

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD
)	OF MEDICAL EXAMINERS
PATRICIA A. SHAWBERRY, M.D.)	
RESPONDENT)	CASE NO: 2012024711
)	
BOWLING GREEN, OHIO)	
TENNESSEE LICENSE NO. 46019)	

CONSENT ORDER

Come now the Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Division"), by and through the Office of General Counsel, and Respondent Patricia A. Shawberry, M.D. (hereinafter "Respondent"), who would respectfully move the Tennessee Board of Medical Examiners (hereinafter the "Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

I. AUTHORITY AND JURISDICTION

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. See Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN. §") 63-6-101, *et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules

and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee (hereinafter "TENN. COMP. R. & REGS.").

Respondent Patricia A. Shawberry, M.D., by her signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. Respondent acknowledges that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/ or similar agency. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

II. STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number

46019 by the Board on March 18, 2010. Respondent's license will expire on May 31, 2014.

2. In or about November 2012, Respondent provided a licensed practical nurse with blank, pre-signed prescriptions.
3. The licensed practical nurse used the blank, pre-signed prescriptions to prescribe the controlled substance Adderall to a patient.

III. GROUNDS FOR DISCIPLINE

The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board is authorized:

4. The facts stipulated in paragraphs 2 and 3, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct;

5. The facts stipulated in paragraphs 2 and 3, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(4):

Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of medical practice;

6. The facts stipulated in paragraphs 2 and 3, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(12):

Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical

infirmity or disease, or in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition;

7. The facts stipulated in paragraphs 2 and 3, *supra*, constitute a violation of TENN. COMP.

R. & REGS., Rule 0880-02-.14(7):

Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:

1. Performed an appropriate history and physical examination; and
2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.

IV. POLICY STATEMENT

The Tennessee Board of Medical Examiners takes this action in order to protect the health, safety and welfare of the citizens of the State of Tennessee.

V. ORDER


NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

8. The Tennessee medical license of Patricia A. Shawberry, M.D., license number 46019, is hereby **REPRIMANDED**, effective the date of entry of this Consent Order.
9. Respondent must enroll in and successfully complete within one (1) year of the effective date of this Order, the medical course entitled "*Controlled Substance Prescribing*" offered at Case Western University located in Cleveland, Ohio, or an equivalent course approved in advance by the Board. Within thirty (30) days after completion of such course, Respondent shall mail or deliver proof of compliance with this course requirement to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Second Floor, Nashville, Tennessee 37243.** Any Continuing Medical Education (hereinafter "CME") course hours earned from attendance and completion of the course required.
10. Respondent shall pay One (1) type B civil penalty in the amount of Five Hundred Dollars (\$500.00) representing each patient for whom the blank, pre-signed prescriptions were used.
11. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-02-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be One Thousand Dollars (\$1,000.00).
12. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency.

VI. NOTICE

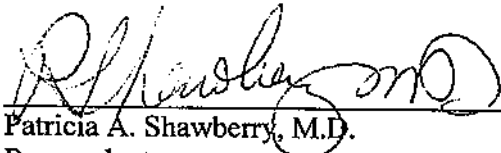
13. Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs by submitting a **certified check, cashier's check, or money order** payable to the **State of Tennessee**, which shall be mailed or delivered to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Second Floor, Nashville, Tennessee 37243**. A notation shall be placed on said check that it is payable for the costs of **Patricia A. Shawberry, M.D., Case No. 2012024711**.

This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 19TH day of March, 2014.



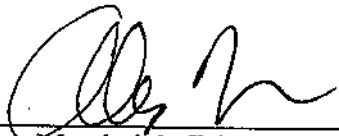
Chairperson
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:



Patricia A. Shawberry, M.D.
Respondent
520 Pine Valley Drive
Bowling Green, Ohio 43402

2/5/14
DATE



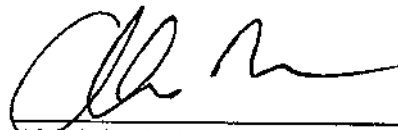
Alex Munderloh (B.P.R. #030274)
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

3/19/14
DATE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Patricia A. Shawberry, M.D., 520 Pine Valley Drive, Bowling Green, Ohio 43402 and 510 East Main Street, Gallatin, Tennessee 37066, by delivering same in the United States Mail, Certified Numbers 7013 2630 0000 9837 1152 and 7013 2630 0000 9837 1169, return receipts requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination.

This 19TH day of March, 2014.



Alex Munderloh
Assistant General Counsel