

TENNESSEE BOARD OF PHARMACY  
665 Mainstream Dr  
Nashville, TN 37243

**BOARD MEMBER PRESENT**

Adam Rodgers, D.Ph., President  
Melissa McCall, D.Ph., Vice President  
Richard Breeden, D.Ph.  
Katy Wright, D.Ph.  
Marlin Blane, D. Ph  
Shanea McKinney, D.Ph.  
Jake Bynum, Consumer Member

**STAFF PRESENT**

Lucy A. Shell, Executive Director  
Matthew Gibbs, Deputy General Counsel  
Rita Golden, Pharmacy Investigator  
Robert Shutt, Pharmacy Investigator  
Larry Hill, Pharmacy Investigator  
Andrea Miller, Pharmacy Investigator  
Derek Johnston, Pharmacy Investigator  
Terry Grinder, Pharmacy Investigator  
Scott Denaburg, Pharmacy Investigator  
Patricia Beckham, Pharmacy Investigator  
Rebecca Moak, Pharmacy Investigator  
Paul Richardson, Associate General Counsel  
Timothy Peters, Associate General Counsel  
Sheila Bush, Administrator Director

**STAFF ABSENT**

Richard Hadden, Pharmacy Investigator

The Tennessee Board of Pharmacy convened on Tuesday, November 8, 2022, in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:03 a.m. with Dr. Rodgers presiding.

**Minutes**

Dr. Breeden made the motion to accept the minutes from the July 26, 2022, board meeting. Dr. McCall seconded the motion. The motion carried.

**Financial Report**

Keeyona Love, presented the 2022 fiscal report.

**Application Review**

**LaKesha Turner, RT**

Ms. Turner answered “no” to the question that asked “Have you ever been convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than a minor traffic offense) whether or not sentenced was imposed or suspended. Documentation submitted indicates the Ms. Turner pled guilty to Simple Possession Schedule II on 6/2/2022. After discussion, Dr. Wright made the motion to approve Ms. Turner’s application for registration as a pharmacy technician. Dr. McKinney seconded the motion. After further discussion, Dr. Blane made the amended motion to have TPRN monitoring for 1 year with

quarterly drug screens and any refusal of drug screening or not participating her license will be immediately suspension. Dr. Breeden seconded the amended motion. Dr. Blane rescinding the motion. Dr. Wright made the motion to approve Ms. Turner's application for registration as a pharmacy technician with a contract with TPRN and random drug screens. Dr. McCall seconded the motion. The motion carried.

**Raymond Jackson, D.Ph.**

Dr. Jackson is applying for licensure by reciprocity and he answered yes to the question that asked "Have your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?"; "Have you ever voluntarily surrendered your pharmacist license or any pharmacist registration issued by a federal or state controlled substance authority?"; "Have you ever been charged or convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?" and "Have you ever had any application for initial licensure, renewal licensure, or licensure by transfer denied by an licensing authority whether in pharmacy or any other profession?". Dr. Jackson pled guilty to theft and embezzlement in connection with health care on January 8, 2008 with 24 months imprisonment and 3 year probation upon release. Dr. Jackson surrendered his Maryland BoP license on 11/25/2008 and was denied a hearing by the Michigan Board of Pharmacy to obtain a Michigan pharmacist license. Dr. Jackson has a valid South Carolina pharmacist's license. After discussion, Dr. Breeden made the motion to approve Dr. Jackson's application for reciprocity. Dr. Jackson must successfully take and pass the MPJE. Dr. Blane seconded the motion. The motion carried.

**Waiver**

**Board rule 1140-03-.14 (12)**

Dr. Breeden made the motion to deny **Wesley Dulaney, D.Ph.** request to be the pharmacist in charge of Greeneville Community Hospital and Unicoi County Hospital. Dr. McKinney seconded the motion. The motion carried.

Dr. McCall made the motion to approve **Adam White, D.Ph.** request to be the pharmacist in charge of Sycamore Shoals Hospital and Johnson County Community Hospital. Dr. White must visit Johnson County Community Hospital monthly. Dr. Breeden seconded the motion. The motion carried.

**Board rule 114-01-.13 (3)(d)**

Dr. McCall made the motion to approve **Tri-Star Spring Hill ER Pharmacy** request to waive the board requirement for the pharmacy to be at least 180 square feet. Dr. Breeden seconded the motion. The motion carried.

**Order Modification**

**Ragan Webster, D.Ph.**

Dr. Wright made the motion to deny Dr. Webster's request for an order modification. Dr. Webster consent order stated that she cannot have the controlled substance modifier for one year. Mr. Bynum seconded the motion. The motion carried. Dr. McKinney voted no.

### **National Coalition for Drug Quality and Security**

Denise Frank, D.Ph. spoke to the board about National Coalition for Drug Quality and Security concerning inspections for out of state manufacturer, wholesale/distributor, and 3PL's. National Coalition for Drug Quality and Security is seeking guidance on how to have their inspection accepted by the Board. After discussion, Dr. Blane made the motion to allow Dr. Shell to approve the waiver when it is submitted. Dr. Breeden seconded the motion. The motion carried.

### **Repacking Pilot Program**

Christopher Patterson, D.Ph. gave the board an update on the pilot program to repackage medications at the pharmacies that are in the pilot program. Dr. Patterson asked the board to extend the pilot program for another 3 years. After discussion, Dr. McCall made the motion to extend the pilot program for 3 more years. Dr. McKinney seconded the motion. The motion carried.

### **Board rule 1140-01-.05(4) and T.C.A. 4-19-102**

Dr. Shell asked the board for clarification of the rules that requires a pharmacist that has applied for license by examination and they have failed the NAPLEX and/or MPJE for three tries or more. The National Association of Boards of Pharmacy rules require that the board approve the individual to have approval from the board to retest. T.C.A. 4-19-102 states that the board cannot deny a person from retesting. After discussion, the Board decided to allow Dr. Shell to speak to the pharmacist and inquire what type of education materials they are using to ensure that they can pass the tests. Dr. Shell will bring a report to the board.

### **Public Comments**

Bernadette Pager offered comments concerning ivermectin.

### **St. Jude Children's Research Hospital**

Dr. Steve Pate and Dr. Bill Greene appeared before the board to ask for approval to use a kiosk in the outpatient dormitory. St. Jude's outpatient pharmacy will be responsible to filling the kiosk and patient counseling. After discussion, the Board decided that St. Jude will need to apply for an automated dispensing machine for the kiosk in the outpatient dormitory.

### **ePharma Direct**

Darrel Jones, owner of **ePharma Direct LLC**, appeared before the board at the July 26, 2022 board meeting asking for approval to have a dispensing kiosk at his grocery store. Mr. Jones has submitted the paperwork to start a pilot program. After discussion, Dr. McCall made the motion to approve the pilot program for 2 years. Mr. Jones will be required to submit quarterly reports, any and all errors, and the process for stocking the machine. Dr. Blane seconded the motion. The motion carried.

### **Consent Orders**

Mr. Paul Richards, Associate General Counsel, submitted the following consent orders for approval.

Mr. Bynum made the motion to accept **Shania Cuellar, R. T.** consent order as amended with a \$1800.civil penalty. Ms. Cuellar violated board rule 1140-02-.02(1). Dr. Breeden seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **CVS Pharmacy #16598** consent order with a \$150.00 civil penalty for violating board rule 1140-03-.14(2)(a), (4) & (6). Dr. McCall seconded the motion. The motion carried.

Dr. Breeden made the motion to accept **Nathaniel Higgs, R.T.** agreed order to voluntarily surrender his pharmacy technician registration. Mr. Higgs violated T.C.A. §63-10-305(6). Dr. Blane seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Emily Hughes, R.T.** consent order to voluntarily surrender her pharmacy technician registration. Ms. Hughes violated T.C.A. §63-10-305(6). Mr. Bynum seconded the motion. The motion carried.

Dr. McKinney made the motion to accept **Kimberly McFarland, R.T.** consent order to voluntarily surrender her pharmacy technician registration. Ms. McFarland violated T.C.A. §63-10-305(6). Mr. Bynum seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Lea Street, R. T.** consent order as amended with a \$1800.civil penalty. Ms. Street violated board rule 1140-02-.02(3). Dr. Breeden seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Larco Pharmacy** consent orders with a \$1000.00 civil penalty for not having a PIC and \$1000.00 civil penalty key violations for a total of \$2000.00. Dr. Breeden seconded the motion. The motion carried.

Mr. Timothy Peters, Senior Associate General Counsel, submitted the following consent orders to the board for approval.

Dr. Blane made the motion to deny **Monica R. Belcher, R.T.** consent as presented. Mr. Bynum seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Shutemple Birdsong, R.T.** consent order for revocation. Ms. Birdsong violated T.C.A.§ 63-10-305(6). Dr. McCall seconded the motion. The motion carried.

Dr. McCall made the motion to accept **CVS Pharmacy #2198** consent order with a \$1000.00 civil penalty and corrective action plan within 6 months of this consent order. CVS Pharmacy #2198 violated T.C.A. § 63-10-305(6) & (8). Dr. Breeden seconded the motion. The motion carried.

Dr. Breeden made the motion to accept **CVS Pharmacy #386** consent order with a \$1000.00 civil penalty and corrective action plan within 6 months of this consent order. CVS Pharmacy #386 violated T.C.A. § 63-10-305(6) & (8). Dr. McKinney seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **CVS Pharmacy #6366** consent order with a \$100.00 civil penalty for failure to notify the board of a change in PIC. Dr. McCall seconded the motion. The motion carried.

Dr. Bynum made the motion to accept **CVS Pharmacy #7630** consent order with a \$2000.00 civil penalty for failure to properly counsel when dispensing a new prescription and \$1000.00 civil penalty for failure to produce and provide affidavits for all pharmacy technicians when requested. Dr. McKinney seconded the motion. The motion carried.

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Dr. McCall made the motion to accept **Erlanger Medical Center**, lic #266 consent order with a \$100.00 civil penalty for allowing a pharmacy technician to work on an expired registration. Dr. Breeden seconded the motion. The motion carried.

Dr. Blane made the motion to deny **Guardian Pharmacy of TN Once LLC dba Middle Tennessee Pharmacy** consent order as presented. Dr. McKinney seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Brad Hopkins, D.Ph.** consent order with license reprimand and a \$500.00 civil penalty. Dr. Hopkins violated T.C.A. 63-10-305 (3), (4), (6) & (8). Dr. Breeden made the motion carried. The motion carried.

Mr. Bynum made the motion to accept **Hopkins Apothacary**. consent order with license reprimand. Hopkins Apothacary violated T.C.A. 63-10-305 (3), (4), (6) & (8). Dr. Breeden made the motion carried. The motion carried. Dr. Blane voted no.

Dr. McKinney made the motion to accept **Tammy Lee, R.T.** consent order with a \$100.00 civil penalty for failure to offer counseling to patient. Mr. Bynum seconded the motion. The motion carried.

Dr. Blane made the motion to deny **Madison Avenue Pharmacy** consent order as presented. Dr. Wright seconded the motion. The motion carried.

Dr. Breeden made the motion to accept **Shelby Maxcy, D.Ph.** consent order with a \$1000.00 civil penalty for failing to properly counsel. Dr. McCall seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Garrett McLaughlin, D.Ph.** consent order with a \$1000.00 civil penalty for failing to properly counsel. Dr. Breeden seconded the motion. The motion carried.

Dr. Blane made the motion to deny **Terry Moore, D.Ph.** and **Moore Pharmacy, Inc** consent order as presented. Mr. Bynum seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Omnicare, Inc** with a \$500.00 civil penalty for failing to properly notify the board of a PIC change. Dr. Blane seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Shawn Pruitt, D.Ph.** consent order with license reprimand and six additional continuing education hours relating to Mainstreaming Addiction Treatment Act and Pharmacy law. Dr. Pruitt violated T.C.A. 63-10-305 (3), (4), (6) & (8).. Dr. McCall seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Pruitt's Discount Pharmacy** consent order with license reprimand. Dr. McCall seconded the motion. Pruitt's Discount Pharmacy violated T.C.A. 63-10-305 (3), (4), (6) & (8). The motion carried with a roll call vote. Dr. McKinney and Dr. Blane voted no.

Dr. McKinney made the motion to accept **Pruitt's Pharmacy at Neighborhood Health Napier Clinic** consent order with license reprimand and \$1100.00 civil penalty for failure to notify the board of a PIC change. Dr. Breeden seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Deidra Rudder, D.Ph.** consent order with license reprimand. Dr. Rudder violated T.C.A. 63-10-305 (6) & (8). Dr. Wright seconded the motion. The motion carried.

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Dr. McKinney made the motion to accept **Michayla Smith, R.T.** consent order with a \$100.00 civil penalty for failure to offer counseling. Dr. Breeden seconded the motion. The motion carried.

Dr. Breeden made the motion to accept **Walgreens Pharmacy #06609** consent order with \$1000.00 civil penalty and corrective action plan within six months of the consent order for failure to properly counsel. Mr. Bynum seconded the motion. The motion carried.

Mr. Bynum made the motion to deny **Walgreens Pharmacy #09522** consent order as presented. Dr. McKinney seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Whitney Poppen, R.T.** consent order for revocation. Dr. Breeden seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Kyle Kaminski, D.Ph.** consent order for suspension. The suspension stayed and license place on probation upon receipt from Tennessee Pharmacy Recovery Network. Mr. Bynum seconded the motion. The motion carried.

Dr. McCall made the motion to accept **Robert Kokoszka, D.Ph.** consent order for suspension as amended. The suspension stayed and license place on probation upon receipt from Tennessee Pharmacy Recovery Network. Dr. Breeden seconded the motion. The motion carried.

Mr. Bynum made the motion to accept **Maricely Valdes, D.Ph.** consent order with a \$1000.00 civil penalty for failure to properly counsel. Dr. McKinney seconded the motion. The motion carried.

Mr. Bynum made the motion to recess until November 9, 2022. Dr. Breeden seconded the motion. The motion carried.

November 9, 2022

The Tennessee Board of Pharmacy reconvened on Wednesday, November 9, 2022 in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members was present, the meeting was called to order at 9:00 a.m., by Dr. Rogers, president.

### **Contested Cases** **Kylie Lehman, RT**

Ms. Lehman was not present nor represented by legal counsel. Mr. Peters represented the State. Mr. Richard Murrell was the Administrative Law Judge. Mr. Peters asked to proceed in default. The Board approved the motion to proceed in default. Mr. Peters passed out the Notice of Charges. Ms. Lehman is charged with violating T.C.A. §63-10-305 (4) and (6). After discussion, Dr. McCall made the motion to revoke Ms. Lehman's registration as a pharmacy technician. Dr. Breeden seconded the motion the motion. The motion carried. Dr. McCall made the motion that the action taken was to protect, promote and improve the health and prosperity of people in Tennessee and those visiting Tennessee. Dr. Wright seconded the motion. The motion carried.

**Raymond Braddock, R.T.**

Mr. Braddock was not present nor represented by legal counsel. Mr. Richardson represented the State. Mr. Richard Murrell was the Administrative Law Judge. The Board approved the motion to proceed in default. Mr. Braddock is charged with violating T.C.A. §63-10-305 (6). Mr. Richardson passed out the Notice of Charges. After discussion, Dr. Breeden made the motion to revoke Mr. Braddock's registration as a pharmacy technician. Dr. Blane seconded the motion the motion. The motion carried. Dr. McKinney made the motion that the action taken was to protect, promote and improve the health and prosperity of people in Tennessee and those visiting Tennessee. Dr. McCall seconded the motion. The motion carried.

**Christina Lynn, RT**

Ms. Lynn was not present nor represented by legal counsel. Mr. Richardson represented the State. Mr. Richard Murrell was the Administrative Law Judge. Mr. Richardson asked to proceed in default. The Board approved the motion to proceed in default. Mr. Richardson passed out the Notice of Charges. Ms. Lynn is charged with violating T.C.A. §63-10-305 (6). After discussion, Dr. McKinney made the motion to place Ms. Lynn's registration as a pharmacy technician on probation for one year. Dr. Wright seconded the motion the motion. The motion carried. Dr. Wright made the motion that the action taken was to protect, promote and improve the health and prosperity of people in Tennessee and those visiting Tennessee. Dr. McCall seconded the motion. The motion carried.

**Timothy Wilburn, RT**

Mr. Wilburn was not present nor represented by legal counsel. Mr. Richardson represented the State. Mr. Richard Murrell was the Administrative Law Judge. Mr. Richardson asked to proceed in default. After discussion, Mr. Richardson asked the board for a continuance due to receiving additional information. The Board granted the motion of continuance.

**Director's Report**

Dr. Shell inform the there will be a roadmap for the end of CMS COVID-19 Public Health Emergency. When the Public Health Emergency ends, there will be a 60-day notice stating that they will not renew and then a 90-day grace period.

Dr. Shell inform the Board of the changes to controlled substances prescriptions, especially CII's, after the DEA removed some guidance out of their pharmacist manual about what changes can occur on the CII prescriptions. The Administrative Office informed the public that the Board's policies did not change. The DEA has put out guidance stating that they will be updating their rules and for states to use the Board's policy. Dr. Shell asked the Board to review the policy for any potential changes. No changes were requested at this time.

Dr. Shell explained to the board that compounding rules are moving through the internal review process. Also, the USP rule revisions will be in effect November 2023 and the board's rules have an anticipated effective date of January 1, 2024.

Dr. Shell explained that the Rules Committee has not met, but will focus on pharmacy technician rules when they are able to reconvene outside of a Board meeting. The rules for Public Chapter 908 are in the internal review process.

Dr. Shell asked the board about rules for Public Chapter 910 which request accessible prescription labels for the visually impaired and requires the board to promogulated rules. Dr. Shell asked the board the if they desired to have the requirements be patient specific and allow the pharmacist to work with the patient or if they want very specific rules in place about elements that would be required. After discussion, Dr. Shell stated that a sentence could be added to the rule states “Accommodations for individuals who are blind, visually impaired, or otherwise print disabled shall be made”. The Board agreed.

Dr. Shell informed the board that NABP sent out an emergency memo stating that a software error had occurred. There were approximately 200 individuals that were notified that they failed the NAPLEX but had actually passed. Everyone affected have been notified.

Dr. Shell informed the board about the TPA Winter Meeting scheduled for February 25-28, 2023 and the UT Spring Updates.

Dr. Shell asked Dr. Breeden about attending the ASHP Meeting during their mid-year clinical meeting for boards of pharmacy. Dr. Breeden will be attending.

Dr. Shell informed the board that she attended the Tri-Regulatory Symposium meeting and the MALTAGON meeting. The next MALTAGON meeting will be in Knoxville, TN with attentive date is October 15-18, 2023.

Dr. Shell informed the board about the next ACPE invites the board to send a representative when they have their comprehensive reviews at the colleges within their states. Dr. Shell attended the review at the University of Tennessee.

Dr. Grinder gave the investigative report from September 1, 2022-October 3, 2022. There have been 432 inspection, 125 investigations and the investigators have travel roughly 32, 200 miles. For fiscal year 2022 we opened 222 new complaints, had 18 that were passed their benchmark due to waiting on other agencies and have completed 247 cases.

### **OGC Report**

Mr. Gibbs informed the board that there are currently 95 cases open for discipline within the Office of General Counsel. Of those 95 cases, 15 are eligible for a contested hearing.

The Tennessee Board of Pharmacy along with the Tennessee Department of Health has been named as two of the defendants contained in the master docket for the National Prescription Opiate Litigation. The Office of the Attorney General is aware of this litigation.

Mr. Gibbs stated that there were 91 cases reviewed by the complaint committee from July 27, 2022 through November 8, 2022.



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Mr. Gibbs stated that Dr. Blane asked for more information concerning Public Chapter 881 at the July 26, 2022 board meeting. Public Chapter 881 prohibits a healthcare provider who is authorized to prescribe buprenorphine under federal law from prescribing via telehealth a buprenorphine product, as approved by the federal food and drug administration for use in recovery or medication-assisted treatment, unless certain conditions met.

Dr. Rodgers adjourned the meeting at 11:25 a.m.

The minutes were approved and ratified at the January 24, 2023 board meeting.