

1 BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

2 In the Matter of:

3)
4 **ERIC LOMBARDO, LMT**)

5)
6 License No. MT-18394)

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 14-119 (Notice) this matter came before the Arizona
11 Board of Massage Therapy (Board) on November 17, 2014.

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

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. Eric Lombardo (Respondent) was not present.

18 The Board, after considering the testimony and evidence presented, hereby issues the following
19 Findings of Fact, Conclusions of Law, and Order.

20 **AUTHORITIES AND JURISDICTION**

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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-18394 as a massage therapist in the state
25 of Arizona.

26 3. Under A.R.S. §§ 32-4201 *et seq.*, the Board has jurisdiction over the subject matter and
27 over the Respondent as a licensee of the Board.
28

1 FINDINGS OF FACT

2 1. On April 3, 2014, female massage therapy client MS received a massage from
3 Respondent in Queen Creek, Arizona.

4 2. During the massage, Respondent failed to provide draping that ensured the comfort and
5 privacy of MS. Specifically, Respondent failed to drape MS's thighs and buttocks so that her
6 privacy was protected.

7 CONCLUSIONS OF LAW

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

10 2. The conduct described in the Factual Allegations constitutes grounds for discipline under
11 A.R.S. § 32-4253(A)(14)(Engaging in the performance of substandard care by a massage
12 therapist due to a deliberate or negligent act or failure to act, regardless of whether actual injury
13 to the person cared for is established).

14 3. The conduct described in the Factual Allegations constitutes grounds for discipline under
15 A.R.S. § 32-4253(A)(16). (Failing to adhere to the recognized standards and ethic of the massage
16 therapy profession.). A.R.S. § 32-4251(B) further requires that a massage therapist adhere to the
17 recognized standards and ethics of the massage therapy profession. When a licensee agrees to
18 provide massage therapy to a client, the licensee shall provide draping that ensures the safety,
19 comfort, and privacy of the client. A.A.C. R4-15-103(1)(E).

20 ORDER

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22 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**
23 that Respondent's license number **MT-18257** is **SUSPENDED** for one year. Respondent must
24 complete 15 in-house hours of staff preapproved continuing education in ethics, draping and
25 communications by his next expiration date in addition to the 24 hours required for license
26 renewal. He must appear before the Board to request release from suspension.


Nov 15, 2016
Suspension

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

3 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §
4 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-
5 five (35) days from the date of mailing if the Order was served by certified mail. The petition
6 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.
7 R4-15-401(C). The timely filing of a motion for rehearing or review shall stay the enforcement
8 of the Board's Order. If a motion for rehearing or review is not filed, the Board's Order becomes
9 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the
10 Board has expressly found good cause to believe that this Order shall be effective immediately
11 upon the issuance and has so stated in this Order. The failure to file a motion for rehearing or
12 review within thirty days after service of the decision has the effect of prohibiting the parties
13 from seeking judicial review of the Board's decision.

14 Dated and signed this 20th day of November, 2014.

15 ARIZONA BOARD OF MASSAGE THERAPY

16 By: 
17 Kathleen Phillips
18 Executive Director
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24 ORIGINAL OF THE FOREGOING FILED
25 this 20th day of November, 2014 with the:
26 Arizona State Board of Massage Therapy
27 1400 West Washington, Suite 300
28 Phoenix, AZ 85007
29

30 EXECUTED COPY OF THE FOREGOING MAILED
31 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
32 this 20th day of November, 2014, to:

33
34 Eric Lombardo
35 Address of Record

1 Respondent/Licensee

2

3 COPY OF THE FOREGOING MAILED
4 this 20th day of November, 2014

5

6 Christopher Munns
7 Assistant Attorney General
8 1275 W. Washington Street, CIV/SGO
9 Phoenix, Arizona 85007
10 Attorney for the Board

11

12 Elizabeth Campbell
13 Assistant Attorney General
14 1275 W. Washington Street, CIV/LES
15 Phoenix, Arizona 85007
16 Attorney for the State

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