

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: MERISSA J. COSTELLO, R.N.
License No.: 0001-184279

CONSENT ORDER

The Virginia Board of Nursing ("Board") and Merissa J. Costello, R.N., L.N.P., as evidenced by her signature hereto, enter into the following Consent Order affecting Ms. Costello's license to practice as a professional nurse in Virginia.

The Board adopts the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Merissa J. Costello, R.N., was issued License No. 0001-184279 to practice professional nursing by the Virginia Board of Nursing on March 6, 2003. Said license is set to expire on April 30, 2016. Her primary state of residence is Virginia.
2. On November 11, 2014, while caring for a patient in the Emergency Department at Bon Secours St. Francis Medical Center, Midlothian, Virginia, Ms. Costello took a photograph of a patient's abdominal x-ray on her personal cell phone. Ms. Costello ordered the x-ray, reviewed the findings, and saw the x-ray as part of her care and treatment of the patient. The photograph contained no private health information or patient or hospital identifiers. Consistent with the culture of that particular ED at that time, Ms. Costello took the photograph of the x-ray for learning purposes so she could discuss an incidental finding on the x-ray with a physician who was unavailable at that particular time. Ms. Costello then sent the photograph to the nurse who was assigned and caring for this patient. Ms. Costello did this at the nurse's request based on her belief that this nurse wanted a copy of the x-ray for learning purposes as well. There was no other dialogue in the message attached to the picture. Without Ms. Costello's knowledge, this nurse

sent the picture to another nurse, who had triaged the patient but who was not involved any further in the patient's care. The triage nurse then showed the photograph to other co-workers during pre-shift huddle.

3. There was no harm nor risk of any harm to the patient or the patient's privacy.

4. Ms. Costello voluntarily resigned her hospital privileges with Bon Secours St. Francis in November 2014 after this event. The Medical Director for Emergency Medicine and Chair of the Emergency Medicine Department at St. Francis Medical Center described Ms. Costello as an excellent nurse practitioner and a competent clinician whom he and the other practitioners were sorry to see go.

5. Ms. Costello is committed to never repeat this conduct, regardless of an emergency department's culture.

CONCLUSIONS OF LAW

Finding of Fact No. 2 constitutes a violation of § 54.1-3007(2) and (5) of the Code of Virginia (1950), as amended ("Code"), and 18 VAC 90-20-300(A)(2)(m) of the Regulations Governing the Practice of Nursing..

CONSENT

Merissa J. Costello, R.N., by affixing her signature hereon, agrees to the following:

1. She has been advised to seek advice of counsel prior to signing this document;
2. She acknowledges that without her consent, no legal action can be taken against her except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. She acknowledges that she has the following rights, among others: the right to an informal fact finding conference before the Board, the right to reasonable notice of said hearing, the right to representation by counsel, and the right to cross-examine witnesses against her;
4. She waives all such right to an informal conference;

5. She admits to the Findings of Fact and Conclusions of Law contained herein and waives her right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;

6. She consents to the entry of the following Order affecting her right to practice professional nursing in Virginia.

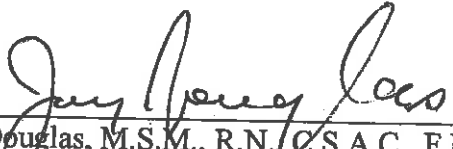
ORDER

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, and in lieu of further proceedings, hereby ORDERS as follows:

1. Merissa J. Costello, R.N. is hereby REPRIMANDED.
2. Ms. Costello 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 §§ 2.2-4023 and 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 public record and shall be made available for public inspection or copying upon request.

FOR THE BOARD

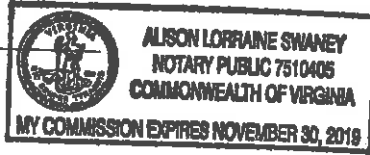


Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director, Virginia Board of Nursing

ENTERED: February 22nd, 2016

SEEN AND AGREED TO:

Matello
Merissa J. Costello, R.N.



COMMONWEALTH OF VIRGINIA,
COUNTY/CITY OF Chesterfield, TO WIT:

Subscribed and sworn to before me, Alison Lorraine Swaney, a Notary Public, this 17 day of February, 2016.

My commission expires 11/30/2019.

Registration Number ~~070~~ 7510405.

Alison Lorraine Swaney
NOTARY PUBLIC

Certified True Copy

By [Signature]
Virginia Board of Nursing