

# **Board of Professional Responsibility**

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## **42<sup>nd</sup> Annual Discipline Report Fiscal Year July 1, 2022 – June 30, 2023**

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### **Board of Professional Responsibility Organization and Composition**

The Tennessee Supreme Court regulates and supervises the practice of law in Tennessee pursuant to Tennessee Supreme Court Rule 9. The Court appoints twelve members to the Board of Professional Responsibility (the Board) to effectuate Tenn. Sup. Ct. R. 9 and the Court's disciplinary enforcement.

The Board consists of nine (9) attorneys and three (3) public (non-attorney) members who serve three-year terms and geographically represent the entire state. In 2022-2023, Board members volunteered 564 hours and received no compensation for their service. Members of the Board include:

Jennifer S. Hagerman (Chair)  
Floyd Flippin (Vice-Chair)  
Richard Briggs (Lay Member)  
Ginger Wilson Buchanan  
Jimmy Dunn  
Stacey B. Edmonson  
Charles K. Grant  
Dr. Carol Johnson-Dean (Lay Member)  
Barbara Medley  
Juanita Patton (Lay Member)  
Jody Pickens  
R. Culver Schmid

The Court appoints a Chief Disciplinary Counsel who reports to the Board. The Board also employs attorneys as Disciplinary Counsel and support staff to assist with attorney registration; consumer assistance; investigation and litigation. A staff directory is attached as Exhibit A.

### **District Committee Members**

The Tennessee Supreme Court appoints attorneys to serve as district committee members from each disciplinary district in the state. In 2022-2023, 185 attorneys assisted the Court and the Board as district committee members reviewing Disciplinary Counsel's recommendations on investigative files and sitting on hearing panels conducting formal disciplinary charges. Of the 185 members, 139 reported volunteering 2,423 hours in 2022-2023 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.

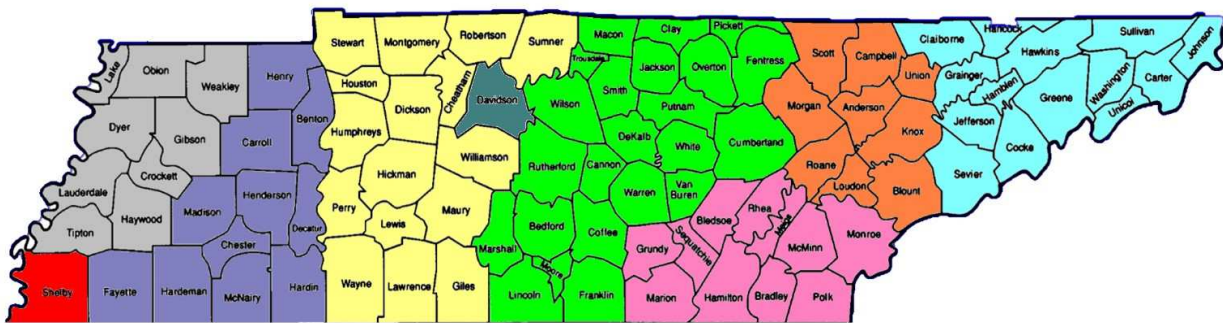
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### Tennessee Attorney Information

The Board of Professional Responsibility provides an easy-to-use online registration system that allows lawyers to fulfill their annual registration requirements. Public registration information is displayed on the Board’s website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

### Active Attorneys by Disciplinary District: 23,934\*



- Disciplinary District 1: 1,073 Active TN attorneys
- Disciplinary District 2: 2,696 Active TN attorneys
- Disciplinary District 3: 1,614 Active TN attorneys
- Disciplinary District 4: 1,406 Active TN attorneys
- Disciplinary District 5: 6,069 Active TN attorneys
- Disciplinary District 6: 2,585 Active TN attorneys
- Disciplinary District 7: 502 Active TN attorneys
- Disciplinary District 8: 285 Active TN attorneys
- Disciplinary District 9: 3,476 Active TN attorneys
- \*4,228 Out of State Active TN attorneys

### Active Attorney Statistics:

- |   |         |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
|---|---------|-----|-----------|-----|-------------|-----|--|-----|------------|-----|----------|----|---|------------|----|------------|-----|------------|-----|------------|-----|------------|-----|----------|-----|
| <ul style="list-style-type: none"> <li>▪ Years Licensed:           <table border="0" style="margin-left: 20px;"> <tr><td>&lt;5 yrs:</td><td>18%</td></tr> <tr><td>6-15 yrs:</td><td>27%</td></tr> <tr><td>16-25 yrs:</td><td>23%</td></tr> <tr><td>26-35 yrs:</td><td>15%</td></tr> <tr><td>36-45 yrs:</td><td>11%</td></tr> <tr><td>46+ yrs:</td><td>6%</td></tr> </table> </li> </ul> | <5 yrs: | 18% | 6-15 yrs: | 27% | 16-25 yrs:  | 23% | 26-35 yrs:   | 15% | 36-45 yrs: | 11% | 46+ yrs: | 6% | <ul style="list-style-type: none"> <li>• Age:           <table border="0" style="margin-left: 20px;"> <tr><td>21-29 yrs:</td><td>6%</td></tr> <tr><td>30-39 yrs:</td><td>22%</td></tr> <tr><td>40-49 yrs:</td><td>24%</td></tr> <tr><td>50-59 yrs:</td><td>21%</td></tr> <tr><td>60-69 yrs:</td><td>16%</td></tr> <tr><td>70+ yrs:</td><td>11%</td></tr> </table> </li> </ul> | 21-29 yrs: | 6% | 30-39 yrs: | 22% | 40-49 yrs: | 24% | 50-59 yrs: | 21% | 60-69 yrs: | 16% | 70+ yrs: | 11% |
| <5 yrs:   | 18%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 6-15 yrs:   | 27%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 16-25 yrs:  | 23%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 26-35 yrs:  | 15%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 36-45 yrs:  | 11%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 46+ yrs:  | 6%      |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 21-29 yrs:  | 6%      |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 30-39 yrs:  | 22%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 40-49 yrs:  | 24%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 50-59 yrs:  | 21%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 60-69 yrs:  | 16%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| 70+ yrs:  | 11%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| <ul style="list-style-type: none"> <li>▪ Gender:           <table border="0" style="margin-left: 20px;"> <tr><td>Male:</td><td>62%</td></tr> <tr><td>Female:</td><td>37%</td></tr> <tr><td>Unreported:</td><td>1%</td></tr> </table> </li> </ul>  | Male:   | 62% | Female:   | 37% | Unreported: | 1%  | <ul style="list-style-type: none"> <li>• In-state Attorneys: 81%</li> <li>• Out-of-state Attorneys: 19%</li> </ul> |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| Male:   | 62%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| Female:   | 37%     |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |
| Unreported:   | 1%      |     |           |     |             |     |  |     |            |     |          |    |   |            |    |            |     |            |     |            |     |            |     |          |     |

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**Inactive Attorneys**

Pursuant to Tennessee Supreme Court Rule 9, Section 10.3, inactive attorneys include attorneys serving as justice, judge or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law; retired attorneys; attorneys on temporary duty with the armed forces; faculty members of Tennessee law schools who do not practice law; and attorneys not engaged in the practice of law in Tennessee. In 2022-2023, 5,964 attorneys on inactive status were registered with the Board of Professional Responsibility.

▪ **Non-disciplinary/Administrative Suspensions:**

Pursuant to Supreme Court Rules, the Supreme Court suspends attorneys who fail to pay their annual fee (Tenn. Sup. Ct. R. 9 § 10.6); fail to complete annual continuing legal education requirements (Tenn. Sup. Ct. R. 21 § 7); fail to comply with Interest on Lawyers Trust Account requirements (Tenn. Sup. Ct. R. 43 § 15); fail to pay the Tennessee professional privilege tax (Tenn. Sup. Ct. R. 9 § 26); or default on student loans (Tenn. Sup. Ct. R. 9 § 37). No attorney suspended pursuant to these Rules may resume practice until reinstated by Order of the Supreme Court. Attorneys were administratively suspended during fiscal year 2022-2023 as follows:

Non-payment of Annual Fee:	229
Continuing Legal Education non-compliance:	159
Interest on Lawyer’s Trust Accounts non-compliance:	97
Professional Privilege Tax non-compliance:	68
Default on a Student Loan:	<u>0</u>
Total:	553

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**Assistance, Investigation and Prosecution**

▪ **Consumer Assistance Program (CAP)**

Non-frivolous complaints against attorneys submitted by clients, lawyers, judges and the public are referred to the Board’s Consumer Assistance Program (CAP) for assistance or opened and assigned to Disciplinary Counsel for investigation. CAP answers questions, provides information, informally mediates disputes, and refers matters to Disciplinary Counsel for investigation.

Caseload

Number of Cases Opened	2,291
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Timeliness of Resolution

0 to 15 days	83.0%
16 to 30 days	9.2%
31 to 60 days	6.4%
61 or more days	1.3%

Actions Taken

Mediate	33.8 %
Advise	42.8%
Referrals	15.9%
Provide Information	7.5%

▪ **Trust Account Overdraft Notifications**

Pursuant to Tennessee Supreme Court Rule 9, Section 35.1(b), financial institutions report to the Board whenever any properly payable instrument is presented against an attorney trust account containing insufficient funds. After receiving notification of an overdraft, Board Staff request financial information and explanation from the attorney.

<u>Total Notifications:</u>	78
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Actions Taken

Referred to Investigations:	24
Resolved without Investigation:	42

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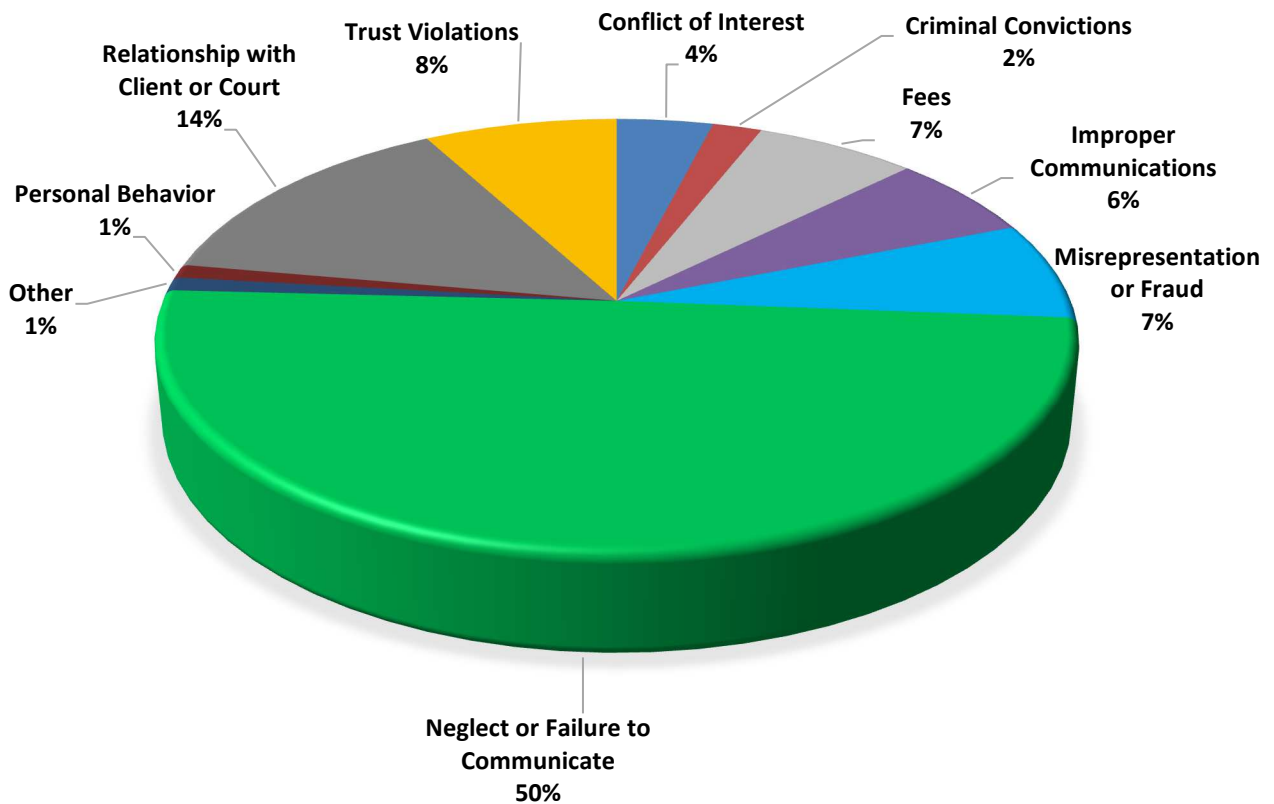
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#### ▪ Investigation

Disciplinary Counsel investigate complaints alleging unethical conduct. After investigation, Disciplinary Counsel recommend dismissal of the complaint if there is insufficient proof of a violation of the Rules of Professional Conduct. If the investigated complaint reflects a violation of the Rules of Professional Conduct, Disciplinary Counsel recommend diversion, private informal admonition, private reprimand, public censure, or the filing of formal disciplinary charges. A district committee member reviews and approves or disapproves Disciplinary Counsel's recommendation for dismissal, diversion, and private informal admonition. The Board of Professional Responsibility reviews and approves or disapproves Disciplinary Counsel's recommendation for private reprimand, public censure, and the filing of formal disciplinary charges.

#### A. Nature of Complaints



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**B. Investigative Complaint Caseload**

Complaints Received:	1,029
Complaints Pending at beginning of Fiscal Year:	<u>516</u>
 Total Complaints:	 1,545

**C. Investigative Complaint Disposition:**

Administrative Dismissals:	286
Investigative Dismissals:	445
Diversions:	60
Private Informal Admonitions:	21
Private Reprimands:	14
Informal Public Censures:	22
Transfer to Disability Inactive:	9
Transferred to Litigation:	92
Complainant Appeal:	27
Placed on Retired Status:	26
Other: <sup>1</sup>	<u>18</u>
 Total:	 1,020

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<sup>1</sup> Abated by death; complaint withdrawn; duplicate file.

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▪ **Formal Disciplinary Proceedings:**

After the Board of Professional Responsibility authorizes Disciplinary Counsel to file formal disciplinary charges (i.e., a petition for discipline) against an attorney, the matter is assigned to three district committee members who constitute a hearing panel. The Hearing Panel sets the disciplinary proceeding for a hearing which is open to the public unless a protective order has been entered. The Tennessee Rules of Evidence and Rules of Civil Procedure apply unless Tennessee Supreme Court Rule 9 provides otherwise.

The Board of Professional Responsibility must prove an attorney’s ethical misconduct by a preponderance of the evidence. Hearing Panels may recommend dismissal, public censure, suspension or disbarment.

**A. Caseload**

Formal cases filed during Fiscal Year:	80
Formal cases pending at beginning of Fiscal Year:	81
Total formal proceedings:	161
Public hearings conducted in Fiscal Year:	36

**B. Formal Disciplinary Proceedings Disposition:**

Dismissals:	4
Public Censures:	5
Suspensions:	11
Permanent Disbarments:	8
Transfer to Disability Inactive:	18
Temporary Suspensions:	11
Retired:	1
Reinstatements:	7
Other <sup>2</sup> :	6
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Total:	71

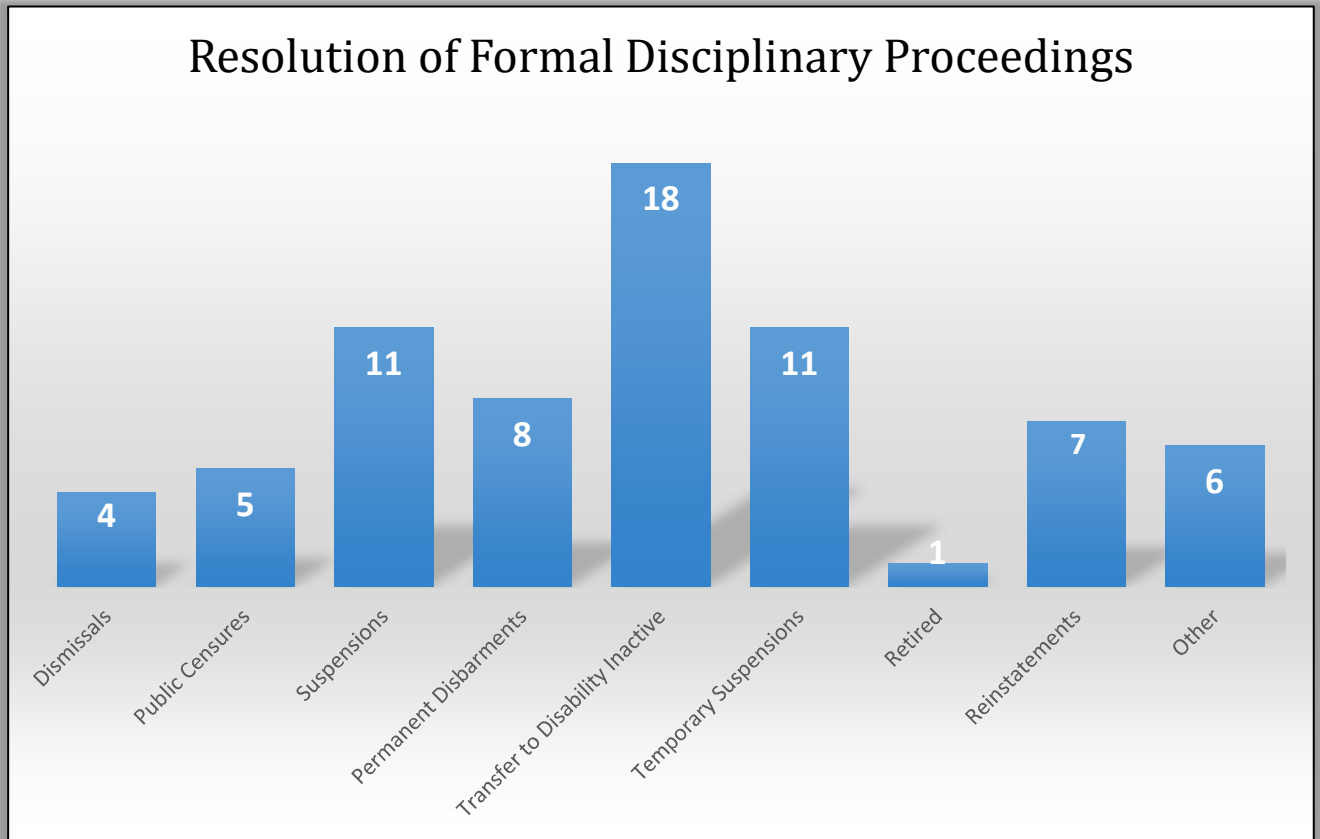
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<sup>2</sup> Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.

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### ▪ **Education and Information**

The Board issues Formal Ethics Opinions and staff respond to informal ethics questions by phone and internet. Disciplinary Counsel present continuing legal education seminars and workshops, publish *Board Notes*, a bi-annual newsletter, and update the Board’s website with rule changes, disciplinary decisions and news for attorneys, judges and the public.

#### **A. Ethics Opinions**

##### **i. Informal Opinions**

Ethics Counsel and Disciplinary Counsel responded to a total of 2,150 phone and internet inquiries from attorneys seeking ethical guidance.<sup>3</sup>

##### **ii. Formal Opinions**

2022-F-168: The Board of Professional Responsibility issued a Formal Ethics Opinion regarding circumstances that establish a systematic and continuous presence in Tennessee for the practice of law as in-house counsel. A lawyer who resides and is domiciled outside of Tennessee, who is working remotely as full-time, in-house counsel for an organization that has its principal place of business in Tennessee (and offices in other states), who is admitted to the practice of law only in a jurisdiction other than Tennessee, and who is not registered as in-house counsel in Tennessee is not engaging in the unauthorized practice of law because these circumstances alone do not establish a “systematic and continuous presence in Tennessee for the practice of law” as in-house counsel unless the lawyer is engaging in conduct that would evidence an indicia of a presence in Tennessee for the practice of law.

#### **B. Continuing Legal Education (CLE) Presentations:**

Between July 1, 2022, and June 30, 2023, Disciplinary Counsel presented forty-three (43) CLE seminars, attended by approximately 2,964 attorneys.

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<sup>3</sup> Tennessee attorneys may submit ethics inquiries to the Board by calling 615-361-7500, ext. 212, or via the Board’s website at [www.tbpr.org](http://www.tbpr.org).

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#### C. Board Notes:

In 2022-2023, the Board emailed both Fall and Spring issues of *Board Notes*, the Board's semi-annual newsletter to all attorneys and judges and published it on the Board's website.

#### D. Workshops

- a. The Board of Professional Responsibility hosted its annual Ethics Workshop on November 4, 2022, with 773 attorneys attending both virtually and in person. This year's Ethics Workshop is scheduled for November 3, 2023.
- b. The Board of Professional Responsibility has offered two trust account workshops in 2022/2023, with 360 attorneys attending both virtually and in person. The next trust account workshop is scheduled for September 13, 2023.

#### E. Tennessee's Proactive Management-Based Regulation (Voluntary Self-Assessment)

Tennessee's Proactive Management-Based Regulation (PMBR) program is an interactive law office management self-assessment course. The ten self-assessments are designed to mitigate risk, elevate competence, and enhance the quality of legal services delivered to clients. The goal of the program is to prevent problems within a law firm before they arise, enabling attorneys to spend more time on cases. Attorneys receive 3 Dual CLE Credits after completion of the course. The ten self-assessments are as follows:

1. Developing Competent Practices
2. Communicating in an Effective, Timely, Professional Manner
3. Ensuring That Confidentiality Requirements Are Met
4. Avoiding Conflicts of Interest
5. Retaining and Managing Secure Files
6. Managing the Law Firm/Legal Entity and Staff
7. Charging Appropriate Fees and Making Appropriate Disbursements
8. Ensuring the Use of Reliable Trust Account Practices
9. Access To Justice and Client Development
10. Promoting Wellness

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Since the implementation of the course in August 2019, 1,151 Tennessee attorneys have completed the self-assessment.

Access the Tennessee PMBR program by following this link: <http://tbpr.prolearn.io>.

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**Staff Directory**

<b>Name</b>	<b>Title</b>	<b>Extension</b>
Doug Bergeron	Disciplinary Counsel	247
Melissa Boyd	Executive Assistant	204
Michael Brett	Disciplinary Counsel	237
Julie Brown	Administrative Payables Clerk	215
Andrew B. Campbell	Disciplinary Counsel	246
Laura Chastain	Ethics Counsel	212
Steve Christopher	Deputy Chief Disciplinary Counsel - Investigations	203
Jesús Del Campo	Legal Assistant - Litigation	249
Dana Dunn	Assistant Director	209
Eric Fuller	Disciplinary Counsel	243
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Assistant-Registration/ Scanning	202
Kelly Heflin	Legal Assistant - Investigations	242
McKenzie Hollars	CAP Legal Assistant	255
Maureen Hughes	Disciplinary Counsel	234
Katherine Jennings	Executive Secretary	206
Molly Liens	Registration Manager	220
Carol Marsh	Receptionist	200
Jim W. Milam	Disciplinary Counsel	245
Caroline Poore	Disciplinary Counsel	235
Nicholas Price	CAP Legal Assistant (Intake)	257
Tony Pros	Network Administrator	205
Liz Radford	Legal Assistant – Investigations and Litigation	238
Beverly Rooks	Lead Legal Assistant – Investigations	233
Beverly Sharpe	Director of Consumer Assistance Program	226
Pennye Sisk	Paralegal	248
Eileen Burkhalter Smith	Disciplinary Counsel	210
Candis Stigall	Case Manager	229
Logan Thornton	Support Technician	207
Suzie Thurber	Administrative Receivables Clerk	241
Cheri Weaver	CAP Paralegal	208
Lani White	Registration Assistant II	227
Russ Willis	Deputy Chief Disciplinary Counsel - Litigation	236

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### District Committee Member Roster

District	First Name	Last Name	District	First Name	Last Name	District	First Name	Last Name
1	Dan E.	Armstrong	4	Philip Duane	Burnett	6	Tracy (Mr.)	Moore
1	Jeremy D.	Ball	4	Michael R.	Gaiimo	6	James Y.	Ross, Sr.
1	Melissia	Ball	4	Mary Beth	Hagan	6	Raymond	Runyon
1	Guy W.	Blackwell	4	Moody Wesley	Hall, IV	6	Michael L.	Russell
1	Jeffrey A.	Cobble	4	Trisha L.	Henegar	6	M. Stuart	Saylor
1	McKenna L. (Ms.)	Cox	4	W. Garrett	Honea	6	Liz	Sitgreaves
1	Erwin (Lynn)	Dougherty	4	Rachel M.	Moses	6	Rodger D.	Waynick
1	Andrew E.	Farmer	4	Daniel	Rader, IV	6	Beverly	White
1	Jeffery S.	Greene	4	Thomas S.	Santel	6	Timothy	Wills
1	Scott D.	Hall	4	Ginger Bobo	Shofner	6	Jake	Wolaver
1	William B.	Harper	4	Donna S.	Simpson	7	Andy	Anderson
1	Richard E.	Ladd, Jr.	4	Megan K.	Trott	7	Shaun	Brown
1	William B.	Marsh	4	Willie F.	Wallace, III	7	Lisa	Houston
1	Cecil	Mills	5	Adam	Barber	7	Robert A.	Jowers
1	Polly A.	Peterson	5	Keene W.	Bartley	7	Lisa	Miller
1	William O.	Shults	5	Robert E.	Boston	7	William J.	Milam
1	Mark A.	Skelton	5	Jad A.	Duncan	7	(William) Josh	Morrow
1	Jeffrey L.	Stern	5	Johnny	Ellis	7	Ryan K.	Porter
2	Wm. Dale	Amburn	5	Christopher B.	Fowler	7	Vincent	Seiler
2	Robyn J.	Askew	5	Matthew	Harris	7	Michelle	Shirley
2	Maha (Ms.)	Ayesh	5	William J.	Haynes	7	Terica	Smith
2	Heidi	Barcus	5	Candi R.	Henry	7	Neil	Thompson
2	Amanda M.	Busby	5	Adam	Hill	7	Joe	VanDyke
2	R. Scott	Carpenter	5	Lucas	Jerkins	8	Dean	Dedmon
2	Loretta G.	Cravens	5	Raymond	Leathers	8	Rachele D.	Gibson
2	Shannon (Ms.)	Egle	5	Russell B.	Morgan	8	Jeff	Lay
2	Steve	Erdely	5	Anthony (Tony)	Orlandi	8	Julie W.	Palmer
2	Matthew A.	Grossman	5	Steven D.	Parman	8	Amber	Shaw
2	Lisa J.	Hall	5	Barbara	Perutelli	8	David A.	Stowers
2	Josh	Hedrick	5	Brant	Phillips	8	Joseph E.	Tubbs
2	Howard B.	Jackson	5	Lee (Mr.)	Pope	8	Vanedda	Webb
2	Michael S	Kelley	5	Raymond G.	Prince	8	Allison S.	Whitledge
2	Michael J.	King	5	Daniel H.	Puryear	9	Jeremy G.	Alpert
2	Mary Elizabeth	Maddox	5	Kristina A.	Reliford	9	Taurus M.	Bailey
2	Stephen A.	Marcum	5	Peter C.	Robison	9	William R.	Bradley, Jr.
2	Chris	McCarty	5	Christopher C.	Sabis	9	S. Keenan	Carter
2	Carl P.	McDonald	5	(Denise) Billye	Sanders	9	Margaret	Chesney
2	Ben	Mullins	5	Michael J.	Sandler, Sr.	9	Kevin E.	Childress
2	Marshall H.	Peterson	5	Jennifer Lynne	Sheppard	9	Brian	Coleman
2	P. Edward	Pratt	5	Lesa	Skoney	9	David M.	Cook
2	Wayne A.	Ritchie, II	5	Jeffrey	Spark	9	Anne B.	Davis
2	Garrett P.	Swartwood	5	M. Clark	Spoden	9	Laura	Deakins
2	Victoria B.	Tillman	5	Taylor C. (Mr.)	Sutherland	9	Nicole	Grida
2	Hanson R.	Tipton	5	David J.	Tarpley	9	Greg	Grisham
2	Brian	Wanamaker	5	James Patrick	Warfield	9	Jonathan C.	Hancock
2	Shelly	Wilson	5	Luther	Wright, Jr.	9	Jennifer S.	Harrison
3	Peter	Alliman	6	Casey	Ashworth	9	Rebecca	Hinds
3	Ariel	Anthony	6	Evan P.	Baddour	9	Lauren	Holloway
3	John H. (Cam)	Cameron, Jr.	6	Richard	Boehms	9	Earl W.	Houston, II
3	John M.	Carson III	6	Jessica N.	Borne	9	Robbin (Ms.)	Hutton
3	Larry	Cash	6	Jim	Catalano	9	Adam	Johnson
3	Sam D.	Elliott	6	Marci McClellan	Curry	9	Tressa V.	Johnson
3	Rachel	Fisher-Queen	6	Thomas B.	Dean	9	E. Patrick (Pat)	Lancaster
3	John F.	Kimball	6	Hilary	Duke	9	Melisa	Moore
3	Jeffrey	Maddux	6	James L.	Elkins	9	Zachary	Moore
3	Jennifer A.	Mitchell	6	Mary Katharine	Evins	9	Will	Perry
3	Lance W.	Pope	6	Jennifer F.	Franks	9	Steve	Ragland
3	H. Chris	Trew	6	David R.	Grimmett	9	Marc	Reisman
3	Carmen (Ms.)	Ware	6	Robert H.	Hassell, II	9	Holly J.	Renken
3	Ronald D.	Wells	6	Cameron R.	Hoffmeyer	9	Zayid	Saleem
3	Elizabeth L	Williams	6	Patricia	Holder	9	Emmett L.	Whitwell
4	William "Howie"	Acuff	6	Eric	Larsen			