



2025 South Dakota Legislature

House Bill 1016

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 revise provisions related to pharmacy.**

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

3 **Section 1. That § 13-33A-4 be AMENDED:**

4 **13-33A-4.** Any school may acquire and maintain a stock of epinephrine auto-
 5 injectors pursuant to a prescription issued by an authorized health care provider for use
 6 in an emergency situation of a severe allergic reaction causing anaphylaxis. The provisions
 7 of this section are not subject to the prescription requirements in ~~subdivision 36-11-2(21)~~
 8 chapter 36-11.

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

10 **36-11-2.** Terms used in this chapter mean:

11 (1) ~~"Association," the South Dakota Pharmacists Association;~~

12 ~~(2)~~ "Biological product," as defined in 42 U.S.C. § 262(i), ~~as of (January 1, 2018);~~

13 ~~(3)(2)~~ "Board," ~~or "board of pharmacy,"~~ the State Board of Pharmacy ~~in South Dakota;~~

14 ~~(4)(3)~~ "Brand name," the proprietary or registered trademark name given to a drug
 15 product by its manufacturer, labeler, or distributor and placed on the drug or on
 16 its container, label, or wrapping at the time of packaging;

17 ~~(5)~~ ~~"Chemicals," the chemical materials or medicine;~~

18 ~~(6)(4)~~ "Compounding," the preparation, mixing, assembling, packaging, or labeling of a
 19 drug or drug device as the result of a practitioner's prescription drug order or an
 20 initiative based on the pharmacist/patient/practitioner relationship in the course of
 21 professional practice or for the purpose of or as an incident to research, teaching,
 22 or chemical analysis and not for sale or dispensing. The term also includes the
 23 preparation of drug or drug devices in anticipation of prescription drug orders based
 24 on routine, regularly observed prescribing patterns;

- 1 ~~(7)~~(5) "Delivery," the actual, constructive, or attempted transfer of a drug or drug device
2 from one person to another, whether or not for a consideration;
- 3 ~~(8)~~(6) "~~Dispense~~ or "Dispensing," the preparation and delivery of a drug to a patient or
4 a patient's agent pursuant to a prescription drug order in a suitable container with
5 appropriate labeling for subsequent administration to or use by a patient. The term
6 includes preparation of labels for drug devices if the labeling is related to the
7 dosage and administration of drugs;
- 8 ~~(9)~~(7) "Distributing," the delivery of a drug or drug device other than by administration
9 or dispensing;
- 10 ~~(10)~~(8) "Drug administration," the direct application of a drug or drug device by
11 injection, inhalation, ingestion, or any other means to the body of a patient or
12 research subject;
- 13 ~~(11)~~(9) "Drug device," equipment, process, biotechnological entity, diagnostic agent, or
14 other product used in combination with a drug to provide effective management
15 of medication regimens;
- 16 ~~(12)~~ "Drug utilization review program," any program operated solely or partially as a
17 professional standards review organization whose purpose is to educate
18 pharmacists and practitioners on severe adverse reactions to drugs, therapeutic
19 appropriateness, overutilization and underutilization, appropriate use of generic
20 products, therapeutic duplication, drug-disease contraindications, drug-drug
21 interactions, incorrect drug dosage or duration of drug treatment, drug-allergy
22 interactions and clinical abuse or misuse, as well as to identify and reduce the
23 frequency of patterns of potential and actual fraud, abuse, gross overuse,
24 inappropriate care or medically unnecessary care associated with specific drugs or
25 groups of drugs among practitioners, pharmacists and patients;
- 26 ~~(13)~~(10) "Equivalent drug product," a drug product, other than a biological product, that
27 is considered to be therapeutically equivalent to other pharmaceutically equivalent
28 products as determined by the latest edition of Approved Drug Products with
29 Therapeutic Equivalence Evaluations, as adopted by the board through rules
30 promulgated pursuant to chapter 1-26;
- 31 ~~(14)~~(11) "Interchangeable biological product," a biological product that the U.S. United
32 States Food and Drug Administration either has licensed and determined meets the
33 standards for interchangeability pursuant to 42 U.S.C. § 262(k)(4), as of (January
34 1, 2018), or has determined is therapeutically equivalent, as set forth in the latest
35 edition of, or any supplement to, the Food and Drug Administration's Approved

1 Drug Products with Therapeutic Equivalence Evaluations ~~publication~~ as adopted by
2 the board through rules promulgated pursuant to chapter 1-26;

3 ~~(15)~~(12) "Labeling," the process of preparing and affixing a label to any drug or drug
4 device container exclusive of the labeling by the manufacturer, packer, or
5 distributor of a nonprescription drug or commercially packaged legend drug or drug
6 device;

7 ~~(16)~~ "Medical device," an instrument, apparatus, implement, machine, contrivance,
8 implant, in vitro reagent or other similar or related article, including any
9 component, part or accessory, that is intended for use in the diagnosis of disease
10 or other conditions or in the cure, mitigation, treatment or prevention of disease
11 in man or other animals or is intended to affect the structure or any function of the
12 body of man or other animals, that does not achieve any of its principal intended
13 purposes through chemical action within or on the body of man or other animals
14 and that is not dependent upon being metabolized for achievement of any of its
15 principal intended purposes;

16 ~~(17)~~(13) "Medicines," drugs or chemicals, or their preparations, in suitable form for the
17 prevention, relief, or cure of diseases when used either internally or externally by
18 man or for animals;

19 ~~(18)~~(14) "Nonprescription drugs," drugs that are labeled for use by the general public in
20 accordance with ~~§ 502 of the Federal Food, Drug and Cosmetic Act as amended~~
21 ~~through January 1, 1997,~~ 21 U.S.C. § 352 (January 1, 2025), and may be sold
22 without a prescription drug order in accordance with ~~§ 503 of the Federal Food,~~
23 ~~Drug and Cosmetic Act as amended through January 1, 1997,~~ 21 U.S.C. § 353
24 (January 1, 2025). The term does not include drugs ~~which~~ that are required by
25 federal law to bear the statement, "Caution: federal law prohibits dispensing
26 without prescription," drugs intended for human use by hypodermic injection, or
27 animal remedies regulated by chapter 39-18;

28 ~~(19)~~(15) "Patient counseling," oral communication by the pharmacist of information to
29 the patient or caregiver, ~~as defined in rules promulgated pursuant to chapter 1-26,~~
30 to improve therapy by ensuring proper use of drugs and drug devices;

31 ~~(20)~~(16) "Pharmaceutical care," provision of drug therapy and other pharmaceutical
32 patient care services intended to achieve outcomes related to ~~cure~~ curing or
33 ~~prevention of preventing~~ eliminating a disease, ~~elimination~~ eliminating or ~~reduction of~~ reducing
34 a patient's symptoms, or arresting or slowing ~~of~~ a disease process;

Underscores indicate new language.
Overstrikes indicate deleted language.

- 1 ~~(21)~~(17) "Pharmacist," a person licensed by the board to engage in the practice of
 2 pharmacy;
- 3 ~~(22)~~(18) "Pharmacy," any place of business within or outside this state ~~licensed by the~~
 4 ~~board~~ where drugs are dispensed and pharmaceutical care is provided to residents
 5 of this state;
- 6 ~~(23)~~(19) "Practitioner," a person licensed, registered, or otherwise authorized by the
 7 jurisdiction in which the person is practicing to prescribe drugs in the course of
 8 professional practice;
- 9 ~~(24)~~(20) "Prescription drug order," a written or oral order of a practitioner for a drug or
 10 drug device for a specific patient;
- 11 ~~(25)~~(21) "Proper name," the nonproprietary name for a biological product designated by
 12 the U.S. United States Food and Drug Administration license for use upon each
 13 package of the product; and
- 14 ~~(26)~~(22) "Registered pharmacy technician," a person registered by the board who is
 15 employed by a pharmacy to assist ~~licensed~~ pharmacists in the practice of pharmacy
 16 by performing specific tasks delegated by and under the immediate personal
 17 supervision and control of a ~~licensed~~ pharmacist, as permitted by the board;
- 18 ~~(27)~~—"Retail place of business," any place where merchandise is sold at retail and from
 19 which original packages of nonprescription drugs are sold or taken to be sold at
 20 retail;
- 21 ~~(28)~~—"Reverse distributor," any person or business registered with the Drug Enforcement
 22 Administration that accepts drug products from vendors and returns the drug
 23 products to manufacturers for credit or destruction.

24 **Section 3. That § 36-11-2.1 be AMENDED:**

- 25 **36-11-2.1. ~~Drugs~~** For the purpose of this chapter, "drugs" are defined as follows:
- 26 (1) Articles recognized in the official United States Pharmacopoeia or the official
 27 National Formulary, as adopted by the board ~~of pharmacy through rules~~
 28 promulgated pursuant to chapter 1-26, or recognized in the official Homeopathic
 29 Pharmacopoeia of the United States as in effect on January 1, 1993;
- 30 (2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention
 31 of disease in humans or other animals;
- 32 (3) Articles ~~{_other than food}_~~, intended to affect the structure or any functions of the
 33 human body; and
- 34 (4) Articles intended for use as a component of any articles specified in this section.

1 The term "drugs" excludes medical devices.

2 For the purposes of this section, "medical device" means an instrument, apparatus,
3 implement, machine, contrivance, implant, in vitro reagent, or other similar or related
4 article, including any component, part, or accessory, that is intended for use in the
5 diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention
6 of disease in humans or animals, or is intended to affect the structure or any function of
7 the body of humans or animals, that does not achieve any of its principal intended
8 purposes through chemical action within or on the body of humans or animals and that is
9 not dependent upon being metabolized for achievement of any of its principal intended
10 purposes.

11 **Section 4. That § 36-11-5 be AMENDED:**

12 **36-11-5.** ~~The Board of Pharmacy board~~ shall hold meetings for the examination of
13 applicants for licensure and registration, and the transaction of ~~such~~ other business ~~as~~
14 ~~shall pertain that pertains~~ to its duties. Special meetings of the board may be held
15 whenever ~~it shall be~~ deemed necessary by a majority of the ~~members thereof~~ board. ~~Two~~
16 Three members of ~~such~~ the board ~~shall constitute~~ constitutes a quorum.

17 **Section 5. That § 36-11-13 be AMENDED:**

18 **36-11-13.** It is a Class 2 misdemeanor for any person other than a pharmacist
19 registered ~~under the laws of South Dakota~~ to engage in the practice of pharmacy, ~~except~~
20 as provided by § 36-11-14.

21 **Section 6. That § 36-11-15 be AMENDED:**

22 **36-11-15.** Any person, ~~other than a registered~~ pharmacist, who compounds or
23 dispenses drugs, medicines, or poisons, or who keeps a pharmacy or store for retailing or
24 compounding medicines, or who takes, uses, or exhibits the title of a ~~registered~~
25 pharmacist, is guilty of a Class 2 misdemeanor.

26 **Section 7. That § 36-11-16 be AMENDED:**

27 **36-11-16.** ~~Any person of~~ The board shall issue a license to practice pharmacy to
28 an individual who:
29 (1) Submits an application prescribed by the board;

1 (2) Submits an application fee set by the board through rules promulgated in
2 accordance with chapter 1-26, but not exceeding thirty-five dollars;

3 (3) Is of good moral character and temperate habits;

4 (4) Is not less than eighteen years of age,~~who is;~~

5 (5) Is a graduate of a college of pharmacy recognized and approved by the board,~~and~~
6 ~~who has;~~

7 (5) Has had the necessary experience as determined by the board in the practice of
8 pharmacy under a regularly licensed pharmacist in a pharmacy where physicians'
9 prescriptions are compounded~~and who shall pass a satisfactory;~~ and

10 (6) Has passed an examination prescribed by the State Board of Pharmacy,~~shall be~~
11 ~~entitled to a certificate of registration as a licensed pharmacist~~ board.

12 The board ~~shall have the authority to~~ may allow credit for suitable military and
13 research activities in the field of pharmacy as part of the experience requirement.

14 **Section 8. That § 36-11-19 be AMENDED:**

15 **36-11-19.** ~~The Board of Pharmacy~~ board ~~may in its discretion grant certificates of~~
16 ~~registration to such persons as shall furnish with their applications~~ issue a license to
17 practice pharmacy to individual who applies to the board and submits satisfactory proof
18 ~~that they have~~ the individual has been ~~registered~~ licensed by examination in ~~some other~~
19 another state~~;~~ z provided that ~~such~~ the other state required a degree of competency at the
20 time ~~such person~~ the individual was licensed at least equal to that required ~~of licentiates~~
21 in this state at that same time.

22 ~~The State Board of Pharmacy, in order to be informed,~~ board may, in determining
23 the degree of fitness required by ~~the several~~ other states' boards of pharmacy for granting
24 license ~~and reciprocal registration~~ licensure, join with other states' boards of pharmacy.
25 ~~Every person~~ individual applying for ~~registration~~ licensure pursuant to this section shall
26 pay to the board ~~upon an~~ application a fee, not to exceed one hundred fifty dollars, set by
27 the board by rule promulgated pursuant to chapter 1-26.

28 **Section 9. That § 36-11-19.1 be AMENDED:**

29 **36-11-19.1.** ~~Registered pharmacists~~ A pharmacist may:

30 (1) Perform drug administration pursuant to a prescription drug order. ~~The Board of~~
31 ~~Pharmacy shall establish standards for drug administration pursuant to chapter 1-~~
32 ~~26 with the approval of a committee composed of two persons appointed by the~~

- 1 ~~Board of Pharmacy, two persons appointed by the Board of Nursing and two~~
- 2 ~~persons appointed by the Board of Medical and Osteopathic Examiners;~~
- 3 (2) Perform drug reviews;
- 4 (3) Perform or participate in scientific or clinical drug or drug-related research as an
- 5 investigator or in collaboration with other investigators;
- 6 (4) Interpret and apply pharmacokinetic data and other pertinent laboratory data to
- 7 design safe and effective drug dosage regimens;
- 8 (5) Participate in drug and drug device selection pursuant to a prescription drug order;
- 9 (6) Initiate or modify drug therapy by protocol or other legal authority established and
- 10 approved within a licensed health care facility or by a practitioner authorized to
- 11 prescribe drugs; and
- 12 (7) Provide information on prescription drugs, which may include advising, consulting,
- 13 and educating, as necessary or as required, patients, the public, and other health
- 14 care providers on the rational, safe and cost-effective use of drugs, including
- 15 therapeutic values, content, hazards and appropriate use.

16 The board shall establish standards for drug administration, in rules promulgated

17 pursuant to chapter 1-26, with the approval of a committee composed of two persons

18 appointed by the board, two persons appointed by the South Dakota Board of Nursing,

19 and two persons appointed by the State Board of Medical and Osteopathic Examiners.

20 **Section 10. That § 36-11-19.5 be AMENDED:**

21 **36-11-19.5.** Each nonresident pharmacy license expires on June thirtieth following

22 the date of ~~issue~~ issuance. The board shall ~~mail an~~ provide a renewal application ~~for license~~

23 ~~renewal~~ to each licensee before June first of each year. If the licensee does not submit a

24 renewal application ~~for renewal of the license,~~ accompanied by ~~the annual license~~ the

25 renewal fee ~~is not made,~~ before the expiration date, the ~~existing~~ license lapses on the

26 date of expiration. The board shall promulgate rules, pursuant to chapter 1-26, to establish

27 the renewal fee, which may not exceed two hundred dollars. If the renewal application is

28 submitted after the expiration of the license, the board must assess a fifty-dollar late fee

29 and may reinstate the license.

30 If a majority of ownership of a licensed nonresident pharmacy changes, the new

31 owners must, within thirty days after the ownership change:

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

1 **Section 11. That § 36-11-19.6 be AMENDED:**

2 **36-11-19.6.** The board may deny, revoke, or suspend a nonresident pharmacy
3 registration license for conduct ~~which that~~ causes serious bodily injury or serious
4 psychological injury to a resident of this state, if the board has referred the matter to the
5 regulatory or licensing agency in the state in which the nonresident pharmacy is located
6 and the regulatory or licensing agency fails to initiate an investigation within forty-five
7 days after the referral.

8 Any action taken to deny, revoke, or suspend a nonresident pharmacy ~~registration~~
9 license is a contested case proceeding pursuant to chapter 1-26.

10 **Section 12. That § 36-11-20 be AMENDED:**

11 **36-11-20.** ~~The Board of Pharmacy~~ board may, in compliance with chapter 1-26,
12 suspend, revoke, or refuse to ~~grant issue or renew~~ a license ~~or certificate of registration~~
13 to practice pharmacy to any person who:

- 14 (1) Is guilty of a felony or a misdemeanor involving moral turpitude, or who is;
15 (2) Is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to
16 render him the person unfit to practice pharmacy with reasonable skill and safety;
17 ~~and the board may, in compliance with chapter 1-26, revoke a license for like~~
18 ~~cause, or any license which has been procured~~
19 (3) Procured a license by fraud or by false representation. ~~Any license or registration,~~
20 ~~or renewal thereof, obtained through fraud or by any fraudulent or false~~
21 ~~representations shall be void. The board may suspend, revoke or refuse to grant a~~
22 ~~license or certificate of registration to any person;~~
23 (4) Is permitting or engaging in the unauthorized sale of legend or controlled drugs or
24 substances or who the; or
25 (5) The board finds to be in violation of any law, rule, or regulation governing
26 pharmacists.

27 **Section 13. That § 36-11-23 be AMENDED:**

28 **36-11-23.** ~~Each To renew a license to practice pharmacy, a pharmacist shall must~~
29 annually by October first, on or before September thirtieth of each year, submit a renewal
30 application and pay to the board a registry renewal fee to be fixed set by the board in
31 compliance rules promulgated in accordance with chapter 1-26, not to exceed one hundred
32 fifty dollars. Upon application and payment of the fee ~~by a pharmacist, the Board of~~

1 ~~Pharmacy, the board shall renew the pharmacist's certificate of registration. Any license.~~
 2 ~~If a pharmacist who fails to apply and pay the renewal fee by the due date is subject to~~
 3 ~~suspension of certificate by the board in compliance with chapter 1-26. Any suspended~~
 4 ~~certificate may be reinstated, the license expires.~~

5 The board may reinstate an expired license if the individual:

- 6 (1) Applies for reinstatement; and
- 7 (2) Pays all delinquent fees have been paid, plus a penalty of twenty five dollars, and
 8 the Board of Pharmacy has approved the application for reinstatement, plus a fifty-
 9 dollar late fee.

10 **Section 14. That § 36-11-25 be AMENDED:**

11 **36-11-25.** ~~Pharmacy~~ The board may issue a pharmacy intern certificates may be
 12 issued by the Board of Pharmacy certificate to persons an individual who are is gaining
 13 experience as a qualification for licensure as a ~~registered~~ pharmacist. Any pharmacy intern
 14 ~~granted~~ issued an intern certificate shall perform ~~his~~ the internship pursuant to ~~regulations~~
 15 ~~which shall be~~ rules promulgated by the ~~Board of Pharmacy~~ board in accordance with
 16 chapter 1-26. Nothing in this section ~~shall~~ may be construed as giving ~~such a~~ pharmacy
 17 intern authority to fill any prescription, except under the supervision and in the presence
 18 of the ~~registered~~ pharmacist.

19 **Section 15. That § 36-11-26 be AMENDED:**

20 **36-11-26.** ~~If the Board of Pharmacy board~~ is satisfied that any ~~person holding a~~
 21 ~~certificate of registration~~ pharmacist is ~~for any reason~~ incompetent or disqualified to
 22 perform the duties of a ~~registered~~ pharmacist pursuant to § 36-11-20 or as contemplated
 23 by the provisions of this chapter, it may, in compliance with ~~§ 36-11-28~~ chapter 1-26:

- 24 (1) Issue a reprimand to the registrant pharmacist;
- 25 (2) Place the registrant pharmacist on probation and supervision;
- 26 (3) Suspend the registrant's certificate pharmacist's license until he the pharmacist
 27 completes a course of therapy, treatment, training, or any combination thereof;
- 28 (4) Suspend the registrant's certificate pharmacist's license for a fixed period; and
- 29 (5) Revoke the registrant's certificate pharmacist's license.

30 An individual may appeal a decision of the board as provided in chapter 1-26.

31 **Section 16. That § 36-11-30 be AMENDED:**

1 **36-11-30.** ~~No~~ A person may not open or operate a pharmacy ~~shall open or be kept~~
 2 ~~open for transaction of business until it has been registered and a permit issued~~ unless
 3 ~~the pharmacy is licensed by the State Board of Pharmacy board.~~

4 A violation of this section is a Class 2 misdemeanor. Each day of violation is a
 5 separate offense.

6 **Section 17. That § 36-11-31 be AMENDED:**

7 **36-11-31.** ~~No~~ Only a person, copartnership or corporation that has a pharmacy
 8 license issued by the board may carry:

9 (1) Carry on, conduct, or transact business under a name which that contains as a part
 10 thereof the term or words "drug department," "drugstore," or "pharmacy," or any
 11 term implying the operation of a pharmacy or drugstore, or in any manner by
 12 advertisement, circular, poster, sign or otherwise describe; and

13 (2) Advertise, describe, or refer to a place of business, in any manner, by the terms
 14 "drugstore" or "pharmacy," or any other term or words which may be applied to
 15 establishments where drugs, medicines, and poisons are usually dispensed or
 16 distributed, unless the place of business so conducted is a pharmacy duly
 17 authorized and registered by the State Board of Pharmacy implying the operation
 18 of a pharmacy.

19 A violation of this section is a Class 2 misdemeanor.

20 **Section 18. That § 36-11-32 be AMENDED:**

21 **36-11-32.** ~~Upon~~ The board shall issue a pharmacy license to a pharmacist in good
 22 standing, if the pharmacist:

23 (1) Submits a form prescribed by the State Board of Pharmacy board; and the payment
 24 of

25 (2) Pays a fee, not to exceed two hundred dollars, set by the Board of Pharmacy board
 26 in rules promulgated in accordance with chapter 1-26, the State Board of Pharmacy
 27 shall issue to pharmacists in good standing, registered under the laws of this state,
 28 a permit to conduct a pharmacy.

29 **Section 19. That § 36-11-33 be AMENDED:**

30 **36-11-33.** ~~The Board of Pharmacy board may issue to pharmacists a pharmacist~~
 31 ~~in good standing a permit license to conduct operate a part-time, limited, or conditional~~

1 pharmacy in ~~hospitals~~ a hospital, nursing ~~homes~~ facility, or related ~~facilities~~ facility,
2 provided that the pharmacy services are limited to ~~patients~~ inpatients or residents of the
3 facility.

4 ~~A permit to conduct a pharmacy, the~~ The board may issue a license under this
5 section if:

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

9 (2) The merchandise and fixtures of which the pharmacy are owned by a person, firm,
10 or corporation other than a registered the pharmacist, upon said registered
11 pharmacist making application for a permit hereunder, may be issued and granted
12 to the said registered pharmacist, on compliance applying for the license.

13 The pharmacist must comply with the provisions of this chapter, and with minimum
14 standards as established by the board in rules promulgated pursuant to chapter 1-26.

15 **Section 20. That § 36-11-34 be AMENDED:**

16 **36-11-34.** ~~No permit to conduct~~ The board may not issue a pharmacy shall be
17 issued license to any pharmacist applicant unless such pharmacist:

18 (1) The applicant is the owner, or part owner, of the merchandise and fixtures of the
19 place of business for which such the pharmacy registration license is applied for,
20 or unless;

21 (2) The application is made jointly with a registered pharmacist owner,; or unless the

22 (3) The nonpharmacist owner of the merchandise and fixtures of the place of business
23 for which the pharmacy registration license is applied for, has made submitted an
24 affidavit on a form prescribed by the state board of pharmacy delegating complete
25 responsibility for the pharmaceutical services in said place of business to the
26 pharmacist applicant.

27 **Section 21. That § 36-11-35 be AMENDED:**

28 **36-11-35.** ~~Each permit for a pharmacy shall constitute and signify a legal~~
29 ~~registration for the pharmacy to which it applies, and shall expire~~ pharmacy license expires
30 on the last day of June thirtieth following the date of issue. To renew a pharmacy license,
31 the pharmacist must submit a renewal application on or before June thirtieth on a form
32 prescribed by the board, and pay the renewal fee set by the board in rules promulgated
33 in accordance with chapter 1-26, but not exceeding two hundred dollars. If the renewal

1 application and fee is submitted after the expiration of the license, the board must assess
2 a fifty-dollar late fee and may reinstate the license.

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

5 (1) Submit the renewal application, indicating the change of ownership; and

6 (2) Pay the renewal fee established by the board as provided in this section.

7 **Section 22. That § 36-11-36 be AMENDED:**

8 **36-11-36.** ~~Each permit for a pharmacy, together with a certificate naming the~~
9 ~~pharmacist actively conducting said pharmacy, license issued by the State Board of~~
10 ~~Pharmacy, which shall be a part of said permit, shall~~ board must be exposed posted in a
11 ~~conspicuous place in the pharmacy to which it applies~~ that is viewable by the public.

12 **Section 23. That § 36-11-37 be AMENDED:**

13 **36-11-37.** ~~Each permit for a~~ A pharmacy license may be transferred to another
14 ~~pharmacist in good standing and registered under the laws of this state without the~~
15 ~~payment of an additional fee;~~ provided an application for the transfer of said permit the
16 license is made upon a form prescribed by the State Board of Pharmacy board and upon
17 payment of a fifty dollar fee. The application for transfer must be filed with the secretary
18 ~~thereof~~ board not less more than ten days ~~before~~ after the transfer of ~~such~~ active
19 management is made. If the application for transfer is received by the board after ten
20 days, the pharmacy license is void, and the pharmacist must reapply for the license.

21 **Section 24. That § 36-11-38 be AMENDED:**

22 **36-11-38.** In the event of the death of the pharmacist ~~permittee in active~~
23 ~~management,~~ the pharmacy ~~permit~~ license issued to the deceased under this chapter
24 shall, within one hundred twenty days after the ~~date of death of such permittee or on June~~
25 ~~thirtieth, whichever is sooner,~~ become null and void, ~~unless transfer thereof, the license~~
26 is transferred as provided in § 36-11-37, ~~shall have been made within the said one~~
27 ~~hundred twenty day period.~~

28 **Section 25. That § 36-11-39 be AMENDED:**

29 **36-11-39.** The change of location of any pharmacy for which a ~~permit~~ license has
30 been issued from one municipality to another within this state, ~~any change in the~~

1 ~~ownership of such pharmacy, or the cessation of business by such the~~ pharmacy shall,
2 must be reported to the ~~State Board of Pharmacy board~~ within ten days from ~~such the~~
3 occurrence on forms prescribed by the ~~State Board of Pharmacy board~~.

4 **Section 26. That § 36-11-41 be AMENDED:**

5 **36-11-41.** ~~No permit may be issued under 36-11-32 unless~~ A pharmacy licensed
6 by the board must:

7 (1) ~~The pharmacy is Be~~ equipped with the pharmaceutical instruments and utensils
8 prescribed by the ~~State Board of Pharmacy, and shall possess~~ board in rules
9 promulgated in accordance with chapter 1-26;

10 (2) Possess a stock of pharmaceuticals adequate to serve the needs of the community
11 in which the pharmacy is located; ~~and~~

12 ~~(2)(3) The pharmacy has Have~~ on file at all times the publications and supplements of
13 formularies and drug information prescribed by the board, ~~by rules promulgated~~
14 pursuant to chapter 1-26; ~~and~~

15 (4) Be maintained and operated in a clean and sanitary condition, free from unhealth,
16 foreign, or injurious contamination.

17 **Section 27. That § 36-11-43 be AMENDED:**

18 **36-11-43.** ~~The Board of Pharmacy board may, in the manner provided by rules~~
19 promulgated in accordance with chapter 1-26, adopt a code of professional ethics for
20 pharmacists in this state ~~in the practice of their profession. In adopting such code, or any~~
21 ~~amendments thereafter, the. The~~ board ~~will shall~~ consider the recommendations of the
22 South Dakota Pharmacists Association ~~and the vote of its members, provided however,~~
23 ~~that any such in adopting the code or changes made thereto. The code so adopted shall~~
24 ~~at no time may not~~ contain any provision that would in any way restrain, prohibit, ~~or~~
25 attempt to regulate the rights of any pharmacist ~~to be employed in any a licensed~~
26 pharmacy ~~holding a valid pharmacy permit. Violation of the code of professional ethics~~
27 ~~shall may~~ not be the basis for criminal prosecution unless otherwise declared unlawful.

28 **Section 28. That § 36-11-44 be AMENDED:**

29 **36-11-44.** Any ~~registered~~ pharmacist who permits the compounding or dispensing
30 of prescriptions or the vending of drugs ~~or poisons in his store or in the pharmacist's place~~
31 of business, except under the personal supervision of a ~~registered~~ pharmacist, or any

1 pharmacist who, while continuing in business, makes any false representations to procure
 2 ~~registration for himself~~ a license for the pharmacist or any other person, is guilty of a
 3 Class 2 misdemeanor.

4 **Section 29. That § 36-11-48 be AMENDED:**

5 **36-11-48.** ~~The State Board of Pharmacy board~~ may suspend or revoke, in
 6 accordance with chapter 1-26, any permit obtained pharmacy license issued under this
 7 chapter on the following grounds:

8 (1) The license was obtained by false representations made in the application therefor,
 9 or when the;

10 (2) The pharmacy for which the permit shall be license was issued is was kept open
 11 for the transaction of business without a registered pharmacist in charge thereof,
 12 or upon conviction;

13 (3) Conviction of a violation of any law of this state or of the United States pertaining
 14 to the drug business or for the aiding or abetting in the violation of any such the
 15 law;

16 (4) The active management of the pharmacy was changed without the transfer, as
 17 provided in § 36-11-37, of the license;

18 (5) The location of the pharmacy was changed without the change being reported as
 19 provided in § 36-11-39;

20 (6) The pharmacy was kept open for the transaction of business after the pharmacist
 21 ceased to be in active management of the pharmacy; or

22 (7) The minimum requirements of this chapter and the board are no longer met.

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

25 **Section 30. That § 36-11-67 be AMENDED:**

26 **36-11-67.** ~~Pharmacists licensed under this chapter~~ A pharmacist or physicians
 27 physician licensed under chapter 36-4 who participate on participates in a drug utilization
 28 review program as defined in § 36-11-2 are is not individually or jointly not subject to,
 29 and are is immune from, claim, suit, liability, damages, or any other recourse, civil or
 30 criminal, arising from any act or proceeding, decision, or determination undertaken,
 31 performed, or reached in good faith and without malice when acting individually or jointly
 32 in carrying out the responsibilities, authority, duties, powers, and privileges of the

1 program conferred upon them under any provisions of law or rule, good faith being
 2 presumed until proven otherwise, with malice required to be shown by the complainant.

3 For the purposes of this section, a "drug utilization review program" is a program
 4 operated solely or partially as a professional standards review organization whose purpose
 5 is to:

6 (1) Educate pharmacists and practitioners on:

7 (a) Severe adverse reactions to drugs;

8 (b) Therapeutic appropriateness;

9 (c) Overutilization;

10 (d) Underutilization;

11 (e) Appropriate use of generic products;

12 (f) Therapeutic duplication;

13 (g) Drug-disease contraindications;

14 (h) Drug-drug interactions;

15 (i) Incorrect drug dosage or duration of drug treatment;

16 (j) Drug-allergy interactions; and

17 (k) Clinical abuse or misuse; and

18 (2) Identify and reduce the frequency of patterns of potential and actual fraud, abuse,
 19 gross overuse, inappropriate care, or medically unnecessary care associated with
 20 specific drugs or groups of drugs among practitioners, pharmacists, and patients.

21 **Section 31. That § 36-11-72 be AMENDED:**

22 **36-11-72.** The board shall promulgate rules pursuant to chapter 1-26 to provide
 23 for the regulation of telepharmacy in ~~the~~ this state. The rules ~~shall include~~ must provide
 24 for:

25 (1) License and renewal application requirements, including ~~establishment:~~

26 (a) Establishment of an annual initial license fee and a renewal fee, each not to
 27 exceed two hundred fifty dollars;

28 (b) Procedures for the reinstatement of an expired license; and

29 (c) Establishment of a late fee for reinstating an expired license, not to exceed
 30 fifty dollars;

31 (2) Minimum structural, security, and equipment requirements for the remote
 32 pharmacy;

33 (3) Minimum staffing requirements for the central pharmacy and remote pharmacy;

34 (4) Record keeping requirements for the central pharmacy and remote pharmacy;

- 1 (5) ~~Establishment of policies~~ Policies and procedures for the daily operation of the
- 2 remote pharmacy; and
- 3 (6) Use of automated dispensing machines.

4 **Section 32. That a NEW SECTION be added to chapter 36-11:**

5 If the majority of ownership of a remote pharmacy changes, the new owners must,
6 within thirty days after the ownership change:

- 7 (1) Submit the renewal application prescribed by the board, as provided in § 36-11-
- 8 72, indicating the change of ownership; and
- 9 (2) Pay the renewal fee established by the board, as provided in § 36-11-72.

10 **Section 33. That § 36-11A-8 be AMENDED:**

11 ~~36-11A-8. An applicant for licensure as a~~ To apply for a wholesale or other drug
12 ~~distributor shall apply annually to the board~~ license, a person must submit an application
13 ~~on a form provided by the board. The application shall be accompanied by a~~ and pay an
14 ~~annual~~ annual license fee set by the board. ~~The fee may not exceed two,~~ not to exceed five
15 ~~hundred fifty~~ dollars.

16 All financial statements or related information submitted by applicants ~~shall~~ must
17 be treated as confidential materials.

18 **Section 34. That § 36-11A-13 be AMENDED:**

19 ~~36-11A-13.~~ 36-11A-13. Each wholesale drug distributor license expires on December thirty-
20 first following the date of ~~issue~~ issuance. The board shall provide an application for license
21 renewal to each licensee before December first of each year. To renew a license, the
22 licensee shall submit the renewal application and pay the annual license fee set by the
23 board as provided in § 36-11A-8. If application for renewal of the license accompanied by
24 the annual license fee is not made before the expiration date, the existing license lapses
25 on the date of expiration. If the board receives a renewal application and fee for an expired
26 license, the board must assess a fifty-dollar late fee and may reinstate the license.

27 If the majority of ownership of a licensed facility changes, the new owners must,
28 within thirty days after the ownership change:

- 29 (1) Submit a renewal application, indicating the change of ownership; and
- 30 (2) Pay a fee equal to the annual license fee.

31 **Section 35. That § 36-11-3 be REPEALED.**

1 ~~Those registered pharmacists of this state electing to participate shall constitute~~
 2 ~~an association under the name and title of the South Dakota Pharmacists Association. The~~
 3 ~~purpose of the association is to serve as the state professional society of pharmacists~~
 4 ~~which represents the profession of pharmacy, enhances the public's awareness of~~
 5 ~~pharmacy, and serves the best interest of public health and pharmacy. The South Dakota~~
 6 ~~Pharmacists Association shall be conducted as a nonprofit corporation pursuant to the~~
 7 ~~terms of its articles of incorporation. The members of the association who have secured a~~
 8 ~~current annual certificate of registration to practice pharmacy in this state and who have~~
 9 ~~elected to participate in the association are entitled to all of the rights and privileges of~~
 10 ~~the association and may vote, serve as an officer or director of the association, and~~
 11 ~~participate in all of the meetings of the association. The association shall hold an annual~~
 12 ~~meeting at such time and place as it determines.~~

13 **Section 36. That § 36-11-6 be REPEALED.**

14 ~~The board may, upon receipt, pay to the South Dakota Pharmacists Association~~
 15 ~~eighty percent of all fees the board receives for renewals of certificates of registration as~~
 16 ~~a pharmacist. The association shall use the funds for the following association activities to~~
 17 ~~benefit the public and the profession: continuing education, matters related to registration~~
 18 ~~standards for pharmacists, professional service standards, and general operating~~
 19 ~~expenses related to the activities enumerated in this section. The association shall also~~
 20 ~~use funds received to pay any legislated assessment to support a diversion program for~~
 21 ~~chemically impaired pharmacists. Expenditures of funds shall be approved by the~~
 22 ~~president and treasurer of the association. The association shall annually file in the office~~
 23 ~~of the board an itemized statement of the receipts of the association and disbursements~~
 24 ~~from the receipts.~~

25 **Section 37. That § 36-11-17 be REPEALED.**

26 ~~Every person initially applying for a certificate of registration with the Board of~~
 27 ~~Pharmacy as a registered pharmacist shall pay to the board with the application a fee, not~~
 28 ~~to exceed thirty five dollars, set by the board by rule promulgated pursuant to chapter 1-~~
 29 ~~26.~~

30 **Section 38. That § 36-11-18 be REPEALED.**

1 ~~It shall be the duty of the Board of Pharmacy to examine all applications for~~
2 ~~registration submitted in due form as provided in the rules and regulations of the board~~
3 ~~and to grant certificates of registration to such persons as may be entitled to the same~~
4 ~~under the provisions of this chapter.~~

5 **Section 39. That § 36-11-22 be REPEALED.**

6 ~~The Board of Pharmacy shall keep a record of registration in which shall be entered~~
7 ~~the names and places of business of all persons registered under this chapter which~~
8 ~~records shall also specify such facts as such persons shall claim to justify their registration.~~

9 **Section 40. That § 36-11-28 be REPEALED.**

10 ~~A certificate of registration as a pharmacist shall not be revoked or suspended~~
11 ~~except after hearing before the Board of Pharmacy at which a majority of its members are~~
12 ~~present and in compliance with chapter 1-26.~~

13 **Section 41. That § 36-11-29 be REPEALED.**

14 ~~An appeal from the decision of the Board of Pharmacy may be taken as provided~~
15 ~~by chapter 1-26.~~

16 **Section 42. That § 36-11-40 be REPEALED.**

17 ~~Any permit issued under the provisions of § 36-11-32 shall be void if the active~~
18 ~~management of any pharmacy is changed without the transfer, as provided in § 36-11-~~
19 ~~37, of the permit therefor, or if the location of said pharmacy is changed without the same~~
20 ~~being reported as provided in § 36-11-39, or if the pharmacy is kept open for business~~
21 ~~after the permittee has ceased to be in active management of said pharmacy, and~~
22 ~~whenever the minimum requirements of this chapter and the Board of Pharmacy are no~~
23 ~~longer met.~~

24 **Section 43. That § 36-11-42 be REPEALED.**

25 ~~Any permit issued under the provisions of § 36-11-32 shall be void and subject to~~
26 ~~cancellation by the State Board of Pharmacy, unless such pharmacy is maintained and~~
27 ~~operated in a clean and sanitary condition, free from unhealthful, foreign, or injurious~~
28 ~~contamination.~~

1 **Section 44. That § 36-11-49 be REPEALED.**

2 ~~Before any permit for a pharmacy shall be revoked chapter 1-26 shall be complied~~
3 ~~with. Two members of the board shall constitute a quorum and no permit shall be revoked~~
4 ~~except by a vote of two or more members of the State Board of Pharmacy.~~

5 **Section 45. That § 36-11A-4.2 be REPEALED.**

6 ~~No outsourcing facility engaged in compounding of nonpatient specific sterile and~~
7 ~~nonsterile drugs may become licensed by the board without first obtaining a registration~~
8 ~~and inspection by the United States Food and Drug Administration, and paying the license~~
9 ~~fee set by the board in rules promulgated pursuant to chapter 1-26. The fee may not~~
10 ~~exceed two hundred dollars.~~

11 **Section 46.** No later than September 30, 2025, the Board of Pharmacy shall, pursuant to
12 chapter 1-26, provide for and file with the secretary of state, the amendment of ARSD
13 20:67:02:01, as set forth below:

14 **20:67:02:01. Application and fee.** A wholesale or other distributor must
15 apply each year to the board, electronically or on a form supplied by the ~~secretary of the~~
16 board, for a license to engage in the distribution of prescription drugs. Each application
17 ~~shall~~ must be accompanied by a license fee of ~~\$200~~ five hundred dollars.

18 **Source:** 18 SDR 95, effective November 25, 1991; 24 SDR 160, effective May
19 26, 1998; 45 SDR 86, effective December 24, 2018.

20 **General Authority:** SDCL 36-11A-14~~(1),(6)~~.

21 **Law Implemented:** SDCL 36-11A-7, 36-11A-8.