

BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY EXAMINERS

In the Matter of

Board Case No.

JOSHUA BURNS, LMT

22-252

Holder of License No. MT-16628
As a Massage Therapist
In the State of Arizona

**CONSENT AGREEMENT AND ORDER
FOR SURRENDER OF MASSAGE
THERAPY LICENSE**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Massage Therapy (Board) pursuant to A.R.S. § 32-4201, *et. seq.*, Joshua Burns (Respondent), holder of Massage Therapist License Number MT-16628 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order for Voluntary Surrender of licensure (Consent Agreement) as a final disposition of this matter.

RECITALS

1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.
2. Respondent understands that they have a right to a public administrative hearing concerning this matter, at which hearing Respondent could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein.
4. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.
5. Respondent understands that this Consent Agreement or any part of the agreement may be considered in any future disciplinary action by the Board against Respondent.
6. Respondent understands this Consent Agreement deals with Board case number 22-252 involving allegations that Respondent engaged in conduct that would subject Respondent to discipline under the Board's statutes and rules. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.
7. Respondent understands that this Consent Agreement does not constitute a dismissal or resolution of any other matters currently pending before the Board, if any, and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding.
8. Notwithstanding any language in this Consent Agreement and Order, this Consent Agreement and Order does not preclude in any way any other State agency or officer or political subdivision of this state from instituting proceedings, investigating claims, or taking legal action as may be appropriate now or in the future relating to this matter or other matters concerning Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to the Board, this Consent Agreement and Order makes no representations, implied or otherwise, about the views or intended actions of

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1 not approve this Consent Agreement, this Consent Agreement is withdrawn and shall be of no
2 evidentiary value, nor shall it be relied upon or introduced in any disciplinary action by any party
3 hereto, except that Respondent agrees that should the Board reject this Consent Agreement and
4 this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by
5 its review and discussion of this document or of any records relating thereto.

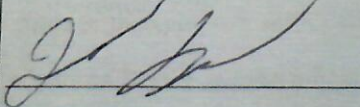
6 11. This Consent Agreement is effective only when signed by the Executive Director
7 on behalf of the Board.

8 12. If a court of competent jurisdiction rules that any part of this Consent Agreement
9 is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full
10 force and effect.

11 13. Respondent understands that this Consent Agreement constitutes disciplinary
12 action and is a public record that may be publicly disseminated as a formal action of the Board
13 and shall be reported as required by law to the National Practitioner Data Bank or other such
14 databases.

15 14. Respondent agrees that the Board will adopt the following Findings of Fact,
16 Conclusions of Law and Order.

17 **ACCEPTED AND AGREED BY RESPONDENT**

18
19 
20 Joshua Burns, LMT

Dated: 11/4/22

21 **FINDINGS OF FACT**

22 1. The Board is the duly constituted authority for licensing and regulating the
23 practice of Massage Therapy in the State of Arizona.

24 2. Respondent is the holder of license number MT-16628 to practice as a Massage
25 Therapist in the State of Arizona.

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21555627 evidencing the arrest for a violation of A.R.S. 13-3214(A) – Prostitution. Respondent admitted that he had not provided this material within the statutorily required period due to advice from his previous attorney.

4. In a phone interview with Board staff on October 6, 2022, Respondent admitted to attempting to solicit a prostitute and that he would be pleading guilty to attempted prostitution before the Scottsdale City Court on October 19, 2022.

5. The Board met at its regular meeting on October 31, 2022, and reviewed the allegations and discussed the matter. Based on the allegations and the discussion the Board moved to offer this Consent Agreement for Voluntary Surrender of licensure.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-4201 *et seq.*

2. The Board possesses statutory authority to enter into a consent agreement with a massage therapist and accept the surrender of an active license from a massage therapist who admits to having committed an act, which would subject the licensee to discipline under the Board's statutes or rules. *See* A.R.S. § 32-4254(O)(2).

3. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(6), which states, "engaging in any act or practice in violation of this chapter or any board rule or aiding, abetting or assisting any other person in the violation of these provisions or rules."

4. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(10), which states, "engaging in conduct that could result in harm or injury to the public."

5. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-3208(A), which states, "A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charged is filed."

ORDER

IT IS HEREBY ORDERED THAT License Number 16628 issued to Joshua Burns, LMT shall be **VOLUNTARILY SURRENDERED** upon the acceptance of this consent agreement by the Respondent and the thereafter signing of this Order by the Executive Director of the Board at the approval of the Board.

IT IS **FURTHER ORDERED** that the Respondent may not apply to the Board for licensure for at least five calendar years from the issuance date of this Order, as specified in A.R.S. § 32-4222 (A).

DATED this 28 day of November, 2022.

ARIZONA STATE BOARD OF MASSAGE
THERAPY

(Seal)

By: 
Thomas Augherton
Executive Director

ORIGINAL OF THE FORGOING FILED
this _ _ day of November 2022, with:

Arizona State Board of Massage Therapy
1740 West Adams, Suite 3401
Phoenix, Arizona 85007

EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
this _ _ day of November, 2022, to:

Joshua Bums
Address of Record
Respondent

Copy of the foregoing emailed
this _ _ day of November, 2022, to:

Seamus Monaghan, AAG
2005 North Central Avenue, SGDILES
Phoenix, Arizona 85004
Attorney for the Board

By: _____

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