

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0306

SENATE BILL NO. 77

Introduced by: The Committee on Health and Human Services at the request of the Department
of Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to require the licensure of nonresident pharmacies.

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

3 Section 1. For purposes of this Act, a nonresident pharmacy is any pharmacy located outside
4 this state that:

5 (1) Ships, mails, or delivers any dispensed drug to a resident in this state pursuant to a
6 legally issued prescription;

7 (2) Provides to a resident of this state information on drugs or devices including advice
8 relating to therapeutic values, potential hazards, and uses; or

9 (3) Counsels pharmacy patients residing in this state concerning adverse and therapeutic
10 effects of drugs.

11 Section 2. Any nonresident pharmacy shall be licensed before conducting business in this
12 state. The Board of Pharmacy shall issue a license to any nonresident pharmacy which meets the
13 requirements of this Act. In order to be licensed by the board to do business in this state, a
14 nonresident pharmacy shall:

15 (1) Be licensed and in good standing in the state in which its dispensing facilities are

1 located;

2 (2) Comply with all applicable laws, rules, and standards of that state and the United
3 States, and if requested by the board, provide evidence that it has complied; and

4 (3) Submit an application upon a form prescribed by the Board of Pharmacy and pay a
5 fee set by the board.

6 The application shall include information on ownership and location of the pharmacy, the
7 identity of licensed pharmacist in charge of the pharmacy, identity of licensed pharmacists who
8 are providing services to patients residing in this state, and provide a copy of the most recent
9 inspection report resulting from an inspection conducted by the regulatory or licensing agency
10 of the state in which it is located. The board shall establish pursuant to chapter 1-26 the
11 application fee.

12 Section 3. The board may approve, approve with conditions, or deny the application for
13 licensure or renewal of licensure as a nonresident pharmacy based on information concerning the
14 qualifications of the applicant provided in the application. An applicant may appeal the decision
15 of the board regarding licensure or renewal of licensure pursuant to contested case procedure
16 in chapter 1-26.

17 Section 4. Each nonresident pharmacy license expires on June thirtieth following the date of
18 issue. The board shall mail an application for license renewal to each licensee before June first
19 of each year. If application for renewal of the license accompanied by the annual license fee is
20 not made before the expiration date, the existing license lapses on the date of expiration.

21 Section 5. If the licensing or regulatory agency of the state in which an out-of-state pharmacy
22 is domiciled fails or refuses to inspect the out-of-state pharmacy after receiving a request for an
23 inspection from the Board of Pharmacy of this state, the board may cancel the out-of-state
24 pharmacy's license pursuant to contested case procedure in chapter 1-26 unless the out-of-state
25 pharmacy agrees to an on-site inspection by the board of this state.

1 Section 6. No nonresident pharmacy may dispense an equivalent drug product if a brand
2 name has been prescribed, unless the dispensing is done in compliance with the laws of this state
3 nor may dispense an equivalent drug product to a resident of this state without informing the
4 patient of the selection and the right to refuse the product selected either by telephone or in
5 writing.

6 Section 7. A nonresident pharmacy shall obtain, record, and maintain pertinent patient
7 information. The pharmacy shall provide patients a written offer to consult and access to a toll-
8 free telephone service to facilitate communications between the patient and the pharmacist at the
9 pharmacy. The number of the toll-free telephone service shall be printed on a label affixed to
10 each container of a prescription drug dispensed by the pharmacy to a patient. The toll-free
11 telephone service shall be available for a minimum of six days a week and forty hours a week.

12 In addition, a nonresident pharmacy shall provide the patient written information about the
13 medication on all new or changed prescriptions. The information shall include directions for
14 storage and use, precautions and relevant warnings about drug interactions and common side
15 effects, and directions for patient action if the patient misses a scheduled dose of the prescription.

16 Section 8. A nonresident pharmacy shall designate a resident agent in this state for service
17 of process. If an agent is not designated, the secretary of state of this state shall be considered
18 to be its agent, upon whom may be served all legal process in any action or proceeding against
19 the nonresident pharmacy. A copy of any service of process shall be mailed by certified mail,
20 return receipt requested, postage prepaid, at the address the nonresident pharmacy has
21 designated on its application for licensure. If any nonresident pharmacy is not licensed in this
22 state, service on the secretary of state is sufficient service.