

BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

In the Matter of:

Wen Jing Qian, LMT

License No. MT-13016

As a Massage Therapist

In the State of Arizona

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

Pursuant to Notice of Hearing Number 11-102 (Notice) this matter came before the Arizona Board of Massage Therapy (Board) on September 26, 2011.

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

The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant Attorney General, Licensing and Enforcement Section. Chris Munns, of the Solicitor General's Section of the Attorney General's Office was present and available to provide independent legal advice to the Board. Wen Jing Qian (Respondent) was represented by Paul Rybarsak, *Esq.* but was not present.

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

AUTHORITIES AND JURISDICTION

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

2. Respondent is the holder of license number MT-13016, which allows her to practice as a massage therapist in the state of Arizona.

3. Under A.R.S. §§ 32-3202 and 32-4201 through 32-4259, the Board has jurisdiction over

1 the subject matter and over the Respondent as a licensee of the Board.

2 **FINDINGS OF FACT**

3 1. During a massage on January 25, 2011, Respondent provided massage therapy to a client.
4 The massage therapy client was an undercover Scottsdale Police Officer.

5 2. When the undercover Police Officer entered the massage establishment, Respondent was
6 wearing a thin dress. Respondent's breasts were clearly visible through the dress.

7 3. After entering the massage room, Respondent watched as the Police Officer completely
8 undressed.

9 4. When the Police Officer was lying naked on the massage table, Respondent instructed
10 him to turn over. The Police Officer turned over. Respondent failed to cover the Police Officer's
11 genital area.

12 5. When the Police Officer was dressing to leave, Respondent watched the Police Officer
13 dress.

14 **CONCLUSIONS OF LAW**

15 1. Under A.R.S. § 32-4201, *et seq.*, the Board possesses jurisdiction over the subject matter
16 and over Respondent.

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

19 3. The conduct described above in paragraphs 1 through 5 of the Findings of Fact is grounds
20 for discipline under A.R.S. § 32-4253(B)(2)(d) ("Sexual activity" means intentionally viewing a
21 completely or partially disrobed massage therapy client in the course of treatment if the viewing
22 is not related to treatment under current practice standards and is intended to appeal to the
23 prurient interest of the massage therapy client or the massage therapist).

24 4. The conduct described above in paragraphs 1 through 5 of the Findings of Fact
25 constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(i) ("Sexual activity" means
26 exposing her breasts to a client).

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2 **ORDER**

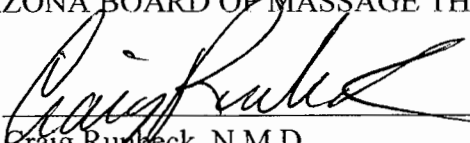
3
4 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**
5 that Respondent's license number **MT-13016** is **REVOKED**.

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

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

18 Dated and signed this 27th day of September, 2011.

19 ARIZONA BOARD OF MASSAGE THERAPY

20 By: 
21 Craig Runbeck, N.M.D.
22 Executive Director
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1 ORIGINAL OF THE FOREGOING FILED
2 this 27th day of September, 2011 with the:
3 Arizona State Board of Massage Therapy
4 1400 West Washington, Suite 300
5 Phoenix, AZ 85007
6

7 EXECUTED COPY OF THE FOREGOING MAILED
8 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
9 this 27th day of September, 2011, to:

10 Wen Jing Qian
11 385 S. Atlantic #F
12 Monterey Park, California 91754
13 Respondent/Licensee
14

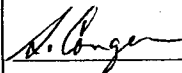
15 Wen Jing Qian
16 4736 Obannon Drive
17 Las Vegas, NV 89102
18 Respondent/Licensee
19

20 COPY OF THE FOREGOING MAILED
21 this 27th day of September, 2011, to:

22
23 Paul M. Rybarsak, Esq.
24 7322 E. Thomas
25 Scottsdale, AZ 85251-7216
26 Attorney for Respondent
27

28 Christopher Munns
29 Assistant Attorney General
30 1275 W. Washington Street, CIV/SGO
31 Phoenix, Arizona 85007
32 Attorney for the Board
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34 Elizabeth Campbell
35 Assistant Attorney General
36 1275 W. Washington Street, CIV/LES
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38 Attorney for the State
39

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