



2023 South Dakota Legislature

Senate Bill 8

Introduced by: The Committee on Health and Human Services at the request of the South Dakota Board of Addiction and Prevention Professionals

1 **An Act to revise provisions relating to addiction and prevention services**
 2 **professionals.**

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

4 **Section 1. That § 36-34-13 be AMENDED:**

5 **36-34-13.** The board may promulgate rules, pursuant to chapter 1-26, to provide
 6 fees for all services and charges authorized by this chapter. The fees may not exceed the
 7 following maximums:

- 8 (1) ~~Application materials or portfolio reviews, twenty five dollars;~~
 9 (2) ~~—~~Certified addiction counselor, certified prevention specialist, or licensed addiction
 10 counselor application and examination fee, ~~two three~~ three hundred ~~fifty~~ dollars;
 11 ~~(3)~~(2) Certified addiction counselor, certified prevention specialist, or licensed addiction
 12 counselor retest fee, two hundred fifty dollars;
 13 ~~(4)~~(3) Certified addiction counselor, certified prevention specialist, or licensed addiction
 14 counselor renewal fee, ~~two~~ four hundred dollars;
 15 ~~(5)~~(4) Certified addiction counselor, certified prevention specialist, or licensed addiction
 16 counselor reinstatement fee, ~~one~~ two hundred ~~fifty~~ dollars;
 17 ~~(6)~~(5) Status upgrade fee, one hundred fifty dollars;
 18 ~~(7) —~~Addiction counselor trainee, prevention specialist trainee, certified addiction
 19 counselor, certified prevention specialist, or licensed addiction counselor
 20 replacement or duplicate certificate, ~~fifteen~~ dollars;
 21 ~~(8) —~~Certified addiction counselor, certified prevention specialist, or licensed addiction
 22 counselor replacement identification card, ~~five~~ dollars;
 23 ~~(9)~~(6) Addiction counselor trainee or prevention specialist trainee recognition fee, one
 24 hundred fifty dollars;
 25 ~~(10)~~(7) Addiction counselor trainee or prevention specialist trainee renewal fee, one
 26 hundred fifty dollars;

- 1 ~~(11)~~(8) Addiction counselor trainee or prevention specialist trainee reinstatement fee,
- 2 one hundred fifty dollars;
- 3 ~~(12)~~(9) International certificate fee, twenty dollars;
- 4 ~~(13)~~—Certified addiction counselor, certified prevention specialist, or licensed addiction
- 5 counselor retirement status practitioner fee, one hundred dollars;
- 6 ~~(14)~~(10) Dual credential renewal fee, ~~three~~ four hundred dollars;
- 7 ~~(15)~~—Examination cancellation or rescheduling fee, twenty five dollars;
- 8 ~~(16)~~—Examination late cancellation or nonattendance fee, one hundred twenty five
- 9 dollars;
- 10 ~~(17)~~—Registration as a continuing education service provider, twenty five dollars; and
- 11 ~~(18)~~—Mailing labels charge, one hundred dollars
- 12 (11) Inactive license or certificate fee, fifty dollars; and
- 13 (12) Temporary license or certificate fee, one hundred dollars.

14 **Section 2. That § 36-34-13.2 be AMENDED:**

15 **36-34-13.2.** Any applicant seeking recognition, certification, or licensure shall
16 disclose to the board whether the applicant has been convicted of, plead guilty to, or plead
17 no contest to any felony, to any crime involving or relating to the practice of counseling,
18 or to any crime involving dishonesty or moral turpitude, in any state, federal, foreign
19 jurisdiction, tribal, or military court.—~~Failure~~ An applicant's failure to disclose this
20 information may result in denial, revocation, suspension, or refusal of recognition,
21 certification, or licensure.

22 The board may grant a license to an applicant who has been convicted of or pled
23 guilty to a felony, to any crime involving or relating to the practice of counseling, or to
24 any crime involving dishonesty or moral turpitude if the board determines that the
25 applicant does not constitute a risk to public safety.

26 **Section 3. That § 36-34-13.3 be AMENDED:**

27 ~~**36-34-13.3.** Any certificate or license issued by the board shall be renewed~~
28 ~~annually by payment of a fee to be set by the board in rules promulgated pursuant to~~
29 ~~chapter 1-26. The failure of a practitioner to renew the certificate or license by the last~~
30 ~~day of the practitioner's birth month each year constitutes a forfeiture of status. However,~~
31 ~~any person who has forfeited one's status may have it restored by requesting~~
32 ~~reinstatement and paying the reinstatement fee and the renewal fee within fifteen days~~
33 ~~of the forfeiture. Any person who fails to have the status restored within fifteen days shall~~

~~take the examination as prescribed for an applicant to become certified or licensed and comply with all the provisions applicable to any applicant for certification or licensure~~The board may renew a certificate or license if the practitioner:

- (1) Submits an application to the board for renewal before the expiration of the certificate or license;
- (2) Pays the required renewal fee; and
- (3) Provides proof of compliance with the continuing education requirements prescribed by the board.

If a practitioner fails to renew a certificate or license on or before November thirtieth in an odd-numbered year, the certificate or license is automatically suspended.

If a practitioner does not submit a renewal application before the expiration of the certificate or license, the board shall notify the holder that a renewal application has not been received by the board and that the holder may not practice addiction counseling or prevention services. The board may renew the certificate or license if, within thirty days after the expiration date of the certificate or license, the holder submits a renewal application and provides proof of compliance with the continuing education requirements prescribed by the board.

Section 4. That chapter 36-34 be amended with a NEW SECTION:

If the board suspects that the physical or mental health of any applicant may jeopardize or endanger anyone who seeks assistance from the applicant, the board may require that the applicant be examined by a health care provider, approved by the board, who is licensed or authorized to practice pursuant to title 36. The board shall pay all costs of the examination.

The board may deny the application if, after a hearing held in accordance with chapter 1-26, the board finds by clear and convincing evidence that the applicant's physical or mental health may jeopardize or endanger anyone who seeks services from the applicant.

Section 5. That chapter 36-34 be amended with a NEW SECTION:

The board may place a certificate or license on inactive status at the request of a practitioner and upon payment of a fee prescribed by the board. An inactive certificate or license expires four years after the date of issuance. The board may reactivate the certificate or license if the practitioner:

- (1) Pays the required renewal fee; and

1 (2) Provides proof to the board of having completed at least forty hours of continuing
2 education during the two-year period immediately preceding the reactivation
3 request.

4 If the practitioner does not reactivate the certificate or license before the date of
5 expiration, all provisions applicable to an applicant for certification or licensure apply in
6 order to restore the certificate or license to active status.

7 Any certificate or license on retired status as of July 1, 2022, expires on November
8 30, 2025, unless the practitioner meets the requirements for reactivation before
9 November 30, 2025.

10 **Section 6. That chapter 36-34 be amended with a NEW SECTION:**

11 The board may reactivate an expired certificate or license within four years
12 following the date of expiration, if the holder of the expired certificate or license:

- 13 (1) Pays any applicable renewal fees required for the period of expiration;
14 (2) Provides proof of any continuing education required for the period of expiration;
15 and
16 (3) Provides proof of passing a national examination approved by the board after the
17 date the certificate or license expired.

18 **Section 7. That chapter 36-34 be amended with a NEW SECTION:**

19 Any person who practices counseling through electronic means and provides
20 addiction counseling or prevention services to a patient located in this state is engaged in
21 the practice of addiction counseling or prevention services in this state, regardless of the
22 person's physical location. Any person who provides addiction counseling or prevention
23 services through electronic means must comply with the provisions of this chapter and
24 rules promulgated by the board under this chapter.

25 **Section 8. That § 36-34-18 be AMENDED:**

26 ~~**36-34-18.** The board shall receive complaints concerning a practitioner's~~
27 ~~professional practices. Each complaint received shall be logged by the secretary treasurer,~~
28 ~~or the board's designee, recording the practitioner's name, name of the complaining party,~~
29 ~~date of the complaint, a brief statement of the complaint, and its ultimate disposition. The~~
30 ~~board shall investigate each alleged violation of this chapter pursuant to the procedures~~

1 process a complaint regarding a practitioner as set forth in chapter 36-1C. The board shall
2 maintain a record of each complaint.

3 Notwithstanding any provision of chapter 36-1C, a member, agent, or appointee
4 of the board may investigate a complaint to determine whether the practitioner committed
5 the alleged violation. The investigator, if a member of the board, may dismiss the
6 complaint if it appears to the member, in consultation with the board president, that the
7 practitioner did not commit a violation. If the investigator is an agent or appointee of the
8 board, only the board president may dismiss the complaint. If an investigator and a
9 practitioner agree upon a disposition of a complaint, the disposition must be approved by
10 the board.

11 ~~All~~The board must conduct any disciplinary proceedings held under the authority
12 ~~of this chapter must be conducted~~ proceeding in accordance with chapter 1-26. Any
13 decision of the board entered in a contested proceeding may be appealed to the circuit
14 court within thirty days. A certificate or license remains in effect during the pendency of
15 an appeal, unless suspended under § 36-34-24.

16 Testimony or documentary evidence of any kind obtained by the board during the
17 investigation of a complaint is not subject to discovery or disclosure under chapter 15-6,
18 or any other provision of law, and is not admissible as evidence in any legal proceeding,
19 unless the complaint becomes a contested case under chapter 1-26. No person who has
20 participated in the investigation of a complaint on behalf of the board may testify as an
21 expert witness or be compelled to testify for any party in any civil action, if the subject
22 matter of the investigated complaint is a basis for the civil action.

23 **Section 9. That § 36-34-19 be REPEALED:**

24 ~~The decision of the board to cancel, suspend, or revoke a certification or licensure~~
25 ~~or to reissue a cancelled, suspended, or revoked certification or licensure requires a~~
26 ~~majority vote of all the board members.~~

27 **Section 10. That § 36-34-20 be REPEALED:**

28 ~~If the board determines that any complaint is frivolous or clearly unfounded in fact,~~
29 ~~the board may dismiss the complaint and, by a separate and unanimous vote of the board,~~
30 ~~may expunge the complaint from the record of the practitioner.~~