AN ACT

ENTITLED, An Act to repeal certain provisions relating to licenses issued by the Board of Pharmacy.

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

Section 1. That § 34-20-7 be repealed.

Section 2. That § 34-20-8 be repealed.

Section 3. That § 34-20-9 be repealed.

Section 4. That § 34-20-10 be repealed.

Section 5. That § 34-20-11 be repealed.

Section 6. That § 34-20-12 be repealed.

Section 7. That § 34-20-13 be repealed.

Section 8. That § 34-20-22 be repealed.

Section 9. That § 36-11-2 be amended to read as follows:

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

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

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

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

(4) "Chemicals," the chemical materials or medicine;

(5) "Compounding," the preparation, mixing, assembling, packaging or labeling of a drug or drug device as the result of a practitioner's prescription drug order or an initiative based on the pharmacist/patient/practitioner relationship in the course of professional practice or for the purpose of or as an incident to research, teaching or chemical analysis and not

for sale or dispensing. Compounding also includes the preparation of drug or drug devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns;

(6) "Delivery," the actual, constructive or attempted transfer of a drug or drug device from one person to another, whether or not for a consideration;

(7) "Dispense" or "Dispensing," the preparation and delivery of a drug to a patient or a patient's agent pursuant to a prescription drug order in a suitable container with appropriate labeling for subsequent administration to or use by a patient. Dispensing includes preparation of labels for drug devices if the labeling is related to the dosage and administration of drugs;

(8) "Distributing," the delivery of a drug or drug device other than by administration or dispensing;

(9) "Drug administration," the direct application of a drug or drug device by injection, inhalation, ingestion or any other means to the body of a patient or research subject;

(10) "Drug device," equipment, process, biotechnological entity, diagnostic agent or other product used in combination with a drug to provide effective management of medication regimens;

(11) "Drug utilization review program," any program operated solely or partially as a professional standards review organization whose purpose is to educate pharmacists and practitioners on severe adverse reactions to drugs, therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse, as well as to identify and reduce the frequency of patterns of potential and actual fraud,

abuse, gross overuse, inappropriate care or medically unnecessary care associated with specific drugs or groups of drugs among practitioners, pharmacists and patients;

(12) "Equivalent drug product," a drug product that is considered to be therapeutically equivalent to other pharmaceutically equivalent products as determined by the latest edition of Approved Drug Products with Therapeutic Equivalence Evaluations, as adopted by the South Dakota Board of Pharmacy pursuant to chapter 1-26;

(13) "Labeling," the process of preparing and affixing a label to any drug or drug device container exclusive of the labeling by the manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or drug device;

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

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

(15A) "Nonprescription drugs," drugs which are labeled for use by the general public in accordance with § 502 of the Federal Food, Drug and Cosmetic Act as amended through January 1, 1997, and may be sold without a prescription drug order in accordance with § 503 of the Federal Food, Drug and Cosmetic Act as amended through January 1, 1997. The term does not include drugs which are required by federal law to bear the statement,

"Caution: federal law prohibits dispensing without prescription," drugs intended for human use by hypodermic injection, or animal remedies regulated by chapter 39-18;

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

(17) "Pharmaceutical care," provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to cure or prevention of a disease, elimination or reduction of a patient's symptoms or arresting or slowing of a disease process;

(18) "Pharmacist," an individual licensed by the State Board of Pharmacy to engage in the practice of pharmacy;

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

(20) "Practitioner," an individual licensed, registered or otherwise authorized by the jurisdiction in which he is practicing to prescribe drugs in the course of professional practice;

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

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

(23) "Retail place of business," any place where merchandise is sold at retail and from which

original packages of nonprescription drugs are sold or taken to be sold at retail;

(24) "Reverse distributor," any person or business registered with the Drug Enforcement Administration that accepts drug products from vendors and returns the drug products to manufacturers for credit or destruction.

Section 10. That § 36-11-11 be amended to read as follows:

36-11-11. The Board of Pharmacy may promulgate rules pursuant to chapter 1-26 as follows:

(1) Pertaining to the practice of pharmacy;

(2) Relating to the sanitation of persons and establishments licensed under the provisions of this chapter;

(3) Pertaining to establishments licensed under the provisions of this chapter wherein any drug is compounded, prepared, dispensed or sold;

(4) Providing for minimum equipment and standards of establishments licensed under the provisions of this chapter;

(5) Pertaining to the sale of drugs by or through any mechanical device;

(6) In cooperation with other governmental agencies where there exists a joint responsibility for protecting the public health and welfare;

(7) Pertaining to the sale of nonprescription drugs;

(8) To adopt such publications or supplements thereto as shall from time to time be deemed necessary to describe the drugs, medicines, prescription drugs, dispensing physician or other terms used in § 36-11-2;

(9) Pertaining to the posting of prescription prices on the premises of a pharmacy department to provide consumers with comparative pricing information;

(10) Pertaining to registration of drug wholesalers and manufacturers;

(11) Pertaining to home health care and service;

(12) Pertaining to computerized pharmacy;

(13) Pertaining to the registration of registered pharmacy technicians and the suspension or revocation of registration; an annual registration fee not to exceed thirty dollars; and tasks that may not be delegated by a licensed pharmacist to a registered technician;

(14) Redispensing of pharmaceuticals.

Section 11. That § 36-11-51 be repealed.

Section 12. That § 36-11-52 be repealed.

Section 13. That § 36-11-60 be repealed.

Section 14. That § 36-11-61 be repealed.

Section 15. That ARSD 20:51:05:08 be repealed.

Section 16. That ARSD 20:51:05:09 be repealed.

Section 17. That ARSD 20:51:05:10 be repealed.

Section 18. That ARSD 20:51:05:11 be repealed.

Section 19. That ARSD 20:51:06:13 be repealed.

Section 20. That ARSD 20:51:08:01 be repealed.

Section 21. That ARSD 20:51:08:03 be repealed.

Section 22. That ARSD 20:51:08:04 be repealed.

Section 23. That ARSD 20:51:08:05 be repealed.

Section 24. That ARSD 20:51:08:06 be repealed.

Section 25. That ARSD 20:51:08:07 be repealed.

Section 26. That ARSD 20:51:08:09 be repealed.

Section 27. That ARSD 20:51:09:01 be repealed.

Section 28. That ARSD 20:51:09:03 be repealed.

Section 29. That ARSD 20:51:09:04 be repealed.

Section 30. That ARSD 20:51:09:05 be repealed.

Section 31. That ARSD 20:51:09:06 be repealed.

Section 32. That ARSD 20:51:09:07 be repealed.

Section 33. That ARSD 20:51:09:09 be repealed.

Section 34. That ARSD 20:51:10:01 be repealed.

Section 35. That ARSD 20:51:10:09 be repealed.

An Act to repeal certain provisions relating to licenses issued by the Board of Pharmacy.

I certify that the attached Act originated in the

HOUSE as Bill No. 1009

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1009
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

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

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State