

Article 20:64

Administrative Rules

RESOURCE: <http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=20:64>

OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

CHAPTER 20:64:01

DEFINITIONS

20:64:01:01. Definitions. Words defined in SDCL [36-31](#) have the same meaning when used in this article. In addition, terms used in this article mean:

- (1) "Applicant," a person applying to the board for any purpose relating to that person's licensure by the board;
- (2) "Direct supervision," the physical presence of an occupational therapist or occupational therapy assistant in the immediate room when remediative tasks are being performed by an occupational therapy aide;
- (3). "Supervision," the physical presence of an occupational therapist on the premises where a patient is being cared for by an occupational therapy assistant.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-1](#), [36-31-4](#), [36-31-5](#), [36-31-6](#), [36-31-14](#).

CHAPTER 20:64:02

LICENSURE REQUIREMENTS

[20:64:02:01](#) Examination.

20:64:02:01. Examination. The examination approved by the board is the certification examination of the American Occupational Therapy Certification Board.

Source: 14 SDR 72, effective November 23, 1987; 22 SDR 61, effective November 5, 1995.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-6](#).

Article 20:64

[20:64:02:02](#) Application for licensure by reciprocity.

20:64:02:02. Application for licensure by reciprocity. An applicant for licensure by reciprocity as provided in SDCL [36-31-8](#) must file an application with the board on forms provided by the board. The applicant must submit a certified copy of the applicant's current valid license from another state, the District of Columbia, or territory of the United States, together with a copy of the application for licensure in that state, district, or territory.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-8](#).

[20:64:02:03](#) Limited permit.

20:64:02:03. Limited permit. An applicant for a limited permit to practice occupational therapy must file an application with the board on forms provided by the board and must submit written evidence that the applicant has completed the education and experience requirements of SDCL chapter [36-31](#) and is scheduled to write the next certification examination of the American Occupational Therapy Certification Board. The fee for a limited permit prescribed by § 20:64:02:05 must be filed with the application. If the holder of a limited permit is notified by the board that the holder has failed the examination, the permit is invalid on the date the notice is received by the holder; and the holder must immediately return the permit to the board. An application for a one-time renewal of the limited permit shall be submitted to the board on forms provided by the board together with the prescribed limited permit fee and evidence that the applicant is scheduled to write the next certification examination of the American Occupational Therapy Certification Board. The holder of a limited permit shall maintain on file with the board a current statement providing the name and address of any person or institution that employs the holder during the period the permit remains in force.

Source: 14 SDR 72, effective November 23, 1987; 22 SDR 61, effective November 5, 1995.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-5](#).

[20:64:02:04](#) Renewal of license.

20:64:02:04. Renewal of license. A notice for renewal of license shall be sent by the board to the last known address of each current licensee prior to the date of expiration of the license as provided by SDCL [36-31-11](#). Failure to receive the notice for renewal of license does not relieve the licensee of the responsibility for renewing the license and paying the renewal fee on time.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Article 20:64

Law Implemented:SDCL [36-31-11](#).

[20:64:02:05](#) Fees.

20:64:02:05. Fees. The following fees for licensure as an occupational therapist shall be charged:

- (1) An applicant applying for the initial license shall pay a fee of \$50;
- (2) An applicant applying for annual renewal of a license shall pay a fee of \$50;
- (3) An applicant applying for renewal of license after the license has lapsed shall pay an additional fee of \$25; and
- (4) An applicant applying for a limited permit shall pay a fee of \$25.

Source: 14 SDR 72, effective November 23, 1987; 23 SDR 70, effective November 11, 1996.

General Authority:SDCL [36-31-12](#).

Law Implemented:SDCL [36-31-11](#), [36-31-12](#).

CHAPTER 20:64:03

SUPERVISION

20:64:03:01. Direct supervision of occupational therapy aide. An occupational therapy aide may only perform selected routine tasks which are neither evaluative, assessive, nor recommendative and for which the aide has been suitably trained. An occupational therapy aide shall be under the direct supervision of an occupational therapist or occupational therapy assistant.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-1](#).

20:64:03:02. Supervision of occupational therapy assistant. An occupational therapy assistant with less than one year of experience in the assistant's present area of practice must receive a minimum of 10 hours of supervision from an occupational therapist for each 40 work hours or 25 percent of the total scheduled work hours. An occupational therapy assistant with more than one year of experience in the assistant's present area of practice must receive a minimum of 4 hours of supervision from an occupational therapist for each 40 work hours or 10 percent of the total scheduled work hours. The supervising occupational therapist shall evaluate each patient with input from the occupational therapy assistant as appropriate, prepare a written treatment plan outlining the tasks and responsibilities that may be performed by the occupational therapy assistant, monitor patient progress and reevaluate the

Article 20:64

treatment plan, and determine the termination of treatment. The frequency and manner of supervision is determined by the supervising licensed occupational therapist based on the condition of the patient or client, the proficiencies of the occupational therapy assistant, and the complexity of the therapy method. If the supervision agreement is terminated, the occupational therapy assistant must notify the board in writing within 15 days of such termination. In addition, the supervising occupational therapist must also notify the board in writing within 15 days if the supervision agreement is terminated.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-1](#).

20:64:03:03. Consultation. Consultation, as used in SDCL [36-31-1\(4\)](#), means periodic, on-site meetings to review cases and to provide recommendations or resource information, or both, regarding delivery of occupational therapy services to patients or clients.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-1](#).

CHAPTER 20:64:04

CONTINUING COMPETENCY

20:64:04:01. Continuing competency requirements. To qualify for renewal of a license upon its expiration as prescribed in SDCL [36-31-11](#), an applicant for renewal must complete 12 continuing competency points in a one-year period in professional education activities updating competency in occupational therapy and practice.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-11](#).

20:64:04:02. Activities for continuing competency requirements. The following activities qualify for credit toward completion of continuing competency points:

- (1) Attendance at workshops, seminars, conferences, or in-service education programs relating to the practice of occupational therapy. A certificate of completion is evidence of attendance. One point shall be credited for each hour of attendance;
- (2) Presentation to health or education professionals of a workshop, seminar, or in-service education program. The presentation must relate to the practice of occupational therapy and must

Article 20:64

be at least two hours in length. A program outline is evidence of participation. One point should be credited for each hour of presentation. A maximum of six points may be credited for this activity;

(3) Publication in professional journals or other nationally recognized publications or books or chapters in books. The publisher's manuscript acknowledgment is evidence of publication. Six points shall be credited for each publication; and

(4) Completion of an undergraduate or graduate course at a college or university that is accredited by an accrediting agency recognized by the council on postsecondary education and the United States department of education in 50 Fed Register 40213 to 40217, inclusive (October 2, 1985), 50 Fed Register 41933 (October 16, 1985), and 51 Fed Register 44940 (December 15, 1986). The course must be related to the applicant's professional skills and knowledge of the practice of occupational therapy. A transcript from the college or university is evidence of completion of the course. Six points shall be credited for each course completed.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-11](#).

20:64:04:03. Reporting continuing education. To demonstrate compliance with the continuing education requirements, each occupational therapist and occupational therapy assistant shall sign a statement to confirm completion of the required CEU hours each year at renewal time, and shall present proof of completion if requested by the board.

Source: 14 SDR 72, effective November 23, 1987; 34 SDR 93, effective October 17, 2007.

General Authority: SDCL [36-31-13](#).

Law Implemented: SDCL [36-31-11](#).

20:64:04:04. Waiver of continuing competency requirements. The board may excuse an applicant from the annual continuing competency requirements if the applicant submits an affidavit to the board that the applicant was prevented from completing the requirements because of illness or undue hardship.

Source: 14 SDR 72, effective November 23, 1987.

General Authority:SDCL [36-31-13](#).

Law Implemented:SDCL [36-31-11](#).

Article 20:64

Declaratory Ruling: A health care provider licensed under SDCL chapter 36-31 engages during the course of employment in exposure-prone invasive procedures. The situation is not an emergency in which the patient's life or limb is in danger. The licensee knows or has reason to know that the licensee is a carrier of the human immunodeficiency virus (HIV) or the hepatitis B virus (HBV) but does not follow universal precautions set out by the Centers for Disease Control and Prevention (CDC). Because of reporting requirements for communicable diseases, the Department of Health discovers that the licensee is a carrier of HIV or HBV and notifies a review panel pursuant to § 44:20:02:08(2). (Note: Effective January 26, 1995, all health professionals were required by the Department of Health in § 44:20:04:01 to comply with universal precautions of the CDC.)

The universal precautions of the CDC are a minimum standard of care. The following actions are considered unprofessional conduct under SDCL 36-31-14(5) and grounds for discipline:

- (1) Failure to comply with universal precautions;
- (2) Performance of invasive procedures when infected with HIV or HBV without first seeking counsel from an expert review panel; and
- (3) Failure to comply with the recommendations of an expert review panel.

Declaratory Ruling of the Board of Medical and Osteopathic Examiners dated September 21, 1994.