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8 **BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY**

9 In the Matter of

10
11 **KAREN RICE,**

12 Applicant for Licensure as a
13 Massage Therapist in the
State of Arizona

**CONSENT AGREEMENT FOR
LICENSURE WITH PROBATION**

14 **CONSENT AGREEMENT**

15 As Karen Rice ("Applicant") has made application to the Arizona State Board of
16 Massage Therapy (the "Board") for licensure as a massage therapist and, consistent with
17 the public interest, statutory requirements and the responsibilities of the Board under
18 A.R.S. § 32-4201, *et. seq.*, the Board and Applicant enter into the following Recitals,
19 Findings of Fact, Conclusions of Law and Order ("Consent Agreement") for licensure
20 with probation.
21

22 **RECITALS**

23 1. Applicant has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
26

1 2. Applicant understands that she has a right to a public administrative hearing
2 concerning this matter, at which hearing she could present evidence and cross examine
3 witnesses. By entering into this Consent Agreement, Applicant knowingly and
4 voluntarily relinquishes all right to an administrative hearing, as well as all rights of
5 rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Applicant affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Applicant acknowledges and agrees that, upon signing this Consent
10 Agreement and returning this document to the Board's Executive Director, she may not
11 revoke her acceptance of the Consent Agreement or make any modifications to the
12 document regardless of whether the Consent Agreement has been signed by the
13 Executive Director. Any modification to this original document is ineffective and void
14 unless mutually agreed by Applicant and the Board in writing.

15 5. Applicant understands that the Consent Agreement shall not become
16 effective unless and until signed by the Board's Executive Director on behalf of the
17 Board.

18 6. This Consent Agreement is subject to the approval of the Board and is
19 effective only when accepted by the Board and signed by the Executive Director. In the
20 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
21 be of no evidentiary value and shall not be relied upon nor introduced in any action by
22 any party, except that the parties agree that should the Board reject this Consent
23 Agreement and this case proceeds to hearing, Applicant shall assert no claim that the
24 Board was prejudiced by its review and discussion of this document or any records
25 relating thereto.

26


1 7. If a court of competent jurisdiction rules that any part of this Consent
2 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
3 shall remain in full force and effect.

4 8. Applicant understands that this Consent Agreement is a public record that
5 may be publicly disseminated as a formal action of the Board and may be reported as
6 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
7 Protection Data Bank.

8 9. Applicant understands that any violation of this Consent Agreement may
9 result in disciplinary action. A.R.S. § 32-4253(A)(23).

10 10. Applicant agrees that the Board will adopt the following Findings of Fact,
11 Conclusions of Law and Order.

12 ACCEPTED AND AGREED BY KAREN RICE

13
14 
15 _____
Karen Rice

Dated: June 7, 2013

16 **FINDINGS OF FACT**

- 17 1. The Board is the duly constituted authority for licensing and regulating the
18 practice of Massage Therapy in the State of Arizona.
- 19 2. On or about July 19, 2012, Applicant applied for licensure as a massage
20 therapist in the State of Arizona.
- 21 3. Applicant has the following criminal convictions:
- 22 • In 1997, Applicant was convicted of felony burglary;
 - 23 • In approximately 2003 or 2004, Applicant was convicted of misdemeanor
24 driving under the influence;
 - 25
- 26

- 1 • In approximately 2005 or 2006, Applicant was convicted of misdemeanor
2 driving under the influence;
- 3 • In September 2009, Applicant was convicted of a misdemeanor for driving
4 on a suspended or revoked license.
- 5 • In June 2011, Applicant was convicted of aggravated driving or actual
6 physical control while under the influence of intoxicating liquor or drugs, a
7 class 4 felony, in Maricopa County Superior Court Case No. CR2010-
8 139025.

9 4. Being convicted of a felony is grounds for disciplinary action. A.R.S. § 32-
10 4253(A)(4).

11 5. Using drugs or intoxicating liquors to an extent that affects professional
12 competency is grounds for disciplinary action. A.R.S. § 32-4253(A)(3). In an evaluation
13 on April 24, 2013, Phillip D. Lett, Ph.D., opined that Applicant was in a stable recovery
14 process from alcohol and other drug dependency.

15 **CONCLUSIONS OF LAW**

16 1. The Board possesses jurisdiction over the subject matter and over
17 Applicant pursuant to A.R.S. § 32-1901 *et seq.*

18 2. The Board, having heard the statements made by Applicant and considered
19 the evaluation by Dr. Lett, hereby closes its investigation and finds that Applicant
20 currently meets the requirements for licensure under A.R.S. § 32-4222, subject to the
21 terms of this Consent Agreement.

22 **ORDER**

23 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
24 ORDERED AS FOLLOWS:

1 1. Subject to the terms of this Order, Applicant is hereby issued a license to
2 practice massage therapy in Arizona.

3 2. Applicant's license is immediately placed on PROBATION for twelve (12)
4 months from the effective date of this Consent Agreement. During the term of
5 PROBATION, Applicant shall complete the following terms and conditions:

6 a. Applicant shall participate in a professionally facilitated support
7 group at least once a week or in individual counseling with a qualified substance
8 use disorder professional at least bi-weekly. The support group or counselor (the
9 "Treatment Provider") must be pre-approved by Board staff.¹ Applicant shall
10 begin treatment with the Treatment Provider within ten (10) days of the effective
11 date of this Order and continue in treatment throughout the term of her probation.
12 Applicant shall comply with any and all treatment recommendations by the
13 Treatment Provider. Failure to comply with any treatment recommendation by the
14 Treatment Provider is a violation of this Order.

15 b. Applicant shall continue to participate actively in Alcoholics
16 Anonymous ("AA") with an active sponsor. Applicant shall attend AA meetings
17 at the frequency recommended by the Treatment Provider, but in no event less
18 than two meetings per week. Applicant shall provide proof of her AA attendance
19 to Board staff on a quarterly basis, with the first documentation of attendance due
20 by September 16, 2013.

21 c. Applicant shall furnish the Treatment Provider with a copy of this
22 Board Order; shall require the provider to verify to the Board in writing that they
23 have received a copy of the Order; and shall authorize and require the provider to
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25 _____
26 ¹ Treatment Assessment Screening Center ("TASC") is hereby approved as a Treatment Provider for Applicant. In the event Applicant wishes to change Treatment Providers, the request must be submitted in writing and approved by Board staff prior to the change in Treatment Providers.

1 submit quarterly progress reports to the Board addressing compliance and
2 progress. It is Applicant's responsibility to ensure that the progress reports are
3 submitted to the Board on a quarterly basis, with the first progress report due by
4 September 16, 2013. Failure to participate in AA or to otherwise fail to
5 successfully fulfill the Treatment Provider's requirements is a violation of this
6 Order.

7 d. Applicant shall provide the Treatment Provider with a list of all
8 prescription and over-the-counter ("OTC") medications that she is taking. In the
9 case of prescription medications, Applicant shall provide the Treatment Provider
10 with a copy of the prescription. Applicant shall completely abstain from alcohol
11 and all mood-altering drugs except on prescription from Applicant's family
12 physician after consultation with the Treatment Provider.

13 e. Applicant shall participate in random drug testing as recommended
14 by the Treatment Provider, but in no event less than quarterly. Within ten (10)
15 days of the effective date of this order, Applicant shall enroll and participate in a
16 10-panel screen random urine drug testing schedule, specifically to include alcohol
17 testing. The drug testing shall be performed by a drug testing facility pre-
18 approved by Board staff.² Applicant shall furnish the testing facility with a copy
19 of this Consent Agreement and shall authorize and require the testing facility to
20 submit test results directly to the Board. In addition, Applicant shall authorize and
21 require the testing facility to immediately notify the Board of any failure by
22 Applicant to appear and be tested when requested to do so by the testing facility.
23 Any positive drug test for a prohibited substance or any failure by Applicant to
24

25 ² Treatment Assessment Screening Center, Inc. ("TASC") is hereby approved as the
26 testing facility. Should Applicant wish to change testing facilities, such a request must be
submitted in writing to Board staff.

1 appear and be tested when requested to do so by the testing facility is a violation
2 of this Order.

3 f. Applicant shall sign any release necessary to allow the Board to
4 obtain information regarding her progress with the Treatment Provider.

5 g. Throughout the term of Applicant's probation, Applicant shall
6 personally appear before the Board when requested to do so by the Board or Board
7 staff.

8 h. Applicant shall obey all federal and state laws and rules governing
9 the practice of Massage Therapists.

10 3. Twelve (12) months from the effective date of this Consent Agreement,
11 Applicant shall request in writing that the Board terminate the probation. Applicant's
12 request for termination will be considered at a regularly scheduled Board meeting.
13 Applicant is required to personally appear at that Board meeting. Applicant's
14 probationary period will continue until Applicant's request for termination is received
15 and the Board terminates the probation.

16 4. Applicant shall pay all costs associated with complying with this Consent
17 Agreement.

18 5. If Applicant violates this Order in any way or fails to fulfill the
19 requirements of this Order, the Board, after giving notice and the opportunity to be heard,
20 may revoke, suspend or take other disciplinary actions against the license. The issue at
21 such a hearing will be limited solely to whether this Order has been violated.

22 DATED this 4th day of June, 2013.

23 ARIZONA STATE BOARD OF MASSAGE
24 THERAPY

25 By: Kathleen Phillips
26 KATHLEEN PHILLIPS,
Executive Director

1 ORIGINAL OF THE FORGOING FILED
this 4th day of June, 2013, with:

2 Arizona State Board of Massage Therapy
3 1400 West Washington, Suite 300
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
this 4th day of June, 2013, to:

6 Karen Rice
7 Address of Record

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

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