

1 BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

2 In the Matter of:

3)
4 **YING LIU, LMT**)

5)
6 License No. MT-00392P)

7 As a Massage Therapist)

8 In the State of Arizona)
9

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

10 Pursuant to Notice of Hearing Number 10-113 (Notice) this matter came before the Arizona
11 Board of Massage Therapy (Board) on January 23, 2012.

12 Dennis Beye, president, presided at the meeting with Board members Victoria Bowman, John
13 Ortega, Diane Pruetz, and Earl Duskey in attendance.

14 The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant
15 Attorney General, Licensing and Enforcement Section. Chris Munns, of the Solicitor General's
16 Section of the Attorney General's Office was present and available to provide independent legal
17 advice to the Board. Ying Liu (Respondent) was not present and was not represented by an
18 attorney. The Board, after considering the testimony and evidence presented, hereby issues the
19 following Findings of Fact, Conclusions of Law, and Order.

20 **AUTHORITIES AND JURISDICTION**

21
22 1. The Board is the duly constituted authority for licensing and regulating the practice of
23 massage therapy in the state of Arizona.

24 2. Respondent is the holder of license number MT-00392P, which allows her to practice as
25 a massage therapist in the state of Arizona. Respondent's license was due to expire on June 6,
26 2011. The Board retains jurisdiction over Respondent's license under A.R.S. § 32-3202 because
27 Respondent was notified in writing that an investigation was pending before her license was due

1 to expire.

2 3. Under A.R.S. § 32-4201, *et seq.*, the Board has jurisdiction over the subject matter and
3 over Respondent as a licensee of the Board.

4 **FINDINGS OF FACT**

5 1. On or about August 19, 2010, in Mesa Municipal Court case docket number 2009058654,
6 Respondent was convicted of prostitution in violation of A.R.S. § 13-3214(A); administering a
7 massage to a person whose specified anatomical areas¹ are not covered in violation of Mesa City
8 Code § 5-12-9(A)(5); and touching of specified anatomical areas² during a massage in violation
9 of Mesa City Code § 5-12-9(A)(7).

10 2. Respondent appealed her convictions in Mesa Municipal Court case docket number
11 2009058654 to the Superior Court of Maricopa County. On May 9, 2011, in Maricopa County
12 Superior Court Case Number LC2011-000009, the Superior Court affirmed the convictions.

13 **CONCLUSIONS OF LAW**

14 1. The conduct described above in the Factual Allegations are grounds for discipline under
15 A.R.S. § 32-4253(A)(4) (Being convicted of a felony or other offense involving moral turpitude
16 or conviction for prostitution, solicitation or another similar offense. A conviction by a court of
17 competent jurisdiction is conclusive evidence of the commission of the crime).

18 2. The conduct described above in the Factual Allegations is grounds for discipline under
19 A.R.S. § 32-4253(A)(15) (Engaging in sexual activity with a client).

20 3. The conduct described above in the Factual Allegations constitutes sexual activity in
21 violation of A.R.S. § 32-4253(B)(2)(a) ("Sexual activity" means sexual conduct") "Sexual
22 conduct" means any direct or indirect touching, fondling, or manipulating of any part of the
23 genitals or anus by any part of the body or by any object or causing a person to engage in that
24 conduct. A.R.S. § 32-4253(B)(3).

¹ At the time of the violations in August 2009, Mesa City Code § 5-12-1 defined "specified anatomical areas" to include the "pubic region" and "human genitals."

² At the time of the violations in August 2009, Mesa City Code § 5-12-1 defined "specified anatomical areas" to include the "pubic region" and human genitals."

1 4. The conduct described above in the Factual Allegations constitutes sexual activity in
2 violation of A.R.S. § 32-4253(B)(2)(c) (“Sexual activity” means making sexual advances,
3 requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual
4 nature with a client).

5 5. The conduct described above in the Factual Allegations constitutes sexual activity in
6 violation of A.R.S. § 32-4253(B)(2)(d) (“Sexual activity” means intentionally viewing a
7 completely or partially disrobed massage therapy client in the course of treatment if the viewing
8 is not related to treatment under current practice standards and is intended to appeal to the
9 prurient interest of the massage therapy client or the massage therapist).

10 6. The convictions described above constitutes grounds for revocation of the license under
11 A.R.S. § 32-4254(G) (if after a formal proceeding the Board finds that a licensee has been
12 convicted of prostitution, solicitation or another similar offense, the Board shall revoke the
13 license).

14 **ORDER**

15
16 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**
17 that Respondent’s license number **MT-000392P** is **REVOKED**.

18 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

19 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §
20 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-
21 five (35) days from the date of mailing if the Order was served by certified mail. The petition
22 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.
23 R4-15-401(C). The timely filing of a motion for rehearing or review shall stay the enforcement
24 of the Board’s Order. If a motion for rehearing or review is not filed, the Board’s Order becomes
25 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the
26 Board has expressly found good cause to believe that this Order shall be effective immediately

1 upon the issuance and has so stated in this Order. The failure to file a motion for rehearing or
2 review within thirty days after service of the decision has the effect of prohibiting the parties
3 from seeking judicial review of the Board's decision.

4 Dated and signed this 24th day of January 24, 2012.

5 ARIZONA BOARD OF MASSAGE THERAPY

6 By: 

7 Craig Runbeck, N.M.D.
8 Executive Director
9

10 ORIGINAL OF THE FOREGOING FILED
11 this 24th day of November, 2011 with the:
12 Arizona State Board of Massage Therapy
13 1400 West Washington, Suite 300
14 Phoenix, AZ 85007
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18

19 EXECUTED COPY OF THE FOREGOING MAILED
20 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
21 this 24th day of January, 2012, to:

22
23 Ying Liu
24 1380 S. Bogle Ct.
25 Chandler, Arizona 85224
26 Respondent/Licensee
27

28 COPY ~~OF~~ THE FOREGOING MAILED
29 this 24th day of January, 2012, to:

30
31 Christopher Munns
32 Assistant Attorney General
33 1275 W. Washington Street, CIV/SGO
34 Phoenix, Arizona 85007
35 Attorney for the Board
36

37 Elizabeth Campbell
38 Assistant Attorney General
39 1275 W. Washington Street, CIV/LES
40 Phoenix, Arizona 85007
41 Attorney for the State
42
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