equipped with whiteboards, sufficient tables and chairs, reference materials, lesson plans, and audiovisual aids for use in apprentice training.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13(5)(10).

Law Implemented: SDCL 36-15-46.

20:42:07:03. Notice to public – Price list. Each salon in which apprentice training is being given must display a notice clearly visible to the public stating that apprentice training is given there and must display with the notice a price list of charges for all services rendered by apprentices.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:07:04. Persons eligible for apprentice training. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:07:05. Approved textbooks. The textbooks approved for the instruction of apprentices are found in § 20:42:06:05. Other materials and books may be used to supplement these textbooks.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-46.

20:42:07:06. Apprentice training in cosmetology. Each cosmetology salon in which cosmetology apprentice training is being given shall comply with the following:

- (1) An apprentice may perform cosmetology services on a client only after the apprentice has completed 225 hours in the classroom, studying theory, watching demonstrations, and practicing on non clients;
- (2) Each apprentice shall receive a total of 1500 hours of training during the apprenticeship; and
- (3) Each apprentice shall receive at least 40 hours of training each week, but no more than ten hours a day. Vacation days and sick days are allowed in accordance with commission policy.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 29

SDR 176, effective July 1, 2003; 45 SDR 31, effective September 10, 2018; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-45, 36-15-46, 36-15-47.

20:42:07:06.01. Apprentice training in nail technology. Each cosmetology or nail salon in which nail technician apprentice training is being given shall comply with the following:

- (1) An apprentice may perform nail technology services on a client only after the apprentice has completed 60 hours in the classroom, studying theory, watching demonstrations, and practicing on non clients;
- (2) Each apprentice shall receive a total of 400 hours of training during the apprenticeship; and
- (3) Each apprentice shall receive at least 40 hours of training each week, but no more than 10 hours a day. Vacation days and sick days are allowed in accordance with commission policy.

Source: 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(10).

Law Implemented: SDCL 36-15-45, 36-15-46, 36-15-47.

20:42:07:06.02. Apprentice training in esthetics. Each cosmetology or esthetics salon in which esthetics apprentice training is being given shall comply with the following:

- (1) An apprentice may perform esthetics services on a client only after the apprentice has completed 110 hours in the classroom, studying theory, watching demonstrations, and practicing on non clients;
- (2) Each apprentice shall receive a total of 600 hours of training during the apprenticeship; and
- (3) Each apprentice shall receive at least 40 hours of training each week, but no more than 10 hours a day. Vacation days and sick days are allowed in accordance with commission policy

Source: 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(4)(10)(17).

Law Implemented: SDCL 36-15-45, 36-15-46, 36-15-47.

20:42:07:07. Apprentice curriculum. Each apprentice salon instructing an apprentice shall comply with the following curriculum requirements:

- (1) Cosmetology apprentice: § 20:42:06:09;
- (2) Nail technology apprentice: § 20:42:06:09.01; and
- (3) Esthetics apprentice: § 20:42:06:09.02.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 9 SDR 96, effective January 30, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 14 SDR 64, effective November 2, 1987; 23 SDR 25, effective August 26, 1996; 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective

November 4, 2004; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(4)(10)(17).

Law Implemented: SDCL 36-15-45, 36-15-46.

20:42:07:07.01. Apprentice curriculum in nail technology. Repealed.

Source: 24 SDR 2, effective July 23, 1997; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018; 48 SDR 60, effective December 6, 2021.

20:42:07:08. Apprentice curriculum – Additional instruction. Repealed.

Source: SL 1975, ch 16, § 1; repealed, 6 SDR 10, effective August 12, 1979.

20:42:07:09. Apprentice records and reports available for inspection by the commission. An instructor training an apprentice must have available for inspection by the commission the following records and reports relating to the apprentice:

- (1) A daily record showing hours of attendance and time devoted to each curriculum subject, and the instructor giving the instruction;
- (2) Worksheets and notebooks of the apprentice; and
- (3) Upon completion of training, a resume of the weekly reports giving total hours of each curriculum subject, showing the theoretical and practical time.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 23 SDR 25, effective August 26, 1996; 29 SDR 176, effective July 1, 2003; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(11).

Law Implemented: SDCL 36-15-47, 36-15-48.

20:42:07:10. Apprentice records and reports mailed to the commission. Any instructor training an apprentice shall send to the commission the following records and reports relating to the apprentice:

- (1) Weekly reports listing the total hours of instruction and number of hours devoted to each curriculum item by the apprentice, divided into theoretical and practical hours. The report shall be certified by an instructor who shall attest that the listed hours as shown on the weekly report were in fact completed by the apprentice and that this was done under the constant supervision, control, and direction of a licensed instructor. The report shall name the instructor of the curriculum hours listed. The report shall be mailed to the commission office not later than the fourth day following any calendar week of training;
- (2) If an apprentice discontinues training, it shall be reported by the instructor to the executive director of the commission at the time of discontinuance. The instructor shall submit a record of the training completed by curriculum hours divided into theoretical and practical; and

- (3) The instructor in charge of an apprentice shall provide any other information requested by the commission.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 26 SDR 18, effective August 15, 1999; 28 SDR 24, effective August 28, 2001; 29 SDR 176, effective July 1, 2003; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-13(11).

Law Implemented: SDCL 36-15-47, 36-15-48.

20:42:07:11. Apprentice training inspection. The training of an apprentice is subject to inspection by any member of the commission or by its employees. The inspection may include the checking of all apprentice records at the place of training and a review of the work of the apprentice, including practical work on a model or simulated human head or hands, as applicable. The apprentice may demonstrate work required during an inspection.

Source: SL 1975, ch 16, § 1; 6 SDR 10, effective August 12, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 2, effective July 23, 1997; 29 SDR 176, effective July 1, 2003.

General Authority: SDCL 36-15-13(11).

Law Implemented: SDCL 36-15-14, 36-15-48.

CHAPTER 20:42:08
INSTRUCTOR EDUCATION AND LICENSE SPECIFIC EDUCATION REQUIREMENTS

Section

20:42:08:01	Junior instructor education for initial licensure.
20:42:08:01.01	Junior instructor education program.
20:42:08:02	Junior instructor continuing education for renewal.
20:42:08:03	Instructor education for initial licensure.
20:42:08:03.01	Senior instructor education exception.
20:42:08:03.02	Substitute instructors.
20:42:08:04	Instructor continuing education for renewal.
20:42:08:04.01	Instructor education required to teach apprentices.
20:42:08:05	Verification fee for individual licensee.
20:42:08:05.01	Pre-verification fee for course provider.
20:42:08:06	Obtaining evidence of compliance.
20:42:08:07	Education requirement to use microdermabrasion machines.
20:42:08:08	Education requirement to use electric nail files.
20:42:08:09	Education requirement to perform eyelash extensions.

20:42:08:01. Junior instructor education for initial licensure. Repealed.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

20:42:08:01.01. Junior instructor education program. Repealed.

Source: 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

20:42:08:02. Junior instructor continuing education for renewal. Repealed.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 45 SDR 31, effective September 10, 2018.

20:42:08:03. Instructor education for initial licensure. To receive an instructor license, the applicant shall successfully complete:

- (1) Twelve hours of new instructor training;
- (2) Successfully pass the South Dakota Instructor Cosmetology Laws and Administrative Rules examination;
- (3) A written theory examination approved by the commission and administered by the commission or its representatives.

The instructor applicant may be issued a conditional instructor license upon completion of twelve hours of new instructor training and successfully passing the South Dakota Instructor Cosmetology Laws and Administrative Rules examination. The instructor must pass the written theory examination within 90 days of being issued a conditional instructor license or the conditional license becomes invalid. Failure to successfully pass the instructor theory examination immediately invalidates the conditional instructor license and the instructor cannot continue to instruct students until successfully passing the theory examination and being issued an instructor license.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 33 SDR 226, effective July 1, 2007; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-25, 36-15-26.2.

Law Implemented: SDCL 36-15-25, 36-15-26.2.

20:42:08:03.01. Senior instructor education exception. Repealed.

Source: 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017.

20:42:08:03.02. Substitute instructors. A cosmetology school licensed by the commission may hire a substitute instructor under the following conditions:

- (1) Individual must be a licensed cosmetologist, esthetician or nail technician in the State of South Dakota. A cosmetologist may instruct in all of the education areas; an esthetician may only instruct in the area of esthetics; and a nail technician may only instructor in the area of nail technology;
- (2) A substitute instructor can instruct 80 hours or less during a calendar year;
- (3) The cosmetology school must notify the commission office as soon as the emergency need arises with the name of the substitute instructor and the hours the licensee will be instructing.

A substitute instructor cannot be otherwise employed by the school.

Source: 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-25.

Law Implemented: SDCL 36-15-25.

20:42:08:04. Instructor continuing education for renewal. A licensee renewing an instructor license shall annually satisfactorily complete at least twelve hours of commission-approved education courses on teaching methods. The twelve hours shall be completed before the license is renewed.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 3, 2017; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-25.1, 36-15-26.2.

Law Implemented: SDCL 36-15-25.1, 36-15-26.2.

20:42:08:04.01. Instructor education required to teach apprentices. Before an instructor may train an apprentice, the instructor must complete the requirements of § 20:42:08:03, including successfully passing the instructor theory examination.

Source: 31 SDR 62, effective November 4, 2004; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-15-26.2.

Law Implemented: SDCL 36-15-47.1.

20:42:08:05. Verification fee for individual licensee. The individual licensee shall pay the commission a fee of \$35 to verify any required educational course not sponsored or pre-verified by the commission.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013.

General Authority: SDCL 36-15-13.2, 36-15-26.2.

Law Implemented: SDCL 36-15-13.2, 36-15-26.2.

20:42:08:05.01. Pre-verification fee for course provider. A course provider shall pay the commission a fee of \$100 to pre-verify each education course provided by the provider. The fee shall be accompanied by an application form provided by the commission. The pre-verification fee and application are valid for one year after commission approval. A course provider shall immediately notify the commission of any significant course material changes. A course provider shall seek new pre-verification if there is a significant change in the course material.

Source: 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 43 SDR 176, effective July 7, 2017.

General Authority: SDCL 36-15-13.2, 36-15-26.2.

Law Implemented: SDCL 36-15-13.2, 36-15-26.2.

20:42:08:06. Obtaining evidence of compliance. Each course provider shall provide evidence of attendance or completion to each licensee that attends or successfully completes the course, as applicable. The evidence shall include documentation signed by the institution or qualified individual presenting the course that shows the date of attendance or completion of the course, location of the course or the medium used for instruction, the speaker or instructor, and the hours in attendance or required for completion. This evidence shall accompany the licensee's application for renewal of license or as required under §§ 20:42:08:07 and 20:42:08:08.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004.

General Authority: SDCL 36-15-13(1).

Law Implemented: SDCL 36-15-13(1).

20:42:08:07. Education requirement to use microdermabrasion machines. A licensee shall successfully complete a minimum of 16 educational hours before operating a microdermabrasion machine. The hours must cover hands-on machine operation, knowledge of client skin types, and infection control and safety procedures specific to microdermabrasion that protect the client and licensee. A certificate of completion issued by the education provider must be submitted by the provider or licensee to the commission office and approved by the commission before any services are performed. After approval, the commission shall provide certification. The certification must be posted in a public place in the salon while the licensee is working.

Source: 29 SDR 176, effective July 1, 2003; 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(5), 36-15-13.2.

Law Implemented: SDCL 36-15-13.2.

20:42:08:08. Education requirement to use electric nail files. A licensee must successfully complete a minimum of eight educational hours before operating an electric nail file. The hours shall cover machine operation, types of attachments, hands-on operation, and infection control and safety procedures specific to the use of an electric nail file that protect the client and licensee. A certificate of completion issued by the education provider must be submitted by the provider or licensee to the commission office and approved by the commission before any services are performed. After approval, the commission shall provide certification of education approval. The certification shall be posted in a public place in the salon while the licensee is working.

Source: 31 SDR 62, effective November 4, 2004; 39 SDR 129, effective January 28, 2013; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(5), 36-15-13.2.

Law Implemented: SDCL 36-15-13.2.

20:42:08:09. Education requirement to perform eyelash extensions. A licensee shall successfully complete a minimum of 16 educational hours on the proper techniques to perform eyelash extensions. The hours must cover the technique of applying eyelashes using adhesive and infection control and safety procedures specific to eyelash extensions that protect the client and licensee. A certificate of completion issued by the education provider must be submitted by the provider or licensee to the commission office and approved by the commission before any services are performed. After approval, the commission shall provide certification of education approval. The certification shall be posted in a public place in the salon while the licensee is working.

Source: 43 SDR 176, effective July 3, 2017; 48 SDR 60, effective December 6, 2021.

General Authority: SDCL 36-15-13(5), 36-15-13.2.

Law Implemented: SDCL 36-15-13.2.

CHAPTER 20:42:09
INSPECTIONS

Section

20:42:09:01	Salon or booth inspections.
20:42:09:02	School inspections.
20:42:09:03	Student inspections.
20:42:09:04	Failed inspections.
20:42:09:05	Re-inspections.

20:42:09:01. Salon or booth inspections. Salon or booths shall be inspected approximately once per calendar year and shall be unannounced. Re-inspections and inspections pursuant to consent agreements do not count towards the annual inspection amount.

Source: 46 SDR 46, effective October 3, 2019.
General Authority: SDCL 36-15-13(15).
Law Implemented: SDCL 36-15-11(1), 36-15-13(15).

20:42:09:02. School inspections. A school shall be inspected approximately two times per calendar year and shall be unannounced.

Source: 46 SDR 46, effective October 3, 2019.
General Authority: SDCL 36-15-13(15).
Law Implemented: SDCL 36-15-11(1), 36-15-13(15).

20:42:09:03. Student inspections. Student inspections will take place during an inspection of the student's school. If four or more students receive a "no" on the same task line, the school will receive a "no" on its inspection report for that line item.

Source: 46 SDR 46, effective October 3, 2019.
General Authority: SDCL 36-15-13(15).
Law Implemented: SDCL 36-15-11(1), 36-15-13(15).

20:42:09:04. Failed inspections. Items bolded on the inspection report are an automatic failure if marked "no". Failing two consecutive inspections is grounds for disciplinary action.

A school receiving four or more "no" marks on the school inspection report fails the inspection. Multiple violations of a law or rule are separate violations.

Any student receiving four or more "no" marks on the student inspection report fails the inspection. Upon a failed inspection by a student, the inspector, a school representative, or both, shall review the inspection report with the student.

A salon or booth receiving four or more "no" marks on the inspection report fails the inspection.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(15)
Law Implemented: SDCL 36-15-11(1), 36-15-13(15).
Cross Reference: ARSD chapter 20:42:10.

20:42:09:05. Re-inspections. A school, salon, or booth that receives a failed rating on its inspection shall be re-inspected within three weeks of the failed inspection. A re-inspection does not count as a consecutive inspection under § 20:42:09:04.

Failing a re-inspection is grounds for disciplinary action.

Source: 46 SDR 46, effective October 3, 2019.

General Authority: SDCL 36-15-13(15).

Law Implemented: SDCL 36-15-13(15).

Cross References: Fees § 20:42:03:03(14), Disciplinary Proceedings chapter 20:42:10.

CHAPTER 20:42:10
DISCIPLINARY PROCEEDINGS

REPEALED

(48 SDR 60, effective December 6, 2021)

20:42:10:01. Complaints authorized – procedure following filing – electronic filing.

Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:02. Commission staff to investigate complaints. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:03. Dismissal of complaint. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:04. Informal disposition. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:05. Assurance of voluntary compliance or consent agreement. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:06. Formal proceedings. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:07. Answer. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:08. Disqualification. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:09. Final action by commission. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:10. Petition for declaratory ruling. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:11. Commission action on petition. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.

20:42:10:12. Adverse ruling. Repealed.

Source: 46 SDR 46, effective October 3, 2019; 48 SDR 60, effective December 6, 2021.