

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JERRY L. MCLEAN, JR., L.M.T.
License Number: 0019-013642
Case Number: 175326

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11), a panel of the Virginia Board of Nursing ("Board") and a member of the Massage Therapy Advisory Board held a formal administrative hearing on March 22, 2017, in Henrico County, Virginia, to inquire into evidence that Jerry L. McLean, Jr., L.M.T., may have violated certain laws and regulations governing the practice of massage therapy in the Commonwealth of Virginia.

Jerry L. McLean, Jr., L.M.T., did not appear at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated March 6, 2017, the Board sent a Notice of Formal Hearing ("Notice") to Mr. McLean notifying him that a formal administrative hearing would be held on March 22, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. The certified mail receipt was signed on March 15, 2017, and returned to the Board. The Notice sent by first class mail was not returned to the Board office. Accordingly, the panel Chair concluded that adequate notice was provided to Mr. McLean and the formal hearing proceeded in his absence.

Upon consideration of the evidence, the Board adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT

1. On June 3, 2015, the Board issued License Number 0019-013642 to Jerry McLean, Jr, L.M.T., to practice massage therapy in the Commonwealth of Virginia. Said license is scheduled to expire on August 31, 2018. At all times relevant hereto, said license was in full force and effect.
2. On July 28, 2016, during the course of his employment at Hand and Stone Spa Short Pump, Henrico, Virginia, while providing a massage to Client A, Mr. McLean placed his finger under her panties and touched her genitals and exposed and massaged each of Client A's breasts with both hands.
3. In Mr. McLean's employment resume submitted to Hand and Stone Spa Short Pump, he failed to disclose his prior employment with Massage Envy Short Pump, Henrico, Virginia, where he resigned his employment in lieu of termination as the result of an incident wherein a client complained that Mr. McLean's pinky finger touched near her genital area during a massage performed on October 31, 2015.

CONCLUSIONS OF LAW

1. Finding of Fact No. 2 constitutes a violation of Virginia Code § 54.1-3007(2), (5), and (8), 18 VAC 90-50-90(2)(d) and (i) of the Regulations Governing the License of Massage Therapists, and §§ VII, XII, XIV, and XVI of the Code of Ethics of the National Certification Board for Therapeutic Massage and Bodywork.
2. Finding of Fact No. 3 constitutes a violation of Virginia Code § 54.1-3007(2) and 18 VAC 90-50-90(2)(e), (h) and (i) of the Regulations, and § VII of the Code of Ethics of the National Certification Board for Therapeutic Massage and Bodywork.

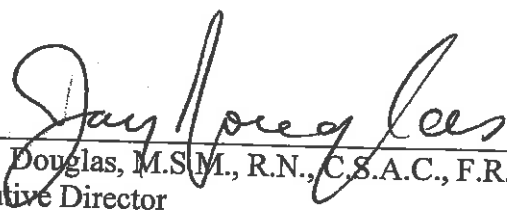
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Nursing hereby ORDERS as follows:

1. The license issued to Jerry L. McLean, Jr., L.M.T., to practice massage therapy in the Commonwealth of Virginia is INDEFINITELY SUSPENDED for a period of not less than one year from the date of entry of this Order.
2. The license of Jerry L. McLean, Jr., L.M.T., will be recorded as SUSPENDED.
3. Should Jerry L. McLean, Jr., L.M.T., seek reinstatement of his license, an administrative proceeding shall be convened to consider such application. At such time, the burden shall be on Mr. McLean to demonstrate that he is safe and competent to return to the practice of massage therapy. Mr. McLean shall be responsible for any fees that may be required for the reinstatement and/or renewal of the license prior to issuance of the license to resume practice.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, 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.

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 AND MAILED ON:

March 29th, 2017

Certified True Copy

By 
Virginia Board Of Nursing

NOTICE OF RIGHT TO APPEAL

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 days from the date you are served with this Order in which to appeal this decision by filing a Notice of Appeal with Jay Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. The service date shall be defined as the date you actually received this decision or the date it was mailed to you, whichever occurred first. In the event this decision is served upon you by mail, three days are added to that period.