Agency Name: State Board of Pharmacy - Labor, Licensing and Regulation

Statutory Authority: 40-1-70, 40‑43‑60(C) and (D)(8), 40‑43‑86(B), and 40‑43‑150

Document Number: 4822

Proposed in State Register Volume and Issue: 42/9

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Medical Affairs Committee

120 Day Review Expiration Date for Automatic Approval: 05/08/2019

Final in State Register Volume and Issue: 43/5

Status: Final

Subject: Administrative Citations and Penalties

History: 4822

By Date Action Description Jt. Res. No. Expiration Date

- 09/28/2018 Proposed Reg Published in SR

- 01/08/2019 Received by Lt. Gov & Speaker 05/08/2019

H 01/08/2019 Referred to Committee

S 01/08/2019 Referred to Committee

H 02/27/2019 Resolution Introduced to Approve 4124

- 05/08/2019 Approved by: Expiration Date

- 05/24/2019 Effective Date unless otherwise

 provided for in the Regulation

Document No. 4822

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**BOARD OF PHARMACY**

CHAPTER 99

Statutory Authority: 1976 Code Sections 40‑1‑70, 40‑43‑60(C) and (D)(8), 40‑43‑86(B), and 40‑43‑150

99‑45. Administrative Citations and Penalties.

**Synopsis:**

 The South Carolina Board of Pharmacy proposes to amend existing regulations to conform to Act No. 29 of 2015 and Act No. 91 of 2017. The Board further proposes to decrease the fine for a pharmacist‑in‑charge’s violation of Act No. 91 of 2017.

 A Notice of Drafting was published in the *State Register* on July 27, 2018.

**Instructions:**

 Replace regulation as shown below. All other items and sections remain unchanged.

**Text:**

99‑45. Administrative Citations and Penalties.

 A. The board may issue administrative citations and cease and desist orders in person, or by certified mail, and may assess administrative penalties against an entity or individual for the violations listed below. If the licensee is working at his or her primary place of employment listed with the Board, the licensee must have his or her license or registration displayed. If the licensee is not working at his or her primary place of employment, the licensee must have a wallet card available for inspection. The citation must be signed by the Chief Drug Inspector.

1. Failure to Display Permit (Pharmacist‑in‑Charge) $50

2. Failure to Display License or Possess Wallet Card $100

3. Failure to Display Intern Certificate or Possess Wallet Card (PIC and Intern) $25

4. Failure to Display Pharmacy Technician Registration or Possess Wallet Card $25

5. Pharmacy Technician Working Without Registration (Permit Holder) $500

6. Pharmacy Technician Working Without Registration (PIC) $500

7. Pharmacy Technician Working With Lapsed Registration (Permit Holder) $500

8. Pharmacy Technician Working With Lapsed Registration (PIC) $500

9. Pharmacy Technician Working With Lapsed Registration (Technician) $50

10. Pharmacy Operating with greater than 4:1 Technician to Pharmacist Ratio (PIC) $250

11. Pharmacy Operating with greater than 4:1 Technician to Pharmacist Ratio $500

 (Permit Holder)

12. Failure to Notify Board of Facility Relocation $100

13. Failure to Notify Board of PIC Change $100

14. Immunization Protocol‑Technical Violation $500

15. Failure to Notify Board of Change in Ownership $100

 B. Separate citations and administrative penalties may be assessed for each violation.

 C. Administrative citations authorized under this section are separate from, and in addition to, all other remedies, either civil or criminal.

 D. A licensee assessed an administrative citation may appeal the citation to the board within thirty (30) calendar days of the receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the board or its designee for a final determination on the matter. If no appeal is filed, the citation is deemed a final administrative order, and penalties are due within ninety calendar days of receipt of the citation, or other written demand.

 E. Extension to pay citations must be submitted in writing, and will be at the discretion of the Chairman.

 F. Failure to pay a citation is considered a violation of this regulation, and may subject the entity to discipline under S.C. Code Ann. § 40‑43‑140(A)(1)(a).

 G. Should a licensee or permittee receive one or more administrative violations of the same type in a five year period, any subsequent violation(s) must be referred to the board for disciplinary action.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

 The proposed regulations replace the reference to a flu protocol violation with an immunization protocol violation to reflect that pharmacists may administer vaccinations other than a flu shot pursuant to the joint written protocol. The proposed regulation will update the existing language to reflect the current ratio of pharmacy technicians to pharmacists as modified in 2017. It further seeks to decrease the fine for a pharmacist‑in‑charge’s violation of the ratio from $500 to $250.