

SOUTH DAKOTA BOARD OF ACCOUNTANCY  
NOTICE OF PUBLIC HEARING TO AMEND RULES

A public hearing will be held by the South Dakota Board of Accountancy at Department of Legislative Audit, 427 S. Chapelle, Pierre, SD, on May 12, 2009, at 1:00 p.m.(CDT), to consider the proposed amendments of rules numbered §§ 20:75:01:01, 20:75:01:07, 20:75:02:13, 20:75:02:18, 20:75:02:19, 20:75:03:02, 20:75:03:03, 20:75:03:07, 20:75:03:08, 20:75:03:09, 20:75:03:10, 20:75:03:11, 20:75:03:12, 20:75:03:13, 20:75:03:14, 20:75:03:15, 20:75:03:16, 20:75:04:00, 20:75:04:01, 20:75:04:12, 20:75:05:00, 20:75:05:01, 20:75:05:05, 20:75:05:06, 20:75:05:07, 20:75:05:08, 20:75:05:17, 20:75:06:01, 20:75:06:02, 20:75:07:01, 20:75:07:08.

The effect of the rules will be to update references; correct erroneous references; repeal rules for conditional credit and transitional credits for the paper and pencil exam to the computerized exam; update language in rules to allow online renewals submission as signature and verification of information provided and the submitted time as the received date; eliminate pro-rated fees for firms and renewal of certificates; clarification of credit for CPE for instructors or discussion leaders; change definition of lapsed license to expired license; allow the board to be petitioned by an applicant or licensee to show other good cause to waive certain requirements; repeal and amend rules to reflect changes required by the passage of House Bill 1058 in the 2009 legislative session. The rule changes will no longer require notification forms to be filed with the Board, out-of-state firms will need permits only to perform audit work, certificates and firm permits will not be required to be displayed, and disciplinary procedures to include those with practice privileges.

The reason for adopting the proposed rules is to carry out the functions of statute SDCL: 36-20B in order to facilitate the board's ability to carry out its function of protecting the public, through regulating the practice of public accountancy.

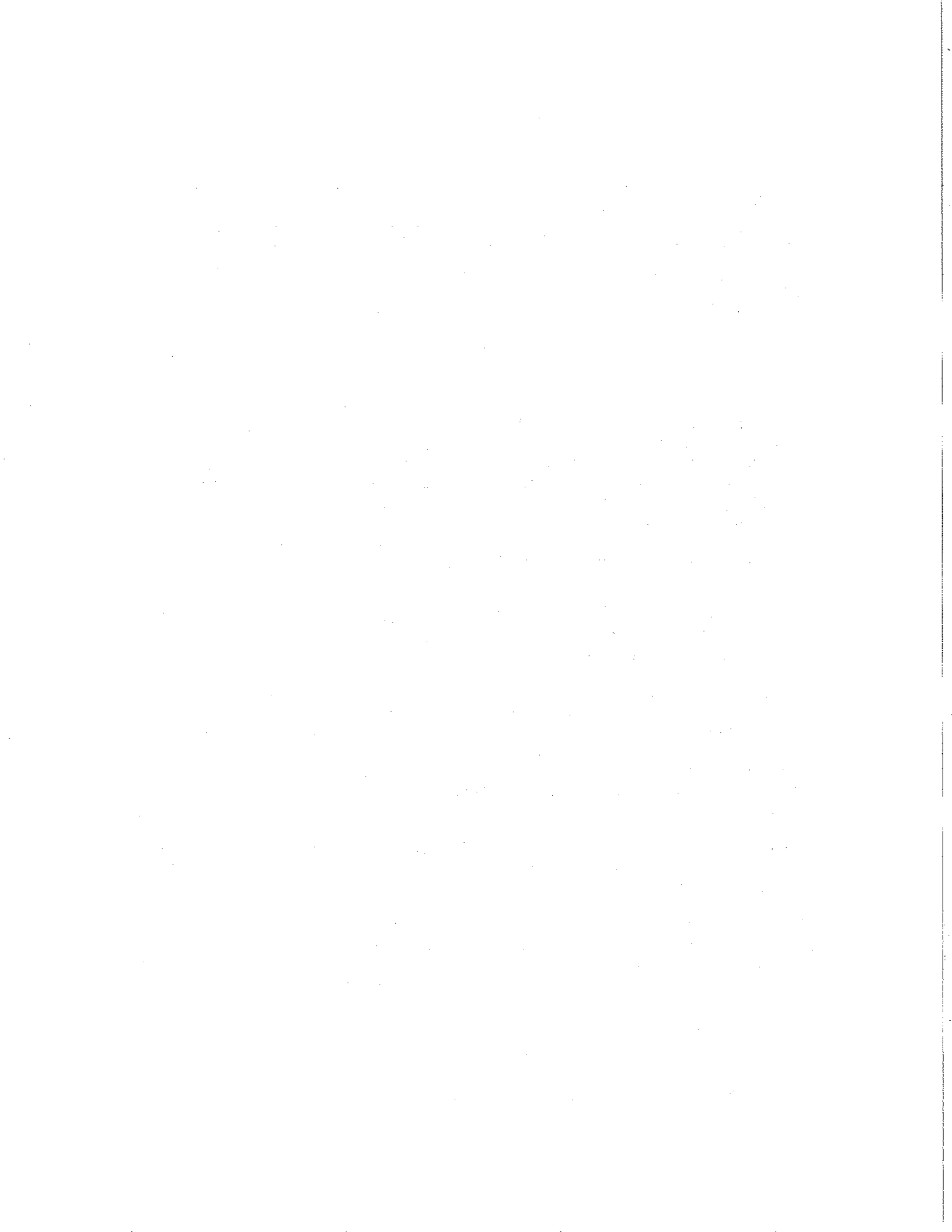
Persons interested in presenting data, opinions, and arguments for and against the proposed rules may do so by appearing in person at the hearing TO BE HELD IN Conference Room of Department of Legislative Audit, 427 S. Chapelle, Pierre, SD, on May 12, 2009, at 1:00 p.m. (CDT) or by sending them to the South Dakota Board of Accountancy office, 301 E. 14<sup>th</sup> Street, Suite 200, Sioux Falls, South Dakota, 57104. Material sent by mail must reach the Board of Accountancy office on or before May 1, 2009, to be considered.

After the hearing, the Board will consider all written and oral comments it receives on the proposed rules. The Board may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Board of Accountancy at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is 605-367-5770.

Copies of the proposed rules may be obtained without charge from the

South Dakota Board of Accountancy  
301 E 14th Street Suite 200  
Sioux Falls, SD 57104



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

- (1) "Accounting services," accounting, attest, tax, or management advisory services, and academia;
- (2) "AICPA," the American Institute of Certified Public Accountants;
- (3) "Attest," as defined in SDCL subdivisions ~~36-20B-2(1) to (4)~~ 36-20B-2(1) to (5), inclusive;
- (4) "Board," as defined in SDCL 36-20B-1(1);
- (5) "Certificate," as defined in SDCL 36-20B-1(2);
- (6) "Financial statements," statements, footnotes, and other supplementary information related thereto that undertake to present an actual or anticipated financial position as of a point in time, or results of operations, cash flow, or changes in financial position for a period of time, in conformity with generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory service reports to support recommendations to a client; nor does it include tax returns and supporting schedules;
- (7) "License," shall be defined as in SDCL subdivision ~~36-20B-1(8)~~ 36-20B-1(9);
- (8) "Member," shall be defined as in SDCL subdivision ~~36-20B-1(11)~~ 36-20B-1(12);
- (9) "NASBA," the National Association of State Boards of Accountancy;
- (10) "Permit," as defined in SDCL ~~36-20B-1(13)~~ 36-20B-1(14);
- (11) "Partnership" or "corporation," shall include any form of business organization authorized under the laws of this or any other state;

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

(13) "Public accountant," as defined in SDCL ~~36-20B-1(15)~~ 36-20B-1(18);

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

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

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

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

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

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

**20:75:01:07. Discretion to waive certain requirements.** Upon good cause shown by the applicant or licensee, the board may waive any application or administrative fees or any deadlines set in this article. For the purpose of this section, good cause is any personal emergency, act of God, ~~or~~ administrative error made by the board or the board of another state, or other good cause as determined by the board.

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

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

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

## CHAPTER 20:75:02

### EXAMINATION REQUIREMENTS

#### Section

- 20:75:02:01 Initial and reexamination applicants.
- 20:75:02:02 Application for examination.
- 20:75:02:03 Examination fees.
- 20:75:02:04 Education.
- 20:75:02:05 Misconduct during examination.
- 20:75:02:06 Request for accommodation of disability.
- 20:75:02:07 Definition of disability -- Learning disability.
- 20:75:02:08 Qualifications of evaluator for physical or mental disabilities.
- 20:75:02:09 Qualifications of evaluator for learning disabilities.
- 20:75:02:10 Professional verification of the disability.
- 20:75:02:12 Recognized colleges and universities.
- 20:75:02:13 Non-accredited institutions.
- 20:75:02:14 Examination -- Grades.
- 20:75:02:17 Confidentiality of examination questions -- Failure to comply.
- 20:75:02:18 ~~Expiration of conditional credit for candidates accepted under educational requirement effective prior to January 1, 1998~~ Repealed.
- 20:75:02:19 ~~Transitional credit~~ Repealed.
- 20:75:02:20 Rescore Request and Fees
- 20:75:02:21 Candidate Score Appeal and Fees

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

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

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

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

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

(4) An accredited college or university, as defined in § ~~20:75:02:13~~ 20:75:02:12, accepts the applicant's non-accredited baccalaureate degree for admission to a graduate business degree program;

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

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

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

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

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

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

**20:75:02:18. Expiration of conditional credit for candidates accepted under educational requirement effective prior to January 1, 1998.** ~~If the board has awarded conditional credit to an individual by, or as a result of, the May 2001 examination for passing two or more sections of the examination, and the individual's initial application was filed for the November 1997 or a prior examination, the individual may continue to sit as a reexamination candidate until the expiration of the conditional credit as set forth in SDCL subdivision 36-20B-19(3) and § 20:75:02:14.~~

~~In any event, the last examination an individual in this situation may sit for is November 2004 under the paper and pencil examination or the number of times allowed under § 20:75:02:19 for the computerized examination. An individual who has not passed the entire examination on or before the November 2004 examination or under the requirements of § 20:75:02:19 for the computerized examination must apply as an initial candidate and meet the current educational requirement in SDCL 36-20B-15 and this rule~~  
Repealed.

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

~~General Authority: SDCL 36-20B-19(1) to (5), inclusive.~~

~~Law Implemented: SDCL 36-20B-19(1) to (5), inclusive.~~

~~Cross-References:~~

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

~~Application for examination — Fees, § 20:75:02:03.~~

~~Examination — Grades, § 20:75:02:14.~~

~~Transitional credit, § 20:75:02:19.~~

**20:75:02:19. Transitional credit.** ~~A candidate who has earned conditional credits on sections of the paper and pencil examination shall retain those conditional credits for a corresponding test during a transition period as follows:~~

<del>Paper and pencil examination</del>	<del>Computer based examination</del>
<del>Auditing</del>	<del>Auditing and Attestations</del>
<del>Financial Accounting and Reporting</del>	<del>Financial Accounting and Reporting</del>
<del>Accounting and Reporting</del>	<del>Regulation</del>
<del>Business Law</del>	<del>Business Environment and Concepts</del>

~~Each candidate with conditional credits will be allowed a transition period to complete any remaining test sections. The transition shall not exceed a candidate's completion of the same number of examination windows under the computer based examination that the candidate had remaining to take under the paper and pencil examination, or the remaining number of opportunities under the paper and pencil examination, multiplied by six months, whichever is first exhausted.~~

~~If a candidate holding conditional credit under the paper and pencil examination does not pass all remaining test sections during the transition period, conditional credits~~



~~earned under the paper and pencil examination will expire and the candidate will lose credit for the test sections earned under the paper and pencil examination. Each test section passed during the transition period is subject to the conditioning provisions of the computer-based examination, except that a previously conditioned candidate will not lose conditional credit for a test section of the computer based examination that is passed during the transition period, even though more than eighteen months have elapsed from the date the test section is passed, until the end of the transition period.~~

~~— The board may in particular cases extend the term of conditional credit validity notwithstanding the requirements above, upon a showing that the credit was lost by reason of circumstances beyond the candidates control Repealed.~~

**Source:** 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006.

~~— **General Authority:** SDCL 36-20B-19(1) to (5), inclusive.~~

~~— **Law Implemented:** SDCL 36-20B-19(1) to (5), inclusive.~~

## CHAPTER 20:75:03

### CERTIFICATES, LICENSES, AND PERMITS

#### Section

- 20:75:03:01 Application for initial certificate and replacement certificate -- Fees.
- 20:75:03:02 Non-renewal.
- 20:75:03:03 Application for renewal of certificate -- Fees.
- 20:75:03:04 Experience.
- 20:75:03:05 Ethics examination.

- 20:75:03:06 Denial of certificate.
- 20:75:03:07 ~~Display of certificate~~ Repealed.
- 20:75:03:08 Application for firm permit -- Renewal -- Replacement -- Fees.
- 20:75:03:09 ~~Display of firm permit~~ Repealed.
- 20:75:03:10 Notification of firm changes.
- 20:75:03:11 Definitions.
- 20:75:03:12 Renewal of a South Dakota active certificate -- Fees.
- 20:75:03:13 Renewal of a South Dakota inactive certificate -- Fees.
- 20:75:03:14 ~~Non-resident -- Notification -- Fees~~ Repealed.
- 20:75:03:15 Substantial equivalency and reciprocity -- Fees.
- 20:75:03:16 Registration of a retired certificate -- Fees.

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

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

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

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

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

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

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

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

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

An application for renewal must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is \$50. The fee for annual renewal submitted late is \$100. ~~The fee for an application renewal submitted February 1 to July 31, inclusive, by an individual who is returning to practice after a lapse of more than one year is \$25. The fee for a renewal not submitted within 90 days of employment that is due February 1 to~~

~~July 31, inclusive, by an individual who is returning to practice after a lapse of more than one year is \$50.~~

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

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

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

**General Authority:** SDCL ~~36-20B-13~~ 36-20B-12(3),(17),(18),(20),(21), 36-20B-15, 36-20B-18.

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

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

**20:75:03:07. Display of certificate.** ~~A person who is currently practicing public accountancy must display the person's individual certificate to the public in the person's office~~ Repealed.

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

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

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

**20:75:03:08. Application for firm permit -- Renewal -- Replacement -- Fees.** A proprietorship, partnership, corporation, limited liability company, or limited liability partnership that practices public accountancy in this state must apply for a firm permit to practice public accountancy. Firms required to hold a permit pursuant to SDCL 36-20B-32.1 must apply to the board for such permit on forms provided by the board. The application must be submitted on forms provided by the board. An original sheet of each type of letterhead used by the firm must accompany the application. The board shall issue initial firm permits to practice public accountancy for up to one year. Firm permits expire annually on July 31.

The initial application fee for a firm required to hold a permit pursuant to SDCL 36-20B-32.1(1) or (2) that begins practicing in this state August 1 to January 31, inclusive, is \$65 for each person holding a South Dakota certificate to practice, plus \$50 for each firm office practicing public accountancy in this state. The initial application fee for a firm required to hold a permit pursuant to SDCL 36-20B-32.1(3) is \$65 for each person holding a certificate and performing services pursuant to SDCL 36-20B-70 plus \$50 for each firm office exercising practice privileges in this state. ~~The initial application fee for a firm that begins practicing in this state February 1 to July 31, inclusive, is \$35 for each person holding a South Dakota certificate to practice, plus \$25 for each firm office practicing public accountancy in this state. A firm practicing in this state must submit an application for an initial firm permit within 90 days after commencing an engagement. A firm must obtain a permit to practice for the year during which it~~

commences ~~practicing~~ an engagement. If the firm does not submit the application within the 90 days the firm must pay an additional \$50.

An application for renewal of a firm permit must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. For firms required to hold a permit pursuant to SDCL 36-20B-32.1(1) or (2) the  
~~The~~ fee for annual renewal applications submitted on time is \$65 for each person holding a South Dakota certificate to practice, plus \$50 for each firm office practicing public accountancy in this state. For firms required to hold a permit pursuant to SDCL 36-20B-32.1(3), the fee for annual renewal applications submitted on time is \$65 for each person holding a certificate and performing services pursuant to SDCL 36-20B-70, plus \$50 for each firm office exercising practice privileges in this state. If the application for annual renewal is submitted late, the firm is assessed a ~~the fee is increased by~~ \$50 late fee. ~~The renewal fee for a firm that begins practicing in this state February 1 to July 31, inclusive, after a lapse in practice of more than one year is \$35 for each person holding a South Dakota individual license to practice, plus \$25 for each firm office practicing public accountancy in this state.~~

The fee to replace a firm permit lost or destroyed for any reason or to change a name or form of practice is \$25 for the principal office plus \$15 for each additional office. Failure to receive a renewal notice does not constitute an adequate reason for failing to renew the permit in a timely manner. The fee must accompany the application for a firm permit, renewal of a firm permit, or request for replacement of a firm permit.

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

- (1) The name of the firm maintaining the office;
- (2) The type of organization (sole proprietorship, partnership, or corporation);
- (3) The address of the office location;
- (4) The name and address of the sole proprietorship; each resident partner, if a partnership; or each resident stockholder and member of the governing body, if a corporation;
- (5) The total percentage of equity ownership and the voting rights of the licensees in the firm;
- (6) The name, address, and certificate or registration number of each certified public accountant or public accountant employed at the office location;
- (7) The name, address, and certificate or registration number of the resident manager of the office location;
- (8) The name, address, and certificate or registration number of each person responsible for supervising or providing attest services, if any, as contemplated by SDCL subdivisions ~~36-20B-2(1) to (4)~~ 36-20B-2(1) to (5), inclusive, and SDCL 36-20B-3;
- (9) The type of peer review program in which the firm participates and the date and results of the last review.

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

by any other state. A firm who submits a renewal by the use of the internet shall agree that submission of the renewal serves as the representative of the firm's signature and verification of the information in the renewal

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

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

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

**20:75:03:09. Display of firm permit.** ~~A firm that is currently practicing public accountancy shall display its firm permit to the public in each firm office~~ Repealed.

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

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

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

**20:75:03:10. Notification of firm changes.** ~~Individuals or entities~~ Firms holding a permit to ~~practice as a CPA or PA firm~~ pursuant to SDCL 36-20B-32 to 36-20B-34, inclusive, shall file with the board a written notification of any of the following events concerning the ~~practice of public accountancy within this state~~ within 30 days after its occurrence:

- (1) Formation of a new firm;
- (2) Addition of a partner, member, or shareholder;
- (3) Retirement, withdrawal, or death of a partner, member, or shareholder;
- (4) Any change in the firm name;
- (5) Dissolution of the firm;
- (6) Change in the management of any office location in this state;



(7) Establishment of a new office or the closing or change of address of an existing office location in this state or in any other state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Certificate holders performing or offering to perform "attest" services as defined in SDCL ~~36-20B-3~~ 36-20B-2, must provide proof of one year of experience as required in § 20:75:03:04 verified by a licensee.

An application for renewal of an active certificate must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is \$50. The fee for annual renewal submitted late is \$100. ~~The prorated fee for annual renewal applications received February 1 to July 31, inclusive, is \$25 and the prorated fee for annual renewal submitted late is \$50.~~ A licensee who submits a renewal by the use of the internet shall agree that submission of the renewal serves as the licensee's signature and verification of the information in the renewal.

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

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

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

**Cross-References:**

Non-renewal, § 20:75:03:02

Experience, § 20:75:03:04.

Definitions, § 20:75:03:11.

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

An application for renewal of an inactive certificate must be received by the board by August 1 or must be postmarked by August 1. An application completed on the internet must be submitted on or before 11:59 p.m. central time on August 1, to be considered on time. The fee for annual renewal submitted on time is \$50. The fee for annual renewal submitted late is \$100. ~~The prorated fee for annual renewal applications received February 1 to July 31, inclusive, is \$25 and the prorated fee for annual renewal submitted late is \$50.~~ A licensee who submits a renewal by the use of the internet shall

agree that submission of the renewal serves as the licensee's signature and verification of the information in the renewal.

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

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

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

**20:75:03:14. Non-resident -- Notification -- Fees.** ~~Any licensee of another state exercising the privilege afforded under SDCL 36-20B-66 or 36-20B-67 hereby consents, as a condition of the granting of this privilege, to:~~

- ~~—— (1) The personal and subject matter jurisdiction of the board;~~
- ~~—— (2) Comply with this chapter and the board's rules; and~~
- ~~—— (3) The appointment of the state board which issued the license as the agent upon whom process may be served in any action or proceeding by this board against the licensee.~~

~~—— A licensee from another state, intending to perform attest services in South Dakota must do so through a licensed firm and must notify the state of South Dakota by filing the Notification for Non-Resident CPA to Practice Public Accounting in South Dakota form provided by the board. The fee for filing the notification form is \$50 for the firm and \$65 for each individual practicing in the state on the firm permit. The notification is renewable annually.~~

~~—— The notification is not a license or a permit for the firm to practice in South Dakota. The firm must file a firm permit application if performing or offering to perform attest~~

~~services to South Dakota clients. The fee for the firm permit is \$50 per firm location and \$65 per individual CPA listed on the firm permit.~~

~~— An applicant for notification to practice public accounting as a non resident must provide general information as requested, on forms provided by the board, to include: name, address, telephone number, business name, and business address. An applicant must provide an individual CPA certificate number, the date issued, the date of expiration, and the name of the issuing board. The applicant shall inform the board of any pending disciplinary action by any other board.~~

~~— An applicant must sign an affidavit waiving any claim of confidentiality or privacy regarding disclosure of public records regarding professional ethics and conduct and continuing professional education requirements. The applicant shall authorize the board to make such investigation inquiries it deems necessary and release from liability any party responding to such inquiries. The notification to practice public accounting as a non resident form shall be notarized by a notary public. Practice rights shall be issued to a licensee of another state, contingent upon a license in good standing. For purposes of this section, good standing means actively licensed and not conditioned, limited, or in any way restricted or subject to discipline at the time of application, during temporary licensure, or during exemption Repealed.~~

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

~~— **General Authority:** SDCL 36-20B-66.~~

~~— **Law Implemented:** SDCL 36-20B-66.~~

**20:75:03:15. Substantial equivalency and reciprocity — Fees.** ~~Any person holding a valid certified public accountant certificate issued by another state as defined in SDCL subdivision 36-20B-1(16) shall, upon application or notification, be granted the privilege to practice as a certified public accountant in South Dakota if the applicant has met the requirements in SDCL 36-20B-25 and agrees to the provisions in SDCL 36-20B-39, which constitutes the appointment of the secretary of state as the applicant's agent.~~

A certificate holder licensed by another state, before establishing a principal place of business in this state, shall request the issuance of a certificate from the board pursuant to SDCL 36-20B-26.

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

The applicant for initial issuance or renewal under this chapter shall comply with the continuing professional education requirements for issuance or renewal in the applicant's state, or the continuing professional education requirements applicable in this

state, if the applicant's state of licensure does not require continuing professional education.

If the applicant passed the examination in a state that is not deemed to be substantially equivalent to this state's educational requirements, the board may issue the applicant a license upon a showing that:

- ~~—— (1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;~~
- ~~—— (2) The applicant had four years of experience as defined in SDCL 36-20B-21 within the ten years immediately preceding the application; and~~
- ~~—— (3) the requirements of SDCL 36-20B-25 are met and the The applicant's license has been deemed to be in good standing, by the host state's licensing board. The applicant has fulfilled the requirements of continuing professional education that would have been applicable under § 20:75:04:08.~~

~~An individual intending to practice public accountancy in South Dakota under substantial equivalency shall apply for and annually renew the certificate with the board. The application shall be accompanied by a fee of \$50.~~

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

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

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

**20:75:03:16. Registration of a retired certificate -- Fees.** Any holder of a South Dakota certificate no longer practicing any form of accounting governed under this chapter may choose to register the certificate under a retired status. To be eligible for

registration under the retired status, an individual certificate holder must be at least 55 years of age, must sign an affidavit attesting to the certificate holders retired status, and pay an annual fee of \$10. A licensee who submits a renewal by the use of the internet shall agree that submission of the renewal serves as the licensee's signature and verification of the information in the renewal.

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

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

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

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

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

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

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



(4) "CPE credit," fifty minutes of participation in a learning activity. A one-half CPE credit increment, equal to 25 minutes, is permitted after the first credit has been earned in a given learning activity;

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

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

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

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

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

(10) "Informal continuing professional education," continuing professional education offered by an organization not in the business of providing continuing

professional education, which contributes to, increases, or maintains competency levels of CPAs and PAs;

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

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

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

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

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

(16) "Learning objectives," specifications on what participants should accomplish in a learning activity. Learning objectives must be useful to program developers in deciding appropriate instructional methods and allocating time to various subjects;

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

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

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

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

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

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

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

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

(22) "Principal place of business" as defined in SDCL 36-20B-1(16);

~~(22)~~ (23) "Professional competence," having requisite knowledge, skills, and abilities to provide quality services as defined by the technical and ethical standards of the profession;

~~(23)~~ (24) "Program of learning," a collection of learning activities that are designed and intended as continuing professional education that comply with the standards;

~~(24)~~ (25) "Reinforcement feedback," specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct;

~~(25)~~ (26) "Self-study program," an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a pilot test to measure the average completion time from which the recommended continuing professional education credit is determined;

~~(26)~~ (27) "University or college," shall mean an accredited institution;

~~(27)~~ (28) "Update," a learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

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

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

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

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

(1) Fifty minutes of participation in a group program, independent study, or self-study program equals one hour of continuing professional education credit. For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program;

(2) A one-half continuing professional education credit increment, equal to 25 minutes, is permitted after the first credit has been earned in a given learning activity;

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

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

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

(6) ~~Upon a determination by the board that the activities maintain or increase professional competency, the board may grant instructors~~ Instructors or discussion leaders of learning activities may receive credit for both preparation and presentation time provided the activities maintain or increase their professional competence and qualify as credit for participants. Instructors may receive up to two times the number of

CPE credits to which participants would be entitled, in addition to the time for presentation. For repeat presentations, CPE credit may be claimed only if it can be demonstrated that the learning activity was substantially changed and such change required significant additional study or research;

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

(8) Self-study CPE credits must be based on a pilot test of the average completion time. A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. CPE credits should be recommended based on the average completion time for the sample;

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

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

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

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

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

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

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

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

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

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

## **CHAPTER 20:75:05**

### **PROFESSIONAL CONDUCT**

Section

- 20:75:05:00    Licensee definition.
- 20:75:05:01    Independence.
- 20:75:05:02    Integrity and objectivity -- Conflict of interest.
- 20:75:05:03    Acceptance of commission or contingent fee.
- 20:75:05:04    Competence.
- 20:75:05:05    Auditing, accounting, and review standards.
- 20:75:05:06    Accounting principles.
- 20:75:05:07    Professional standards and conduct.
- 20:75:05:08    Interpretations.
- 20:75:05:09    Confidential client information.
- 20:75:05:10    Client records.
- 20:75:05:11    Acting through others.
- 20:75:05:12    Advertising.
- 20:75:05:13    Solicitation.
- 20:75:05:14    Form of practice.
- 20:75:05:15    Firm names.
- 20:75:05:16    Communications from board.
- 20:75:05:17    Records retention.

**20:75:05:00. Licensee definition.** A licensee for the purpose of this chapter is the holder of a certificate issued pursuant to SDCL 36-20B or of a license issued under prior law, a permit issued pursuant to SDCL 36-20B, or in each case a certificate, license or permit issued under corresponding provisions of prior law or an individual exercising practice privileges pursuant to SDCL 36-20B-66 or 36-20B-67.



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

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

**20:75:05:01. Independence.** A licensee shall comply with Section ET 101 of the American Institute of Certified Public Accountants (AICPA), and additionally comply with the independence rules of the United States Securities and Exchange Commission (SEC), United States Department of Labor (DOL), Public Company Accounting Oversight Board (PCAOB) and United States Government Accountability Office (GAO) applicable to the licensees' engagement.

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**References:** AICPA Professional Standards, Volume 2, ET Section 101, as of ~~July 2008~~ January 2009, American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza III, Jersey City, NJ 07311. Cost: Annual Subscription of Loose-leaf Edition, Member ~~\$369~~ \$389/Non-Member ~~\$461.25~~ \$486.25.

**Government Auditing Standards**, by the United States Government Accountability Office (GAO) June 1, 2003, Revision, or July 2007 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States

Government Accountability Office, Washington, D.C. 20548; or from their website at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm). Cost: first document free, each additional copy \$2.

**United State Department of Labor (DOL):**

<http://law.justia.com/us/cfr/title29/29-9.1.3.1.1.0.16.7.html>.

**Public Company Accounting Oversight Board (PCAOB):**

[http://www.pcaob.org/Rules/Rules\\_of\\_the\\_Board/Section\\_3.pdf](http://www.pcaob.org/Rules/Rules_of_the_Board/Section_3.pdf).

**United States Securities and Exchange Commission (SEC):**

<http://www.sec.gov/rules/final/33-8183.htm>.

**20:75:05:05. Auditing, accounting, and review standards.** A licensee may not permit the licensee's name to be associated with a report on financial statements as defined by SDCL 36-20B-3 unless the licensee complied with generally accepted auditing standards or accounting and review standards as applicable. Generally accepted auditing standards and accounting and review standards are the standards set forth in the **AICPA Professional Standards, Volume 1**, AU Sections 100 through 901, as of ~~July 2008~~ January 2009; **AICPA Professional Standards, Volume 2**, AR Sections 100 through 9600, as of ~~July 2008~~ January 2009; **Professional Standards, Volume 1**, AT Sections 2500 through 2970-400, as of ~~July 2008~~ January 2009; and **AICPA Professional Standards, Volume 2**, ET Sections 50 through 500, as of ~~July 2008~~ January 2009; by the American Institute of Certified Public Accountants. **Government Auditing Standards** by the United States Government Accountability Office, June 2003 Revision, or July 2007 Revision, as applicable. Licensees must justify departures from these standards.

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**References:** AICPA Professional Standards, Volume 1, AU Sections 100 through 901, as of ~~July 2008~~ January 2009; AICPA Professional Standards, Volume 2, AR Sections 100 through 9600, as of ~~July 2008~~ January 2009; AICPA Professional Standards, Volume 1, AT Sections 2500 through 2970-400, as of ~~July 2008~~ January 2009; and AICPA Professional Standards, Volume 2, ET Sections 50 through 500, as of ~~July 2008~~ January 2009, by the American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza III, Jersey City, NJ 07311. Cost: AICPA Professional Standards, Volume 1 and Volume 2, AU Sections 100 through 901, as of July 2008; AICPA Professional Standards, Volume 2, AR Sections 100 through 9600, as of July 2008; AICPA Professional Standards, Volume 1, AT Sections 2500 through 2970 400; as of July 2008; and AICPA Professional Standards, Volume 2, ET Sections 50 through 500, as of July 2008, Annual Subscription of Loose-leaf Edition. Cost: Member \$369 \$389/Non-Member \$461.25 \$486.25.

**Government Auditing Standards** by the United States Government Accountability Office, June 2003 Revision or July 2007 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States Government

Accountability Office, Washington, D.C. 20548; or from their website at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm). Cost: **Government Auditing Standards**, first document free, each additional copy \$2.

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

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

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

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

Generally accepted accounting principles for nongovernmental entities are those pronouncements issued by the Financial Accounting Standards Board and its predecessor entities published by the **Financial Accounting Standards Board (FASB)**, in **Accounting Standards, Current Text, General Standards**, as of ~~June 1, 2007~~ September 2008, and **Financial Accounting Standards Board (FASB), Accounting**

**Standards, Current Text, Industry Standards**, as of ~~June 1, 2007~~ September 2008.

Generally accepted accounting principles for governmental entities are those pronouncements of the Governmental Accounting Standards Board published in **Codification of Governmental Accounting and Financial Reporting Standards**, as of ~~June 30, 2007~~ June 30, 2008.

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**References:** **Financial Accounting Standards Board (FASB), Accounting Standards, Current Text, General Standards**, as of ~~June 1, 2007~~ September 2008, and **Financial Accounting Standards Board (FASB), Current Text, Industry Standards**, as of ~~June 1, 2007~~ September 2008. Copies may be viewed at the board's office or obtained from the FASB at [www.fasb.org](http://www.fasb.org). Cost: \$240 ~~\$255~~ a set.

**Codification of Governmental Accounting and Financial Reporting Standards**, as of ~~June 30, 2007~~ June 30, 2008, Governmental Accounting Standards Board, ~~June 30, 2007~~ June 30, 2008. Copies may be viewed at the board's office or obtained from Governmental Accounting Standards Board Order Department, P.O. Box 30784, Hartford, CT 06150, ~~Document Number GCD01~~. Cost: \$82 ~~\$86~~ each.

**20:75:05:07. Professional standards and conduct.** A licensee shall comply with professional ethical standards and conduct. Professional standards and conduct are those

established and set forth in the **AICPA Professional Standards, Volume 2, ET Section** as of ~~July 2008~~ January 2009, by the American Institute of Certified Public Accountants.

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**Reference:** **AICPA Professional Standards, Volume 2**, as of ~~July 2008~~ January 2009, American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza III, Jersey City, NJ 07311. Cost: Members ~~\$369~~ \$389/Non-Members ~~\$461.25~~ \$486.25 a set.

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

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**Reference:** **AICPA Professional Standards, Volume 2**, as of ~~July 2008~~ January 2009, American Institute of Certified Public Accountants, Harborside Financial Center,

201 Plaza III, Jersey City, NJ 07311. Cost: Member ~~\$369~~ \$389/Non-Member ~~\$461.25~~ \$486.25 a set.

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

**Source:** 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**References:** **AICPA Professional Standards, Volume 2, ET Section 101**, as of ~~July 2008~~ January 2009, by the American Institute of Certified Public Accountants. Copies may be viewed at the board's office or obtained from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza III, Jersey City, NJ 07311. Cost: Annual Subscription of Loose-leaf Edition, Member ~~\$369~~ \$389/Non-Member ~~\$461.25~~ \$486.25 a set.

**Government Auditing Standards**, by the United States Government Accountability Office, June 1, 2003, Revision, or July 2007 Revision, as applicable. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, D.C. 20548; or from their web site at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm). Cost: **Government Auditing Standards**, first document free, each additional copy \$2.

**United States Securities and Exchange Commission (SEC):**

<http://www.sec.gov/rules/final/33-8180.htm>.

**Public Company Accounting Oversight Board (PCAOB):**

[http://www.pcaob.org/Standards/Standards\\_and\\_Related\\_Rules/Auditing\\_Standard\\_No.3.aspx](http://www.pcaob.org/Standards/Standards_and_Related_Rules/Auditing_Standard_No.3.aspx).

**United State Department of Labor (DOL):**

<http://law.justia.com/us/cfr/title29/29-9.1.5.13.1.html>.

## **CHAPTER 20:75:06**

### **MODIFICATION OF DISCIPLINE**

Section

20:75:06:01 Modification of discipline.

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

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

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



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

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

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

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

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

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

subversive to the public interest, and that there is a good cause for the board to reinstate or reissue the certificate, ~~or permit,~~ or practice privileges.

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

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

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

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

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

(1) "Accounting and auditing practice," all engagements covered by "Statements on Auditing Standards" (SAS), "Statements on Standards for Accounting and Review Services" (SSARS), "Statements on Standards for Attestation Engagements" (SSAE) for Financial Forecasts and Projections (AICPA, Professional Standards, vol. 1, AT sec. 200), attest services on financial information when the firm audits, reviews, or compiles the historical financial statements of the client, and standards for financial and compliance audits contained in **Government Auditing Standards** ("Yellow Book") June 2003 Revision, or July 2007 Revision, as applicable, issued by the U. S. General Accounting Office;

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

(3) "Equivalent review," a peer review conducted by the American Institute of Certified Public Accountants, a state licensing board, or an accounting association or

society in accordance with the review standards in §§ 20:75:07:09 to 20:75:07:15, inclusive;

(4) "Modified report," a qualified or adverse report issued as the result of a peer review that describes significant deficiencies in the professional standards in §§ 20:75:05:05 and 20:75:05:06;

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

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

(7) "Professional standards," professional standards in §§ 20:75:05:05 and 20:75:05:06;

(8) "Quality control system," the five elements of quality control described in "Statement on Quality Control Standards (SQCS)," No. 2, vol. 2, QC Section 20, and "Statements on Quality Control Standards," published in **AICPA Professional Standards, Volume 2**, as of ~~July 2008~~ January 2009;

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

(10) "South Dakota review," a peer review conducted under the South Dakota Board of Accountancy program in accordance with this chapter;

(11) "System review," a review required of a firm that performs engagements under the "Statements on Auditing Standards" (SAS), "Statements on Standards for

Accounting and Review Services" (SSARS), "Statements on Standards for Attestation Engagements" (SSAE), or "Government Auditing Standards" (GAS), or performs examinations of prospective financial statements under "Statements on Standards for Attestation Engagements";

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

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

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

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**References:** **Government Auditing Standards**, June 2003 Revision, or July 2007 Revision, as applicable. United States Government Accountability Office. Copies may be viewed at the board's office or obtained from the United States Government Accountability Office, Washington, DC 20548, or their website at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm). Cost: **Government Auditing Standards**, June 2003 Revision, or July 2007, Revision, as applicable, first copy free, each additional copy \$2;

**AICPA Professional Standards, Volume 2**, as of ~~July 2008~~ January 2009, American Institute of Certified Public Accountants, ~~Commerce Clearing House~~. Copies may be viewed at the board's office or obtained from American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza III, Jersey City, NJ 07311. Cost: Member \$369 ~~\$389~~/Non-Member \$461.25 ~~\$486.25~~ a set.

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

**20:75:07:08. Conduct of review -- Location.** The peer review must be conducted at the office location of the firm under review unless the board gives prior approval for the review to be conducted at another location. A firm that does not perform audits and had an unmodified report on its preceding review may have a review conducted at a location other than its office. However, the firm must have a review conducted at its office location once every third three-year cycle. A firm that performs audits of historical financial statements, agreed-upon procedures under the **Statements on Standards for Attestation Engagements**, or examinations of prospective financial statements must have a review conducted at its office location because of the public interest in the quality of such engagements and the importance to the accounting profession of maintaining the quality of those services. Prior approval may be granted for a review to be conducted at a location other than the firm's office for firms conducting audits. In granting approval for a review to be conducted at another location, the board shall consider firm size and makeup, the number and types of engagements, distances involved, and prior review.

**Source:** 29 SDR 16, effective August 14, 2002; 30 SDR 119, effective February 9, 2004; 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

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

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

**Reference:** AICPA Professional Standards, Volume 1, AT Section ~~July 2008~~  
~~January 2009~~, American Institute of Certified Public Accountants ~~Financial Accounting~~  
~~Standards Board~~. Copies may be viewed at the board's office or obtained from the  
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