

**VIRGINIA:**

**BEFORE THE BOARD OF NURSING**

**IN RE: TORA DUONG, C.M.T. APPLICANT**

**ORDER**

In accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400(7) of the Code of Virginia (1950), as amended (“Code”), an informal conference was conducted by a committee of two members of the Board of Nursing (“Board”) and one member of the Massage Therapy Advisory Board on February 11, 2013, in Henrico County, Virginia, to consider the application of Tora Duong for certification by endorsement as a massage therapist in Virginia, and to inquire into evidence that she may have violated certain laws governing massage therapy practice in Virginia. Ms. Duong was present and was represented by George W. Gills, Esquire. The Informal Conference Committee (“Committee”) submitted a Recommended Decision for consideration.

On March 19, 2013, the Board met to receive and act upon the Recommended Decision of the Committee. Ms. Duong was not present and was not represented by legal counsel.

Based upon its review of the Recommended Decision of the Committee, the Board makes the following Findings of Fact and Conclusions of Law and issues the following Order.

**FINDINGS OF FACT**

1. Tora Duong submitted an application for certification by endorsement to practice massage therapy which was received by the Board on October 2, 2012.
2. By letter dated January 15, 2013, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Duong notifying her that an informal conference would be held on February 11, 2013. The Notice was sent by certified and first class mail to 10490 Madison Way, North Glenn, Colorado 80233, the address of record on file with the Board.

3. On July 27, 2007, Ms. Duong pled guilty to and was convicted of conspiracy to distribute 500 grams or more of methamphetamine (Schedule II) in the United States District Court, Eastern District of Virginia, Alexandria Division. Ms. Duong was released from criminal probation July 27, 2012.

4. On May 15, 2012, by Order of the Colorado Department of Regulatory Agencies, Office of Massage Therapy Registration, Ms. Duong's application for registration to practice massage therapy was approved, and she was placed on probation for a period of 18 months. This action was a result of Ms. Duong's felony conviction as evidenced above.

5. Ms. Duong stated that she completed drug treatment while in prison in Alderson, West Virginia. She stated that her date of sobriety is July 27, 2007. Ms. Duong stated that she has attended Alcoholics Anonymous and Narcotics Anonymous.

6. Ms. Duong provided several letters of support to the Board.

#### **CONCLUSIONS OF LAW**

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(4) of the Code.
2. Finding of Fact No. 4 constitutes a violation of § 54.1-3007(7) of the Code.
3. Otherwise, Ms. Duong meets the qualifications of § 54.1-3029 of the Code.

#### **ORDER**

1. The application of Tora Duong for certification by endorsement is hereby APPROVED.
2. Ms. Duong shall be placed on PROBATION for 12 months of actual massage therapy practice subject to the following terms and conditions:
  - a. The period of probation shall begin on the date that this Order is entered and shall end at such time as Ms. Duong has completed 12 months of active employment as a certified massage therapist. The certificate of Ms. Duong shall be issued a certificate without restriction at the completion of the probationary period without a hearing unless there is a pending investigation or unresolved allegation involving a violation of

law, regulation or any term or condition of probation. In that event, the period of probation shall be continued indefinitely or until such time as the Board makes a case decision in accordance with the Administrative Process Act, § 2.2-4000 et seq. and § 54.1-2400(9) et seq. of the Code.

b. Ms. Duong shall inform the Board in writing within ten days of the date she begins massage therapy practice, or changes employment, or if any interruption in massage therapy practice occurs. Additionally, Ms. Duong shall provide the name and address of each employer to the Board.

c. Ms. Duong shall inform her current massage therapy employer and each future employer that the Board has placed her on probation and shall provide each employer with a complete copy of this Order. If Ms. Duong is employed through a staffing agency, she shall inform her supervisor in each facility where assigned that she is on probation.

d. Performance Evaluations shall be provided, at the direction of Ms. Duong, by all massage therapy employer(s), as provided by the Compliance Division. The first report must be received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

e. Ms. Duong shall not use alcohol or any other mood altering chemical, except as prescribed by a health care practitioner with whom she has a bona fide practitioner/patient relationship and for accepted medicinal or therapeutic purposes. Should she be prescribed any Schedule II-V controlled medication, a written report from the prescribing practitioner shall be provided to the Board within ten days of the date the medication is prescribed.

f. Ms. Duong shall be required to have three supervised, unannounced random drug screen a quarter, from a Board approved testing entity, which include testing for alcohol and the following drugs of choice: marijuana and methamphetamine. Ms. Duong shall ensure that the first set of results are received by the

Board no later than 60 days from the date this Order is entered. Subsequent results must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends. The Board shall be notified immediately in writing of any positive results or if Ms. Duong refuses to give a specimen for analysis as required by this Order. All positive results must be confirmed by a confirmatory drug test, the results of which are to be sent to the Board immediately.

g. Ms. Duong shall provide all current and future treating practitioners with a complete copy of this Order and shall execute an Authorization for Disclosure of Information form providing for unrestricted communication between the Board and any court-appointed probation or parole officers and any consultants designated by the Board.

h. Ms. Duong shall submit quarterly “Self-Reports” which include a current address, telephone number, and verification of all current employment. These reports shall also include any changes in employment status. The first report must be received in the Board office no later than 60 days from the date this Order is entered. Subsequent reports must be received quarterly by the last day of the months of March, June, September and December until the period of probation ends.

3. Ms. Duong shall conduct herself as a certified massage therapist in compliance with the requirements of Title 54.1, Chapter 30 of the Code, and the Board of Nursing Regulations.


4. Any violation of the stated terms and conditions contained in this Order, or failure to comply with all terms of this Order within five years of the date of entry of the Order, shall be reason for suspending or revoking the certificate of Ms. Duong and an administrative proceeding may be held to determine whether her certificate shall be suspended or revoked.

Pursuant to Section 54.1-2400(10) of the Code, Ms. Duong may, not later than 5:00 p.m., on **May 6, 2013**, notify Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that he/she desires a formal administrative hearing

before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated.

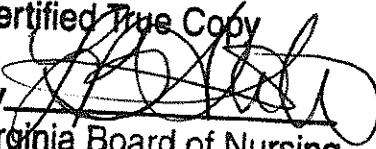
Pursuant to § 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

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

Entered: April 3<sup>RD</sup>, 2013

This Order shall become final on **May 6, 2013**, unless a request for a formal administrative hearing is received as described above.

Certified True Copy  
By   
Virginia Board of Nursing