

VIRGINIA:

BEFORE THE BOARD OF NURSING

IN RE: YAN GAO, C.M.T. REINSTATEMENT APPLICANT
Certificate No.: 0019-009952

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") on March 19, 2014, in Henrico County, Virginia, to receive and act upon Yan Gao's application for reinstatement of her certificate to practice as a certified massage therapist in Virginia, which was mandatorily suspended by the Department of Health Professions on January 10, 2013, and to inquire into evidence that Ms. Gao may have violated certain laws and regulations governing the practice of certified massage therapists in Virginia. The case was presented by Amanda E. M. Blount, Adjudication Specialist, Administrative Proceedings Division. Charis A. Mitchell, Assistant Attorney General, was present as legal counsel for the Board. Ms. Gao was present and was represented by Shaoming Cheng, Esquire. 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. Yan Gao was issued Certificate Number 0019-009952 to practice as a certified massage therapist in the Commonwealth of Virginia on August 5, 2011. Said certificate was mandatorily suspended pursuant to § 54.1-2409 of the Code by Order of the Department of Health Professions on January 10, 2013. Ms. Gao also holds License No. MT1480 to practice as a massage therapist in the District of Columbia, which is scheduled to expire on January 31, 2015.
2. Ms. Gao submitted an application for reinstatement of her certificate to practice as a massage therapist, which was received by the Board on September 26, 2013.

3. By a Voluntary Relinquishment entered September 11, 2012, Ms. Gao voluntarily surrendered her license to practice massage in the State of Florida. This action was based on allegations that Ms. Gao submitted fictitious documents indicating completion of a massage training program with her application for licensure. This action also formed the basis of the mandatory suspension of Ms. Gao's certificate to practice as a certified massage therapist in Virginia.

4. On her application for reinstatement of her massage therapist certificate received by the Board on September 26, 2013:

a. Ms. Gao answered "no" to the question "Have you ever had disciplinary action taken against your certificate to practice in a state?" when, in fact, her license to practice in Florida had been disciplined as referenced above.

b. Ms. Gao answered "no" to the question "Has your practice ever been the subject of an investigation by any licensing authority?" when, in fact, Ms. Gao was investigated from August 14, 2012 through August 16, 2012, based on the fictitious documents she submitted with her Florida application for licensure as referenced above.

c. Ms. Gao answered "no" to the question "Have you ever had any of the following disciplinary actions taken against your license or certificate by any licensing authority in any jurisdiction: placed on probation, suspended, revoked or otherwise disciplined?" when, in fact, her license to practice in Florida had been disciplined as referenced above.

d. Ms. Gao answered "yes" to the question "Is your certificate in good standing in all jurisdictions where licensed?" when, in fact, her license to practice in Florida had been relinquished as referenced above.

5. On her application for certification as a massage therapist in Virginia received by the Board on February 3, 2011, Ms. Gao answered "no" to the question "Have you ever applied for licensure or certification as a health care provider in another state?" when, in fact, she applied for and was issued a

license to practice massage in the State of Florida on January 28, 2011.

6. Ms. Gao submitted documentation of completion of 25 hours of continuing education between September 2, 2013, and September 7, 2013.

7. At the hearing, Ms. Gao stipulated to the facts alleged in the Statement of Particulars, as reflected in Findings of Fact 3 - 5.

8. At the hearing, Ms. Gao's friend, who had interpreted the application form for Ms. Gao, testified that she told Ms. Gao how to fill out the application and advised what she should write in the application without reading the questions to her. Her friend testified that she did not thoroughly explain all of the questions on the application to Ms. Gao. Ms. Gao, through her attorney, apologized for failing to properly fill out the application for reinstatement.

9. Ms. Gao testified through an interpreter at the hearing. She testified that she was not intentionally hiding anything from the Board. She stated that she would like to work as a massage therapist in Virginia.

10. Ms. Gao has taken and passed both the NCBTMB certifying exam and the MBLEX Federation of State Massage Therapy Boards exam.

CONCLUSIONS OF LAW

The Board concludes that:

1. Finding of Fact No. 3 constitutes a violation of § 54.1-3007(7) of the Code.
2. Findings of Fact Nos. 4(a), 4(b), 4(c), 4(d), and 5 constitute violations of § 54.1-3007(1) and (3) of the Code and 18 VAC 90-50-90(1)(b) of the Regulations Governing the Certification of Massage Therapists.
3. Ms. Gao has demonstrated satisfactory evidence that she is prepared to resume practice in a safe and competent manner.

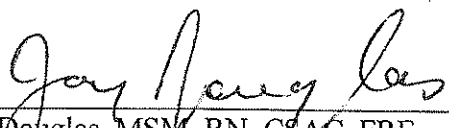
ORDER

WHEREFORE, the Virginia Board of Nursing, by affirmative vote of at least three-fourths of the members of the Board at the hearing, effective upon entry of this Order, hereby ORDERS as follows:

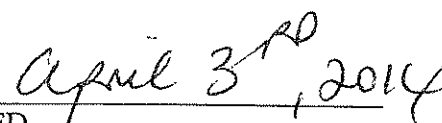
1. Certificate No. 0019-009952 issued to Yan Gao to practice as a certified massage therapist in the Commonwealth of Virginia, be and hereby is REINSTATED.
2. Yan Gao, C.M.T., is hereby REPRIMANDED.
3. Ms. Gao shall maintain a course of conduct in her capacity as a certified massage therapist commensurate 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, R.N., M.S.M., C.S.A.C., 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.