**44:74:01:01.  Definitions.** Terms defined in SDCL 34-12-1.1 have the same meaning in this article. In addition, terms used in this article mean:

 (1)  "Abuse," an intentional act toward an individual indicating that one or more of the following has occurred:

 (a)  A criminal conviction against a person for mistreatment toward an individual; or

 (b)  In the absence of a criminal conviction, substantial evidence that one or more of the following has occurred resulting in harm, pain, fear, or mental anguish:

 (i)  Misappropriation of a resident's property or funds;

 (ii)  An attempt to commit a crime against a resident;

 (iii)  Physical harm or injury against a resident; or

 (iv)  Using profanity, making a gesture, or engaging in any other act made to or directed at a resident;

 (2)  "Activities of daily living," the tasks of transferring, moving about, dressing, grooming, toileting, bathing, and eating performed routinely by a person to maintain physical functioning and personal care;

 (3)  "Cognitively impaired," a patient or resident with a mental deficiency which result in a diminished ability to solve problems, to exercise good judgment in the context of a value system, to remember, and to be aware of and respond to a safety hazard;

 (4)  "Department," the South Dakota Department of Health;

 (5)  "Direct contact," any activity that requires physically touching a patient or resident;

 (6)  "Emergency care," professional health services immediately necessary to preserve life or stabilize health due to the sudden, severe, and unforeseen onset of illness or accidental bodily injury;

 (7)  "Endorsement," the process of formally recognizing for the purpose of employment in a licensed health care facility in South Dakota the qualifications of a person trained and evaluated in another state as a nurse aide;

 (8)  "Equivalency," training of another or different type that is determined by the department to be equal to department approved training;

 (9)  "Exploitation," the wrongful taking or exercising of control over property of a person with intent to defraud that person;

 (10)  "Facility," the place of business used to provide health care for patients or residents;

 (11)  "Healthcare worker," any paid person working in a healthcare setting;

 (12)  "Misappropriation of resident property," the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent;

 (13)  "Mistreatment," an action that causes harm or has the potential to cause harm whether or not harm to the individual was intended. The inappropriate use of an individual's property with the individual's consent obtained through coercion, solicitation, or persuasion;

 (14)  "Neglect," harm to a person's health or welfare, without reasonable justification, caused by the conduct of someone responsible for the person's health or welfare, including offensive behavior made to or directed at a patient or resident, and the failure to provide timely, consistent, and safe services, treatment, or care necessary to avoid physical harm, mental anguish, or mental illness to the person;

 (15)  "Nurse," a registered nurse or a licensed practical nurse who holds a current license to practice in South Dakota pursuant to SDCL chapter 36-9;

 (16)  "Nurse aide," an individual providing nursing or nursing-related services who is not a licensed health professional, or someone who volunteers to provide such services without pay who is either:

 (a)  "Qualified," recognized as an individual who has successfully completed a training and competency evaluation program. May be acknowledged as a certified nurse assistant (CNA); or

 (b)  "Unqualified," recognized as an entry level individual enrolled in a training and competency evaluation program;

 (17)  "Nursing personnel," staff which includes registered nurses, licensed practical nurses, nurse aides, restorative aides, and orderlies;

 (18)  "Patient," a person with a valid order by a practitioner for diagnostic or treatment services in a hospital, specialized hospital, critical access hospital, swingbed, ambulatory surgery center, or chemical dependency treatment facility;

 (19)  "Personal care," assistance given by an adult foster care home owner in those areas of daily living when a resident has difficulty functioning because of a physical, mental, or emotional condition;

 (20)  "Registry," a computerized record of all nurse aides who have completed the minimum nurse aide training and competency evaluation requirements in article 44:74 to obtain registry status as a nurse aide;

 (21)  "Resident," a person not in need of acute care with a valid order by a practitioner for services in a nursing facility;

 (22)  "Restorative nursing," a part of nursing directed toward assisting a patient to achieve and maintain an optimal level of self-care and independence and which offers assistance to a patient in learning or relearning of skills needed in everyday activities;

 (23)  "Restraint," a physical, chemical, or mechanical device used to restrict the movement of a patient or resident or the movement or normal function of a portion of the patient's or resident's body, excluding devices used for specific medical and surgical treatment;

 (24)  "Supervised practical training," training in a laboratory or other setting in which the nurse aide performs health-related tasks on a patient or resident while under the direct supervision of a licensed nurse; and

 (25)  "Treatment," a medical aid provided for the purposes of palliating symptoms, improving functional level, or maintaining or restoring health.

 **Source:** 42 SDR 51, effective October 13, 2015.

 **General Authority:** SDCL 34-12-13.

 **Law Implemented:** SDCL 34-12-13.