

FORM 10

MINUTES OF PUBLIC HEARING South Dakota Board of Pharmacy

The South Dakota Board of Pharmacy convened at 2:02 p.m. CDT on June 18, 2026, at 4001 W. Valhalla Blvd., Ste. 202, Sioux Falls, SD 57106.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the South Dakota Board of Pharmacy numbered §§ 20:51:02, 20:51:05, 20:51:06, 20:51:13, 20:51:14, 20:51:15, 20:51:17, 20:51:19, 20:51:20, 20:51:21, 20:51:22, 20:51:27, 20:51:28, 20:51:29, 20:51:30, and 20:51:34.

Hearing Officer: Tom Nelson, South Dakota Board of Pharmacy Vice President

Members of the Board in Attendance: Shane Clarambeau, Ashley Hansen (virtual), Cheri Kraemer, Tom Nelson, and Curt Rising (virtual)

Others in Attendance: Tyler Laetsch, Melissa DeNoon, Jenna Heyen, Lee Cordell, Carol Smith, Lan Van De Rostyne, Beth Windschitl, Holly Herrmann, Jeremy Daniel, Ryan Waybright, Nick Roby, Jennifer Bertsch, Michelle Aytay, Aly Howard, Jessica Strobl, Amanda Bacon, Chelsea Conway, Emily Van Klompenburg, Sarah Cronin, Traci Carlson, David McVey, Tyler Turek, and Eric Grocott.

Roll Call / Approval of Agenda

The Hearing Officer and Presiding Chair, Tom Nelson, called the meeting to order at 2:02 pm, explained the reason for the Rules Hearing, and reviewed meeting protocol. Voice roll call was taken, mission statement read, a quorum confirmed, and introductions completed. The only item on the agenda is the Rules Hearing

Motion to approve the agenda was ratified. (Kraemer/Clarambeau/Unanimous)

Motion to accept the draft packet as presented for review was ratified.

(Clarambeau/Kraemer/Unanimous)

Rules Hearing Presentation of Proposed Rules

Board Executive Director Tyler Laetsch explained the rules promulgation process, activities completed by the board, presented a synopsis of the amended draft rules as enumerated in the agenda (Article 20:51), and recommendations to IRRC from LCR. Written comments received by June 15, 2026, were read by PDMP Director Melissa DeNoon.

Summary of LRC Comments/Changes

1. A Notice of Public Hearing must include a reason for adopting proposed rules as required by SDCL 1-26-4.1(2).
2. 20:51:02:04 Could not identify any general authority or law implemented in SDCL chapter 36-11 that provides the basis for charging an intern fee.
3. 20:51:028:02.01 Edits to the section were reverted by the Rules Committee in May 2024 for revision, as statute does not authorize interns to administer immunizations. No revisions to date.
4. Submit a revised Form 5 that clarifies the fiscal impacts of permit waivers, medication remote drop sites, and non-refundable fees.

Written Testimony

- Ian Alverson
 - Madison Hospital, Pharmacist
 - Proponent or Opponent – Undeclared
 - Madison, South Dakota
 - Received May 28, 2026
 - 20:51:15:18 Storage of a patient's own medication. Proposed language: "the patient's health record must contain documentation, including medications that are being stored". Interpreted to mean each individual medication patient brings with them to the facility, including supplements, over-the-counter, and prescriptions, must be documented in the patient's health record. Process will be too cumbersome, - limit to recording individual prescription medications only or controlled substances, and the quantity
 - Suggestions, changes, clarification, and general support with modifications
 - Agency Discussed
 - Agency Action – Modified language to 20:51:15:18 to remove concern

- Austin Oyen
 - Lewis Drug & Lewis Family Drug, Pharmacist
 - Proponent with suggestions
 - Sioux Falls, South Dakota
 - Received May 29, 2026
 - 20:51:05:15.03 Authorized refilling of a prescription. Add clarity language regarding original prescription, partial fill, total quantity, authorized refill, and filling timelines
 - Suggestions, changes, clarification, and general support with modifications
 - Agency Discussed
 - Agency Action – No action warranted at this time, the wording matches federal and other state laws and rules.

- John Daniel
 - Avera Heart Hospital, Pharmacy Director
 - Proponent or Opponent – Undeclared
 - Sioux Falls, South Dakota
 - Received June 4, 2026
 - 20:51:05:15:02 Delivery of a prescription. Propose an agent of the prescriber be an approved signer
 - 20:51:15:12 Storage of drugs in areas other than the pharmacy. Suggests part of month record checks of stored meds be performed by licensed clinical staff in other departments not pharmacy staff.
 - 20:51:15:18 Storage of a patient's own medication. Suggests recordkeeping for storage of patients own medications be maintained by the pharmacy in a retrievable format for a specified period instead of in patient's health record.
 - 20:51:29:16 Training and utilization of pharmacy technicians. Request clarification of the parties and process
 - Agency Discussed
 - Agency Action – Section 20:51:15:18 was modified to address the comment

- Ryan Waybright, PharmD, BCCCP
 - Avera McKennan Hospital & University Health Center, AVP Pharmacy
 - Proponent with suggestions
 - Sioux Falls, South Dakota

- Received June 5, 2026
 - 20:51:14:05 through 20:51:14:07 Operational waiver. Additional clarification regarding metric measures, standards, rule equivalencies, evidentiary sources, audits, waiver suspension process, and annual review requirements.
 - Agency Action –20:51:14:07, the investigation of an issue was addressed to further clarify the process of reviewing a waiver.
- Emily Van Klompenburg, PharmD, BCACP
 - SDSU College of Pharmacy & Allied Health Profession, Assistant Professor
 - Proponent with suggestions
 - Brookings, South Dakota
 - Received June 9, 2026
 - Section 20:51:02 through 20:51:20 language continuity changes, clarification of information appearing on a prescription, and inspection frequencies.
 - Agency Action –20:51:05:15 had wording change from signature to name and 20:51:13:06(6) was changed from pharmacy staff to a pharmacist
- Amanda Bacon
 - South Dakota Pharmacists Association, Executive Director
 - Proponent with suggestions
 - Pierre, South Dakota
 - Received June 11, 2026
 - 20:51:05:15 clarify prescriber's federal registration number, suggested alternatives to 20:51:13:02(1) requiring staff rosters for remote drop sites, 20:51:15:12 recordkeeping methods for medications stored outside of the pharmacy, 20:51:17:01:02 expanding the exceptions for emergent use.
 - Agency Action – 20:51:05:15 was modified to add the words Drug Enforcement Administration, and 20:51:15:12 was modified to quarterly checks, along with a list of authorized staff roles with access to medications.
- Austin Block
 - Haisch Pharmacy, PharmD
 - Proponent or Opponent – Undeclared
 - Canton, South Dakota
 - Received June 15, 2026
 - 20:51:05:15 change full legal name to full name; 20:51:05:15.03 clarify documentation requirements for circumstances when pharmacist exercised professional judgement; change term amount to quantity for consistency.
 - Agency Action – 20:51:05:15 was changed to full legal first and last name, and 20:51:05:15.03 wording was changed to quantity from amount.
- Linda Young
 - South Dakota Board of Nursing, Executive Director
 - Proponent or Opponent – Undeclared
 - Sioux Falls, South Dakota
 - Received May 22, 2026
 - 20:51:15:13 line four, add phrase "licensed pursuant to SDCL chapter 36-9" designated by the hospital, nursing facility....
 - Agency Action – LRC review stated this wording is not necessary

Oral Testimony

- Traci Carlson
 - South Dakota Department of Corrections, Pharmacy Manager
 - Proponent with suggestions
 - Yankton, South Dakota
 - June 18, 2026
 - 20:51:14:05 Proponent of the proposed waiver section; 20:51:14:07 request additional information regarding waiver suspension process, delineate adverse issues, and consider suspension pause options.
 - Agency Action – 20:51:14:07, the investigation of an issue was addressed to further clarify the process of reviewing a waiver.

- Jessica Strobl
 - Lewis Drug, VP of Pharmacy Services
 - Proponent with suggestions
 - Sioux Falls, South Dakota
 - June 18, 2026
 - Old version 20:51:13:05.01(4) implementation of the designated person prescription pick process will be operationally difficult. Suggest a log be used to document pick instead of outside of the package.
 - Agency Action – 20:51:13:05.01(4) removed the designated person from the package wording.

- Jeremy Daniel
 - Avera McKennan Behavioral Health Clinical Pharmacist, South Dakota Pharmacist Association (SDPhA) representative
 - Proponent with suggestions
 - Sioux Falls, South Dakota
 - June 18, 2026
 - 20:51:13:08(3) Remote drop site Board approval. Request clarification of policies and procedures requirements.
 - 20:51:13:09(4) Remote drop site Requirements. Concur, J. Strobl comment
 - 20:51:13:10(1) Remote drop site – Recordkeeping. Providing a list of all staff at a site presents challenges due to turnover; proposed a list of the types of individuals who would have access (technician, registered nurse..) instead of a list of specific persons by name; easier to implement and maintain.
 - 20:51:14:05 Administrative rule waiver or modification request – prohibition-board approval – notification. Language reads as an “individual” waiver per pharmacy. Clarify is an individual waiver required for each site. Propose a waiver “system approach” for a chain of community pharmacies or a health system (all pharmacies under one waiver).
 - 20:51:14:06(2) Waiver application requirements. Clarify whether there is one waiver per location or a roster of locations under one waiver.
 - 20:51:15:18 Storage of a patient’s own medication. Support entity completing an inventory/list of patient’s own medications brought to a facility. Suggest limiting the inventory list to controlled substances only, and document all the patient’s items (supplements, over-the-counter, etc.) brought to the facility, as this presents a challenge.
 - 20:51:14:07 Granted waiver – Annual review – Adverse issue – Suspension and review. The section does not outline requirements to be submitted annually; what is to be provided for annual review. Clarification requested.
 - Agency Discussed

- Agency Action - 20:51:13:05.01(4) removed the designated person from the package wording. 20:51:15:18 was modified to address the comment.
- Aly Howard
 - Sanford USD Medical Center, Director of Pharmacy, Sioux Falls Region
 - Proponent or Opponent – Undeclared
 - Unknown
 - Cite not provided. Medication stored outside of the pharmacy. Appreciate the intent to address appropriate user access, proper storage, inventory, and accountability. Unsure how to implement; what a solution would be.
 - Agency Discussed
 - Agency Action – 20:51:15:12 was modified from monthly checks to quarterly and added the wording to exclude medications stored in an automated mechanical distribution device.

Discussion

20:51:02:04 Section removed per LRC comments. The plan is for future statute updates.

20:51:05:15 Controlled drug to be dispensed only by prescription. Change “full” legal name to just full name. The section had significant revision and updating. Rationale – maintain legal name for potential identification requirements, PDMP date integrity.... Board suggests change to legal name (first and last name, middle name not required)

20:51:05:15.02 Delivery of a prescription. Would a provider’s agent be a suitable individual to sign a handwritten or faxed prescription? Recommend no change to maintain consistency between controlled and non-controlled drugs.

20:51:05:15.03 Refilling of a prescription. The entire section was significantly revised for organization, ease of use, and understanding. Underlined information is not new but has been moved from another section.

- There was no change to language; it does not prohibit partial filling and aligns with the federal government's refill, fill, and partial fill language. Recommend no changes.
- Does not limit total quantity dispensing as long as allowable in the prescription or how quickly the prescription can be refilled.
- Twelve-month expiration date on a legend non-controlled drug. Refill historically in rule but moved to section 05:20. Recommend no change.
- Submitter solutions do not dictate any changes. Board comments do not dictate any changes to sections.
- Prescriber cannot be contacted for a refill. Several individuals commented on this section. It was a newer addition to the previously written 2024 rules. Not an addition to the rule and requires professional judgement. Recommend no change.

20:51:05:15(4) Prescriber’s signature required. Board recommends changing the signature to “name”.

20:51:05:15(5) Edit, already planned to include “Drug Enforcement Agency” number.

20:51:05:20 Legend drug to be dispensed by prescription only – refill restricted. Section repealed. Prescription filing and retention information now in 20:51:24:04 Maintenance of records.

20:51:06:02 Ownership or control by pharmacist required. For clarity, change language to read “on a form provided by the board”. Section repealed in draft.

20:51:13:05.02 Inspection visits quarterly / at least every 90 days. Inconsistent language, should they be the same? The board intends to keep starter packs at 90 days and remote drop sites at quarterly intervals. Remote drop site to maintain a list of employees who have been trained and

have access to prescription packages. Suggest list be based on staff roles/position not specific named individuals. At these locations, access to the remote drop site medications is not expected to be "role" related due to the variety of locations and staffing patterns at the site. Recommend no change.

20:51:13:05.03(4) Style and form correction. Add period to the end of the sentence.

20:51:13:06(6) Off-site medication control in a hospital or medical clinic. Who should check starter packs at a location? Continuity of language should be "pharmacy staff or pharmacist". Recommend further discussion on whose role this is and seek recommendations from the board as it relates to pharmacist technician oversight outside of the pharmacy. Should the pharmacist be the individual to perform task(s)?

20:51:13:09(4) Delete language "If a designated person is to pick up the prescription, the person's name is also listed on the outside packaging".

20:51:14:05 Administrative rule waiver or modification. Requests for further detail/clarification for the operational waiver and scenario process. It is not feasible to provide greater detail in the rule, given the unique variability of each waiver request. Recommend no changes.

20:51:14:06 Waiver application – Requirements. Clarify which term to use: "A licensee or pharmacist-in-charge". Both terms required as a pharmacy might not be the only entity/facility applying for a waiver. The pharmacist-in-charge must complete a waiver for a pharmacy; a licensee may apply for a waiver for an entity. Recommend no change.

20:51:14:07 Granted waiver – Annual review – Adverse issue – Suspension.

- What constitutes an adverse issue? Open to alternate ways to state "adverse issue". The board intentionally chose a broad term to allow for a variety of scenarios. The board recommends language changes as updated in the revised draft.

Annual review. Will be dictated in each waiver. Recommend no change to allow for broader interpretation.

20:51:15:12 Storage of drugs in areas other than the pharmacy. Recommend maintaining the expectation that these are checked by pharmacy employees. Addresses the continual finding of expired products upon inspection when the pharmacy is not involved in the maintenance and storage of drugs. Recommend that we examine products stored in AMDD versus outside AMDD. Change wording to be "a list of authorized staff roles..." in place of each employee name.

20:51:15:18 Storage of a patient's own medication. Addressed, rewritten by LRC.

20:51:17:01.02 Pharmacist shall review first-dose prescription drug order – Exception. SDPhA recommends 1. expanding the exception to include circumstances where immediate administration is necessary, delay may adversely affect patient care, and a licensed prescriber is present and directing patient care, and 2. Expanding the drugs that can be removed by someone other than a pharmacist. Board recommends no change, at this time, to meet the challenging needs of both urban and rural environments. Future discussion.

20:51:28:01.02 Section removed per LRC comments.

20:51:29:16 Comment is the result of a misread of terms "a licensed pharmacy employing".

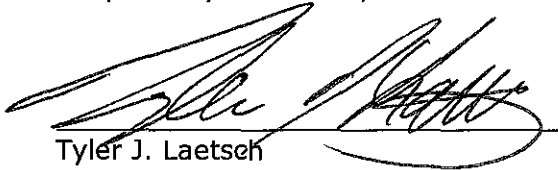
Summary of Changes to Proposed Rules Because of the Public Hearing or Comment

- LRC style and form changes throughout the entire rules packet.
- 20:51:02:04 and 20:51:28:02.01 have been removed from the packet due to LRC concerns with statutory authority.
- 20:51:05:15(4) changed the word signature to name and 20:51:05:15(5) added the words Drug Enforcement Administration.
- 20:51:05:15.03 changed the word amount to quantity under Schedule II or IV controlled drug.
- 20:51:13:08(4) added a missing period at the end.
- 20:51:13:09(4) removed the last sentence If a designated person is to pick up the prescription, the person's name is also listed on the outside package.
20:51:13:09(9) changed the wording from pharmacy staff to a pharmacist.
- 20:51:14:07 added wording to be like 20:51:13:11 for the board to investigate any reported issue and, if warranted, suspend the waiver until review by the full board.
- 20:51:15:12 added outside of an automated mechanical distribution device.
20:51:15:12(3) changed from monthly to quarterly. 20:51:15:12(4) changed from the names of facility employees to a list of authorized staff roles.
- Reason for Changes – After discussion and public and written comments, it was reviewed and amicably agreed upon the modification/clarification of the above rule chapters.

Motion to approve rules packet as amended was ratified (Clarambeau/Hansen/Unanimous)

Adjournment: (Kraemer/Nelson) 5:10 p.m.

Respectfully submitted,



Tyler J. Laetsch
Executive Director
South Dakota Board of Pharmacy