

SOUTH DAKOTA BOARD OF CERTIFIED PROFESSIONAL MIDWIVES
BOARD MEETING MINUTES
Thursday, September 17, 2020 1:00pm - 4:00pm (Central Standard Time)

President Debbie Pease **called the meeting to order** at 1:01 p.m. The roll was called. A quorum was present.

Members of the board in attendance: Debbie Pease, Susan Rooks, Kimberlee McKay and Autumn Cavender-Wilson were all present via phone.

Others in attendance: Tammy Weis, SD Board of CPM Exec Secretary.

Pease suggested that the agenda be flexible to accommodate Cavender-Wilson and Lopez's medical appointments, with the items needing a vote being taken up first. Cavender-Wilson moved to **accept the revised agenda**. Seconded by McKay. The board voted by roll call. Pease, Rooks, McKay, and Cavender-Wilson voted aye. **MOTION PASSED**

Pease opened the floor for any **member of the public** that wished to address the board. No one wished to speak.

There were no additions or corrections to the **Draft Meeting Minutes of March 19, 2019**. Rooks moved to accept them as presented. McKay seconded. The board voted by roll call Pease, Rooks, McKay, and Cavender-Wilson voted aye. **MOTION PASSED**

The Financial Report included the Condition Report for fiscal year (FY) 2020 with projection for FY 2021, Cash balance for FY year to date and the Budget for FY year to date. Exec. Sec. Weis explained that if there are few changes in expenses from last year, if all four licensed CPMs renew, and if we have a minimum of 24 births during the fiscal year we should be able to finish the year in balance. We will have the added expense of our portion of the new attorney to cover. Weis was thanked for helping to keep the board within budget. There were no questions or discussion. **The Report will be filed as presented.**

The application which was at the center of discussion at our last meeting has been **withdrawn**. A refund was granted.

The board discussed whether we need a **framework for supervising any midwife** that the board has reservations about granting a full license to. SDCL clearly does not give the board the option of offering a Provisional license. If there is a complaint where the board feels that a CPM needs supervision the framework is already in our complaint algorithm. **Any changes were tabled** until we can ask legal counsel opinion about what is already in place.

Weis presented information in the form of two letters pertaining to an incident of a Minnesota **CPM providing services in South Dakota without a license**. The Grant County State's Attorney was informed and the **matter is resolved**.

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Justin Williams and Megan Borchert, DOH Legal Council, had scheduling conflicts and were unable to join in the meeting. Ms Borchert will now be the liaison between our board and the DOH.

Proposed 2020 legislative changes to how South Dakota boards handle complaints was attached to the documents for the meeting. The board will request that Ms Borchert **address the final legislation at our March meeting.**

Pease and McKay **terms expire** October 1, 2020. They have both agreed to serve another term. Their names have been submitted the Governor.

Birth Report spread sheet for both 2019 and 2020 presented to the board.

Birth Reports that have information which is outside "Rules" parameters need a framework for assessment. After some discussion **Rooks moved** that birth reports would first be assessed for clerical errors by the Executive Secretary. If an error is suspected the CPM will be contacted to verify that the correct information is on the form. The Reports will then be sent for assessment to a CPM on the board who lives in a different region of the state than where the birth took place. If the CPM sees no unusual or concerning information the report will be filed. If the CPM assesses unusual information she will then send a copy to the physician. The physician and the CPM will review the report together and make a recommendation to the board to file or have the entire board assess and follow up on the information. Second by Cavender-Wilson. The board voted by roll call. Pease, Rooks, McKay, and Cavender-Wilson voted aye. **MOTION PASSED**

Lauren Pierce is the new Newborn Screening coordinator. Her contact information and office hours were distributed to the board.

The DOH donated four **Hearing Screening Units** to the board. Shelby Jepperson is now the contractor through USD in charge of hearing screening for newborns across the state. The units need to be calibrated annually (\$250 Calibration fee) and a plan to distribute the units to midwives for screening infants born out of the hospital needs to be developed. After some discussion **Rooks moved that we donate the units to South Dakota Birth Matters for calibration and distribution to midwives** providing service for out of hospital births. McKay Seconded. The board voted by roll call. Pease, Rooks, McKay, and voted aye. **MOTION PASSED**

Next Meeting March 18, 2020 (1-4pm)

At 2:15pm Rooks moved that we **adjourn**, McKay seconded. The board voted by roll call. Pease, Rooks, McKay, and voted aye. **MOTION PASSED**

Remaining Authority by Object/Subobject

Expenditures current through 02/27/2021 12:50:31 PM

HEALTH -- Summary

FY 2021 Version -- AS -- Budgeted and Informational

FY Remaining: 34.0 %

09213 Board of Certified Prof Midwives - Info						PCT
Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
EMPLOYEE SALARIES						
5101030 Board & Comm Mbrs Fees	1,019	240	0	0	779	76.4
Subtotal	1,019	240	0	0	779	76.4
EMPLOYEE BENEFITS						
5102010 Oasi-employer's Share	102	18	0	0	84	82.4
Subtotal	102	18	0	0	84	82.4
51 Personal Services						
Subtotal	1,121	258	0	0	863	77.0
TRAVEL						
5203030 Auto-priv (in-st.) H/rte	500	0	0	0	500	100.0
5203100 Lodging/in-state	500	0	0	0	500	100.0
5203140 Meals/taxable/in-state	300	0	0	0	300	100.0
5203260 Air-comm-out-of-state	1,500	0	0	0	1,500	100.0
5203320 Incidentals-out-of-state	200	0	0	0	200	100.0
Subtotal	3,000	0	0	0	3,000	100.0
CONTRACTUAL SERVICES						
5204080 Legal Consultant	3,807	0	0	0	3,807	100.0
5204090 Management Consultant	10,500	5,964	6,661	0	-2,125	0.0
5204200 Central Services	355	297	0	0	58	16.3
5204207 Central Services	300	93	0	0	207	69.0
5204590 Ins Premiums & Surety Bds	900	0	0	0	900	100.0
Subtotal	15,862	6,354	6,661	0	2,847	17.9
CAPITAL OUTLAY						
5207900 Computer Hardware	700	0	0	0	700	100.0
Subtotal	700	0	0	0	700	100.0
OTHER						
5208080 Refund Of Prior Yrs Rev	0	1,000	0	0	-1,000	0.0
Subtotal	0	1,000	0	0	-1,000	0.0
52 Operating						
Subtotal	19,562	7,354	6,661	0	5,547	28.4

Total	20,683	7,612	6,661	0	6,410	31.0
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Company	6503
Center Program	0921300
Funding Source	624
Sub Fund	01
Fiscal Year	2021

Sum of TRAN_AMT1		Fiscal Period								
Acct Sub Object	Account Name	01	02	03	04	05	06	08	Grand Total	
5101030	BOARD & COMM MBRS FEES				240.00				240.00	
5102010	OASI-EMPLOYER'S SHARE				18.36				18.36	
5204090	MANAGEMENT CONSULTANT	456.65	693.23	654.81	693.23	693.23	1,386.46	1,386.46	5,964.07	
5204200	CENTRAL SERVICES	115.06					95.81	86.46	297.33	
5204207	HUMAN RESOURCES SERVICES					92.67			92.67	
5208080	REFUND OF PRIOR YRS REV	1,000.00							1,000.00	
Grand Total		1,571.71	693.23	654.81	951.59	785.90	1,482.27	1,472.92	7,612.43	



Tammy Weis
27705 460th Avenue
Chancellor, SD 57015
605-743-4451 phone
cpmsdlicense@gmail.com

Re: South Dakota Board of Certified Professional Midwives

Services

<u>Date</u>	<u>Description</u>	<u>Hours</u>
12/18	Billing inquiry	.3
12/19	Meeting minutes review	.4
12/22	Executive report review	.3
1/21	Licensure recognition bill email, research	.5

Attorney Fees for CPM Board for November and December

32.04	05	2021	32.04		
2.21	05	2021	2.21		
1.92	05	2021	1.92		
4.34	05	2021	4.34		
0.03	05	2021	0.03	11/14/2020	
0.03	05	2021	0.03		0.7722
			40.57	November	
23.3	06	2021	23.30		
1.6	06	2021	1.60		
1.39	06	2021	1.39		
3.16	06	2021	3.16		
0.02	06	2021	0.02	12/1/2020	
0.02	06	2021	0.02	29.49	0.6354
39.74	06	2021	39.74		
2.74	06	2021	2.74		
2.37	06	2021	2.37		
5.38	06	2021	5.38		
0.04	06	2021	0.04	12/16/2020	
0.04	06	2021	0.04	50.31	1.0642
			79.80	December	

Hearing Screening Equipment Lease Agreement for Unit Sharing



This Lease Agreement is between

South Dakota Birth Matters (SD Birth Matters) and

Midwife _____
(henceforth referred to as "the Midwife")

on this date of _____.

In entering into this Agreement with SD Birth Matters, the Midwife agrees to the following:

1. The Midwife is allowed and encouraged to share this unit with other midwives in her area of the state. The Midwife shall make available a copy of this Agreement for each midwife with whom she shares the unit so each midwife is aware of the Agreement stipulations.
2. The Lease Agreement shall be in effect for 6 months from the date above.
3. The Lease Agreement may be renewed after 6 months.
4. The Lease Agreement shall be free of charge to the Midwife and each midwife with whom she shares the unit.
5. The Midwife and each midwife with whom she shares the unit assigned to her shall be responsible for any damages caused to the screening equipment while in her care, if damages were caused by negligence or misuse. Regular wear and tear, maintenance, and calibration will be arranged and paid for by SD Birth Matters.
6. The Midwife and each midwife with whom she shares this unit shall charge clients a suggested \$30 per screen performed. This fee will then be submitted to SD Birth Matters to help fund maintenance and calibration of the hearing screening equipment.
7. The Midwife and each midwife with whom she shares the unit shall keep a running log of each screening performed with the unit and submit it, along with payment from each client, at the end of the 6 month lease.
8. SD Birth Matters shall arrange and pay for the machine's calibration and maintenance as needed.
9. The Midwife shall be responsible to deliver (either in person or through mail) the equipment to SD Birth Matters when calibration and maintenance is needed.

Midwife Address, City, State, Zip _____

Midwife Phone & Email _____

Signed _____ Date _____



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27705 460th Avenue, Chancellor, SD 57015

Phone: 605-743-4451 Email: cpmsdlicense@gmail.com

Home Page: doh.sd.gov/boards/midwives/

Birth Report Assessment Form

License # _____

County of Birth: _____ Date of Delivery: _____

1. Birth Report Clerical Assessment

a. No questionable clerical documentation noted.

Executive Secretary

b. Clerical documentation was corrected as follows: _____

Executive Secretary

2. Birth Report CPM Assessment (CPM from another region)

a. No questionable documentation noted.

CPM Board Member

b. Referred for committee review due to this questionable documentation: _____

CPM Board Member

3. Birth Report Committee Assessment (CPM & MD)

a. Review of documentation including interview with CPM _____

b. Birth Report has been reviewed and no further action is merited.

Physician Board Member

CPM Board Member

c. Referred for full board review: _____

Physician Board Member

CPM Board Member

Post Assistant Attorney General Visit---SD Open Meeting Laws Concerns

The suggestion was that our board needs some instructions on:

1. Identifying your self before speaking.
 - a. The person taking the minutes often has no idea who is talking.
 - b. Members of the public certainly wouldn't.
 - c. All votes must be taken by roll call
2. We are governed by Robert's Rules
 - a. Giving all members a chance to speak to an issue before speaking again
 - b. Exception is when someone addresses a question directly to you.
3. Not interrupting
 - a. Especially when it is a guest official that you interrupt.
 - b. Times you may interrupt a speaker
 1. Point of Order-When there is an infraction of the rules
 2. Point of information— to inform before a vote
 3. Request an over rule of the Chair.
4. Recusal
 - a. What it is?
 - b. When it is appropriate.
 - c. Those with a strong PREDETERMINED (before the evidence is presented) opinion should reclude themselves.
5. What is a Point of Order and when should it be used?
 - a. Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made
 - b. The Chair will then redirect the meeting to Roberts Rules standard.
6. Loyalty or duty to the mission of the Board
 - a. How does discussion with other organizations effect your position as a board member especially if a lack of loyalty may enhance your career or professional standing?



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This reminder was suggested by our legal counsel as an opening script for all of our meetings.

1pm - President Pease: Good afternoon. This is President Debbie Pease. Welcome to everyone attending today's meeting here in the CPM Board Office in Chancellor or listening to the meeting via teleconferencing.

- By way of reminder, for those in the audience and board members, please keep your phones and other desktops on mute unless you are speaking.
- Please do not speak over one another.
- For those who wish to speak, identify yourself **before** speaking. If you have not identified yourself, our executive director, Tammy Weis, or I will interrupt and ask that you please identify yourself.
- Finally, there is a sign-in sheet for those who wish to make a public comment. Please print your name on the sheet so it can be read and entered into the record. Likewise, if you are using a remote location, please identify yourself and spell your name for the record.

**SOUTH DAKOTA
OPEN MEETING LAWS**

DISCUSSION POINTS

- What are open meeting laws
- Who they apply to
- When they apply
- How we comply
 - Public Notice
 - Printed Materials
 - Meeting Minutes
 - Public Participation
 - Executive Session
- Enforcement

WHAT ARE OPEN MEETING LAWS?

- South Dakota's open meetings law embodies the principle that the public is entitled to the greatest possible information about public affairs and is intended to encourage public participation in government.
- Openness in government is encouraged
- "...to prohibit actions being taken at secret meetings where it is impossible for the interested public to become fully informed and to detect improper influences." *Olson v. Cass*, 349 N.W.2d 435 (S.D. 1984)

WHO DO THE OPEN MEETING LAWS APPLY TO?

- The open meetings law applies to all public bodies “of the state or its political subdivisions” that exercise “sovereign power derived from state law.” SDCL 1-25-1.
- “The official meetings of the state and its political subdivisions are open to the public...” SDCL 1-25-1.
- An official meeting is: “Any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided ... whether in person or by means of teleconference.” SDCL 1-25-12(3).

WHEN DO THE OPEN MEETING LAWS APPLY?

- Any time a quorum of members is present and not in an executive or closed meeting.
- This includes teleconferences, email communications, and other electronic mediums (audio/video). SDCL 1-25-1.5 This definition includes the use of email and text message.
- It also includes participating as a quorum where the members do not control the agenda. In accordance with SDCL 1-25-1, a public notice of quorum is published, including the time, location and date, despite no board action taking place.

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- PUBLIC NOTICE, SDCL 1-25-1.3
 - Must Provide:
 - Notice of the meeting, including a proposed agenda
 - Must state the date, time and location, including how to access the meeting
 - Must Be:
 - Visible to the public, readable, and in an accessible location
 - Posted at the principal office of the public body
 - Posted at least 72 hours before the meeting is scheduled to start (excluding weekends/holidays)
 - Posted on the state website <http://boardsandcommissions.sd.gov/>

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- PUBLIC NOTICE, SDCL 1-25-1.3
 - For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice.
 - For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit.

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- PRINTED MATERIALS, SDCL 1-27-1.16
 - Must be made public when provided to the members of the body or at least 24 hrs prior to the meeting
 - Posted on the website
 - Made available at principle place of business
 - If not posted on website: at least ONE copy in the meeting room
 - Not required for exempt material
 - Attorney-client or Executive session materials

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- MEETING MINUTES, SDCL 1-25-3, 1-27-1.17
 - Must keep detailed meeting minutes
 - Must include each member's vote on any roll call
 - Teleconference voting must be done by roll call
 - Must be available for inspection at all times at principle place of business
 - Unapproved draft minutes (of any meeting) must be available within 10 days of the meeting, unless audio/video recording is available on the website within 5 days of the meeting

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- PUBLIC PARTICIPATION, SDCL 1-25-1
 - Must have a period for public comment at every regularly scheduled official meeting
 - No public comment is required for inaugural meetings, swearing in meetings, or presentation of annual report if the meeting is held solely for that purpose
 - Teleconference meetings, SDCL 1-25-1.6
 - Must have at least one place where public may listen/participate
 - If less than quorum of members present at the location for public participation, must provide public the opportunity to listen via telephone or internet
 - Have the same notice/posting requirements
 - Public participation rules do not apply to executive or closed meetings
 - Public is allowed to audio/video record a public meeting as long as it is reasonable, obvious and not disruptive SDCL 1-25-11

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- EXECUTIVE SESSIONS, SDCL 1-25-2
 - May be held for the purpose of discussing:
 - (1) Employee competence/qualifications (note: independent contractors are not employees)
 - (2) Student discipline or eligibility for programs/activities
 - (3) Communication with attorney regarding proposed/pending litigation or contract matters
 - (4) Preparing for/conducting labor negotiations
 - (5) Marketing strategies of government owned business
 - (6) Public safety information (SDCL 1-27-1.5(8)) or emergency response information (SDCL 1-27-1.5(17))
 - May also include other privileged/confidential topics, ie. PHI

HOW DO WE COMPLY WITH OPEN MEETING LAWS?

- EXECUTIVE SESSIONS, SDCL 1-25-2
 - To enter session, must have a motion, second and majority vote of those present
 - Need to cite the specific law allowing session, ie. pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel
 - Discussion must be strictly limited to the announced subject
 - No official vote or action can be taken in the session- it must be in open session

HOW ARE OPEN MEETINGS LAWS ENFORCED?

- Action begins when a complaint is filed with the States Attorney, SDCL 1-25-6
- 3 options to act upon complaint:
 - (1) Charge a class 2 misdemeanor
 - 30 days imprisonment in county jail and/or \$500 fine, SDCL 22-6-2
 - (2) Dismiss, submitting a “no merits” letter
 - (3) Refer to Open Meeting Commission for further action

HOW ARE OPEN MEETINGS LAWS ENFORCED?

- OPEN MEETINGS COMMISSION, SDCL 1-25-7
 - States Attorney makes referral to OMC
 - Board is given an opportunity to respond in writing
 - Hearing is scheduled, arguments heard
 - OMC makes a final decision
 - Written decision issued and filed with the Attorney General
 - Recourse is a public reprimand
 - No opportunity for appeal

CODE OF CONDUCT AND CONFLICT OF INTEREST POLICY

Ethical principles and guidelines for use by Board members

ROLE OF THE BOARD MEMBER

- Boards are challenged with protecting the health and welfare of the public
 - Regulating state licensing practices and competency
 - Handling complaints, discipline, adverse actions, contested cases
 - Review legislation and administrative rules
 - Red tape repeal
 - Board processes
 - Streamline/update licensure process and/or board operations

CONFLICT OF INTEREST

- A conflict of interest exists when a Board member has an interest in a matter that is different than that of other members/general public
 - Personal or pecuniary interest in a matter
 - ie. Board member sells insurance in full time role outside the Board. Refers Board to insurance agency for commercial policy and receives a commission for the sale. Board member has benefitted from position with the Board, creating a conflict.
 - Family member or rivaling business up for discipline
 - Existing or potential employment relationship with a party involved in a proceeding
 - ie. Board member's supervisor's license is being considered in a complaint before the Board.

CONFLICT OF INTEREST

- A conflict of interest may require a Board member to abstain from participation in an official Board action
- Board members who fail to comply with restrictions relating to official actions may be subject to removal from the Board
- Official actions are decisions, recommendations, approvals/disapprovals, or other discretionary action by the Board
- A Board's official actions are administrative, quasi-judicial or quasi-legislative

CONFLICT OF INTEREST

- Quasi-judicial: particular and immediate in effect (ie. review of application for license)
 - To participate in these actions, Board members must be disinterested and free from bias or risk of bias
 - A Board member must abstain if a reasonably-minded person could conclude that there is an unacceptable risk that the member has prejudged the matter or that the member's interest/relationship creates a potential to influence their impartiality
- Quasi-legislative: regulatory action, or, general and future in effect (ie. rule making)
 - A Board member is not required to abstain from discussion or voting unless it is clear that the member has an unalterably closed mind on matters critical to the action

CONFLICT OF INTEREST

- Contract Restrictions:
 - No Board member may solicit or accept any gift, favor, reward, or promise of reward (including the promise of future employment), in exchange for recommending, influencing or attempting to influence the award or terms of a state contract
 - Contracts entered into which violate conflict of interest laws are voidable and any benefit received by the Board member is subject to legal remedy
 - Concerns can be brought to the board attorney, but the board attorney does not represent members in an individual capacity. Seek private counsel for questions relating to conflict of interest laws on individual interests and contracts.

CONFLICT OF INTEREST

- Board members who violate conflict of interest laws may be removed from the Board and may also be subject to criminal prosecution
- No Board can dismiss, suspend, demote, decrease compensation of, or take any retaliatory action against a member due to the member reporting, in good faith, a suspected violation of law or rule
- Board members may not engage in retaliatory treatment of an individual who reports harassment, opposes discrimination, participates in the complaint process, or provides information relating to a complaint

ANTI-HARASSMENT/DISCRIMINATION POLICY

- While acting in their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability, or any other legally protected status or characteristic.
- Board members who violate the Anti-Harassment/Discrimination Policy are subject to removal from the Board
- Harassment or discriminatory/offensive behavior may be verbal or nonverbal, or physical in nature

ANTI-HARASSMENT/DISCRIMINATION POLICY

- Harassment: conduct that creates a hostile work environment for a Board member, including sexual harassment
- Sexual harassment: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature when:
 - (1) submission to or rejection of the harassment is made (explicitly/implicitly) on the condition of employment, appointment, or action by a Board member
 - (2) the harassment has the effect or purpose of unreasonably interfering with a member's work or creating an intimidating, hostile or offensive working environment

ANTI-HARASSMENT/DISCRIMINATION POLICY

- To aid in identifying inappropriate conduct, the following examples are provided, but not intended to be all inclusive:
 1. unwelcome physical contact (kissing, fondling, hugging, touching)
 2. demands for sexual favors; sexual innuendos, suggestive comments, sexual jokes, sexist put-downs, sexual remarks about an individual's body; sexual propositions, or persistent, unwanted courting
 3. swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability
 4. slurs, jokes, derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age or disability
 5. calendars, posters, pictures, drawings, displays, cartoons, images, lists, emails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability

CONFIDENTIAL INFORMATION

- Board members shall not disclose confidential information acquired during the course of official duties, except as required by law
- Members are prohibited from the use of confidential information for personal gain
- This policy includes discussing board business with individuals not on the board

REPORTING

- Any violation of the Code of Conduct should be reported to the appointing authority for the Board member who is alleged to have violated the Code.



2021 South Dakota Legislature
House Bill 1014
ENROLLED

AN ACT

ENTITLED An Act to establish uniform complaint and declaratory ruling procedures for agencies regulating certain professions and occupations.

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

Section 1. That a NEW SECTION be added:

36-1C-1. Definitions.

Terms used in this Act mean:

- (1) "Administrator," the executive director, executive secretary, or other person designated as being responsible for a professional or occupational licensing's board, commission, or agency operation;
- (2) "Agency," a professional or occupational licensing board, commission, or agency set forth in title 36;
- (3) "Complaint," an allegation of a violation of the laws or rules of a professional or occupational licensing board, commission, or agency set forth in title 36;
- (4) "Investigative committee," one or more persons employed or contracted by a professional or occupational licensing board, commission, or agency set forth in title 36 to review and investigate complaints;
- (5) "License," any certification, license, permit, or other authorization related to the practice of any profession or occupation regulated under title 36.

Section 2. That a NEW SECTION be added:

36-1C-2. Complaints--Jurisdiction.

Any person claiming that a licensee or an applicant for a license under title 36 has engaged in or is engaging in conduct constituting grounds for disciplinary action, as enumerated in the laws or rules of the agency, may file with the agency a written complaint. The agency shall require the complaining party to file a complaint stating the name of the applicant or licensee against whom the complaint is made and setting out, in

full detail, the conduct that is alleged to be in violation and may prescribe the form on which a written complaint is made.

The administrator shall request the complainant provide additional information if the complaint does not state a claim within the jurisdiction of the agency.

Failure of the complainant to comply with this section is basis for the administrator to reject the complaint without further action.

Section 3. That a NEW SECTION be added:

36-1C-3. Receipt of complaint--Time to respond--Failure to respond.

Upon receipt of a properly submitted complaint within the agency's jurisdiction, the administrator shall serve a copy of the complaint by mail or electronic mail upon the applicant or licensee complained against.

The applicant or licensee complained against shall send a response to the complaint to the administrator of the agency within twenty business days after service of the complaint on the applicant or licensee. Upon receipt of the response of the applicant or licensee, or upon expiration of the time for the applicant or licensee complained against to respond, the administrator shall assign an investigative committee to determine if the complaint has probable cause and constitutes grounds for disciplinary action or lacks probable cause and should be dismissed.

The twenty business days may be extended by the administrator for good cause.

Failure to respond to the complaint is grounds for disciplinary action.

Section 4. That a NEW SECTION be added:

36-1C-4. Investigation--Dismissal permitted.

Upon completion of the investigation, the investigating committee shall recommend to the agency whether the complaint should be dismissed for lack of probable cause, resolved by informal disposition, or settled by a formal hearing. The failure of an applicant or licensee to comply with the investigation is grounds for denial of the application or disciplinary action.

An agency may allow the investigative committee to dismiss a complaint. Any dismissal by the investigative committee must be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

An investigative committee includes the agency's legal counsel.

Section 5. That a NEW SECTION be added:

36-1C-5. Option to authorize limited administrative fines for specified violations.

The agency may authorize the administrator to impose an administrative fine upon proof of a violation of specified statutes or rules without additional prior approval. Any action taken pursuant to this section shall be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

Any administrative fine issued under this section may be appealed by requesting a contested case under chapter 1-26. Notice of appeal must be submitted to the administrator within twenty calendar days of service of the fine.

Any fine issued under this section may not exceed five hundred dollars.

Section 6. That a NEW SECTION be added:

36-1C-6. Informal disposition--Notice.

The agency may accept an informal disposition regarding a violation of the laws or rules under the agency's jurisdiction. The agreed upon disposition must be in writing and is subject to the approval of the agency.

Failure to comply with the terms of an informal disposition is grounds for disciplinary action or allows the agency to institute or reinstitute formal proceedings.

The administrator shall notify, in writing, any complaining party of the results of the informal disposition of a complaint and the action taken, if any.

Section 7. That a NEW SECTION be added:

36-1C-7. Formal complaint.

If an alleged violation has probable cause constituting grounds for disciplinary action, the legal counsel for the agency may commence formal proceedings by serving a formal complaint by mail or electronic mail upon the applicant or licensee complained against.

The formal complaint must include the name of the applicant or licensee complained against, and a statement of facts setting forth the nature of the violations being charged that constitute grounds for disciplinary action.

Section 8. That a NEW SECTION be added:

36-1C-8. Response to formal complaint.

The applicant or licensee shall file an answer with the administrator within twenty calendar days after service of the complaint admitting, denying, qualifying, or explaining all facts alleged in the formal complaint and all defenses of the applicant or licensee or mitigating factors.

Section 9. That a NEW SECTION be added:

36-1C-9. Notice of hearing.

After the receipt of the response in § 36-1C-8, the agency's counsel shall file a notice of hearing pursuant to § 1-26-17. The notice of hearing must be served no later than twenty calendar days prior to the hearing date.

The agency may continue the date of the hearing as necessary. The agency's counsel shall serve notice of any new date by electronic mail to the applicant or licensee's address on file with the agency. If the applicant or licensee does not have electronic mail, communication shall be sent to the mailing address on file with the agency.

Section 10. That a NEW SECTION be added:

36-1C-10. Appearance required of applicant or licensee.

The applicant or licensee appearing before the agency at a formal hearing shall appear in person unless otherwise waived by the agency. If an applicant or licensee fails to appear, the hearing may proceed without the applicant or licensee.

Section 11. That a NEW SECTION be added:

36-1C-11. Board or commission member disqualified.

If an alleged violation against an applicant or licensee is filed by a member of the agency's board or commission, or if a member of the agency's board or commission participates in the investigation of a violation by an applicant or licensee, that agency's board or commission member is disqualified from participating in the final decision rendered by the agency board or commission.

Section 12. That a NEW SECTION be added:

36-1C-12. Written waiver of procedures.

An applicant for a license or licensee may, in writing, waive any procedure granted to the applicant or licensee under this chapter.

Notwithstanding any other provision of law, nothing in this chapter shall be construed to limit an agency's authority for emergency action under § 1-26-29.

Section 13. That a NEW SECTION be added:

36-1C-13. Promulgation of rules.

The Departments of Agriculture, Health, Labor and Regulation, and Social Services shall promulgate rules, pursuant to chapter 1-26, to make any consistent addition to the procedures in this chapter in order to comply with any federal statutes, rules, and regulations regarding a profession or occupation within their respective department.

Section 14. That a NEW SECTION be added:

36-1C-14. Petition for declaratory ruling.

A person seeking a ruling as to the applicability to that person of a law, rule, or order of an agency under title 36 may file with the agency a petition for declaratory ruling in substantially the following form:

Pursuant to the provisions of SDCL 1-26-15, I, (name of petitioner), of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the professional or occupational board or commission of (state name of body) for its declaratory ruling in regard to the following:

- (1) The statutes or rules or order in question is: (here identify and quote the pertinent statute, rule, or order.):
- (2) The facts and circumstances that give rise to the issue to be answered by the professional or occupational board or commission's declaratory ruling:
- (3) The precise issue to be answered by the professional or occupational board or commission's declaratory ruling:

Dated at (city and state), this _____ day of _____, _____.

(Signature of Petitioner)

Section 15. That a NEW SECTION be added:

36-1C-15. Action on petition.

Upon receipt of the petition, the administrator may request from the petitioner any information that may be required for the issuance of its ruling. At the agency's next regularly scheduled meeting following the receipt of the petition or following receipt of requested information, or within ninety days, whichever is shorter, the agency shall issue its declaratory ruling and serve a copy of it by mail or electronic mail upon the petitioner.

Section 16. That a NEW SECTION be added:

36-1C-16. Appeal of declaratory ruling.

Any person seeking a declaratory ruling hereunder, is considered aggrieved if, within thirty days of the agency's declaratory ruling, a request is made for the agency to conduct a formal hearing. The hearing must be held at the earliest convenience of the agency following the receipt of the request. A hearing under this section is a contested case under chapter 1-26.

Section 17. That § 36-4A-42 be AMENDED.

36-4A-42. Promulgation of rules by board.

The board shall promulgate rules pursuant to chapter 1-26 pertaining to fees, licensure of physician assistants, and supervision requirements.

Section 18. That § 36-4C-23 be AMENDED.

36-4C-23. Investigation of violations.

The board shall investigate every alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed by a nonlicensee, the board shall report it to the proper law enforcement officials of the county wherein the alleged violation has occurred.

Section 19. That § 36-5-20 be AMENDED.

**36-5-20. Disciplinary committee--Immunity from liability--Conditions--
Official immunity unaffected.**

Notwithstanding any provision of chapter 36-1C, the Board of Examiners may act as a disciplinary committee or may appoint other chiropractors licensed to practice in this state to perform such functions to maintain the professional standards of the board. No monetary liability on the part of, and no cause of action for damages may arise against

any member of a duly appointed disciplinary committee for any act or proceeding undertaken or performed within the scope of the functions of the committee, if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter on which the member acts, and acts in a reasonable effort to obtain the facts. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

The board may promulgate rules pursuant to chapter 1-26 governing the administration and enforcement of this section and the conduct of licensees, including:

- (1) The purpose of the disciplinary committee;
- (2) The composition of the disciplinary committee; and
- (3) The qualifications of the disciplinary committee.

Section 20. That § 36-9-21 be AMENDED.

36-9-21. Promulgation of rules.

The board shall promulgate rules pursuant to chapter 1-26 pertaining to:

- (1) Licensing and licenses;
- (2) The practice of nursing;
- (3) Scope of nursing practice;
- (4) Except as otherwise provided in § 36-9-28, the delegation of nursing functions to unlicensed assistive personnel under the supervision of a licensed nurse;
- (5) Except as otherwise provided in § 36-9-28, the training, registration, and supervisory requirements for unlicensed personnel performing delegated nursing functions under the supervision of a licensed nurse;
- (6) Fees; and
- (7) Approval of nursing education and clinical enrichment programs.

Section 21. That § 36-9A-41 be AMENDED.

36-9A-41. Promulgation of rules.

The board may promulgate rules pursuant to chapter 1-26 pertaining to: licensure and licenses, practice, prescriptive authority, and approval of education programs.

Section 22. That § 36-9C-32 be AMENDED.

36-9C-32. Promulgation of rules.

The board shall promulgate rules pursuant to chapter 1-26 pertaining to:

- (1) Licensing and licenses;
- (2) The practice and scope, pursuant to § 36-9C-13, of certified professional midwives and certified professional midwife students;
- (3) Fees;
- (4) Approval of certified professional midwife education programs; and
- (5) Criteria for low-risk pregnancy and delivery.

Section 23. That § 36-10-49 be AMENDED.

36-10-49. Investigation of violations--Employment of counsel to assist in prosecution.

The Board of Examiners or the physical therapy committee, or both, shall investigate every alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed by a nonlicensee, the board shall report the violation to the proper law enforcement officials wherein the act is committed. The board may employ special counsel subject to the supervision, control and direction of the attorney general, assist in the prosecution of violations of this chapter, and expend the necessary funds for such purpose.

Section 24. That § 36-11-11 be AMENDED.

36-11-11. Promulgation of rules .

The Board of Pharmacy may promulgate rules pursuant to chapter 1-26:

- (1) Pertaining to the practice of pharmacy;
- (2) Relating to the sanitation of persons and establishments licensed under the provisions of this chapter;
- (3) Pertaining to establishments licensed under the provisions of this chapter wherein any drug is compounded, prepared, dispensed or sold;
- (4) Providing for minimum equipment and standards of establishments licensed under the provisions of this chapter;
- (5) Pertaining to the sale of drugs by or through any mechanical device;
- (6) In cooperation with other governmental agencies where there exists a joint responsibility for protecting the public health and welfare;
- (7) Pertaining to the sale of nonprescription drugs;
- (8) To adopt such publications or supplements thereto as shall from time to time be deemed necessary to describe the drugs, medicines, prescription drugs, dispensing physician or other terms defined in § 36-11-2;

- (9) Pertaining to the posting of prescription prices on the premises of a pharmacy department to provide consumers with comparative pricing information;
- (10) Pertaining to registration of drug wholesalers and manufacturers;
- (11) Pertaining to home health care and service;
- (12) Pertaining to computerized pharmacy;
- (13) Pertaining to the registration of registered pharmacy technicians; an annual registration fee not to exceed thirty dollars; and tasks that may not be delegated by a licensed pharmacist to a registered technician;
- (14) Redispensing of pharmaceuticals; and
- (15) Pertaining to the dispensing of biological products.

Section 25. That § 36-18A-22 be AMENDED.

36-18A-22. Board to promulgate rules--Scope of rules--Existing rules remain in effect.

The board shall, pursuant to chapter 1-26, promulgate rules that may be reasonably necessary for the performance of its duties, the regulation of proceedings before it, and the licensure of the professions it regulates. The existing rules promulgated under the previous chapter 36-18 remain in effect until replaced. The board shall promulgate rules, pursuant to chapter 1-26, for the licensure of professional engineers, architects, land surveyors, landscape architects, and petroleum release assessors and remediators in the following areas:

- (1) Forms such as applications, renewals, licenses or certificates, and receipts for applicants, licensed professionals, and business entities;
- (2) Fees for applications, examinations, renewals, late penalties, lists and labels of licensees, returned checks, reinstatement, inactive status, ability to allow a vendor to collect fees for examinations, waiver of fees;
- (3) Criteria for types of education degrees, approval of accredited programs, intern programs, type of experience, length of experience, national and state specific examinations, use of computer examinations, criteria from other countries, procedure to evaluate foreign degrees, eligibility of applicants, dual licenses;
- (4) Continuing professional education and development content, hours, carryovers, and requirements;
- (5) How, when, and where to seal plans and documents; type of seal; required services to be provided; and criteria to define complete plans, minimum standards of practice, and guidelines;

- (6) Description of and criteria for construction administration, including a designation of who is to perform construction administration and criteria for a prime professional or a coordinating professional;
- (7) Requirements for compliance with local building code; and
- (8) The adoption of a code of professional conduct.

Section 26. That § 36-19-9 be AMENDED.

36-19-9. Officers of board--Scope of rules--Bond required of treasurer.

The State Board of Funeral Service may elect, out of its own number, a president, a vice-president, and secretary-treasurer, and, pursuant to chapter 1-26, promulgate the rules as may be reasonable and proper to:

- (1) Establish the minimum physical standards of licensees' funeral establishments;
- (2) Regulate the inspection of each funeral establishment;
- (3) Establish the educational, training, reciprocity and renewal requirements for licensure; and
- (4) However, the board may not regulate the method and manner of providing funeral service.

The treasurer of the board shall give bond in the sum of five thousand dollars with sufficient sureties to be approved by the board, conditioned for the honest and faithful discharge of the treasurer's duties.

Section 27. That § 36-20B-41 be AMENDED.

36-20B-41. Investigations--Probable cause determination--Subpoena power of board.

The board may, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, conduct investigations in accordance with chapter 36-1C to determine whether there is probable cause to institute proceedings under chapter 1-26 or of this chapter against any person or firm for such violation. However, no investigation under this section may be a prerequisite to the proceedings if a determination of probable cause can be made without investigation. In aid of such investigations, the board or the chair thereof may issue subpoenas to compel witnesses to testify and to produce evidence.

Section 28. That § 36-20B-42 be AMENDED.

36-20B-42. Investigating officer--Confidentiality of information.

If an investigation committee determines a complaint or other information suggesting a violation under § 36-20B-41 lacks probable cause, the report of the investigating committee, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation must be treated as confidential information and may not be disclosed to any person except law enforcement authorities and, to the extent considered necessary in order to conduct the investigation, the subject of the investigation, the person whose complaint is being investigated, and any witness questioned in the course of the investigation.

Section 29. That § 36-20B-43 be AMENDED.

36-20B-43. Findings of investigation--Effect.

At the conclusion of the investigation under § 36-1C-4, if the subject of the investigation is an individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67, the board staff shall proceed in accordance with chapter 1-26. If the subject of the investigation is not a licensee or an individual with privileges under this chapter, the board shall take appropriate action under this chapter. Upon a finding of no probable cause, the board shall close the matter and shall thereafter release information relating thereto only with the consent of the person or firm under investigation.

Section 30. That § 36-20B-45 be AMENDED.

36-20B-45. Issuance of complaint--Administrative hearing--Service of complaint and notice of hearing.

If probable cause with respect to a violation by an individual with practice privileges granted under the provisions of § 36-20B-66 or 36-20B-67 has been determined by the board, or upon receipt of notice of a decision by the board of another state furnishing grounds for a determination of probable cause, the board may issue a complaint setting forth appropriate charges and set a date for hearing before the board on such charges. If a complaint is issued and a hearing date set, the board shall, not less than thirty days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the individual with practice privileges granted under the provisions of § 36-20B-66 or 36-20B-67, together with a copy of the contested case proceedings under chapter 1-26. Service shall be by certified or registered mail to the address last known to the board, or pursuant to chapter 1-26.

Section 31. That § 36-20B-46 be AMENDED.

36-20B-46. Respondent to have access to investigatory report and evidence.

An individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67 against whom a complaint has been issued under this section may, reasonably in advance of the hearing, examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence in the board's possession relating to the subject matter of the complaint. The board shall adopt rules, promulgated pursuant to chapter 1-26, governing proceedings under this section to specify the manner in which such right may be exercised.

Section 32. That § 36-20B-47 be AMENDED.

36-20B-47. Appearance at hearing--Examination and presentation of witnesses and evidence--Subpoenas.

The respondent licensee shall appear at the hearing as required by § 36-1C-10. An individual with practice privileges granted under the provisions of § 36-20B-66 or 36-20B-67 may appear at the hearing in person or, in the case of a firm, through a partner, officer, director, shareholder, member, or manager, and by counsel, examine witnesses and evidence presented in support of the complaint, and present evidence and witnesses on the licensee's or an individual's own behalf. The licensee or an individual granted practice privileges under the provisions of § 36-20B-66 or 36-20B-67 is entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

Section 33. That § 36-21A-89 be AMENDED.

36-21A-89. Administration and enforcement of chapter--Promulgation of rules.

The commission may promulgate rules pursuant to chapter 1-26 relating to the administration and enforcement of the provisions of this chapter in the following areas:

- (1) Procedures for conducting the commission's business;
- (2) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;

- (3) Requirements for dividing a commission with a broker in another state, requirements for application for licensure by reciprocity and the practice of a nonresident licensee in the state;
- (4) Procedures for application to provide classroom instruction or correspondence work for prelicensing education, qualifications of the instructors and facilities, and procedures for approving classroom instruction and correspondence work and for withdrawing the approval;
- (5) Requirements for a real estate auction, use of unlicensed persons to call or take bids, and the requirements, duties and responsibilities of an auctioneer;
- (6) Requirements for mortgage brokers, including areas such as trust accounts, record-keeping, written contracts, full disclosure and restrictions on chargeable costs and expenses;
- (7) Requirements for continuing education including procedures for granting a certificate of accreditation; notification of a material change in an approved course offering; suspension, revocation and denial of course approval; notice to students regarding the course and opportunity for comment; auditing; certificates of attendance; preregistration and limits on correspondence courses;
- (8) Requirements for property managers, including areas such as trust accounts, auditing, contracts, disclosure, disciplinary matters, financial obligations and records, and property management accounting; and
- (9) Requirements for establishing and maintaining teams and the requirements, duties, and responsibilities of team leaders.

Section 34. That § 36-21B-3 be AMENDED.

36-21B-3. Promulgation of rules.

The secretary of the Department of Labor and Regulation may promulgate rules pursuant to chapter 1-26 relating to appraisers and appraisals in the following areas:

- (1) Certification, licensing, and registration of appraisers;
- (2) Definition of terms;
- (3) Uniform standards of professional appraisal practice;
- (4) Application for and issuance of certificates;
- (5) Examinations and examination procedures;
- (6) Pre-certification education criteria and continuing education;
- (7) Qualifications for and upgrading of a certificate;
- (8) Transactions requiring certified, licensed, or registered appraisers;

- (9) Renewal and late renewal procedures;
- (10) Certificate by reciprocity;
- (11) Temporary practice and permits;
- (12) Grounds for disciplinary actions including denial, revocation, suspension, censure, and reprimand;
- (13) Conflict of interest and investigation;
- (14) Advertising by certified, licensed, or registered appraisers;
- (15) Retention and inspection of records, and rosters of appraisers;
- (16) Appraiser membership, competency, and independence;
- (17) Review of appraisals and contracting for investigations;
- (18) Inspection, examination, and photocopy of appraisal records for audit purposes;
- (19) Inactive status; and
- (20) Exemptions and standards allowing appraisers to perform an evaluation for a federally insured depository institution.

Section 35. That § 36-21C-6 be AMENDED.

36-21C-6. Promulgation of rules for licensing and registration.

The commission shall promulgate rules pursuant to chapter 1-26 for licensed and registered home inspectors in the following areas:

- (1) Standards and requirements for prelicense and continuing education, including qualifications of instructors, procedures for granting a certificate of accreditation, notification of a material change in an approved course offering, suspension, revocation, and denial of course approval, certification of attendance, preregistration, and hours required to renew a license or registration;
- (2) A code of ethics and standards of practice;
- (3) Fees for applications, examinations, registration, licensure, and renewals, not to exceed two hundred dollars for application and one hundred dollars for renewal; and
- (4) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license.

Section 36. That § 36-21D-4 be AMENDED.

36-21D-4. Promulgation of rules regarding companies and services.

The secretary of the Department of Labor and Regulation may promulgate rules pursuant to chapter 1-26 relating to appraisal management companies and appraisal management services in the following areas:

- (1) Registration of appraisal management companies;
- (2) Definition of terms;
- (3) Responsibilities and duties;
- (4) Application for and issuance of certificate of registration;
- (5) Renewal and late renewal procedures;
- (6) Contracting for investigations;
- (7) Complaints and grounds for disciplinary actions, including denial, revocation, suspension, censure, and reprimand;
- (8) Retention and inspection of records;
- (9) Roster;
- (10) Review of appraisal related records;
- (11) Inspection, examination, and photocopy of records;
- (12) National registry fee collection and remittance; and
- (13) Filing of surety bonds or irrevocable letters of credit.

Section 37. That § 36-26-41 be AMENDED.

36-26-41. Investigation and report of violations--Employment of special counsel--Expenses.

The board shall investigate every alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the board violation is committed by a nonlicensee, the board shall report the same to the proper law enforcement officials wherein the act is committed. The board is authorized to employ special counsel subject to the supervision, control and direction of the attorney general, to assist in the prosecution of violations of this chapter and to expend the necessary funds for such purpose.

Section 38. That § 36-27A-34 be AMENDED.

36-27A-34. Investigation and prosecution of violations.

The Board of Examiners of Psychologists shall investigate every alleged violation of this chapter pursuant to chapter 36-1C. The board may employ special counsel, subject to approval, supervision, control, and direction by the attorney general, to assist in the

prosecution of violations of this chapter, and to spend the necessary funds for that purpose.

Section 39. That § 36-29-26 be AMENDED.

36-29-26. Investigation and report of violations.

The Board of Medical and Osteopathic Examiners shall investigate every alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed by a nonlicensee, the board shall report the same to the proper law enforcement officials wherein the violation is committed.

Section 40. That § 36-31-22 be AMENDED.

36-31-22. Investigation and report of violations.

The board shall investigate every alleged violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed by a nonlicensee, the board shall report the same to the proper law enforcement officials wherein the violation is committed.

Section 41. That § 36-32-80 be AMENDED.

36-32-80. Complaints--Investigation--Dismissal--Hearing--Appeal.

Complaints regarding any person licensed under this chapter shall be processed pursuant to chapter 36-1C. A record of each complaint shall be maintained in the board office.

Notwithstanding any provision of chapter 36-1C, an investigation may be conducted by a member, agent, or an appointee of the board to determine whether the alleged violation has been committed. The investigator, if a member of the board, may dismiss a complaint if it appears to the member, in consultation with the board president, that no violation has been committed. If the investigator is an agent or an appointee of the board, dismissal of the complaint may only be made by the board president. Any disposition agreed upon between the investigator and the licensee or permit holder shall be made known to and approved by the board.

Any disciplinary proceeding must be conducted in accordance with chapter 1-26. Any decision of the board entered in a contested proceeding may be appealed to the circuit court within thirty days. A license or permit remains in effect during the pendency of an appeal, unless suspended under § 36-32-86.

Section 42. That § 36-32-89 be AMENDED.

36-32-89. Violations reported to law enforcement officials--Prosecution of violations.

The board shall investigate an alleged violation of any provision of this chapter, pursuant to the procedures set forth in chapter 36-1C, and report the alleged violation. The board may employ special counsel subject to the supervision, control, and direction of the attorney general to assist in the prosecution of alleged criminal violations and may expend the necessary funds for this purpose.

Section 43. That § 36-33-58 be AMENDED.

36-33-58. Complaints--Investigation--Dismissal--Hearing--Appeal.

The board shall receive complaints regarding the enforcement of the provisions of this chapter pursuant to the procedures set forth in chapter 36-1C. A record of each complaint shall be maintained by the board.

Notwithstanding chapter 36-1C, the investigator, if a member of the board, may dismiss a complaint if it appears to the member, in consultation with the board president, that no violation has been committed. If the investigator is an agent or an appointee of the board, dismissal of the complaint may only be made by the board president. Any disposition agreed upon between the investigator and the licensee or permit holder shall be made known to and approved by the board.

Any disciplinary proceeding shall be conducted in accordance with chapter 1-26. Any decision of the board entered in a contested proceeding may be appealed to the circuit court within thirty days. A license or permit shall remain in effect during the pendency of an appeal unless suspended under § 36-33-64.

Section 44. That § 36-34-18 be AMENDED.

36-34-18. Receipt and log of complaints--Investigation--Disciplinary proceeding.

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

set forth in chapter 36-1C. All disciplinary proceedings held under the authority of this chapter must be conducted in accordance with chapter 1-26.

Section 45. That § 36-35-20 be AMENDED.

36-35-20. Investigation of complaints--Inspections.

The board shall receive and investigate any complaint filed with the board alleging a violation of this chapter pursuant to the procedures set forth in chapter 36-1C. The board may inspect the place of business of the licensee named in a complaint during normal business hours or upon written notice.

Section 46. That § 36-36-12 be AMENDED.

36-36-12. Promulgation of rules.

The board shall promulgate rules pursuant to chapter 1-26 pertaining to fees, licensure, investigations, and continuing education.

Section 47. That § 36-38-21 be AMENDED.

36-38-21. Investigation of suspected violations--Prosecution of violations.

The board shall investigate each suspected violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the suspected violation is committed by a nonlicensee, the board shall report the violation to the proper law enforcement official where the act is committed. The board is authorized to employ special counsel subject to the supervision, control, and direction of the attorney general to assist in the prosecution of violations of this chapter, and to expend the necessary funds for such purpose.

Section 48. That section 47 of this Act is repealed on July 1, 2024.

An Act to establish uniform complaint and declaratory ruling procedures for agencies regulating certain professions and occupations.

I certify that the attached Act originated in the:
House as Bill No. 1014

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1014
File No. _____
Chapter No. _____

Received at this Executive Office
this _____ day of _____,
2021 at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 2021

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 2021
at _____ o'clock ___ M.

Secretary of State

By _____
Asst. Secretary of State



2021 South Dakota Legislature

House Bill 1077

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 **An Act to provide for licensure by endorsement for certain licensed professionals**
 2 **and occupations.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **36-1C-1. Eligibility--Licensure by endorsement.**

6 Notwithstanding any existing provisions related to licensure by endorsement or
 7 licensure by reciprocity in any applicable licensing statute, a licensing board shall issue a
 8 license, certificate, registration, or permit to an applicant to allow practice in this state if,
 9 upon application to the licensing board, the applicant satisfies all of the following
 10 conditions:

11 (1) Holds a current license, certificate, registration, or permit from another state,
 12 territory, or country and the licensing board determines that state's, territory's, or
 13 country's requirements are substantially equivalent to or exceed the requirements
 14 established in this state;

15 (2) Demonstrates competency in the profession or occupation through methods
 16 determined by the licensing board, including having completed continuing
 17 education or having experience in the profession or occupation for at least two of
 18 the five years preceding the date of the application under this section;

19 (3) Has not committed any act that constitutes grounds for refusal, suspension, or
 20 revocation of a license, certificate, registration, or permit to practice that profession
 21 or occupation in this state unless the licensing board determines, in its discretion,
 22 that the act should not be an impediment to the granting of a license, certificate,
 23 registration, or permit to practice in this state;

24 (4) Is in good standing and has not been disciplined by the jurisdiction that issued the
 25 license, certificate, registration, or permit unless the licensing board determines,

1 in its discretion, that the discipline should not be an impediment to the granting of
2 a license, certificate, registration, or permit to practice in this state; and
3 (5) Pays any fees established by the licensing board by rules promulgated pursuant to
4 chapter 1-26.

5 **Section 2.** That a NEW SECTION be added:

6 **36-1C-2. Provisional license--Duration.**

7 A licensing board may issue a provisional license, certificate, registration, or permit
8 to an applicant for licensure by endorsement while the applicant is satisfying remaining
9 requirements for the licensure by endorsement as determined by the board. The holder of
10 a provisional endorsement license issued under this section may practice until any of the
11 following occurs:

- 12 (1) A license, certificate, registration, or permit is denied by the licensing board under
13 this section;
14 (2) The expiration of the provisional endorsement license as established by the board
15 by regulation; or
16 (3) The holder of the provisional endorsement license fails to comply with the terms of
17 the provisional license.

18 **Section 3.** That a NEW SECTION be added:

19 **36-1C-3. Application of chapter.**

20 Nothing in this Act may be construed to override, supersede, or invalidate any
21 compact or agreement already in place with regard to the regulation of any profession
22 under title 36.

23 **Section 4.** That a NEW SECTION be added:

24 **36-1C-4. Affected professions.**

25 The provisions of this Act apply to those practitioners licensed pursuant to chapters
26 36-4, 36-4A, 36-4B, 36-4C, 36-9, 36-9A, 36-9B, 36-10, 36-10B, 36-11, 36-26, 36-27A,
27 36-31, 36-32, 36-33, 36-34, 36-37, and 34-11.



2021 South Dakota Legislature

House Bill 1127

Introduced by: **Representative Reed**

1 **An Act to revise certain provisions regarding official meetings conducted by**
 2 **teleconference.**

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

4 **Section 1.** That § 1-25-1.5 be AMENDED.

5 **1-25-1.5. Teleconference meeting or hearing--Quorum--Vote.**

6 Any official meeting may be conducted by teleconference. A teleconference may
 7 be used to conduct a hearing or take final disposition regarding an administrative rule
 8 pursuant to § 1-26-4. A member is deemed present if the member answers present to the
 9 roll call conducted by teleconference for the purpose of determining a quorum. Each vote
 10 at an official meeting held by teleconference ~~shall~~may be taken by ~~roll call~~voice vote. If
 11 any member votes in the negative, the vote shall proceed to a roll call vote.

Fellowship Appointment American College of Nurse-Midwives (ACNM)

The American College of Nurse-Midwives (ACNM) is the professional association that represents certified nurse-midwives (CNMs) and certified midwives (CMs) in the United States. ACNM sets the standard for excellence in midwifery education and practice in the United States and strengthens the capacity of midwives in developing countries. Our members are primary care providers for women throughout the lifespan, with a special emphasis on pregnancy, childbirth, and gynecologic and reproductive health.

Susan Rooks, CNM, MPH, Capt. (ret.) USPHS

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thinkaboutit@gwtc.net

Bullet Points:

- Defined and expanded the midwifery and maternal health programs in service to the indigenous women of the poorest Indian reservation in the country.
- As an officer in the US Public Health Service, served as mentor, teacher preceptor, recruiter, and role model to a variety of healthcare professionals.
- Worked successfully to update South Dakota's antiquated APRN laws, resulting in full practice authority for CNMs and NPs.

Bio:

Captain Rooks is a rural midwife from southwest South Dakota. Most of her 35-year career has been in service to indigenous women of the Pine Ridge Indian Reservation and surrounding areas. She was the Charter Director of the Pine Ridge Midwifery Service and increased staffing and function of the practice. Through her years of service, Capt. Rooks has taught midwifery, medical, nursing, and NP students from many programs. Her leadership activities include leading the SD Affiliate, a current seat on the SD State Board of CPMs and work on landmark legislation for NP/CNM full practice authority.

