BEFORE THE TENNESSEE BOARD OF PHARMACY

IN THE MATTER OF:	)	
	)	
NEW ENGLAND COMPOUNDING CENTER,	)	**COMPLAINT NO. 201200215**
LICENSE NUMBER 00004144	)	
697 WAVERLY STREET	)	
FRAMINGHAM, MA01702	)	

VOLUNTARY SURRENDER AGREEMENT

The Division of Health Related Boards of the Tennessee Department of Health ("Division"), by and through the Office of General Counsel, and Respondent, New EnglandCompoundingCenter ("NECC" or "Respondent") do hereby stipulate and agree as follows:

I. Authority and Jurisdiction

The Tennessee Board of Pharmacy ("Board") regulates and supervises pharmacies, pharmacists, pharmacy technicians, and pharmaceutical manufacturers, wholesalers, and distributors licensed to practice pursuant to the Tennessee Pharmacy Practice Act (See "Practice Act" located at Tennessee Code Annotated section 63-10-101, *et seq*), including the discipline of licensees, as well as those who are required to be licensed, who violate the Practice Act and the Rules promulgated by the Board. (See Tenn. Comp. R.&Regs. § 1140-01-.01, *et seq.*) The Board enforces the Practice Act to promote and protect the health, safety and welfare of the public; accordingly, it is the policy of the Board to require strict compliance with the law and to apply the law to preserve the quality of pharmacy care provided in Tennessee.

II. Stipulations of Fact

1. At all times pertinent herein, Respondent has been licensed by the Board as a pharmacy in the state of Tennessee, having been granted license number 00004144 on February 15,

2005.

2. On or about October 3, 2012, Respondent voluntarily surrendered its pharmacy license in its home state of Massachusetts. The Surrender Agreement states that it relates to: (a) an inspection conducted on October 2, 2012; and (b) the sterility of certain drug products compounded and dispensed by the Pharmacy; specifically, methylprednisolone acetate.

3. Tennessee Code Annotated section 4-5-320(c) grants the Board the authority to summarily suspend a license if it finds that the public health, safety, or welfare require emergency action.

4. Tennessee Code Annotated section 63-10-305 and Tenn. Comp. R. & Regs.1140-1-.08 grant the Board the authority to revoke, suspend, or impose other lawful disciplinary action, including a civil penalty for any violation of any laws relating to drugs or to the practice of pharmacy and/or the Board's rules.

5. Tennessee Code Annotated section 63-10-305(7) grants the Board the authority to suspend, revoke, or refuse to issue a license to a licensee that has had its license to practice pharmacy suspended or revoked by another state for disciplinary reasons.

6. Rule 1140-01-.08(3)(a)(3) of the Rules of the Tennessee Board of Pharmacy provides that every out-of-state pharmacy also licensed in Tennessee must maintain at all times a current permit, license, or registration to conduct the pharmacy in compliance with the laws of the state in which the pharmacy is located.

IV. Stipulated Disposition

7. The Stipulations of Fact are sufficient to establish that the Board may initiate a disciplinary proceeding against Respondent under Tennessee Code Annotated section 63-10-305(7).

8. Respondent understands the rights found in the Practice Act and the Uniform

Administrative Procedures Act (See Tenn. Code Ann. §§ 4-5-101 thru 4-5-404), including the right to a hearing to contest the Stipulations of Fact, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against Respondent, the right to testify and to present evidence on Respondent's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review of an adverse action.

9. For the purpose of avoiding the costs and uncertainties of further administrative action with respect to this cause, Respondent agrees to the **VOLUNTARY SURRENDER** of its license to practice as a pharmacy in the state of Tennessee.

10. Respondent understands this **VOLUNTARY SURRENDER** has the same effect as a **REVOCATION**and is a formal disciplinary action.

11. Respondent understands that although it makes no admission of liability or wrongdoing by voluntarily surrendering its pharmacy license, the Board retains the right to bring an action against Respondent for the assessment of civil penalties for the reasons set forth in Tennessee Code Annotated section 60-10-305 and Rule 1140-01-.08(3)(a)(3) of the Rules of the Tennessee Board of Pharmacy.

12. By entering into this Agreement, Respondent understands and agrees that the decision to enter into this Agreement is a final act and is not subject to reconsideration or judicial review.

13. The parties hereto agree that Respondent makes no admission of liability or wrongdoing.

14. A violation of this Voluntary Surrender Agreement shall constitute a separate violation of the Tennessee Pharmacy Practice Act located at Tennessee Code Annotated section 63-10-101, *etseq*, and constitutes grounds for further disciplinary action by the Board.

15. Respondent states that it has used legal counsel in connection with the decision to enter into this Agreement or, if it did not, Respondent had an opportunity to do so.

16. This Agreement and its contents shall be incorporated into the records maintained by the Board. In addition, this Agreement is a public record subject to disclosure to the public and equivalent licensing boards.

By: _____
New England Compounding Center,
Respondent
Pharmacy License No. 00004144

Dated: 10/12/12

By: _____
Paul Cirel, Esq.
Attorney for Respondent
100 High Street
Boston, Mass. 02110-2321

Dated: 10/12/12

By: _____
Andrew Holt, Pharm.D.
Executive Director
Tennessee Board of Pharmacy

Dated: 10/15/12

By: _____
John R. Smith
Chief Deputy General Counsel
Tennessee Department of Health
220 Athens Way, Suite 210
Nashville, TN. 37243
(615) 532-7179
john.r.smith@tn.gov

Dated: 10/15/12

Approval by the Board

Upon the agreement of the parties and the record as a whole, this Voluntary Surrender Agreement was approved by a majority of a quorum of the Tennessee Board of Pharmacy at a public meeting of the Board and signed this 15th day of October, 2012.

_____
Brenda Warren, Pharm. D.
Chairperson
Tennessee Board of Pharmacy