

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE:

WAYNE SMITH, C.M.T. APPLICANT

ORDER

Pursuant to §§ 2.2-4020, 54.1-110 and 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Nursing ("Board") and one member of the Massage Therapy Advisory Board on January 26, 2015, in Henrico County, Virginia, to receive and act upon Wayne Smith's application for certification by examination to practice massage therapy in Virginia, and to inquire into evidence that Mr. Smith may have violated certain laws governing massage therapy practice in Virginia. The case was presented by Cynthia E. Gaines, Adjudication Specialist, Administrative Proceedings Division. Charis Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Mr. Smith was not present and was not represented by legal counsel. The proceedings were recorded by a certified court reporter.

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

FINDINGS OF FACT

1. Wayne Smith submitted an application for certification by examination to practice massage therapy which was received by the Board on May 2, 2014.
2. Based upon the representations of Cynthia E. Gaines, Adjudication Specialist, and Commonwealth's Exhibit No. 1, the Notice of Formal Hearing and Affidavit of Mailing, the presiding officer ruled that adequate notice was provided to the respondent and the hearing proceeded in his absence.
3. On March 15, 2007, Mr. Smith was convicted of one count of conspiracy to distribute and possession with intent to distribute cocaine base in the United States District Court for the Eastern District of

Virginia, Richmond Division.

4. The evidence presented at the formal hearing revealed that Mr. Smith has served his prison sentence, has been released from probation, and has successfully passed the NCBTMB examination.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) of the Code.
2. Mr. Smith otherwise meets the requirements of § 54.1-3029 of the Code.

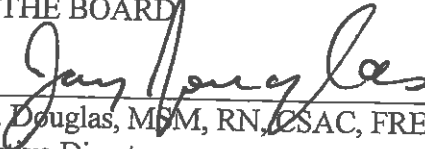
ORDER

WHEREFORE, the Virginia Board of Nursing, effective upon entry of this Order, hereby ORDERS as follows:


1. The application of Wayne Smith for certification to practice massage therapy is hereby APPROVED. Mr. Smith shall be issued an unrestricted certificate to practice massage therapy in the Commonwealth.
2. Mr. Smith shall maintain a course of conduct in his capacity as a massage therapist commensurate with the requirements of § 54.1-3000 *et seq.* of the Code and the Board of Nursing Regulations.

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 on request.

FOR THE BOARD


Jay P. Douglas, MSM, RN, CSAC, FRE
Executive Director
Virginia Board of Nursing


ENTERED

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 P. Douglas, MSM, RN, CSAC, FRE, 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.