BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY

In the Matter of: **DAVID RYSKA** Holder of License No. **MT-08582** For the Practice of Massage Therapist In the State of Arizona RESPONDENT	**BOARD CASE NOS. 19-119** **DECISION AND ORDER**

On February 25, 2019, the Arizona State Board of Massage Therapy ("Board") held an Administrative Hearing in the above referenced matter. David Ryska ("Respondent") did not appear and was not represented by legal counsel. Assistant Attorney General Michael Raine represented the State. Assistant Attorney General, Marc H. Harris, of the Licensing and Enforcement Section of the Attorney General's Office, appeared in person to provide independent legal advice to the Board. At issue was the State's Motion to Deem Allegations Admitted regarding the Complaint and Notice of Hearing in this matter and the imposition of the appropriate disciplinary action(s) pursuant to A.R.S. § 32-128(F). The Board, after considering the State's Motion, granted the Motion to Deem the Allegations Admitted and issued the following Findings of Fact, Conclusions of Law and Order ("Decision and Order"):

PARTIES 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-08582, which allows Respondent to practice as a massage therapist in the State of Arizona.

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

FINDINGS OF FACT

1. The Board is the duly constituted authority for licensing and regulating the practice of Massage Therapy in the State of Arizona.

2. On November 17, 2018, Respondent provided massage therapy services to client AD at her home through Phoenix Mobile Massage.

3. During the massage, Respondent touched and penetrated AD's vagina and placed his mouth on her vagina without her consent.

CONCLUSIONS OF LAW

1. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253 (A)(10) (engaging in conduct that could harm the public).

2. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(15) (engaging in any "sexual activity" with a client, as that term is defined in A.R.S. §§ 32-4253(B)(2)(A) [defining "sexual activity" to include "sexual conduct," which is defined in A.R.S. § 32-4253(B)(3) to include direct or indirect touching of the genitals], and 32-4253(B)(2)(d) [defining "sexual activity" to include intentionally viewing a disrobed client if the viewing is unrelated to appropriate treatment and intended to appeal to the therapists' prurient interests]).

3. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(16) (failing to adhere to the recognized standards and ethics of the profession) as it relates to Arizona Administrative Code R4-15-103(1)(e) ("Provide draping that ensures the safety, comfort, and privacy of the client.").

ORDER

Based on the Board's adoption of the Findings of Fact and Conclusions of Law, the Board issues the following Order:

It is ordered **REVOKING** Respondent's massage therapy license no. MT-08582.

The effective date of this Decision and Order is the date that is signed by Board's Executive Director.

NOTICE OF APPEAL RIGHTS

Respondent is hereby notified that he has the right to request a rehearing or review by filing a petition with the Board's Executive Director within 30 days after service of this Decision and Order. Service of this Decision and Order is effective on the date of personal delivery or five days after the date of mailing. A.R.S. § 41-1092.09. The request for a rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-15-401(C). If a motion for rehearing or review is not filed, the Board's Decision and Order becomes effective 35 days after it is mailed to Respondent. Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 27th day of February, 2019

ARIZONA STATE BOARD OF MASSAGE THERAPY

By: _____
Thomas Augherton, Executive Director

Original Decision and Order
filed this 27th day of February 2019 with the:

Arizona State Board of Massage Therapy
1740 West Adams Street, Suite 3401
Phoenix, Arizona 85007

Copy of the foregoing sent via
Regular and Electronic mail this
27th day of February 2019 to:

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Respondent

Copy of the foregoing sent via
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By: _____
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