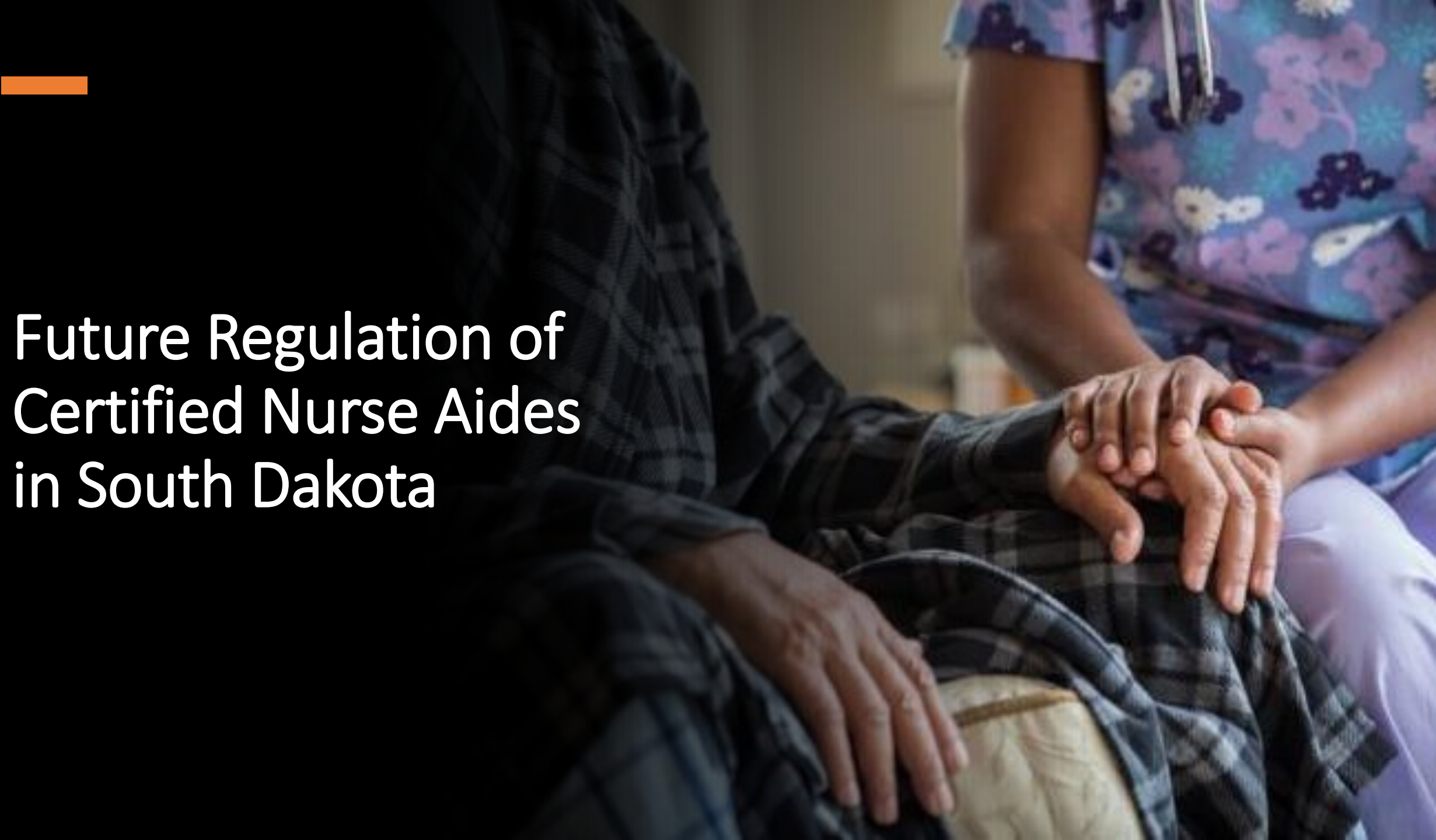# Future Regulation of Certified Nurse Aides in South Dakota

History of Nurse Aide Regulation

1987 — Federal Nursing Home Reform Act - Omnibus Budget Reconciliation Act (OBRA) adopted due to poor-quality care & ineffective regulation of nursing facilities, included training and registration requirements of nurse aides

1990 — SDCL 34-12-29: authorized DOH & BON to promulgate rules on registration, training, instructor qualifications, and discipline

1994 — BON promulgated rules in ARSD 20:48 on supervision and delegation of tasks

1995 — DOH promulgated rules in ARSD 44:04 for nurse aide registration, training, removal from registry (revised 2015). DOH contracted with BON for approval of training programs and with SD Health Care Association to coordinate exams

Headmaster developed & administered exams

35 Years Later

- Proposed Plan: move CNA regulation to BON under ARSD 20:48
  - Training approval, competency evaluation program (exam/skills), registration, complaints, & discipline
- Why?
  - BON regulates nurses
  - DOH regulates facilities
- Goal: Right Touch Regulation
  - Promote level of regulation proportionate to level of risk to public
  - Reduce regulatory barriers; less burdensome
- Timing is right to modernize CNA training & regulation
  - Model similarly to LPN/RN education & licensure
  - Promote consistency in training with common curriculum
  - Ensure compliance with federal regs

Proposing New Rules

In ARSD 20:48:04.01 & 20:48:16

- Training

- Registration

- Complaints & Discipline

Training Program Approval Changes

- An individual or institution desiring to offer a nurse aide training program (NATP) shall apply to BON for approval

  - Renew every 2 years

  - Onsite or virtual visit required to renew

- An institution that provides training in multiple affiliated locations shall apply on one application for all locations

- NATPs must meet standards and curriculum requirements

- An applicant may not enroll students prior to approval of the program.

Standards for Approval of a Training Program

1. Is licensed or approved by a state agency or governing body;
2. Does not have a federal or state sanction or a deficiency on a state survey that prohibits the applicant from providing a nurse aide training program;
3. Has written admission criteria that includes screening students for findings of abuse and neglect… and misappropriation of property, as defined in 44:73:01:01(20).
4. Prohibits enrollment of students with convictions listed in subdivision (3);
5. Uses the board's curriculum as outlined in § 20:48:04.01:28;
6. Appoints an RN, who meets the qualifications in § 20:48:04.01:24, to serve as the program director;
7. Appoints a primary nurse instructor who meets the qualifications in § 20:48:04.01:26;
8. Uses supplemental instructors who meet the requirements in § 20:48:04.01:27;
9. Uses classrooms, laboratories, and equipment in the number and size to provide a safe and effective learning environment for the number of students enrolled;
10. Uses licensed nurses to directly supervise students in the clinical setting and lab; and
11. Maintains and provides the following documentation to the board upon request:
    - A list of students enrolled; Student performance in program; Date student completed, failed, or withdrew, including reason for withdrawing; and list of individuals teaching, including qualifications and experience.

Clinical Facility Agreement

A NATP that is not affiliated with a nursing facility must have a written affiliation agreement in place with a nursing facility to meet the clinical training required.

The agreement must include descriptions on:
- How the nurse aide training program will provide clinical experience in the facility;
- How the students will be directly supervised by a licensed nurse when performing direct client care; and
- The use of an approved nurse aide training program instructor to evaluate the performance of students.
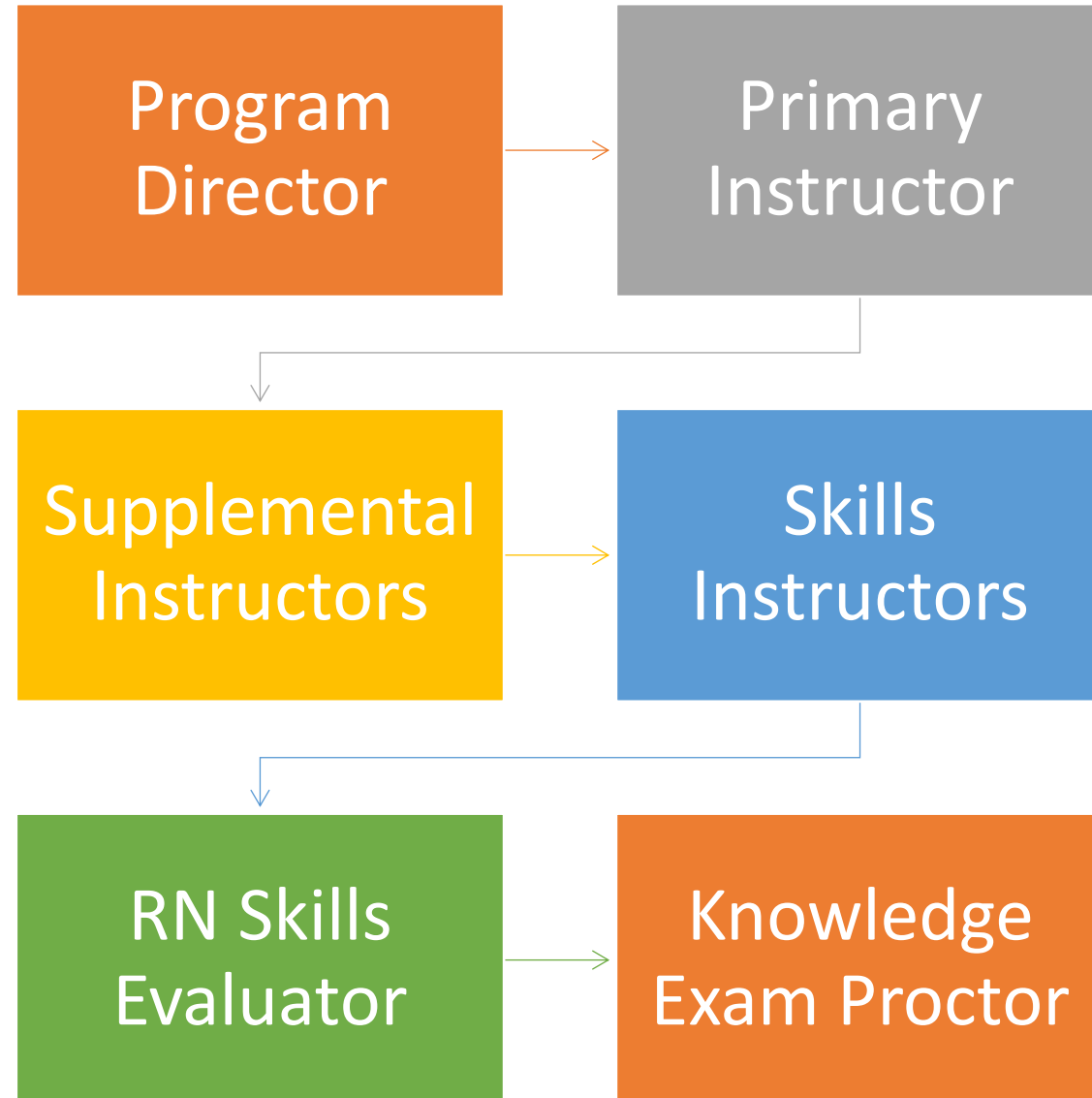
Qualified Personnel

Personnel Qualified to serve as →	Program Director	Primary Instructor	Skills Lab Instructors	Supplemental Instructors	RN Skills Evaluator	Knowledge Exam Proctor
RN	x	x	x	x	x	x
LPN		x	x	x		x
Other Staff				x		x

Program Director Qualifications & Duties

- Minimum 1-year clinical RN experience
- Supervises nurse aide training program
- Screens students for abuse/neglect
- Ensures curriculum & standards in ARSD 20:48 are met
- Assigns qualified primary nurse instructor(s)
- Assigns qualified supplemental instructor(s)
- Coordinates skills lab & NF clinical sites
- Assigns qualified RN(s) to evaluate skills competency
- Assigns knowledge exam proctor(s) and ensures the proctor(s) meets testing agency requirements
- Verifies student training completion & skills evaluation to BON
- Available for the BON renewal onsite or virtual visit

Primary Instructor Qualifications & Duties

Minimum 2-years licensed clinical experience as RN/LPN

Minimum of 1-year of licensed nursing experience in a nursing facility

Experience teaching or completed course on teaching adult students

Not employed as DON in the nursing facility

Supplemental Instructor Qualifications & Duties

Assists with instruction

Must have a minimum of one year experience in their area of expertise

The DON in the facility and nursing assistants are not qualified for use as supplemental personnel

Use Common Curriculum

All programs deliver same content; may be taught in-person or online.

All programs use approved textbook & workbook/resources:

Hartman's Nurse Assistant Care: Long-Term Care (5th ed.) (2022)

(Use of other text may be requested; must be most current edition, must complete form to align with common curriculum)

All programs provide in-person skills lab for hands-on practice of learned content. Taught by RN, LPN, or supplemental instructor.

All programs conduct a competency evaluation of a student's ability to provide the skills safely. May be evaluated in lab or end of course.

*Use of Board's *Required Skills Checklist Forms* & Competency Evaluation checklists required

Common Curriculum

Approved Hartman's Textbook and Workbook

- **Hartman's** Nurse Assistant Care: Long-Term Care (5th ed.) (2022). Hedman, S. Fuzy, J., & Howard, K.; and Workbook.

General Orientation Content

Before a student begins the 75-hour Nurse Aide Course and before direct contact with residents.

- Introduction to your facility, personnel, tour of building
- **Hartman's Text and WB Chapters 1 & 2**
- Employment Policies
- Additional training as required by facility

Required NATP Curriculum

* Signifies a skill checklist that must be evaluated.

1. Required Curriculum Content	2. Hartman's Text	3. Hartman's WB	6. Skills Practice & Competency Demonstration	7. Timeframe
Initial 16 hours of Content & Skills (*must be taught prior to student having direct contact with a resident*):				
Unit 1. Communication and interpersonal skills • Mental health and social service needs: include content on behavior modification, developmental tasks associated with aging, personal choice, client dignity, using the client's family to provide emotional support. • Care of cognitively impaired clients: include communication techniques to address the needs and behaviors of individuals with dementia or Alzheimer's disease	Chapters 4; 19; 20	Chapters: 4; 19; 20	No lab required	6 hours
Unit 2. Infection control standards and procedures	Chapter 5	Chapter 5; & pp 149 - 150	Handwashing* PPE use*	3 hours
Unit 3. Safety and emergency procedures, include: • Back blow, abdominal thrusts, and Heimlich maneuver; & avoiding need for restraints.	Chapters 6 & 7	Chapters 6 & 7; & p 151	Obstructed airway* Fire safety (optional)	3 hours
Unit 4. Promoting client independence & self-care according to client's abilities	Chapters: 8: pp 111-113; 13: pp 198-200; 21: pp 389-390		No lab required	2 hours
Unit 5. Respecting client rights, include: • Privacy, confidentiality, personal choices, resolving grievances & disputes, assisting with accessing activities, maintaining resident personal property, promoting freedom from abuse & neglect, and reporting concerns.	Chapter 3: pp 23-25, 28-29 *Throughout course, content in blue boxes relates to this topic.*		No lab required	2 hours
			Initial Content Total:	**16 hours**
Unit 6. Clinical Day on a Nursing Facility Supervision by a licensed nurse who is in the immediate area is required. The student may **only** perform skills/tasks/activities the student has been deemed competent to perform. The student will be learning by observing other staff this day.				**8 hours**

Basic Nursing Skills, Personal Care Services[1] & Restorative Services[2] Content:				
Unit 7. Recognizing and reporting abnormal findings in body functioning and the importance of reporting such changes to a licensed nurse.	Chapter 4: pp 40-47 *Throughout course, content in green boxes relates to this topic.*		No lab required	*Integrated throughout course*
Unit 8: Transferring, Positioning, Turning[1,2]; use of assistive devices in transferring and ambulating[2]	Chapter 10	Chapter 10; & pp 154 – 161	Moving up in bed*; Log rolling*; Positioning on side*; Dangling; Use of transfer belt*; Bed to wheelchair; Mechanical lifts; Transferring bed to wheelchair*; to toilet & off; Assisting with ambulation; Assisting with ambulation with cane and crutches*	8 hours

Common Curriculum Sample Schedules

Education Program Model: 4 Hour Day				
Day 1	**Day 2**	**Day 3**	**Day 4**	**Day 5**
Unit 1: Classroom (4 hours)	Unit 1: Classroom (2 hours) Unit 2 & 3: Classroom (2 hours)	Unit 2 & 3: Lab (4 hours)	Unit 4: Classroom (2 hours) Unit 5: Classroom (2 hours)	Unit 6: Clinical Day in Nursing Facility (NF) (4 hours)
Day 6	**Day 7**	**Day 8**	**Day 9**	**Day 10**
Unit 6: Clinical Day in NF (4 hours)	Unit 7: Classroom (integrated throughout course) Unit 8: Classroom/Lab (4 hours)	Unit 8: Classroom/Lab (4 hours)	Unit 9: Classroom / Lab (4 hours)	Unit 10: Classroom/Lab (1 hour) Unit 11: Classroom/Lab (1 hour) Unit 12: Classroom/Lab (1 hour) Unit 13: Classroom/Lab (1 hour)
Day 11	**Day 12**	**Day 13**	**Day 14**	**Day 15**
Unit 14: Classroom/Lab (4 hours)	Unit 15: Classroom/Lab (4 hours)	Unit 16: Classroom/Lab (2 hours) Unit 18: Classroom/Lab (2 hours)	Unit 17: Classroom/Lab (4 hours)	Unit 19: Classroom/Lab (2 hours) Unit 20: Classroom/Lab (1 hour)
Day 16	**Day 17**	**Day 18**	**Day 19**	**Day 20**
*Skills Competency Demonstrations**	Unit 21: Supervised Clinical in NF (4 hours)	Unit 21: Supervised Clinical in NF (4 hours)	Unit 21: Supervised Clinical in NF (4 hours)	Unit 21: Supervised Clinical in NF (4 hours)

Common Curriculum Sample Schedules

Education Program Model: 8 Hour Day				
Day 1	**Day 2**	**Day 3**	**Day 4**	**Day 5**
Unit 1: Classroom (6 hours) Unit 2 & 3: Classroom (2 hours)	Unit 2 & 3: Lab (4 hours) Unit 4: Classroom (2 hours) Unit 5: Classroom (2 hours)	Unit 6: Clinical Day in NF (8 hours)	Unit 7: Classroom (integrated throughout course) Unit 8: Classroom/Lab (8 hours)	Unit 9: Classroom / Lab (4 hours) Unit 10: Classroom/Lab (1 hour) Unit 11: Classroom/Lab (1 hour) Unit 12: Classroom/Lab (1 hour) Unit 13: Classroom/Lab (1 hour)
Day 6	**Day 7**	**Day 8**	**Day 9**	**Day 10**
Unit 14: Classroom/Lab (4 hours) Unit 15: Classroom/Lab (4 hours)	Unit 16: Classroom/Lab (2 hours) Unit 17: Classroom/Lab (4 hours) Unit 18: Classroom/Lab (2 hours)	Unit 19: Classroom/Lab (2 hours) Unit 20: Classroom/Lab (1 hour) *Skills Competency Demonstrations**	Unit 21: Supervised Clinical in NF (8 hours)	Unit 21: Supervised Clinical in NF (8 hours)

Common Curriculum Sample Schedules

Sample Flexible Schedule: 4, 6, 8 Hour Days				
Day 1	**Day 2**	**Day 3**	**Day 4**	**Day 5**
Unit 1: Classroom (6 hours)	Unit 2 & 3: Classroom (2 hours) Unit 4: Classroom (2 hours) Unit 5: Classroom (2 hours)	Unit 2 & 3: Lab (4 hours)	Unit 6: Clinical Day in Nursing Facility (NF) (8 hours)	Unit 7: Classroom (integrated throughout course) Unit 9: Classroom/Lab (4 hours)
Day 6	**Day 7**	**Day 8**	**Day 9**	**Day 10**
Unit 8: Classroom/Lab (8 hours)	Unit 10: Classroom/Lab (1 hour) Unit 11: Classroom/Lab (1 hour) Unit 12: Classroom/Lab (1 hour) Unit 13: Classroom/Lab (1 hour)	Unit 14: Classroom/Lab (4 hours) Unit 15: Classroom/Lab (4 hours)	Unit 16: Classroom/Lab (2 hours) Unit 17: Classroom/Lab (4 hours)	Unit 18: Classroom/Lab (2 hours) Unit 19: Classroom/Lab (2 hours) Unit 20: Classroom/Lab (1 hour)
Day 11	**Day 12**	**Day 13**		
Unit 21: Clinical in NF (8 hours)	Unit 21: Clinical in NF (8 hours)	Skills Competency Evaluations Knowledge Exam		

Skills Evaluation

Goal: evaluate the student's ability to competently perform common skills a CNA will be performing in a skilled nursing facility

All programs must identify a qualified *RN Skills Evaluator*

All programs use the pool of tasks and checklists developed by the BON

Checklists are based on Hartman's *Workbook*.

Evaluates *hand hygiene; PPE; transferring, positioning, assistive devices; skin care, bathing, grooming, oral care, dressing; toileting; feeding and hydration, etc.*

Evaluation includes minimum of 4 random skills – BON coordinates selection of skills with Program Directors

Skills evaluation conducted either during in-person skills lab or at end of the training

RN Skills Competency Evaluator Qualifications & Duties

Hold a RN license or privilege to practice in South Dakota;

Have a minimum of one-year clinical experience caring for older adults or the chronically ill of any age;

Not be employed as the DON in the nursing facility;

Advises student, prior to administering the skills evaluation, that the results will be scored by the BON; and

Uses BON approved skills evaluation checklist forms; randomly assigned by BON

Submit completed skills evaluation checklists to the NATP Director to be submitted to BON

Knowledge Exam Standards

- BON will contract (RFP) with an agency to:
    - Provide a pool of written questions for use in the exam
    - Administer the exam to an applicant
    - Approve proctors to administer the exam
    - Administer the exam orally upon request by applicant
    - Advise applicant that the board will be notified of results
    - Score exam and require a passing score of 75%
    - If an applicant fails, advise of areas not passed and allow to retake the exam two times
    - Safeguard confidentiality of exam and secure from tampering
    - Report any known or suspected breach in the security of exam to board in a timely manner

CNA Registration Required

A licensed nurse may delegate nursing tasks to a nursing assistant in a nursing facility, licensed pursuant to SDCL chapter 34-12, if nursing assistant:

(1) Is registered with the board as a CNA; or

(2) Has worked less than 4 months in the facility and is enrolled as a student in a NATP; or

(3) Has worked less than 4 months in the facility and is awaiting registration by the board after completing a NATP

Registry

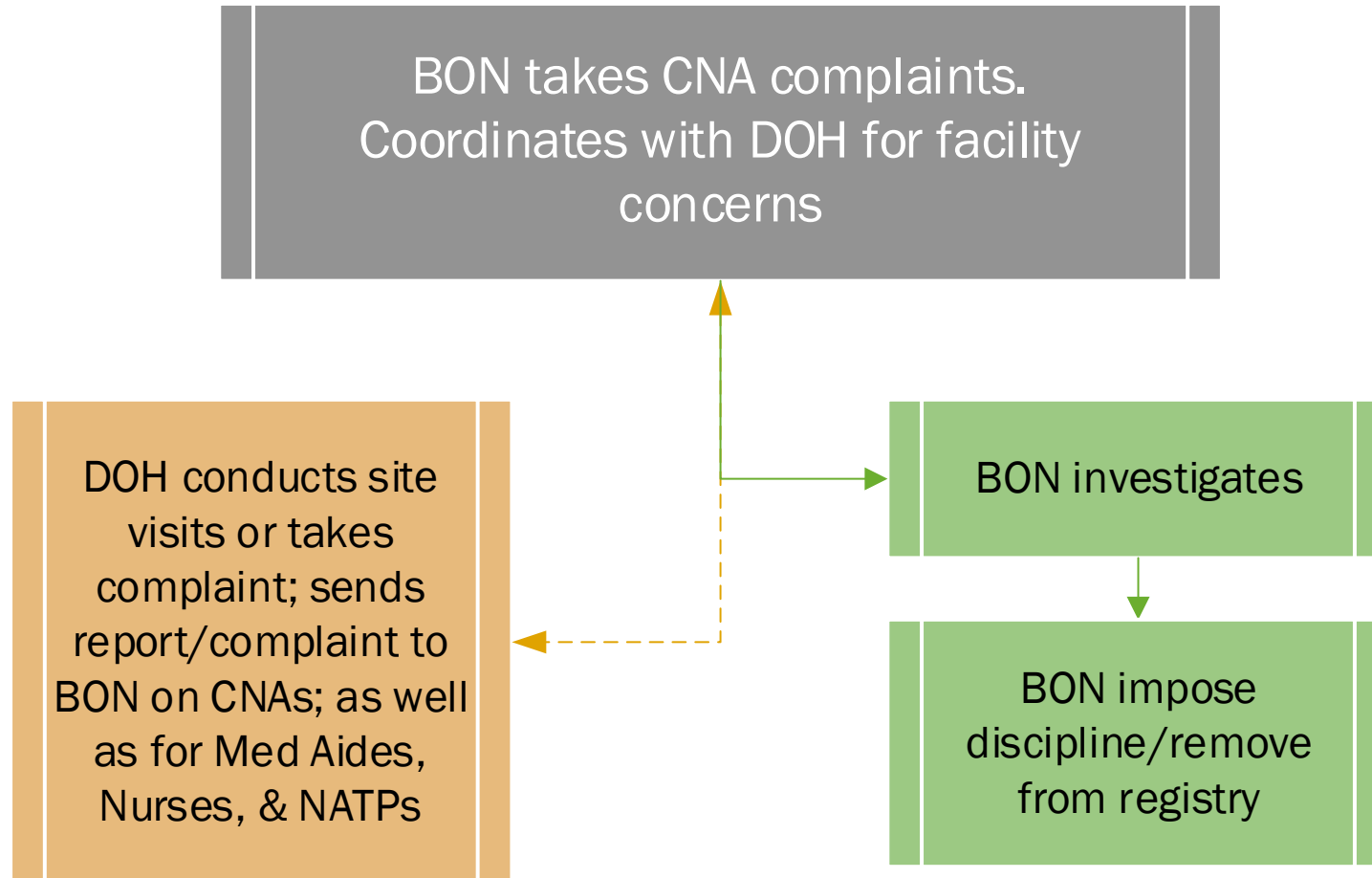## *Initial* Registration Requirements

- Nurse aide student Completes BON's online application

  - Signs affidavit that has not committed an act of misconduct listed in rule § 20:48:16:04 (grounds for discipline)

- NATP Program Director submits to BON:

  - BON's Verification Form that student completed board-approved NATP; (if not BON approved, may request an equivalency review)

  - BON's Skills Evaluation Checklist Forms (4-5 randomly selected by BON

- The BON makes student eligible to take national CNA knowledge exam. Passes exam with minimum score of 75%

Registry

Endorsement Registration Requirements

- Completes BON's online application

  - Signs affidavit that has not committed an act of

    misconduct listed in rule § 20:48:16:04 (grounds for

    discipline)

- Holds active registration as a CNA on another state's

  registry

Complaints & Discipline

BON takes CNA complaints. Coordinates with DOH for facility concerns

DOH conducts site visits or takes complaint; sends report/complaint to BON on CNAs; as well as for Med Aides, Nurses, & NATPs

BON investigates

BON impose discipline/remove from registry

Complaints & Discipline

The board, in compliance with SDCL chapters 1-26 and 36-1C, may deny an applicant or remove a registrant upon proof that the applicant or registrant has:

1. Committed fraud, deceit, or misrepresentation in procuring or attempting to procure registration;

2. Been convicted of a crime that directly relates to the practice of nursing;

3. Committed an alcohol or drug related act or offense that interferes with the ability to practice as a registrant safely;

4. Negligently, willfully, or intentionally acted in a manner inconsistent with the health or safety of a person entrusted to the registrant's care;

5. Had any license or registration denied, revoked, or suspended or had other disciplinary action taken;

6. Violated any provision of chapter 36-9 or this article;

7. Practiced during a time the registrant's registration is lapsed;

8. Engaged in unsafe practice, substandard care, or unprofessional or dishonorable conduct;

9. Violated confidentiality, patient privacy, consent, or disclosure of patient information; ~~or~~

10. Engaged in sexual harassment, sexual contact, or exercised influence within the registrant-patient relationship for the purpose of engaging a patient in sexual activity;

11. Had a finding of abuse or neglect, as defined in SDCL subdivisions 22-46-1(4), (6), or (7); or

12. Misappropriated property, as defined in subdivision 44:73:01:01(20).

Tentative Timeline

👥	**April & May 2025**	Focus group sessions
⚖️	**June – August 5**	Promulgate rule changes; hold public hearing
📅	**~ September 15**	New rules effective
🤝	**October 2025**	Issue RFP for knowledge exam; BON begins taking CNA complaints & issues discipline
📚	**October – May 2026**	Implement NATP & CEP changes