

BEFORE THE WEST VIRGINIA MEDICAL IMAGING AND  
RADIATION THERAPY TECHNOLOGY BOARD OF EXAMINERS

WEST VIRGINIA MEDICAL IMAGING  
AND RADIATION THERAPY  
TECHNOLOGY BOARD OF EXAMINERS,

Complainant,

v.

Case No. 06-FY-2020

MELISSA COMSTOCK,

Respondent.



**CONSENT AGREEMENT AND ORDER**

Upon due investigation, the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (“Board”) determined there was probable cause to believe that Melissa Comstock (“Respondent”) exhibited unprofessional conduct in the practice of medical imaging, in violation of the provisions of W. Va. Code §§ 30-23-1 *et seq.* and W. Va. Code R. §§ 18-1-1 *et seq.* Respondent was provided with written notice of the allegations against her pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of this matter and the parties agree to entry of the following Order in disposition of this matter.

**FINDINGS OF FACT**

The Board hereby adopts the following findings of fact:

1. The Board is a regulatory board created for the purpose of regulating the practice of medical imaging and radiation therapy technology. W. Va. Code § 30-23-1 *et seq.*

2. In order to carry out its regulatory duties, the Board is empowered to suspend, revoke, or otherwise discipline an individual's medical imaging license pursuant to W. Va. Code § 30-23-24 and W. Va. Code R. §§ 18-4-1 *et seq.*

3. Respondent is a licensee of the Board, holding License No. 5075, and is subject to the license requirements and disciplinary rules of the Board.

4. At all times relevant, Respondent was employed as a medical imaging technologist at Preston Memorial Hospital in Kingwood, West Virginia.

5. On February 10, 2020, the Board received a complaint against Respondent from Barbara Menear, the Diagnostic Imaging Manager at Preston Memorial Hospital. The complaint states: "Melissa was employed as a Radiologic Technologist at Preston Memorial Hospital. On January 29, 2020, Melissa asked a co-worker to perform a chest x-ray on her, she was sick. Melissa did not have an order from a provider at the time and obtained one after the imaging was complete."

6. The Board transmitted a copy of the complaint to Respondent via correspondence dated February 11, 2020.

7. The Board received Respondent's written response to the complaint on March 16, 2020. In her response, Respondent admitted to the allegations in the complaint.

8. On August 13, 2020, Respondent attended an informal conference with the Board's Ethics Committee, at which time she further addressed the circumstances surrounding the January 29, 2020 incident and answered questions from the Board.

9. Upon recommendation of the Ethics Committee, the Board, at its meeting on August 20, 2020, voted to find probable cause for a violation of W. Va. Code § 30-23-24(a)(4)-(6), (13) and W. Va. Code R. §§ 18-5-4.1.5, 18-5-4.1.6, 18-5-4.1.7, and 18-5-5.1.5.

### CONCLUSIONS OF LAW

1. The Board has jurisdiction to take disciplinary action against Respondent.
2. Based upon the facts and matters set out in the above *Findings of Fact*, and pursuant to W. Va. Code § 30-23-24, the Board may revoke, suspend, or otherwise discipline the Respondent's license to practice medical imaging.
3. Respondent's conduct described in the above *Findings of Fact* would, if proven, constitute violations of W. Va. Code § 30-23-24(a) and W. Va. Code R. §§ 18-5-1 *et seq.* Such conduct is therefore grounds for disciplinary action.

### CONSENT

I, Melissa Comstock, by affixing my signature hereto, acknowledge the following:

1. I have had the opportunity to consult with counsel and execute this *Consent Agreement* voluntarily, freely, without compulsion or duress, and mindful that it has legal consequences.
2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.
3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly, and voluntarily waive such rights.
4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.
5. I acknowledge that the execution of this document constitutes disciplinary action by the Board. It is therefore considered to be public information, and information regarding this

matter is available to any employer, prospective employer, or any other individual who may inquire as to the status of my license.

6. I admit that my actions were a violation of the statutes and rules of the Board.

The Respondent, Melissa Comstock, by affixing her signature hereto, agrees to the following:

**ORDER**

On the basis of the foregoing, the Board does hereby **ORDER** and **DECREE** that:

1. Respondent is hereby REPRIMANDED for her actions in this matter.
2. Respondent shall be assessed a monetary fine of Two Hundred Fifty Dollars (\$250.00), to be made payable to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners not later than thirty (30) days from the date of entry of this Order.
3. Respondent shall reimburse the Board for all of the administrative and legal expenses incurred by the Board in the investigation and disposition of this case within thirty (30) days of entry of this Order.
4. The Board is bound by agreement and law to report the results of all disciplinary actions, including the instant matter, on the Board's website, to the West Virginia Secretary of State's Office, and to the ARRT.
5. This document is a public record as defined in W. Va. Code § 29B-1-2.
6. Respondent acknowledges that failure to comply with this *Consent Agreement and Order* may result in additional disciplinary action.
7. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

WEST VIRGINIA MEDICAL IMAGING AND  
RADIATION THERAPY TECHNOLOGY BOARD OF  
EXAMINERS

By: Rosemary Trupo  
Rosemary Trupo, Chairperson

Entered: Oct 14, 2020  
Date

REVIEWED AND AGREED TO BY:

Melissa Comstock  
Melissa Comstock, Respondent

10-8-2020  
Date

This day personally appeared before me, Melissa Comstock, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true, and correct, to the best of her knowledge and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 8<sup>th</sup> day of October, 2020.

My Commission expires: May 01, 2023

Theresa D. Eskridge  
Notary Public

