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Statutory Authority: 40-1-70, 40-43-60, 40-43-150, and 40-43-160

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<u>By</u>	<u>Date</u>	<u>Action Description</u>	<u>Jt. Res. No.</u>	<u>Expiration Date</u>
-	10/24/2014	Proposed Reg Published in SR		
-	01/23/2015	Received by Lt. Gov & Speaker		05/23/2015
H	01/27/2015	Referred to Committee		
S	01/27/2015	Referred to Committee		
S	03/12/2015	Committee Requested Withdrawal 120 Day Period Tolled		
-	03/16/2015	Withdrawn and Resubmitted		05/27/2015
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-	05/27/2015	Approved by: Expiration Date		
-	06/26/2015	Effective Date unless otherwise provided for in the Regulation		

Resubmitted: March 16, 2015

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**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), 40-43-150(C), and 40-43-160

99-45. Administrative Citations and Penalties.

99-46. Fines.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation, Board of Pharmacy proposes to establish administrative citation authority and a penalty schedule for pharmacists, pharmacy technicians and permit holders, the Board is adding Regulations 99-45 and 99-46 in conformance with the Pharmacy Practice Act and current practice. To establish a fine amount as required by S.C. Code Ann. §§ 40-43-150(C) and -160, the Board is establishing fines in regulation.

The Notice of Drafting was published in the *State Register* on July 25, 2014.

**Instructions:**

Regulations 99-45 and 99-46 are added as shown below.

**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 3:1 Technician to Pharmacist Ratio (PIC)	\$500
11. Pharmacy Operating with greater than 3:1 Technician to Pharmacist Ratio (Permit Holder)	\$500
12. Failure to Notify Board of Facility Relocation	\$100
13. Failure to Notify Board of PIC Change	\$100
14. Flu 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. Extensions 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.

#### 99-46. Fines.

A. Upon determination by the board that one or more grounds for disciplining a licensee or permittee exists, the board may impose a fine of \$500 per violation, not to exceed a total amount of \$25,000 total per action, plus the costs of the disciplinary action. Fines are payable immediately upon the effective date of discipline unless otherwise provided by the board. Interest accrues after the fines are due at the maximum rate allowed by law. No licensee or permittee against whom a fine is levied is eligible for reinstatement until the fine has been paid in full.

B. An individual who has been found by the board to have unlawfully engaged in the practice of pharmacy under S.C. Code Ann. § 40-43-160(A) may be fined in an amount not to exceed \$25,000.

#### **Fiscal Impact Statement:**

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

#### **Statement of Rationale:**

These regulations are added in conformance with the Board's practice act and current practice.