## South Dakota

### Cancer Surveillance System

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<td>SD</td>
<td>STATUTE: SDCL, Title 1 Chapter 43 Section 11 Medical/Genetic Research Law: SDCL Chapter 34-14</td>
<td><strong>1-43-11. Cancer data collection system.</strong> The Department of Health shall establish and maintain a central cancer data collection system for cancer cases in South Dakota in accordance with the confidentiality provisions of § 34-14-1 and the terms of §§ 1-43-11 to 1-43-17, inclusive.</td>
<td><strong>1-43-14. Cancer detection or treatment reporting requirements.</strong> Any hospital licensed pursuant to chapter 34-12, physician licensed pursuant to chapter 36-4, physician assistant licensed pursuant to chapter 36-4A, nurse practitioner or nurse midwife licensed pursuant to chapter 36-9A, pathology laboratory, or free-standing radiology center that detects, diagnoses, or treats a cancer case in South Dakota shall submit a report to the Department of Health as required by §§ 1-43-11 to 1-43-17, inclusive.</td>
<td><strong>34-14-4. Immunity from liability for furnishing information to research agencies.</strong> The furnishing of information described in § 34-14-1 in the course of a research project to the Department of Health, South Dakota State Medical Association, or allied medical societies or their authorized representatives, shall not subject any person, hospital, sanitarium, nursing, or rest home or any such agency to any action for damages or other relief.</td>
<td>NO</td>
</tr>
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**SD STATUTE:** SDCL, Title 1 Chapter 43 Section 11 Medical/Genetic Research Law: SDCL Chapter 34-14

**RULE:** Article 44-22, Chapter 44:22:01 -
| 1-43-13. **Rules for establishment, maintenance, and use of cancer data collection system.** The Department of Health shall promulgate rules pursuant to chapter 1-26 to provide for the establishment, maintenance, and use of a cancer data collection system pursuant to §§ 1-43-11 and 1-43-12. The rules shall include:
  1. Provisions requiring the reporting of cancer cases or specifying circumstances under which cancer cases shall be reported;
  2. Criteria for authorizing persons or entities to undertake cancer data collection;
  3. Criteria and procedures for maintaining confidentiality as required in § 1-43-11; and
  4. Procedures and requirements governing the structure and objectives of the cancer data collection system and the reporting, collection, analysis, and dissemination of data and information related to the cancer data collection system. |
| 1-43-17. **Good faith reporting--Immunity from liability.** Good faith reporting or disclosure pursuant to §§ 1-43-11 to 1-43-16, inclusive, does not constitute a libel or slander or violation of the right of privacy or privileged communication. Any person who in good faith complies with the reporting requirements of §§ 1-43-11 to 1-43-16, inclusive, or any request that may be made by the Department of Health pursuant to §§ 1-43-11 to 1-43-16, inclusive, is immune from civil and criminal liability for such action taken in compliance with the provisions of §§ 1-43-11 to 1-43-16, inclusive. |
| 44:22:04:03. **Data for research.** The department may approve any applicant who submits written application to obtain access to case-specific data or case-specific and patient-identifying data to assist in the applicant's research for cancer prevention, control, and treatment in order to reduce morbidity and mortality as described in SDCL 34-14-1. The applicant shall certify that:
  1. The applicant is a qualified researcher sponsored by a public or private college or university, governmental entity, non-profit medical, sociological or psychological association, or pharmaceutical industry;
  2. The data requested will be used for scientific or medical research for the prevention, cure, or control of cancer only; |
### Definitions

Terms used in this article mean:

1. "Abstract," a summary from the medical record of pertinent cancer information about the patient, the disease, the cancer-directed treatment, and the disease process from the time of diagnosis until the patient's death;

2. "Cancer," includes:
   - Any malignant and in situ neoplasm of any site, excluding any basal and squamous cell carcinoma of the skin;
   - Any basal and squamous cell carcinoma of any mucoepidermoid site; and
   - Any brain and central nervous system neoplasm regardless of malignancy;

3. "Central cancer registry," "SDCR," the South Dakota Cancer Registry, the central database of cancer cases in South Dakota maintained by the department;

4. "Researcher," the primary investigator or project director of a study; and

5. "Transmittal of nonresident cancer diagnoses to national cancer registries." The Department of Health, by agreement, may transmit transcripts or copies of reports of cancer diagnoses to state or national cancer registries if the reports relate to residents of other states or countries. The agreement shall require that the transcripts or records be used under the terms provided in §§ 1-43-11 to 1-43-17, inclusive.

### Functions of central cancer registry

The central cancer registry is a surveillance system and shall be used to:

1. Disclosure of the information is necessary to accomplish the purposes of the research;
2. The research project has been reviewed and approved by an institutional review board on the lists of registered Institutional Review Boards or Independent Ethics Committees and approved Assurances of the Office for Human Research Protections, U.S. Department of Health and Human Services;
3. No patient, or patient's relatives or friends, will be contacted without prior approval of the patient's physician in accordance with SDCL 34-14-5;
4. The applicant will maintain the confidentiality and security of the data obtained by establishing adequate safeguards;
(19) "Tumor registry," a data collection management system with complete cancer abstracts in a NAACCR layout.

44:22:02:02. Reportable conditions -- General criteria. The following conditions are reportable…

…(5) Any tumor that is not histologically confirmed but with any record that contains any of the following words: apparently, appears to, comparable with, compatible with, consistent with, favor, favors, malignant appearing, most likely, presumed, probably, suspect, suspected, suspicious, suspicious for, typical of…However, if the record contains the word “suspicious” and there is no positive biopsy or physician’s clinical impression to support the cytology findings, the condition is not reportable. [emphasis added]

(1) Monitor the incidence and mortality of cancer in the state to detect potential public health problems;

(2) Inform and educate by providing descriptive data on cancer incidence and mortality to health professionals and the general public about risks, prevention, and early detection of cancers known to be elevated in their communities;

(3) Guide decisions about how to use public-funded cancer control resources by more accurately targeting intervention resources for communities and patients and their families; and

(4) Respond to public concerns.

(7) The applicant will comply with all federal and state laws, and department guidelines regarding release of data with identifying information and with de-identified information;

(8) The applicant agrees to pay the department reasonable costs of data retrieval and data processing as determined and billed by the department; and

(9) The applicant will provide the results of the research to the department at no cost and not publish the results until two months after submission to the department and that any publication will acknowledge the department and its central cancer registry.