

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

**KELLY VARGAS, R.N.
License No.: 0001-248732**

ORDER

In accordance with §§ 2.2-4019, 2.2-4021 and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was conducted on behalf of the Board of Nursing ("Board") on November 10, 2015, in Henrico County, Virginia. Kelly Vargas, R.N., was not present nor was she represented by legal counsel. Jane Elliott, R.N., Ph.D., serving as Agency Subordinate for the Board, submitted a Recommended Decision for consideration.

On January 27, 2016, a quorum of the Board met to receive and act upon the Recommended Decision of the Agency Subordinate. Ms. Vargas was not present nor was she represented by legal counsel.

Based upon its review of the Recommended Decision of the Agency Subordinate, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

FINDINGS OF FACT

1. Kelly Vargas, R.N., was issued License No. 0001-248732 to practice professional nursing in Virginia on December 16, 2013. The license is scheduled to expire on January 31, 2017. Ms. Vargas' primary state of residence is Virginia.
2. By letter dated October 19, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Ms. Vargas notifying her that an informal conference would be held on November 10, 2015. The Notice was sent by certified and first class mail to 9420 Northlake Road, Spotsylvania, Virginia, 22551, the address of record on file with the Board of Nursing. The Notice was

also sent to P.O. Box 673, Madison, Virginia, 22727, a secondary address. The Notices sent via certified mail to the address of record and to the secondary address were both returned to the Board office unclaimed. The Notices sent via first-class mail to the address of record and to the secondary address were both returned to the Board office. The Agency Subordinate concluded that adequate notice was provided to Ms. Vargas and the informal conference proceeded in her absence.

3. During the course of her employment with Mary Washington Healthcare, Fredericksburg, Virginia, on January 5, 2015, Ms. Vargas took a cellular phone picture of a male patient's backside with his gown open, exposing his buttocks and scrotum, without justification or authorization, and she shared the photograph with other nursing staff.

4. During a fact-finding meeting related to the incident at Mary Washington Healthcare on January 6, 2015, Ms. Vargas admitted taking several different pictures of the patient's exposed backside during several different shifts.

5. During her interview with the investigator for the Department of Health Professions, Ms. Vargas stated that she realized how inappropriate her actions were.

6. Ms. Vargas' employment with Mary Washington Healthcare was terminated in January 2015 following this incident.

CONCLUSIONS OF LAW

Finding of Fact No. 3 constitutes a violation of § 54.1-3007(2) and (5) of the Code and 18 VAC 90-20-300(A)(2)(m) of the Regulations Governing the Practice of Nursing.

ORDER

WHEREFORE, it is hereby ORDERED as follows:

1. Kelly Vargas, R.N., is hereby REPRIMANDED.
2. Ms. Vargas shall provide the Board with written verification that she has completed the

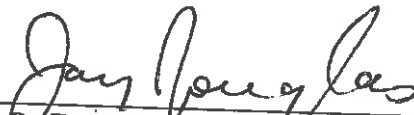
following NCSBN online course within 60 days of entry of this Order: *Ethics of Nursing Practice*. This course shall not be credited toward the continued competency requirements for the next renewal of her license.

3. Ms. Vargas shall maintain a course of conduct in her capacity as a professional nurse commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

Pursuant to § 54.1-2400.2 of the Code, 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.

Since Ms. Vargas failed to appear at the informal conference, this Order shall be considered final. Ms. Vargas has the right to appeal this Order directly to the appropriate Virginia circuit court. As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Vargas has thirty (30) days from the date of service (the date she actually received this decision or the date it was mailed to her, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E., Executive Director, Board of Nursing, at Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233. In the event that this decision is served by mail, three (3) days are added to that period.

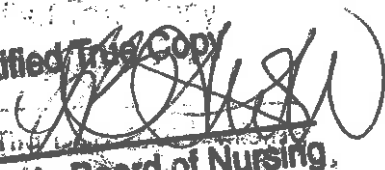
FOR THE BOARD



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

Entered: _____

February 11th, 2016

Certified True Copy
By: 
Virginia Board of Nursing