

BEFORE THE VIRGINIA BOARD OF NURSING

IN RE: SPURGEON DEMONDE DAY, C.M.T.
Certificate Number: 0019-010162
Issue Date: November 8, 2011
Expiration Date: October 31, 2016
Case Number: 173277

**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 certificate to practice as a certified massage therapist in the Commonwealth of Virginia.

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| TYPE OF PROCEEDING: | This is a formal administrative hearing before a panel of the Board. |
| DATE AND TIME: | January 25, 2017 1:00 P.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 certificate;
- Revoke your certificate.

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: **January 6, 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.

The Commonwealth must file any objections to your submissions in writing, addressed to Darlene Graham at the Board office, no later than **January 10, 2017**. If no objections have been received by **January 10, 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 **January 16, 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, including requests for continuance or objections to exhibits, in writing, to Darlene Graham at the above address: **January 6, 2017**. NOTE: Failure to object to the distribution prior to the proceeding will not affect your right to contest any information contained in these documents at the proceeding.

OTHER PRE-HEARING MOTIONS

If you or Adjudication Specialist Tammie D. Jones desire to make any pre-hearing motions regarding matters other than the exhibits, including offers of settlement, each of you is directed to file motions, in writing, addressed to Darlene Graham at the Board office by **January 6, 2017**. Responses to motions filed must be submitted by **January 6, 2017**. The Chair of the proceeding will rule on the motion.

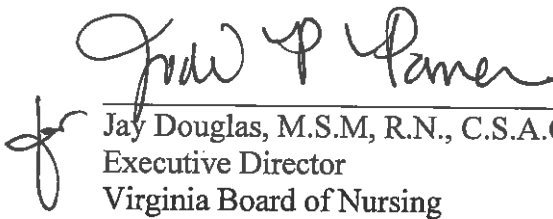
REQUEST FOR A CONTINUANCE

Absent exigent circumstances, such as personal or family illness, a request for a continuance after **January 6, 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 **January 6, 2017**.

STATEMENT OF ALLEGATIONS

The Board alleges that:

1. At all times relevant hereto, Spurgeon Demonde Day, C.M.T., was certified to practice as a certified massage therapist in the Commonwealth of Virginia.
2. Mr. Day violated 54.1-3007(2), (5) and (8) of the Code, 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 in that by his own admission, during the course of his employment with Massage Envy, Stafford, Virginia, 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.


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

December 29, 2016
Date