

**VIRGINIA:**

**BEFORE THE COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE**

**IN RE:       MERISSA J. COSTELLO, L.N.P.  
              License No.: 0024-167442**

**CONSENT ORDER**

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

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

**FINDINGS OF FACT**

1. Merissa J. Costello, L.N.P. was issued License No. 0001-184279 to practice professional nursing by the Virginia Board of Nursing on March 6, 2003. She was issued License No. 0024-167442 to practice as a nurse practitioner in the area of acute care by the Virginia Committee of the Joint Boards of Nursing and Medicine on July 16, 2007; she was also issued License No. 0017-139601 with the authority to prescribe medication by the Virginia Committee of the Joint Boards of Nursing and Medicine on January 17, 2008. Said licenses are set to expire on April 30, 2016.
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"), 18 VAC 90-20-300(A)(2)(m) of the Regulations Governing the Practice of Nursing, and 18 VAC 90-30-220(4) of the Regulations Governing the Licensure of Nurse Practitioners..

### CONSENT

Merissa J. Costello, L.N.P., 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 Committee of the Joint Boards, 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 Committee of the Joint Boards;

6. She consents to the entry of the following Order affecting her right to practice as a nurse practitioner in Virginia.


ORDER

WHEREFORE, on the basis of the foregoing, The Committee of the Joint Boards, effective upon entry of this Order, and in lieu of further proceedings, hereby ORDERS as follows:

1. Merissa J. Costello, L.N.P. is hereby REPRIMANDED.
2. Ms. Costello shall maintain a course of conduct in her capacity as a nurse practitioner commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Regulations Governing the Licensure of Nurse Practitioners.

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 COMMITTEE OF THE JOINT BOARDS

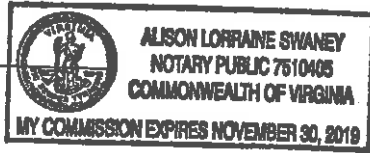
  
\_\_\_\_\_  
Jay P. Douglas, M.S.M., R.N., C.S.A.C., F.R.E.  
Executive Director, Virginia Board of Nursing

ENTERED: February 22<sup>nd</sup>, 2016

SEEN AND AGREED TO:

*Merissa J. Costello*

Merissa J. Costello, L.N.P.



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 7510405.

Alison Lorraine Swaney  
NOTARY PUBLIC

Certified True Copy

By [Signature]  
Virginia Board of Nursing