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STATE DEPARTMENT OF HEALTH

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34-1-1. Superseded.

[34-1-1.1](#). Department reorganized and continued.

The Department of Health created by this chapter shall comprise the Department of Health established by chapter [1-43](#), subject to the changes specified in chapter [1-43](#).

Source: SL 1973, ch 2, § 214.

34-1-2, 34-1-2.1. Superseded.

34-1-2.2. Public Health Advisory Committee abolished--Performance of functions.

The Public Health Advisory Committee is abolished, and its functions set forth in §§ [34-1-16](#), [34-1-16.1](#), [34-1-17](#), [34-1-20](#), [34-1-21](#), [34-1-26](#), and [34-1-27](#) are transferred to the State Department of Health.

Source: SL 1980, ch 371 (Ex. Ord. 80-6), § 17.

34-1-3 to 34-1-5. Superseded.

34-1-6. Repealed by SL 1971, ch 23, § 2.

34-1-7. Superseded.

34-1-7.1. State health officer's position abolished--Performance of functions.

The position of state health officer is abolished, and all its functions shall be administered by the secretary of health as provided by § [1-43-2](#).

Source: SL 1974, ch 3, § 27.

34-1-8. Omitted.

34-1-9. Divisions and personnel.

The secretary of health shall establish divisions as may be necessary for the proper functioning of the Department of Health and shall appoint all personnel necessary in the operation of the department pursuant to chapter [3-6D](#).

Source: SL 1949, ch 105, § 2; SL 1951, ch 134, § 3; SL 1957, ch 115, § 2; SDC Supp 1960, § 27.0102; SL 2018, ch 12, § 13.

34-1-9.1 to 34-1-9.3. Repealed by SL 1985, ch 283, §§ 18 to 20.

34-1-10 to 34-1-13. Repealed by SL 2012, ch 177, §§ 1 to 4.

34-1-14. Advice and supervision by department.

The Department of Health shall have the power:

- (1) To advise the directors of divisions in all matters pertaining to their duties;
- (2) To exercise general supervision over all health officers and local boards of health in the state.

Source: SL 1895, ch 96, § 5; RPolC 1903, § 242; SL 1903, ch 217, § 2; SL 1913, ch 109, § 4; SL 1917, ch 353, § 2; RC 1919, § 7667 (2); SL 1919, ch 317; SDC 1939, § 27.0104 (2); SL 1949, ch 105, § 5; SDC Supp 1960, § 27.0104 (5), (6).

34-1-15. Superseded.

34-1-16. Rules and regulations of Department of Health--Advice to state officials.

The Department of Health shall have the power:

- (1) To make and alter all rules and regulations as may be required in the interest of the public health; and
- (2) To advise all state officials and boards in matters relating to hygiene and sanitation.

Source: SL 1913, ch 109, § 4; SL 1917, ch 353, § 2; RC 1919, § 7667 (2); SL 1919, ch 317; SDC 1939, § 27.0104 (2); SL 1949, ch 105, § 5; SDC Supp 1960, § 27.0104 (3).

34-1-16.1. Fee schedule for inspections and licenses--Disposition of fees.

The South Dakota Department of Health may establish by regulation a fee schedule not otherwise provided by statute for environmental health inspections and licenses provided by the State Department of Health. The fee established by regulation may not exceed the actual cost involved for supplying such services, including building costs, maintenance, and operation. Fees received for the services as defined in this section shall be deposited in the South Dakota general fund.

Source: SL 1970, ch 204, §§ 1, 2; SL 1985, ch 283, § 21.

34-1-17. Orders, rules, and licensing for protection of public health--Matters covered.

The Department of Health may adopt and enforce, subject to chapter [1-26](#), orders and rules necessary to preserve and protect the public health and may regulate, by requiring licenses or other appropriate means, control, and, in proper cases, prohibit and suppress any of the following matters:

- (1) The manufacture into articles of commerce, other than food, of diseased, tainted, or decayed animal or vegetable matter;
- (2) The location of cemeteries and the removal and burial of the dead;
- (3) The management of lying-in houses and boarding places for infants, and the treatment of infants therein;
- (4) The construction and equipment, in respect to sanitary conditions, of schools, hospitals, prisons, and other public institutions;
- (5) The treatment in hospitals and elsewhere of persons suffering from any communicable disease, the disinfection and quarantine of persons and places in case of disease, and the reporting of sickness and

- deaths from disease;
- (6) The distribution of biological products to be used for the prevention and treatment of communicable diseases;
 - (7) The diagnosis, control, and treatment of tuberculosis; and
 - (8) The minimum sanitation requirements for tattooing, saline tattoo removal, and body piercing as defined in § [9-34-17](#), including premises, equipment, methods of operation, and freedom from communicable disease.

Source: SDC 1939, § 27.0104 (3); SL 1949, ch 105, § 5; SDC Supp 1960, § 27.0104 (4); SL 1963, ch 380, § 10; SL 1972, ch 15, §§ 3, 4; SL 1987, ch 29, § 65; SL 1992, ch 239, § 1; SL 1995, ch 189, § 2; SL 2019, ch 55, § 2.

[34-1-18](#). Acceptance and administration of federal health funds--Legislative power reserved.

The State Department of Health is hereby authorized to accept and expend any federal funds which become available for medical care and dental health programs to such department in addition to such sums estimated and authorized for expenditure by general appropriation acts, provided that in no instance shall the acceptance and expenditure of such moneys commit the State of South Dakota to continue new programs initiated with such funds or to continue the increased program activities supported with such funds unless consented to by the Legislature.

Source: SL 1966, ch 80, § 1.

34-1-19. Repealed by SL 2016, ch 169, § 13.

[34-1-20](#). Right to choose own physician unimpaired by public health programs--Insurance for public employees--Misdemeanor.

Hereafter all funds appropriated by the State of South Dakota or otherwise established by the state, or from any other source whatever as a public fund, to be distributed or allotted for any public health program, financed in whole or in part by such public funds or administered or supervised by any public agency controlled by the state or any county, municipality, school district, or other political subdivision, or any corporation or association organized under the laws of the state for the administration of such funds, shall when administered or distributed in payment of services rendered by physicians or licensed chiropractors or optometrists under the provisions of such public health program be so administered or distributed that there shall be no restrictions in the right of any client, officer, employee, or citizen to select any regularly licensed physician, chiropractor, or optometrist of his choice for the performance of services under such program, provided that this section shall in no way affect the provisions of § [34-1-21](#), relating to the powers and duties of the Department of Health relating to the services for crippled children. This section applies to the purchase of any insurance and any contracts entered into after the effective date of this section with health maintenance organizations, preferred provider organizations and individual practice associations by the State of South Dakota, counties, school districts, and municipalities for health care programs or insurance for public officials or employees. Any violation of this section is a Class 1 misdemeanor.

Source: SL 1939, ch 106, §§ 1, 2; SDC Supp 1960, §§ 27.0116, 27.9942; SL 1977, ch 190, § 5; SL 1988, ch 273.

[34-1-21](#). Participation in and administration of federal health programs under Social Security Act--Discrimination among schools of medicine prohibited.

It shall be the duty of the Department of Health and said department is hereby empowered and directed to adopt such rules and regulations as are necessary to participate with the government of the United States in the administration of Title V of the Federal Social Security Act relating to services for crippled children and to maternal and child health services. The Department of Health is hereby designated as the sole state agency within the State of South Dakota to receive and administer and disburse federal appropriations, benefits, grants, and allotments made available to the state under said federal statute together with such funds as may be made available by the state. Said Department of Health is empowered, subject to chapter [1-26](#), to adopt all rules and regulations and make such orders and findings of fact as are appropriate or necessary to conform to the federal rules and regulations promulgated for the purpose of administering the activities referred to in said federal act and to conform to the rules and regulations of the federal agencies. Whenever the provision of medicinal care or the appointment of physicians shall be contemplated under this section, no standards for service or eligibility for appointment shall give any preference to graduates of any particular school of medicine.

Source: SL 1937, ch 231; SDC 1939, § 27.0104 (4); SL 1949, ch 105, § 5; SDC Supp 1960, § 27.0104 (8); SL 1972, ch 15, §§ 3, 4.

[34-1-22](#). Health special services fund authorized--Moneys credited to fund.

The state treasurer is hereby authorized to open an account entitled health special services fund to which shall be credited such moneys as may come into the hands of the secretary of health as a result of services rendered any municipality or subdivision of the state, donations to the crippled children's program, refunds received in connection with service to crippled children, such other funds as may come into the hands of the secretary of health for special projects, and such funds as the Legislature may from time to time require to be placed therein pending disbursement.

Source: SL 1961, ch 136.

[34-1-23](#). Appropriations and disbursements from health special services fund--Other appropriations unrestricted.

The funds described in § [34-1-22](#) are hereby annually appropriated for payment of salaries, travel, and expenditures relating to the sources of revenue, as determined by the secretary of health. The state auditor shall issue warrants upon the funds hereby appropriated upon vouchers approved by the secretary of health. The funds hereby appropriated shall not be construed to be a limitation on money expendable by the State Department of Health for the purposes herein specified, notwithstanding other and further appropriations from the state general fund or other moneys for said or similar purposes.

Source: SL 1961, ch 136.

[34-1-24](#). Powers of secretary of agriculture and natural resources unimpaired.

Nothing in this chapter shall be so construed as to interfere with the powers and duties of the secretary of agriculture and natural resources.

Source: SL 1913, ch 109, § 27; RC 1919, § 7674; SDC 1939, § 27.0109; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 14, eff. Apr. 19, 2021.

[34-1-25](#). Rules and regulations of Department of Health.

The Department of Health is authorized and empowered, subject to chapter [1-26](#), to adopt such rules and regulations not inconsistent herewith as may be necessary for the proper administration of this chapter.

Source: SL 1949, ch 105, § 8; SDC Supp 1960, § 27.0104-1; SL 1972, ch 15, § 4.

34-1-26. Appeals from Department of Health.

Any person feeling aggrieved by any action of the Department of Health shall have the right to appeal pursuant to chapter [1-26](#).

Source: SL 1913, ch 109, § 25; RC 1919, § 7672; SDC 1939, § 27.0114; SL 1972, ch 15, § 4.

34-1-27. Violation of regulation or direction as misdemeanor.

Every person violating any regulation of the Department of Health made pursuant to the provisions of this chapter, or violating any lawful direction of any board of health or health officer is guilty of a Class 1 misdemeanor.

Source: SL 1913, ch 109, § 5; SL 1917, ch 353, § 3; RC 1919, § 7668; SDC 1939, § 27.9901; SL 1977, ch 190, § 6.

34-1-28. Judicial enforcement of process, orders, and regulations of Department of Health.

The failure to obey the process, subpoena, order, rule, regulation, judgment, or other legal command of the Department of Health or the violation of any rule, regulation, order, or legal command of the department may be enforced by proper legal proceedings in a court of competent jurisdiction.

Source: SL 1949, ch 105, § 8; SDC Supp 1960, § 27.0104-1.

34-1-29. Omitted.

34-1-30. Repealed by SL 1982, ch 16, § 24.

34-1-31 to 34-1-33. Repealed by SL 2012, ch 177, §§ 5 to 7.

34-1-34 to 34-1-37. Repealed by SL 1997, ch 200, §§ 1 to 4.