

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0341

HOUSE BILL NO. 1025

Introduced by: The Committee on Health and Human Services at the request of the South Dakota Board of Nursing Facility Administrators

1 FOR AN ACT ENTITLED, An Act to revise certain statutes and administrative rules regarding
2 licensure of nursing facility administrators and to increase certain fees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-28-1 be amended to read as follows:

5 36-28-1. ~~For the purposes of this chapter, the following definitions are hereby established~~

6 Terms used in this chapter mean:

7 (1) "Board," ~~means~~ the South Dakota State Board of ~~Examiners~~ for Nursing Facility
8 Administrators;

9 (2) "Nursing facility," ~~means~~ any institution or facility defined as such for licensing
10 purposes under South Dakota law or pursuant to the rules ~~and regulations~~ for nursing
11 facilities and homes for the aged by the State Department of Health, whether
12 proprietary or nonprofit, including, ~~but not limited to~~ nursing facilities owned or
13 administered by the federal or state government or an agency or political subdivision
14 thereof;

15 (3) "Nursing facility administrator," ~~means~~ a person who administers, manages,



1 supervises, or is in general administrative charge of a nursing facility ~~or homes,~~
 2 whether ~~such~~ the individual has an ownership interest in such ~~home~~ facility and
 3 whether ~~his~~ the function and duties are shared with one or more individuals;
 4 ~~provided, however, that persons.~~ However, no person serving as a member of a
 5 nursing facility's board of directors ~~shall not qualify as~~ is a nursing facility
 6 administrator unless ~~he~~ the person is also serving in the requisite administration
 7 capacity as here defined; and

8 (4) "Administrator-in-training program," an internship completed under the supervision
 9 of a preceptor that meets the requirements established by the board pursuant to
 10 chapter 1-26.

11 Section 2. That § 36-28-2 be amended to read as follows:

12 36-28-2. ~~The South Dakota State Board for Nursing Facility Administrators consists of~~
 13 ~~eleven~~ board consists of five members. The members of the board shall be appointed by the
 14 Governor and shall include ~~one licensed physician and one registered nurse, neither of whom~~
 15 ~~may be an administrator or an employee of a nursing facility nor have any direct financial~~
 16 ~~interest in nursing facilities; one practicing hospital administrator who is also licensed as a~~
 17 ~~nursing facility administrator; two practicing administrators of proprietary nursing facilities; two~~
 18 ~~practicing administrators of nonprofit nursing facilities; a designee of the secretary of health;~~
 19 ~~a designee of the secretary of social services; and, two members~~ four members who are licensed
 20 nursing facility administrators who are actively practicing in South Dakota and one member of
 21 the general public who are not administrators or employees is not an administrator or employee
 22 of a nursing facility and who have has no direct financial interest in ~~nursing facilities~~ a nursing
 23 facility. The terms of all members are to be three years. No member may serve more than three
 24 consecutive full terms. The terms of members begin on October thirty-first of the calendar year

1 in which the Governor appoints the member, unless otherwise designated by the Governor. The
2 appointee's term expires on October thirtieth in the third year of appointment. ~~The designees of~~
3 ~~the health and social services departments shall serve without compensation and reimbursement~~
4 ~~as provided in § 36-28-25, except that their travel expenses shall be paid by their respective~~
5 ~~agencies pursuant to § 3-9-2.~~ The appointment to an unexpired term is not considered a full
6 term.

7 Any member's term ending June 30, 2013, or thereafter is extended to October thirtieth in
8 the year the term is to expire.

9 Section 3. That § 36-28-4 be amended to read as follows:

10 36-28-4. The board shall annually elect from its membership a ~~chairman, vice-chairman~~
11 president, vice president, and secretary-treasurer, and shall adopt rules pursuant to chapter 1-26
12 to govern its proceedings. No officer may serve more than three consecutive one-year terms. The
13 board may, ~~in accordance with chapter 3-6A, employ and fix the compensation and duties of~~
14 ~~necessary personnel to assist it in the performance of its duties~~ expend funds for administrative,
15 consultant, and other necessary services for the board with the amount of the expenditures to
16 be set by the board.

17 Section 4. That chapter 36-28 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The board shall meet at least annually. A majority of the members constitute a quorum. A
20 majority vote of those present constitutes a decision of the entire board.

21 Section 5. That chapter 36-28 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The board, its members, and its agents are immune from personal liability for actions taken
24 in good faith in the discharge of the board's responsibilities, and the state shall hold the board,

1 its members, and its agents harmless from all costs, damages, and attorney fees arising from
2 claims and suits against them with respect to matters to which the immunity applies.

3 Section 6. That § 36-28-7 be amended to read as follows:

4 36-28-7. The Board of Examiners is empowered to commence actions for injunctions for
5 violations of this chapter or regulations promulgated hereunder as an alternate to criminal
6 proceedings. The commencement of one proceeding by the board constitutes an election board
7 may commence an action for an injunction for a violation of this chapter or regulation
8 promulgated pursuant to this chapter.

9 Section 7. That § 36-28-8 be repealed.

10 ~~36-28-8. Notwithstanding the provisions of § 36-28-12, nothing in this chapter or the rules~~
11 ~~thereunder shall be construed to require an applicant for a license as a nursing facility~~
12 ~~administrator or a temporary license, who is certified by a recognized church or religious~~
13 ~~denomination which teaches reliance on spiritual means alone for healing as having been~~
14 ~~approved to administer institutions certified by such church or denomination for the care and~~
15 ~~treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical~~
16 ~~techniques or to meet any medical educational qualifications or medical standards not in accord~~
17 ~~with the remedial care and treatment provided in such institutions.~~

18 Section 8. That § 36-28-11 be amended to read as follows:

19 36-28-11. The Board of Examiners shall have the power, duty, and responsibility to board
20 may develop and apply appropriate techniques, including examination and investigation, for
21 determining whether an individual meets the requirements of § 36-28-10. Examination and
22 re-examination fees are nonrefundable and shall be fixed in rules promulgated by the ~~Board of~~
23 ~~Examiners~~ board pursuant to chapter 1-26 and may not exceed two hundred dollars.

24 Section 9. That § 36-28-12 be amended to read as follows:

1 36-28-12. The board may issue ~~licenses to qualified persons as nursing facility~~
2 ~~administrators, and shall~~ a license to a qualified person and may establish qualification criteria
3 pursuant to chapter 1-26 ~~for such nursing facility administrators~~. No license ~~shall~~ may be issued
4 to a person as a nursing facility administrator unless the applicant:

5 (1) ~~He is~~ Is at least eighteen years of age, of good moral character, and of sound physical
6 and mental health;

7 (2) ~~He has~~ Has satisfactorily completed ~~a course of instruction and~~ training prescribed
8 by the board, which ~~course~~ shall, by virtue of its content and administration, present
9 sufficient knowledge of the needs properly to be served by nursing facilities, laws
10 governing the operation of nursing facilities and the protection of the interests of the
11 residents therein, and the elements of good nursing facility administration; ~~or he must~~
12 ~~present evidence satisfactory to the board of sufficient education, training or~~
13 ~~experience in the foregoing fields to administer, supervise and manage a nursing~~
14 ~~facility~~; and

15 (3) ~~He has~~ Has passed an examination ~~administered~~ approved by the board designed to
16 test ~~his~~ the applicant's knowledge and competence regarding the subject matter
17 referred to in subdivision (2) of this section.

18 Section 10. That § 36-28-13 be amended to read as follows:

19 36-28-13. ~~Pending examination, the~~ The board may issue an emergency permit to practice
20 as a nursing facility administrator for a period not ~~exceeding~~ to exceed one year to a qualified
21 person filing a written application ~~for a license~~ with the board. The board ~~shall~~ may adopt rules
22 pursuant to chapter 1-26 regarding application procedures, renewal procedures, supervision, and
23 the nonrefundable fee for an emergency permit which may not exceed four hundred dollars.

24 Section 11. That § 36-28-14 be amended to read as follows:

1 36-28-14. The board may issue a nursing facility ~~administrator's license, without~~
2 ~~examination,~~ administrator license to any person who holds a current license as a nursing facility
3 administrator or equivalent license from another jurisdiction, if the board finds that the
4 standards for licensure in such other jurisdiction are at least substantially equivalent ~~of to~~ those
5 prevailing in this state and that the applicant is otherwise qualified. The board may adopt, by
6 rules promulgated pursuant to chapter 1-26, minimum requirements for qualification and a
7 nonrefundable fee for reciprocal licensure which may not exceed five hundred dollars.

8 Section 12. That § 36-28-15 be amended to read as follows:

9 36-28-15. Any person applying to be licensed as a nursing facility administrator shall pay
10 ~~an~~ a nonrefundable initial license fee in an amount set by rule promulgated by the board
11 pursuant to chapter 1-26, which may not exceed ~~one hundred fifty~~ five hundred dollars. The
12 initial license fee shall be prorated to the next biennial renewal date according to rule
13 promulgated by the board pursuant to chapter 1-26.

14 Section 13. That § 36-28-16 be amended to read as follows:

15 36-28-16. The ~~Board of Examiners shall~~ board may license nursing facility administrators
16 in accordance with this chapter and rules ~~issued by it in compliance with~~ promulgated by the
17 board pursuant to chapter 1-26. A nursing facility ~~administrator's administrator~~ administrator license ~~shall~~ is
18 ~~not be~~ transferable and ~~shall be~~ is valid until surrendered for cancellation or suspended or
19 revoked for violation of this chapter or ~~of any other law or regulation relating to the proper~~
20 ~~administration and management of a nursing facility~~ any rule promulgated pursuant to this
21 chapter. A nursing facility administrator license that is not renewed by December thirty-first of
22 even-numbered years expires and is no longer valid.

23 Section 14. That § 36-28-17 be repealed.

24 ~~36-28-17. The Board of Examiners shall have the power, duty, and responsibility to issue~~

1 licenses to individuals that it deems are qualified under the provisions of this chapter, and for
2 cause, after compliance with chapter 1-26, to revoke or suspend licenses previously issued by
3 the board in any case where the individual holding such license is determined substantially to
4 have failed to conform to the requirements of such standards.

5 Section 15. That § 36-28-18 be amended to read as follows:

6 36-28-18. ~~A~~ Each nursing facility administrator's administrator license expires on December
7 thirty-first biennially of even-numbered years and is renewable biennially thereafter upon
8 application to the board and payment of a biennial license renewal fee set by in rule promulgated
9 by the board pursuant to chapter 1-26. The renewal fee may not exceed ~~one hundred fifty five~~
10 hundred dollars.

11 Section 16. That § 36-28-18.1 be amended to read as follows:

12 36-28-18.1. The board may issue a duplicate licenses license and may promulgate rules
13 pursuant to chapter 1-26 and set ~~fees~~ a fee, which may not exceed ~~fifty~~ one hundred dollars;
14 pursuant to chapter 1-26.

15 Section 17. That § 36-28-18.2 be amended to read as follows:

16 36-28-18.2. A licensed nursing facility administrator may file for inactive status and pay a
17 fee of not more than ~~seventy-five~~ three hundred dollars. The administrator may reactivate the
18 license within five years of the date of inactivation by completing an application, paying the
19 required fee, completing the continuing education requirement, passing the state examination,
20 and fulfilling other ~~experiences~~ requirements as determined by the length of inactive status, as
21 prescribed by the board in rules promulgated pursuant to chapter 1-26.

22 Section 18. That § 36-28-19 be repealed.

23 ~~36-28-19. Any holder of a nursing facility administrator's license shall renew it biennially~~
24 ~~by making application to the Board of Examiners. Such renewals shall be granted without~~

1 examination upon the payment of the required fees, unless the board finds in compliance with
2 chapter 1-26 that such applicant has acted or failed to act in such a manner or under such
3 circumstances as would constitute grounds for suspension or revocation of a license.

4 Section 19. That § 36-28-20 be repealed.

5 ~~— 36-28-20. The board shall conduct a continuing study and investigation of nursing facilities
6 and administrators of nursing facilities within the state to improve the standards imposed for the
7 licensing of such administrators and the procedures and methods for the enforcement of such
8 standards.~~

9 Section 20. That § 36-28-21 be repealed.

10 ~~— 36-28-21. The Board of Examiners shall have the power, duty and responsibility to conduct,
11 or cause to be conducted, one or more courses of instruction and training sufficient to meet the
12 requirements of this chapter, and make provisions for such courses and their accessibility to
13 residents of this state unless it finds that there are a sufficient number of courses approved by
14 the board conducted by others within this state. In lieu hereof the board may approve courses
15 conducted within and without this state as sufficient to meet the educational and training
16 requirements of this chapter.~~

17 Section 21. That § 36-28-21.1 be amended to read as follows:

18 36-28-21.1. The Board of Examiners shall board may promulgate rules pursuant to chapter
19 1-26 to establish continuing education requirements for renewal of licenses a license.

20 Section 22. That § 36-28-22 be repealed.

21 ~~— 36-28-22. The Board of Examiners shall have the power, duty, and responsibility to establish
22 and carry out procedures designed to ensure that individuals licensed as nursing facility
23 administrators will, during any period that they serve as such, comply with the requirements of
24 such standards.~~

1 Section 23. That § 36-28-23 be amended to read as follows:

2 36-28-23. ~~The Board of Examiners shall have the power, duty, and responsibility to receive,~~
3 board may investigate; and take appropriate action with respect to any charge or complaint filed
4 with the board to the effect that any individual licensed as a nursing facility administrator has
5 failed to comply with the requirements of this chapter if it comes to the attention of the board
6 that a licensee may have violated a provision of this chapter or a rule promulgated pursuant to
7 this chapter. The board may revoke or suspend a license of any licensee violating any provision
8 of this chapter and any rule promulgated pursuant to this chapter.

9 Section 24. That § 36-28-24 be repealed.

10 ~~36-28-24. Any denial of issuance, renewal, suspension, or revocation under any section of~~
11 ~~this chapter shall be subject to review upon the timely request of the licensee and pursuant to~~
12 ~~chapter 1-26.~~

13 Section 25. That § 36-28-25 be amended to read as follows:

14 36-28-25. ~~All fees~~ Any fee collected under the provisions of this chapter shall be paid to the
15 ~~Board of Examiners~~ board, who shall keep ~~such fees~~ the fee in a fund to be known as the State
16 ~~Board of Examiners for Nursing Facility Administrators fund~~, which fund may be used and
17 expended by the board to pay the compensation and travel expenses, pursuant to § 3-9-2, of
18 members and employees of the board and other expenses necessary for the board to administer
19 and carry out the provisions of this chapter.

20 Section 26. That § 36-28-26 be repealed.

21 ~~36-28-26. The Board of Examiners shall have the power, duty, and responsibility to deposit~~
22 ~~and invest funds received by the board pursuant to this chapter.~~

23 Section 27. That § 36-28-27 be repealed.

24 ~~36-28-27. No provision of this chapter shall be construed as prohibiting or preventing a~~

1 ~~municipality, county or state from fixing, charging, assessing, or collecting any license fee,~~
2 ~~registration fee, tax or gross receipt tax on any profession covered by this chapter or upon any~~
3 ~~related profession governed by the provisions of this chapter.~~

4 Section 28. That ARSD 20:49:01:01 be amended to read as follows:

5 20:49:01:01. Definitions. Terms ~~defined in SDCL 36-28-1 have the same meaning when~~
6 ~~used in this article. In addition, terms used in this article mean:~~

7 (1) "Preceptor," ~~a licensed nursing facility administrator licensee~~ licensee who has been licensed for
8 at least four years in South Dakota, ~~has had no revocation or suspension of a license or other~~
9 ~~action taken as deemed necessary to protect the public, and has been approved by the board to~~
10 ~~train administrators-in-training;~~

11 (2) "Administrator-in-training," ~~"(AIT),"~~ a person who is ~~servicing in~~ employed by or
12 contracting with a licensed nursing facility and working under the supervision of a preceptor ~~and~~
13 ~~is in the process of while~~ completing the administrator-in-training ~~internship in at least 240~~
14 ~~hours in six consecutive months program; and~~

15 (3) "Administrator-in-training program," an internship completed under the supervision of
16 a preceptor that includes a minimum of 240 hours completed within six consecutive months
17 utilizing an internship manual and reporting forms approved by the board.

18 Section 29. That ARSD 20:49:02:02 be repealed.

19 ~~20:49:02:02. Officers and duties. An officer may serve no more than two consecutive~~
20 ~~one-year terms. The board may employ an executive secretary who may not be a member of the~~
21 ~~board and to whom duties may be delegated as considered proper.~~

22 Section 30. That ARSD 20:49:02:03 be amended to read as follows:

23 20:49:02:03. ~~Chairman~~ President. The ~~chairman~~ president shall preside at all meetings of
24 the board. In the absence of the ~~chairman, the vice-chairman~~ president, the vice president shall

1 preside at meetings and perform all duties usually performed by the ~~chairman~~ president.

2 Section 31. That ARSD 20:49:03:01 be amended to read as follows:

3 20:49:03:01. Examinations. An applicant for initial licensure ~~shall take a national and a~~
4 ~~state examination as follows~~ must pass the following examinations:

5 (1) The computer-based Nursing Home Administrators Licensing Examination ~~provided~~
6 administered by the National Association of Long Term Care Administrator Boards. ~~An~~
7 ~~examination fee shall be paid to the provider.~~ A passing score on the examination is a scaled
8 score with a passing point of 113; and

9 (2) A state examination provided by the board covering the rules of the South Dakota
10 Department of Health that govern nursing facilities. ~~The examination shall be held at a time~~
11 ~~determined by the board and applicant.~~ A nonrefundable fee of \$50 ~~must~~ \$100 shall be
12 submitted to the board prior to the examination date. A passing score on the examination is 75
13 percent.

14 ~~An applicant applying for relicensure must have passed the national and state examinations~~
15 ~~within the four years preceding the date of the application.~~

16 Section 32. That ARSD 20:49:03:02 be repealed.

17 ~~—20:49:03:02. Retention of examinations. Examination results for each candidate, shall be~~
18 ~~kept by the board for a minimum of two years. They may be destroyed only upon approval by~~
19 ~~the state records destruction board.~~

20 Section 33. That ARSD 20:49:03:03 be amended to read as follows:

21 20:49:03:03. Conditional admission to examination. The board may conditionally admit to
22 examination an applicant who, ~~on the date of the scheduled examination,~~ has not fully
23 established qualifications if, in the judgment of the board, it appears that the applicant is
24 otherwise qualified.

1 Section 34. That ARSD 20:49:03:05 be repealed.

2 ~~20:49:03:05. Review of application. An applicant for examination who has been~~
3 ~~disqualified may petition the board in writing within 30 days after notification of~~
4 ~~disqualification for a hearing and a review of the applicant's application.~~

5 Section 35. That ARSD 20:49:03:07 be amended to read as follows:

6 20:49:03:07. Reexamination. An applicant who has failed the national or state examination
7 may retake the failed examination if the applicant ~~meets the current requirements for licensure~~
8 ~~and~~ pays the applicable nonrefundable examination fee ~~as set in § 20:49:03:01 and the~~
9 ~~reexamination fee of \$50~~. An applicant who has failed either examination is entitled to
10 reexamination a maximum of three times for each examination upon payment of the applicable
11 fees. If unsuccessful after four attempts, the applicant may petition the board for reconsideration.

12 Section 36. That ARSD 20:49:04:01 be amended to read as follows:

13 20:49:04:01. Requirements for ~~education and training~~ initial licensure. An applicant for
14 licensure as a nursing facility administrator ~~must~~ shall meet the education and training
15 requirements ~~as follows~~ and shall submit the following:

16 (1) ~~Have at least a baccalaureate degree, and~~ A completed application form and a
17 nonrefundable fee of \$300;

18 (2) ~~Have successful service as an administrator-in-training as defined in § 20:49:01:01(2)~~
19 ~~or have completed a practicum in long term healthcare from a regionally accredited higher~~
20 ~~education program. Applicants applying for relicensure must have completed an~~
21 ~~administrator-in-training program or practicum within the four years preceding the date of the~~
22 ~~application~~ Certified transcripts verifying completion of at least an associate degree;

23 (3) Verification of:

24 (a) Completion of an administrator-in-training program within four years

1 preceding the date of application; or

2 (b) Completion of a practicum in long term healthcare administration from a
3 higher education institution accredited by an organization recognized by the
4 Council for Higher Education Accreditation within four years preceding the
5 date of application;

6 (4) A copy of the applicant's driver license or equivalent birth verification;

7 (5) Three letters of recommendation from professional references not related to the applicant
8 by kinship or marriage;

9 (6) Verification of passage of the Nursing Home Administrators Licensing Examination
10 administered by the National Association of Long Term Care Administrators Board within four
11 years preceding the date of application; and

12 (7) Verification of passage of the state examination approved by the board covering the rules
13 of the South Dakota Department of Health that govern nursing facilities within four years
14 preceding the date of application.

15 Section 37. That ARSD 20:49:04:02 be repealed.

16 ~~— 20:49:04:02. Application requirements. An applicant must apply for licensing on forms~~
17 ~~provided by the board. The applicant must submit letters of recommendation from three~~
18 ~~individuals engaged in either business or a profession. The applicant must attach to the~~
19 ~~application a photocopy or certified copy of the applicant's birth certificate or an equivalent birth~~
20 ~~verification. The applicant must provide a certified transcript of the applicant's education and~~
21 ~~training. The completed application, the accompanying documents described in this section, and~~
22 ~~the payment of nonrefundable fees must be received by the board before the examinations~~
23 ~~required in § 20:49:03:01 and the administrator-in-training program required in subdivision~~
24 ~~20:49:01:01(2).~~

1 Section 38. That ARSD 20:49:04:03 be amended to read as follows:

2 20:49:04:03. Conviction of felony. ~~An applicant for examination for licensure who has been~~
3 ~~convicted of a felony by any court may not take the examination. The board may refuse to issue~~
4 a license if the applicant has been convicted, pled no contest, nolo contendere, pled guilty to,
5 or been granted a deferred judgment or suspended imposition of sentence, or had prosecution
6 deferred with respect to a felony.

7 Section 39. That ARSD 20:49:04:08 be repealed.

8 ~~20:49:04:08. Initial license fee. The fee for initial licensure is \$150.~~

9 Section 40. That ARSD 20:49:05:01 be amended to read as follows:

10 20:49:05:01. Emergency permit. To meet the needs of a nursing facility that has a vacancy
11 in the administrator's position, an emergency permit to practice as a nursing facility
12 administrator may be issued to a person for not more than 180 days, subject to the following:

13 (1) A person of authority from the facility with the vacancy ~~requests in writing that an~~
14 ~~emergency permit be issued for their emergency administrator~~ submits an application,
15 accompanied by a nonrefundable emergency permit fee of ~~\$100~~ \$200;

16 (2) The emergency administrator ~~is~~ provides services under the supervision of a ~~certified~~
17 ~~preceptor~~;

18 (3) The preceptor provides appropriate supervision and is reasonably available to the
19 emergency administrator to provide assistance; and

20 (4) The preceptor observes the emergency administrator at least two days a month in the
21 facility in which the emergency administrator is serving and keeps a written memorandum of
22 what was accomplished or discussed at each visit. This A copy of the dated memorandum shall
23 accompany the monthly report required in subdivision (4) of this section; and

24 ~~(4) The preceptor makes a written report to the board every month on the performance of~~

1 ~~the emergency administrator be maintained by the emergency administrator and the preceptor~~
2 ~~for one year following the date of expiration of the emergency permit.~~

3 A preceptor may be held responsible for the acts of the emergency administrator operating
4 under the preceptor's supervision only if the preceptor does not fulfill the requirements as stated
5 above.

6 Section 41. that ARSD 20:49:06:01 be amended to read as follows:

7 20:49:06:01. Reciprocal licensure. ~~The board may recognize and endorse a nursing facility~~
8 ~~administrator license issued by the authorities of another political subdivision of the United~~
9 ~~States if the following requirements are met:~~

10 ~~—(1) The other political subdivision provides verification of the educational level of the~~
11 ~~applicant and a passing score on the board approved national examination;~~

12 ~~—(2) The applicant is familiar with state and local health and safety rules related to nursing~~
13 ~~facilities, has passed the board's state examination as defined in § 20:49:03:01(2), and has had~~
14 ~~an orientation under a preceptor covering South Dakota Department of Health rules governing~~
15 ~~nursing facilities. The preceptor shall file a report on the orientation with the board;~~

16 ~~—(3) The applicant for reciprocal licensure has never had a license as a nursing facility~~
17 ~~administrator revoked or suspended;~~

18 ~~—(4) The applicant has demonstrated at least six consecutive months of service as an~~
19 ~~administrator of a licensed nursing facility; has served as an administrator-in-training for at least~~
20 ~~six consecutive months; or has completed a practicum in long term healthcare from a regionally~~
21 ~~accredited higher education program within four years preceding the date of application for~~
22 ~~reciprocal licensure; and~~

23 ~~—(5) The nonrefundable fee for reciprocal licensure is \$150 prorated to the next biennial~~
24 ~~renewal date. An applicant for reciprocal licensure as a nursing facility administrator shall meet~~

1 the education and training requirements and shall submit the following:

2 (1) A completed application form and a nonrefundable fee of \$300;

3 (2) Certified transcripts verifying completion of at least an associate degree;

4 (3) Verification of completion of:

5 (a) An administrator-in-training program within four years preceding the date of
6 application;

7 (b) A practicum in long term care healthcare administration from a higher
8 education institution accredited by an organization recognized by the Council
9 for Higher Education Accreditation within four years preceding the date of
10 application; or

11 (c) Six consecutive months of service as an administrator of a licensed nursing
12 facility within four years preceding the date of application;

13 (4) A copy of the applicant's driver license or equivalent birth verification;

14 (5) Three letters of recommendation from professional references not related to the applicant
15 by kinship or marriage;

16 (6) Verification of passage of the Nursing Home Administrators Licensing Examination
17 administered by the National Association of Long Term Care Administrator Boards;

18 (7) Verification of passage of the state examination provided by the board covering the rules
19 of the South Dakota Department of Health that govern nursing facilities within four years
20 preceding the date of application; and

21 (8) A certified letter verifying the nursing facility administrator license, or equivalent
22 license, and status of such license from the board in each state or other political subdivision of
23 the United States in which the applicant is or has been licensed. If an applicant for reciprocal
24 licensure has had action taken against a license as a nursing facility administrator, or equivalent

1 license, the applicant may be denied a license.

2 Section 42. That ARSD 20:49:07:02 be amended to read as follows:

3 20:49:07:02. Duplicate licenses. The board may issue a duplicate license upon request and
4 payment of a \$50 fee.

5 Section 43. That ARSD 20:49:08:01 be amended to read as follows:

6 20:49:08:01. Application for renewal. Every person who holds a ~~valid license as a nursing~~
7 ~~facility administrator issued by the board~~ shall apply to the board biennially by December 31
8 of each even-numbered ~~years to the board for a renewal of the license year~~ and report any
9 information requested by the board on forms provided ~~for the purpose. A nursing facility~~
10 ~~administrator whose license has expired may petition the board for consideration of renewal.~~
11 ~~A nursing facility administrator~~ by the board. A licensee need not be actively practicing as a
12 nursing facility administrator to be eligible to renew the license.

13 Section 44. That ARSD 20:49:08:01.01 be amended to read as follows:

14 20:49:08:01.01. Fee for renewal. The ~~biennial~~ nonrefundable fee for renewal of a license
15 is ~~\$150~~ \$300.

16 Section 45. That ARSD 20:49:08:02 be amended to read as follows:

17 20:49:08:02. Inactive status -- Reactivation. ~~The~~ A licensee may place the license as
18 inactive upon completion of a form provided by the board and payment of the nonrefundable
19 fee of ~~\$75~~ \$150. A licensee may reactivate the license ~~pursuant to SDCL 36-28-18.2~~ within five
20 years following the date of inactivation. The required fee to reactivate a license is the ~~amount~~
21 ~~of the licensure fee prorated to the next biennial renewal date~~ initial licensure fee. To satisfy the
22 continuing education requirement to reactivate a license, the licensee shall provide evidence of
23 20 hours of board approved continuing education earned within the past 12 months.

24 Section 46. That ARSD 20:49:08:03 be amended to read as follows:

1 20:49:08:03. Continuing education requirements. A minimum of 40 clock hours of board
2 approved continuing education pertaining to health care, healthcare administration, or business
3 administration is required biennially for renewal of a license. The board may accept academic
4 courses pertaining to health care, healthcare administration, or business administration offered
5 through ~~an accredited higher education institution and earned as college credit~~ a higher
6 education institution accredited by an organization recognized by the Council for Higher
7 Education Accreditation. The board may approve continuing education providers and programs;
8 ~~programs presented by board-approved providers, programs approved by another state licensing~~
9 ~~board for nursing facility administrators, and programs by approved continuing education~~
10 ~~providers of the National Association of Long Term Care Administrator Boards.~~

11 Section 47. That ARSD 20:49:08:04 be amended to read as follows:

12 20:49:08:04. Criteria for continuing education course approval. ~~An organization or~~
13 ~~presenter~~ A provider or program that desires approval ~~of a continuing education program shall~~
14 as a continuing education provider or program may apply on a form provided approved by the
15 board ~~at least 30 days before or 30 days after the program date. The application shall state the~~
16 ~~dates, subjects offered, total hours of instruction, names and qualifications of speakers, and~~
17 ~~other pertinent information.~~ The board shall notify the applicant ~~in writing~~ of its decision.

18 Section 48. That ARSD 20:49:08:05 be repealed.

19 ~~— 20:49:08:05. Attendee request for continuing education approval. An attendee seeking post~~
20 ~~approval of a program pertaining to health care or business administration shall submit to the~~
21 ~~board, within 30 days after completion of the program, its dates, subject matter, and a copy of~~
22 ~~the certification of attendance. The board shall advise the attendee in writing whether the~~
23 ~~program is approved and the number of continuing education hours allowed.~~

24 Section 49. That ARSD 20:49:10:08 be repealed.

1 ~~20:49:10:08. Procedures in contested cases. To initiate proceedings to reprimand a nursing~~
 2 ~~facility administrator or to revoke, suspend, deny, or deny renewal of the license or permit of~~
 3 ~~any nursing facility administrator in South Dakota, a member of the board or any other~~
 4 ~~interested person may file with the board a complaint stating the facts of the complaint and the~~
 5 ~~action requested or the board may initiate proceedings by resolution. On the filing of any~~
 6 ~~complaint, the board shall fix a date for hearing and give notice of the hearing. Written notice~~
 7 ~~of the final determination of the board on the complaint shall be given to interested persons, and~~
 8 ~~the date of the notice begins the time within which an appeal of the determination may be taken.~~

9 Section 50. That ARSD 20:49:10:09 be repealed.

10 ~~20:49:10:09. Procedures in board hearings. A record of the hearing in a contested case shall~~
 11 ~~be taken by court reporter or recording equipment. If a transcript is requested, the board may~~
 12 ~~require the person requesting it to pay the reasonable cost of preparing the transcript.~~

13 Section 51. That ARSD 20:49:14:01 be amended to read as follows:

14 20:49:14:01. Petition for declaratory ruling. Any person wishing the board to issue its ruling
 15 as to the applicability to that person of any statutory provision or rule or order of the board may
 16 file with the board a petition in substantially the following form:

17 STATE OF SOUTH DAKOTA

18 SOUTH DAKOTA STATE BOARD OF EXAMINERS

19 FOR NURSING HOME ADMINISTRATORS

20 Petition for Declaratory Ruling

21 ~~Pursuant to the provisions of SDCL 1-26-15, I, (name of petitioner), of (address of~~
 22 ~~petitioner), am (title or capacity of petitioner), and do hereby petition the South Dakota State~~
 23 ~~Board of Examiners for Nursing Home Administrators for its declaratory ruling in regard to the~~
 24 ~~following:~~

1 ~~1. The state statute or State Board of Examiners for Nursing Home Administrators rule or~~
2 ~~order in question is: (here identify and quote the pertinent statute, rule or order).~~

3 ~~2. The facts and circumstances which give rise to the issue to be answered by the board's~~
4 ~~declaratory ruling are:~~

5 ~~3. The precise issue to be answered by the board's declaratory ruling is:~~

6 ~~4. The action requested to be taken by the board is and the reasons for such action are:~~

7 ~~Dated at (city and state) this _____ day of _____ 19__.~~

8 _____

9 _____ (Signature of petitioner)

10 may petition the board to issue a declaratory ruling by filing a written request.

11 Section 52. That ARSD 20:49:14:02 be repealed.

12 ~~20:49:14:02. Board action on petition. Upon receipt of the petition, the board may request~~
13 ~~from the petitioner any other information that may be required by it for the issuance of its ruling.~~

14 ~~Within 30 days following receipt of the petition, or within 30 days following receipt of the other~~
15 ~~information requested, the board shall issue its declaratory ruling and serve a copy by mail upon~~
16 ~~the petitioner.~~

17 Section 53. That ARSD 20:49:15:01 be amended to read as follows:

18 20:49:15:01. Grounds for revocation, suspension, or ~~nonrenewal~~ other action. The license
19 ~~or emergency permit of a nursing facility administrator may be revoked, suspended, or not~~
20 ~~renewed by the board for cause~~ board may revoke or suspend a license or take other action

21 deemed necessary to protect the public upon any of the following grounds:

22 (1) The licensee failed to complete continuing education requirements;

23 (2) The licensee or permittee is guilty of fraud, bribery, or deceit in procuring a license or
24 permit, in carrying out the duties as a nursing home administrator, or in obtaining renewal of

1 a license or permit;

2 (3) The licensee or permittee has been convicted of, pled no contest, nolo contendere, pled
3 guilty to, or been granted a deferred judgment or suspended imposition of sentence, or had
4 prosecution deferred with respect to a felony. The conviction of a felony is the conviction of A
5 felony is any offense which would be a felony under the laws of South Dakota if it was
6 committed in the state;

7 (4) The licensee or permittee is addicted to the use of intoxicating beverages, narcotics, or
8 any of the drugs or controlled substances ~~set forth in SDCL 34-20B~~ to such an extent that the
9 licensee or permittee cannot perform the duties;

10 (5) The physical or mental condition of the licensee or permittee is determined by a
11 competent examiner to jeopardize those who seek the professional services of the licensee or
12 permittee. A majority of the board may demand an examination of the licensee or permittee. If
13 the licensee or permittee fails to submit to the examination, it is immediate grounds for
14 suspension of the license or permit;

15 (6) The licensee or permittee is guilty of unprofessional conduct; ~~and~~

16 (7) The licensee or permittee has violated any provision of SDCL chapter 36-28 or ~~this~~
17 ~~article~~ any rule promulgated pursuant to that chapter; or

18 (8) The licensee had an action taken against a nursing facility administrator or equivalent
19 license in another jurisdiction.

20 Section 54. That ARSD 20:49:15:02 be amended to read as follows:

21 20:49:15:02. Unprofessional conduct. Unprofessional conduct includes but is not limited
22 to the following:

23 (1) Failure to exercise technical competence in carrying out nursing facility administration;

24 (2) Failure to follow or enforce policies or procedures necessary to assure patient or resident

1 welfare and safety;

2 (3) Failure to safeguard the patient's or resident's dignity and right to privacy;

3 (4) Violating the confidentiality of information or knowledge concerning the patient or
4 resident;

5 (5) Mental, verbal, or physical abuse of ~~patients or residents~~ a patient or resident;

6 (6) Using alcohol or other drugs to the extent that there is significant interference with job
7 performance;

8 (7) Misuse of drug supplies, narcotics, or ~~patients' or residents'~~ a patient's or resident's
9 records;

10 (8) Falsifying ~~patients' or residents'~~ a patient's or resident's records or intentionally charting
11 incorrectly;

12 (9) Appropriating medications, supplies, or personal items of the patient or resident or
13 agency;

14 (10) Forging ~~prescriptions~~ a prescription or making ~~drugs~~ a drug available to self, friends,
15 or family members;

16 (11) Falsifying records submitted to the board, to the state department of health, or to any
17 other government agency;

18 (12) Delegating nursing facility administrator care, functions, tasks, or responsibilities to
19 others contrary to SDCL chapter 36-28 or to the detriment of patient or resident safety;

20 (13) Failure to exercise appropriate supervision over persons who are authorized to practice
21 only under the supervision of a licensed professional;

22 (14) Leaving a nursing facility administrator assignment or post without notifying a
23 substitute;

24 (15) Assisting any other person to violate or circumvent any provision of SDCL chapter

1 36-28 or this article;

2 (16) Permitting an unlicensed person to use a nursing facility administrator license or permit

3 for any purpose; and

4 (17) Having a license or certificate in a related health care discipline in the state of South

5 Dakota or in another state denied, refused renewal, revoked, or suspended due to unprofessional

6 conduct as defined in items 1 to 16, inclusive, of this rule.