

**BEFORE THE WEST VIRGINIA MEDICAL IMAGING & RADIATION THERAPY
TECHNOLOGY BOARD OF EXAMINERS**

**WEST VIRGINIA MEDICAL IMAGING AND
RADIATION THERAPY TECHNOLOGY
BOARD OF EXAMINERS,
Complainant,**

v.

Case No. 05-FY-2024

**BRITTANY POWELL,
(License No. 9773),
Respondent.**

CONSENT AGREEMENT AND ORDER

After due investigation of a written complaint, the West Virginia Medical Imaging & Radiation Therapy Technology Board of Examiners (Board) determined that there was probable cause to believe that Brittany Powell (Respondent) has exhibited unprofessional and unethical conduct in the practice of medical imaging, in violation of the provisions of W. Va. Code § 30-23-5 and the Rules of the Board, W. Va. Code R. § 18-5-1, *et seq.* Respondent was provided with written notice of the allegations against her pursuant to the rules of the Board and the laws of this State.

Now, in lieu of hearing, the parties have reached an agreement as to the appropriate disposition of this matter, with consideration to the necessary safeguards for protection of the public and do hereby agree to the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Brittany Nicole Powell is a licensee of the Board (License No. 9773). Prior to her summary suspension, she held a radiography license since May 20, 2015.
2. On January 5, 2024, the Board sent Respondent a letter indicating that a Complaint was initiated against her pursuant to W. Va. Code § 30-23-25 following information received from Respondent's employer on January 2, 2024, indicating that Respondent was working while showing signs of drug impairment. She agreed to take a drug test, which came back positive for marijuana.
3. Pursuant to W. Va. Code R. §18-5-5.1.7, unprofessional conduct includes "engag[ing] in actual or potential inability to practice medical imaging or radiation therapy technology with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals or any other material; or as a result of any mental or physical condition."
4. On January 22, 2024, Respondent submitted a response to the Complaint.
5. On February 15, 2024, an informal conference was held by the Board to address this matter. The following persons were present: the Respondent; Jamie Browning (Executive Director of the Medical Imaging Board); Tyson Judy (Chair of the Medical Imaging Board); Dee Workman (Board of Medical Imaging Member and Board Secretary); Adriana Marshall (Assistant Attorney General, appearing on behalf of the Medical Imaging Board); Garland Nagy, Esq., (General Counsel for WVU Medicine, appearing on behalf of April Spotts); April Spotts (Radiology Manager, Potomac Valley Hospital); and Laura Waters (Regional Director of Human Resources, Potomac Valley Hospital).
6. The Board's Ethics Committee recommended a finding of probable cause in violation of W. Va. Code R. § 18-5-5.1.7.

7. The Board, at its February 15, 2024, meeting, did by unanimous vote, find probable cause that Respondent violated W. Va. Code R. § 18-5-5.1.7.

8. The Board and Respondent desire to resolve this complaint by use of this negotiated Consent Agreement and Order as follows:

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.
2. The Board is a regulatory board created for the purpose of regulating the practice of medical imaging and radiation therapy technology. W.Va. Code § 30-23-6.
3. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke, or otherwise discipline an individual's license because of authority granted to it by W. Va. Code § 30-23-24.
4. That based upon the allegations of unprofessional or unethical conduct set out above in the *Findings of Fact* section, the Board is authorized to suspend, revoke, or otherwise restrict the license. W.Va. Code §30-23-24.
5. The Board has authorized the proposal of this consent decree to informally resolve this matter.

CONSENT OF LICENSEE

Respondent, by affixing her signature hereto, acknowledges the following:

1. Respondent acknowledges that the Board has jurisdiction over her and her conduct which precipitated this Consent Agreement and Order.
2. Respondent has been given the opportunity to consult with counsel and executes this Consent Agreement voluntarily, freely, without compulsion or duress and is mindful that it has legal consequences.

3. That no person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

4. Respondent is aware that she may pursue this matter through appropriate administrative and/or court proceedings and is further aware of her legal rights regarding this matter, but intelligently, knowingly, and voluntarily waives such rights.

5. Respondent expressly acknowledges that the entire agreement is contained in this Consent Agreement and Order and that no representations, promises, or inducements have been made by or to Respondent other than as they appear in this Consent Agreement and Order.

6. Respondent acknowledges that this Consent Agreement and Order is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W.Va. Code § 29B-1-1, *et seq.*) and may be reported to other governmental agencies, professional boards and organizations.

7. Respondent waives any defenses including, but not limited to, laches, statute of limitations, and estoppel, that she may have otherwise claimed as a condition of this Consent Agreement and Order.

8. The Respondent, Brittany Powell, by affixing her signature hereon, agrees to the following:

ORDER

1. Respondent's, License No. 9773, is hereby SUSPENDED until the following condition is met: Respondent must enroll in and agree to the terms of the West Virginia Pharmacy Recovery Network Discipline Program.

2. Upon the Board's receipt of documentation from the West Virginia Pharmacy Recovery Network Discipline Program that: Respondent has enrolled in and agreed to the terms and conditions of the program, the Board will immediately lift the suspension of Respondent's license and Respondent will be placed on probation for a period of time as recommended by the West Virginia Pharmacy Recovery Network. Respondent's period of probation begins on the date that the Board receives notification that Respondent has agreed to the terms of the Pharmacy Recovery Network Program.

3. During the probationary period, Respondent must comply with the terms of the West Virginia Pharmacy Recovery Network Discipline Program and receive monthly drug and alcohol testing subject to the following terms:

a. Respondent is required to pay the costs of any drug and alcohol tests performed.

b. Drug test results showing Respondent as positive for alcohol, any illegal substance, or for any substances for which Respondent does not have a valid prescription for may result in the immediate suspension of Respondent's license until such time as Respondent submits a negative test result.

c. Failure to submit to a monthly drug test will result in the immediate suspension of Respondent's license until Respondent submits a negative test result.

4. The West Virginia Pharmacy Recovery Network Discipline Program must provide the Board with updates regarding Respondent's drug and alcohol test results every thirty (30) days.

5. Respondent is required to submit a certificate of completion from the West Virginia Pharmacy Recovery Network Discipline Program.

6. This document is a public record as defined in W. Va. Code § 29B-1-2.

7. Respondent shall reimburse the Board for legal and administrative fees in the amount of \$240.00 incurred by the Board in preparation of this consent agreement and order.

8. This Consent Decree will be submitted to the ARRT.

Bethany N Powell

ENTERED this, the 25 day of March, 2024.

WEST VIRGINIA MEDICAL IMAGING BOARD

BY:

Tyson Judy

Tyson Judy
Chair