



State of Arizona
Governor
Janice K. Brewer

Arizona State Board of Massage Therapy

1400 W. Washington, Ste. 300 ♦ Phoenix, AZ 85007
Voice Telephone: 602-542-8604 ♦ Fax: 602-542-8804
Website: www.massageboard.az.gov ♦ Kathleen Phillips, Executive Director

October 4, 2013

Joseph M. Powers
4729 E. Sunrise Drive #169
Tucson, AZ 85718

AMENDED

Re: Arizona Board of Massage Therapy Application

Dear Mr. Powers:

At its September 23, 2013, Board meeting, the Arizona State Board of Massage Therapy (the "Board") denied your application for licensure as a massage therapist ("Application") under A.R.S. §§ 32-4222(A)(4), (9) and -4253(A)(2), (3) and (4). In denying your Application, the Board considered the following criminal convictions:

- Resisting Arrest (Misdemeanor) on July 2, 2001, in Maricopa County Superior Court Case No. CR2001-003296;
- DUI – Impaired to the Slightest Degree (Misdemeanor) and Extreme DUI (Misdemeanor) on October 25, 2004, in Phoenix Municipal Court Case No. M-0741-3011633;
- Disorderly Conduct (Misdemeanor) on September 26, 2008, in Scottsdale City Court Case No. M-0751-CR-2008028922;
- DUI (Misdemeanor) on November 17, 2009, in Tucson Municipal Court Case No. M-1041-CR-9076037; and
- Four Counts of Aggravated DUI (all Class 4 Felonies) on May 11, 2012, in Pima Superior Court Case No. CR-20103750 with 4 months of incarceration followed by 18 months of probation.

On July 12, 2013, you signed the present Application. In that Application, you answered "No" to the question "Are you on probation." Applicant remains on probation based upon the May 2012 Aggravated DUI (Felony) convictions.

An applicant for license as a massage therapist must be of good moral character. A.R.S. § 32-4222(A)(4). Your history of criminal convictions and the false information you provided on your application demonstrates lack of good moral character. In addition, the 2012 felony conviction constitutes lack of good moral character under A.A.C. R4-15-101(10).

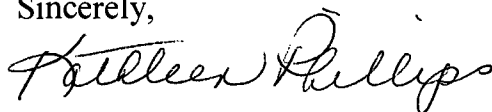
Under A.R.S. § 32-4222(A)(9), an applicant cannot be currently under investigation, suspension or restriction by a political subdivision of this state or a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that would be subject him to discipline pursuant to the Board's statutes. As part of processing your Application, the Board investigated your criminal history. **The Board may deny an application for a license if the applicant committed an act that would subject a licensee to discipline under the Board's statutes. A.R.S. § 32-4222(G).**

Further, the false information you supplied on your 2013 Application is conduct that would subject you to discipline under A.R.S. § 32-4253(A)(2) (Using fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or the renewal or reinstatement of a license). Your history of DUI convictions is evidence of a substance use disorder which would subject you to discipline under A.R.S. § 32-4253(A)(3) (Using drug or intoxicating liquors to an extent that affects professional competency). Finally, the 2012 felony conviction is conduct subject to discipline under A.R.S. § 32-4253(A)(4) (Being convicted of a felony or other offense involving moral turpitude or any conviction for prostitution, solicitation or another similar offense. A conviction by a court of competent jurisdiction is conclusive evidence of the commission of the crime).

It is your right to appeal the Board's denial of your Application. If you wish to appeal, you must request a hearing in writing thirty (30) days from the date you receive this letter. A formal hearing will be scheduled for your appeal.

If you choose to appeal the Board's denial of your Application, you may request an informal settlement conference pursuant to A.R.S. § 41-1092.06. Any written or oral statements made by you at the settlement conference, including any written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. By participating in the settlement conference, you waive your right to object to the participation of any agency representative in the final administrative decision. A.R.S. § 41-1092.06(B).

Sincerely,



Kathleen Phillips
Executive Director

c: Elizabeth A. Campbell, Assistant Attorney General