

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD
)	OF MEDICAL EXAMINERS
SHELBY LYNN CUNNINGHAM, M.D.)	
RESPONDENT)	CASE NOS: 201500638
)	
ARDMORE, TENNESSEE)	
TENNESSEE LICENSE NO.: 41035)	

CONSENT ORDER

The Division of Health Related Boards of the Tennessee Department of Health (“Department”), by and through the Office of General Counsel, and Shelby Lynn Cunningham, M.D. (“Respondent”), respectfully move the Tennessee Board of Medical Examiners (“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 (“Act”), Tennessee Code Annotated Section (“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 the Act or the Rules and Regulations promulgated by the Board in the *Official Compilation Rules and Regulations of the State of Tennessee* ("TENN. COMP. R. & REGS.").

Respondent, by signing 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 National Practitioner 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 pertinent times licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 41035 by the Board on May 08, 2006, which Respondent voluntarily retired in September 2015.
2. Respondent was employed by Shelbyville Clinic Corporation (SCC) which allowed the Respondent to obtain hospital privileges at Heritage Medical Center (HMC).
3. While practicing at HMC, the Respondent had several patient complications which include, but is not limited to the following:
 - a. Respondent severed both ureters of one patient.
 - b. Respondent severed a ureter of a cancer patient.
 - c. Another surgeon had to conduct follow-up surgery because the Respondent failed to repair the hole between a patient's vagina and bladder.
4. The Hospital Medical Executive Committee completed a review of Respondent's medical records and voted to request that the Respondent "obtain additional training prior to performing any further GYN procedures based upon concerns related to patient safety, judgment, technical abilities, and medical record documentation." The Respondent completed the additional training.
5. On or about January 19, 2015, SCC terminated its employment agreement with the Respondent.
6. On or about January 19, 2015, Respondent lost her clinical privileges at HMC.
7. On September 25, 2013, Respondent signed a lifetime continuing care contract with the

Tennessee Medical Foundation (TMF) for chemical dependency.

8. On or about August 13, 2015, TMF withdrew advocacy from the Respondent because she lost her Soberlink breathalyzer and did not submit to a blood alcohol test.

III. GROUNDS FOR DISCIPLINE

The facts stipulated above are sufficient to establish grounds for discipline of Respondent's medical license. Specifically, Respondent has violated the following statutes, which are part of the Tennessee Medical Practice Act:

9. The facts stipulated in paragraphs two (2) through six (6) above 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;

10. The facts stipulated in paragraphs two (2) through eight (8) above constitute violation of TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct

IV. POLICY STATEMENT

11. The Board takes this action in order to protect the health, safety and welfare of the citizen of the State of Tennessee and ensure that the public confidence in the integrity of the medical profession is preserved.

V. ORDER

Therefore, Respondent AGREES and the Board ORDERS as follows:

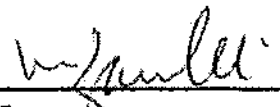
12. For the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to **VOLUNTARILY SURRENDER** her license, to practice medicine in the State of Tennessee, upon the effective date of this Order.
13. A **VOLUNTARY SURRENDER** has the same effect as a **REVOCAION**.
14. Respondent shall 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 by the Office of Investigations, Secretary of State, Administrative Procedures Division as well as the Office of General Counsel. 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 two thousand dollars (\$2,000.00). 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, Nashville, Tennessee 37243.** A notation shall be placed on said check that it is payable for the costs of Shelby Lynn

Cunningham, M.D., COMPLAINT NO. 201500638.

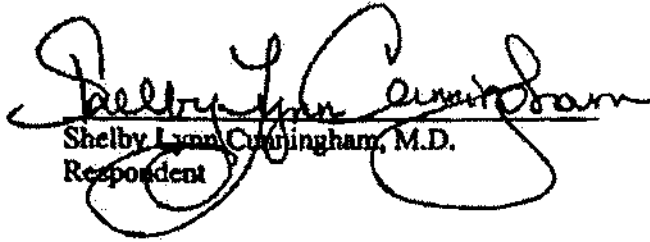
15. Respondent understands that a **VOLUNTARY SURRENDER** is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.) and/or similar agency.

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 16 day of March, 2016.




Chair
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:


Shelby Lynn Cunningham, M.D.
Respondent

Feb. 28, 2016
DATE

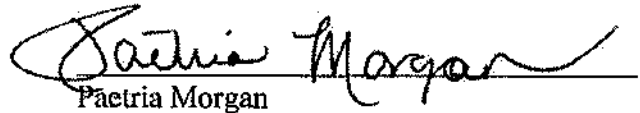

Patricia Morgan, B.P.R. No. 031772
Assistant General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

March 17, 2016
DATE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Shelby Lynn Cunningham, M.D., by delivering same in the United States Mail, Certified Number 7015 1520 0003 3864 9251, return receipts requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination.

This 18th day of March, 2016.



Paetria Morgan
Assistant General Counsel