

## ARTICLE 20:42

### COSMETOLOGISTS, ESTHETICIANS, AND NAIL TECHNICIANS

#### Chapter

20:42:01	Definitions.
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20:42:09	Inspections.
20:42:10	Disciplinary proceedings, <u>Repealed</u> .

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

- (1) ~~Knives, razors, and unguarded blades;~~
- (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 corenum layer of the skin;
- (3) ~~Dermaplane procedures, dermabrasion~~ 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.

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

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

## **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- 20:42:07:04 Repealed.
- 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 ~~in cosmetology.~~
- 20:42:07:07.01 ~~Apprentice curriculum in nail technology~~ Repealed.
- 20:42:07:08 Repealed.
- 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.

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

(1) An apprentice may perform cosmetology services on a client only after ~~300~~ the apprentice has completed 225 hours ~~have been spent~~ in the classroom, studying theory, demonstrations, and practice; ~~and~~

(2) Each apprentice ~~must~~ shall receive a total of ~~2150~~ 1500 hours of training during the apprenticeship ~~with vacation days and sick days being allowed in accordance with commission policy.~~ The; and

(3) Each apprentice must 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.

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

**Law Implemented:** SDCL 36-15-45 ~~to~~, 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 ~~must~~ shall comply with the following:

(1) An apprentice may perform nail technology services on a client only after the apprentice has completed 60 hours have been spent in the classroom, studying theory, demonstrations, and practice; and

(2) Each apprentice ~~must~~ shall receive a total of ~~6 continuous and consecutive months of training during the apprenticeship. A month of training is a month in which the apprentice receives at least 40 hours of training each week with no more than 8 hours of training credits being allowed in any 1 day.~~ 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.

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

**Law Implemented:** SDCL 36-15-45 ~~to~~, 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, demonstrations, and practice;

(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:**

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 in cosmetology.** Each cosmetology apprentice salon instructing cosmetology an apprentice during the course of the training must receive the following minimum hours of training in the branches of cosmetology must comply with the following 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: 200 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: 300 hours;

—— (3) General cosmetology, including principles of hair design; scalp care, shampooing and conditioning; haircutting; hairstyling; braiding and extensions; and wigs and hair additions: 600 hours;

—— (4) Chemical hair services, including chemical texture services, and hair coloring: 410 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: 250 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: 220 hours.~~

~~—— A minimum of 350 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 apprentice must receive an additional 170 hours of training. The additional hours shall be in the areas that the instructor deems necessary to supplement the basic course requirements for an individual apprentice.~~

~~—— (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.

**General Authority:** ~~SDCL 36-15-13(10)~~ 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.** ~~Each nail technology apprentice during the course of the training must receive the following minimum hours of training in the branches of nail technology:~~

~~(1) Safety and infection control procedures to include hygiene, hazards, disorders, and diseases: 75 hours;~~

~~—— (2) Scientific concepts to include chemistry, bacteriology, anatomy, and physiology: 150 hours;~~

~~—— (3) Manicure, pedicure, and hand, lower arm, feet, and lower leg massage manipulations: 200 hours;~~

~~—— (4) Artificial nails to include sculptured nails, nail tips, nail wraps, and gel nails: 340 hours;~~

~~—— (5) Electric files or appliances: 20 hours;~~

~~—— (6) Cosmetology laws and administrative rules: 20 hours; and~~

~~—— (7) Business practices to include salon management, booth management, salesmanship, and ethics: 60 hours.~~

~~—— A minimum of 200 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 apprentice must receive an additional 35 hours of training. The additional hours shall be in areas that the instructor deems necessary to supplement the basic course requirements for an individual apprentice 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.

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

~~—— **Law Implemented:** SDCL 36-15-45, 36-15-46.~~

## CHAPTER 20:42:08

## INSTRUCTOR EDUCATION AND LICENSE SPECIFIC EDUCATION REQUIREMENTS

### Section

- 20:42:08:01 Repealed.
- 20:42:08:01.01 Repealed.
- 20:42:08:02 Repealed.
- 20:42:08:03 Instructor education for initial licensure.
- 20:42:08:03.01 Repealed.
- 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.
- 20:42:08:10 Education requirement to perform shaving.

**20:42:08:07. Education requirement to use microdermabrasion machines.** A licensee ~~must~~ shall successfully complete a minimum of 16 educational hours before operating a microdermabrasion machine. The hours ~~shall~~ 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. ~~Evidence of this education~~ A certificate of completion issued by the



education provider must be submitted ~~to~~ 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 commission-issued certification ~~shall~~ 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.

**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. ~~Evidence of this education~~ A certificate of completion issued by the education provider must be submitted ~~to~~ 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 ~~commission-issued~~ 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.

**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 must successfully complete a minimum of 16 educational hours on the proper techniques to perform eyelash extensions. The hours shall cover the technique of applying eyelashes using adhesive and infection control and safety procedures specific to eyelash extensions that protect the client and licensee. ~~Evidence of this education~~ A certificate of completion issued by the education provider must be submitted ~~to~~ 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 commission issued~~ certification shall be posted in a public place in the salon while the licensee is working.

**Source:** 43 SDR 176, effective July 3, 2017.

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

**Law Implemented:** SDCL 36-15-13.2.

**20:42:08:10. Education requirement to perform shaving.** A licensee shall successfully complete a minimum of 16 educational hours on the proper techniques to perform straight razor shaving services. The hours must cover the technique of shaving and infection control and safety procedures specific to shaving 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 shall be posted in a public place in the salon while the licensee is working.

Source:

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

Law Implemented: SDCL 36-15-13.2

**CHAPTER 20:42:10**

**DISCIPLINARY PROCEEDINGS**

**(Repealed)**

Section

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

~~20:42:10:02 — Commission staff to investigate complaints.~~

~~20:42:10:03 — Dismissal of complaint.~~

~~20:42:10:04 — Informal disposition.~~

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

~~20:42:10:06 — Formal proceedings.~~

~~20:42:10:07 — Answer.~~

~~20:42:10:08 — Disqualification.~~

~~20:42:10:09 — Final action by commission.~~

~~20:42:10:10 — Petition for declaratory ruling.~~

~~20:42:10:11 — Commission action on petition.~~

~~20:42:10:12 — Adverse ruling.~~

**20:42:10:01. Complaints authorized--procedure following filing--electronic filing.** ~~Any person, including commission members and staff, may file with the executive director of the commission a written complaint claiming that a licensee has engaged or is engaging in conduct constituting grounds for disciplinary action. The complaint shall be verified on oath, stating the name and address of the licensee and fully detailing the conduct upon which the complaint is made. Upon receipt of the complaint, the executive director or commission staff assigned to the complaint may request more information from the person filing the complaint. If sufficient information is received to allege grounds for disciplinary action the executive director shall serve a copy of the complaint by mail on the licensee and on any other affected party. The licensee shall have 20 days to answer the complaint after its service. The licensee shall serve an answer to the complaint on the executive director.~~

~~—The executive director may reject the complaint if the complaint is not in proper form or if the complaint fails to allege grounds for disciplinary action.~~

~~—The licensee serving an answer under this section shall serve an original on the executive director. The executive director may accept a complaint or answer in an electronic format if it is readily accessible by the commission and in a format that can be downloaded, printed, or otherwise maintained as a record for future reference. Any person filing a complaint or an answer electronically shall submit one copy of the original Repealed.~~

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

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

~~—**Law Implemented:** SDCL 1-26-29, 36-15-55.2, 36-15-58.~~

**20:42:10:02. Commission staff to investigate complaints.** ~~The commission staff shall review and investigate disciplinary cases before the commission. At any time after receiving a complaint, the executive director may appoint a member of the commission to assist staff in reviewing and investigating complaints~~ Repealed.

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

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

~~— **Law Implemented:** SDCL 36-15-11(4), 36-15-13(16), 36-15-55.2.~~

**20:42:10:03. Dismissal of complaint.** ~~After receiving the answer to the complaint specified in § 20:42:10:01 or after the time has expired for the licensee complained against to answer, the executive director shall submit the complaint and any answer to the commission staff. The commission staff shall examine the complaint and answer to determine whether disciplinary action is necessary.~~

~~— If the commission staff determines that the complaint does not charge conduct constituting grounds for disciplinary action, the commission staff shall inform the commission of the intent to dismiss the complaint and notify the complainant in writing, stating the reasons for dismissal.~~

~~— If the commission disagrees with commission staff's intent to dismiss the complaint, the commission shall assign one of its members to assist in the resolution of the complaint~~ Repealed.

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

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

~~— **Law Implemented:** SDCL 1-26-29, 36-15-55.2, 36-15-58.~~

**20:42:10:04. Informal disposition.** ~~If the commission staff determines the complaint under § 20:42:10:01 constitutes grounds for disciplinary action, the commission staff may negotiate an assurance of voluntary compliance or a consent agreement to resolve the matter satisfactorily without a formal hearing.~~

~~— Any informal disposition negotiated by commission staff is subject to commission approval.~~  
Repealed.

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

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

~~— **Law Implemented:** SDCL 1-26-20.~~

**20:42:10:05. Assurance of voluntary compliance or consent agreement.** ~~In the enforcement of this chapter, the commission may accept an assurance of voluntary compliance or a consent agreement regarding any act or practice alleged to violate this article or SDCL chapter 36-15 from a person who has engaged in, is engaging in, or is about to engage the act or practice.~~

~~— The assurance or consent agreement must be in writing and is subject to the approval of the commission.~~

~~— Proof of failure to comply with the assurance of voluntary compliance or consent agreement is prima facie evidence of a violation of this chapter Repealed.~~

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

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

— ~~**Law Implemented:** SDCL 1-26-20, 1-26-24, 36-15-55.2.~~

~~**20:42:10:06. Formal proceedings.** If the commission staff decides to conduct a formal hearing after a complaint has been filed, the commission staff shall mail a formal complaint issued in the commission's name and a notice of hearing to the licensee complained against, the person making the complaint, and any other affected party.~~

— ~~A formal complaint shall contain any information required by SDCL 1-26-17 Repealed.~~

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

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

— ~~**Law Implemented:** SDCL 1-26-29, 36-15-58.~~

~~**20:42:10:07. Answer.** The licensee shall file an answer admitting, denying, qualifying, or explaining any fact contained in the formal complaint within 20 days following receipt of the formal complaint. The licensee serving an answer under this section shall serve an original on the executive director Repealed.~~

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

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

— ~~**Law Implemented:** SDCL 1-26-17, 36-15-58.~~

**20:42:10:08. Disqualification.** ~~If the complaint under § 20:42:10:01 was filed or investigated by a commission member, the commission member is disqualified from sitting at the hearing as a commission member and from participating in the decision made by the commission. The commission member may appear as a witness and give advice as to procedure~~ Repealed.

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

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

~~— **Law Implemented:** SDCL 1-26-26, 36-15-55.2.~~

**20:42:10:09. Final action by commission.** ~~After hearing the evidence and arriving at a decision that grounds for disciplinary action has been proved, the commission may assess its actual expenses for the proceeding to the licensee, revoke the license, suspend the license, or take a combination of these actions. If grounds for disciplinary action have not been proved, the commission shall dismiss the complaint or the parts of the complaint not proved. This section does not prevent the commission from compromising a formal hearing and the commission may also allow an assurance of voluntary compliance as prescribed by § 20:42:10:05~~ Repealed.

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

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

~~— **Law Implemented:** SDCL 1-26-25, 1-26-29, 36-15-55.2.~~



**20:42:10:10. Petition for declaratory ruling.** ~~A person seeking a ruling as to the applicability to that person of a statute or rule, or order of the board may file with the board 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 Cosmetology Commission for its declaratory ruling in regard to the following:~~

~~— (1) The statute or rule 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 board's declaratory ruling:~~

~~— (3) The precise issue to be answered by the board's declaratory ruling:~~

~~— Dated at (city and state), this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.~~

\_\_\_\_\_  
~~(Signature of Petitioner)~~

Repealed.

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

~~**General Authority:** SDCL 1-26-15.~~

~~**Law Implemented:** SDCL 1-26-15.~~

**20:42:10:11. Commission action on petition.** ~~Upon receipt of a petition for declaratory ruling, the commission may request from the petitioner any information that may be required for the issuance of its ruling. Within 30 days following the receipt of the petition, or within 30 days following receipt of requested information, the commission shall issue a declaratory ruling and serve a copy of the ruling by mail upon the petitioner Repealed.~~

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

~~— **General Authority:** SDCL 1-26-15.~~

~~— **Law Implemented:** SDCL 1-26-15.~~

**20:42:10:12. Adverse ruling.** ~~A person aggrieved by a declaratory ruling under § 20:42:10:11 may request a formal hearing within 30 days of the ruling. The hearing is a contested case and shall be held at the earliest convenience of the commission after the request is received Repealed.~~

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

~~— **General Authority:** SDCL 1-26-15.~~

~~— **Law Implemented:** SDCL 1-26-15, 1-26-16.~~