

1 BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

2 In the Matter of:

3 )  
4 Jorge Jose Diaz Lozoya, LMT

Case No. 14-113

5 )  
6 License No. MT-18246

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND ORDER

7 As a Massage Therapist

8 In the State of Arizona  
9 )

10 On November 17, 2014, the Arizona Board of Massage Therapy (the Board) considered  
11 the State's Motion to Deem Allegations admitted. Elizabeth Campbell, Assistant Attorney  
12 General, appeared on behalf of the state. Chris Munns of the Solicitor General's Section of the  
13 Attorney General's Office was present and available to provide independent legal advice to the  
14 Board. Neither Respondent nor an attorney for Respondent was present.

15 After reviewing the record and hearing from the parties, the Board granted the State's  
16 Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-4252(H) and the Complaint and  
17 Notice of Hearing filed in this matter, the Board issues the following Findings of Fact,  
18 Conclusions of Law, and Order.

19 PARTIES AND JURISDICTION

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

22 2. Respondent is the holder of license number MT-18246, which allows him to practice as a  
23 massage therapist in the State of Arizona.

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

26 FINDINGS OF FACT

1 1. On December 1, 2013, female massage therapy client JV received a massage from  
2 Respondent at Massage Envy in Tempe, Arizona.

3 2. During the massage, Respondent touched JV's breasts and genitals. JV had not consented  
4 to a breast massage.

5 **CONCLUSIONS OF LAW**

6 1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to  
7 A.R.S. § 32-4201 *et seq.*

8 2. The Board may discipline a massage therapist who engaged in sexual activity with a  
9 client. A.R.S. § 32-4253(A)(15).

10 3. The conduct and circumstances described above constitute sexual activity in violation of  
11 A.R.S. § 32-4253(B)(2)(a) ("Sexual activity" means sexual conduct). "Sexual conduct" means  
12 any direct or indirect touching, fondling, or manipulating of any part of the genitals or anus by  
13 any part of the body or by any object or causing a person to engage in that conduct. A.R.S. § 32-  
14 4253(B)(3).

15 4. The conduct and circumstances described above constitute sexual activity in violation of  
16 A.R.S. § 32-4253(B)(2)(c) ("Sexual activity" means making sexual advances, requesting sexual  
17 favors or engaging in other verbal conduct or physical contact of a sexual nature with a client).

18 5. The conduct and circumstances described above constitutes sexual activity in violation of  
19 A.R.S. § 32-4253(B)(2)(e) ("Sexual activity" means massaging, touching or applying any  
20 instrument or device by a licensee in the course of practicing or engaging in massage therapy to  
21 the breast of a female client unless the client requests breast massage and signs a written  
22 consent.

23 **ORDER**

24  
25 **IT IS HEREBY ORDERED** that Respondent's license number MT-18246 is **REVOKED**.  
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1 NOTICE

2 Any aggrieved party may appeal this decision by filing a written request for Rehearing or  
3 Review with the Board within 30 days of service of this Decision. Service of this Decision is  
4 effective on personal delivery or **five** days after the date of mailing. A motion for Rehearing or  
5 Review shall conform to the requirements set forth in the Board's rules at A.A.C. R4-15-401 and  
6 shall be served on the opposing party. The filing of a Motion for Rehearing or Review is required  
7 in order to exhaust a party's administrative remedies. The failure to file a Motion for Rehearing  
8 or Review will preclude a party from seeking judicial review of this decision.

9  
10  
11 Dated and signed this 19th day of November, 2014.

12 ARIZONA BOARD OF MASSAGE THERAPY

13 By: Kathleen Phillips  
14 Kathleen Phillips  
15 Executive Director  
16

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23 ORIGINAL OF THE FOREGOING FILED


24 This 19th day of November, 2014 with the:  
25 Arizona State Board of Massage Therapy  
26 1400 West Washington, Suite 300  
27 Phoenix, AZ 85007

28  
29 EXECUTED COPY OF THE FOREGOING MAILED  
30 BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
31 this 19th day of November, 2014, to:

32  
33  
34 Jorge Jose Diaz Lozoya  
35 Address of Record  
36 Respondent  
37

1 COPY OF THE FOREGOING MAILED  
2 this 19th day of November, 2014, to:  
3 Christopher Munns  
4 Assistant Attorney General  
5 1275 W. Washington Street, CIV/SGO  
6 Phoenix, Arizona 85007  
7 Attorney for the Board

8  
9 Elizabeth Campbell  
10 Assistant Attorney General  
11 1275 W. Washington Street, CIV/LES  
12 Phoenix, Arizona 85007  
13 Attorney for the State

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