

1                                   **BEFORE THE ARIZONA STATE BOARD OF**  
2                                   **MASSAGE THERAPY**

3 In the Matter of:

**BOARD CASE NOS. 19-118**

4 **SERGIO CASTRO**  
5 Holder of License No. **MT-18740**  
6 For the Practice as a Massage Therapist  
7 In the State of Arizona,  
8  
9 Respondent.

**DECISION AND ORDER**

8           On February 25, 2018, the Arizona State Board of Massage Therapy ("Board") held an  
9 Administrative Hearing in the above referenced matter. Sergio Castro ("Respondent")  
10 appeared represented himself. Assistant Attorney General Michael Raine represented the State.  
11 Assistant Attorney General, Marc H. Harris, of the Licensing and Enforcement Section of the  
12 Attorney General's Office, appeared in person to provide independent legal advice to the  
13 Board. After considering all of the evidence and arguments, the Board issues the following  
14 Findings of Fact, Conclusions of Law and Order ("Decision and Order"):

15                                   **FINDINGS OF FACT**

- 16           1.       On October 18, 2018, the Board issued an Order placing Respondent's license on  
17 probation in case number 18-129 following a formal hearing that occurred on October 1, 2018.
- 18           2.       On October 27, 2018, Respondent provided massage therapy services to client  
19 NK.
- 20           3.       During the massage, Respondent applied massage therapy techniques and made  
21 oral statements of a sexual nature that made NK uncomfortable, including the following:  
22 Although NK had kept her underwear on for the massage, Respondent placed his hands  
23 underneath NK's underwear and massaged her bare buttocks; Respondent massaged NK's  
24 buttocks with too much pressure causing her pain and stated that NK could scream out if she  
25 desired; Respondent pulled NK's hair during the massage; Respondent continued to massage NK  
26 after the allotted time, leaving the room and returning with a breath mint and beginning a

1 massage technique that focused on her chest; and Respondent asked NK whether she had a  
2 boyfriend.

### 3 CONCLUSIONS OF LAW

4 1. The conduct and circumstances described above constitute grounds for discipline  
5 pursuant to A.R.S. § 32-4253(A)(6) (engaging in any act or practice in violation of this chapter  
6 or any board rule).

7 2. The conduct and circumstances described above constitute grounds for discipline  
8 pursuant to A.R.S. § 32-4253(A)(10) (engaging in conduct that could result in harm or injury  
9 to the public).

10 3. The conduct and circumstances described above constitute grounds for discipline  
11 pursuant to A.R.S. § 32-4253(A)(14) (engaging in substandard care due to deliberate or  
12 negligent conduct, whether or not it results in actual injury to a client).

13 4. The conduct and circumstances described above constitute grounds for discipline  
14 pursuant to A.R.S. § 32-4253(A)(15) (engaging in any “sexual activity” with a client, as that  
15 term is defined in A.R.S. §§ 32-4253(B)(2)(a) (defining “sexual activity” to include “sexual  
16 conduct”), -4253(B)(3) (defining “sexual conduct” to include direct or indirect touching of the  
17 genitals to any part of the body), and -4253(B)(2)(e) (defining “sexual activity” to include a  
18 breast massage without prior written consent).

19 5. The conduct and circumstances described above constitute grounds for discipline  
20 pursuant to A.R.S. § 32-4253(A)(23) (violating Board statutes, rules or orders).

### 21 ORDER

22 Based on the Board’s adoption of the Findings of Fact and Conclusions of Law, the  
23 Board issues the following Order:

24 It is ordered **REVOKING** Respondent’s massage therapy license no. MT-18740.  
25  
26

1 The effective date of this Decision and Order is the date that is signed by Board's  
2 Executive Director.

3 **NOTICE OF APPEAL RIGHTS**

4 Respondent is hereby notified that he has the right to request a rehearing or review by  
5 filing a petition with the Board's Executive Director within 30 days after service of this  
6 Decision and Order. Service of this Decision and Order is effective on the date of personal  
7 delivery or five days after the date of mailing. A.R.S. § 41-1092.09. The request for a  
8 rehearing or review must set forth legally sufficient reasons for granting a rehearing or review.  
9 A.A.C. R4-15-401(C). If a motion for rehearing or review is not filed, the Board's Decision  
10 and Order becomes effective 35 days after it is mailed to Respondent. Respondent is further  
11 notified that the filing of a motion for rehearing or review is required to preserve any rights of  
12 appeal to the Superior Court.

13 DATED this 27<sup>TH</sup> day of February, 2019.

14 ARIZONA STATE BOARD OF  
15 MASSAGE THERAPY

16 By:   
17 Thomas Augherton, Executive Director

18 Original Decision and Order  
19 filed this 27<sup>th</sup> day of February, 2019 with the:

20 Arizona State Board of Massage Therapy  
21 1740 West Adams Street, Suite 3401  
22 Phoenix, Arizona 85007

23 Copy of the foregoing sent via  
24 Regular and Electronic Mail  
25 this 27<sup>th</sup> day of February, 2019 to:

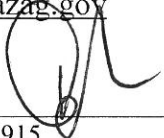
26 Sergio Castro  
1210 S Turquoise Vista Drive #601  
Tucson, Arizona 85710  
[serjcastro@gmail.com](mailto:serjcastro@gmail.com)  
Respondent

///

1 Copy of the foregoing sent via Electronic Mail  
2 This 27<sup>th</sup> day of February, 2019 to:

3 Michael Raine, Assistant Attorney General  
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6 Phoenix, Arizona 85004  
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9 Marc H. Harris  
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15 By:  \_\_\_\_\_  
16 DOC#7697915