

**BEFORE THE ARKANSAS STATE BOARD OF PHYSICAL THERAPY**

**IN THE MATTER OF  
Benjamin Levi Smith, PT License # 3559**

**CONSENT ORDER**

The Arkansas State Board of Physical Therapy ("Board") and Benjamin Levi Smith, PT License # 3559, ("Respondent") acknowledge the existence of a controversy regarding whether Respondent has violated Ark. Code Ann. § 17-93-308(a)(1)(A). Now the Board and Respondent willingly enter into a Consent Order to resolve the pending controversy.

Whereas, Respondent hereby represents and agrees:

- A. Respondent, having read the proposed Consent Order, acknowledges that he has the right to consult with counsel and now enters into this Consent Order on his own volition and without any reliance upon any representations by the Board or any officer, employee, agent or other representative thereof, other than as expressly set forth herein.
- B. Respondent hereby waives any further procedural steps including, without limitation, the right to a hearing and all rights to seek judicial review or to otherwise challenge or contest the validity of this Consent Order.
- C. Respondent agrees that the Board will review and determine whether to approve this Consent Order. Furthermore, Respondent agrees that should this Consent Order not be approved by the Board, the presentation and consideration of this Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of the matters involved herein at any subsequent hearing.

- D. Respondent understands and agrees that approval and entry of this Consent Order shall not preclude additional proceedings by the Board against Respondent for acts or omissions not specifically addressed herein.
- E. Respondent understands and acknowledges that this Consent Order and the Board's records concerning this matter are public records and available to the public pursuant to the Freedom of Information Act, Ark. Code Ann. § 25-19-101, *et seq.*
- F. This agreement shall not become a valid and enforceable order of this Board unless and until accepted and approved by the Board at an official meeting and executed by the Chair of the Board.

#### **FINDINGS OF FACT**

1. Respondent is a licensed physical therapist in the State of Arkansas.
2. On or about July 19, 2019, Respondent entered into an Agreed Order with the Texas Board of Physical Therapy Examiners.
3. According to the Agreed Order, Respondent, while employed in Texarkana, Texas, practiced physical therapy in a manner detrimental to the public health and welfare by having inappropriate (sexual) contact with a patient as the result of the patient/client relationship.
4. Pursuant to the Agreed Order, Respondent's Texas physical therapy license was suspended for sixty (60) days for his violation of:
  - a. Section 453.351 of the Texas Physical Therapy Practice Act, which provides for the disciplining of a licensee for "practicing physical therapy in a manner detrimental to the public health and welfare and
  - b. Chapter 322.4 of the Texas Board's Rules, which defines "detrimental practice" in part as "engaging in sexual contact with a patient/client as the result of the

patient/client relationship..." or "...allowing physical or emotional injury or impairment of dignity or safety to the patient."

**CONCLUSIONS OF LAW**

5. Arkansas Code Ann. § 17-93-308(a)(11)(A) permits the Arkansas State Board of Physical Therapy to take disciplinary action against a licensee who:

...  
(11) Has had any of the following disciplinary actions taken against him or her by the proper authorities of another state, territory, or country:

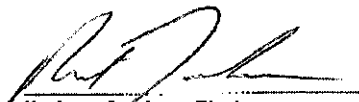
(A) A license revoked or suspended;

**ORDER**

THEREFORE, IT IS SO ORDERED THAT:

1. Respondent's Arkansas license as a physical therapist is hereby SUSPENDED from February 1, 2020, through March 31, 2020; and
2. The Board shall retain jurisdiction of this matter for purposes of implementing and enforcing this Consent Agreement, and Respondent's failure to comply with any term or condition of this Consent Agreement shall constitute grounds to impose disciplinary action pursuant to Ark. Code Ann. § 17-93-301 *et seq.*

ARKANSAS STATE BOARD  
OF PHYSICAL THERAPY



Robert Jordan, Chair  
Ark. State Bd. of Physical Therapy

1/7/2020  
Date



Benjamin Devi Smith  
Respondent

1-4-2020  
Date