

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

3 In the Matter of

Board Case No.

4 **GARY PATRICK KAHL, LMT**

22-132

5 Holder of License No. MT-01363
6 As a Massage Therapist
7 In the State of Arizona

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

8 In the interest of a prompt and judicious settlement of this case, consistent with the public
9 interest, statutory requirements and the responsibilities of the Arizona State Board of Massage
10 Therapy (Board) pursuant to A.R.S. § 32-4201, *et. seq.*, Gary Patrick Kahl (Respondent), holder
11 of Massage Therapist License Number MT-01363 in the State of Arizona, and the Board enter
12 into the following Recitals, Findings of Fact, Conclusions of Law and Order for Voluntary
13 Surrender of licensure (Consent Agreement) as a final disposition of this matter.

14 **RECITALS**

15 1. Respondent has read and understands this Consent Agreement and has had the
16 opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to
17 discuss this Consent Agreement with an attorney.

18 2. Respondent understands that he has a right to a public administrative hearing
19 concerning this matter, at which hearing Respondent could present evidence and cross-examine
20 witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily
21 relinquishes all right to such an administrative hearing, as well as rights of rehearing, review,
22 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
23 concerning the matters set forth herein.

24 3. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.
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1 4. Respondent understands that this Consent Agreement or any part of the agreement
2 may be considered in any future disciplinary action by the Board against Respondent.

3 5. Respondent understands this Consent Agreement deals with Board case number
4 22-132 involving allegations that Respondent engaged in conduct that would subject Respondent
5 to discipline under the Board's statutes and rules. The investigation into these allegations against
6 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

7 6. Respondent understands that this Consent Agreement does not constitute a
8 dismissal or resolution of any other matters currently pending before the Board, if any, and does
9 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
10 regarding any other pending or future investigation, action or proceeding.

11 7. Notwithstanding any language in this Consent Agreement and Order, this Consent
12 Agreement and Order does not preclude in any way any other State agency or officer or political
13 subdivision of this state from instituting proceedings, investigating claims, or taking legal action
14 as may be appropriate now or in the future relating to this matter or other matters concerning
15 Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act.
16 Respondent acknowledges that, other than with respect to the Board, this Consent Agreement
17 and Order makes no representations, implied or otherwise, about the views or intended actions of
18 any other state agency or officer or political subdivisions of the State relating to this matter or
19 other matters concerning Respondent.

20 8. Respondent acknowledges and agrees that, upon signing this Consent Agreement
21 and returning this document to the Board's Executive Director, Respondent may not revoke
22 Respondent's acceptance of the Consent Agreement or make any modifications to the document
23 regardless of whether the Consent Agreement has been signed by the Executive Director. Any
24 modification to this original document is ineffective and void unless mutually agreed by the
25 parties in writing.

1 9. The Consent Agreement is subject to the Board's approval, and will be effective
2 only when the Board accepts it by signature below. In the event the Board in its discretion does
3 not approve this Consent Agreement, this Consent Agreement is withdrawn and shall be of no
4 evidentiary value, nor shall it be relied upon or introduced in any disciplinary action by any party
5 hereto, except that Respondent agrees that should the Board reject this Consent Agreement and
6 this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by
7 its review and discussion of this document or of any records relating thereto.

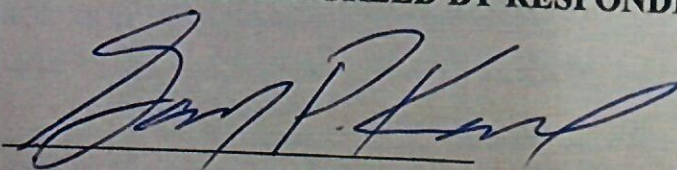
8 10. This Consent Agreement is effective only when signed by the Executive Director
9 on behalf of the Board.

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

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

17 13. Respondent agrees that the Board will adopt the following Findings of Fact,
18 Conclusions of Law and Order.

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21 **ACCEPTED AND AGREED BY RESPONDENT**

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24 Gary Patrick Kahl, LMT
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Dated: 3-21-22

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FINDINGS OF FACT

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

2. Respondent is the holder of license number MT-01363 to practice as a Massage Therapist in the State of Arizona.

3. On November 10, 2021, Board Staff received a complaint from C.H, husband of "TH", the victim. Complainant alleged that his wife was being touched inappropriately by Respondent. Complainant stated he found messages on TH's phone and called Respondent. Complainant alleged that Respondent admitted there had been physical touching. Complainant stated he also confronted TH who admitted it was true. Based on this complaint the Board conducted an investigation.

4. On December 29, 2021, Board Staff telephonically interviewed TH. TH stated during the first 3 massages no improper touching occurred just some flirting. TH stated after 3-4 massages Respondent began touching her sexually on her vagina and breasts. TH stated the sexual touching occurred over approximately 3-4 more massages.

5. On December 29, 2021, Board Staff telephonically interviewed Respondent. Respondent denied he ever touched TH sexually and furthermore stated during the course of the next 4-5 massages she grabbed his penis and butt several times. Respondent stated he would remove her hands from him and place them back on the table.

6. On January 3, 2022, Respondent contacted Board Staff telephonically. Respondent admitted he lied to Board Staff on December 29, 2021. Respondent admitted after a few sessions that he did massage TH inappropriately by massaging her breasts and vagina. Respondent also stated she touched his penis and that all the touching was consensual. Respondent stated the inappropriate touching occurred for 4-5 massages. After this conversation, Respondent emailed a revised written statement admitting to the allegations.

7. The Board reviewed the preliminary investigative materials at its January 24, 2022, regular Board meeting and based on the facts presented, the admission of the Respondent and the testimony from the complainant including the potential harm to the public health, safety or welfare the Board determined the matter required emergency action and moved to Summarily Suspend Respondent's license pending a formal hearing.

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)(10), which states, “engaging in conduct that could result in harm or injury to the public.”

4. The conduct and circumstance described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(15), which states, “Engaging in sexual activity with a client,” as it relates to A.R.S. § 32-4253(B)(2)(c) which defines “Sexual activity” as making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with a client.”

5. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(20), which states, “Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by the use of threats or harassment against any person to prevent that person from providing evidence in a disciplinary proceeding or any legal action.”

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ORDER


IT IS HEREBY ORDERED THAT License Number 01363 issued to Gary Patrick Kahl, 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 reinstatement of his license for at least five calendar years from the issuance date of this Order, as specified in A.R.S. § 32-4222(A).

DATED this 21 day of 03, 2022.

(Seal)

ARIZONA STATE BOARD OF MASSAGE
THERAPY

By: 
Thomas Augherton
Executive Director

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ORIGINAL OF THE FORGOING FILED
this _ _day of March, 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 March, 2022, to:

Gary Patrick Kahl
Address of Record
Respondent

Copy of the foregoing emailed
this _ _day of March, 2022, to:

Seamus Monaghan, AAG
2005 North Central Avenue, SGD/LES
Phoenix, Arizona 85004
Attorney for the State

By: _____

____#10233395