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MAR 31 2015

VA BD OF NURSING

VIRGINIA:

IN RE:

**CONSENT ORDER**

The Virginia Board of Nursing ("Board") and Patricio Gomez-Foronda, C.M.T., as evidenced by his signature hereto, enter into the following Consent Order affecting Mr. Gomez-Foronda's certificate to practice massage therapy in Virginia.

Pursuant to §§ 2.2-4019, 2.2-4021 and 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"), an informal conference was held before a Special Conference Committee ("Committee") of the Board of Nursing ("Board") including a member of the Massage Therapy Advisory Board on February 2, 2015, in Henrico County, Virginia, to inquire into evidence that Mr. Gomez-Foronda may have violated certain laws and regulations governing the practice of massage therapy in Virginia. Mr. Gomez-Foronda was present and was represented Margaret Hardy, Esquire.

Upon consideration of the evidence presented, the Committee adopted the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Patricio Gomez-Foronda, C.M.T., was issued Certificate No. 0019-001882 to practice massage therapy in the Commonwealth of Virginia on August 4, 1999. Said certificate is set to expire on March 31, 2016.

2. By letter dated January 6, 2015, the Board of Nursing sent a Notice of Informal Conference ("Notice") to Mr. Gomez-Foronda notifying him that an informal conference would be held on February 2,

2015. The Notice was sent by certified and first class mail to 499 Chick Cove Drive, Post Office Box 90, Hardyville, Virginia, 23070, the address of record on file with the Board of Nursing.

3. During the course of his employment with LaSource Spa, Kilmarnock, Virginia:

a. On November 16, 2013, and November 30, 2013, Ms. Gomez-Foronda inappropriately touched the vagina of Client A during a massage. Client A indicated that on both occasions Ms. Gomez-Foronda's hand touched her labia. Following the second incident, during a subsequent visit, Client A requested that she not receive a massage from Mr. Gomez-Foronda.

b. Between October 2013 and February 2014, Mr. Gomez-Foronda inappropriately touched the vagina of Client B and made inappropriate comments to her concerning her being a "prude" or words to that effect. Client B indicated that she had to ask Mr. Gomez-Foronda to "work on other areas" twice and then he made the comment about her being a "prude."

c. On an unknown date in May, 2014, Mr. Gomez-Foronda inappropriately touched the genital area of Client C repeatedly during a massage. Client C indicated that Mr. Gomez-Foronda touched her genital area with his fingertips and she thought maybe he "had slipped;" however, the touching happened several more times.

d. Between June 2014 and September 2014, Mr. Gomez-Foronda inappropriately touched Client D on two occasions. On the first occasion, Client D indicated that Mr. Gomez-Foronda penetrated her vagina with his finger while providing her a massage. Client D indicated that she asked Mr. Gomez-Foronda what he was doing but he did not respond and acted as if nothing had happened. During a subsequent massage Client D indicated that Mr. Gomez-Foronda touched her vagina again, but did not penetrate her vagina. After the second incident Client D discontinued massage services with Mr. Gomez-Foronda.

4. The owner of LaSource indicated that Mr. Gomez-Foronda resigned a few days after she confronted him with allegations made by his clients; however, Mr. Gomez-Foronda denied that he was ever confronted with the allegations.

5. Mr. Gomez-Foronda was previously terminated from the Tides Inn, Irvington, Virginia, on November 20, 2010, due to multiple complaints regarding inappropriate touching from 2007 to 2010.

6. Mr. Gomez-Foronda is currently employed at Hope and Glory Inn, Irvington, Virginia, and Natural Nail Shop, Gloucester, Virginia.

### CONCLUSIONS OF LAW

Findings of Fact Nos. 3(a), (b), (c) and (d) constitute a violation of §54.1-3007(2), (5) and (8) of the Code and 18 VAC 90-50-90(2)(d) and (i) of the Regulations Governing the Certification of Massage Therapists and Sections XIV, XV, and XVI of the NCBTMB Code of Ethics.

### CONSENT

Patricio Gomez-Foronda, C.M.T., by affixing his signature hereon, agrees to the following:

1. He has been advised to seek advice of counsel prior to signing this document;
2. He acknowledges that without his consent, no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, § 2.2-4000(A) *et seq.* of the Code;
3. He acknowledges that he has the following rights, among others: the right to a formal fact finding hearing before the Board, the right to reasonable notice of said hearing, the right to representation by counsel, and the right to cross-examine witnesses against him;
4. He waives all such right to a formal hearing;
5. He neither admits nor denies the Findings of Fact and Conclusions of Law contained herein but waives his right to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board;

6. He consents to the entry of the following Order affecting his right to practice massage therapy in Virginia.

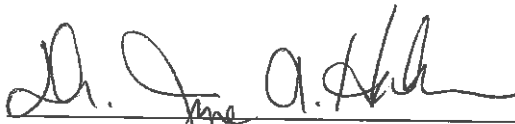
**ORDER**

WHEREFORE, on the basis of the foregoing, the Virginia Board of Nursing, effective upon entry of this Order, and in lieu of further proceedings, hereby ORDERS as follows:

1. Certificate No. 0019-001882 of Patricio Gomez-Foronda, C.M.T., is REVOKED.
2. The certificate of Mr. Gomez-Foronda will be recorded as REVOKED and no longer current. Pursuant to § 54.1-2408.2 of the Code, should Mr. Gomez-Foronda seek reinstatement of his certificate after three years, he shall be responsible for any fees that may be required for the reinstatement of his certificate privilege prior to issuance of his certificate to resume practice. The reinstatement of Mr. Gomez-Foronda's certificate shall require the affirmative vote of three-fourths of the members at a meeting of the Board.
3. At such time as Mr. Gomez-Foronda shall petition the Board for reinstatement of his certificate, an administrative proceeding will be convened to determine whether he is capable of resuming the safe and competent practice of massage therapy.

Pursuant to §§ 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying upon request.

FOR THE BOARD

  
\_\_\_\_\_  
Joyce A. Hahn, PhD, RN, NEA-BC, FNAP  
President, Virginia Board of Nursing

Certified True Copy

By   
\_\_\_\_\_  
Virginia Board of Nursing

ENTERED: May 20, 2015

SEEN AND AGREED TO:

Patricio Gomez-Foronda  
Patricio Gomez-Foronda, C.M.T.

COMMONWEALTH OF VIRGINIA,  
COUNTY/CITY OF Henrico, TO WIT:

Subscribed and sworn to before me, Jessica D. Sudduth, a Notary Public, this 21<sup>st</sup> day of March, 2015.

My commission expires 9/30/2015.

Registration Number 7382048.

Jessica D. Sudduth  
NOTARY PUBLIC

Certified True Copy

By [Signature]  
Virginia Board of Nursing

