

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: JERRY L. MCLEAN, JR., L.M.T.
License Number: 0019-013642
Issue Date: June 3, 2015
Expiration Date: August 31, 2018
Case Number: 175326

**NOTICE OF FORMAL ADMINISTRATIVE HEARING
AND STATEMENT OF ALLEGATIONS**

You are hereby notified that a Formal Hearing has been scheduled before the Board of Nursing ("Board") regarding your license to practice massage therapy in the Commonwealth of Virginia.

TYPE OF PROCEEDING:	This is a formal administrative hearing before a panel of the Board.
DATE AND TIME:	March 22, 2017 11:00 A.M.
PLACE:	Virginia Department of Health Professions Perimeter Center - 9960 Mayland Drive 2 nd Floor - Virginia Conference Center Henrico, Virginia 23233

LEGAL AUTHORITY AND JURISDICTION:

1. This formal hearing is being held pursuant to Virginia Code §§ 2.2-4020, 2.2-4024(F), and 54.1-2400(11). This proceeding will be convened as a public meeting pursuant to Virginia Code § 2.2-3700.

2. At the conclusion of the proceeding, the Board is authorized to take any of the following actions:

- Exonerate you;
- Reprimand you;
- Require you to pay a monetary penalty;
- Place you on probation and/or under terms and conditions;
- Suspend your license;
- Revoke your license.

ABSENCE OF RESPONDENT AND RESPONDENT'S COUNSEL:

If you fail to appear at the formal hearing, the Board may proceed to hear this matter in your absence and may take any of the actions outlined above.

RESPONDENT'S LEGAL RIGHTS:

You have the right to the information on which the Board will rely in making its decision, to be represented by counsel at this proceeding, to subpoena witnesses and/or documents, and to present relevant evidence on your behalf.

COMMONWEALTH'S EXHIBITS:

Enclosed is a copy of the documents that will be distributed to the members of the Board and will be considered by the Board when discussing any allegations with you and when deliberating on your case. **These documents are enclosed only with the notice sent by certified mail, which you may be required to claim at the post office. Please bring these documents with you to the formal hearing.**

FILING DEADLINES:

1. Deadline for filing exhibits: **March 13, 2017**. Submit 15 copies of all documents you want the Board to consider to Darlene Graham, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233. Exhibits may not be sent by facsimile or e-mail. Please note that any documentation or evidence that you previously submitted for an informal conference that is not already part of the Commonwealth's evidence must be resubmitted as an exhibit if you want the Board to consider it at the hearing.

The Commonwealth must file any objections to your submissions in writing, addressed to Darlene Graham at the Board office, no later than **March 15, 2017**. If no objections have been received by **March 15, 2017**, the evidence will be distributed to the Board members for their review, and will be considered by the Board as evidence when it deliberates upon your case. If the Commonwealth raises objections, you have until **March 17, 2017**, to file your response to the objections, in writing and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion.

2. Deadline for filing motions: **March 13, 2017**, addressed to Darlene Graham at the above address.

3. Deadline for filing any objections to the Commonwealth's exhibits, in writing, to Darlene Graham at the above address: **March 13, 2017**. If you do not file objections by this date, the exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates on your case. If you do file objections, the Commonwealth has until **March 13, 2017** to file a response to the objections, in writing, and addressed to Darlene Graham at the Board office. The Chair of the proceeding will rule on the motion. NOTE: failure to object to the distribution of the Commonwealth's exhibits prior to the proceeding will not affect your right to contest any information contained in those exhibits at the proceeding.

REQUEST FOR A CONTINUANCE:


Absent exigent circumstances, such as personal or family illness, a request for a continuance after **March 13, 2017** will not be considered. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **March 13, 2017**.

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, Jerry L. McLean, Jr., L.M.T., was licensed to practice massage therapy in the Commonwealth of Virginia.
2. Jerry L. McLean, Jr., L.M.T., violated Virginia Code § 54.1-3007(2), (5), and (8), 18 VAC 90-50-90(2)(d) and (i) of the Regulations Governing the Certification of Massage Therapists ("Regulations"), and §§ VII, XII, XIV, and XVI of the Code of Ethics of the National Certification Board for Therapeutic Massage and Bodywork, in that, on or about 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, he placed his finger under her panties and touched her genitals and exposed and massaged each of Client A's breasts with both hands.
3. Mr. McLean violated 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, in that, in his employment resume submitted to Hand and Stone Spa Short Pump, he failed to disclose his prior employment with Massage Envy Short Pump, 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 or about October 31, 2015.

See Confidential Attachment for the name of the client referenced above.


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

March 6, 2017
Date