

1 BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

2 In the Matter of:

3 )  
4 Jason Simpson, LMT )

5 )  
6 License No. MT-07059 )

7 As a Massage Therapist )

8 In the State of Arizona )  
9

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

10 Pursuant to Notice of Hearing Number 10-101 (Notice) this matter came before the Arizona  
11 Board of Massage Therapy (Board) on May 23, 2011.

12 Dennis Beye, president, presided at the meeting with Board members Victoria Bowman, John  
13 Ortega, and Diane Pruetz in attendance.

14 The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant  
15 Attorney General, Licensing and Enforcement Section. Christopher Munns, of the Solicitor  
16 General's Section of the Attorney General's Office was present and available to provide  
17 independent legal advice to the Board. Jason Simpson (Respondent) was present.

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

20 **AUTHORITIES AND JURISDICTION**

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

23 2. Respondent is the holder of license number MT-07059, which allows him to practice as a  
24 massage therapist in the state of Arizona.

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

1 **FINDINGS OF FACT**

2 1. In 2009 and early 2010, Respondent was working as a massage therapist at a  
3 chiropractor's office in Tucson, Arizona.

4 2. In late 2009 or early 2010, JN was given a massage by Respondent at the chiropractor's  
5 office.

6 3. During the massage, respondent touched JN's breast. JN had not signed a written consent  
7 form for a breast massage.

8 4. In 2009, KS received a series of massages from Respondent at the chiropractor's office.

9 5. During the massages, Respondent commented on KS's choice to wear shorts for the  
10 massage and encouraged her to remove all of her clothing. Respondent further made comments  
11 about KS's choice of underwear that were unrelated to the massage being performed. It  
12 constituted substandard care for Respondent to comment about KS's choice of underwear, when  
13 his comments were unrelated to the massage being performed. It further constituted substandard  
14 care for Respondent to encourage KS to remove all of her clothing.

15 6. KS asked Respondent not to massage her lower abdomen or near her breasts. However,  
16 Respondent massaged near KS's breasts and massaged KS's lower abdomen by rubbing  
17 underneath Respondent's underwear despite her requests. Where KS had asked Respondent not  
18 to massage certain areas of her body, it constituted substandard care for Respondent to massage  
19 those areas.

20 **CONCLUSIONS OF LAW**

21 1. The conduct described above in the Findings of Fact, paragraphs 3, 5, and 6, constitutes  
22 substandard care. The Board may discipline a massage therapist who has engaged in the  
23 performance of substandard care due to a deliberate or negligent act or failure to act, regardless  
24 of whether actual injury to the person cared for is established. A.R.S. 32-4253(14)

25 2. The Board may discipline a massage therapist who has engaged in sexual activity with a  
26 client.

1 3. The conduct and circumstances described above in the Findings of Fact, paragraph 3,  
2 constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(e) (“Sexual activity” means  
3 massaging, touching or applying any instrument or device by a licensee in the course of  
4 practicing or engaging in massage therapy to the breasts of a female client unless the client  
5 requests breast massage and signs a written consent form. Breast means any portion of the  
6 female breast below a point immediately above the top of the areola. A.R.S. § 32-4253(B)(1).

7  
8 **ORDER**

9 Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED  
10 that Respondent complete a six hour ethics course related to massage therapy within three  
11 months from the date of this order. Respondent is to complete the course in person and is to send  
12 to the Board a certificate of attendance when the course is completed.

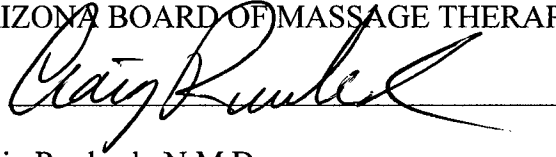
13  
14 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

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

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Dated and signed this 24th day of May, 2011.

ARIZONA BOARD OF MASSAGE THERAPY

By: 

Craig Runbeck, N.M.D.  
Executive Director

1 ORIGINAL OF THE FOREGOING FILED  
2 this 24th day of May, 2011 with the:

3  
4 Arizona State Board of Massage Therapy  
5 1400 West Washington, Suite 300  
6 Phoenix, AZ 85007  
7

8 EXECUTED COPY OF THE FOREGOING MAILED  
9 BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
10 this 24th day of May, 2011, to:

11  
12 Jason Simpson  
13 11941 S. Cienega Ridge Place  
14 Vail, AZ 85641  
15

16 COPY OF THE FOREGOING MAILED  
17 this 24th day of May, 2011, to:

18 Christopher Munns  
19 Assistant Attorney General  
20 1275 W. Washington Street, CIV/SGO  
21 Phoenix, Arizona 85007  
22

23 Elizabeth Campbell  
24 Assistant Attorney General  
25 1275 W. Washington Street, CIV/LES  
26 Phoenix, Arizona 85007  
27

28 Notifications/Mailings completed by Kathleen Phillips \_\_\_\_\_  
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