

JUL 10 2017

DHP

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: **SHELLY A. MCGAHA, R.N.**
a.k.a. Shelly Ann Snyder McGaha
License Number: 0001-222168
Case Number: 173958

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Nursing (“Board”) and Shelly A. McGaha, R.N., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Ms. McGaha’s license to practice professional nursing in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Shelly A. McGaha, R.N., was issued License Number 0001-222168 to practice professional nursing on November 16, 2009, which is scheduled to expire on February 28, 2019. Her primary state of residence is Virginia.

2. Ms. McGaha violated Virginia Code § 54.1-3007(2) and (5) and 18 VAC 90-20-300(A)(2)(m) of the Regulations Governing the Practice of Nursing (currently found at 18 VAC 90-19-230(A)(2)(m) effective February 24, 2017) in that between January 2012 and May 2016, during the course of her employment as a professional nurse with the United States Navy, she obtained information from the medical record of Patient A and disclosed this information for reasons not associated with treatment, payment, healthcare operations, or other therapeutic purpose.

3. Ms. McGaha and Patient A were married on December 18, 2008, and separated on October 20, 2014.

4. On August 18, 2016, Patient A told the investigator for the Department of Health Professions that he never gave Ms. McGaha permission to access his medical records, even when they were married.

5. In letter to the investigator for the Department of Health Professions dated July 1, 2016, Ms. McGaha acknowledged that she accessed Patient A's records while they were married, but said she accessed those records at his request. Following their separation she accessed his records as part of the NCQA recertification process, which she said she had authority to do in her role as National Committee of Quality Assurance (NCQA) Team Leader.

6. In a Punitive Letter of Reprimand, dated August 2, 2016, the Department of the Navy found that "[b]etween August 2014 and May 2016, without proper authority, [Ms. McGaha] accessed [Patient A's] medical record 26 times. You did this during your divorce proceeding, and you used your husband's protected health information to your advantage during the divorce proceeding. This resulted in your husband contacting your state licensing authority and filing a complaint. Your assertion that you accessed your husband's protected health information pursuant to a recertification of National Committee of Quality Assurance (NCQA) is implausible and false."

CONSENT

Shelly A McGaha, R.N., by affixing her signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;

4. I waive my right to an informal conference;

5. I admit to the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;

6. I consent to the entry of the following Order affecting my licensure to practice professional nursing in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:

1. Shelly A McGaha, R.N., is REPRIMANDED.

2. Shelly A McGaha, R.N., shall successful complete the following NCSBN course: *Ethics of Nursing Practice* within 60 days from the date of the entry of this Order.

3. Shelly A McGaha, R.N., shall comply with all laws and regulations governing the practice of professional nursing in the Commonwealth of Virginia.

4. Any violation of the foregoing terms and conditions of this Order or any statute or regulation governing the practice of professional nursing shall constitute grounds for further disciplinary action.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

Jay Douglas

Jay Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED: July 17th, 2017

SEEN AND AGREED TO:

Shelly A McGaha
Shelly A. McGaha, R.N.

COMMONWEALTH OF VIRGINIA BAHRAIN
COUNTY/CITY OF MANAMA, TO WIT:

Subscribed and sworn to me, a notary public in and for the Commonwealth of Virginia at large, on this
26 day of JUNE, 2017.

County/City of MANAMA
Commonwealth/State of BAHRAIN
The foregoing instrument was acknowledged
before me this 26 day of JUNE,
2017, by
SHELLY A. MCGAHA
(name of person seeking acknowledgement)

K. Hung, K. K. K.
Notary Public

Notary Public
My commission expires: 2 FEB 2022

My commission expires:

2 FEB 2022

LN² HUNG, K. K. K.
Notary Public
Under the authority of 10 U.S.C. § 1044a
No Seal Required

Registration No.:

N/A

Certified True Copy

By *M. Baylor*
Virginia Board of Nursing