ADMINISTRATIVE RULES

of

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SOCIAL SERVICES

ARTICLE 67:61

SUBSTANCE USE DISORDERS

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**ARTICLE 67:61**

**SUBSTANCE USE DISORDERS**

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**CHAPTER 67:61:01**

**DEFINITIONS**

# Section

67:61:01:01 Definitions.

 **67:61:01:01.  Definitions.** Terms used in this article mean:

 (1)  "Addiction counselor," an individual who meets the standards established by the Board of Addiction and Prevention Professionals and is recognized as a licensed addiction counselor or certified addiction counselor by the board;

 (2)  "Addiction counselor trainee," an individual who meets the standards established and is recognized, by the Board of Addiction and Prevention Professionals;

 (3)  "Admission," the point in an individual's relationship with an agency or program when the intake services are complete, and the individual is eligible to receive and accept services;

 (4)  "Advocate," an individual designated by a client to support that client by speaking or acting on the client's behalf;

 (5)  "Agency," a facility seeking or holding accreditation through the department, as provided in SDCL subdivision 34-20A-2(1);

 (6)  "Agency director," the individual in charge of the overall management of the agency;

 (7)  "Board of directors," the entity legally responsible for the overall operation and management of an agency;

 (8)  "Client," an individual receiving alcohol, other drug, or gambling treatment services, from an accredited agency;

 (9)  "Clinically-managed, low-intensity residential treatment program," an accredited residential program that provides services listed in chapter 67:61:16 to a client in a structured environment designed to aid re-entry into the community;

 (10)  "Clinically-managed, residential detoxification program," an accredited short-term residential program that provides services listed in chapter 67:61:17, through the supervised withdrawal from alcohol or other drugs, for an individual not having a known serious physical or immediate psychiatric complication;

 (11)  "Collateral contact," telephone or face-to-face contact with an individual, other than the identified client, in order to plan appropriate treatment to:

 (a)  Assist an individual, so the individual can respond therapeutically to the client's substance abuse problem; or

 (b)  Refer the client, family, or both, to other necessary community supports;

 (12)  "Continued service criteria," criteria to describe the clinical severity and degree of resolution of a client's alcohol or other drug problem and indicate the intensity of the services needed in determining continuing care;

 (13)  "Continuing care," the provision of a treatment plan and organizational structure that will ensure a client receives the care needed at the time, particularly at the point of discharge or transfer from the current level of care. The treatment program is flexible and tailored to the shifting needs of the client and level of treatment acceptance or adherence;

 (14)  "Co-occurring disorder," a mental health condition in combination with a substance use problem, trauma issues, problem gambling, medical issues, or developmental disabilities;

 (15)  "Crisis intervention," services provided to an individual experiencing a crisis situation related to the individual's use of alcohol or other drugs, and includes crisis situations in which co-occurring mental health symptoms may be present with a focus on restoring the individual to the level of functioning before the crisis or that provides a means to place the individual into a secure environment;

 (16)  "Day treatment program," an accredited program that provides services listed in chapter 67:61:15 to a client, in a clearly defined, structured, intensive treatment program;

 (17)  "Department," the Department of Social Services;

 (18)  "Discharge summary," a narrative summary of a client's treatment record, including the reason for the client's admission, clinical problems, accomplishments during treatment, and reason for discharge, and may include a recommendation or referral for further services;

 (19)  "Diversion services," services intended to divert a person at high risk for alcohol, tobacco, or other drug use, abuse, and dependency;

 (20)  "Early intervention program," an accredited nonresidential program that provides services listed in chapter 67:61:12 to individuals who may have substance use related problems, but do not meet the diagnostic criteria for a substance use disorder;

 (21)  "Family counseling," the face-to-face or telehealth interaction between an addiction counselor or addiction counselor trainee, a client, and a family member of the client, for a therapeutic purpose related to the client's treatment program;

 (22)  "Group counseling," the face-to-face or telehealth interaction between an addiction counselor or addiction counselor trainee and at least two clients, for a specific therapeutic purpose, provided the number of clients does not exceed fifteen, unless otherwise dictated by the evidence-based practice used;

 (23)  "High risk," an individual who is exposed to or experimenting with alcohol or other drugs, and possesses multiple risk factors for substance abuse;

 (24)  "Individual counseling," the face-to-face or telehealth interaction between an addiction counselor or addiction counselor trainee and an individual client for a specific therapeutic purpose;

 (25)  "Integrated assessment," the gathering of information and engaging in a process with the client, thereby enabling the provider to establish the presence or absence of a co-occurring disorder and identifying a client's strengths and needs, determining the client's motivation and readiness for change, and engaging the client in the development of an appropriate treatment relationship in which an individualized treatment plan can be developed;

 (26)  "Intensive outpatient treatment program," an accredited nonresidential program that provides services listed in chapter 67:61:14 to a client, in a clearly defined, structured, intensive outpatient treatment program, on a regularly scheduled basis;

 (27)  "Intern," a college or university student gaining supervised practical experience;

 (28)  "Management information system," a system designed to collect, store, and report treatment and treatment outcome data;

 (29)  "Medical director,” the individual responsible for providing care and overseeing the provision of medical care to a client in an accredited agency;

 (30)  "Medically-monitored, intensive inpatient treatment program," an accredited residential treatment program that provides services listed in chapter 67:61:18, to an individual in a structured environment;

 (31)  "Mental disorder" means a substantial organic or psychiatric disorder of thought, mood, perception, orientation, or memory, as specified within the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, criteria or in coding found in § 67:16:01:26. An intellectual disability, epilepsy, another developmental disability, alcohol abuse, substance abuse, brief periods of intoxication, or criminal behavior do not, alone, constitute a mental disorder;

 (32)  "Nonresidential program," an accredited program that provides alcohol and other drug abuse treatment and prevention services, on a less than twenty-four hour a day basis, but does not provide housing for clients;

 (33)  "Outpatient treatment program," an accredited nonresidential program that provides services listed in chapter 67:61:13, to a client or a person harmfully affected by alcohol or other drugs through regularly scheduled counseling services;

 (34)  "Prevention program," an accredited program that provides services listed in chapter 67:61:11, through a planned and recurring sequence of multiple, structured activities to inform, educate, impart skills, and provide appropriate referrals for other services, through the practice and application of recognized prevention strategies;

 (35)  "Program," an organized system and specific level of services, offered by an agency, and designed to address the treatment needs of a client;

 (36)  "Residential program," an accredited program that provides room and board, in addition to alcohol and other drug abuse treatment services on a twenty-four hour a day, seven day a week basis;

 (37)  "Services," direct or indirect contact between a client or a group of clients and agency staff, for the purpose of diagnosis, evaluation, treatment, consultation, or other necessary direct assistance in providing comprehensive treatment;

 (38)  "Substance use disorder," a diagnosable substance use condition or diagnosed gambling disorder;

 (39)  "Telehealth," a method of delivering services, including interactive audio-visual or audio-only technology, in accordance with SDCL chapter 34-52;

 (40)  "Transfer," movement of the client from one level of service to another;

 (41)  "Treatment plan," a written, individualized, and comprehensive plan that is based on information obtained from the integrated assessment, is designed to improve a client's condition, and includes treatment goals or objectives for primary problems that indicate a need for treatment services; and

 (42)  "Work therapy," a therapeutic task that is based on the client's physical abilities, interest level, and proficiency, and used to habilitate or rehabilitate a client.

 **Source:** 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Use of International Classification of Diseases, § 67:16:01:26.

 **Reference: DSM-5 -- Diagnostic and Statistical Manual of Mental Disorders**, Fifth Edition, published by the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. Cost: $199.00.

**CHAPTER 67:61:02**

**ACCREDITATION**

# Section

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67:61:02:19 Accreditation certificate nontransferable.

67:61:02:20 Changes requiring notification.

67:61:02:21 Event notification.

 **67:61:02:01.  Definitions.** Terms used in this chapter mean:

 (1)  "Comprehensive survey," a planned, on-site survey of an agency, by a team of representatives from the department for the purposes of evaluating compliance with the standards for accreditation renewal and assessing the quality of services provided;

 (2)  "Plan of correction," a plan created by an agency to organize the process of making improvements in clinical or administrative practice, in order to address issues that are identified by the department and require corrective action or improvement to meet the requirements of this article;

 (3)  "Probation," a status of restricted accreditation of an agency that fails to follow the requirements for accreditation;

 (4)  "Revocation," the permanent withdrawal of an alcohol or other drug abuse agency's accreditation by the department;

 (5)  "Root cause analysis," a process to identify the fundamental reason for a failure or an inefficiency of process that allowed for a mistake, including the occurrence or possible occurrence of a sentinel event, to determine how to change procedures so mistakes are less likely, and then make the change; and

 (6)  "Suspension," the temporary withdrawal of an agency's accreditation by the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27, 34-20A-44.

 **67:61:02:02.  Access by the department.** The department shall monitor each agency for continued compliance with this article, regardless of the term of an agency's accreditation certificate. An agency is subject to review, with or without notice, by the department. An agency shall provide the department with complete access to all clients and staff, and to all client, staff, financial, and administrative program records needed to determine whether the agency meets the requirements of SDCL chapter 34-20A and this article. The requirements for the department to review and copy records are those contained in 42 C.F.R. Part 2, in effect on January 18, 2017.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27, 34-20A-44, 34-20A-44.1.

 **67:61:02:03.  Accreditation of agencies by service classification.** An agency that provides substance use disorder services may apply for accreditation by the department. An agency shall comply with the rules in this article that apply to service classifications for which the accreditation is granted. An agency may apply for one or more of the following service classifications:

 (1)  Prevention;

 (2)  Outpatient services including early intervention programs, outpatient treatment programs, and intensive outpatient treatment programs;

 (3)  Day treatment program;

 (4)  Clinically-managed, low-intensity residential program;

 (5)  Clinically-managed, residential detoxification program; and

 (6)  Medically-monitored, intensive inpatient treatment program.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:04.  Application for accreditation.** An agency seeking to operate an accredited alcohol, other drug, or gambling program shall submit an application for accreditation to the department. The department shall return and not consider an incomplete application submitted by an agency. The department shall make accreditation application forms available upon request to an agency seeking initial accreditation or seeking to add a new level of care to a current accreditation.

 If an agency is seeking the renewal of an accreditation, the department must provide the necessary application forms to the agency at least sixty days before the expiration of the agency's current accreditation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:05.  Policies and procedures subject to approval.** All agency policies and procedures must comply with and carry out the requirements of article 67:61 and are subject to the approval of the department as part of the accreditation process.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:06.  Provisional accreditation and comprehensive survey.** The department may grant provisional accreditation to an agency seeking accreditation for the first time or to an agency previously accredited to regain accreditation. A provisional accreditation certificate may only be issued upon submission of a completed application and a preliminary comprehensive survey by the department to determine compliance with this article and the requirements of SDCL chapter 34-20A.

 A provisional accreditation expires after six months and may not be extended except with the approval of the department. An extension under this section may not exceed three months. The department shall conduct a follow-up, comprehensive survey, prior to the expiration of the agency's provisional accreditation, to determine if the requirements of SDCL chapter 34-20A and this article have been met. At that time, the department shall:

 (1)  Grant a one-year accreditation certificate for a new agency;

 (2)  Grant accreditation up to the end date of the original certification for a currently accredited agency who wants to change the level of care for which they are currently accredited; or

 (3)  Deny accreditation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:07.  Extension of accreditation period.** The department may extend the period of accreditation to accommodate department on-site scheduling delays. No extension may exceed a period of one year beyond the certificate expiration date.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:08.  Renewal of accreditation - Comprehensive survey.** Each agency currently accredited by the department shall participate in a comprehensive survey to determine compliance with the requirements of this article and SDCL chapter 34-20A prior to the renewal of accreditation. The department shall notify the agency of the date of the comprehensive survey.

 The department shall determine whether, based on the survey, the agency complied with SDCL chapter 34-20A and this article, within ninety days of the comprehensive survey. The determination must be based on the evaluation of each component of the accreditation application and materials reviewed. As a result, the department may:

 (1)  Issue a three-year accreditation certificate, if an agency is in compliance with ninety percent or more of the requirements and submits a plan of correction that is approved by the department and addresses all areas of noncompliance;

 (2)  Issue a two-year accreditation certificate, if an agency is in compliance with seventy to eighty-nine percent of the requirements and submits a plan of correction that is approved by the department and addresses all areas of noncompliance;

 (3)  Place an agency on probation for not more than six months, if an agency is in compliance with less than seventy percent of the requirements. If the agency successfully completes a plan of correction approved by the department, addresses all areas of noncompliance, and attains at least seventy percent during a comprehensive survey at the end of the probationary period, the department must issue a one-year accreditation certificate; or

 (4)  Deny accreditation if the agency fails to substantially comply with the requirements of SDCL chapter 34-20A and this article or fails to submit a plan of correction approved by the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:09.  Comprehensive survey report - Plan of correction.** The department shall, within thirty days following the comprehensive survey, report its findings to the agency. If an agency is not in compliance with this article and SDCL chapter 34-20A, the department must notify the agency of the areas of noncompliance in the accreditation report. In response to any areas of noncompliance, the agency must submit a plan of correction to the department within thirty days of receiving the accreditation report. The plan must include the action to be taken to correct the areas of noncompliance and the date the action is to be completed. The plan of correction is subject to acceptance or rejection, in whole or in part, by the department. The department shall, within thirty days of receiving the plan of correction, notify the agency of the department's decision regarding approval or disapproval of the plan and the accreditation status of the agency. The department may conduct a follow-up review of the agency to evaluate the corrections. Failure to submit a plan of correction or failure to have the plan of correction approved by the department will result in probation, suspension, or revocation of accreditation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27, 34-20A-44.

 **67:61:02:10.  Reasons for placing an agency on probation.** The department may place an agency on probation if the department determines:

 (1)  The agency is in compliance with less than seventy percent of the requirements of this article and SDCL chapter 34-20A;

 (2)  The agency failed to follow through with the plan of correction to address the areas of noncompliance noted by the department in the accreditation report;

 (3)  The agency has serious infractions of this article that affect the overall continuity of care or safety of clients;

 (4)  The agency falsified information provided to the department for accreditation or funding purposes;

 (5)  The agency participated in, condoned, or permitted illegal acts;

 (6)  The agency participated in, condoned, or permitted fraud, deceit, or coercion;

 (7)  The agency failed to comply with licensing and other standards that are required by federal or state laws, rules, or regulations; state and federal confidentiality laws; and this article; and the noncompliance results in practices that are detrimental to the welfare of a client; or

 (8)  The agency refused to allow the department access for a comprehensive survey, a complaint review, or any necessary follow-up review.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:11.  Probation procedures.** If the department determines that there is sufficient cause to place an agency on probation:

 (1)  The department must send the agency written notice of probationary status and areas of noncompliance;

 (2)  The agency must develop and submit a plan of correction, pursuant to § 67:61:02:09, within thirty days of the receipt of the notice of probationary status; and

 (3)  Within five business days after receiving the plan of correction, the department must notify the agency of the department's decision to approve or deny the plan of correction.

 The department must conduct a site visit, at least once during the probationary period, to monitor the agency's progress on the plan of correction.

 At the end of the probationary period, the department shall conduct a comprehensive survey of the agency and grant a one year accreditation certificate, provided the agency has obtained at least seventy percent compliance during the final comprehensive survey; suspend the agency's accreditation; or revoke the agency's accreditation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:12.  Suspension or revocation procedures.** The department shall provide written notice to an agency of the department's intent to suspend or revoke the agency's accreditation.

 The suspension or revocation is effective fifteen days after receipt of the notice. The notice must contain the reason for the department's action, describe the process by which the agency may request reconsideration by the department, and describe the appeal process.

 An agency's request for reconsideration must be in writing and be received by the department within fifteen days from the date the agency received the notice of suspension or revocation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Acceptance of new clients prohibited, § 67:61:02:13.

 **67:61:02:13.  Acceptance of new clients prohibited.** An agency that has been placed on probation or whose accreditation has been suspended is prohibited from accepting new clients until the department approves the plan of correction.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:14.  Delay in meeting requirements.** The department may grant an agency a delay in meeting the requirements of this article to avoid undue hardship on the agency if the department determines that allowing a delay would be in the best interest of the agency's clients.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1.

 **67:61:02:15.  Denial of accreditation.** If the department denies the accreditation of an agency, the department must send notice of the denial to the agency by certified mail, return receipt requested, within sixty days of the final review. The notice of denial must inform the agency that the denial is effective fifteen days after receipt of the notice.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:16.  Reconsideration of application for accreditation.** An agency may request that the department reconsider an application. The request must be in writing and sent within fifteen days after receipt of the denial of accreditation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:17.  Appeal procedure.** An agency may appeal to the secretary of the department any denial, revocation, or suspension of certification, or placement on probation by the department. An appeal under this section must be sent by certified mail within fifteen days after receipt of notification of the department's action and must include a request for a fair hearing pursuant to SDCL chapter 1-26.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Fair hearings, chapter 67:17:02.

 **67:61:02:18.  Time and place of hearing.** A fair hearing by an impartial hearing officer shall be held within 45 days after the department receives a request for a fair hearing. The hearing officer shall set a time and place for the hearing at the earliest reasonable time. The hearing officer may continue the hearing at the request of any party involved and upon agreement by the parties to a specific extension of time.

 **Source:** 43 SDR 80, effective December 5, 2016.

 **General Authority:** SDCL 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:19.  Accreditation certificate nontransferable.** A certificate issued by the department applies only to the applicant agency, the original facilities, and program classifications for which the certificate was issued. The agency shall notify the department in writing within thirty days before a change of ownership, facility, or program for a determination on continued accreditation. A new application for accreditation must be filed if there is a change of ownership, facility, or program.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:20.  Changes requiring notification.** An accredited agency shall notify the department before a change in the agency director, a reduction in services provided by the agency, or the impending closure of the agency. Upon receiving a notification under this section, the department must make a determination on the agency's continued accreditation.

 An accredited agency shall give the department thirty days' written notice of closure. The agency shall provide the department with written documentation outlining the manner in which safe storage of financial records will be provided, for at least six years from the date of closure, and safe storage of client case records will be provided, for at least six years from the date of closure, as required by 42 C.F.R. § 2.19, in effect on October 1, 1999.

 The department may assist in arranging for the continuation of services to clients by another accredited agency before the closing.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:02:21.  Event notification.** Each accredited agency shall make a report to the department within twenty-four hours of any: death not primarily related to the natural course of the client's illness or underlying condition, permanent harm to a client, or severe temporary harm to a client, and any intervention required to sustain life to a client.

 The agency shall submit a follow-up report to the department within seventy-two hours and must include:

 (1)  A written description of the event;

 (2)  The client's name and date of birth; and

 (3)  Immediate actions taken by the agency.

 Each agency shall develop a root cause analysis policy and procedures to utilize in response to any event requiring notification.

 Each agency shall report to the department, as soon as possible, any fire with structural damage or in which injury or death occurs; any partial or complete evacuation of the agency resulting from natural disaster; any loss of utilities, including electricity, natural gas, and phone lines; and any loss of an emergency generator, fire alarms, sprinklers, and other critical equipment necessary for operation of the agency for more than twenty-four hours.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:03**

**GOVERNANCE**

# Section

67:61:03:01 Articles of incorporation.

67:61:03:02 Board of director policies.

67:61:03:03 Board meetings and minutes of meetings.

67:61:03:04 Discrimination in services prohibited.

 **67:61:03:01.  Articles of incorporation.** Each agency that is not a governmental agency or a federally recognized tribe must be incorporated as or as part of a business corporation or a nonprofit corporation, in accordance with SDCL chapters 47-1A and 47-22 to 47-28, inclusive, as applicable, if the agency provides:

 (1)  Intensive outpatient treatment services;

 (2)  Day treatment services;

 (3)  Clinically-managed, residential detoxification services;

 (4)  Medically-monitored, intensive inpatient treatment services; or

 (5)  Clinically-managed, low-intensity residential treatment services.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:03:02.  Board of director policies.** An agency operating as a nonprofit corporation must have a board of directors. The board of directors shall establish policies that govern the overall management of the agency and reflect community concerns and interests.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:03:03.  Board meetings and minutes of meetings.** The board of directors of each agency with a board shall meet at least quarterly. The agency must keep the minutes of all board meetings. The minutes must contain:

 (1)  The date of the meeting;

 (2)  The names of board members in attendance;

 (3)  The topics discussed;

 (4)  The actions taken;

 (5)  A summary of the agency director's report; and

 (6)  Any fiscal reports.

 The agency shall make the minutes available for review by the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:03:04.  Discrimination in services prohibited.** No agency may deny any person equal access to its facilities or services on the basis of race, color, religion, gender, ancestry, or national origin. No agency may deny any person equal access to its facilities or services on the basis of mental or physical illness, or disability, unless the illness or disability makes treatment offered by the agency non-beneficial or hazardous. Each agency shall ensure that it complies with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., in effect on September 25, 2008, and 28 C.F.R. Part 36, in effect on January 17, 2017. The agency shall provide referral services to individuals not admitted to treatment.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 20-13-23, 20-13-23.1, 34-20A-27.

**CHAPTER 67:61:04**

**GENERAL MANAGEMENT REQUIREMENTS**

# Section

67:61:04:01 Policy and procedures manual.

67:61:04:02 Statistical data.

67:61:04:03 Compliance -- case record review.

67:61:04:04 Retention of records.

67:61:04:05 Accounting systems, cost reporting, and annual audit.

67:61:04:06 Fees for services.

67:61:04:07 Client orientation.

67:61:04:08 Description of services.

67:61:04:09 Staffing, training, and hours of operation.

67:61:04:10 Support services directory.

 **67:61:04:01.  Policy and procedures manual.** Each agency shall establish a manual that sets forth policy and procedures to ensure compliance with this article. Each agency shall review and update the manual.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-5-1.

 **67:61:04:02.  Statistical data.** Each agency shall submit to the department statistical data on each client receiving services in a manner agreed upon by the department and the agency. The agency shall provide statistical data on all services in accordance with the state management information system, and any other data required by the department and state and federal laws and regulations.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:04:03.  Compliance - case record review.** Each agency shall establish an ongoing compliance review process for the review of case records to assure the quality and appropriateness of services. Agency staff shall be informed of the review process, and the review process shall be made a part of the agency's policies and procedures manual. The agency shall have a procedure to address any issues discovered during the compliance review process.

 **Source:** 43 SDR 80, effective December 5, 2016.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1.

 **67:61:04:04.  Retention of records.** Each agency shall retain all financial records, client case records, and documentation of services provided, for at least six calendar years post-treatment. If a client is under the age of eighteen on the last date of treatment, records must be retained for at least six calendar years after the client reaches the age of eighteen. Records may not be destroyed while an audit or investigation is pending.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1.

 **67:61:04:05.  Accounting systems, cost reporting, and annual audit.** Each agency shall maintain an accounting system pursuant to generally accepted accounting principles. If requested by the department, the agency shall submit to the department a copy of an annual entity-wide, independent financial audit. The audit must be completed and filed with the department by the end of the fourth month following the end of the fiscal year being audited.

 Each audit must contain, as part of the supplementary information, a cost report as outlined by the department. If applicable, the audit must be conducted in accordance with 2 C.F.R. Part 200, Subpart F, in effect on August 13, 2020.

 In the case of an entity-wide, independent financial audit or a single audit, the agency shall shall ensure the resolution of all interim audit findings. The agency shall facilitate and aid any reviews, examinations, and agreed-upon procedures the department or any contractor may perform.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Single audit, 2 C.F.R. § 200.501(b).

 **67:61:04:06.  Fees for services.** Each agency shall adopt a schedule of fees for services and shall base the fees on the client's ability to pay. The agency shall provide its clients, referral resources, the public, and the department with up-to-date fees for services, including the fee per unit of service and any standard fees not included in the unit rate charged by the agency.

 The agency shall make every effort to collect payment from clients for services in accordance with its fee schedule and collect reimbursement for costs of services for all clients from other third-party sources.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:04:07.  Client orientation.** The agency shall develop policy and procedures to ensure that a new client receives orientation to the program at or before the time of admission, or as soon thereafter as possible. The orientation must include:

 (1)  The agency's purpose and a description of the treatment process;

 (2)  All relevant agency policy;

 (3)  The hours during which services are available;

 (4)  The fees for services and the responsibility for payment of those fees;

 (5)  Information on the right to confidentiality, in accordance with 42 U.S.C. § 290 dd-2, in effect on March 27, 2020, 42 C.F.R. Part 2, in effect on January 18, 2017, and 45 C.F.R. Parts 160 and 164, in effect on September 26, 2016; and

 (6)  The rights of the client while receiving services in accordance with §§ 67:61:06:01 and 67:61:06:02.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:04:08.  Description of treatment services.** The agency shall provide, to all staff members, clients, the department, and upon request, to the public, a written description of each service offered. The description must include:

 (1)  The eligibility criteria contained in § 67:61:12:01, 67:61:13:01, 67:61:14:01, 67:61:15:01, 67:61:16:01, 67:61:17:01, or 67:61:18:01;

 (2)  The continued services criteria contained in § 67:61:07:07;

 (3)  The discharge criteria contained in § 67:61:07:09;

 (4)  The policy and procedures governing client use of alcohol or other drugs while participating in treatment; and

 (5)  The frequency and duration of services and activities offered.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:04:09.  Staffing, training, and hours of operation.** Each agency shall have policy and procedures to respond to potential medical emergencies that clients may encounter while residing at the agency. Each agency that provides treatment services shall provide adequate staffing, training, and hours of operation at the following levels:

 (1)  Early intervention, outpatient programs, and intensive outpatient treatment programs shall have counseling staff on duty at all times during scheduled hours of program operation or available by phone. The agency shall post the hours that the agency is open to the general public in a prominent place on the premises. The agency shall have an on-call system, available seven days a week, twenty-four hours a day, for client access to program services, in the event of an emergency;

 (2)  Day treatment programs without residential services shall have counseling staff on duty at all times during scheduled hours of program operation. The agency shall post the hours that the agency is open to the general public in a prominent place on the premises. The agency shall have an on-call system, available seven days a week, twenty-four hours a day, for client access to program services, in the event of an emergency;

 (3)  Day treatment with residential services and clinically-managed, low-intensity residential treatment programs shall operate seven days a week, twenty-four hours a day. The agency shall have, on duty at all times, a staff member who is trained to respond to fires and other natural disasters, as well as to administer emergency first aid and cardiopulmonary resuscitation. An addiction counselor or an addiction counselor trainee must be available to the clients at least eight hours a day, five days a week, and must be available on-call, twenty-four hours a day. The agency shall maintain written staff schedules, which must be available to the department at the time of the accreditation survey;

 (4)  Clinically-managed, residential detoxification programs shall operate seven days a week, twenty-four hours a day whenever clients are present. If no clients are present, a staff member must be on call to open the facility, if necessary. When the agency is open, a staff member who is trained, in accordance with § 67:61:17:06, to respond to fires and other natural disasters, as well as to administer emergency first aid and cardiopulmonary resuscitation, must be on duty. An addiction counselor or an addiction counselor trainee must be available to clients at least eight hours a day, five days a week, and available on-call, twenty-four hours a day. The agency shall maintain written staff schedules, which must be available to the department at the time of the accreditation survey; and

 (5)  Medically-monitored, intensive inpatient treatment programs shall operate seven days a week, twenty-four hours a day. The agency shall have, on duty at all times, a staff member who is trained to respond to fires and other natural disasters, as well as to administer emergency first aid and cardiopulmonary resuscitation. Training and annual training updates in each area must be documented in the staff members' personnel files. Nursing staff must be on-call twenty-four hours a day, seven days a week. Counseling staff shall be on duty during normal daytime hours and must be on-call, twenty-four hours a day, seven days a week. The agency shall maintain written staff schedules, which must be available to the department at the time of the accreditation survey.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:04:10.  Support services directory.** The agency shall maintain an electronic or printed directory with the name, address, and telephone number of credentialed service providers available to provide the agency's clients with the following services, if applicable:

 (1)  Alcohol and other drug services;

 (2)  Social and mental health services;

 (3)  Medical services;

 (4)  Employment services;

 (5)  Education and educational counseling;

 (6)  Vocational evaluation and counseling;

 (7)  Continuing care services;

 (8)  Legal services; and

 (9)  Pastoral services.

 The agency shall make the directory available to clients at all times and to the department at the time of inspection.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:05**

**PERSONNEL**

# Section

67:61:05:01 Tuberculin screening requirements.

67:61:05:02 Agency director.

67:61:05:03 Qualifications of addiction counselors.

67:61:05:04 Qualification of staff providing prevention services.

67:61:05:05 Orientation of personnel.

67:61:05:06 Employee and other personnel supervision.

67:61:05:07 Clinical supervision.

67:61:05:08 Personnel policies and records.

67:61:05:09 Organizational chart.

67:61:05:10 Workforce development and training.

67:61:05:11 Volunteers.

67:61:05:12 Office of Inspector General Medicaid exclusion list.

 **67:61:05:01.  Tuberculin screening requirements.** Tuberculin screening requirements are as follows:

 (1)  Each new staff member, intern, and volunteer must receive both steps of the two-step tuberculin skin test or a tuberculosis blood assay test to establish a baseline, within fourteen days of employment. Any two documented tuberculin skin tests completed within a twelve month period before the date of employment may be considered a two-step test and one tuberculosis blood assay test completed within a twelve month period before employment may be considered an adequate baseline test. Skin testing or tuberculosis blood assay tests are not required if a new staff member, intern, or volunteer provides documentation of the last skin testing completed within the prior twelve months. Skin testing or tuberculosis blood assay tests are not required if documentation is provided of a previous positive reaction to either test;

 (2)  A new staff member, intern, or volunteer, who provides documentation of a positive reaction to the tuberculin skin test or tuberculosis blood assay test must have a medical evaluation and chest X-ray to determine the presence or absence of the active disease;

 (3)  Each staff member, intern, and volunteer, with a positive reaction to the tuberculin skin test or tuberculosis blood assay test, must be evaluated annually by a physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse, and a record must be maintained of the presence or absence of symptoms of *Myobacterium* tuberculosis. If the evaluation results in a suspicion of active tuberculosis, the physician, physician assistant, nurse practitioner, clinical nurse specialist, or a nurse, must refer the staff member, intern, or volunteer for further medical evaluation to confirm the presence or absence of tuberculosis; and

 (4)  Any employee confirmed or suspected to have infectious tuberculosis must be restricted from employment until a physician, physician assistant, nurse practitioner, or clinical nurse specialist, determines that the employee is no longer infectious.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Reference: Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.** "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report," December 30, 2005/Vol. 54/No.RR-17. Copies are available free of charge from the following website: https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm.

 **67:61:05:02.  Agency director.** Each agency shall have an agency director whose qualifications, authority, and duties are described in writing. The agency director must be knowledgeable about substance use disorder treatment and services, and possess administrative skills. If the agency has a board of directors, the board must appoint the director. The director shall represent the board and be charged with the day-to-day management of the agency. The board shall ensure that, at the time of employment, the agency director has knowledge of the administrative rules pertaining to substance use disorder treatment and services.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:03.  Qualifications of addiction counselors.** All agency staff that provide addiction counseling shall meet the standards for addiction counselors or addiction counselor trainees as established by the Board of Addiction and Prevention Professionals. A certificate and identification card issued by the board is evidence of meeting the standards for an addiction counselor or certificate of recognition for an addiction counselor trainee. An addiction counselor must obtain certification and an addiction counselor trainee must obtain recognition before performing any addiction counseling functions.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Addiction and prevention professionals, article 20:80.

 **67:61:05:04.  Qualifications of staff providing prevention services.** Agency staff providing prevention programming shall complete the Substance Abuse Prevention Skills Training or Foundations of Prevention within one year of being hired. Evidence of completion must be placed in the staff member's personnel file.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:05.  Orientation of personnel.** The agency shall provide orientation for all staff within ten working days after employment. The agency shall provide orientation for all contracted staff providing direct clinical services, interns, and volunteers, within ten working days after the start of their service with the agency. The orientation must be documented and cover:

 (1)  Fire prevention and safety, including the location of all fire extinguishers in the facility, instruction in the operation and use of each type of fire extinguisher, and an explanation of the fire evacuation plan and agency's smoking policy;

 (2)  The confidentiality of all information about clients, including a review of the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. Part 2, in effect on January 18, 2017, and 45 C.F.R. Parts 160 and 164, in effect on September 26, 2016;

 (3)  The proper maintenance and handling of client case records;

 (4)  The agency's philosophical approach to treatment and the agency's goals;

 (5)  The procedures to follow in the event of a medical emergency or a natural disaster;

 (6)  The specific job descriptions and responsibilities of employees, contracted staff, interns, and volunteers, as applicable;

 (7)  The agency's policy and procedures manual, maintained in accordance with § 67:61:04:01; and

 (8)  The agency's procedures regarding the reporting of suspected child abuse or neglect, in accordance with SDCL 26-8A-3 and 26-8A-8.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross References:**

 Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

 Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

 **67:61:05:06.  Employee and other personnel supervision.** Each agency shall establish and enforce policy and procedures for supervising agency employees, interns, and volunteers.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:07.  Clinical supervision.** The board of directors or the agency director shall designate an addiction counselor to be responsible for supervising clinical services, and for providing required supervision of addiction counselor trainees. The methods of supervising clinical services are:

 (1)  Case staffing, meaning a meeting of an agency’s staff treatment team to review and evaluate a client's case progress in treatment and determine whether changes are needed in the services provided to a client;

 (2)  Individual case supervision;

 (3)  Consultation with other clinical professionals;

 (4)  Review of case record maintenance; and

 (5)  Other clinically appropriate supervision methods, as determined by agency policy.

 If an addiction counselor is not available within the addiction counselor trainee's employing agency, supervision may be obtained on a contractual or consultant basis, from an outside party meeting the required qualifications.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:08.  Personnel policies and records.** An agency shall maintain personnel policies and records for all staff, including provisions for equal employment opportunities. An agency shall maintain a personnel file for each staff member, including any contracted staff, intern, or volunteer. The file must contain:

 (1)  The application filed for employment, or any resume, transcripts, diploma, and evidence of continuing education;

 (2)  The position description, signed by the staff member, with a statement of duties and responsibilities, and the minimum qualifications and competencies necessary to fulfill these duties;

 (3)  Evidence of having completed appropriate pre-hire screening, in the case of a staff member who provides direct services to vulnerable populations;

 (4)  The staff member's orientation documentation, in accordance with § 67:61:05:05;

 (5)  Copies of the staff member's current credentials, as related to job duties; and

 (6)  Any staff health clearances, including tuberculin test results, if required, and any clearances from a physician after an infectious or contagious disease requires the staff member's absence from the program.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:09.  Organizational chart.** Each agency shall have a current organizational chart that indicates lines of authority from the board of directors, if the agency has a board, or from the agency director, and lines of authority for all job classifications. The organizational chart must be made available to all staff members, the board of directors, if applicable, and the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:05:10.  Workforce development and training.** The agency shall provide for ongoing training and consultation to enable staff and supervisors to carry out their responsibilities effectively.

 **Source:** 43 SDR 80, effective December 5, 2016.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1(1)(2)(3).

 **67:61:05:11.  Volunteers.** If an agency uses volunteers as support for programs, the agency shall establish and maintain a plan for recruiting, screening, training, and supervising the volunteers.

 **Source:** 43 SDR 80, effective December 5, 2016.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1(5).

 **67:61:05:12.  Office of Inspector General Medicaid exclusion list.** Each agency shall routinely check the List of Excluded Individuals and Entities, maintained by the U.S. Department of Health and Human Services Office of Inspector General, to ensure that each new hire, as well as any current employee, is not on the list. No payment to the agency may be provided for services furnished by an excluded individual. Documentation that the check has been completed must be placed in the employee's personnel file.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-3-1, 27A-5-1.

**CHAPTER 67:61:06**

**CLIENTS' RIGHTS**

# Section

67:61:06:01 Clients' rights.

67:61:06:02 Guaranteed rights.

67:61:06:03 Policy on abuse, neglect, and exploitation.

67:61:06:04 Grievance procedures.

67:61:06:05 Appeal of ineligibility or termination of services.

67:61:06:06 Time and place of hearing.

67:61:06:07 Discharge policy.

67:61:06:08 Residential program rights.

 **67:61:06:01.  Clients' rights.** An agency shall ensure that clients' rights are protected. The agency shall give each client a copy of the clients' rights and responsibilities, in writing, or in an accessible format, upon admission, and shall discuss the rights and responsibilities with the client or the client's advocate.

 The clients' rights and responsibilities must be posted in a place accessible to clients. Copies must be available in locations where clients can access them, without making a request to agency staff. The agency shall make a copy of the clients' rights and responsibilities available to the department. The agency shall provide services to each client in a manner that is responsive to the client's need in the areas of age, gender, social support, cultural orientation, psychological characteristics, sexual orientation, physical situation, and spiritual beliefs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:06:02.  Guaranteed rights.** A client has rights guaranteed under the constitution and laws of the United States and this state, including:

 (1)  The right to refuse prohibited treatment, as provided in SDCL 27A-12-3.22;

 (2)  The right to be free of any exploitation or abuse;

 (3)  The right to seek and have access to legal counsel;

 (4)  The right to have access to an advocate or an employee of the state's designated protection and advocacy system;

 (5)  The right to confidentiality, of all records, correspondence, and information relating to assessment, diagnosis, and treatment, in accordance with 42 U.S.C. § 290 dd-2, in effect on March 27, 2020, 42 C.F.R. Part 2, in effect on January 18, 2017, and 45 C.F.R. Parts 160 and 164, in effect on September 26, 2016; and

 (6)  The right to participate in decision-making related to treatment, to the greatest extent possible.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27(3)(6).

 **67:61:06:03.  Policy on abuse, neglect, and exploitation.** Each agency shall establish a policy to prohibit abuse, neglect, and exploitation of a client. The policy must contain:

 (1)  Definitions of abuse, neglect, and exploitation, pursuant to SDCL 22-46-1;

 (2)  A requirement to report to the department any incidents of abuse, neglect, or exploitation;

 (3)  A requirement to report to the department, pursuant to SDCL 26-8A-3 and 26-8A-8;

 (4)  A procedure for disciplinary action to be taken, if staff engages in abusive, neglectful, or exploitative behavior;

 (5)  A requirement to make immediate efforts to inform the guardian, or the parent if the client is under the age of eighteen, of an alleged incident or allegation of abuse, neglect, or exploitation; and

 (6)  A requirement to document the actions to be implemented, upon substantiation of an incident or allegation, to reduce the likelihood of, or to prevent repeated incidents of abuse, neglect, or exploitation.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-5-1.

 **Cross References:**

 Persons required to report child abuse or neglected child -- Intentional failure as misdemeanor, SDCL 26-8A-3.

 Oral report of abuse or neglect -- To whom made -- Response report, SDCL 26-8A-8.

 **67:61:06:04.  Grievance procedures.** Each agency shall establish a policy and procedures for receiving, considering, and responding to client grievances.

 The agency shall provide, to the client and the client's parent or guardian if the client is under the age of eighteen, a copy of the policy and procedures, in writing or in an accessible format, during intake services. The grievance policy and procedures must be posted in a place accessible to a client and a copy must be available in locations where it can be accessed by a client without making a request to agency staff. The policy and procedures must be available to a former client, upon request.

 The policy and procedures must include the ability to appeal the agency's decision regarding ineligibility or the termination of services to the department, as provided in § 67:61:06:05, and must include the telephone number and address of the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:06:05.  Appeal of ineligibility or termination of services.** A client, a client's parent in the case of a client under the age of eighteen, or a client's guardian, if applicable, may appeal, to the department, the agency's decision regarding the client's ineligibility for or the termination of services. An appeal must be made in writing, to the department, within thirty days of receiving notice of the decision regarding the client's ineligibility for or the termination of services. The department shall provide a determination within thirty days of receiving the request for appeal. If the client, the client's parent, or the client's guardian is dissatisfied with the department's decision regarding the client's ineligibility for or the termination of services, the client, the client's parent, or the client's guardian may request a fair hearing, by notifying the department, in writing, within thirty days of receiving the department's decision.

 While a termination is being appealed, the agency shall continue to provide services to the client, until a decision is reached, after a hearing pursuant to SDCL chapter 1-26.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-5-1.

 **Cross Reference:** Confidentiality of alcohol and drug abuse patient records, 42 C.F.R. Part 2, in effect on January 18, 2017.

 **67:61:06:06.  Time and place of hearing.** A fair hearing by an impartial hearing officer must be held within ninety days after receiving a request by the client, the client's parent in the case of a client under the age of eighteen, or the client's guardian, if applicable. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. Time extensions may be provided by the impartial hearing officer upon order of the hearing officer or at the request of any of the parties involved if there is no objection to a time extension from any other party involved.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 27A-5-1.

 **Law Implemented:** SDCL 27A-5-1.

 **67:61:06:07.  Discharge policy.** Each agency shall establish a written discharge policy. The policy must specify:

 (1)  Client behavior that constitutes a reason for discharge at staff request;

 (2)  The procedure for the staff to follow when discharging a client involved in the commission of a crime on the premises of the program or against its staff, consistent with the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. § 2.12(c)(5), in effect on October 1, 2018, and including who shall make the report to the appropriate law enforcement agency;

 (3)  The procedure for the staff to follow when a client leaves against medical or staff advice, including offering the client discharge planning and continuation of care for substance abuse and any other condition, and documentation of what was offered, consistent with the confidentiality of alcohol and drug abuse patient records, as set forth in 42 C.F.R. Part 2, in effect on January 18, 2017;

 (4)  A prohibition against automatic discharge for any instance of non-prescribed substance use, or for any instance of displaying symptoms of mental or physical illness; and

 (5)  The procedure for referrals in the case of clients with symptoms of mental illness or a medical condition and those requesting assistance to manage symptoms.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:06:08.  Residential program rights.** Each residential program shall ensure that all clients have:

 (1)  The right to visitation with family and friends, subject to reasonable written visiting rules and hours established by the agency, provided agency personnel may impose limitations, as necessary for the welfare of the client, if those reasons are documented in the client's case record;

 (2)  The right to conduct private telephone conversations, subject to reasonable written rules and hours established by the agency, provided agency personnel may impose limitations, as necessary for the welfare of the client, if those reasons are documented in the client's case record;

 (3)  The right to communicate with a personal physician; and

 (4)  The right to practice personal religion or attend religious services, within the agency's policies and guidelines.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:07**

**CLINICAL PROCESSES**

# Section

67:61:07:01 Client identification data.

67:61:07:02 Client admission policies.

67:61:07:03 Client review of client's clinical record.

67:61:07:04 Closure and storage of clinical records.

67:61:07:05 Integrated assessment content.

67:61:07:06 Treatment plan.

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67:61:07:08 Progress notes.

67:61:07:09 Transfer or discharge criteria.

67:61:07:10 Transfer or discharge summary.

67:61:07:11 Admission of returning clients.

67:61:07:12 Tuberculin screening requirements.

 **67:61:07:01.  Client identification data.** Each agency shall establish a policy and procedures to collect and record client identification data, at the time of admission or as soon after admission as possible. Client identification data must be kept in the clinical file. Client identification data means:

 (1)  Name, street address, and telephone number of the client;

 (2)  Date of birth, gender, and race or ethnic origin of the client;

 (3)  Unique identification number of the client;

 (4)  Referral source;

 (5)  Service start date;

 (6)  Outcome measures;

 (7)  Data for the state management information system; and

 (8)  Any other client information as required by the department.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:02.  Client admission policies.** Each program shall establish a policy and procedures regarding the admission of a client into the program, to ensure the client meets the eligibility criteria for the level of care provided by the program.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:03.  Client review of client's clinical record.** Each agency shall establish a written policy and procedures to govern a client's access to the client's clinical record. The policy and procedures must specify any conditions or restrictions on client access and must be available to the client upon request.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:04.  Closure and storage of clinical records.** The agency shall establish a policy and procedures to ensure the closure and storage of clinical records upon the completion or termination of a treatment program. The policy and procedures must:

 (1)  Identify, by position or title, the staff members who are responsible for the closure of clinical records within the agency and the management information system;

 (2)  Provide for the closure of a client's clinical records if the client has not received services from an inpatient or residential program in three days or if the client has not received services from an outpatient program in thirty days; and

 (3)  Provide for the safe storage of case records for at least six years from the date of closure.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:05.  Integrated assessment.** An addiction counselor or addiction counselor trainee shall meet with the client and, if appropriate, the client's family, to complete an integrated assessment, within thirty days of the first day the intake process begins. The integrated assessment must include both functional and diagnostic components. The assessment must establish the historical development and dysfunctional nature of the client's alcohol and drug abuse or dependence, and must assess the client's treatment needs. The assessment must be recorded in the client's case record and must contain:

 (1)  Strengths of the client and the client's family, if appropriate, as well as previous periods of success, the strengths that contributed to that success, and the identification of potential resources within the family, if applicable;

 (2)  Presenting problems or issues that indicate a need for services;

 (3)  Identification of readiness for change for problem areas, including motivation and supports for making such changes;

 (4)  Current substance use and relevant treatment history of any previous mental health and substance use disorder or gambling treatment, and periods of success, psychiatric hospital admissions, psychotropic and other medications, relapse history or potential for relapse, physical illness, and hospitalization;

 (5)  Relevant family history, including family relationship dynamics and family psychiatric and substance abuse history;

 (6)  Family and relationship issues along with social needs;

 (7)  Educational history and needs;

 (8)  Legal issues;

 (9)  Living environment or housing;

 (10)  Safety needs and risks with regard to physical acting out, health conditions, acute intoxication, or withdrawal;

 (11)  Past or current indications of trauma or domestic violence;

 (12)  Vocational and financial history and needs;

 (13)  Behavioral observations or mental status;

 (14)  Formulation of a diagnosis, including documentation of co-occurring medical, developmental disability, mental health, substance use disorder, or gambling issues or a combination of these based on integrated screening;

 (15)  Eligibility determination, including level of care determination for substance use services, or serious mental illness or serious emotional disturbance for mental health services, or both;

 (16)  Clinician's signature, credentials, and date; and

 (17)  Clinical supervisor's signature, credentials, and date, to verify review of the assessment and if there is agreement with:

 (a)  The initial diagnosis; or

 (b)  The formulation of the initial diagnosis, if the staff does not have the education or training to make a diagnosis.

 Any information related to the integrated assessment must be verified through collateral contact, if possible, and recorded in the client's case record.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:06.  Treatment plan.** An addiction counselor or addiction counselor trainee shall develop an individualized treatment plan, based upon the integrated assessment for each client admitted to an outpatient treatment program, an intensive outpatient treatment program, a day treatment program, a clinically-managed, low-intensity residential treatment program, or a medically-monitored, intensive inpatient treatment program. Evidence of the client's meaningful involvement in formulating the plan must be documented in the client's clinical record. The treatment plan must be recorded in the client's clinical record and contain:

 (1)  A statement of specific client problems, including any co-occurring disorders, to be addressed during treatment, with supporting evidence;

 (2)  A diagnostic statement and a statement of short- and long-term treatment goals that relate to the problems identified;

 (3)  Measurable objectives or methods leading to the completion of short-term goals:

 (a)  Time frames for the anticipated dates of achievement or completion of each objective, or for reviewing progress towards objectives;

 (b)  A specification and description of the indicators to be used to assess progress;

 (c)  Referrals for needed services that are not provided directly by the agency; and

 (d)  Interventions, for identified issues, that match the client's readiness for change; and

 (4)  A statement identifying the staff member responsible for facilitating the methods or treatment procedures.

 The individualized treatment plan must be developed within ten calendar days of the client's admission to an intensive outpatient treatment program; a day treatment program; a clinically-managed, low-intensity residential treatment program; or a medically-monitored, intensive inpatient treatment program.

 The individualized treatment plan must be developed within thirty calendar days of the client's admission to a counseling services program.

 All treatment plans must be reviewed, signed, and dated by the addiction counselor or addiction counselor trainee. The signature must be followed by the counselor's credentials.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:07.  Continued service criteria.** The program staff or direct care provider shall document, for each client, the progress and reasons for retaining the client at the present level of care and create an individualized plan of action to address the reasons for retaining the client at the present level of care. This document must be maintained in the client case record. It is appropriate to retain the client at the present level of care if:

 (1)  The client is making progress, but has not yet achieved the goals articulated in the individualized treatment plan. Continued treatment at the present level of care must be assessed, as necessary, to permit the client to continue working toward his or her treatment goals; or

 (2)  The client is not yet making progress, but has the capacity to resolve his or her problems. The client is actively working toward the goals articulated in the individualized treatment plan. Continued treatment at the present level of care must be assessed, as necessary, to permit the client to continue working toward his or her treatment goals; or

 (3)  A new problem or priority that is appropriately treated at the present level of care has been identified. The new problem or priority requires services, the frequency and intensity of which can only be delivered safely by continuing to stay at the current level of care. The client's level of care must be the least intensive level at which the client's new problem or priority can be addressed effectively.

 The individualized plan of action to address the reasons for retaining the individual at the present level of care must be documented every:

 (a)  Two calendar days for clinically-managed, residential detoxification;

 (b)  Fourteen calendar days for early intervention services; intensive outpatient services; day treatment services; and medically-monitored, intensive inpatient treatment; and

 (c)  Thirty calendar days for outpatient treatment programs and clinically-managed, low-intensity residential treatment.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:08.  Progress notes.** The direct care provider must record at least one progress note in the client's clinical record each week when services are provided for any program, other than a prevention program.

 Progress notes must be included in the client's clinical record and substantiate all services provided. Progress notes must document counseling sessions with the client, summarize significant events, reflect goals and problems relevant to the session, and reflect any progress in achieving those goals and addressing the problems. Progress notes must include attention to any co-occurring disorder, as it relates to the client's substance use disorder.

 A progress note must be included in the client's clinical record for each billable service provided. in order for a service to be billed, the progress note must contain:

 (1)  Information identifying the client receiving the service, including the client's name and unique identification number;

 (2)  The date, location, time met, the units of service of the counseling session, and the duration of the session;

 (3)  The service activity code or the title describing the service code;

 (4)  A brief assessment of the client's functioning;

 (5)  A description of what occurred during the session, including the specific action taken or plan developed to address unresolved issues for the purpose of achieving identified treatment goals or objectives;

 (6)  A brief description of what the client and the clinician plan to work on during the next session, and work that may occur between sessions, if applicable; and

 (7)  The signature and credentials of the staff providing the service.

 **Source:** 43 SDR 80, effective December 5, 2016; 46 SDR 50, effective October 10, 2019; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:09.  Transfer or discharge criteria.** It is appropriate to transfer or discharge a client from a present level of care if:

 (1)  The client has achieved the goals articulated in his or her individualized treatment plan, by resolving each problem that justified admission to the present level of care, or continuing the chronic disease management of the client's condition at a less intensive level of care is indicated;

 (2)  The client has been unable to resolve each problem that justified admission to the present level of care, despite amendments to the treatment plan; the client is determined to have achieved the maximum possible benefit from engagement in services at the current level of care; or treatment at another level of care, more or less intensive, in the same type of service, or discharge from treatment, is therefore indicated;

 (3)  The client has demonstrated a lack of capacity due to diagnostic or co-occurring conditions that limit the client's ability to resolve each problem; or treatment at a qualitatively different level of care or type of service, or discharge from treatment, is therefore indicated; or

 (4)  The client has experienced an intensification of a problem, or has developed a new problem, and can be treated effectively only at a more intensive level of care.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:10.  Transfer or discharge summary.** An addiction counselor or an addiction counselor trainee shall complete a transfer or a discharge summary for a client, within five working days after the client is transferred or discharged, regardless of the reason for the transfer or discharge. A transfer or a discharge summary of the client's problems, course of treatment, and progress toward planned goals and objectives identified in the treatment plan must be maintained in the client's case record. A process must be in place to ensure that the transfer or discharge summary is completed in the management information system.

 When a client prematurely discontinues services, reasonable attempts must be made and documented by the agency to re-engage the client, if appropriate.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:11.  Admission of returning clients.** The agency shall establish a policy and procedures to promote the continuity of care for a client who is readmitted. The procedures must include completing a new client case record and new admission record in the management information system for each client who is readmitted.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:07:12.  Tuberculin screening requirements.** A designated staff member shall conduct tuberculin screening for the absence or presence of symptoms with each client newly admitted to outpatient treatment, intensive outpatient, day treatment, clinically-managed, low-intensity residential treatment, clinically-managed detoxification, or intensive inpatient treatment, within twenty-four hours of admission, to determine if the client has had any of the following symptoms within the previous three months:

 (1)  Productive cough for a duration of two-three weeks;

 (2)  Unexplained night sweats;

 (3)  Unexplained fevers; or

 (4)  Unexplained weight loss.

 Any client determined to have had one or more of the listed symptoms within the last three months must be immediately referred to a licensed physician for a medical evaluation to determine the absence or presence of active tuberculosis. A physician, physician assistant, nurse practitioner, or clinical nurse specialist may request that a Mantoux skin test be conducted. Any client confirmed or suspected to have infectious tuberculosis may not be admitted for services until the client is determined to no longer be infectious by the physician. If infectious tuberculosis is ruled out, the evaluating physician must provide a written statement confirming the client does not have tuberculosis before the client may be admitted for services.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Reference: Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005**, December, 2005. "Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Recommendations and Reports," December 30, 2005/Vol. 54/No.RR-17. Copies are available free of charge from the following website: https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm.

**CHAPTER 67:61:08**

**MEDICATION CONTROL IN RESIDENTIAL PROGRAMS**

# Section

67:61:08:01 Definitions.

67:61:08:02 Control, accountability, and storage of medications and controlled drugs.

67:61:08:03 Storage of Schedule II, III, or IV drugs.

67:61:08:04 Records of receipt, administration, and disposition of scheduled drugs.

67:61:08:05 Medication and controlled drug destruction and disposal.

67:61:08:06 Medication or drug administration defined.

67:61:08:07 Delegation of nursing tasks.

67:61:08:08 Administration of medications and controlled drugs.

67:61:08:09 Assistance with self-administration of medication or controlled drug.

67:61:08:10 Self-administration of medication or controlled drug.

 **67:61:08:01.  Definitions.** Terms used in this chapter mean:

 (1)  "Controlled drug," any drug, substance, or chemical whose possession and use are regulated under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., in effect July 1, 2021;

 (2)  "Nasogastric tube," a tube that is inserted, nonsurgically, through the nose and extends into the stomach; and

 (3)  "Parenteral route," the administration of medication by intradermal, subcutaneous, intramuscular, or intravenous injection.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:02.  Control, accountability, and storage of medications and controlled drugs.** Each residential program must meet the following requirements for the control, accountability, and safe storage of medications and controlled drugs:

 (1)  Any client on medications for a substance use disorder, mental health issue, or a medical condition shall surrender all medications and controlled drugs, upon admission to the agency, and be educated about how to take the client's prescribed medication, while in the program;

 (2)  Each client shall receive a formal orientation to the program's medication policy and procedures upon admission;

 (3)  All medications and controlled drugs must be kept in a locked medication storage area that is inaccessible to all persons at all times, except as provided in subdivision 67:61:08:02(5), and §§ 67:61:08:08 and 67:61:08:10;

 (4)  All controlled drugs must be kept in a separate locked box or drawer within the medication storage area;

 (5)  Poisons, disinfectants, and medications prescribed for external use must be stored separately from each other and from internal medications, with each in a separate locked area that is inaccessible to clients and visitors;

 (6)  Biologicals and medications, requiring refrigeration or other storage requirements as identified by the manufacturer's labeling, must be stored separately, including during refrigeration, freezing, and protection from the light, in an area that is inaccessible to clients and visitors. If these biologicals and medications are stored in a refrigerator containing items other than the biologicals and medications, the biologicals and medications must be kept in a separate, secured compartment;

 (7)  Each client's prescription medications must be stored in the medication's originally received container and may not be transferred to another container;

 (8)  Any container with a worn, illegible, or missing label must be destroyed along with the medication or drugs in the container, in accordance with § 67:61:08:05;

 (9)  Only a licensed pharmacist may label, relabel, or alter labels on medication containers;

 (10)  Any medication or drug prescribed for one client may not be administered to another client;

 (11)  If a client brings his or her own medications or controlled drugs into the program, the client's medications or controlled drugs may not be administered unless the client can be identified and written orders for the administration of the medications or controlled drugs is received from a licensed physician;

 (12)  Each program must have a procedure for contacting the client's identified pharmacies and physicians, as soon as possible after each client is admitted to the program;

 (13)  If medications or controlled drugs brought by a client into the program are not used, the medications or controlled drugs must be packaged, sealed, stored, and returned to the client, parent if the client is under the age of eighteen, guardian if applicable, or significant other, at the time of discharge, if the return of the medications or controlled drugs is approved by a program physician. The return of the medications or controlled drugs must be documented in the client's case record, with the name, strength, and quantity of the medication or controlled drug, and signed by the staff member identified to manage client medication; and

 (14)  The telephone number of the regional poison control center, the local hospital, the medical director, and the program administrator must be posted in all medication and controlled drug storage and preparation areas.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross Reference:** Administration of medications and controlled drugs, § 67:61:08:08.

 **67:61:08:03.  Storage of Schedule II, III, or IV drugs.** A residential program may have a limited supply of Schedule II, III, and IV drugs in storage, if the program meets the following requirements:

 (1)  The drugs are owned by a licensed pharmacy or licensed physician and stored in an emergency box, sealed by a supplying pharmacy with a seal of such a nature that it can be easily identified if it has been broken;

 (2)  The agency and the providing Drug Enforcement Agency registrant maintain a complete and accurate inventory of the drugs stored in the emergency box and of the drugs' disbursement. The inventory must be conducted personally by the Drug Enforcement Agency registrant at least once every six months;

 (3)  There are no more than five different controlled drugs; no more than five doses of each injectable Schedule II, III, or IV drug, if any; and no more than twelve doses of each oral Schedule III or IV drug, if any, stored in the emergency box at one time;

 (4)  The use of the controlled drugs in the emergency box is limited to those times when no pharmacy is available; and

 (5)  Any standing or verbal order for the medication is verified in writing by the physician within seventy-two hours after the first administration.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Cross-Reference:** Administration of medications and drugs, § 67:61:08:08.

 **67:61:08:04.  Records of receipt, administration, and disposition of scheduled drugs.** Each residential program shall maintain a separate log book to record the receipt and disposition of all Schedule II drugs. A residential program shall maintain a record of the receipt and administration of Schedule II, III, and IV drugs in a client's case record.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:05.  Medication and controlled drug destruction and disposal.** Each agency shall establish a policy and procedures for the destruction and disposal of medication and controlled drugs in accordance with § 44:73:08:01.01.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:06.  Medication administration defined.** Medication administration in a residential program is the giving of medications, other than by the parenteral route or nasogastric tube, under the supervision of a licensed registered nurse. The person administering medicine shall:

 (1)  Remove an individual dose from a previously dispensed, labeled container, including a unit dose container;

 (2)  Verify the dose with the physician's order or medication administration record;

 (3)  Give the individual dose to whom it is prescribed; and

 (4)  Document the date, time, the name of the person administering the dose, and the dose given.

 A copy of a physician's order or prescription for each medication being administered must be kept in the client's clinical record.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:07.  Delegation of nursing tasks.** Delegation is the transfer of the authority to perform a specific nursing or medication administration task from a licensed registered nurse to a unlicensed assistive personnel, pursuant to §§ 20:48:04.01:01, 20:48:04.01:02, and 20:48:04.01:07.

 Unlicensed assistive personnel may only perform the nursing task or medication administration task for a specific client through delegation. Unlicensed assistive personnel may not re-delegate a delegated task.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:08.  Administration of medications and controlled drugs.** All medications and controlled drugs must be administered in a non-prohibited manner as set forth in SDCL 36-9-28. Each agency shall establish written policies concerning the administration of all medications, including Schedule II, III, and IV drugs, and shall ensure that Schedule II, III, and IV drugs are administered only in accordance with those policies and only when authorized by a licensed physician.

 Only a registered nurse, a licensed practical nurse, or an unlicensed assistive personnel who is trained and qualified, in accordance with chapter 20:48:04, may administer medications. Any person administering the medication shall record the name of the medication, the strength and quantity administered, and the time of administration in the client's case file, and shall sign the case record. A person may not administer medication that has been prepared for administration by another person.

 The agency shall maintain a procedure for the immediate reporting of drug reactions and medication errors to the physician responsible for the client. The procedure must comply with the confidentiality of records requirements, as set forth in 42 U.S.C. § 290 dd-2, in effect on March 27, 2020, and 42 C.F.R. Part 2, in effect on January 18, 2017. The person responsible for a medication error shall complete and sign an entry in the client's case record and complete and sign an incident report form.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-26-53, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:09.  Assistance with self-administration of medication or controlled drugs.** Assistance with self-administration of medication or controlled drugs is the act of assisting a client with one or more steps in the process of taking medication or controlled drugs, but not the actual administration of medication or controlled drugs. Assistance with self-administration of medication or controlled drugs involves:

 (1)  Opening the medication or controlled drug container;

 (2)  Reminding the client of the proper time to take the medication or controlled drug;

 (3)  Helping to remove the medication or controlled drug from the container; and

 (4)  Returning the medication or controlled drug container to storage.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:08:10.  Self-administration of medication or controlled drugs.** A residential treatment program not employing a registered nurse, a licensed practical nurse, or unlicensed assistive personnel must make the controlled drug or medication available to a client for self-administration in accordance with the instructions of a licensed physician. The client shall self-administer the drug or medication, under the supervision of a designated employee who enters the name, strength, and quantity of the medication, and the time of self-administration, in the client's case record.

 Clinically-managed, low-intensity residential treatment programs are exempt from the requirement of supervising the self-administration of over-the-counter drugs or medications. If the reasonable safety of all program clients is ensured, residential programs may allow clients to possess and self-administer, without supervision, those prescription medications that have been identified as allowable medications on a list developed specifically for the individual, in consultation with a licensed physician. The list of allowable medications must be reviewed at least annually, by a licensed physician. Any medication not identified on the list must be administered under supervision.

 Each residential treatment program utilizing self-administration processes must establish a policy and procedures that outline these processes.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:09**

**DIETARY SERVICES**

# Section

67:61:09:01 Planned dietetic services required.

67:61:09:02 Sanitation and safety standards.

 **67:61:09:01.  Planned dietetic services required.** Each residential program shall develop and implement a written plan for meeting the basic nutritional needs, as well as any special dietetic needs, of each client. The program shall provide at least three meals a day. Any snacks provided by the program must be part of the overall dietary plan. Each meal must include foods from the basic food groups, according to the Dietary Guidelines for Americans, as released by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Reference: Dietary Guidelines for Americans, 2020-2025**, (December 29, 2020), Ninth Edition, published by the U.S. Department of Health and Human Services and U.S. Department of Agriculture. Copies are available at no cost from the following website: https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary\_Guidelines\_for\_Americans-2020-2025.pdf.

 **67:61:09:02.  Sanitation and safety standards.** Each residential program shall meet the sanitation and safety standards for food service, as set forth in chapter 44:02:07. An agency that provides dietary services, by agreement or contract with a second party, shall ensure that the provider of dietary services has passed an annual, documented sanitation inspection conducted by the Department of Health.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27, 34-20A-44.

**CHAPTER 67:61:10**

**ENVIRONMENTAL SANITATION SAFETY AND FIRE PREVENTION**

# Section

67:61:10:01 Safety and sanitation plan.

67:61:10:02 Life safety codes.

67:61:10:03 Rules of general applicability.

 **67:61:10:01.  Safety and sanitation plan.** For each setting in which the agency provides services, there must be a health, safety, sanitation, and disaster plan that ensures the health and safety of the individuals served. The plan must provide procedures for:

 (1)  Responding to medical emergencies;

 (2)  Responding to fire and natural disasters, including evacuation plans;

 (3)  Training and regularly scheduled drills for fire and natural disasters;

 (4)  Responding to communicable diseases; and

 (5)  Ensuring sanitation of all settings in which services are provided.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:10:02.  Life safety codes.** Each building an agency owns, rents, or leases, to provide residential services must comply with applicable fire safety standards, as set forth in the 2012 edition of the NFPA 101 Life Safety Code. An automatic sprinkler system is not required in an existing facility unless significant renovation or remodeling occurs. An existing automatic sprinkler system must remain in service.

 New construction, renovations, additions, and changes of space must comply with NFPA 101 Life Safety Code, 2012 edition. Each facility must comply with the building construction standards of the International Building Code, 2012 edition.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Reference: NFPA 101 Life Safety Code, 2012, National Fire Protection Association**. Copies may be obtained from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9904; Phone: 1-800-344-3555. Cost $ 171.00;

 **International Building Code**, 2012 edition. Copies may be obtained from International Conference of Building Officials, Phone 1-800-786-4452. Order@iccsafe.org. Cost: $89.00.

 **67:61:10:03.  Rules of general applicability.** Each residential facility seeking accreditation or providing services must be licensed pursuant to article 44:78.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:11**

**PREVENTION PROGRAM**

# Section

67:61:11:01 Purpose and scope of prevention programs.

67:61:11:02 Prevention program classifications.

67:61:11:03 Description of services provided.

67:61:11:04 Review of materials.

67:61:11:05 Criteria for determining evidence-based intervention.

67:61:11:06 Staff knowledge of resources.

67:61:11:07 Record of activities.

67:61:11:08 Quality assurance and evaluation.

 **67:61:11:01.  Purpose and scope of prevention programs.** A prevention program must encompass current research, theory, and practice-based strategies and activities, implemented through structured prevention strategies. An agency providing a primary prevention or diversion service shall delineate a work plan that outlines the scope of services to be offered. The programming being implemented must be found on the state-supported, evidence-based programming list. The plan must be approved by the agency's board of directors and documented in board minutes, or approved by the agency director and be made available to the public and agency staff.

 An agency that conducts classroom or group educational programs shall use a structured, evidence-based curriculum for prevention education.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:02.  Prevention program classifications.** Prevention programming is divided into the following population classifications:

 (1)  Universal prevention programming, or the following activities targeted to the general public or a whole population that has not been identified on the basis of individual risk:

 (a)  Interventions that directly serve a group of individuals who are identifiable, but who have not been identified on the basis of individual risk; and

 (b)  Interventions that indirectly support population-based programs and environmental strategies;

 (2)  Selective prevention programming, or activities targeted to individuals or a subgroup of the population whose risk in developing a disorder is significantly higher than average; and

 (3)  Indicated prevention programming, or activities targeted to individuals identified as having minimal, but detectable signs or symptoms foreshadowing a disorder, or biological markers indicating predisposition, but have not yet met diagnostic level.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:03.  Description of services provided.** A prevention program must offer at least one of the following:

 (1)  Information dissemination services or activities that involve one-way communication from the source to the audience, with limited contact between the two;

 (2)  Education services or activities that involve two-way communications and are based on an interaction between the educator and the participants;

 (3)  Alternative services or activities that provide the opportunity to participate in healthy, positive, and constructive activities;

 (4)  Problem identification and referral services or activities that are designed to identify a person who has indulged in the illegal use of alcohol or drugs in order to assess if the person's behavior can be reversed through education. This activity does not include any services designed to determine if an individual is in need of treatment services;

 (5)  Community-based services or activities that are designed to enhance the ability of the community to more effectively provide prevention services for alcohol or drug abuse; or

 (6)  Environmental services or activities that are deisgned to establish or change community standards, codes, and attitudes, thereby influencing the incidence and prevalence of alcohol and drug abuse in the general population.

 A written description of the services provided must be available to all staff members, individuals, the public, and the department. The description must include target populations for primary prevention and diversion services; program goals including the scope of services; measurable objectives; program evaluations and intended outcomes; and programming that complies with these standards.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:04.  Review of materials.** The agency's program director shall review and approve all electronic, written, and printed materials, intended for public distribution, for validity, relevancy, and appeal. The public distribution materials and prevention curriculums being implemented must be made available for review by agency staff, the public, and the department, in an electronic or printed format.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:05.  Criteria for determining evidence-based intervention.** An intervention is determined to be evidence-based if:

 (1)  It is included in a federal list or registry of evidence-based interventions;

 (2)  It is reported positively in a peer-reviewed journal; or

 (3)  There is documented effectiveness in accordance with the following guidelines for evidence:

 (a)  The intervention is based on a theory of change that is documented in a clear logic or conceptual model;

 (b)  The intervention is similar in content and structure to interventions that appear in a federal list or registry or in peer-reviewed literature;

 (c)  The intervention is supported by documentation that it has been effectively implemented multiple times, in a manner attentive to scientific standards of evidence and with results that show a consistent pattern of credible and positive effects; and

 (d)  The intervention is reviewed and deemed appropriate by a panel of prevention experts, including prevention researchers who are experienced in evaluating prevention interventions similar to those under review.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:06.  Staff knowledge of resources.** The staff of each prevention program shall have knowledge of regional alcohol, drug, mental health promotion, suicide prevention, and recovery support programs available for prevention or treatment services. An agency shall:

 (1)  Maintain a current database of information and referral resources on alcohol, tobacco, and other drugs; on substance abuse services; and on prevention and treatment resources;

 (2)  Post or publicly distribute the information and resources; and

 (3)  Document that agency staff have reviewed the information and resources.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:07.  Record of activities.** An agency conducting prevention services shall maintain a record of all prevention activities provided in accordance with the described program content. Each record must include:

 (1)  A list of presenters;

 (2)  A list of participants involved using non-identifiable information;

 (3)  Demographic characteristics of participants, including:

 (a)  Age;

 (b)  Race or ethnicity;

 (c)  Gender;

 (d)  Type of prevention populations, such as universal, selective, or indicated; and

 (e)  Any other information as requested by the department;

 (4)  A description of all program activities; and

 (5)  A copy of the programmatic materials.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:11:08.  Quality assurance and evaluation.** An agency shall conduct a quality assurance review of its prevention programming to monitor, protect, and enhance the quality and appropriateness of its programming and to identify qualitative problems and recommend plans for correcting each problem. The agency shall conduct:

 (1)  Annual satisfaction surveys of all individuals or stakeholders who requested and participated in prevention services;

 (2)  Participant evaluations, after each prevention presentation the agency provides; and

 (3)  Pre- and post-tests for all evidence-based curricula presented to individuals.

 A summary of the quality assurance review must be made available to the board of directors or agency staff annually, and to the department and community members, upon request.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:12**

**EARLY INTERVENTION PROGRAM**

# Section

67:61:12:01 Eligibility criteria.

67:61:12:02 Services provided.

67:61:12:03 Reimbursable services.

67:61:12:04 Nonreimbursable services.

 **67:61:12:01.  Eligibility criteria.** To be eligible for early intervention services a client:

 (1)  May not be at risk of withdrawal;

 (2)  Must have no emotional, behavioral, or cognitive conditions or have very stable biomedical conditions; or either has no or has very stable emotional, behavioral, or cognitive conditions; and

 (3)  Must meet one of the following:

 (a)  Lack an understanding of, or lack the skills to change, current substance use patterns or high-risk behaviors;

 (b)  Have an increased risk of initiating or progressing in substance use patterns or high-risk behaviors due to substance use or values about substance use; or

 (c)  Have a social support system or significant others who increase the risk of a substance use.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:12:02.  Services provided.** An early intervention program shall provide:

 (1)  An initial screening and planning that occurs within forty-eight hours of the initial contact and results in the following being recorded in the client's case record:

 (a)  A description of the client's current problems and needs;

 (b)  A description of the client's emotional and physical state, as determined through a screening for the presence of any cognitive disability, mental illness, and medical disorders, together with any collateral information and prescribed medications;

 (c)  A description of the client's drug and alcohol use, including the types of substances used, whether prescribed or over the counter medications, the age of first use, the amount used, the frequency of use, the date of last use, and the duration of use; and

 (d)  A statement of the intended course of action;

 (2)  Crisis intervention;

 (3)  Individual or family counseling; and

 (4)  Discharge planning providing:

 (a)  Continued care planning;

 (b)  Referral to and liaison with other resources that offer education, vocational, medical, legal, social, psychological, employment, and other related alcohol and drug services; where applicable, and

 (c)  Referral to and coordination of medical services, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-35, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **Note:** Individual or family counseling may include education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process. Individual or family counseling may also include education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission.

 **67:61:12:03.  Reimbursable services.** Reimbursable services are limited to face-to-face and telehealth contacts for the purpose of providing services pursuant to§ 67:61:12:02.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021.

 **General Authority:** SDCL 34-20A-27(1)(4).

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:12:04.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Services that are solely recreational in nature;

 (2)  Time spent preparing paperwork from client assessments or clinical documentation; and

 (3)  Time spent traveling.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:13**

**OUTPATIENT TREATMENT PROGRAM**

# Section

67:61:13:01 Eligibility criteria.

67:61:13:02 Services provided.

67:61:13:03 Intensity of services.

67:61:13:04 Reimbursable services.

67:61:13:05 Nonreimbursable services.

 **67:61:13:01.  Eligibility criteria.** To be eligible for an outpatient treatment program:

 (1)  The client must have no or only a minimal risk of severe withdrawal;

 (2)  The client must either have no or very stable biomedical conditions, or be receiving concurrent medical monitoring;

 (3)  The client's emotional, behavioral, or cognitive conditions may not cause more than minimal interference with substance use recovery, difficulties in social functioning, and the ability for the client to care for himself or herself;

 (4)  The client must be willing to engage in treatment, even if the client needs motivational and monitoring strategies to promote progress through the stages of change;

 (5)  The client must be able to maintain abstinence or control substance use and pursue recovery or motivational goals with minimal support;

 (6)  The client's recovery environment must be supportive; and

 (7)  The client must have the skills to cope with stressful or high risk situations.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:13:02.  Services provided.** The outpatient treatment program shall provide:

 (1)  An integrated assessment, pursuant to § 67:61:07:05;

 (2)  Crisis intervention;

 (3)  Any combination of individual, group, and family counseling providing:

 (a)  Education regarding substance abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process; and

 (b)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (4)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including educational, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services, including information detailing the availability of tuberculosis and human immunodeficiency virus services pursuant, to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:13:03.  Intensity of services.** The outpatient treatment program may provide to each client any combination of individual, group, or family counseling services, of any intensity and frequency, as required by the continued service criteria, pursuant to § 67:61:07:07. If counseling is provided for adults, these services must be less than nine hours in a one-week period. Services for adolescent clients must be less than six hours in a one-week period.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:13:04.  Reimbursable services.** Reimbursable services are limited to face-to-face and telehealth contacts for the purpose of providing services pursuant to§  67:61:13:02.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021.

 **General Authority:** SDCL 34-20A-27(1)(4).

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:13:05.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Driving under the influence and driving while intoxicated education courses;

 (2)  Services that are solely recreational in nature;

 (3)  Time spent preparing paperwork from client assessments or clinical documentation;

 (4)  Time spent traveling; and

 (5)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:14**

**INTENSIVE OUTPATIENT TREATMENT PROGRAM**

# Section

67:61:14:01 Eligibility criteria.

67:61:14:02 Services provided.

67:61:14:03 Intensity of services.

67:61:14:04 Reimbursable services.

67:61:14:05 Nonreimbursable services.

 **67:61:14:01.  Eligibility criteria.** To be eligible for intensive outpatient program services:

 (1)  The client must be at minimal risk of severe withdrawal;

 (2)  The client must either have no or very stable biomedical conditions;

 (3)  Any of the client's emotional, behavioral, or cognitive conditions, which may distract from the client's recovery and require monitoring, must be mild; and

 (4)  The client must meet one of the following:

 (a)  Have a variable engagement in treatment, ambivalence, or a lack of awareness of the substance use or mental health problem, and require a structured program to promote progress through the stages of change;

 (b)  Have substance use or mental health symptoms that have intensified and indicate a high likelihood of relapse or continued use, without close monitoring or support; or

 (c)  Have a non-supportive recovery environment, but be able to cope with structure and support.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:14:02.  Services provided.** The intensive outpatient program must provide:

 (1)  An integrated assessment pursuant, to § 67:61:07:05;

 (2)  Crisis intervention;

 (3)  Individual, group, and family counseling providing:

 (a)  Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in the recovery process; and

 (b)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (4)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services, including information detailing the availability of tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:14:03.  Intensity of services.** An intensive outpatient program shall provide any combination of individual, group, or family counseling, two or more times per week, to each client. Each adult client must be provided with a minimum of nine hours of these services per week. Each adolescent client must be provided with a minimum of six hours of these services per week.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:14:04.  Reimbursable services.** Reimbursable services are limited to face-to-face and telehealth contacts for the purpose of providing services pursuant to § 67:61:14:02.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021.

 **General Authority:** SDCL 34-20A-27(1)(4).

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:14:05.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Driving under the influence and driving while intoxicated education courses;

 (2)  Services that are solely recreational in nature;

 (3)  Time spent preparing paperwork from client assessments or clinical documentation;

 (4)  Time spent traveling; and

 (5)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:15**

**DAY TREATMENT PROGRAM**

# Section

67:61:15:01 Eligibility criteria.

67:61:15:02 Services provided.

67:61:15:03 Intensity of services.

67:61:15:04 Reimbursable services.

67:61:15:05 Nonreimbursable services.

 **67:61:15:01.  Eligibility criteria.** To be eligible for day treatment program services:

 (1)  A client must be experiencing mild withdrawal or be at risk of withdrawal;

 (2)  The client must either have no or very stable biomedical conditions;

 (3)  Any of the client's emotional, behavioral, or cognitive conditions, which may distract from recovery and require stabilization, must be mild; and

 (4)  The client must meet one of the following:

 (a)  Require a structured program to promote progress through the stages of change;

 (b)  Be at a high risk of relapse or continued use, and deterioration in the level of functioning; or

 (c)  Have an environment that renders recovery unlikely, without structured monitoring and support.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:15:02.  Services provided.** The day treatment program shall provide its clients with the following treatment services:

 (1)  An integrated assessment, pursuant to § 67:61:07:05;

 (2)  Individual, group, and family counseling providing:

 (a)  Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

 (b)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (3)  Education programming for adolescent clients; and

 (4)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services, including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 Additional services provided by residential day treatment programs must include housing and dietary services, and medical care including the following: tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24, (Requirements Regarding Tuberculosis and Human Immunodeficiency Virus, October 27, 1992).in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:15:03.  Intensity of services.** The day treatment program for adults and adolescents shall provide a minimum of fifteen hours of any combination of individual, group, or family counseling services per week, to each client. A day treatment program for adults shall provide a minimum of five hours of additional services per week, on specialized topics that address the specific needs of the client. The additional services must be identified on the client's treatment plan or continued stay review. These services must be provided by an individual trained in the specific topic presented.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:15:04.  Reimbursable services.** Reimbursable day treatment program services are limited to face-to-face contacts, for the purpose of providing services, pursuant to § 67:61:15:02. Services are reimbursed through a per diem rate and are not eligible to be reimbursed through a fifteen-minute unit.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:15:05.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Billing for a client that exceeds the accredited bed capacity established by the department for clients residing in a residential day treatment program;

 (2)  Driving under the influence and driving while intoxicated education courses;

 (3)  Services that are solely recreational in nature;

 (4)  Time spent preparing paperwork from client assessments or clinical documentation;

 (5)  Time spent traveling; and

 (6)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:16**

**CLINICALLY-MANAGED LOW-INTENSITY**

**RESIDENTIAL TREATMENT PROGRAM**

# Section

67:61:16:01 Eligibility criteria.

67:61:16:02 Services provided.

67:61:16:03 Intensity of services.

67:61:16:04 Admission medical examination.

67:61:16:05 Reimbursable services.

67:61:16:06 Nonreimbursable services.

 **67:61:16:01.  Eligibility criteria.** To be eligible for clinically-managed, low-intensity residential treatment program services:

 (1)  The client must be at risk of or experiencing minimal withdrawal;

 (2)  The client must have either no or very stable biomedical conditions;

 (3)  The client must have either no or very stable emotional, behavioral, or cognitive conditions;

 (4)  The client must require a structured environment to promote progress through the stages of change;

 (5)  The client must require structure to reinforce recovery and relapse prevention skills; and

 (6)  The client's recovery environment poses a threat to safety or engagement in treatment.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:16:02.  Services provided.** A clinically-managed, low-intensity residential treatment program must provide:

 (1)  An integrated assessment, pursuant to § 67:61:07:05;

 (2)  Individual, group, and family counseling providing:

 (a)  Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

 (b)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (3)  Arts and crafts or work therapy, provided clients may not be required to participate in more than forty hours of work therapy per week;

 (4)  Housing and dietary services;

 (5)  Medical care including tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016; and

 (6)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services including information detailing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:16:03.  Intensity of services.** A clinically-managed, low-intensity residential treatment program must provide each client a minimum of five hours of any combination of individual, group, or family counseling each week.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:16:04.  Admission medical examination.** A person admitted to a clinically-managed, low-intensity residential treatment program shall have received a medical examination conducted by or under the supervision of a licensed physician, within the three months before admission. The agency shall require that the results of the examination be provided to the program, before or at the time of admission.

 If an examination has not been conducted or the results are not available, the program shall ensure that a medical examination occurs within five calendar days after admission. The results of all medical examinations must be placed in the case record.

 The program staff shall consider the client's medical health in the development of the treatment plan.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:16:05.  Reimbursable services.** Reimbursable services are limited to face-to-face contacts for the purpose of providing services pursuant to § 67:61:16:02. Room and board is reimbursed through a per diem rate.

 Documentation that the client was at the facility at the time of the daily census must be available to support billing.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 48 SDR 14, effective August 22, 2021.

 **General Authority:** SDCL 34-20A-27(1)(4).

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:16:06.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Billing for a client that exceeds the accredited bed capacity established by the department;

 (2)  Driving under the influence and driving while intoxicated education courses;

 (3)  Services that are solely recreational in nature;

 (4)  Time spent preparing paperwork from client assessments or clinical documentation;

 (5)  Time spent traveling; and

 (6)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:17**

**CLINICALLY-MANAGED RESIDENTIAL DETOXIFICATION PROGRAM**

# Section

67:61:17:01 Eligibility criteria.

67:61:17:02 Information required to be obtained at time of admission.

67:61:17:03 Agreement with hospital for emergency care.

67:61:17:04 Availability of medical director.

67:61:17:05 Monitoring and documentation of client's condition.

67:61:17:06 Emergency first aid training.

67:61:17:07 Services provided.

67:61:17:08 Intensity of services.

67:61:17:09 Reimbursable services.

67:61:17:10 Nonreimbursable services.

 **67:61:17:01.  Eligibility criteria.** To be eligible for clinically-managed, residential detoxification program services:

 (1)  The client must be experiencing signs and symptoms of a withdrawal that is manageable at this level of care; or

 (2)  There must be evidence that withdrawal is imminent, based on the client's:

 (a)  History of substance intake;

 (b)  Previous withdrawal history;

 (c)  Present symptoms;

 (d)  Physical condition; or

 (e)  Emotional, behavioral, or cognitive condition.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:02.  Information required to be obtained at time of admission.** An agency admitting a client to a clinically-managed, residential detoxification program must obtain the information required by subdivision 67:61:17:07(1), and record the following observations and information in the client's case record:

 (1)  Blood pressure, pulse, and respiration;

 (2)  The presence of bruises, lacerations, cuts, and wounds;

 (3)  Medications the client is currently taking;

 (4)  Medications carried by the client or found on the client's person;

 (5)  Any history of:

 (a)  Diabetes;

 (b)  Seizure disorders, including epilepsy;

 (c)  Delirium tremens; and

 (d)  Convulsive therapies;

 (6)  Any history of exposure to tuberculosis and any current signs or symptoms of the disease;

 (7)  Any history of medical, psychological, or psychiatric treatment; and

 (8)  Any symptoms of mental illness.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:03.  Agreement with hospital for emergency care.** An agency shall have a written affiliation agreement, with a licensed hospital serving the area in which the clinically-managed, residential detoxification program is located, for the provision of emergency, inpatient, and ambulatory medical services. The agreement must specify that the hospital consents to accept all transfers for prompt medical evaluation. Documentation of the reason for the transfer must accompany all transferred clients, as well as the documented history of each client's vital signs. Disclosure of information about clients to the hospital must be in compliance with the requirements of 42 U.S.C. § 290dd-2, in effect on March 27, 2020; 42 C.F.R. Part 2, in effect on January 18, 2017; and 45 C.F.R. Parts 160 and 164, in effect on September 26, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:04.  Availability of medical director.** An agency's clinically-managed, residential detoxification program must have a written agreement with a licensed physician, physician assistant, or certified nurse practitioner to serve as the medical director, or employ a licensed physician who is primarily responsible for providing medical care to clients to serve as medical director. The medical director's responsibilities to the clinically-managed, residential detoxification program are:

 (1)  Providing advice on health-related policies and issues;

 (2)  Providing emergency medical care to admitted clients; and

 (3)  Supervising the medical treatment provided to the clients.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:05.  Monitoring and documentation of client's condition.** The clinically-managed, residential detoxification program shall establish a policy and procedure concerning the steps staff shall take when assessing and monitoring a client's physical condition and responding to medical complications throughout the detoxification process.

 Staff shall closely monitor the condition of each client during detoxification and document the following information in the client's case record:

 (1)  Blood pressure, pulse, and respiration:

 (a)  At admission;

 (b)  At least two times in the first eight hours after admission and at a greater frequency depending on the degree of the client's hypertension or hypotension; and

 (c)  At least once every eight hours thereafter;

 (2)  Physical, mental, and emotional state, including presence of confusion, anxiety, depression, hallucinations, restlessness, sleep disturbances, tremors, ataxia, or excessive perspiration; and

 (3)  Type and amount of fluid intake.

 Any staff member who assesses, monitors, or responds to a client's condition, must be trained to perform those functions.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:06.  Emergency first aid training.** Counseling and client supervisory staff of a clinically-managed, residential detoxification program must be certified in emergency first aid and cardiopulmonary resuscitation, and trained to respond to fires and other natural disasters. The certifications and verification of the training must be kept in the staff member's personnel file.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:07.  Services provided.** The clinically-managed, residential detoxification program must provide:

 (1)  Initial assessment and planning within forty-eight hours of admission. The initial assessment must be recorded in the client's case record and describe:

 (a)  The client's current problems and needs;

 (b)  The client's emotional and physical state, including screening for the presence of cognitive disability, mental illness, medical disorders, collateral information, and prescribed medications;

 (c)  The client's drug and alcohol use, including the types of substances used, both prescribed and over the counter medications, the age of first use, the amount used, the frequency of use, the date of last use, the duration of use, and the criteria met for a diagnosis of use disorder for each substance; and

 (d)  A statement of the intended course of action;

 (2)  Individual, group, and family counseling providing:

 (a)  Information about alcohol and drug abuse programs whose capabilities most nearly match the client's needs, based on completion of the initial assessment;

 (b)  Encouragement to the client to use alcohol and drug abuse programs for long-term rehabilitation;

 (c)  Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

 (d)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (3)  Housing and dietary services;

 (4)  Medical care, including tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016; and

 (5)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services, including information detailaing the availability of tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:08.  Intensity of services.** A clinically-managed, residential detoxification program shall provide a minimum of thirty minutes of any combination of the services listed in subsections 67:61:17:07(2)(a)(b)(c) and (d), within forty-eight hours of admission, with an additional thirty minute minimum for each subsequent twenty-four hour period.

 **Source:** 43 SDR 80, effective December 5, 2016; 46 SDR 50, effective October 10, 2019; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:09.  Reimbursable services.** Reimbursable services are limited to face-to-face contacts for the purpose of providing services pursuant to § 67:61:17:07. Services are reimbursed through a 12 hour unit rate and are not eligible to be reimbursed through a 15 minute unit.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016.

 **General Authority:** SDCL 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:17:10.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Driving under the influence and driving while intoxicated education courses;

 (2)  Services that are solely recreational in nature;

 (3)  Time spent preparing paperwork from client assessments or clinical documentation;

 (4)  Time spent traveling; and

 (5)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

**CHAPTER 67:61:18**

**MEDICALLY-MONITORED INTENSIVE INPATIENT**

**TREATMENT PROGRAM**

# Section

67:61:18:01 Eligibility criteria.

67:61:18:02 Medical evaluations and vital signs.

67:61:18:03 Availability of medical director.

67:61:18:04 Services provided.

67:61:18:05 Intensity of services.

67:61:18:06 Reimbursable services.

67:61:18:07 Nonreimbursable services.

 **67:61:18:01.  Eligibility criteria.** To be eligible for medically-monitored, inpatient treatment:

 (1)  The client must be experiencing moderate to severe withdrawal or is at risk of severe withdrawal based on previous withdrawal history; the client's continued substance use causes imminent risk to biomedical conditions; or the client's continued substance use causes imminent risk to emotional, behavioral, and cognitive conditions; and

 (2)  The client requires intensive monitoring and support to promote progress through the stages of change; the client is in immediate danger of continued severe substance use or relapse and such behaviors present significant risk of serious adverse consequences to the client or to others; or the client's recovery environment poses a threat to safety or engagement in treatment or both.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:18:02.  Medical evaluations and vital signs.** A medically-monitored, inpatient treatment program must meet the following requirements:

 (1)  At the time of admission, each client's blood pressure, pulse, and respiration must be evaluated by staff trained to perform these tests and recorded in the client's case record;

 (2)  Within eight hours after admission, each client must receive a medical evaluation conducted by a registered nurse or a licensed practical nurse. The results of this medical evaluation must be provided to the program physician. The program physician shall assess whether the client needs an immediate and more extensive examination before determining the appropriateness of the admission. The program physician's approval must be documented in the client's case record.

 The medical evaluation requires:

 (a)  A second reading of the client's blood pressure, pulse, and respiration;

 (b)  An assessment of the client's mental and emotional status;

 (c)  The identification of bruises, lacerations, cuts, wounds, and other medical conditions;

 (d)  Documentation of current medication use and medications being carried by the client; and

 (e)  Documentation regarding any history of diabetes; seizure disorders, including epilepsy; delirium tremens; and any history of having undergone convulsive therapies; and

 (3)  Within seventy-two hours after admission, the program must have completed the client's blood count and urinalysis tests and provided the client with a complete physical examination by, or under the supervision of, a licensed physician, who shall also evaluate the results of the tests conducted.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27(1)(4)(6).

 **67:61:18:03.  Availability of medical director.** An agency's medically-monitored, inpatient treatment program must have a written agreement with a licensed physician, physician assistant, or certified nurse practitioner to serve as the medical director, or employ a licensed physician who is primarily responsible for providing medical care to the clients to serve as the medical director. The medical director's responsibilities to the medically-monitored, inpatient treatment program are:

 (1)  Providing advice on health-related policies and issues;

 (2)  Providing emergency medical care to admitted clients;

 (3)  Supervising the performance of the medical examination and laboratory tests required upon the client's admission to the program; and

 (4)  Supervising the medical treatment provided to the clients.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:18:04.  Services provided.** The medically-monitored, inpatient treatment program must provide:

 (1)  An integrated assessment, pursuant to § 67:61:07:05;

 (2)  Individual, group, and family counseling providing:

 (a)  Education regarding alcohol and drug abuse and dependence, including the biomedical effects of drug and alcohol use and abuse and the importance of medical care and treatment in recovery; and

 (b)  Education regarding tuberculosis and the human immunodeficiency virus, how each is transmitted, and how to safeguard against transmission;

 (3)  Housing and dietary services;

 (4)  Education programing for adolescent clients;

 (5)  Recreation and leisure time activities for adolescent clients;

 (6)  Medical care, including tuberculosis and human immunodeficiency virus services, pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016; and

 (7)  Discharge planning providing:

 (a)  Continued care planning and counseling;

 (b)  Referral to and coordination of care with other resources that will assist a client's recovery, including education, vocational, medical, legal, social, mental health, employment, and other related alcohol and drug services; and

 (c)  Referral to and coordination of medical services, including information detailing the availability of tuberculosis and human immunodeficiency virus services pursuant to 42 U.S.C. § 300x-24, in effect on December 13, 2016.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:18:05.  Intensity of services.** A medically-monitored, intensive inpatient treatment program for adults must provide daily, to each client, a combination of individual, group, or family counseling, which must total a minimum of twenty-one hours per week.

 The program must provide a minimum of nine hours of additional services on specialized topics that address the specific needs of the client. The additional services must be identified on the client's treatment plan or continued stay review. These services must be provided by an individual trained in the specific topic presented.

 A medically-monitored, intensive inpatient treatment program for adolescent clients must include at least fifteen hours per week of any combination of individual, group, or family counseling services.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27

 **67:61:18:06.  Reimbursable services.** Reimbursable medically-monitored, intensive inpatient treatment program services are limited to face-to-face contacts for the purpose of providing services, pursuant to § 67:61:18:04. Services are reimbursed through a per diem rate and are not eligible to be reimbursed through a fifteen-minute unit.

 Documentation that the client was at the facility at the time of the daily census must be available to support billing.

 Reimbursable services for eligible Medicaid clients are limited to services provided under chapter 67:16:48.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.

 **67:61:18:07.  Nonreimbursable services.** The following are nonreimbursable under this chapter:

 (1)  Billing for a client that exceeds the accredited bed capacity established by the department;

 (2)  Driving under the influence and driving while intoxicated education courses;

 (3)  Services that are solely recreational in nature;

 (4)  Time spent preparing paperwork from client assessments or clinical documentation;

 (5)  Time spent traveling; and

 (6)  Community twelve-step programs.

 **Source:** 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

 **General Authority:** SDCL 1-36-25, 34-20A-27.

 **Law Implemented:** SDCL 34-20A-27.