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**ARTICLE 20:75**

**CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTANTS**

Chapter

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**ADMINISTRATION**

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 **20:75:01:01.  Definitions.** Terms used in this article mean:

 (1)  "Accounting services," accounting, attest, tax, or management advisory services, and academia;

 (2)  "AICPA," the American Institute of Certified Public Accountants;

 (3)  "Attest," as defined in SDCL 36-20B-2;

 (4)  "Board," as defined in SDCL 36-20B-1;

 (5)  "Certificate," as defined in SDCL 36-20B-1;

 (6)  "Financial statements," statements, footnotes, and other supplementary information related thereto that undertake to present an actual or anticipated financial position as of a point in time, or results of operations, cash flow, or changes in financial position for a period of time, in conformity with generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory service reports to support recommendations to a client; nor does it include tax returns and supporting schedules;

 (7)  "License," as defined in SDCL 36-20B-1;

 (8)  "Member," as defined in SDCL 36-20B-1;

 (9)  "NASBA," the National Association of State Boards of Accountancy;

 (10)  "Permit," as defined in SDCL 36-20B-1;

 (11)  "Partnership" or "corporation," any form of business organization authorized under the laws of this or any other state;

 (12)  "Practice of public accountancy," providing or offering to provide attest services to the public, or using the titles certified public accountant, public accountant, CPA, or PA;

 (13)  "Public accountant," as defined in SDCL 36-20B-1;

 (14)  "Registration," a public accountant's license to practice as defined in SDCL 36-20B-38;

 (15)  "Report," as defined in SDCL 36-20B-3;

 (16)  "Resident manager," a licensee designated by a firm to be responsible for an office location's compliance with SDCL chapter 36-20B and this article.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12.

 **Law Implemented:** SDCL 36-20B-12.

 **20:75:01:02.  Board meetings -- Elections.** The board shall elect a chair, vice-chair, and secretary-treasurer annually at the first meeting of the fiscal year, which shall be held in July or August. The board shall meet at other times upon the call of its chair or upon written request of three or more members of the board.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(1).

 **Law Implemented:** SDCL 36-20B-5.

 **20:75:01:03.  Notice.** The secretary-treasurer shall give written notice of any meeting, except an emergency meeting, at least seven calendar days before the meeting by personal delivery or mailed to each board member at the address shown on the records of the board. The notice may be sent by facsimile. The secretary-treasurer shall give notice of an emergency meeting in the same manner at least 24 hours before the emergency meeting.

 Notice sent by mail is considered delivered when it is deposited in the United States mail with postage prepaid. Notice sent by facsimile is considered delivered when the notice is transmitted by facsimile machine. If a notice is required to be given to a board member, a waiver of the notice in writing signed at any time before or after the time of the meeting by the board member entitled to notice is the equivalent of the giving of the notice. The attendance of a board member at a meeting is a waiver of notice of the meeting, except when a board member attends a meeting for the expressed, sole purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(1).

 **Law Implemented:** SDCL 36-20B-5.

 **20:75:01:04.  Emergency meetings.** The board may hold an emergency meeting if the nature of the emergency is stated in the notice and in the minutes and formal action taken at the meeting pertains only to the emergency.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-5.

 **20:75:01:05.  Duties of chair and vice-chair.** The chair shall preside at all meetings and shall perform other duties as the board directs. In the absence or disability of the chair, the vice-chair shall perform the duties of the chair.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(1).

 **Law Implemented:** SDCL 36-20B-5.

 **20:75:01:06.  Duties of secretary-treasurer -- Records.** The secretary-treasurer shall have charge of the funds and shall keep a record of the business and transactions of the board. The records kept shall include any application for license, certification, or permit and any accompanying papers and information; complete and comprehensive minutes of the meetings of the board; a complete and permanent record of the licenses, certificates, and permits issued and fees paid; a correct and permanent record and account of the moneys of the board; and any other evidence of business and transactions of the board. The board may employ a nonmember to fulfill all or any part of the secretary-treasurer's duties.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(1).

 **Law Implemented:** SDCL 36-20B-5, 36-20B-9.

 **20:75:01:07.  Discretion to waive certain requirements.** Upon good cause shown by the applicant or licensee, the board may waive any application or administrative fees or any deadlines set in this article. For the purpose of this section, good cause includes any personal emergency, act of God, administrative error made by the board or the board of another state, military deployment, or substantial compliance with SDCL chapter 36-20B or article 20:75.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009; 45 SDR 84, effective December 20, 2018.

 **General Authority:** SDCL 36-20B-12(16)(17).

 **Law Implemented:** SDCL 36-20B-12.

Section

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Appendix A List of Most Commonly Used Reliable Standardized Psychometric Tests.

 **20:75:02:01.  Initial and reexamination applicants.** For the purpose of this chapter, an initial applicant is an applicant who meets the following criteria:

 (1)   Has not previously applied to the board as an examination candidate;

 (2)  Applied and was accepted as an examination candidate but did not appear for the examination; or

 (3)  Applied and was accepted contingent upon completion of the educational requirement, but did not fulfill such requirement.

 For the purposes of this chapter, a reexamination applicant is an applicant who has been accepted as an examination candidate by the board, sat for the examination, and fulfilled the educational requirements of SDCL 36-20B-15.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12.

 **20:75:02:02.  Application for examination.** Each candidate shall file a complete application. A complete application is one that is properly filled out, accompanied by payment of fees required by the board, and, if an initial application, accompanied by all required official transcripts.

 An application is due when specified by the board in the application form or instructions. The board shall forward notification of eligibility for the computer-based examination to the NASBA National Candidate Database. Each eligible candidate shall be notified of the time and place of the examination, or shall be instructed to independently contact a test center operator identified by the board to schedule the time and place for the examination, at a board approved test site.

 An application is not considered filed until the examination fee and all required supporting documents, including official transcripts as required in SDCL 36-20B-15, have been received by the board.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 165, effective December 22, 2008.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **20:75:02:03.  Examination fees.** Upon good cause shown by the applicant, the board may allow fees paid to the board to be transferred to a subsequent examination or session, but fees due to third party entities are not transferable. In all other cases, any fee is forfeited and reapplication, with the appropriate fees, is required. The examination fee entitles the applicant to sit for the examination. If the applicant meets the requirements of SDCL 36-20B-13 and 36-20B-19, the applicant is eligible to apply for a certificate.

 The fees required for the Uniform Certified Public Accountant examination include the development and scoring fee set by, and paid to, the American Institute of Certified Public Accountants, the testing delivery fee and fee for the digital photograph required for identification purposes set by, and paid to, Prometric, and the national database and reporting fee set by, and paid to, the National Association of State Boards of Accountancy. The board will charge an administrative fee of $30 for each examination section for the processing and assessment of the application.

 The board shall set authorization periods in which approved applicants may schedule the computer-based CPA examination. An applicant's failure to schedule examination sections in such authorization period may result in the loss of examination fees. If a South Dakota candidate takes the examination in a state that requires a proctoring fee, the candidate shall pay the proctoring fee required by that state.

 Current window testing fees for the delivery of the uniform certified public accountant examination will be on the examination application and posted on the board's website.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 31 SDR 214, effective July 6, 2005.

 **General Authority:** SDCL 36-20B-12(12), 36-20B-17.

 **Law Implemented:** SDCL 36-20B-17, 36-20B-19.

 **Cross-Reference:** Discretion to waive certain requirements, § 20:75:01:07.

 **20:75:02:04.  Education.** For the purpose of satisfying education requirements in SDCL 36-20B-15, a semester hour means the conventional college semester hour. Quarter hours may be converted to semester hours by multiplying them by two-thirds.

 Both a major in accounting and a course of study substantially equivalent to a major in accounting must include:

 (1)  Twenty-four semester hours in accounting at the undergraduate or graduate level from an accredited college or university, not including elementary principles of accounting, and at least one course in each of the following: intermediate or advanced accounting, auditing, taxation, and cost accounting; and

 (2) Twenty-four semester hours in business courses, other than accounting courses, at the undergraduate or graduate level.

 A course may not be audited but must appear as semester or quarter hour credit on an official transcript.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 50 SDR 67, effective December 5, 2023; 50 SDR 67, effective January 1, 2024.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-15.

 **20:75:02:05.  Misconduct during examination.** The board or its representative who is administering the examination may expel an applicant from further participation in the examination because of misconduct during the examination. The board may suspend the applicant's right to take any subsequent examination. No grade may be given for the examination of an expelled applicant. Acts of misconduct during an examination session include the following:

 (1)  Falsifying or misrepresenting educational credentials or other information required for admission to the examination;

 (2)  Communication between candidates inside or outside of the examination room while the examination is in progress, copying another's answers, or allowing one's answers to be copied;

 (3)  Communication with others outside the examination room while the examination is in progress;

 (4)  Possession of or reference to crib sheets, textbooks, or other material inside or outside the examination room while the examination is in progress;

 (5)  Substitution by an applicant of another person to sit in the examination room in the applicant's stead and write one or more of the examination papers;

 (6)  Removal of an examination booklet, answer booklet, answer sheet, or workpaper from the examination room;

 (7)  Failure to comply with directions during an examination session;

 (8)  Failure to stop writing at the conclusion of the examination session; and

 (9)  Possession of any item in the examination room concealed in any manner on the applicant or in personal items, such as any type of camera, cellular phone, or audio equipment, which is capable of transmitting examination information either by photographing, e-mailing, texting, or by audio.

 For any violation of subdivision 1-9 under this rule, the board may postpone a scheduled examination, the release of grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

 Prior to acceptance for any future examination, an individual who has been expelled from an examination due to misconduct must petition the board in writing requesting readmission. Upon receipt of the petition, the board may schedule a formal hearing in accordance with SDCL chapter 1-26. The petitioner must demonstrate by clear and convincing evidence that the petitioner should be readmitted to an examination. The cost of the hearing must be paid by the petitioner.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 199, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-19.

 **Law Implemented:** SDCL 36-20B-19.

 **Cross References:** Discretion to waive certain requirements, § 20:75:01:07; "Good moral character" defined, SDCL 36-20B-14.

 **20:75:02:06.  Request for accommodation of disability.** The board shall accommodate the identified needs of qualified individuals with disabilities by making reasonable modifications or providing auxiliary aids or services. The board shall review a request for accommodation, auxiliary aids, or services in accordance with this section and §§ 20:75:02:07 to 20:75:02:09, inclusive. The board may not grant the request if doing so would fundamentally alter the measurement of skills or knowledge the examination is intended to test or would create undue financial or administrative burden on the board.

 The board shall evaluate requests for reasonable accommodations for disabled individuals, who, because of special circumstances, believe they need additional time to complete the examination or special accommodations for taking the examination individually.

 To request special accommodations, an individual must submit a written request to the board on forms provided by the board. The individual must supply the following information and materials for the board's evaluation:

 (1)  Identification of the type of disability, such as physical, mental, or learning;

 (2)  Professional verification of the disability by a qualified evaluator;

 (3)  An outline of accommodations or auxiliary aids needed; and

 (4)  A history of prior accommodations related to the currently identified disability.

 All material must be signed original documents, and the board shall keep them confidential to the extent provided by law. The board may confer with consultants on the appropriateness of the request or may request the candidate to submit a second opinion.

 The board may consider requests for additional time for each section and may require a second opinion be provided by an expert of the board's choice. Qualified individuals must sit for the examination in accordance with the requirements in SDCL subdivisions 36-20B-19(1) and (5).

 The individual requesting an accommodation must pay for documentation submitted to the board with the request. The board shall pay for the board's consultants and any second opinion.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 165, effective December 22, 2008.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **Cross-References:**

Definition of disability -- Learning disability, § 20:75:02:07.

 Administrative procedures, SDCL chs 1-26, 1-27.

 **20:75:02:07.  Definition of disability -- Learning disability.** A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual; having a record of such an impairment; or being regarded as having such an impairment. Mental impairment includes any mental or psychological disorder, such as organic brain syndrome, emotional or mental illness, and specific learning disabilities.

 A learning disability is individual evidence of significant learning difficulties which substantially affect or limit one or more major life activities and which are not primarily due to cultural, emotional, or motivational factors. The term does not include learning problems which are primarily the result of a visual, hearing, or motor disability, intellectual disability; emotional disturbance; or environmental, cultural, or economic disadvantage. The individual must show evidence of significant impairment in one or more of the following areas of intellectual functioning and information processing:

 (1)  Attention and concentration;

 (2)  Efficiency and speed of information processing;

 (3)  Reception (perception and verbal comprehension);

 (4)  Memory (ability for new learning);

 (5)  Cognition (thinking); or

 (6)  Expression.

 Significant impairment is determined by a discrepancy of 1.5 standard deviations, or more, between the individual's intellectual functioning, as measured by one of the general cognitive ability tests listed in the List of Most Commonly Used Reliable Standardized Psychometric Tests in Appendix A at the end of this chapter and actual performance on reliable standardized measures of attention and concentration, memory, language reception and expression, cognition, and in the academic areas of reading, spelling, writing, and mathematics. If a measurement instrument is used which is not on this list, it may be considered if it is listed in the **Mental Measurements Yearbook** issued by Buros Institute of Mental Measurement, University of Nebraska, and is being used for the purpose for which it was developed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 165, effective December 22, 2008; 39 SDR 33, effective September 5, 2012; 41 SDR 111, effective January 19, 2015; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **Reference:** **Mental Measurements Yearbook 20,** January 2017 edition, Buros Mental Measurement Institute, University of Nebraska. Copies of the yearbook may be ordered from the University of Nebraska Press, PO Box 880484, Lincoln, NE 68588. The cost of the yearbook is $210. The South Dakota State Library has the yearbook in its reference collection.

 **20:75:02:08.  Qualifications of evaluator for physical or mental disabilities.** The evaluator for physical or mental disabilities must have special expertise in the area of disability and must be a licensed physician, licensed psychologist, or a healthcare provider licensed by a state regulatory agency. If an evaluator who does not fit this criterion performs the evaluation, the board may require an evaluation that meets the requirements of this section.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **Cross-References:** Physicians and surgeons, SDCL ch 36-4; Psychologists, SDCL ch 36-27A.

 **20:75:02:09.  Qualifications of evaluator for learning disabilities.** The evaluator for learning disabilities must be either a licensed psychologist or licensed physician who possesses a minimum of three years experience working with adults with learning disabilities or another professional who possesses a master's or doctor's degree in special education or educational psychology from an accredited institution. The professional's training must include at least three years of equivalent training and experience in the following areas:

 (1)  Assessing intellectual ability level and interpreting tests of such ability;

 (2)  Screening for cultural, emotional, and motivational factors;

 (3)  Assessing achievement level; and

 (4)  Administering tests to measure attention and concentration, memory, language reception and expression, cognition, reading, spelling, writing, and mathematics.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **20:75:02:10.  Professional verification of the disability.** The professional verification of the disability must include the following:

 (1)  The nature and extent of the disability;

 (2)  The tests performed to diagnose the disability, if applicable;

 (3)  The effect of the disability on the individual's ability to perform under standard testing conditions;

 (4)  The recommended accommodation and how it relates to the individual's disability, given the format of the examination;

 (5)  The professional's name, title, telephone number, professional license or certification number, education credential, and original signature; and

 (6)  A description of the professional's educational and work experience which qualifies the professional to make the determination.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(16).

 **Law Implemented:** SDCL 36-20B-12(16).

 **20:75:02:11.  Applicant of another jurisdiction -- Fee.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; repealed, 33 SDR 107, effective December 26, 2006.

 **20:75:02:12.  Recognized colleges and universities.** For the purpose of evaluating the education requirements of an applicant for a certificate under SDCL 36-20B-15, the board shall recognize a junior college, college, or university accredited at the time the applicant's degree was received by virtue of membership in one of the following accrediting agencies:

 (1)  Higher Learning Commission;

 (2)  Middle States Commission on Higher Education;

 (3)  New England Association of Schools and Colleges;

 (4)  Northwest Commission on Colleges and Universities;

 (5)  Western Association of Schools and Colleges Accrediting Commission for Community and Junior Colleges;

 (6)  Western Association of Schools and Colleges Senior College and University Commission; and

 (7)  Southern Association of Colleges and Schools Commission on Colleges.

 If an applicant's degree was received at an accredited college or university, but the education program used to qualify the applicant included courses taken at either a two-year or a four-year non-accredited institution either before or after graduation, the board must deem the courses to have been taken at the accredited institution from which the applicant's baccalaureate degree was received, if the courses were accepted by virtue of inclusion in an official transcript of the accredited college or university.

 However, an applicant whose degree was received from a non-accredited college or university may qualify under the provisions of § 20:75:02:13.

 **Source:** 29 SDR 16, effective August 14, 2002; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 50 SDR 67, effective December 5, 2023.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-15.

 **20:75:02:13.  Non-accredited institutions.** If an institution was not accredited at the time an applicant's degree was received but was accredited at the time the application was filed with the board, the institution will be recognized as acceptable to the board for the purposes of SDCL 36-20B-15, if the institution:

 (1)  Certifies that the applicant's total educational program would qualify the applicant for graduation with a baccalaureate degree during the time the institution has been accredited; and

 (2)  Furnishes the board satisfactory proof, including college catalogue course numbers and descriptions, that the pre-accrediting courses used to qualify the applicant as an accounting major can be matched with substantially equivalent post-accredited courses;

 (3)  A graduate of a four-year degree granting institution which was not accredited at the time the applicant's degree was received or at the time of filing shall be recognized by the board as a graduate of a four-year accredited college or university, if:

 (4)  An accredited college or university, as defined in § 20:75:02:12, accepts the applicant's non-accredited baccalaureate degree for admission to a graduate business degree program;

 (5)  The applicant satisfactorily completes at least 15 semester or 22 quarter hours, or the equivalent, in post-baccalaureate education at the accredited institution, of which at least 9 semester or 13 quarter hours, or the equivalent, shall be in accounting; and

 (6)  The respective accredited college or university certifies that the applicant is in good standing for continuation in the graduate program or has maintained a grade point average in these courses that is necessary for graduation.

 A graduate seeking recognition under this section shall provide to the board, at the graduate's own expense, a complete course evaluation of any foreign transcripts by the Foreign Academic Credential Service, Inc., or a comparable service as approved by the board.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-15.

 **20:75:02:14.  Examination -- Grades.** The examination required by SDCL 36-20B-18 must test the candidate's knowledge and skills required for performance as an entry-level certified public accountant. The examination must include the subject areas of accounting, auditing, business law, taxation, finance, communications, and information technology.

 A candidate may take the required sections of the examination individually and in any order. Credit for any section passed is valid for thirty months from the date the passing score of the section is released, without having to attain a minimum score on any failed section, and without regard to whether the candidate has taken other sections. The passing grade is based on a 0-99 numeric scale and passing is a seventy-five.

 Each candidate must pass all four sections of the examination within a single rolling qualifying period, which begins on the date the first passing score is released. The rolling qualifying period of thirty months concludes on the date the candidate sits for the final section passed, regardless of when the score is released for the final section.

 Each candidate may not retake a failed section of the examination until the candidate has received the score for the most recent attempt of that section.

 If all four sections of the examination are not passed within a given rolling qualifying period, credit for any section passed outside that qualifying period will expire and that section must be retaken.

 A candidate is deemed to have passed the examination once the candidate holds, at the same time, valid credit for passing each of the four sections for the examination, in the rolling qualifying period of thirty months.

 The period of time in which to pass all required sections of the examination may be extended by the board upon the candidate showing that the credit was lost by reason of individual hardship, personal emergency, act of God, military service, or other circumstances beyond the candidate's control.

 The board may accept transferred grades from other states when a candidate for transfer of grades has met all the requirements of a candidate in this state.

 The board may not notify a candidate of grades received on the examination until verification of graduation or completion of required courses has been submitted to the board. Until verification is received, the board may not transfer grades to any other state, accept any future examination application, or issue a certificate to an individual receiving passing grades.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 46 SDR 153, effective July 9, 2020; 50 SDR 67, effective December 5, 2023; 50 SDR 67, effective January 1, 2024.

 **General Authority:** SDCL 36-20B-12(19), 36-20B-18.

 **Law Implemented:** SDCL 36-20B-18.

 **20:75:02:15.  Review of examination papers.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; repealed, 33 SDR 107, effective December 26, 2006.

 **20:75:02:16.  Procedure for questions about examination content.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; repealed, 33 SDR 107, effective December 26, 2006.

 **20:75:02:17.  Confidentiality of examination questions -- Failure to comply.** Each individual taking the examination and each proctor must sign an attestation statement agreeing not to convey or divulge the nature and content of any question or answer to any individual or entity and not to remove any uniform certified public accountant examination materials, notes, or other unauthorized materials from the examination room.

 If an individual taking the examination fails to comply with the attestation statement, the examination is invalid and the individual is subject to further penalties and restrictions to be determined by the board.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(19).

 **Law Implemented:** SDCL 36-20B-12(19).

 **Cross-Reference:** Misconduct during examination, § 20:75:02:05.

 **20:75:02:18.  Expiration of conditional credit for candidates accepted under educational requirement effective prior to January 1, 1998.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; repealed, 35 SDR 305, effective July 1, 2009.

 **20:75:02:19.  Transitional credit.** Repealed.

 **Source:** 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; repealed, 35 SDR 305, effective July 1, 2009.

 **20:75:02:20.  Rescore request and fees.** A candidate may request a review of the scores the candidate earned within 30 days of the most recent examination taken. Any candidate requesting a rescore must do so in writing within 30 days from the end of the testing window for which the candidate is requesting the rescore. Any request for rescore must be submitted to the board in writing and must include the candidate's name, mailing address, telephone number, jurisdiction, email address, examination sections to be rescored, examination and section identification number, and the fee required by the National Association of State Boards of Accountancy (NASBA). Rescore results take eight weeks and will be mailed directly by NASBA to the candidate and the board.

 **Source:** 33 SDR 107, effective December 26, 2006.

 **General Authority:** SDCL 36-20B-12(19).

 **Law Implemented:** SDCL 36-20B-12(19).

 **20:75:02:21.  Candidate score appeal and fees.** Appeal sessions are conducted at the office of the National Association of State Boards of Accountancy in Nashville, Tennessee. Any candidate requesting an appeal must submit an appeal package to the board. The appeal package shall contain the candidate's name, mailing address, telephone number, email address, the examination section for which appeal is requested, the seven-digit examination section identification number as posted on the candidate's notice to schedule, and the fee required for the appeal.

 **Source:** 33 SDR 107, effective December 26, 2006.

 **General Authority:** SDCL 36-20B-12(19).

 **Law Implemented:** SDCL 36-20B-12(19).

DEPARTMENT OF LABOR

SOUTH DAKOTA BOARD OF ACCOUNTANCY

LIST OF MOST COMMONLY USED RELIABLE

STANDARDIZED PSYCHOMETRIC TESTS

Chapter 20:75:02

APPENDIX A

SEE: § 20:75:02:06

 **Source:** 29 SDR 16, effective August 14, 2002.

**LIST OF MOST COMMONLY USED RELIABLE**

**STANDARDIZED PSYCHOMETRIC TESTS**

|  |  |
| --- | --- |
| **AREA OF FUNCTIONING** | **TESTS** |
|  |  |
| Attention and Concentration | Wechsler Adult Intelligence Scale aka WAIS-R |
|  | (Digit Symbol) (Digit Span) (Arithmetic) |
|  |  |
|  | Wechsler Memory Scale (Attention/Concentration Subset) |
|  |  |
|  | Halstead-Reitan Seashore Rhythm |
|  |  |
|  | Test of Variables of Attention |
|  |  |
|  | Learning Efficiency Test (LET) |
|  |  |
| Memory/New Learning Ability | Wechsler Memory Scale - Revised |
|  |  |
|  | Learning Efficiency Test (LET) |
|  |  |
|  | Woodcock-Johnson Tests of Cognitive Ability |
|  |  |
|  | Detroit Tests of Learning Aptitude (DTLA) |
|  |  |
| Receptive (Perception and | Wechsler Adult Intelligence Scale, aka WAIS-R |
| Basic Comprehension) | (Verbal Subset Comprehension) |
|  |  |
|  | Reitan Aphasia Screening Test |
|  |  |
|  | Peabody Picture Vocabulary Test - Revised |
|  |  |
| General Cognitive Ability | Stanford-Binet Intelligence Scale |
| (Recognizing, thinking, |  |
| problem solving) |  |
|  | Wechsler Adult Intelligence Scale - Revised, |
|  | aka WAIS-R |
|  |  |
|  | Wechsler Intelligence Scale for Children-III, |
|  | aka WISC-III |
|  |  |
|  | Woodcock-Johnson Tests of Cognitive Ability |
|  |  |
|  | Test of Nonverbal Intelligence, aka TONI |
|  |  |
|  | Ravens Standard Progression Matrices |
|  |  |
|  | Halstead-Reitan Category Test |
|  |  |
| Expressive Abilities | Wechsler Adult Intelligence Scale - Revised, |
|  Verbal Expression | aka WAIS-R |
|  |  |
|  | Reitan Aphasia Screening Test |
|  |  |
|  Writing | Peabody Individual Achievement Test - Revised |
|  | /Written Expression |
|  |  |
|  | Test of Written Language - 2, aka TOWL-2 |
|  |  |
|  Other | Development Test of Visual-Motor Integration |
|  |  |
|  | Woodcock-Johnson Revised-Writing Samples |
|  |  |
|  Processing Speed/Efficiency | Wechsler Adult Intelligence Scale - Revised, |
|  | aka WAIS-R (Digit Symbol) |
|  |  |
|  | Halstead-Reitan Trail Making Test |
|  |  |
|  | Woodcock-Johnson Visual Cluster (Spatial |
|  | Relations/Visual Matching) |
|  |  |
| Academic Achievement |  |
|  |  |
|  Reading | Woodcock-Johnson Tests of Achievement |
|  |  |
|  | Wide Range Achievement Test - Revised, |
|  | aka WRAT-R |
|  |  |
|  | Peabody Individual Achievement Test - Revised |
|  | (Reading Comprehension) (Reading Recognition) |
|  |  |
|  | Gilmore Oral Reading Test |
|  |  |
|  | Nelson-Denny Reading Test (Vocabulary) |
|  | (Comprehension) |
|  |  |
|  | Degrees of Reading Power (DRP) |
|  |  |
|  Spelling | Woodcock-Johnson Tests of Achievement |
|  |  |
|  | Wide-Range Achievement Test - Revised, |
|  | aka WRAT-R |
|  |  |
|  | Peabody Individual Achievement Test - Revised |
|  | (Spelling) |
|  |  |
|  Math | Arlin Test of Formal Reasoning, aka AFTR |
|  |  |
|  | Key Math Test |
|  |  |
|  | Woodcock-Johnson Tests of Achievement |
|  |  |
|  | Wide-Range Achievement Test - Revised, |
|  | aka WRAT-R |
|  |  |
|  | Peabody Individual Achievement Test - Revised |
|  | (Math) |

**CHAPTER 20:75:03**

**CERTIFICATES, LICENSES, AND PERMITS**

Section

20:75:03:01 Application for initial certificate and replacement certificate -- Fees.

20:75:03:02 Non-renewal.

20:75:03:03 Application for renewal of certificate -- Fees.

20:75:03:04 Experience.

20:75:03:05 Ethics examination.

20:75:03:06 Denial of certificate.

20:75:03:07 Repealed.

20:75:03:08 Application for firm permit – Renewal – Replacement – Fees.

20:75:03:09 Repealed.

20:75:03:10 Notification of firm changes.

20:75:03:11 Definitions.

20:75:03:12 Renewal of a South Dakota active certificate -- Fees.

20:75:03:13 Renewal of a South Dakota inactive certificate -- Fees.

20:75:03:14 Repealed.

20:75:03:15 Substantial equivalency and reciprocity.

20:75:03:16 Registration of a retired certificate -- Fees.

 **20:75:03:01.  Application for initial certificate and replacement certificate -- Fees.** An applicant for a certificate must submit an application on forms provided by the board within 90 days after completing all requirements for its issuance. Any applicant who has passed the examination and completes the experience requirement, but fails to apply for a certificate after three years of meeting the requirements for licensure, may be required to apply as an initial candidate to sit for the Uniform CPA examination.

 An applicant for initial issuance of a certificate under SDCL chapter 36-20B shall disclose on the application all background and character information requested by the board including, but not limited to:

 a.  All states or foreign jurisdiction in which the applicant has applied for or holds a permit as a CPA firm;

 b.  Any past denial, revocation, or suspension, or refusal to renew a CPA certificate, license or permit to practice, or voluntary surrender of a CPA certificate, license or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation;

 c.  Any other form of discipline imposed against the holder of a CPA certificate, license or permit, or substantially equivalent foreign designation;

 d.  The conviction of a crime; and

 e.  The revocation of a professional license of any kind in this or any other jurisdiction.

 The initial application fee for individuals qualifying August 1 to January 31, inclusive, is $50. The fee for applications not submitted within the 90 days for individuals qualifying August 1 to January 31, inclusive, is $100. The initial application fee for those qualifying February 1 to July 31, inclusive, is $25. The fee for applications not submitted within the 90 days for individuals qualifying February 1 to July 31, inclusive, is $75.

 An individual becomes qualified for a certificate when the individual has successfully completed the requirements in SDCL 36-20B-19 and 36-20B-21 for applicants from South Dakota or in SDCL 36-20B-25 and 36-20B-26 for applicants from other states. An applicant must obtain a license to practice for the year during which requirements were fulfilled. The board shall issue initial certificates to individuals to practice accountancy for up to one year. Individual certificates expire annually on July 31.

 Any licensee requiring a replacement certificate must contact the board office. The fee for a replacement document is $25.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-13, 36-20B-14.

 **20:75:03:02.  Non-renewal.** An individual choosing not to renew a certificate shall notify the board of that intention prior to the expiration of that certificate and surrender the certificate to the board immediately upon its expiration.

 Any individual choosing not to renew that does not notify the board or surrender his or her certificate will be deemed to have an expired certificate. An individual with an expired certificate may not continue to perform or offer to perform accounting services in the State of South Dakota.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(21).

 **Law Implemented:** SDCL 36-20B-12(21).

 **20:75:03:03.  Application for renewal of certificates -- Fees.** An application for the renewal of a certificate or registration shall be made on a form provided by the board and shall be filed no later than the expiration date set by this section. An application is not considered filed until the applicable fee is received.

 An applicant for renewal of a certificate under SDCL chapter 36-20B shall list in the application any state in which the applicant has applied for or holds a certificate or a permit as a CPA and shall list any past denial, revocation, or suspension of a certificate or permit by any other state.

 Any application for renewal of certificates shall be accompanied by evidence satisfactory to the board that the applicant has complied with the continuing professional education requirements under SDCL 36-20B-27 and chapter 20:74:04.

 Any license not renewed and which has not been surrendered to the board, is deemed to have expired. Any individual desiring to renew an expired license shall comply with the requirements of this section. The applicant shall pay all applicable fees and penalties for late filing for each year the license was expired.

 An application for renewal must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is $50. The fee for annual renewal submitted late is $100.

 An application for renewal is considered late if the continuing education requirement has not been met and an extension has not been granted. Failure to receive a renewal notice does not constitute an adequate reason for failing to renew the certificate in a timely manner.

 The fee to replace a certificate lost or destroyed for any reason or to change a name is $25. The fee must accompany the application for an individual certificate, renewal of a certificate, or request for replacement of a certificate.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010.

 **General Authority:** SDCL 36-20B-12(3),(17),(18),(20),(21), 36-20B-15, 36-20B-18.

 **Law Implemented:** SDCL 36-20B-14 to 36-20B-16, 36-20B-18, 36-20B-22 to 36-20B-24.

 **Cross-Reference:** Discretion to waive certain requirements, § 20:75:01:07; Extension for completion of continuing professional education, § 20:75:04:10.

 **20:75:03:04.  Experience.** An applicant for issuance of an initial certificate shall have the experience verified to the board by a licensee as defined in SDCL 36-20B-21 or a licensee from another state. The board shall look at such factors as the complexity and diversity of the work.

 One year of experience shall consist of full or part-time employment that extends over a period of no less than a year and no more than three years and includes no fewer than 2,000 hours of performance of services described in SDCL 36-20B-21.

 An individual licensee responsible for the performance of attest services as defined in SDCL 36-20B-2, who sign or authorize someone to sign on behalf of the firm, the accountant's report on the financial statements as defined in SDCL 36-20B-3, shall have experience in auditing, compilation, or review, in any combination, which totals at least 375 hours. The individual's experience must be earned within a ten-year period immediately preceding the latest application for a certificate under the Act.

 Any licensee who has been requested by an applicant to submit to the board evidence of the applicant's experience and has refused to do so shall, upon request by the board, explain in writing or in person the basis for such refusal. The board may require any licensee who has furnished evidence of an applicant's experience to substantiate the information.

 Any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience. The board may inspect documentation relating to an applicant's claimed experience.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(3)(14).

 **Law Implemented:** SDCL 36-20B-13.

 **20:75:03:05.  Ethics examination.** The ethics examination requirement of SDCL 36-20B-16 is satisfied by verification of successful completion of the self-study course of the American Institute of Certified Public Accountants entitled Professional Ethics: The AICPA's Comprehensive Course or its equivalent as determined by the board. Successful completion is achievement of a minimum score of 90 percent. The board may accept the passing score of an ethics examination taken by an applicant as a requirement of a board of another state. The applicant must bear the cost of the course or examination.

 In addition to the above ethics exam requirement, the board may require candidates to complete an exam designed by the board, which assesses the candidates' knowledge of the statutes and regulations governing the practice of accounting in the state of South Dakota as a prerequisite to licensure.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 39 SDR 33, effective September 5, 2012.

 **General Authority:** SDCL 36-20B-16.

 **Law Implemented:** SDCL 36-20B-16.

 **20:75:03:06.  Denial of certificate.** An applicant denied a certificate shall be notified in writing by the board of such denial and the reasons for the denial. Such applicant may request an appearance before the board to reconsider the denial at its next scheduled board meeting. The request shall be sent to the executive director within 30 days of the date of the notice of denial.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004.

 **General Authority:** SDCL 36-20B-23.

 **Law Implemented:** SDCL 36-20B-23.

 **20:75:03:07.  Display of certificate.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; repealed, 35 SDR 305, effective July 1, 2009.

 **20:75:03:08.  Application for firm permit -- Renewal -- Replacement -- Fees.** Any firm required to hold a permit pursuant to SDCL 36-20B-32.1 must apply to the board for such permit on forms provided by the board. An original sheet of each type of letterhead used by the firm must accompany the application. The board shall issue initial firm permits for up to one year. Firm permits expire annually on July 31.

 The initial application fee for a firm required to hold a permit pursuant to SDCL 36-20B-32.1(1) or (2) is $50 for each firm in this state plus,

 (1)  For firms with 1 to 15 owners the fee is $65 per owner;

 (2)  For firms with 16 to 25 owners the fee is $1,000;

 (3)  For firms with 26 to 60 owners the fee is $1,500;

 (4)  For firms with 61 owners or more the fee is $2,000.

 The initial application fee for a firm required to hold a permit pursuant to SDCL 36-20B-32.1(3) is $50 for each firm exercising practice privileges in this state plus,

 (1)  For firms with 1 to 15 owners the fee is $65 per owner;

 (2)  For firms with 16 to 25 owners the fee is $1,000;

 (3)  For firms with 26 to 60 owners the fee is $1,500;

 (4)  For firms with 61 owners or more the fee is $2,000.

 A firm must submit an application for an initial firm permit within 90 days after commencing an engagement. A firm must obtain a permit to practice for the year during which it commences an engagement. If the firm does not submit the application within the 90 days the firm must pay an additional $50.

 An application for renewal of a firm permit must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. For firms required to hold a permit pursuant to SDCL 36-20B-32.1(1) or (2) the fee for annual renewal applications submitted on time is $50 for each firm in this state plus,

 (1)  For firms with 1 to 15 owners the fee is $65 per owner;

 (2)  For firms with 16 to 25 owners the fee is $1,000;

 (3)  For firms with 26 to 60 owners the fee is $1,500;

 (4)  For firms with 61 owners or more the fee is $2,000.

 For firms required to hold a permit pursuant to SDCL 36-20B-32.1(3), the fee for annual renewal applications submitted on time is $50 for each firm exercising practice privileges in this state plus,

 (1)  For firms with 1 to 15 owners the fee is $65 per owner;

 (2)  For firms with 16 to 25 owners the fee is $1,000;

 (3)  For firms with 26 to 60 owners the fee is $1,500;

 (4)  For firms with 61 owners or more the fee is $2,000.

If the application for annual renewal is submitted late, the firm is assessed a $50 late fee.

 The fee to replace a firm permit lost or destroyed for any reason or to change a name or form of practice is $25. Failure to receive a renewal notice does not constitute an adequate reason for failing to renew the permit in a timely manner. The fee must accompany the application for a firm permit, renewal of a firm permit, or request for replacement of a firm permit.

 Each firm shall disclose the following information in the form of an application for registration, signed and acknowledged by the resident manager of the firm:

 (1)  The name of the firm;

 (2)  The type of organization (sole proprietorship, partnership, or corporation);

 (3)  The address of the firm;

 (4)  The total percentage of equity ownership and the voting rights of the licensees in the firm;

 (5)  The name of the resident manager of the firm;

 (6)  The type of peer review program in which the firm participates and the date and results of the last review.

 An applicant for initial issuance or renewal of a permit under SDCL chapter 36-20B shall list in the application any state in which the applicant has applied for or holds a permit as a CPA firm and shall list any past denial, revocation, or suspension of a permit by any other state. A firm that submits a renewal by the use of the internet agrees that submission of the renewal serves as the representative of the firm’s signature and verification of the information in the renewal.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 305, effective July 1, 2009; 39 SDR 219, adopted June 24, 2013, effective July 1, 2013.

 **General Authority:** SDCL 36-20B-12(3)(9)(14)(18)(21).

 **Law Implemented:** SDCL 36-20B-32 to 36-20B-34, inclusive, 36-20B-70.

 **20:75:03:09.  Display of firm permit.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; repealed, 35 SDR 305, effective July 1, 2009.

 **20:75:03:10.  Notification of firm changes.** Any firm holding a permit pursuant to SDCL 36-20B-32 to 36-20B-34, inclusive, shall file with the board a written notification of any of the following events within 30 days after its occurrence:

 (1)  Formation of a new firm;

 (2)  Any change in the firm name;

 (3)  Dissolution of the firm;

 (4)  Change in the resident manager of the firm;

 (5)  Change of address for the firm.

 In the event of any change in the legal form of a firm, such new firm shall, within 30 days of the change, file an application for an initial permit and pay the required fee.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009; 39 SDR 219, adopted June 24, 2013, effective July 1, 2013.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-35.

 **Cross-Reference:** Denial of certificate, § 20:75:03:06.

 **20:75:03:11.  Definitions.** Terms used in reference to annual requirements of certificate holders performing public accountancy and not performing public accountancy mean:

 (1)  Active certificate," a CPA or PA certificate issued by this state to an individual performing accounting services, subject to the continuing professional education defined in SDCL 36-20B-27;

 (2)  "Inactive certificate," a CPA or PA certificate issued by this state to an individual who is not performing public accountancy or offering to perform for the public one or more kinds of services involving the use of accounting as defined in SDCL 36-20B-27;

 (3)  "Retired status," a CPA or PA certificate issued by this state to an individual who is at least 55 years of age and is no longer participating in the practice of any accounting discipline governed under SDCL chapter 36-20B.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(22).

 **Law Implemented:** SDCL 36-20B-12(22).

 **20:75:03:12.  Renewal of a South Dakota active certificate -- Fees.** Any person holding a valid certificate issued by this state prior to July 1, 2002, will be deemed to have met the experience requirements for licensure under SDCL 36-20B-21. An applicant who performs one or more kinds of services involving the use of accounting or auditing skills for the public, including issuance of reports on financial statements or one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters as defined in SDCL 36-20B-3 shall renew their certificate in an active status as defined by § 20:75:03:11.

 Any person holding a valid certificate not performing accounting services as defined in SDCL 36-20B-3 that wishes to use the title CPA or PA may renew their certificate in an active status.

 Certificate holders performing or offering to perform "attest" services as defined in SDCL 36-20B-2, must provide proof of one year of experience as required in § 20:75:03:04 verified by a licensee.

 An application for renewal of an active certificate must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is $50. The fee for annual renewal submitted late is $100. Any licensee who submitted a renewal by the use of the internet agrees that submission of the renewal serves as the licensee’s signature and verification of the information in the renewal.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(5) to (8).

 **Law Implemented:** SDCL 36-20B-27, 36-20B-28.

 **Cross-References:**

Non-renewal, § 20:75:03:02

 Experience, § 20:75:03:04.

 Definitions, § 20:75:03:11.

 **20:75:03:13.  Renewal of a South Dakota inactive certificate -- Fees.** Any person holding a valid certificate issued by this state prior to July 1, 2002, will be deemed to have met the experience requirements for licensure under SDCL 36-20B-21. Any applicant who does not perform for the public one or more kinds of services involving the use of accounting as defined in SDCL 36-20B-27 will be required to renew certificates annually. However, an inactive certificate holder will not be required to comply with the continuing professional education requirement as required by § 20:75:03:03.

 An application for renewal of an inactive certificate must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is $50. The fee for annual renewal submitted late is $100. Any licensee who submits a renewal by the use of the internet agrees that submission of the renewal serves as the licensee’s signature and verification of the information in the renewal.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(5) to (8), inclusive.

 **Law Implemented:** SDCL 36-20B-27, 36-20B-28.

 **20:75:03:14.  Non-resident -- Notification -- Fees.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 165, effective December 22, 2008; repealed, 35 SDR 305, effective July 1, 2009.

 **20:75:03:15.  Substantial equivalency and reciprocity.** A certificate holder licensed by another state, before establishing a principal place of business in this state, shall request the issuance of a certificate from the board pursuant to SDCL 36-20B-26.

 An applicant for issuance or renewal of a reciprocal license shall, in the application, list any state in which the applicant has applied for or holds a certificate, license, or permit and list any past denial, revocation, or suspension of a certificate, license, or permit. Each holder of, or applicant for, a certificate shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license, or permit by another state, or volunteer surrender of a CPA certificate, license, or permit to resolve or avoid disciplinary action, or similar actions concerning a substantially equivalent foreign designation, any other form of discipline imposed against the holder of a CPA certificate, license, permit, or a substantially equivalent foreign designation, the conviction of any crime and the revocation of a professional license of any kind in any jurisdiction, change of address, or employment. The application shall be accompanied by a fee of $50.

 The applicant for initial issuance or renewal under this chapter shall comply with the continuing professional education requirements for issuance or renewal in the applicant's state, or the continuing professional education requirements applicable in this state, if the applicant's state of licensure does not require continuing professional education.

 If the applicant passed the examination in a state that is not deemed to be substantially equivalent to this state's educational requirements, the board may issue the applicant a license upon a showing that the requirements of SDCL 36-20B-25 are met and the applicant's license has been deemed to be in good standing by the host state's licensing board.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010.

 **General Authority:** SDCL 36-20B-12(23).

 **Law Implemented:** SDCL 36-20B-12(23), 36-20B-13.

 **20:75:03:16.  Registration of a retired certificate -- Fees.** Any holder of a South Dakota certificate no longer practicing any form of accounting governed under this chapter may choose to register the certificate under a retired status. To be eligible for registration under the retired status, an individual certificate holder must be at least 55 years of age, must sign an affidavit attesting to the certificate holders retired status, and pay an annual fee of $10. Any licensee who submits a renewal by the use of the internet agrees that submission of the renewal serves as the licensee’s signature and verification of the information in the renewal.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(22).

 **Law Implemented:** SDCL 36-20B-12(22).

**CHAPTER 20:75:04**

**CONTINUING PROFESSIONAL EDUCATION**

Section

20:75:04:00 Definitions.

20:75:04:01 Standards for continuing professional education program measurement.

20:75:04:02 General continuing professional education program criteria.

20:75:04:03 Continuing professional education group program criteria.

20:75:04:04 Acceptable continuing professional education group programs.

20:75:04:05 Non-group continuing professional education program criteria.

20:75:04:06 Restriction on continuing professional education credits for college employees.

20:75:04:07 Initial active certificate holders.

20:75:04:08 Returning active certificate holders.

20:75:04:09 Limitation on continuing professional education credits.

20:75:04:10 Extension for completion of continuing professional education.

20:75:04:11 Review of continuing professional education credits.

20:75:04:12 Continuing professional education requirement for nonresident certificate holder.

20:75:04:13 Repealed.

20:75:04:14 Documentation required by CPA or PA.

20:75:04:15 Documentation for continuing professional education credit.

20:75:04:16 Standards for continuing professional education group program sponsors.

20:75:04:17 Repealed.

20:75:04:18 Repealed.

20:75:04:19 Evaluating learning activity quality.

20:75:04:20 Standards for continuing professional education program reporting.

20:75:04:21 Continuing professional education program sponsors retention of adequate documentation.

20:75:04:22 Repealed.

 **20:75:04:00.  Definitions.** Terms used in this chapter mean:

 (1)  "Advanced," learning activity level that describes programs most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area;

 (2)  "Basic," learning activity level that describes the program level most beneficial to a CPA or PA new to a skill or attribute. These individuals are often at the staff or entry-level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area;

 (3) "Blended learning program," an educational program incorporating multiple learning formats;

 (4) "Continuing professional education" or "CPE," an integral part of the lifelong learning required of a CPA or PA to provide competent service to the public. The set of activities that enables a CPA or PA to maintain and improve their professional competence;

 (5)  "CPE credit," fifty minutes of participation in a learning activity. A one-half CPE credit increment equals 25 minutes and a one-fifth CPE credit increment equals 10 minutes;

 (6)  "CPE program sponsor," an individual or organization responsible for setting a learning objective, facilitating the delivery of a program of study that meets the requirements of this chapter and that achieves the stated learning objective, and maintains the documentation required by board standards as outlined in chapter 20:75:04. The term, CPE program sponsor, may include associations of accounting professionals, as well as employers who offer in-house programs;

 (7)  "CPE program developer," an individual or organization responsible for the development of a course of study designed to meet a proscribed learning objective;

 (8)  "Evaluative feedback," specific response to incorrect answers to questions in self-study programs explaining why that specific answer is wrong. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for different reasons;

 (9)  "Group program," an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom setting, conference setting, or by using the internet;

 (10)  "Independent study," educational process designed to permit a participant to learn a given subject under a learning contract with a CPE program sponsor;

 (11)  "Informal continuing professional education," continuing professional education offered by an organization not in the business of providing continuing professional education, which contributes to, increases, or maintains competency levels of CPAs and PAs;

 (12)  "Instructional methods," delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group self-study, independent study programs, or other innovative programs;

 (13)  "Intermediate," learning activity level that builds on a basic program most appropriate for a CPA or PA with detailed knowledge in an area. Such individuals are often at the mid-level within the organization, with operational and/or supervisory responsibilities;

 (14)  "Internet-based programs," a learning activity through a group program or self-study program that is designed to permit a participant to learn the given subject matter via the internet;

 (15)  "Learning activity," an educational endeavor that maintains or increases professional competence;

 (16)  "Learning contract," a written contract signed by an independent study participant and a qualified CPE program sponsor prior to the commencement of the independent study, that specifies the nature of the independent program and the time frame over which it is to be completed, specifies that the output must be in the form of a written report to be reviewed by the CPE program sponsor or qualified person selected by the CPE program sponsor and outlines the maximum CPE credit to be awarded for the independent study program, limiting credit to actual time spent;

 (17)  "Learning objectives," measurable outcomes that participants should accomplish in a learning activity. Learning objectives must be useful to program developers in deciding appropriate instructional methods and allocating time to various subjects;

 (18)  "Learning plans," structured processes that assist a CPA or PA in guiding their professional development. They are dynamic instruments used to evaluate and document learning and professional competence development. This may be reviewed regularly and modified as a CPA's and PA's professional competence needs change. Plans include:

 (a)  A self-assessment of the gap between current and needed knowledge, skills, and abilities;

 (b)  A set of learning objectives arising from this assessment; and

 (c)  Learning activities to be undertaken to fulfill the learning plan;

 (19)  "Nano learning program," a tutorial program designed to permit a participant to learn a given subject in one-fifth CPE credit increments through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. A nano learning program differs from a self-study program in that it is typically focused on a single learning objective and is not paper-based. A nano learning program is not a group program. Nano learning is not a substitute for comprehensive programs addressing complex issues;

 (20)  "Non-group," programs include self-study programs, independent study programs, nano learning program, service as an instructor, lecturer, or discussion leader, or publishing of articles, books, or continuing professional education programs;

 (21)  "Overview," learning activity level that provides a general review of subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels;

 (22)  "Personal development," a field of study that covers such skills as communication, managing the group process, dealing effectively with others, interviewing, counseling, and career planning;

 (23)  "Pilot test," sampling of at least three independent individuals representative of the intended participants to measure the representative completion time to determine the recommended CPE credit for self-study programs;

 (24)  "Principal place of business," as defined in SDCL 36-20B-1;

 (25)  "Professional competence," having requisite knowledge, skills, and abilities to provide quality services as defined by the technical and ethical standards of the profession. The expertise needed to undertake professional responsibilities and to serve the public interest;

 (26)  "Program of learning," a collection of learning activities that are designed and intended as continuing professional education that comply with the standards;

 (27)  "Reinforcement feedback," specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct;

 (28)  "Self-study program," an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a pilot test or word count formula;

 (29)  "University or college," shall mean an accredited institution as described in § 20:75:02:12;

 (30)  "Update," a learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current;

 (31)  "Word count formula," a method used to determine the recommended continuing professional education credit for self study programs that uses a formula including word count of learning material, number of questions and exercises, and duration of audio and video segments.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 35 SDR 305, effective July 1, 2009; 39 SDR 33, effective September 5, 2012; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:01.  Standards for continuing professional education program measurement.** The following standards are used to measure the hours of continuing professional education credit:

 (1)  Fifty minutes of participation in each approved CPE course, program, or activity is equal to one CPE credit;

 (2)  For blended learning programs in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program, with credit granted based on the sum of the various completed components of the program;

 (3)  For group programs, independent study, and blended learning programs, a minimum of one CPE credit must be earned initially, but after the first CPE credit has been earned, credits may be earned in a one-fifth or one-half increments;

 (4)  For self-study, a minimum of one-half CPE credit must be earned initially, but after the first one-half CPE credit has been earned, credits may be earned in a one-fifth or one-half increments;

 (5)  For nano learning, the CPE credit to be earned for a single nano learning program is one-fifth CPE credit;

 (6)  Informal CPE credit is limited to those portions of committee or staff meetings that are designed as programs of learning and comply with this section to qualify for CPE credit. The amount of credit awarded shall be the time actually spent meeting and measuring a specific learning objective;

 (7)  Accredited university or college courses count as 15 hours for each semester hour and 10 hours for each quarter hour;

 (8)  Non-credit university or college courses shall be awarded credit only for the actual classroom time spent in the non-credit course. Credit is not granted to participants for preparation time;

 (9)  Instructors or discussion leaders of learning activities may receive credit for both preparation and presentation time provided the activities maintain or increase their professional competence and qualify as credit for participants. Instructors may receive up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation. For repeat presentations, CPE credit may be claimed only if it can be demonstrated that the learning activity was substantially changed and such change required significant additional study or research;

 (10)  The board may grant credit for the writing of published articles, books, or CPE programs to include credit for research and writing time provided the board determines the activity maintains or improves professional competence. The article, book, or CPE program must be formally reviewed by an independent party. CPE credits should be claimed only upon publication. Not more than half the three-year continuing professional education credit required may be gained through publications;

 (11)  Self-study CPE credits must be based on a pilot test of the representative completion time. A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. CPE credits should be recommended based on the representative completion time for the sample. To provide satisfactory completion of the course, a self-study program must require participants to successfully complete a final examination with a minimum passing grade of 70 percent before issuing CPE credit for the course;

 (12)  Self-study word count formula begins with a word count of the number of words contained in the text of the required reading of the self study program and should exclude any material not critical to the achievement of the stated learning objectives for the program. Examples of the information material that are not critical and therefore excluded from the word count are: course introduction, instructions to the learner, author and course developer biographies, table of contents, glossary, and appendices containing supplementary reference materials. Review questions, exercises, and final examination questions are considered separately in the calculation and should not be in the word count. The word count for the text of the required reading of the program is divided by 180, the average reading speed of adults. The total number of review questions, exercises, and final examination questions is multiplied by 1.85, which is the estimated average completion time per question. These two numbers plus actual audio and video duration time, if any, are then added together and the result divided by 50 to calculate CPE for the self study program.

[#of words/180)+actual audio and video duration time + (# of questions \* 1.85)]/50=CPE credit;

 (13)  Independent study CPE credits recommended by a CPE program sponsor or developer may not exceed the time the participant devoted to complete the learning activities specified in the learning contract.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 35 SDR 305, effective July 1, 2009; 39 SDR 33, effective September 5, 2012; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:02.  General continuing professional education program criteria.** To qualify as acceptable continuing professional education, a program must be a learning activity that contributes directly to the professional competence of a CPA or PA in the practice of accountancy. A CPA and PA performing professional services must have a broad range of knowledge, skills, and abilities. Acceptable continuing professional education encompasses programs contributing to the development and maintenance of both technical and nontechnical professional skills. A program that promotes professional competence in the practice of accountancy is defined as one that refers to the process, methods, or principles of accounting or directly relates to the CPA's and PA's employment and is above the level of the CPA's and PA's current knowledge. Acceptable subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may be acceptable if they maintain or improve the CPA's and PA's competence. A CPA or PA may use a learning plan to evaluate learning and competency development. The learning plan may be reviewed periodically and modified as competency needs change.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **Cross-Reference:** Restriction on continuing professional education credits for college employees, § 20:75:04:06.

 **20:75:04:03.  Continuing professional education group program criteria.** A group program qualifies as acceptable continuing professional education if it meets the general criterion in § 20:75:04:02 and meets the following criteria:

 (1)  An outline of the program is prepared in advance and preserved by the sponsor for four years. For compliance with this subdivision by informal organizations presenting continuing professional education, responsibility for retaining a copy of the outline of the program for four years may be abdicated to the participant;

 (2)  The program is at least 50 minutes in length;

 (3)  The program is conducted by a qualified instructor, discussion leader, or lecturer. A qualified instructor, discussion leader, or lecturer is anyone whose background, training, education, or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular program;

 (4)  A record of attendance is maintained by the sponsor for four years. For compliance with this subdivision, informal organizations presenting continuing professional education sessions may abdicate retention of the attendance record to the participant;

 (5)  Criteria for continuing professional group program education must meet the documentation requirements of § 20:75:04:14; and

 (6)  Criteria for continuing professional group program education must meet the requirements of sponsorship standards in § 20:75:04:16 and §§ 20:75:04:19 to 20:75:04:21, inclusive.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:04.  Acceptable continuing professional education group programs.** Group programs which qualify as acceptable continuing professional education programs if they meet the requirements of §§ 20:75:04:02 and 20:75:04:03 include the following:

 (1)  Professional development programs of recognized national, state, and local accounting organizations;

 (2)  Technical sessions at meetings of recognized national, state, and local accounting organizations and their chapters;

 (3)  University or college credit courses;

 (4)  University or college noncredit courses;

 (5)  Formal organized in-firm and interfirm education programs; and

 (6)  Formal and informal programs given by other organizations devoted to accounting, private industry, or professional development, or any combination of these.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:05.  Non-group continuing professional education program criteria.** **Non-group continuing professional education program criteria.**  The non-group programs qualify as acceptable continuing professional education programs if they meet the requirements of § 20:75:04:02 and include the following:

 (1)  **Independent-study programs** must be designed to permit a participant to learn a given subject, one-on-one, under the guidance of a CPE program sponsor. Participants in an independent study program must:

 (a)  Meet the documentation requirements of § 20:75:04:15; and

 (b)  The program sponsor must be approved by NASBA's National Registry of Continuing Professional Education Sponsors or NASBA's Quality Assurance Service;

 (2)  **Self-study programs** must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program. Credit will not be granted in excess of the amount determined to be given for each course through the program pilot testing or word count formula. Participants in self-study programs must:

 (a)  Meet the documentation requirements of § 20:75:04:15; and

 (b)  The program sponsor must be approved by NASBA's National Registry of Continuing Professional Education Sponsors or NASBA's Quality Assurance Service;

 (3)  **Service as an instructor, lecturer, or discussion leader.** Credit is not given for repeated presentations of the same program;

 (4)  **Published articles, books, or continuing professional education programs.** A CPA or PA may be given credit for research and writing time upon determination by the board that the CPA's and PA's competency has been maintained or increased as a result of the activity;

 (5) **Nano program learning.** A tutorial program designed to permit a participant to learn a given subject in one-fifth CPE credit increments through the use of electronic media and without interaction with a real-time instructor must:

 (a)  Meet the documentation requirements of § 20:75:04:15; and

 (b)  The program sponsor must be approved by NASBA's National Registry of Continuing Professional Education Sponsors or NASBA's Quality Assurance Service.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:06.  Restriction on continuing professional education credits for college employees.** An individual employed by a college or university may not claim continuing professional education credit in excess of 60 hours during any three-year renewal period for teaching courses.

 An individual may elect to claim less than 60 hours for a course taught in one year and claim the balance in subsequent years if the individual teaches the course in each year the credit is claimed and the credit does not exceed the number of hours allowed.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **Cross-References:** Standards for continuing professional education program measurement, § 20:75:04:01; General continuing professional education program criteria, § 20:75:04:02.

 **20:75:04:07.  Initial active certificate holders.** An individual certificate holder whose initial certificate was issued less than three years before the renewal date shall fulfill the following minimum requirements of continuing professional education:

 (1)  Certificate holders whose initial certificate was issued less than one year before the renewal date: none;

 (2)  Certificate holders whose initial certificate was issued at least one year but less than two years before the renewal date: 20 hours;

 (3)  Certificate holders whose initial certificate was issued at least two but less than three years before the renewal date: 40 hours with a minimum of 20 hours per year.

 The continuing education requirement for the first renewal and any subsequent renewal is the number of hours required for a three-year period by SDCL 36-20B-27.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-28.

 **Cross-Reference:** Returning active certificate holders, § 20:75:04:08.

 **20:75:04:08.  Returning active certificate holders.**  An applicant for renewal of an individual certificate, in active status whose most recent active certificate has lapsed over 12 months before the application for renewal is submitted must complete at least 24 hours of continuing education in the 12 months preceding the filing of the application for active status.

 Once the applicant's individual certificate is renewed in an active status, the applicant must fulfill the continuing professional education requirement for the next renewal in accordance with the following schedule:

 (1)  Certificate holders whose individual certificate was renewed July 1 to September 30, inclusive: 20 hours;

 (2)  Certificate holders whose individual certificate was renewed October 1 to December 31, inclusive: 16 hours;

 (3)  Certificate holders whose individual certificate was renewed January 1 to March 31, inclusive: 8 hours;

 (4)  Certificate holders whose individual certificate was renewed April 1 to June 30, inclusive: 4 hours.

 The continuing professional education required for the second renewal and each subsequent renewal following the lapse is the number of hours required for a three-year renewal period by SDCL 36-20B-27.

 An applicant for renewal of an individual certificate whose most recent certificate lapsed 12 months or less before submission of the renewal application must complete the continuing professional education requirement the applicant would have had to complete had the applicant's certificate not lapsed.

 An applicant who holds a certificate of certified public accountant in another state issued over four years before applying for a certificate of certified public accountant in this state must complete 24 hours of continuing professional education in the 12 months preceding the filing of the application.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 36 SDR 216, effective July 6, 2010.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-21, 36-20B-27.

 **20:75:04:09.  Limitation on continuing professional education credits.** No more than 24 hours of credit for behavioral or motivational courses is allowed in a three-year renewal period for those individuals engaged in public accounting. There is no limit on personal development courses.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:10.  Extension for completion of continuing professional education.** Upon request by an applicant for renewal of a certificate, the board may administratively grant one extension of 90 days to complete the minimum continuing professional education requirement. The board shall review subsequent requests for extensions and may grant them on a case by case basis for good cause. Good cause includes personal emergencies, acts of God, or administrative errors made by the board.

 **Source:** 29 SDR 16, effective August 14, 2002; 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:11.  Review of continuing professional education credits.** Certificate holders are subject to verification of all continuing professional education credits submitted to the board. Annually, the board may randomly select holders of individual certificates who are in the three-year renewal cycle for review of continuing professional education credits. The period to be reviewed may be one to three reporting years prior to the request. The board shall determine the number selected for review each year based on a percentage of the number of individuals holding certificates at the time of the random selection. An individual selected for a review must provide documentation to verify attendance or completion of all courses reported to the board for continuing professional education credit.

 If an individual does not meet the requirements of continuing professional education in SDCL 36-20B-27, § 20:75:04:07, 20:75:04:08, 20:75:04:09, or 20:75:04:10, an adjustment of hours may be made administratively if an audit of continuing education credits creates discrepancies in the individual's total number of hours during a year.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12.

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:12.  Continuing professional education requirement for nonresident certificate holder.** The continuing professional education requirement of a nonresident individual certificate holder is considered met if the individual meets the continuing professional education requirement for renewal of a certificate or license in the state in which the individual's principal place of business is located.

 The nonresident applicant for an initial certificate or renewal of an individual certificate must demonstrate compliance with the continuing professional education requirements of the state in which the applicant's principal place of business is located by signing a statement to that effect on the initial or renewal application.

 The board may verify the continuing professional education status of a nonresident certificate holder on an annual basis with the state board in which the applicant's principal place of business is located. If the state in which a nonresident applicant's principal place of business is located has no continuing professional education requirement for an initial certificate or renewal of a certificate or license, the nonresident applicant must comply with all continuing professional education requirements for an initial certificate or renewal of a certificate in this state.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:13.  Criteria for independent study** Repealed.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **20:75:04:14.  Documentation required by CPA or PA.** A CPA or PA engaged in sponsored learning activities may claim credit only for activities through which the CPA's or PA's competencies were maintained or improved. A CPA or PA who participates in part of a program may claim credit only for the portion attended or completed.

 The following documentation of a CPA's or PA's participation in sponsored learning activities should be retained by the CPA or PA for four years:

 (1)  Name and address of continuing education program sponsor;

 (2)  Title and description of content;

 (3)  Dates of program;

 (4)  Location of program; and

 (5)  Number of credits.

 Any CPA or PA claiming continuing professional education provided by informal organizations must maintain documentation as required by §§ 20:75:04:19 and 20:75:04:20.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:15.  Documentation for continuing professional education credit.** A CPA or PA must document the credit claimed with the following acceptable evidence of completion:

 (1)  For group programs, a certificate or other verification supplied by the CPE program sponsor;

 (2)  For self-study programs using a pilot test, a certificate of completion from the CPE sponsor that has been approved by NASBA's National Registry of CPE Sponsors or NASBA's Quality Assurance Service after satisfactory completion of an examination;

 (3)  For self-study programs using the word count formula, a certificate of completion from the CPE sponsor that has been approved by NASBA's national registry of CPE sponsors or NASBA's quality assurance service after satisfactory completion of the course;

 (4)  For instruction credit, a certificate, program outline, or other verification supplied by the CPE program sponsor;

 (5)  For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received;

 (6)  For university or college noncredit courses, a certificate of attendance issued by a representative of the university or college;

 (7)  For published articles, books, or CPE programs:

 (a)  A copy of the publication, or in the case of a CPE program, course development documentation, that names the writer as author or contributor;

 (b)  A statement from the writer supporting the number of CPE hours claimed; and

 (c)  The name and contact information of the independent reviewer or publisher;

 (8)  For independent study programs, a certificate of completion from the CPE sponsor that has been approved by NASBA's National Registry of CPE Sponsors or NASBA's Quality Assurance Service after satisfactory completion of the course;

 (9)  For nano learing program a certificate of completion from the CPE sponsor that has been approved by NASBA's national registry of CPE sponsors or NASBA's quality assurance service after satisfactory completion of the course.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:16.  Standards for continuing professional education group program sponsors.** Continuing professional education program sponsors must provide descriptive materials that enable a CPA or PA to assess the appropriateness of learning activities. To accomplish this, CPE program sponsors must provide participants with the following information in advance of the program:

 (1)  Learning objectives;

 (2)  Prerequisites, if any;

 (3)  Program level;

 (4)  Program content;

 (5)  Advance preparation, if any;

 (6)  Instructional delivery methods;

 (7)  Recommended CPE credit;

 (8)  Course registration requirements.

 When CPE programs are offered in conjunction with non-educational activities, or when several CPE programs are offered concurrently, participants should receive an appropriate schedule of events indicating those components that are recommended for CPE credit. The CPE program sponsor's registration policies and procedures should be formalized, published, and made available to participants.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **Cross-Reference:** Definitions, § 20:75:04:00.

 **20:75:04:17.  Standards for continuing professional education program sponsors of independent-study learning activities.** Repealed.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **20:75:04:18.  Standards for continuing professional education program sponsors of self-study programs.** Repealed.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

 **20:75:04:19.  Evaluating learning activity quality.** Continuing professional education program sponsors must have an effective means for evaluating learning activity quality as to content and presentation. A program sponsor must provide a mechanism for a CPA or PA participating in a program to evaluate whether learning objectives and learning outcomes were met. Evaluation should be solicited from each participant either in writing or electronically to determine the following:

 (1)  Stated learning objectives were met;

 (2)  Prerequisite requirements were appropriate, if applicable;

 (3)  Program materials were accurate, relevant, and contributed to the achievement of the learning objectives;

 (4)  Time allotted to the learning activity was appropriate;

 (5)  Individual instructors were effective, if applicable;

 (6)  Facilities and technological equipment were appropriate;

 (7)  Handout or advance preparation materials were satisfactory; and

 (8)  Audio and video materials were effective.

 Program sponsors must periodically review evaluation results to assess program effectiveness and inform developers and instructors of evaluation results.

 Program sponsors must ensure instructional methods used are appropriate for the learning activities. Learning activities must be presented in a manner consistent with the descriptive and technical materials provided. Informal organizations sponsoring continuing professional education courses may abdicate retention of required documentation to the participating CPA or PA.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **20:75:04:20.  Standards for continuing professional education program reporting.** A program sponsor must provide each CPA or PA participating in the program with documentation of participation, which includes the following:

 (1)  Continuing professional education program sponsor name and address;

 (2)  Name of CPA or PA;

 (3)  Course title;

 (4)  Course field of study;

 (5)  Date offered or completed;

 (6)  Location, if applicable;

 (7)  Type of instructional or delivery method used;

 (8)  Number of continuing professional education credit hours awarded;

 (9)  Description of computation used to determine the amount of credit awarded; and

 (10)  Verification by continuing professional education program sponsor representative.

 Program sponsors must retain adequate documentation for four years to support compliance with these standards. Informal organizations sponsoring continuing professional education courses may abdicate retention of required documentation to the participating CPA or PA.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **Cross Reference:** Definitions, § 20:75:04:00.

 **20:75:04:21.  Continuing professional education program sponsors retention of adequate documentation.** A program sponsor must retain or have access to documentation for four years to support compliance with standards. A program sponsor must retain or have access to the following:

 (1)  Records of participants;

 (2)  Dates and locations;

 (3)  Instructor names and credentials;

 (4)  Number of continuing professional credits earned by participants;

 (5)  Results of program evaluations; and

 (6)  Evidence of compliance with responsibilities included in these standards.

 Sponsors must have access to or maintain copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how continuing professional education credits were determined. Informal organizations presenting continuing professional education courses may abdicate responsibility for retention of required documentation to a participating CPA or PA.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005.

 **General Authority:** SDCL 36-20B-12(3).

 **Law Implemented:** SDCL 36-20B-27.

 **Cross Reference:** Definitions, § 20:75:04:00.

 **20:75:04:22.  Continuing professional education program developer's criteria for retention of pilot test records.** Repealed.

 **Source:** 31 SDR 97, adopted December 17, 2004, effective July 1, 2005; 45 SDR 84, effective December 20, 2018; effective July 1, 2019.

**CHAPTER 20:75:05**

**PROFESSIONAL CONDUCT**

Section

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 **20:75:05:00.  Licensee definition.** A licensee for the purpose of this chapter is as defined in SDCL 36-20B-1 or an individual exercising practice privileges pursuant to SDCL 36-20B-66 or 36-20B-67.

 **Source:** 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12.

 **Law Implemented:** SDCL 36-20B-1(9), 36-20B-66, 36-20B-67.

 **20:75:05:01.  Independence.** A licensee shall comply with Section ET 1.200 of the American Institute of Certified Public Accountants, and with the independence rules of the United States Securities and Exchange Commission, United States Department of Labor, Public Company Accounting Oversight Board and United States Government Accountability Office applicable to the licensees' engagement.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-12(4).

 **References:** **AICPA Professional Standards**, **Volume 2**, **ET Section 1.200**, as of July 1, 2019, American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036. Cost: Annual Online Subscription, Member $199/Non-Member $249.

 **Government Auditing Standards**, by the United States Government Accountability Office December 2011 Revision, or July 2018 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, D.C. 20548; or from their website at [www.gao.gov/yellowbook](http://www.gao.gov/yellowbook). Cost: first document free, each additional copy $2.

 **United States Department of Labor**: 29 CFR §2509.75-9 (July 1, 2016). Available online at: [https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol9/pdf/CFR-2016-title29-vol9-sec2509-75-9.pdf](https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-fol9/pdf/CFR-2016-title29-vol9-sec2509-75-9.pdf) .

 **Public Company Accounting Oversight Board**: Rules Section 3, Auditing and Related Professional Practice Standards (May 2, 2014). Available online at:

<http://pcaobus.org/Rules/PCAOBRules/Pages/Section_3.aspx>.

 **United States Securities and Exchange Commission**: 68 FR 6005 (February 5, 2003). Available online at: [https://www.sec.gov/rules/final/33-8183a.htm](http://www.sec.gov/rules/final/33-8183.htm).

 **20:75:05:02.  Integrity and objectivity -- Conflict of interest.** A licensee may not in the performance of professional services knowingly misrepresent facts or subordinate the licensee's judgment to others. In tax practice, however, a licensee may resolve doubt in favor of a client if there is reasonable support for the position.

 A conflict of interest may occur if a licensee performs a professional accounting service for a client or employer and the licensee or the licensee's firm has a material relationship with another person, entity, product, or service that could be viewed as impairing the licensee's objectivity. If this material relationship is disclosed to and consent is obtained from the client, employer, or other applicable parties, this section does not prohibit the performance of the professional accounting service.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-12(4).

 **Cross-References:** Auditing, accounting, and review standards, § 20:75:05:05; Accounting principles, § 20:75:05:06.

 **20:75:05:03.  Acceptance of commission or contingent fee.** A licensee in public practice may not perform any professional services for a commission or contingent fee for, or receive such a commission or fee from, a client for whom the licensee or licensee's firm also performs:

 (1)  An audit or review of a financial statement;

 (2)  A compilation of a financial statement if the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

 (3)  An examination of prospective financial information.

 This prohibition applies during the period in which the licensee or the licensee's firm is engaged to perform any of the services listed in this section as well as the period covered by any historical financial statements involved in any such listed services.

 For purposes of this section, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee is charged unless a specified finding or result is attained or in which the amount of the fee is otherwise dependent upon the finding or result of the service.

 A licensee's fees may vary depending, for example, on the complexity of services rendered. Fees are not regarded as being contingent if they are fixed by courts or other authorities or, in tax matters, if they are based on the results of judicial proceedings or the findings of governmental agencies. The preparation of original or amended tax returns or claims for refunds does not fall within these exceptions.

 A licensee who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

 Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any such person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:04.  Competence.** A licensee shall comply with the following standards and with any interpretations thereof by bodies designated by the Council of the American Institute of Certified Public Accountants, or by other entities having similar generally recognized authority:

 (1)  Professional competence. Undertake only those professional services which the licensee or the licensee's firm can reasonably expect to complete with professional competence, including compliance, where applicable, with §§ 20:75:05:07 and 20:75 :05:08;

 (2)  Due professional care. Exercise due professional care in the performance of professional services;

 (3)  Planning and supervision. Adequately plan and supervise the performance of professional services; and

 (4)  Sufficient relevant data. Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to professional services performed.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:05.  Auditing, accounting, and review standards.** A licensee may not permit the licensee's name to be associated with a report on financial statements as defined by SDCL 36-20B-3 unless the licensee complied with generally accepted auditing standards or accounting and review standards as applicable. Generally accepted auditing standards and accounting and review **standards are the standards set forth in the AICPA Professional Standards, Volume 1, AU** Sections 100 through 901, as of July 1, 2019; **AICPA Professional Standards, Volume 2**, AR Sections 20 through 9600, as of July 1, 2019; **AICPA** **Professional Standards, Volume 1**, AT Sections 20 through 801, as of July 1, 2019; and **AICPA Professional Standards, Volume 2**, ET Sections 0.300 through 3.400, as of July 1, 2019; by the American Institute of Certified Public Accountants. **Government Auditing Standards** **by the United States Government Accountability Office**, December 2011 Revision, or July 2018 Revision, as applicable. Licensees must justify departures from these standards.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **References:** **AICPA Professional Standards, Volume 1**, AU Sections 100 through 901, as of July1, 2019; **AICPA Professional Standards, Volume 2**, AR Sections 20 through 9600, as of July 1, 2019; **AICPA Professional Standards, Volume 1**, AT Sections 20 through 801, as of July 1, 2019; and **AICPA Professional Standards, Volume 2**, ET Sections 0.300 through 3.400, as of July 1, 2019, by the American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, NC 27707. Cost: **AICPA Professional Standards**, Annual Online Subscription. Member $199/Non-Member $249.

 **Government Auditing Standards by the United States Government Accountability Office**, December 2011 Revision, or July 2018 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, D.C. 20548; or from their website at [www.gao.gov/yellowbook](http://www.gao.gov/yellowbook). Cost: **Government Auditing Standards**, first document free, each additional copy $2.

 **20:75:05:06.  Accounting principles.** If financial statements or other financial data contain any departure from an accounting principle promulgated by the Financial Accounting Standards Board and its predecessors, the Governmental Accounting Standards Board, or by other entities having similar authority as recognized by the board, a licensee may not:

 (1)  Express an opinion or state affirmatively that the statements or other data of any entity are presented in conformity with generally accepted accounting principles; or

 (2)  State that the licensee is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles.

 If, however, the statements or data contain such a departure and the licensee can demonstrate that due to unusual circumstances the financial statements or data would otherwise have been misleading, the licensee may comply with this section by describing the departure, its approximate effects, if practicable, and the reason why compliance with the principle would result in a misleading statement.

 Generally accepted accounting principles for nongovernmental entities are those pronouncements issued by the Financial Accounting Standards Board and its predecessor entities published by the **Financial Accounting Standards Board (FASB)**, in **Accounting Standards, Current Text, General Standards**, as of August 2014**,** and **Financial Accounting Standards Board (FASB)**, **Accounting Standards, Current Text, Industry Standards**, as of August 2014. Generally accepted accounting principles for governmental entities are those pronouncements of the Governmental Accounting Standards Board published in **Codification of Governmental Accounting and Financial Reporting Standards**, as of June 30, 2014.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **Reference:** **Financial Accounting Standards Board (FASB), Accounting Standards** [www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498](http://www.fasb.org/jsp/FASB/Page/SectionPage%26cid%3D1176156316498).

 **Codification of Governmental Accounting and Financial Reporting Standards**, as of June 30, 2014. Copies may be viewed at the board's office or obtained from Governmental Accounting Standards Board Order Department, P.O. Box 30784, Hartford, CT 06150. Cost: $105.

 **20:75:05:07.  Professional standards and conduct.** A licensee shall comply with professional ethical standards and conduct. Professional standards and conduct are those set forth in the **AICPA Professional Standards, Volume 2**, **ET Section** as of July 1, 2019, by the American Institute of Certified Public Accountants.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **Reference:** **AICPA Professional Standards, Volume 2**, as of July 1, 2019, American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, NC 27707. Cost: Members $199/Non-Members $249.

 **20:75:05:08.  Interpretations.** In the interpretation and application of this chapter, the board shall consider interpretations of similar rules issued by the American Institute of Certified Public Accountants.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **Reference:** **AICPA Professional Standards, Volume 2**, as of July 1, 2019, American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, NC 27707. Cost: Members $199/Non-Members $249.

 **20:75:05:09.  Confidential client information.** A licensee may not without the consent of the client disclose any confidential information pertaining to the client obtained in the course of performing professional services. This rule does not do any of the following:

 (1)  Relieve a licensee of any obligations under §§ 20:75:05:07 and 20:75:05:08;

 (2)  Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court;

 (3)  Prohibit disclosures in the course of a peer review of a licensee's professional services; or

 (4)  Preclude a licensee from responding to an inquiry made by the board or an investigative or disciplinary body established by law or formally recognized by the board.

 An individual who conducts a peer review and the individual's firm may not disclose any confidential client information which comes to their attention from a licensee but they may furnish such information to an investigative or disciplinary body as described in subdivision (4) of this section.

 A board member, a member of a recognized investigative or disciplinary body, and a practice reviewer may not use to their own advantage or disclose any confidential client information that comes to their attention in carrying out their official responsibilities. This prohibition does not restrict the exchange of information with recognized investigative or disciplinary bodies or affect in any way compliance with a validly issued and enforceable subpoena or summons.

 A licensee reviewing a practice in connection with a prospective purchase or merger may not use to the licensee's advantage or disclose any confidential client information that comes to the licensee's attention.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **Cross-Reference:** Confidentiality of reports, § 20:75:07:16.

 **20:75:05:10.  Client records.** Terms used in this section are as follows:

 (1)  Client-provided records are accounting or other records belonging to the client that were provided to the licensee on behalf of the client;

 (2)  Client records prepared by the licensee or firm are accounting or other records such as tax returns, general ledgers, subsidiary journals, and supporting schedules such as detailed employee payroll records and depreciation schedules that the licensee was engaged to prepare for the client;

 (3)  Supporting records are information not reflected in the client's books and records that are otherwise not available to the client with the result that the client's financial information is incomplete. Supporting records include adjusting, closing, combining, or consolidating journal entries, including computations supporting such entries that are produced by the licensee during an engagement;

 (4)  Licensee's working papers include audit programs, analytical review schedules, and statistical sampling results, analyses, and schedules prepared by the client at the request of the licensee.

 Upon request, a licensee must furnish to a client or former client any requested client-provided records, client records prepared by the member, or supporting records that are in the custody or control of the licensee or firm. A licensee may withhold client records prepared by the licensee if the preparation of such records is not complete or there are fees due the licensee for the engagement to prepare those records. A licensee may withhold supporting records if there are fees due to the member for the specific work product.

 Once a licensee has complied with the client's or former client's requests, the licensee need not comply with any subsequent requests to provide the same information, unless subsequent to complying with a request, a client experiences a loss of records due to a natural disaster or an act of war. In such cases, the licensee shall comply with an additional request to provide such records.

 Licensee's working papers are the property of the licensee and need not be provided to the client, unless a contractual agreement exists requiring the licensee to do so.

 When a licensee is required to return or provide records to a client, the licensee should comply with the client's request as soon as practicable, but no later than 45 days after the request is made.

 A licensee may charge the client a reasonable fee for the time and expense incurred to retrieve and copy such records and require that such fee be paid before the records are provided to the client, provide the requested information in any format usable by the client, and make and retain copies of any records returned or provided to the client.

 **Source:** 29 SDR 16, effective August 14, 2002; 33 SDR 107, effective December 26, 2006.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:11.  Acting through others.** A licensee may not permit others to carry out on the licensee's behalf, either with or without compensation, acts which, if carried out by the licensee, would place the licensee in violation of this chapter.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:12.  Advertising.** A licensee may not use or participate in the use of any form of public communication referring to the licensee's professional services which contains a false, fraudulent, misleading, or deceptive statement or claim.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:13.  Solicitation.** A licensee may not by any direct personal communication solicit an engagement to perform professional services under the following circumstances:

 (1)  The communication would violate § 20:75:05:11 if it were a public communication;

 (2)  The entity solicited has made known to the licensee a desire not to receive direct communications; or

 (3)  The licensee knows or reasonably should know that the communication involves coercion, intimidation, threats, or harassing conduct.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40(10), 36-20B-41.

 **20:75:05:14.  Form of practice.** A licensee may practice public accountancy only in a proprietorship, a partnership, a limited liability company, a limited liability partnership, or a professional corporation. A limited liability company, limited liability partnership, or professional corporation must denote its form of practice on the firm's letterhead.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12.

 **Law Implemented:** SDCL 36-20B-34(4).

 **20:75:05:15.  Firm names.** A licensee may not practice public accountancy under a firm name that is misleading in any way. Names of one or more past partners, members, or shareholders may be included in the firm name of a successor organization. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two years after becoming a sole practitioner.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:16.  Communications from board.** A licensee shall, when requested, respond to communications from the board within 30 days after the mailing of the communications by registered or certified mail to the address shown on the records of the board.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12.

 **Law Implemented:** SDCL 36-20B-40, 36-20B-41.

 **20:75:05:17.  Records retention.** A licensee shall comply with the record retention rules of the American Institute of Certified Public Accountants, United States Government Accountability Office, United States Securities and Exchange Commission, Public Company Accounting Oversight Board, and United States Department of Labor as applicable to the engagement.

 **Source:** 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018; 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(4).

 **Law Implemented:** SDCL 36-20B-12(4).

 **References:** **AICPA Professional Standards**, **Volume 2**, **ET Section 1.200**, as of July 1, 2019, by the American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, NC 27707. Cost: Annual Online Subscription, Member $199/Non-Member $249.

 **Government Auditing Standards**, by the United States Government Accountability Office, December 2011 Revision, or July 2018 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, D.C. 20548; or from their web site at [www.gao.gov/yellowbook](http://www.gao.gov/yellowbook). Cost: **Government Auditing Standards**, first document free, each additional copy $2.

 **United States Securities and Exchange Commission**: Regulation S-X, 17 CFR § 210.2-06 (March 3, 2003). Available online at: <http://www.sec.gov/rules/final/33-8180.htm>.

 **Public Company Accounting Oversight Board**: AS 1215 Appendix A (June 9, 2004). Available online at:

[https://pcaobus.org/Standards/Auditing/Pages/AS1215\_Appendix\_A.aspx](http://pcaobus.org/Standards/Auditing/Pages/Auditing_Standard_3_Appendix_A.aspx).

 **United States Department of Labor**: 29 CFR § 2509.75-9 (July 1, 2016). Available online at:

<https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol9/pdf/CFR-2016-title29-vol9-sec2509-75-9.pdf>.

**CHAPTER 20:75:06**

**MODIFICATION OF DISCIPLINE**

Section

20:75:06:01 Modification of discipline.

20:75:06:02 Reinstatement or reissuance of suspended or revoked certificate, permit, or practice privileges.

 **20:75:06:01.  Modification of discipline.** If the board suspends or revokes a certificate or permit, refuses to renew a permit, or revokes or limits practice privileges granted pursuant to SDCL 36-20B-66 or 36-20B-67, the individual or firm affected may petition the board in writing requesting modification of the suspension, revocation, refusal to renew, or limits on practice privileges. The petition may be filed with the board no less than two years after the effective date of the board's decision unless the board specifies a shorter period in its decision.

 A petition for modification of discipline under this section must be accompanied by a fee of $1,000 to cover anticipated costs of the reinstatement proceeding. Anticipated costs include legal fees, court reporter costs, and service fees.

 Upon receipt of the petition, the board shall schedule a formal hearing in accordance with SDCL chapter 1-26. The petitioner must demonstrate by clear and convincing evidence that the petitioner has the qualifications necessary for initial issuance of a certificate or permit, that resumption of the practice of public accountancy or the exercise of practice privileges pursuant to SDCL 36-20B-66 or 36-20B-67 will not be detrimental to the integrity and standing of the profession or subversive to the public interest, and that there is good cause for the board to modify its previous action. The board may not act on a subsequent petition until the expiration of at least one year from the effective date of the board's last ruling on the preceding petition.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12(15), 36-20B-52.

 **Law Implemented:** SDCL 36-20B-52, 36-20B-53.

 **20:75:06:02.  Reinstatement or reissuance of suspended or revoked certificate, permit, or practice privileges.** A petition for reinstatement or reissuance under this section must be accompanied by a fee of $1,000 to cover anticipated costs of the reinstatement proceeding. Anticipated costs include legal fees, court reporter costs, and service fees.

 Upon receipt of the application, the board shall schedule a formal hearing in accordance with SDCL chapter 1-26. The applicant must demonstrate at the hearing by clear and convincing evidence that the applicant has the qualifications necessary for initial issuance of a certificate or permit, that resumption of the practice of public accountancy or the exercise of practice privileges pursuant to SDCL 36-20B-66 or 36-20B-67 will not be detrimental to the integrity and standing of the profession or subversive to the public interest, and that there is a good cause for the board to reinstate or reissue the certificate, permit, or practice privileges.

 The board may not act on a subsequent application until the expiration of at least one year from the effective date of the board's last ruling on the preceding application.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 305, effective July 1, 2009.

 **General Authority:** SDCL 36-20B-12, 36-20B-52.

 **Law Implemented:** SDCL 36-20B-52, 36-20B-53.

**CHAPTER 20:75:07**

**PEER REVIEW**

Section

20:75:07:01 Definitions.

20:75:07:02 Requirement for review -- Fee -- Areas to be reviewed.

20:75:07:03 Exemption from review.

20:75:07:04 New firms.

20:75:07:05 Equivalent reviews.

20:75:07:06 Repealed.

20:75:07:07 Repealed.

20:75:07:08 Repealed.

20:75:07:09 Conduct of review -- Requirements.

20:75:07:10 Results of review -- Exit conference.

20:75:07:11 Report -- Findings for further consideration.

20:75:07:12 Response to findings for further consideration.

20:75:07:13 Repealed.

20:75:07:14 Repealed.

20:75:07:15 Board's review of reports.

20:75:07:16 Confidentiality of reports.

20:75:07:17 Procedure in case of pass with deficiency or fail report.

20:75:07:18 Procedure in case of pass report.

 **20:75:07:01. Definitions.** As used in this chapter:

 (1)  "Accounting and auditing practice" means all engagements covered by "Statements on Auditing Standards", "Statements on Standards for Accounting and Review Services", "Statements on Standards for Attestation Engagements" for Financial Forecasts and Projections (AICPA, Professional Standards, vol. 1, AT sec. 301 and 801), attest services on financial information when the firm audits, reviews, or compiles the historical financial statements of the client, and standards for financial and compliance audits contained in **Government Auditing Standards** December 2011 Revision, or July 2018 Revision, as applicable, issued by the U. S. General Accounting Office;

 (2)  "Engagement review" means a review required of a firm that only performs services under "Statements for Accounting and Review Services" or "Statements on Standards for Attestation Engagements" not included in system reviews;

 (3)  "Equivalent review" means a peer review conducted by the American Institute of Certified Public Accountants, a state licensing board, or an accounting association or society in accordance with the review standards in §§ 20:75:07:09 through 20:75:07:15;

 (4)  "Pass report" means a report issued as the result of a peer review that describes no significant deficiencies in the professional standards in §§ 20:75:05:05 and 20:75:05:06;

 (5)  "Pass with deficiency or fail report" means a report issued as the result of a peer review that describes significant deficiencies in the professional standards in §§ 20:75:05:05 and 20:75:05:06;

 (6)  "Professional standards" means the standards in §§ 20:75:05:05 and 20:75:05:06;

 (7)  "Quality control system" means the five elements of quality control described in "Statement on Quality Control Standards" No. 2, vol. 2, QC Section 10, and "Statements on Quality Control Standards," published in **AICPA Professional Standards, Volume 2**, as of July 1, 2019;

 (8)  "Report review" means a review required of a firm that only performs compilation engagements under "Statements for Accounting and Review Services" where the firm has compiled financial statements that omit substantially all disclosures;

 (9)  "System review" means a review required of a firm that performs engagements under the "Statements on Auditing Standards", "Statements on Standards for Accounting and Review Services", "Statements on Standards for Attestation Engagements", or "Government Auditing Standards", or performs examinations of prospective financial statements under "Statements on Standards for Attestation Engagements";

 (10)  "Year of review" means the calendar year during which a peer review is to be conducted; in the case of an equivalent review, the fiscal or calendar year during which a peer review is to be conducted;

 (11)  "Year under review" means the calendar year prior to the year of review; in the case of an equivalent review, the fiscal or calendar year prior to the year of review.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020); 46 SDR 153, effective July 9, 2020.

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36.

 **References:** **Government Auditing Standards**, December 2011 Revision, or July 2018 Revision, as applicable. United States Government Accountability Office. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, DC 20548, or their website at [www.gao.gov/yellowbook](http://www.gao.gov/yellowbook). Cost: **Government Auditing Standards**, December 2011 Revision, first copy free, each additional copy $2;

 **AICPA Professional Standards, Volume 2**, as of July 1, 2019, American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, NC 27707. Cost: Member $199/Non-Member $249.

 **Cross-Reference:** Conduct of review -- Requirements, § 20:75:07:09.

 **20:75:07:02.  Requirement for review -- Fee -- Areas to be reviewed.** A licensed firm, as a condition to renewal of its firm permit pursuant to SDCL chapter 36-20B, must undergo a peer review in accordance with this chapter once every three years unless prior approval is granted by the board for special circumstances. Special circumstances include a requirement by another reviewing body which would cause a firm's review to be outside the three year cycle.

 The board may waive or adjust the peer review requirements for a firm that has entered into a consent agreement as a result of a pass with deficiency or fail report.

 The administrative fee for a peer review is $75. The administrative fee must be accompanied by a Request for Acceptance of Equivalent Review form and received by the board at the board's office by June 1 or postmarked by June 1. If the Request for Acceptance of Equivalent Review form is submitted late, the administrative fee is $125. The Request for Acceptance of Equivalent Review form may be obtained at the board's office.

 If a firm filing a Request for Acceptance of Equivalent Review form has not engaged a reviewer by June 1, the firm must file a copy of the Request for Acceptance of Equivalent Review form by June 1 with the $75 fee. The original Request for Acceptance of Equivalent Review signed by the firm and reviewer must then be filed within 30 days after the reviewer is engaged. If the original Request for Acceptance of Equivalent Review form is not filed within 30 days after the reviewer is engaged, the firm must submit an additional $50.

 The peer review is limited to the firm's accounting and auditing practice and, if required, may include its related quality control system.

 **Source:** 29 SDR 16, effective August 14, 2002; 39 SDR 33, effective September 5, 2012; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **General Authority:** SDCL 36-20B-12(9)(10)(11).

 **Law Implemented:** SDCL 36-20B-36.

 **Cross-References:**

 Equivalent reviews, § 20:75:07:05.

 Selection of reviewer, § 20:75:07:06.

 Discretion to waive certain requirements, § 20:75:01:07.

 **20:75:07:03.  Exemption from review.** A firm is exempt from the peer review requirement set forth in § 20:75:07:02 if it represents to the board that it does not engage in the financial reporting area of practice, including audits, reviews, compilations, and accounting services on prospective financial information; that it does not intend to engage in such a practice during the following year; and that it will immediately notify the board in writing if it engages in such a practice. The representation shall be made in writing under oath on forms provided by the board and shall be made annually at the time the firm applies for renewal of its firm permit.

 A firm may declare exemption if the firm is subject to review for the prior year and no longer intends to engage in the financial reporting area of practice, including audits, reviews, compilations, and accounting services on prospective financial information; that it does not intend to engage in such a practice during the following year; and that it will immediately notify the board in writing if it engages in such a practice.

 If a firm under exemption notifies the board that it has engaged in the financial reporting area of practice, it must undergo a peer review during the first calendar year after its acceptance of the first engagement following a declaration of exemption from peer review.

 **Source:** 29 SDR 16, effective August 14, 2002; 39 SDR 33, effective September 5, 2012.

 **General Authority:** SDCL 36-20B-12(9)(10).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:04.  New firms.** A new firm, as a condition to renewal of its firm permit, must undergo a peer review during the first calendar year after it has been engaged in the practice of public accountancy for one full calendar year. After the initial review, the firm shall be reviewed every three years.

 A new firm is a firm that has not been previously licensed in this state or has not had a peer review completed in the three-year period prior to application. It does not include the following:

 (1)  A firm that has been previously licensed and changes its name or the legal form of its practice, but retains the same practice;

 (2)  A new partnership formed by two former sole proprietors who are existing permit holders who were already selected for peer review. The peer review of the new firm shall be conducted in the later of the years for which each of the former sole proprietors was selected;

 (3)  A partnership that is dissolved with each individual taking clients from the partnership. The peer review for the new firm of each permit holder remains in the same year to which the original partnership was assigned;

 (4)  A partnership that is dissolved with one partner taking all of the clients. The peer review for the permit holder taking over the existing business remains in the year to which it was originally assigned.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:05.  Equivalent reviews.** If a firm undergoes an equivalent peer review during its three-year review cycle, it may request that the board accept the review as fulfilling the requirements of § 20:75:07:02.

 The request must be submitted on forms provided by the board and must set forth the name of the reviewing body, the date of the review, and any other information requested by the board. If the review has not been completed, the reviewer must agree to retain all materials associated with the peer review until notice from the board of the acceptance of the review. The request for acceptance of an equivalent review form must be received by the board by June 1 or be postmarked by June 1. If the firm has not engaged a reviewer by June 1 the firm must submit a copy of the request for equivalent review form without the reviewer's signature and submit the original form with the reviewer's signature within 30 days after engaging the reviewer. If the original form with the reviewer's signature is not received within 30 days, a late fee of $50 will be charged.

 If the board approves the request for an equivalent review, the firm subject to review must submit to the board the reviewer's report; the findings for further consideration, if any; the reviewed firm's response to the findings for further consideration, if any; the final letter of approval; and a description of the status of any disciplinary action prescribed by the particular reviewing body. If the equivalent peer review was completed prior to the firm's request, the firm must submit the required information to the board within 30 days after the date on the board's letter confirming the request. If the equivalent peer review will be completed after the firm receives board confirmation of the request, the firm must submit the required information within 30 days after the date of the final letter of approval from the reviewing body. If the information is filed after 30 days from the date of the final letter of approval from the reviewing body, it must be accompanied by a fee of $50.

 Following receipt of the required information, the board shall proceed in accordance with § 20:75:07:15 or 20:75:07:16.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010.

 **General Authority:** SDCL 36-20B-12(9)(10)(11).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:06.  Selection of reviewer for South Dakota review.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **20:75:07:07.  Qualifications of reviewer -- South Dakota reviews.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **20:75:07:08.  Conduct of review -- Location.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008; 35 SDR 305, effective July 1, 2009; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 39 SDR 219, effective June 24, 2013; 41 SDR 111, effective January 19, 2015; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **20:75:07:09.  Conduct of review -- Requirements.** The peer review must be conducted in accordance with the following requirements:

 (1)  A review must have an engagement review, report review, or system review as defined in § 20:75:07:01, to ensure that procedures tailored to the size of the firm and the nature of its practice are performed;

 (2)  The reviewer must select the engagements to be reviewed. Engagements selected for review must provide a reasonable cross section of the firm's accounting and auditing practice with greater emphasis on those engagements in the practice with higher assessed levels of quality review risk. Factors to be considered in assessing peer review risk at the engagement level are size, industry area, level of service, personnel, litigation in industry area, and initial engagement;

 (3)  The review must be limited to the reviewed firm's quality control system and the accounting and auditing engagements with client year ends dated within the year under review;

 (4)  The reviewer must use checklists as a basis for performing the review. A separate checklist must be used for system reviews, engagement reviews, and report reviews. The checklists must include questions for the reviewer to answer and must provide sufficient information for the board to determine whether the firm under review complies with the standards and principles in §§ 20:75:05:05 and 20:75:05:06; and

 (5)  The firm under review must submit to the reviewer the preceding peer review report; the matters for further consideration, if any; the reviewed firm's response to the matters for further consideration, if any; the findings for further consideration, if any; the reviewed firm's response to the findings for further consideration, if any; the final letter of approval; and any board or review committee performance requirements.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36.

 **Cross-Reference:** Definitions, § 20:75:07:01.

 **20:75:07:10.  Results of review -- Exit conference.** A reviewer may issue a pass, pass with deficiency, or fail opinion as to whether the reports, work papers, if applicable, and quality control system, if applicable, reviewed comply with the standards and principles in §§ 20:75:05:05 and 20:75:05:06 based on the evidence the reviewer obtained in the review.

 The reviewer shall conduct an exit conference with representatives of the reviewed firm.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010.

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:11.  Report -- Findings for further consideration.** Within 30 days after the date of the exit conference, the reviewer must issue a written report and, if applicable, findings for further consideration to the reviewed firm. If the reviewer issues this report after the 30-day period, the reviewer must submit a fee of $50 to the board.

 The report and letter must be addressed to the proprietor, partners, members, officers, or shareholders of the reviewed firm and must be dated as of the date of the exit conference. The report must include the following:

 (1)  The year covered by the review;

 (2)  A statement of the scope of the review;

 (3)  A description of the general characteristics of a system of quality control, if applicable; and

 (4)  The reviewer's opinion. If the opinion is pass with deficiency or fail, the report must include a description of the reasons for the deficiency.

 If the reviewer finds deficiencies, the reviewer must issue to the firm under review findings outlining the deficiencies and recommending action to correct the deficiencies.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012.

 **General Authority:** SDCL 36-20B-12(9)(10)(11).

 **Law Implemented:** SDCL 36-20B-36.

 **Cross-Reference:** Discretion to waive certain requirements, § 20:75:01:07.

 **20:75:07:12.  Response to findings for further consideration.** The firm under review shall issue a response to findings for further consideration. The response shall contain the following:

 (1)  A statement addressing each finding in the reviewer's findings for further consideration;

 (2)  A statement of agreement or disagreement with the findings of the reviewer. The firm must provide reasons if it disagrees with the findings;

 (3)  A statement of agreement or disagreement with the corrective action recommended by the reviewer; and

 (4)  A schedule for correcting the findings.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 39 SDR 33, effective September 5, 2012.

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:13.  Reviewer's submissions to board -- South Dakota reviews.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **20:75:07:14.  Firm's submissions to board -- South Dakota reviews.** Repealed.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **20:75:07:15.  Board's review of reports.** After receipt of documentation from the reviewer and the firm under review, the board shall review the file and proceed with § 20:75:07:17 or 20:75:07:18. If the board determines that the firm under review does not comply with §§ 20:75:05:05 and 20:75:05:06, the board may require the reviewer to recall and reissue the report.

 If the board determines that the reviewer has not issued the report or findings for further consideration in accordance with §§ 20:75:07:09 to 20:75:07:12, inclusive, and § 20:75:07:15, the board shall return the report or the findings for further consideration, or both, to the reviewer for correction. The board may deny an individual the right to continue as a qualified reviewer if a subsequent report and any findings for further consideration are issued containing the errors the reviewer was previously notified to correct or the board may proceed in accordance with SDCL 36-20B-40 and 36-20B-41.

 The reviewer must destroy all work papers upon notification from the board of acceptance of the review.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **General Authority:** SDCL 36-20B-12(2)(9).

 **Law Implemented:** SDCL 36-20B-36.

 **20:75:07:16.  Confidentiality of reports.** The board shall treat the reports of the reviewing firm and all records submitted to that firm by the firm subject to review as confidential information and shall not disclose such information to any persons other than staff members, legal counsel, and other persons retained by the board to assist it in fulfilling its responsibilities under SDCL chapter 36-20B and this article.

 If a firm under review becomes the subject of a disciplinary proceeding pursuant to the provisions of SDCL 36-20B-40 and 36-20B-41, the board may make such information public in accordance with the provisions of those statutes.

 **Source:** 29 SDR 16, effective August 14, 2002.

 **General Authority:** SDCL 36-20B-12(2).

 **Law Implemented:** SDCL 36-20B-36, 36-20B-40, 36-20B-41.

 **Cross-Reference:** Confidential client information, § 20:75:05:09.

 **20:75:07:17.  Procedure in case of pass with deficiency or fail report.** If the report is designated pass with deficiency or fail, the board may request additional information or a response from the firm under review or from the reviewer to support or clarify the pass with deficiency or fail report and may attempt to have the firm subject to review correct the deficiencies through a consent agreement. The consent agreement must set forth a plan and schedule for correction of the deficiencies. The consent agreement may include the following:

 (1)  A requirement that the deficiencies be corrected within a specified time;

 (2)  A requirement that the firm undergo a peer review during the calendar year following the date designated for correction of the deficiencies;

 (3)  A requirement that the members of the firm complete continuing education in the areas of deficiency in addition to the continuing education hours required by SDCL 36-20B-27;

 (4)  A requirement that the firm maintain a minimum library of source materials; and

 (5)  Any other requirements that will effectuate the purpose of this chapter and SDCL chapter 36-20B.

 If the board and the firm are not able to reach a consent agreement in regard to a plan and schedule for correction of the deficiencies, the board may proceed in accordance with SDCL 36-20B-40 and 36-20B-41.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36, 36-20B-40, 36-20B-41.

 **Cross-References:**

Results of review -- Exit conference, § 20:75:07:10.

 Report -- Findings for further consideration, § 20:75:07:11.

 Response to findings for further consideration, § 20:75:07:12.

 Board's review of reports, § 20:75:07:15.

 **20:75:07:18.  Procedure in case of pass report.** If the report is designated pass, the board may take no further action or it may request additional information or a response from the firm under review or from the reviewer with regard to the pass report. If the firm fails to respond in the manner requested by the board, the board may proceed in accordance with the provisions of SDCL 36-20B-40 and 36-20B-41.

 **Source:** 29 SDR 16, effective August 14, 2002; 35 SDR 165, effective December 22, 2008; 36 SDR 216, effective July 6, 2010; 45 SDR 84, effective December 20, 2018 (effective January 1, 2020).

 **General Authority:** SDCL 36-20B-12(9).

 **Law Implemented:** SDCL 36-20B-36, 36-20B-40, 36-20B-41.

 **Cross-References:**

Results of review -- Exit conference, § 20:75:07:10.

 Report -- Findings for further consideration, § 20:75:07:11.

 Response to findings for further consideration, § 20:75:07:12.

 Board's review of reports, § 20:75:07:15.