



## Board of Podiatry Examiners

Mailing Address:  
810 North Main Street, Suite 298  
Spearfish, SD 57783

Phone: (605) 642-1600

E-Mail: [proflic@rushmore.com](mailto:proflic@rushmore.com)

### DRAFT TELECONFERENCE BOARD MEETING AGENDA

TO: **Board Members**

FROM: Carol Tellinghuisen, Executive Secretary

DATE: February 16, 2021

MEETING DATE: **March 5, 2021**

LOCATION: Teleconference with public access at:

Board Office  
629 Main St.  
Spearfish, SD  
605-642-1600

MEETING TIME: **12:00 PM CT / 11:00 AM MT Business Meeting Convenes**

The public is invited to attend the meeting via teleconference. Please call the teleconference number at 1-866-410-8397. Key in the Passcode: 605-773-4946#

#### Agenda Item Number

1. Call to Order/Welcome and Introductions-Stansberry
2. Roll Call-Stansberry
3. Corrections or additions to the agenda
4. Approval of Agenda
5. Public Testimony/Public Comment Period-12:05PM CT-5 minutes for the public to address the Board
6. Election of Officers
7. Approval of Minutes from December 11, 2020
8. FY Financial Update
9. Executive Session per SDCL 1-25-2

- a. Complaints/Investigations
  - b. Executive Secretary Contract Renewal
10. Online Renewals/Records Retention
  11. Legislative Updates
  12. Any other business coming in between date of mailing and meeting
  13. Adjourn

DRAFT



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Home Page: [podiatry.sd.gov](http://podiatry.sd.gov)

### OFFICIAL BOARD MINUTES for December 11, 2020 TELECONFERENCE

Members Present: Carolyn Stansberry, DPM, President  
James Johnston, DPM, Member  
Scott Torness, DPM, Member  
Jeanie Blair, Lay Member

Members Absent: Michael McGowan, DPM, Secretary/Treasurer

Others Present: Carol Tellinghuisen, Executive Secretary  
Jill Lesselyoung, Executive Assistant  
Brooke Tellinghuisen Geddes, Executive Assistant  
Mark Gebbie, DPM  
Megan Borchert, Board Attorney, DOH

**Call to Order/Welcome and Introductions:** Stansberry called the meeting to order at 11:02 AM MST.

**Roll Call:** Lesselyoung called the roll. Stansberry, yes; Johnston, yes; Torness, yes; Blair, yes. A quorum was present. Stansberry welcomed the new Board members, Johnston and Torness. Gebbie exited the meeting at 11:05.

**Corrections or additions to the agenda:** Tellinghuisen requested to move the public testimony prior to approval of the agenda to be consistent with the timeframe.

**Public Comment:** There was no public comment.

**Approval of the agenda:** Stansberry made a motion to approve the agenda with the change. Johnston seconded the motion. **MOTION PASSED** by roll call vote. Stansberry, yes; Johnston, yes; Torness, yes; Blair, yes.

**Introduction of new legal counsel for DOH-Borchert, Prosecutor-Williams:** Stansberry introduced Borchert as the Board attorney for DOH and welcomed her to the Board.

**Review-Role of Board Member and Conflict of Interest-Borchert:** Borchert advised her role for the Board is to assist with meetings and provide legal advice as general counsel. Justin Williams will handle complaints and settlements. Borchert advised a Board member's role is to protect the health and safety of the consumers. It is a distinct purpose from the association's role

of expansion of the practice and promotion of the profession. She advised members to keep the public protection in the back of their minds. She discussed the Code of Conduct and Conflict of Interest Policy that is a part of the Boards and Commissions Meeting Guidelines; a Board member must not use information for personal gain. She discussed the Anti-Harassment Policy and the Open Meeting Laws. All are encouraged to reach out with any questions. Stansberry questioned if Williams as prosecutor will conduct the investigations. Borchert advised the Board members will still do the investigations and Williams will advise the complaint officer and the Board office staff.

**Approval of the Minutes from March 6, 2020:** Blair made a motion to approve the minutes from March 6, 2020. Torness seconded the motion. **MOTION PASSED** by roll call vote. Stansberry, yes; Johnston, yes; Torness, yes; Blair, yes.

**FY Financial Update:** Lesselyoung reported fiscal year-end figures as of June 30, 2020: year-end revenue of \$19,824.27; expenditures of \$18,327.06 and cash balance of \$29,394.76 and year to date figures as of October 31, 2020: year to date revenue of \$2,075.97; expenditures of \$6,975.36 and cash balance of \$24,495.37.

**Renewal Update:** Lesselyoung advised there are currently 54 active licensees. There were 3 non-renewals: 2 out of state and 1 in state.

**Online renewals:** The Board office advised they are moving to a new system with Albertson Consulting for online renewals and credit card payment for those Boards under DSS. The State is highly encouraging an online system. The Board office has requested a bid to include all Boards in the new system. Once the new system is operational, Albertson Consulting will submit an additional bid to import the old records into their electronic data management system for records retention. The online renewals will be included as an agenda item for the next meeting.

**Any other business coming in between the date of mailing and meeting:** Stansberry advised that Skea had been acting as complaints officer for the Board and asked if that was an elected position. Tellinghuisen advised it is not and sometimes complaints are rotated between Board members. Following discussion, Johnston offered to help with complaints. It was agreed to discuss online renewals with the association at their next meeting. Discussion was held regarding whether the Board was making any concessions on continuing education requirements due to COVID. Tellinghuisen asked if they could obtain online. Stansberry advised they offer a lot of online CME lectures. Tellinghuisen advised that we need to discuss at a later meeting as this is not an agenda item and we are prohibited from discussing topics not on the agenda. It was agreed to add as an agenda item for the next meeting. Borchert will look into further.

**Schedule next meeting:** The next meetings are scheduled via teleconference for March 5, 2021 and October 1, 2021 at 11:00AM MT/12:00PM CT. Stansberry made a motion to adjourn the meeting at 11:41AM MST. Blair seconded the motion. **MOTION PASSED** by roll call vote. Stansberry, yes; Johnston, yes; Torness, yes; Blair, yes.

Respectfully submitted,



Carol Tellinghuisen  
Executive Secretary

Carolyn Stansberry, DPM  
President

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

DRAFT

STATE OF SOUTH DAKOTA  
 REVENUE SUMMARY BY BUDGET UNIT  
 FOR PERIOD ENDING: 06/30/2020

AGENCY	BUDGET UNIT	09	HEALTH	BOARD OF PODIATRY EXAMINERS - INFO				
CENTER	COMP	ACCT	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE		
COMPANY NO	6503							
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS							
092100061821	6503	4293959		PODIATRY EXAM LIC FEE	7,160.00	19,390.00		
ACCT:	4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	7,160.00	19,390.00	*	
ACCT:	42			LICENSES, PERMITS & FEES	7,160.00	19,390.00	**	
092100061821	6503	4920045		NONOPERATING REVENUES	.00	434.27		
ACCT:	4920			NONOPERATING REVENUE	.00	434.27	*	
ACCT:	49			OTHER REVENUE	.00	434.27	**	
CNTR:	092100061821				7,160.00	19,824.27	***	
CNTR:	092100061				7,160.00	19,824.27	***	
CNTR:	0921000				7,160.00	19,824.27	*****	
COMP:	6503				7,160.00	19,824.27	*****	
B UNIT:	09210				7,160.00	19,824.27	*****	

STATE OF SOUTH DAKOTA  
 MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT  
 FOR PERIOD ENDING: 06/30/2020

AGENCY BUDGET CENTER	UNIT	09	HEALTH BOARD OF PODIATRY EXAMINERS - INFO	09210	BOARD OF PODIATRY EXAMINERS - INFO	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS					
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS						
092100061821	6503	520409000000000000	MANAGEMENT CONSULTANT			.00	15,513.09
092100061821	6503	520416000000000000	WORKSHOP REGISTRATION FEE			.00	76.05
092100061821	6503	520420000000000000	CENTRAL SERVICES			.00	1,422.77
092100061821	6503	520420400000000000	RECORDS MGMT SERVICES			.00	236.55
092100061821	6503	520451000000000000	RENTS-OTHER			.00	4.32
092100061821	6503	520458000000000000	TRUCK-DRAYAGE & FREIGHT			.00	65.57
092100061821	6503	520459000000000000	INS PREMIUMS & SURETY BDS			.00	880.00
ACCT: 5204	CONTRACTUAL SERVICES						
092100061821	6503	520531000000000000	PRINTING-STATE			.00	18,198.35
092100061821	6503	520535000000000000	POSTAGE			.00	64.28
092100061821	6503	520539000000000000	FOOD STUDIES			.00	56.79
ACCT: 5205	SUPPLIES & MATERIALS						
ACCT: 52	OPERATING EXPENSES						
COMP: 6503	PROFESSIONAL & LICENSING BOARDS						
CENTER: 092100061821							
B UNIT: 09210							
						.00	18,327.06
						.00	18,327.06
						.00	18,327.06

AGENCY: 09 HEALTH  
BUDGET UNIT: 09210 BOARD OF PODIATRY EXAMINERS - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061821	1140000	29,394.76	DR	BOARD OF PODIATRY EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			29,394.76	DR *	
COMP/BUDG UNIT TOTAL 6503 09210			29,394.76	DR **	
BUDGET UNIT TOTAL 09210			29,394.76	DR ***	



STATE OF SOUTH DAKOTA  
 REVENUE SUMMARY BY BUDGET UNIT  
 FOR PERIOD ENDING: 01/31/2021

AGENCY 09 HEALTH  
 BUDGET UNIT 09210 BOARD OF PODIATRY EXAMINERS - INFO  
 CENTER COMP ACCOUNT DESCRIPTION CURRENT MONTH YEAR-TO-DATE

COMPANY NO 6503  
 COMPANY NAME PROFESSIONAL & LICENSING BOARDS

092100061821 6503 4293959 PODIATRY EXAM LIC FEE

ACCT: 4293 BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL) .00 2,060.00 \*

ACCT: 42 LICENSES, PERMITS & FEES .00 2,060.00 \*\*

092100061821 6503 4920045 NONOPERATING REVENUES .00 515.97

ACCT: 4920 NONOPERATING REVENUE .00 515.97 \*

ACCT: 49 OTHER REVENUE .00 515.97 \*\*

CNTR: 092100061821 .00 2,575.97 \*\*\*

CNTR: 092100061 .00 2,575.97 \*\*\*\*

CNTR: 0921000 .00 2,575.97 \*\*\*\*\*

COMP: 6503 .00 2,575.97 \*\*\*\*\*

B UNIT: 09210 .00 2,575.97 \*\*\*\*\*

BA0215V1 01/30/2021

STATE OF SOUTH DAKOTA  
 MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT  
 FOR PERIOD ENDING: 01/31/2021

AGENCY BUDGET UNIT CENTER-5	09 09210 09210	HEALTH BOARD OF PODIATRY EXAMINERS - INFO BOARD OF PODIATRY EXAMINERS - INFO	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	PAGE
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS						
COMPANY NAME	6503	PROFESSIONAL & LICENSING BOARDS						
092100061821	6503	510103000000000000	BOARD & COMM MBR'S FEES		240.00	240.00		
ACCT: 5101			EMPLOYEE SALARIES		240.00	240.00	*	
092100061821	6503	510201000000000000	OASI-EMPLOYER'S SHARE		18.36	18.36		
ACCT: 5102			EMPLOYEE BENEFITS		18.36	18.36	*	
ACCT: 51			PERSONAL SERVICES		258.36	258.36	**	
092100061821	6503	520409000000000000	MANAGEMENT CONSULTANT		1,337.64	10,309.46		
092100061821	6503	520420000000000000	CENTRAL SERVICES		.00	899.78		
092100061821	6503	520420400000000000	RECORDS MGMT SERVICES		55.10	171.00		
092100061821	6503	520458000000000000	TRUCK-DRAYAGE & FREIGHT		.00	87.30		
ACCT: 5204			CONTRACTUAL SERVICES		1,392.74	11,467.54	*	
ACCT: 52			OPERATING EXPENSES		1,392.74	11,467.54	**	
COMP: 6503			PROFESSIONAL & LICENSING BOARDS		1,651.10	11,725.90	***	
CENTER: 092100061821					1,651.10	11,725.90	****	
B UNIT: 09210					1,651.10	11,725.90	*****	

BAL1409R1

STATE OF SOUTH DAKOTA  
CASH CENTER BALANCES  
AS OF: 01/31/2021

AGENCY: 09 HEALTH  
BUDGET UNIT: 09210 BOARD OF PODIATRY EXAMINERS - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100061821	1140000	20,244.83	DR	BOARD OF PODIATRY EXAMINERS
COMPANY/SOURCE TOTAL 6503 618			20,244.83	DR *	
COMP/BUDG UNIT TOTAL 6503 09210			20,244.83	DR **	
BUDGET UNIT TOTAL 09210			20,244.83	DR ***	



## 2021 South Dakota Legislature

**House Bill 1014****ENROLLED**

## AN ACT

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

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

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

**36-1C-1. Definitions.**

Terms used in this Act mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

An investigative committee includes the agency's legal counsel.

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

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

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

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

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

**Section 6.** That a NEW SECTION be added:

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

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

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

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

**Section 7.** That a NEW SECTION be added:

**36-1C-7. Formal complaint.**

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

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

**Section 8.** That a NEW SECTION be added:

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

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

**Section 9.** That a NEW SECTION be added:

**36-1C-9. Notice of hearing.**

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

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

**Section 10.** That a NEW SECTION be added:

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

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

**Section 11.** That a NEW SECTION be added:

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

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

**Section 12.** That a NEW SECTION be added:

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

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

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

**Section 13.** That a NEW SECTION be added:

**36-1C-13. Promulgation of rules.**

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

**Section 14.** That a NEW SECTION be added:

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

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

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

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

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

\_\_\_\_\_  
(Signature of Petitioner)

**Section 15.** That a NEW SECTION be added:



**36-1C-15. Action on petition.**

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

**Section 16.** That a NEW SECTION be added:

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

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

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

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

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

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

**36-4C-23. Investigation of violations.**

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

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

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

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

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

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

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

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

**36-9-21. Promulgation of rules.**

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

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

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

**36-9A-41. Promulgation of rules.**

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

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

**36-9C-32. Promulgation of rules.**

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

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

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

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

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

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

**36-11-11. Promulgation of rules .**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**36-21B-3. Promulgation of rules.**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**36-36-12. Promulgation of rules.**

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

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

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

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

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

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

\_\_\_\_\_

\_\_\_\_\_

I certify that the attached Act originated in the:

Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_,

House as Bill No. 1014

2021 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
Speaker of the House

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

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2021  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1014  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State