

**BEFORE THE ARIZONA BOARD  
OF MASSAGE THERAPY EXAMINERS**

In the Matter of

**Howard Yeaman, LMT,**

Holder of License No. MT-04150P  
As a Massage Therapist  
In the State of Arizona

Board Case No. 16-100

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

On March 28, 2016, the Arizona Board of Massage Therapy (“the Board”) considered the state’s Motion to Deem Allegations admitted. Elizabeth Campbell, Assistant Attorney General, appeared on behalf of the State. Neither Respondent nor an attorney for Respondent’s appeared at the Board meeting. Mary Williams of the Solicitor General’s Office of the Attorney General’s Office was available to provide independent legal advice to the Board.

After reviewing the record, the Board granted the State’s Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-573(E) and the Complaint and Notice of Hearing filed in this matter, the Board issues the following Findings of Fact, Conclusions of Law, 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-04150P, which allows him 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. On July 11 2015, female massage therapy client MM received a massage from Respondent at a hotel spa in Scottsdale, Arizona.
2. During the massage, Respondent touched MM's anus and massaged very high on MM's thigh. MM stopped the massage.
3. Respondent is currently subject to probation under the Board's Order in Case Number 13-134.

### CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-4201 et seq.
2. The Board may discipline a massage therapist who has engaged in conduct that could result in harm or injury to the public. A.R.S. 4253(A)(10)
3. The conduct described in the Findings of Fact, Paragraph 1, constitutes grounds for discipline under A.R.S. 32-4253(A)(16) (Failing to adhere to the recognized standards and ethics of the massage therapy profession). A.R.S. § 32-4251(B) further requires that a massage therapist adhere to the recognized standards and ethics of the massage therapy profession. A licensee shall refrain from engaging in sexual activity with the client even if the client attempts to sexualize the relationship. A.A.C R4-15-103(1)(H). Class 6 Undesignated Felony is treated as a felony for all purposes until such time as a court may actually enter an order designating the offense as a misdemeanor. A.R.S. § 13-604(A).
4. The Board may discipline a massage therapist who has engaged in sexual activity with a client. A.R.S. § 4253(A)(15)

5. The conduct and circumstances described in the Findings of Fact constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(a) (“Sexual activity” means sexual conduct”) “Sexual conduct” means any direct or indirect touching, fondling, or manipulating of any part of the genitals or anus by any part of the body or by any object or causing a person to engage in that conduct. A.R.S. § 32-4253(B)(3)

6. The conduct and circumstances described above constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(c) (“Sexual activity” means making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with a client.


**ORDER**

**IT IS HEREBY ORDERED** that Respondent’s license is **Revoked**.

DATED this 31st day of March, 2016

ARIZONA BOARD OF MASSAGE THERAPY

By:

  
KATHLEEN PHILLIPS,  
Executive Director

ORIGINAL OF THE FORGOING FILED  
this 31st day of March, 2016, with:

Arizona Board of Massage Therapy  
1400 West Washington, Suite 300  
Phoenix, Arizona 85007

COPY OF THE FOREGOING MAILED  
BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
This 31<sup>st</sup> day of March, 2016, to:

Howard Yeaman  
Address of Record  
Respondent

COPY OF THE FOREGOING MAILED  
This 31<sup>st</sup> day of March, 2016, to:

Elizabeth A. Campbell  
Assistant Attorney General

1275 W. Washington Street, CIV/LES  
Phoenix, Arizona 85007  
Attorney for the State

Mary Williams  
Assistant Attorney General  
1275 W. Washington Street,  
Phoenix, Arizona

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