

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
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Lieutenant Governor

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Commissioner

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April 16, 2024

Via First Class and Certified Mail No. 7022 3330 0001 0808 7484
Return Receipt Requested

Elizabeth A. Turner, Esq.
Turner Law Offices
1337 Massachusetts Avenue #225
Arlington, MA 02476

Re: In the Matter of Kristen Valiga
Docket No. NUR-2018-0229
License No. RN271087

Dear Attorney Turner:

Enclosed please find the Ruling on Objections to Tentative Decision After Full Adjudicatory Hearing ("Ruling") and Final Decision and Order ("Order") issued by the Board of Registration in Nursing on April 16, 2024 and **effective April 26, 2024**. This constitutes full and final disposition of the above-referenced Complaint, as well as the final agency action of the Board. Ms. Valiga's appeal rights are noted on page 6.

Please note that as of the effective date, Ms. Valiga's license will change to Suspended. Per the terms of the Order, Ms. Valiga's license will remain suspended for seven (7) days followed by automatic reinstatement.

You may contact Meghan Bresnahan, Board Counsel at Meghan.bresnahan@mass.gov with any questions that you may have concerning this matter.

Sincerely,



Heather Cambra, BSN, RN, JD

Executive Director
Board of Registration in Nursing

Encl.

cc: Beverly A. Kogut,, Esq., Administrative Magistrate
Patricia Blackburn,, Esq., Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, COUNTY

BOARD OF REGISTRATION IN
NURSING

In the Matter of
Kristen Valiga
License No. RN271087
License Expires 12/15/2024

Docket No. NUR-2018-0229

FINAL DECISION AND ORDER

Procedural History

On November 12, 2019, the Board of Registration in Nursing (“Board”) issued and duly served on Kristen Valiga (“Respondent”), a Registered Nurse (“RN”), an *Order to Show Cause* (“OTSC”) on why it should not take action against her license and right to renew. The OTSC alleges that while employed as an RN in the Emergency Department (“ED”) at Cape Cod Community Hospital (“Cape Cod Hospital”) in Hyannis, MA, Respondent inappropriately communicated information regarding a deceased patient (“Patient A”) to Patient A’s mother and misrepresented she was involved in Patient’s A care. On December 2, 2019, Respondent filed an *Answer* to the OTSC and request for a hearing.

On May 11, 2020, parties filed a *Joint Motion Requesting Impoundment and Stipulations of the Parties*. On May 18, 2020, Prosecuting Counsel filed *Petitioner’s Motion for Summary Decision*. On May 22, 2020, Respondent filed an *Opposition to Petitioner’s Motion for Summary Decision*. On July 30, 2020, Administrative Magistrate Jason Barshak (“AM Barshak”) submitted a *Recommended Ruling on Petitioner’s Motion for Summary Decision; and Recommendation Regarding Joint Motion Requesting Impoundment*. On January 20, 2021, the Board issued a *Ruling on Petitioner’s Motion for Summary Decision and Joint Motion Requesting Impoundment*. The Board granted summary decision in Petitioner’s favor as to 244 CMR 9.03 (47). The Board denied summary decision as to G.L. c. 112 § 61, 74; 244 CMR 9.03 (5), (16), (17); and on the issue of whether the conduct would undermine public confidence in the integrity of the profession based on the existence of genuine issues of fact relating to whether

the Respondent disclosed confidential patient information. The Board denied summary decision as to 244 CMR 9.03 (9). The Board denied the *Joint Motion Requesting Impoundment*.

On August 12, 2021, Day 1 of the adjudicatory hearing was held before Administrative Magistrate Beverly Kogut (“AM Kogut”) (this case was re-assigned to AM Kogut on June 24, 2021). On February 23 and 24, 2022, Day 2 and Day 3 of the adjudicatory hearing were held. On April 7, 2022, Day 4, the last day of the adjudicatory hearing, was held.

On January 20, 2023, both Respondent’s Counsel and Prosecuting Counsel filed a *Post-Hearing Brief*. On November 2, 2023, AM Kogut issued a *Tentative Decision After Full Adjudicatory Hearing* (“*Tentative Decision*”). On December 14, 2023, the Board received *Respondent’s Objections to the Tentative Decision After Full Adjudicatory Hearing* (“*Respondent’s Objections*”). Prosecution did not file objections or a response to Respondent’s Objections.

The Board has reviewed and carefully considered the *Tentative Decision* and *Respondent’s Objections*. For the reasons set forth in the Board’s *Ruling on Respondent’s Objections to the Tentative Decision*, the Board adopts the *Tentative Decision* in full, including all findings of fact, credibility determinations, conclusions of law and discussion contained therein, as the Board’s Final Decision.

Discussion

The Board is charged with protecting the public health, safety, and welfare and, to this end, the Board has broad authority to regulate the conduct of nursing professionals including the ability to sanction professionals for conduct that undermines public confidence in the integrity of the profession. See Kvitka v. Board of Registration in Medicine, 407 Mass. 140 cert. denied, 498 U.S. 823 (1990); Raymond v. Board of Registration in Medicine, 387 Mass. 708, 713 (1982).

The OTSC alleges that Respondent inappropriately communicated information regarding a deceased patient (Patient A) to Patient A’s mother and misrepresented she was involved in Patient’s A care. Respondent’s *Answer* to the OTSC expressly denies that she engaged in the alleged conduct. AM Kogut found that the Prosecutor proved Respondent’s Facebook Messages disclosed confidential information and misrepresented Respondent was involved in Patient A’s

care. In support of this finding, AM Kogut summarizes that the purpose of Respondent's Facebook messages to Patient A's Mother was to advance Respondent's political position regarding the passing of the upcoming ballot question on Question 1 regarding nursing safe staffing ratios using Patient A as an example in her messages. AM Kogut found that Respondent's Facebook messages caused Patient A's Mother: (a) distress, (b) [REDACTED] [REDACTED] and (c) to determine that she will have to research the truth. Respondent apologized to Patient A's Mother and expressed it was not her intent to offend her. Respondent further admitted that her Facebook messages were inappropriate and unprofessional. As a result of the Facebook messages, Respondent was terminated from her employment at Cape Cod Hospital. The termination letter stated reasons being Respondent "communicated information via unsecured means about a patient who has been treated and died at the Hospital, which in and of itself is a violation of the patient's privacy", and further stated that Respondent intentionally misrepresented information to the grieving family for self-serving purposes and beyond the scope of professional boundaries. AM Kogut found that Respondent's disclosures concerning Patient A (a) were accurate statements; (b) specifically identified Patient A and disclosed the fact he was provided treatment; (c) were not publicly known; and (d) were obtained by Respondent through her work as a Cape Cod Hospital ED nurse. As such, Respondent's disclosures concerning Patient A collectively constituted patient confidential information. AM Kogut found that the disclosure of patient confidential information was sent in pursuit of a political purpose with disregard for Respondent's duty to safeguard patient confidential information and disregard for the impact her Facebook messages could and did have on Patient A's grieving mother.

The Board's *Motion on Summary Decision* determined that Respondent's Facebook messages violated nursing standards at 244 CMR 9.03 (47) because they constituted behavior that was likely to have an adverse effect on the public health, safety, or welfare. AM Kogut found that Respondent violated 244 CMR 9.03 (5), (9), (16), (17), common law prohibitions against conduct undermining public confidence in the profession's integrity and therefore, is subject to discipline under G.L. 112 § 61 and 74.

The *Tentative Decision* contains findings the Board may consider as to disposition including Respondent's professional and personal character as described in testimony and

character reference letters. Respondent is described as an experienced, competent, and compassionate nurse who was always professional, willing to help others, and a colleague on whom others relied on for advice and support. In her personal life, Respondent is described as a kind, caring, loyal, and honest person. Respondent expressed remorse for her actions and acknowledged that she should not have sent the messages to Patient A's mother and deeply regrets doing so. Respondent has taken reflective and remedial actions to demonstrate that she has learned from the incident, including counseling and self-care, and continuing educations related to professional boundaries, confidentiality, and appropriate use of social media. The Board also recognizes that during the time of the Facebook messages, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In conclusion, Licensee's conduct of sending the Facebook messages to Patient A's mother is a violation of nursing statutes and regulations and is blatantly inappropriate. As contained in the *Tentative Decision*, before hearing, the Board had recommended a surrender for no less than seven (7) days. Following the hearing, Prosecuting Counsel argued for an enhanced sanction to include a longer suspension and Respondent argued for a Reprimand. Given the Magistrate's findings discussed above, including findings the Board may consider as to disposition, the Board finds a suspension is warranted.

The Board voted to adopt the within **Final Decision** at its meeting held on April 10, 2024, by the following vote:

In Favor: *A. Alley, K. Crowley, A. Joseph, L. Kelly, L. Keough, M. McAuliffe, J. Monagle, D. Nikitas, V. Percy, R. Reynolds, A. Sprague*

Opposed: *None*

Abstained: *None*

Recused: *None*

Absent: *K.A. Barnes, L. Wu*

ORDER

Based on its Final Decision and the foregoing discussion, the Board **SUSPENDS** the Respondent's license to practice as a Registered Nurse in Massachusetts, License No. RN271087 for **seven (7) days** commencing with the Effective Date of this Agreement ("Suspension Period").

Respondent shall not practice as a Registered Nurse in Massachusetts on or within seven (7) days of the Effective Date of this Order. "Practice as a Registered Nurse" includes, but is not limited to, seeking and accepting a paid or voluntary position as a Registered Nurse or in any way representing herself as a Registered Nurse in Massachusetts. The Board shall refer any evidence of unlicensed practice to appropriate law enforcement authorities for prosecution as provided by G.L. c. 112, §§ 65 and 80.

After the Suspension Period, Licensee's nursing license will be automatically reinstated.

If the Licensee does not comply with each requirement of this Order, or if the Board opens a Subsequent Complaint¹ during the Suspension Period, the Board may upon written notice to the Licensee, as warranted to protect the public health, safety, or welfare:

- i. EXTEND the Suspension Period and/or begin a Probationary Period; and/or
- ii. MODIFY the Suspension Period and/or the Probationary Period requirements.

The Board voted to adopt the within **Final Order** at its meeting held on April 10, 2024, by the following vote:

In Favor: *A. Alley, K. Crowley, A. Joseph, L. Kelly, L. Keough, M. McAuliffe, J. Monagle, D. Nikitas, V. Percy, R. Reynolds, A. Sprague*

Opposed: *None*

Abstained: *None*

Recused: *None*

¹ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

Absent: K.A. Barnes, L. Wu

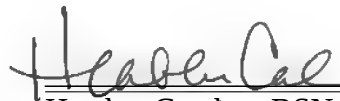
EFFECTIVE DATE OF ORDER

This Final Decision and Order becomes effective upon the tenth (10th) day from the date it is issued (see "Date Issued" below).

RIGHT TO APPEAL

Respondent is hereby notified of the right to appeal this Final Decision and Order to the Supreme Judicial Court pursuant to M.G.L. c. 112, § 64. Respondent must file any appeal within thirty (30) days of receipt of this notice of Final Decision and Order.

Board of Registration in Nursing,


Heather Cambra, BSN, RN, JD
Executive Director
Board of Registration in Nursing

Date Issued: April 16, 2024

Notified:

FIRST CLASS AND CERTIFIED MAIL NO, 7022 3330 0001 0808 7484
RETURN RECEIPT REQUESTED

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INTEROFFICE DELIVERY VIA SHARED DRIVE

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