

## SOUTH DAKOTA BOARD OF PHARMACY

October 10, 2025

### Approved Minutes

9:00 am CDT

Public Board Meeting

Board members present: Shane Clarambeau, Ashley Hansen, Tom Nelson, and Curt Rising

Board staff present: Tyler Laetsch, Jenna Heyen, Melissa DeNoon, Carol Smith, Lee Cordell, Natalie Nunez, and Beth Windschitl

Other parties in attendance

Meeting called to order at 9:04 am by President Hansen. Voice roll call taken, mission statement read, a quorum confirmed, and introductions completed. A call for public comment was made pursuant to SDCL 1-25-1, and there was no public comment.

Motion to approve consent agenda was ratified (Rising/Clarambeau/unanimous)

**EXECUTIVE SESSION** – Per SDCL 1-25-2(3) to consult with legal counsel.

Motion to go into executive session was ratified (Rising/Clarambeau/unanimous) 9:11 am.

Board meeting resumed at 9:51 am.

## REPORTS

### Operations

Tyler Laetsch

- Board staff (Laetsch, Heyen, and DeNoon) attended the annual MPJE review held in Chicago, IL, September 17 – 19, 2005; Participants reviewed over 4,000 MPJE questions.
- A new full-time senior secretary (Lan Van De Rostyne) has been hired and starts on October 27<sup>th</sup>.
- Executive Director's upcoming meetings:
  - Attending a NABP forum in Chicago for executive officers, board members, and inspectors to discuss a variety of topics/issues, including changes in pharmacy, staffing shortage/burnout
  - In November, attending a NABP assembled panel to discuss pharmacy regulations for future discussion at the ASPL annual meeting in Fort Lauderdale
- DOH is applying for a federal grant targeted for rural health. Pharmacy practice is part of the grant application. Information collected centers around the pharmacy's scope of practice and contributions in rural settings
- DOH hosted its second Pharmaceutical Drug Shortage Summit. The board has not been included in this project, outside of invites to these meetings, even though it is responsible for licensing and regulating the entities discussed.
- Virtually attended the Opioid Advisory Committee, serving as a committee member. Group meets twice a year to discuss the disbursement of opioid settlement dollars
- Staff changes at the AG's office have resulted in new representations for the board. Renee Stellager is the board's assigned prosecuting attorney, while Megan Borchart is the board's advising attorney, working on board day-to-day issues, legislation, and law and rule interpretation.
- Receiving questions regarding wholesaler licensing requirements for veterinary-only prescription products. In 2019, the board stopped licensing anyone handling VFD (over-the-counter veterinary food directives added to animal feed). The board does license wholesale entities that handle prescription-only drug products. Entities were confused by the differentiation, and some were not licensed properly.
- Pharmacist and intern licenses expire 9/30/25; a \$50 late fee is assessed for pharmacist late renewals. Technician registration renewal ends 10/31/25. Receiving applications from out-of-state traveling technicians being recruited to work assignments in South Dakota. Further investigation is needed. Wholesale renewal period begins 11/01/25.
- Extended an invitation to board members to ride along with a board inspector to observe an inspection.

### Inspector Highlights

Carol Smith

- Completed 25 regular inspections and four unannounced inspections
- Key Findings:
  - Trilogy receptacle not securely fastened to the wall/floor; receptacle was screwed into the sheet rock using several screws rather than a stud
  - Incorrectly using manufacturer's expiration date on Starter packs rather than the one-year required repackaged expiration date

- Found major lighting issues in a retail pharmacy. Over-head fixtures with four light bulb capacity had only one light bulb working. Observed staff having issues seeing information, having to reposition themselves three inches from their paperwork to see it. Lighting issue was noted in previous year's inspection. Issue was brought to PIC's attention; PIC did not want to bring the issue forward to the owner. Ineffective lighting is a safety issue which I expressed to pharmacy owner and requested to be improved.
- New pharmacist's POA document had the year and day recorded, but no month.
- Check SDIIS immunization submission site for a select 12-day period and identified a reporting discrepancy. COVID and influenza immunizations were not submitted, while all other immunizations had been reported. PIC contacted their software company, which identified issues with the NDC numbers and remedied the problem.
- Unannounced visits
  - One PIC appeared motivated to address inspection items that were not done from last inspections; items were addressed quickly, and PIC continues to keep in touch with the inspector. I felt the visit fostered a willingness to cooperate.
  - PIC was not in the pharmacy. The technician nonchalantly took steps to maneuver the "Pharmacy is temporarily Closed" sign to a visible position. PIC appeared and together completed a controlled substance audit, which was accurate.

#### Lee Cordell

- Completed a total of 16 inspections
- Key Findings:
  - Conducted an inspection of a dental office in conjunction with the Board of Dentistry. Identified issues with controlled substances, expired medications in kits, the site had removed all syringes out of sterile packaging and placed in bins for ease of use, and didn't date multi-dose vials used until empty.
  - A lot of temperature issues with excursions, storing medications in the refrigerator door.
  - Multiple minor issues with drug takeback program –
  - No separation of controlled substance invoices-2s, 3s & 4s, incomplete paperwork
  - Quite a few USP 800 hazardous issues identified – staff members not being able to use the assessment of risk or identify what was hazardous.
  - Pharmacy signage was not put up, especially for identification purposes with controlled substances.
  - POA not available during inspection.
  - Hazardous tray cleaning – sprayed hydrogen peroxide directly on the tray instead of the correct method (spray on a cloth used to wipe the tray).
  - Chain of pharmacies with an increasing number of closures; it is a widespread problem within a single chain; last week, two locations were closed for 2-3 days in a week. Three of the chain locations have only one pharmacist.
    - Staffing issues
    - Patients cannot get their medications and are referred to other locations
    - Huge patient safety issue
    - Discussed - keeping one location consistently open and having a call center helping to transfer prescriptions out; what is the duty of the pharmacy to stay open; what avenue does the board want to pursue; develop store hour requirements in law/rule; patient insurance issued due to closure.
    - An impacted party must file a complaint with the board before any action can be taken

#### Jenna Heyen

- Completed 47 inspections, three of which were unannounced.
- Key Findings:
  - Registered collector paperwork update – some collectors are not compliant / not using the updated Trilogy paperwork; follow through runs the gamut from one collector not documenting anything to a collector location that developed and is successfully maintaining all required paperwork online
  - Some sites are not current with their 2024 NIOSH list, have no hazardous list, and no assessment of risk
  - Issues with repackaging and labeling (one year from labeling)
  - Site performing 795 non-sterile compounding with no certificate of analysis for ingredients (improper record keeping)
  - Pharmacy site over 1:3 pharmacist/tech ratio
  - Several sites with signage updates needed, no pharmacist log at a telepharmacy, which is a DEA requirement
  - Hospital site with no compounding records; not using proper cleaning products for sterile compounding
  - Hospital AMDD – found a large amount of med discrepancies; no one was checking for discrepancies
  - Site completes their DEA controlled substance audit over three days; the entire audit must be completed in one day
  - Environmental Services is incorrectly performing cleaning requirements at a hospital
  - Compounding pharmacy with food and beverages found in the compounding space

#### Prescription Drug Monitoring Program – Melissa DeNoon

- The prescription point of sale date has been added to integration-viewed PDMP patient reports (shows as **sold date** in report) in addition to being on website-viewed reports. The sold date is not one of the fields pharmacies are required to submit; therefore, this date may not be present on reports. If the sold date is not present, the dispensing pharmacy should be contacted to confirm if the prescription has been picked up and sold.

- Updated DEA-compliant liner tracking logs for the drug take-back program have been sent to all participating site PICs.
- Georgia has joined SD's PMP InterConnect sharing group; partners now total 42.
- Reviewed the Clinical Alerts enhancement, sharing statistics on its thresholds.

#### Complaints, Disciplinary Actions, and Loss/Theft Reports – Board Staff

Refer to the audio record for compliance-specific information.

- Complaint 2025-0014, Pharmacy – Motion

Motion was made to accept the signed stipulation for Erin Pritchard involving complaint 2025-14, with requirements to complete a probationary term of four years, participate in the HPAP program, and complete six continuing education credits was ratified (Rising/Clarambeau/unanimous)

- Complaint 2025-0012, Pharmacy
- Complaint 2025-0013, Pharmacy
- Complaint 2025-0015, Pharmacy
- Complaint 2025-0016, Pharmacy
- Complaint 2025-0017, Pharmacy
- DEA Form 106, Lewis - Harrisburg
- DEA Form 106, Lewis - Sioux Falls
- DEA Form 106, Safeway – Rapid City
- DEA Form 106, Walgreens – Mitchell
- DEA Form 106, Avera St. Luke's - Aberdeen
- DEA Form 106, Walgreens – Sioux Falls
- DEA Form 106, Walgreens – Sioux Falls
- DEA Form 106, Walgreens – Sioux Falls
- DEA Form 106, Walgreens - Mitchell

#### **OTHER REPORTS**

##### SD Pharmacists Association – Amanda Bacon, Executive Director

- The 139<sup>th</sup> SDPhA convention was held September 19-20 in Deadwood; attendance numbers were great, and the SDSU Learning Platform explored
- Association is working on its membership structure; bylaws were updated during the conference
- As a result of the One Big Beautiful Bill, \$50 billion in funds have been designated for Federal Rural Health Transformation programs. All states are eligible to apply for funding. Entities in South Dakota have begun the application process.
- SDPhA continues to focus on PBM policy reform and reimbursement models in other states
- Pharmacist dues will cover one-fourth of SDPhA expenses; efforts to identify potential revenue streams continue

##### SD Society of Health System Pharmacists – Alyssa Howard, PharmD (none)

- SDSHP 50<sup>th</sup> Convention will be held April 17-18, 2026, in Sioux Falls. The 51<sup>st</sup> convention will also be in Sioux Falls.
- Dakota Night will be held mid-year; more details to follow
- During Pharmacists' Week, SDSHP will host a new charity event called "A Dose of Giving Campaign".

##### SDSU College of Pharmacy – Brad Laible, PharmD, Associate Dean for Academic Programs

- College is making updates to PharmD curriculum standards – changes to diagnosis and prescribing in all four program years.
- Nationally, pharmacy class sizes continue to fluctuate - 15,000 graduates in 2014 to 9,000 graduates in 2025.
- In 2026, the projected number for pharmacy graduates nationally is 8,000.
- SDSU College of Pharmacy pre-acceptance enrollment levels are up.
- The early assurance program, which guarantees high school seniors a spot in the pre-pharmacy program, is helping to increase enrollment numbers.
- Pharmacy program received ACPE accreditation through 2031
- Metro Center at 33<sup>rd</sup> and Minnesota streets in Sioux Falls is the new home for the PharmD program; move-in will be complete by the end of 2025

##### SD Association of Pharmacy Technicians - Amanda Bacon, SDPhA Executive Director

- SDPhA continues to work with technicians to re-energize the association

#### **OLD BUSINESS**

##### Wellbeing First Champion Challenge – Jenna Heyen / Tyler Laetsch

- South Dakota has achieved WellBeing Champion certification by the Lorna Breen Foundation; annual application/recertification is required to maintain status.

## NEW BUSINESS

### Legislative Update – Tyler Laetsch

#### Rules Update

- Interim Rules Review Committee was held 8/19/25. Most rule changes were deemed complete and went into effect on 9/15/25. Two rules (PIC change fee and remote drop sites for patient medication pick-up) were reverted for further review and discussions regarding variance use and innovative practices outside of scope occurred. As a result, the board will be issuing cease-and-desist letters to entities that previously had a variance to pharmacy rules.

#### 2026 Legislation Update

- The board is working with the Department of Health to assume responsibility for the administration of the State Controlled Substance registrations (CSR). The board is a better fit to administer the program because 1) it issues wholesale and pharmacy licenses, and 2) medical providers who hold a SD CSR are required by law to have an account with the Prescription Drug Monitoring Program (PDMP) administered by the board. CSR fees would fund the PDMP program. The PDMP program is currently funded using federal grant sources that are going away.
- Plan to introduce a bill to clarify remote drop sites, define a pharmacist-in-charge, and establish pilot programs in statute
- Efforts will be made in conjunction with the Department of Health to correct Medical Cannabis program data collection requirements that were established in a 2024 bill. Having the indicator on the PDMP will help providers make more informed prescribing and dispensing clinical decisions, providing a one-stop point for complete data review. Legislation to repeal the medical cannabis requirement in 34-20E-2 will need to be repealed if the indicator is not added to the PDMP in order for the board to be compliant.

### RFP for Licensing Software - Tyler Laetsch

- Board continues to work with IT to meet State security requirements so a final, official contract can be rendered and the vendor awarded. The board office would like the new system to be in place by June 1, 2026.

### Policy Statement – Patient Abandoned Controlled Substance Medications – Jenna Heyen/Tyler Laetsch

- Annual review of policy statements. Discussed changes as a result of the state directive to rescind all variances and the newest policy regarding abandoned medications. DE's current position on the topic is that medications are the property of the patient, and other parties are not entitled to them. However, if a state has guidance on how to handle these situations, they expect the entity to follow the guidance.

### Review of Current Policy Statements

- Technician certification requirement – policy removed as certification requirement has been removed in law and rule
- Remote pick-up sites – guideline removed as board cannot currently grant variances
- Off-site after-hours pharmacy – policy remains unchanged
- Starter packs – policy removed as is in rule
- Prescribing authority – removal of the PA limit to 30-day C2 prescription requirement and addition needed of a citation for information included

Motion was made to remove the policy statements relating to technician certification, remote pick-up sites, and packs, and to accept off-site after-hours pharmacy as is, and to update the prescribing authority document (Clarambeau/Rising/unanimous)

### Historical Variances Discussion

- Variances and pilot programs are an essential part of advancing the practice of pharmacy faster than law and rule, so it can be responsive to needs as they arise.

### Continuing Education for Board Meetings

- Discussed whether or not the board would be interested in granting/offering continuing education credit for in-person attendance at board meetings. One hour for the operations reports and one hour for old business and new business. Starting January 2026

## OTHER BUSINESS

### Recent Meeting News

- District V NAPB/AACP 2025 Meeting, August 6-8, 2025, Coralville, IA
- 139<sup>th</sup> SDPhA Annual Convention, September 19-20, 2025, Deadwood, SD

### Future Board Meetings – all held in Sioux Falls Board Room unless otherwise noted.

- January 16, 2026, 9:00 am
- April 10, 2026, 9:00 am

- July 24, 2026, 9:00 am
- October 9, 2026, 9:00 am

Upcoming Meetings

- SDSHP 50<sup>th</sup> Annual Conference, April 17-18, 2026, Sioux Falls, SD
- NABP 122<sup>nd</sup> Annual Meeting, May 12-15, 2026, Boston, MA
- District V NABP/AACP 2026 Meeting, August 5-7, 2026, Minneapolis, MN
- 140<sup>th</sup> SDPhA Annual Convention, September 10-12, 2026, Brookings, SD

Motion to adjourn (Clarambeau/Rising). Meeting adjourned at 12:03 (CDT).

**LICENSE SUMMARY****PERIOD 10/1/25 – 12/31/25****PHARMACISTS**

2183 Current Total

15 New Licenses for period

License #	Last Name	First Name	City	State
7317	Lee	Nathan	Cottage Grove	MN
7326	Smith	Sarah	Sioux Falls	SD
R-7315	Hack-Gordon	Jamie	Charles Town	WV
R-7316	Masse	Jordan	Troy	MI
R-7318	Servatius	Alexander	Eagle	ID
R-7319	Obika	Adaobi	Rosebud	SD
R-7320	Nelson	Danielle	Fargo	ND
R-7321	Busuttil	Michael	Indianapolis	IN
R-7322	LaVigne	Catherine	Orland Park	IL
R-7323	Dong	Anh	Fort Worth	TX
R-7324	Mullens	Jessica	Caddo	OK
R-7325	Treece	Stephen	Lake Barrington	IL
R-7327	Lux	Molly	Spearfish	SD
R-7328	Wesche	Nathan	Bridgeton	MO
R-7329	Chicoine	Paula	Sioux Falls	SD

**INTERNS**

194 Current Total

13 New Licenses for period

License #	Last Name	First Name	City	State
I-3430	Brost	Lauren	Omaha	NE
I-3429	Askdal	Reagan	Nisswa	MN
I-3428	Henrich	Sawyer	Fargo	ND
I-3427	Fehlhafer	Grace	Sioux Center	IA
I-3425	Kelley	Madison	Sioux City	IA
I-3426	Houser	Mya	Rapid City	SD
I-3424	Thomas	Kellen	Brookings	SD
I-3423	Buschkamp	Garret	Crofton	NE
I-3418	McManus	Rory	Sioux Falls	SD
I-3419	Larson	Beckett	Minneapolis	MN
I-3420	Stickler	Jeremy	Sioux Falls	SD
I-3422	Guimont	Lillian	Canby	OR
I-3421	Friday	Natalie	Council Bluffs	IA

**SD FULL-TIME PHARMACIES**

234 Current Total

1 New Licenses for period

License #	Business	DBA	City	Issued
100-2103	Animart LLC	dba Armor Livestock Pharmacy #03	Sioux Falls	10/23/2025

**SD PART-TIME PHARMACIES**

75 Current Total

0 New Licenses for period

**TECHNICIAN**

1482 Current Total

76 New Licenses for period

**NON-RESIDENT PHARMACIES**

1017 Current Total

50 New Licenses for period

**WHOLESALE & OTHER DRUG DISTRIBUTORS**

1264 Current Total

30 New Licenses for period

# Remaining Authority by Object/Subobject

Expenditures current through 01/03/2026 09:50:29 AM

HEALTH -- Summary

FY 2026 Version -- AS -- Budgeted and Informational

FY Remaining: 49.0 %

09209	Board of Pharmacy - Info	Operating	Expenditures	Encumbrances	Commitments	Remaining	PCT AVL
<b>EMPLOYEE SALARIES</b>							
5101010	F-t Emp Sal & Wages	667,552	253,101	0	0	414,451	62.1
5101020	P-t/temp Emp Sal & Wages	212,749	73,539	0	0	139,210	65.4
5101030	Board & Comm Mbrs Fees	5,502	2,324	0	0	3,178	57.8
<b>Subtotal</b>		<b>885,803</b>	<b>328,964</b>	<b>0</b>	<b>0</b>	<b>556,839</b>	62.9
<b>EMPLOYEE BENEFITS</b>							
5102010	Oasi-employer's Share	67,765	24,275	0	0	43,490	64.2
5102020	Retirement-er Share	33,293	18,513	0	0	14,780	44.4
5102060	Health Insurance-er Share	80,731	43,874	0	0	36,857	45.7
5102080	Worker's Compensation	1,248	327	0	0	921	73.8
5102090	Unemployment Compensation	370	149	0	0	221	59.7
<b>Subtotal</b>		<b>183,407</b>	<b>87,138</b>	<b>0</b>	<b>0</b>	<b>96,269</b>	52.5
<b>51 Personal Services</b>							
<b>Subtotal</b>		<b>1,069,210</b>	<b>416,102</b>	<b>0</b>	<b>0</b>	<b>653,108</b>	61.1
<b>TRAVEL</b>							
5203010	Auto-state Owned-in State	3,229	2,348	0	0	881	27.3
5203020	Auto Priv (in-st.) L/rte	2,600	443	0	0	2,157	83.0
5203030	Auto-priv (in-st.) H/rte	7,090	5,723	0	0	1,367	19.3
5203040	Air-state Owned-in State	3,000	0	0	0	3,000	100.0
5203100	Lodging/in-state	9,673	1,185	0	0	8,488	87.7
5203140	Meals/taxable/in-state	1,679	572	0	0	1,107	65.9
5203150	Non-taxable Meals/in-st	2,000	1,046	0	0	954	47.7
5203220	Auto-priv.(out-state) L/r	200	0	0	0	200	100.0
5203230	Auto-priv.(out-state) H/r	1,600	0	0	0	1,600	100.0
5203260	Air-comm-out-of-state	10,000	1,914	0	0	8,086	80.9
5203280	Other-public-out-of-state	100	354	0	0	-254	0.0
5203300	Lodging/out-state	9,900	1,602	0	0	8,298	83.8
5203320	Incidentals-out-of-state	652	208	0	0	444	68.1
5203350	Non-taxable Meals/out-st	900	554	0	0	346	38.4
<b>Subtotal</b>		<b>52,623</b>	<b>15,949</b>	<b>0</b>	<b>0</b>	<b>36,674</b>	69.7
<b>CONTRACTUAL SERVICES</b>							
5204010	Subscriptions	250	266	0	0	-16	0.0
5204020	Dues & Membership Fees	500	100	0	0	400	80.0
5204050	Computer Consultant	258,067	215,501	79,223	0	-36,657	0.0
5204080	Legal Consultant	4,278	0	0	0	4,278	100.0

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09209	Board of Pharmacy - Info	Operating	Expenditures	Encumbrances	Commitments	Remaining	PCT AVL
	Subobject						
5204100	Medical Consultant	0	10,000	0	0	-10,000	0.0
5204140	Contract Pymts To St Agen	15,200	0	0	0	15,200	100.0
5204160	Workshop Registration Fee	6,500	1,893	0	0	4,607	70.9
5204180	Computer Services-state	41,812	17,175	0	0	24,637	58.9
5204181	Computer Services-state	3,919	0	0	0	3,919	100.0
5204200	Central Services	9,028	4,246	0	0	4,782	53.0
5204202	Central Services	103	0	0	0	103	100.0
5204203	Central Services	103	0	0	0	103	100.0
5204204	Central Services	418	208	0	0	210	50.2
5204207	Central Services	5,638	2,763	0	0	2,875	51.0
5204220	Equipment Serv & Maint	600	287	0	0	313	52.2
5204320	Audit Services-private	1,000	0	0	0	1,000	100.0
5204330	Computer Software Lease	500	0	0	0	500	100.0
5204360	Advertising-newspaper	1,000	0	0	0	1,000	100.0
5204430	Publishing	1,000	684	0	0	316	31.6
5204460	Equipment Rental	2,100	196	0	0	1,904	90.7
5204510	Rents-other	250	0	0	0	250	100.0
5204521	Revenue Bond Lease Payment	600	403	0	0	197	32.8
5204525	Revenue Bond Lease Payment	42,277	20,215	0	0	22,062	52.2
5204530	Telecommunications Svcs	5,200	4,093	0	0	1,107	21.3
5204550	Garbage & Sewer	400	0	0	0	400	100.0
5204590	Ins Premiums & Surety Bds	2,450	0	0	0	2,450	100.0
5204620	Taxes & License Fees	187,708	0	0	0	187,708	100.0
5204960	Other Contractual Service	392,878	65,383	0	0	327,495	83.4
<b>Subtotal</b>		<b>983,779</b>	<b>343,413</b>	<b>79,223</b>	<b>0</b>	<b>561,143</b>	<b>57.0</b>

## SUPPLIES & MATERIALS

5205020	Office Supplies	4,300	387	0	0	3,913	91.0
5205040	Educ & Instruc Supplies	300	0	0	0	300	100.0
5205310	Printing-state	1,100	0	0	0	1,100	100.0
5205320	Printing-commercial	400	13	0	0	387	96.8
5205330	Supp. Public & Ref Mat	50	0	0	0	50	100.0
5205350	Postage	2,780	270	0	0	2,510	90.3
5205390	Food Stuffs	20	0	0	0	20	100.0
5205980	Procurement Card Purchase	100	0	0	0	100	100.0
<b>Subtotal</b>		<b>9,050</b>	<b>670</b>	<b>0</b>	<b>0</b>	<b>8,380</b>	<b>92.6</b>

## CAPITAL OUTLAY

5207901	Computer Hardware	5,764	4,166	3,718	0	-2,120	0.0
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HEALTH -- Summary

FY 2026 Version -- AS -- Budgeted and Informational

FY Remaining: 49.0 %

09209	Board of Pharmacy - Info						PCT
	Subobject	Operating	Expenditures	Encumbrances	Commitments	Remaining	AVL
5207960	Computer Software	30,000	0	0	0	30,000	100.0
5207961	Computer Software	0	278	1	0	-279	0.0
	<b>Subtotal</b>	<b>35,764</b>	<b>4,444</b>	<b>3,719</b>	<b>0</b>	<b>27,601</b>	<b>77.2</b>
	<b>52 Operating</b>						
	<b>Subtotal</b>	<b>1,081,216</b>	<b>364,476</b>	<b>82,942</b>	<b>0</b>	<b>633,798</b>	<b>58.6</b>
	<b>Total</b>	<b>2,150,426</b>	<b>780,578</b>	<b>82,942</b>	<b>0</b>	<b>1,286,906</b>	<b>59.8</b>



## 2026 South Dakota Legislature

# Senate Bill 14

*Introduced by: The Chair of the Committee on Health and Human Services at the request of the State Board of Pharmacy*

1 **An Act to modify provisions related to the practice of pharmacy.**

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

3 **Section 1. That § 36-11-2 be AMENDED:**

4                   **36-11-2.** Terms used in this chapter mean:

5       (1) "Biological product," as defined in 42 U.S.C. § 262(i), (January 1, 2018);  
6       (2) "Board," the State Board of Pharmacy;  
7       (3) "Brand name," the proprietary or registered trademark name given to a drug  
8                   product by its manufacturer, labeler, or distributor and placed on the drug or on  
9                   its container, label, or wrapping at the time of packaging;  
10      (4) "Compounding," the preparation, mixing, assembling, packaging, or labeling of a  
11                  drug or drug device, as the result of a practitioner's prescription drug order or an  
12                  initiative based on the pharmacist/patient/and practitioner relationship in the  
13                  course of professional practice, or for the purpose of or as an incident to research,  
14                  teaching, or chemical analysis, and not for sale or dispensing. The term also  
15                  includes the preparation of drug or drug devices in anticipation of prescription drug  
16                  orders based on routine, regularly observed prescribing patterns;  
17      (5) "Delivery," the actual, constructive, or attempted transfer of a drug or drug device  
18                  from one person to another, whether or not for a consideration;  
19      (6) "Dispensing," the preparation and delivery of a drug to a patient or a patient's  
20                  agent pursuant to a prescription drug order in a suitable container with appropriate  
21                  labeling for subsequent administration to or use by a patient. The term includes  
22                  preparation of labels for drug devices if the labeling is related to the dosage and  
23                  administration of drugs;  
24      (7) "Distributing," the delivery of a drug or drug device other than by administration  
25                  or dispensing;

- 1       (8)    "Drug administration," the direct application of a drug or drug device by injection,  
2            inhalation, ingestion, or any other means to the body of a patient or research  
3            subject;
- 4       (9)    "Drug device," equipment,a process,a biotechnological entity,a diagnostic agent,  
5            or other product used in combination with a drug to provide effective management  
6            of medication regimens;
- 7       (10)   "Equivalent drug product," a drug product, other than a biological product, that is  
8            considered to be therapeutically equivalent to other pharmaceutically equivalent  
9            products as determined by the edition of Approved Drug Products with Therapeutic  
10            Equivalence Evaluations adopted by the board through rules promulgated pursuant  
11            to chapter 1-26;
- 12      (11)   "Interchangeable biological product," a biological product that the United States  
13            Food and Drug Administration either has licensed and determined meets the  
14            standards for interchangeability pursuant to 42 U.S.C. § 262(k)(4), (January 1,  
15            2018), or has determined is therapeutically equivalent, as set forth in the edition  
16            of Approved Drug Products with Therapeutic Equivalence Evaluations as adopted  
17            by the board through rules promulgated pursuant to chapter 1-26;
- 18      (12)   "Labeling," the process of preparing and affixing a label to any drug or drug device  
19            container exclusive of the labeling by the manufacturer, packer, or distributor of a  
20            nonprescription drug or commercially packaged legend drug or drug device;
- 21      (13)   "Medicines," drugs or chemicals, or their preparations, in suitable form for the  
22            prevention, relief, or cure of diseases when used either internally or externally by  
23            man or for animals;
- 24      (14)   "Nonprescription drugs," drugs that are labeled for use by the general public in  
25            accordance with 21 U.S.C. § 352 (January 1, 2025), and may be sold without a  
26            prescription drug order in accordance with 21 U.S.C. § 353 (January 1, 2025). The  
27            term does not include drugs that are required by federal law to bear the statement  
28            "Caution: federal law prohibits dispensing without prescription," drugs intended for  
29            human use by hypodermic injection, or animal remedies regulated by chapter 39-  
30            18;
- 31      (15)   "Patient counseling," oral communication by the pharmacist of information to the  
32            patient or caregiver to improve therapy by ensuring proper use of drugs and drug  
33            devices;
- 34      (16)   "Pharmaceutical care," provision of drug therapy and other pharmaceutical patient  
35            care services intended to achieve outcomes related to curing or preventing a

disease, eliminating or reducing a patient's symptoms, or arresting or slowing a disease process;

(17) "Pharmacist," a person licensed by the board to engage in the practice of pharmacy;

(18) "Pharmacist-in-charge," a pharmacist designated by a pharmacy owner to assume full legal responsibility for all professional and facility operations;

(19) "Pharmacy," any place of business within or outside this state where drugs are dispensed and pharmaceutical care is provided to residents of this state;

~~(19)~~(20) "Practitioner," a person licensed, registered, or otherwise authorized by the jurisdiction in which the person is practicing to prescribe drugs in the course of professional practice;

(20)(21) "Prescription drug order," a written or oral order of a practitioner for a drug or drug device for a specific patient;

(21)(22) "Proper name," the nonproprietary name for a biological product designated by the United States Food and Drug Administration license for use upon each package of the product; and

(22)(23) "Registered pharmacy technician," a person registered by the board who is employed by a pharmacy to assist pharmacists in the practice of pharmacy by performing specific tasks delegated by and under the immediate personal supervision and control of a pharmacist, as permitted by the board.

**Section 2. That § 36-11-11 be AMENDED:**

**36-11-11.** The Board of Pharmacy ~~may~~ shall 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;

- 1       (8) To adopt such publications or supplements thereto, as shall from time to time be  
2            deemed necessary to describe the drugs, medicines, prescription drugs, or  
3            dispensing physician ~~or other terms defined in § 36-11-2~~;
- 4       (9) Pertaining to the posting of prescription prices on the premises of a pharmacy  
5            department to provide consumers with comparative pricing information;
- 6       (10) Pertaining to the registration of drug wholesalers and manufacturers;
- 7       (11) Pertaining to home health care and service;
- 8       (12) Pertaining to computerized pharmacy;
- 9       (13) Pertaining to the registration of registered pharmacy technicians; an annual  
10            registration fee not to exceed thirty dollars; and tasks that may not be delegated  
11            by a licensed pharmacist to a registered technician;
- 12       (14) ~~Redispensing~~ Pertaining to the redispensing of pharmaceuticals; ~~and~~
- 13       (15) Pertaining to the dispensing of biological products; ~~and~~
- 14       (16) Pertaining to remote drop sites, as authorized in section 10 of this Act.

15      **Section 3. That § 36-11-32 be AMENDED:**

16      **36-11-32.** The board ~~shall~~ may issue a pharmacy license ~~only to a pharmacist in~~  
17            ~~good standing, if the pharmacist:~~

- 18       (1) Submits A pharmacist who is the owner, or part owner, of the merchandise and  
19            fixtures of the place of business for which the pharmacy license is applied for,  
20            provided:
  - 21           (a) The pharmacist will serve as the pharmacist-in-charge; or
  - 22           (b) The pharmacist has submitted an affidavit, on a form prescribed by the  
23            board, delegating complete responsibility for the pharmaceutical services in  
24            the place of business to another pharmacist-in-charge; or
- 25       (2) A non-pharmacist owner of the merchandise and fixtures of the place of business  
26            for which the pharmacy license is applied for, provided the owner has submitted  
27            an affidavit on a form prescribed by the board delegating complete responsibility  
28            for the pharmaceutical services in the place of business to a pharmacist-in-charge.  
29           The applicant for the pharmacy license shall submit a form prescribed by the board;  
30           and  
31           (2) Pays and pay a fee, not to exceed two hundred dollars, set by the board in rules  
32           promulgated in accordance with chapter 1-26.

33      **Section 4. That § 36-11-33 be AMENDED:**

1                   **36-11-33.** The board may issue ~~to a pharmacist in good standing~~ a license to  
2 operate a part-time pharmacy in a hospital, nursing facility, or related facility, provided  
3 that the pharmacy services are limited to inpatients or residents of the facility.

4                   The board may issue a license under this section if:

5                   (1) ~~The pharmacist owner of the proposed pharmacy~~ submits a form prescribed by the  
6 board and pays a fee, not to exceed two hundred dollars, set by the board in rules  
7 promulgated in accordance with chapter 1-26; and

8                   (2) ~~The merchandise and fixtures of the pharmacy are owned by a person other than~~  
9 ~~the pharmacist applying for the license owner:~~

10                   (a) Is a pharmacist and will serve as the pharmacist-in-charge; or  
11                   (b) Submits an affidavit, on a form prescribed by the board, delegating  
12 complete responsibility for the pharmaceutical services in the proposed  
13 pharmacy to a pharmacist-in-charge.

14                   The ~~pharmacist~~ pharmacist-in-charge must ensure all staff comply with the  
15 provisions of this chapter and with minimum standards, as established by the board in  
16 rules promulgated pursuant to chapter 1-26.

17                   **Section 5. That § 36-11-35 be AMENDED:**

18                   **36-11-35.** Each pharmacy license expires on June thirtieth following the date of  
19 ~~issue issuance~~. To renew a pharmacy license, the ~~pharmacist owner~~ must submit a  
20 renewal application on or before June thirtieth on a form prescribed by the board, and pay  
21 the renewal fee set by the board in rules promulgated in accordance with chapter 1-26,  
22 but not exceeding two hundred dollars. If the renewal application and fee is submitted  
23 after the expiration of the license, the board must assess a fifty-dollar late fee and may  
24 reinstate the license.

25                   If a majority ownership of the pharmacy changes, the new owners must, within  
26 thirty days after ownership change:

27                   (1) Submit the renewal application, indicating the change of ownership; and  
28                   (2) Pay the renewal fee established by the board as provided in this section.

29                   **Section 6. That § 36-11-37 be AMENDED:**

30                   **36-11-37.** A ~~pharmacy license may be transferred to another pharmacist owner~~  
31 ~~may change the designation of the pharmacist-in-charge~~, provided an application for the  
32 ~~transfer of the license change~~ is made upon a form prescribed by the board and upon  
33 payment of a fifty dollar fee. The application ~~for transfer~~ must be filed with the board not

1 more than ten days after the ~~transfer~~ change of active management is made. If the  
2 application ~~for transfer~~ is received by the board after ten days, the pharmacy license is  
3 void, and the ~~pharmacist~~ owner must reapply for the license.

4 When a change in the designation of a pharmacist-in-charge occurs, an on-hand  
5 inventory of controlled substances, as listed in chapter 34-20B, must be completed. The  
6 inventory must be taken on the date the new pharmacist-in-charge assumes active  
7 management of the pharmacy. The inventory list must be retained in the pharmacy for  
8 two years from the date of the inventory.

9 **Section 7. That § 36-11-38 be AMENDED:**

10 **36-11-38.** In the event of the death of the ~~pharmacist in active management~~  
11 ~~pharmacist-in-charge~~, the pharmacy license issued ~~to the deceased~~ under this chapter  
12 shall, within one hundred twenty days after the date of death or on June thirtieth,  
13 whichever is sooner, become null and void, unless the ~~license is transferred~~ designation  
14 of the pharmacist-in-charge is changed as provided in § 36-11-37.

15 **Section 8. That § 36-11-44 be AMENDED:**

16 **36-11-44.** Any pharmacist who permits the compounding or dispensing of  
17 prescriptions or the vending of drugs in the pharmacist's place of business, except under  
18 the personal supervision of a pharmacist, or any pharmacist who, while continuing in  
19 business, makes any false representations to procure a license for the pharmacist or any  
20 other person, is guilty of a Class 2 misdemeanor.

21 The delivery of a drug or drug device to a patient outside of a pharmacy by courier,  
22 mail, or remote drop site is not considered a violation of this chapter, if done so under the  
23 supervision of a pharmacist in a licensed pharmacy.

24 **Section 9. That § 36-11-48 be AMENDED:**

25 **36-11-48.** The board may suspend or revoke, in accordance with chapter 1-26,  
26 any pharmacy license issued under this chapter on the following grounds:

27 (1) The license was obtained by false representations made in the application therefor;  
28 (2) The pharmacy for which the license was issued was kept open for the transaction  
29 of business without a ~~pharmacist in charge thereof~~ pharmacist-in-charge;  
30 (3) Conviction of a violation of any law of this state or of the United States pertaining  
31 to the drug business or for the aiding or abetting in the violation of the law;

- (4) The active management of the pharmacy was changed without the ~~transfer change in designation of the pharmacist-in-charge~~, as provided in § 36-11-37; or the license;
- (5) The location of the pharmacy was changed without the change being reported as provided in § 36-11-39;
- (6) The pharmacy was kept open for the transaction of business after the pharmacist owner ceased to be in active management of the pharmacy, ~~without a change in designation of the pharmacist-in-charge~~, as provided in § 36-11-37; or
- (7) The minimum requirements of this chapter and the board are no longer met; or
- (8) The majority ownership of the pharmacy changed without the change being reported as provided in § 36-11-35.

12 A pharmacy license may not be suspended or revoked except by a vote of three or  
13 more members of the board.

## 14 Section 10. That a NEW SECTION be added to chapter 36-11:

15           A licensed pharmacy may utilize a remote drop site to deliver prescription drugs to  
16           patients if:

- (1) The remote drop site is under the supervision of the pharmacist-in-charge; and
- (2) The prescription drugs are prepared by, and remain under the control of, the pharmacy.

20 A remote drop site is not required to be separately licensed as a pharmacy.

## 21 Section 11. That § 36-11-34 be REPEALED.

22 The board may not issue a pharmacy license to any pharmacist applicant unless:

- (1) The applicant is the owner, or part owner, of the merchandise and fixtures of the place of business for which the pharmacy license is applied for;
- (2) The application is made jointly with a pharmacist owner; or
- (3) The nonpharmacist owner of the merchandise and fixtures of the place of business for which the pharmacy license is applied for, has submitted an affidavit on a form prescribed by the board delegating complete responsibility for the pharmaceutical services in said place of business to the pharmacist applicant.