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8 **BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY**

9 In the Matter of

10
11 **BARBARA KUNZ,**

12 Applicant for Licensure as a
13 Massage Therapist in the
State of Arizona

**CONSENT AGREEMENT FOR
LICENSURE WITH PROBATION**

14
15 **CONSENT AGREEMENT**

16 As Barbara Kunz ("Applicant") has made application to the Arizona State Board
17 of Massage Therapy (the "Board") for licensure as a massage therapist and, consistent
18 with the public interest, statutory requirements and the responsibilities of the Board under
19 A.R.S. § 32-4201, *et. seq.*, the Board and Applicant enter into the following Recitals,
20 Findings of Fact, Conclusions of Law and Order ("Consent Agreement") for licensure
21 with probation.

22 **RECITALS**

23 1. Applicant has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
26

1 2. Applicant understands that she has a right to a public administrative hearing
2 concerning this matter, at which hearing she could present evidence and cross examine
3 witnesses. By entering into this Consent Agreement, Applicant knowingly and
4 voluntarily relinquishes all right to an administrative hearing, as well as all rights of
5 rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Applicant affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Applicant acknowledges and agrees that, upon signing this Consent
10 Agreement and returning this document to the Board's Deputy Director, she may not
11 revoke her acceptance of the Consent Agreement or make any modifications to the
12 document regardless of whether the Consent Agreement has been signed by the Deputy
13 Director. Any modification to this original document is ineffective and void unless
14 mutually agreed by Applicant and the Board in writing.

15 5. Applicant understands that the Consent Agreement shall not become
16 effective unless and until signed by the Board's Deputy Director on behalf of the Board.

17 6. This Consent Agreement is subject to the approval of the Board and is
18 effective only when accepted by the Board and signed by the Deputy Director. In the
19 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
20 be of no evidentiary value and shall not be relied upon nor introduced in any action by
21 any party, except that the parties agree that should the Board reject this Consent
22 Agreement and this case proceeds to hearing, Applicant shall assert no claim that the
23 Board was prejudiced by its review and discussion of this document or any records
24 relating thereto.

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

4 8. Applicant understands that this Consent Agreement is a public record that
5 may be publicly disseminated as a formal action of the Board and may be reported as
6 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
7 Protection Data Bank.

8 9. Applicant understands that any violation of this Consent Agreement may
9 result in disciplinary action. A.R.S. § 32-4253(A)(23).

10 10. Applicant agrees that the Board will adopt the following Findings of Fact,
11 Conclusions of Law and Order.

12
13 ACCEPTED AND AGREED BY BARBARA KUNZ

14 
15 Barbara Kunz

Dated: 12-13-2012

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17 **FINDINGS OF FACT**

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

20 2. On or about January 24, 2012, Applicant applied for licensure as a massage
21 therapist in the State of Arizona.

22 3. Being convicted of a felony is grounds for disciplinary action. A.R.S. § 32-
23 4253(A)(4). Applicant was convicted of felony manslaughter by culpable negligence on
24 March 5, 2003, in Lake County, Florida.

25 ...

1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter and over
3 Applicant pursuant to A.R.S. § 32-1901 *et seq.*

4 2. The Board, having heard the statements made by Applicant, hereby closes
5 its investigation and finds that Applicant currently meets the requirements for licensure
6 under A.R.S. § 32-4222, subject to the terms of this Consent Agreement.

7 ORDER

8 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
9 ORDERED AS FOLLOWS:

10 1. Subject to the terms of this Order, Applicant is hereby issued a license to
11 practice massage therapy in Arizona.

12 2. Applicant’s license is immediately placed on PROBATION for two years
13 from the date of licensure subject to the following terms:

14 a. Eleven (11) months from Applicant’s date of licensure with the
15 Board, Applicant shall request in writing that the Board terminate the probation.
16 Applicant’s request for termination will be considered at a regularly scheduled
17 Board meeting. Applicant is required to personally appear at that Board meeting.
18 Applicant’s probationary period will continue until Applicant’s request for
19 termination is received and the Board terminates the probation. **The Board must**
20 **grant Applicant’s request to terminate probation before Applicant may**
21 **renew her license.**

22 b. Throughout the term of Applicant’s probation, Applicant shall
23 personally appear before the Board when requested to do so by the Board or Board
24 staff.

25 c. Applicant shall obey all federal and state laws and rules governing
26

1 the practice of Massage Therapists.

2 d. Applicant shall pay all costs associated with complying with this
3 Consent Agreement.

4 e. If Applicant violates this Order in any way or fails to fulfill the
5 requirements of this Order, the Board, after giving notice and the opportunity to be
6 heard, may revoke, suspend or take other disciplinary actions against the license.
7 The issue at such a hearing will be limited solely to whether this Order has been
8 violated.

9 DATED this 13th day of December, 2012.

10
11 ARIZONA STATE BOARD OF MASSAGE
12 THERAPY

13 (Seal)

14 By: Kathleen Phillips
15 KATHLEEN PHILLIPS,
Deputy Director

16 ORIGINAL OF THE FORGOING FILED
17 this 13th day of December, 2012, with:

18 Arizona State Board of Massage Therapy
19 1400 West Washington, Suite 300
Phoenix, Arizona 85007

20 EXECUTED COPY OF THE FOREGOING MAILED
21 this 13th day of December, 2012, to:

22 Barbara Kunz
Address of Record

23 Elizabeth A. Campbell
24 Assistant Attorney General
1275 W. Washington Street, CIV/LES
25 Phoenix, Arizona 85007
Attorney for the Board

26 #2965854