

2025 South Dakota Legislature

House Bill 1016**AMENDMENT 1016A
FOR THE INTRODUCED BILL**

1 **An Act to revise provisions related to pharmacy and to make an appropriation to the**
 2 **State Board of Pharmacy.**

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

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

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

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

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

- 12 (1) ~~"Association," the South Dakota Pharmacists Association;~~
 13 ~~(2)~~ (2) "Biological product," as defined in 42 U.S.C. § 262(i), ~~as of (January 1, 2018);~~
 14 ~~(3)(2)~~ "Board," ~~or "board of pharmacy,"~~ the State Board of Pharmacy ~~in South Dakota;~~
 15 ~~(4)(3)~~ "Brand name," the proprietary or registered trademark name given to a drug
 16 product by its manufacturer, labeler, or distributor and placed on the drug or on
 17 its container, label, or wrapping at the time of packaging;
 18 ~~(5)~~ ~~"Chemicals," the chemical materials or medicine;~~
 19 ~~(6)(4)~~ (4) "Compounding," the preparation, mixing, assembling, packaging, or labeling of a
 20 drug or drug device as the result of a practitioner's prescription drug order or an
 21 initiative based on the pharmacist/patient/practitioner relationship in the course of
 22 professional practice or for the purpose of or as an incident to research, teaching,
 23 or chemical analysis and not for sale or dispensing. The term also includes the

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

1 1, 2018), or has determined is therapeutically equivalent, as set forth in the latest
2 edition of, ~~or any supplement to, the Food and Drug Administration's~~ Approved
3 Drug Products with Therapeutic Equivalence Evaluations ~~publication~~ as adopted by
4 the board through rules promulgated pursuant to chapter 1-26;

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

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

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

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

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

33 ~~(20)~~(16) "Pharmaceutical care," provision of drug therapy and other pharmaceutical
34 patient care services intended to achieve outcomes related to ~~cure~~ curing or

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

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

- 27 **36-11-2.1.** ~~Drugs~~ For the purpose of this chapter, "drugs" are defined as follows:
- 28 (1) Articles recognized in the official United States Pharmacopoeia or the official
29 National Formulary, as adopted by the board ~~of pharmacy through rules~~
30 promulgated pursuant to chapter 1-26, or recognized in the official Homeopathic
31 Pharmacopoeia of the United States as in effect on January 1, 1993;
- 32 (2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention
33 of disease in humans or other animals;

1 (3) Articles-~~(, other than food),~~ intended to affect the structure or any functions of the
2 human body; and

3 (4) Articles intended for use as a component of any articles specified in this section.
4 The term "drugs" excludes medical devices.

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

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

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

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

21 **36-11-13.** It is a Class 2 misdemeanor for any person other than a pharmacist
22 ~~registered under the laws of South Dakota~~ to engage in the practice of pharmacy, except
23 as provided by § 36-11-14.

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

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

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

1 **36-11-16.** ~~Any person of~~ The board shall issue a license to practice pharmacy to
 2 an individual who:

3 (1) Submits an application prescribed by the board;

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

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

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

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

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

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

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

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

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

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

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

32 **36-11-19.1.** ~~Registered pharmacists~~ A pharmacist may:

- 1 (1) Perform drug administration pursuant to a prescription drug order. ~~The Board of~~
2 ~~Pharmacy shall establish standards for drug administration pursuant to chapter 1-~~
3 ~~26 with the approval of a committee composed of two persons appointed by the~~
4 ~~Board of Pharmacy, two persons appointed by the Board of Nursing and two~~
5 ~~persons appointed by the Board of Medical and Osteopathic Examiners;~~
- 6 (2) Perform drug reviews;
- 7 (3) Perform or participate in scientific or clinical drug or drug-related research as an
8 investigator or in collaboration with other investigators;
- 9 (4) Interpret and apply pharmacokinetic data and other pertinent laboratory data to
10 design safe and effective drug dosage regimens;
- 11 (5) Participate in drug and drug device selection pursuant to a prescription drug order;
- 12 (6) Initiate or modify drug therapy by protocol or other legal authority established and
13 approved within a licensed health care facility or by a practitioner authorized to
14 prescribe drugs; and
- 15 (7) Provide information on prescription drugs, which may include advising, consulting,
16 and educating, as necessary or as required, patients, the public, and other health
17 care providers on the rational, safe and cost-effective use of drugs, including
18 therapeutic values, content, hazards and appropriate use.

19 The board shall establish standards for drug administration, in rules promulgated
20 pursuant to chapter 1-26, with the approval of a committee composed of two persons
21 appointed by the board, two persons appointed by the South Dakota Board of Nursing,
22 and two persons appointed by the State Board of Medical and Osteopathic Examiners.

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

24 **36-11-19.5.** Each nonresident pharmacy license expires on June thirtieth following
25 the date of ~~issue~~ issuance. The board shall ~~mail an~~ provide a renewal application ~~for license~~
26 ~~renewal~~ to each licensee before June first of each year. If the licensee does not submit a
27 renewal application ~~for renewal of the license,~~ accompanied by ~~the annual license~~ the
28 renewal fee ~~is not made,~~ before the expiration date, the ~~existing~~ license lapses on the
29 date of expiration. The board shall promulgate rules, pursuant to chapter 1-26, to establish
30 the renewal fee, which may not exceed two hundred dollars. If the renewal application is
31 submitted after the expiration of the license, the board must assess a fifty-dollar late fee
32 and may reinstate the license.

33 If a majority of ownership of a licensed nonresident pharmacy changes, the new
34 owners must, within thirty days after the ownership change:

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

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

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

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

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

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

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

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

30 **36-11-23.** ~~Each~~ To renew a license to practice pharmacy, a pharmacist shall must
 31 annually by October first, on or before September thirtieth of each year, submit a renewal

1 application and pay to the board a registry renewal fee ~~to be fixed set~~ by the board in
 2 compliance rules promulgated in accordance with chapter 1-26, not to exceed one hundred
 3 fifty dollars. Upon application and payment of the fee ~~by a pharmacist, the Board of~~
 4 Pharmacy, the board shall renew the ~~pharmacist's certificate of registration. Any license.~~
 5 If a pharmacist who fails to apply and pay the renewal fee ~~by the due date is subject to~~
 6 suspension of certificate by the board in compliance with chapter 1-26. Any suspended
 7 certificate may be reinstated, the license expires.

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

9 (1) Applies for reinstatement; and

10 (2) Pays all delinquent fees have been paid, plus a penalty of twenty five dollars, and
 11 the Board of Pharmacy has approved the application for reinstatement, plus a fifty-
 12 dollar late fee.

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

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

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

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

27 (1) Issue a reprimand to the registrant pharmacist;

28 (2) Place the registrant pharmacist on probation and supervision;

29 (3) Suspend the registrant's certificate pharmacist's license until he the pharmacist
 30 completes a course of therapy, treatment, training, or any combination thereof;

31 (4) Suspend the registrant's certificate pharmacist's license for a fixed period; and

32 (5) Revoke the registrant's certificate pharmacist's license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~36-11-33.~~ 36-11-33. ~~The Board of Pharmacy board~~ may issue to ~~pharmacists~~ a pharmacist
2 in good standing a ~~permit license to conduct operate~~ a part-time, ~~limited, or conditional~~
3 pharmacy in ~~hospitals~~ a hospital, ~~nursing homes facility,~~ or related ~~facilities~~ facility,
4 provided that the pharmacy services are limited to ~~patients~~ inpatients or residents of the
5 facility.

6 ~~A permit to conduct a pharmacy,~~ The board may issue a license under this
7 section if:

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

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

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

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

18 ~~36-11-34. No permit to conduct~~ The board may not issue a pharmacy shall be
19 issued license to any pharmacist applicant unless ~~such pharmacist:~~

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

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

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

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

30 ~~36-11-35. Each permit for a pharmacy shall constitute and signify a legal~~
31 registration for the pharmacy to which it applies, and shall expire pharmacy license expires
32 on the last day of June thirtieth following the date of issue. To renew a pharmacy license,
33 the pharmacist must submit a renewal application on or before June thirtieth on a form

1 prescribed by the board, and pay the renewal fee set by the board in rules promulgated
2 in accordance with chapter 1-26, but not exceeding two hundred dollars. If the renewal
3 application and fee is submitted after the expiration of the license, the board must assess
4 a fifty-dollar late fee and may reinstate the license.

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

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

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

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

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

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

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

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

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

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

1 **36-11-39.** The change of location of any pharmacy for which a permit license has
2 been issued from one municipality to another within this state, ~~any change in the~~
3 ~~ownership of such pharmacy,~~ or the cessation of business by ~~such the~~ pharmacy ~~shall,~~
4 must be reported to the ~~State Board of Pharmacy~~ board within ten days from ~~such the~~
5 occurrence on forms prescribed by the ~~State Board of Pharmacy~~ board.

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

7 **36-11-41.** ~~No permit may be issued under 36-11-32 unless~~ A pharmacy licensed
8 by the board must:

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

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

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

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

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

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

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

1 **36-11-44.** Any ~~registered~~ pharmacist who permits the compounding or dispensing
 2 of prescriptions or the vending of drugs ~~or poisons in his store or in the pharmacist's~~ place
 3 of business, except under the personal supervision of a ~~registered~~ pharmacist, or any
 4 pharmacist who, while continuing in business, makes any false representations to procure
 5 ~~registration for himself~~ a license for the pharmacist or any other person, is guilty of a
 6 Class 2 misdemeanor.

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

8 **36-11-48.** ~~The State Board of Pharmacy board~~ may suspend or revoke, in
 9 accordance with chapter 1-26, any permit obtained pharmacy license issued under this
 10 chapter on the following grounds:

- 11 (1) The license was obtained by false representations made in the application therefor,
 12 or when the;
- 13 (2) The pharmacy for which the permit shall be license was issued is was kept open
 14 for the transaction of business without a registered pharmacist in charge thereof,
 15 or upon conviction;
- 16 (3) Conviction of a violation of any law of this state or of the United States pertaining
 17 to the drug business or for the aiding or abetting in the violation of any such the
 18 law;
- 19 (4) The active management of the pharmacy was changed without the transfer, as
 20 provided in § 36-11-37, of the license;
- 21 (5) The location of the pharmacy was changed without the change being reported as
 22 provided in § 36-11-39;
- 23 (6) The pharmacy was kept open for the transaction of business after the pharmacist
 24 ceased to be in active management of the pharmacy; or
- 25 (7) The minimum requirements of this chapter and the board are no longer met.
- 26 A pharmacy license may not be suspended or revoked except by a vote of three or
 27 more members of the board.

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

29 **36-11-67.** ~~Pharmacists licensed under this chapter~~ A pharmacist or physicians
 30 physician licensed under chapter 36-4 who ~~participate on~~ participates in a drug utilization
 31 review program ~~as defined in § 36-11-2~~ are is not individually or jointly ~~not~~ subject to,
 32 and ~~are~~ is immune from, claim, suit, liability, damages, or any other recourse, civil or
 33 criminal, arising from any act or proceeding, decision, or determination undertaken,

1 performed, or reached in good faith and without malice when acting individually or jointly
 2 in carrying out the responsibilities, authority, duties, powers, and privileges of the
 3 program conferred upon them under any provisions of law or rule, good faith being
 4 presumed until proven otherwise, with malice required to be shown by the complainant.

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

8 (1) Educate pharmacists and practitioners on:

9 (a) Severe adverse reactions to drugs;

10 (b) Therapeutic appropriateness;

11 (c) Overutilization;

12 (d) Underutilization;

13 (e) Appropriate use of generic products;

14 (f) Therapeutic duplication;

15 (g) Drug-disease contraindications;

16 (h) Drug-drug interactions;

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

18 (j) Drug-allergy interactions; and

19 (k) Clinical abuse or misuse; and

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

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

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

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

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

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

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

33 (2) Minimum structural, security, and equipment requirements for the remote
 34 pharmacy;

- 1 (3) Minimum staffing requirements for the central pharmacy and remote pharmacy;
 2 (4) Record keeping requirements for the central pharmacy and remote pharmacy;
 3 (5) ~~Establishment of policies~~ Policies and procedures for the daily operation of the
 4 remote pharmacy; and
 5 (6) Use of automated dispensing machines.

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

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

- 9 (1) Submit the renewal application prescribed by the board, as provided in § 36-11-
 10 72, indicating the change of ownership; and
 11 (2) Pay the renewal fee established by the board, as provided in § 36-11-72.

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

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

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

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

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

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

- 31 (1) Submit a renewal application, indicating the change of ownership; and

1 (2) Pay a fee equal to the annual license fee.

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

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

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

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

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

28 ~~Every person initially applying for a certificate of registration with the Board of~~
29 ~~Pharmacy as a registered pharmacist shall pay to the board with the application a fee, not~~
30 ~~to exceed thirty five dollars, set by the board by rule promulgated pursuant to chapter 1-~~
31 ~~26.~~

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

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

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

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

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

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

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

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

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

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

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

26 ~~Any permit issued under the provisions of § 36-11-32 shall be void and subject to~~
27 ~~cancellation by the State Board of Pharmacy, unless such pharmacy is maintained and~~

1 operated in a clean and sanitary condition, free from unhealthful, foreign, or injurious
2 contamination.

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

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

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

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

13 **Section 46.** No later than September 30, 2025, the Board of Pharmacy shall, pursuant to
14 chapter 1-26, provide for and file with the secretary of state, the amendment of ARSD
15 20:67:02:01, as set forth below:

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

20 **Source:** 18 SDR 95, effective November 25, 1991; 24 SDR 160, effective May
21 26, 1998; 45 SDR 86, effective December 24, 2018.

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

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

24 **Section 47.** There is appropriated \$200,000 from the general fund, to the State Board of
25 Pharmacy, to reimburse the South Dakota Pharmacists Association for services previously
26 rendered by the association and approved by the board related to continuing education,
27 registration standards, professional service standards, the diversion program for pharmacists,
28 and general operating expenses related thereto.

29 **Section 48.** The executive director of the State Board of Pharmacy shall approve vouchers
30 and the state auditor shall draw warrants to pay expenditures authorized in this Act.

1 **Section 49.** Any amounts appropriated in this Act not lawfully expended or obligated shall
2 revert in accordance with the procedures prescribed in chapter 4-8.

3 **Section 50.** This Act is effective beginning June 30, 2025.

AMENDMENT