

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: SPURGEON DEMONDE DAY, L.M.T.
Certificate Number: 0019-010162
Case Number: 173277

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 January 25, 2017, in Henrico County, Virginia, to inquire into evidence that Spurgeon Demonde Day, L.M.T., may have violated certain laws and regulations governing the practice of massage therapy in the Commonwealth of Virginia.

Spurgeon Demonde Day, L.M.T., did not appear at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated December 29, 2016, the Board sent a Notice of Formal Hearing (“Notice”) to Mr. Day notifying him that a formal administrative hearing would be held on January 25, 2017. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. Accordingly, the panel Chair concluded that adequate notice was provided to Mr. Day 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 November 8, 2011, the Board issued Certificate Number 0019-010162 to Spurgeon Demonde Day to practice as a massage therapist in the Commonwealth of Virginia. As of January 1, 2017, licensure of massage therapists became effective. Said certificate expired on October 31, 2016. At all times relevant hereto, said certificate was in full force and effect.

2. During the course of his employment with Massage Envy, Stafford, Virginia, by his own admission, for approximately the year and a half ending March 30, 2016, Mr. Day video recorded his clients and co-workers as they undressed prior to and dressed after their massages with him, without their knowledge or consent.

3. Mr. Day's employment was terminated on March 31, 2016.

4. On April 6, 2016, Mr. Day was arrested and charged with filming a nonconsented nude person, a misdemeanor. The case is currently pending in the Stafford County, Virginia, General District Court.

CONCLUSIONS OF LAW

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 Certification of Massage Therapists and Article XIV of the National Certification Board for Therapeutic Massage & Bodywork Code of Ethics.

ORDER

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

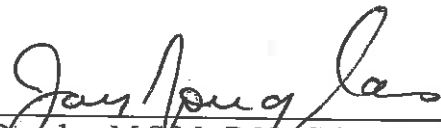
1. The right of Spurgeon Demonde Day to renew a license to practice as a massage therapist in the Commonwealth of Virginia is REVOKED.

2. The license of Spurgeon Demonde Day will be recorded as REVOKED.

3. Pursuant to Virginia Code § 54.1-2408.2, should Spurgeon Demonde Day seek reinstatement of a license to practice massage therapy after three years, the reinstatement of Mr. Day's license shall require the affirmative vote of three-fourths of the members at a formal administrative proceeding convened by the Board. At such time, the burden shall be on Mr. Day to demonstrate that he is safe and competent to return to practice as a massage therapist. Mr. Day 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 Douglas, M.S.M., R.N., C.S.A.C., F.R.E.
Executive Director
Virginia Board of Nursing

ENTERED AND MAILED ON:

February 21ST, 2017

Certified True Copy

By drakam
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, M.S.M., R.N., C.S.A.C., F.R.E., 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.