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In the Matter of  
JAMES BERNARD HARRIS, P.T.  
License No. 06901  
Respondent

\* LOUISIANA STATE BOARD OF  
\* PHYSICAL THERAPY EXAMINERS  
\* Case Number 2006/036

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## CONSENT ORDER

Two complaints received by the Louisiana State Board of Physical Therapy Examiners (Board) in February, 2006 raised several issues regarding the professional conduct of Respondent James Bernard Harris, a physical therapist licensed by the Board, in the course of his providing physical therapy treatment to two female patients while employed at Tri-State Physical Therapy in Bossier City. Correspondence and internal employer documentation regarding complaints of inappropriate physical contact during the course of physical therapy treatment were provided by Respondent's employer. Interviews with the two patients involved and others were conducted by the investigating Board member. Respondent has consistently asserted that he provided appropriate treatment and patient care. Respondent has participated in Informal Conferences on March 10, April 14 and June 2, 2006 with Board Member Todd Drury, Executive Director Cheryl Gaudin and Board Counsel Glenn Ducote participating. Respondent was represented by attorney Taylor Townsend. Respondent also voluntarily participated in a psychological evaluation by Rafael F. Salcedo, Ph.D. At the conclusion of the informal conferences and after consultation with counsel, the terms of this Consent Order were agreed to by Board representatives and Respondent.

### FINDINGS OF FACT

1. In providing treatment to female patient Respondent exhibited poor judgment by not ascertaining that other staff personnel were present on premises while treatment was performed.
2. Respondent exhibited poor judgment and ineffective communication in providing physical therapy modalities to sensitive body areas of female patients.

### CONCLUSIONS OF LAW

Respondent's conduct described above and otherwise reviewed in this action is subject to and/or in violation of the following provisions of law regarding his practice of physical therapy:

1. The Board has the authority to suspend or revoke a license which it has issued or place probationary conditions upon such license upon proof that the licensee has been negligent or incompetent in the practice of physical therapy. La. R. S. 37:2413 and Board Rule 325.
2. As used in the Physical Therapy Practice Act, "unprofessional conduct" includes: departure from, or failure to conform to the standards of acceptable and prevailing physical therapy practice in the State of Louisiana, regardless of whether actual injury to a patient results therefrom. Rule 327E(1) and (6).

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3. Board Rules incorporate the Code of Ethics and Guide for Professional Conduct of the American Physical Therapy Association. Rules 305B and 331.

4. By failing to ascertain that other staff personnel were present on premises while he treated a female patient and by ineffective communication with patients regarding treatment modalities affecting sensitive body areas, Respondent demonstrated "unprofessional conduct" in violation of La. R. S. 37:2413A(7), Board Rule 327E(1), and breached the following APTA Guides for Professional Conduct: 1.1B; 2.1A and D and 2.4D.

### DECISION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, and in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

A. Respondent's license as a physical therapist is placed on probation for a period of three years from the date of final execution of this agreement and, during that period will be subject to the following requirements:

1. The probationary period shall be extended for any period of time in which Respondent is not employed as a physical therapist and regularly working as such within the State of Louisiana for at least twenty hours per week. If Respondent ceases to be regularly employed as a physical therapist in Louisiana during this probationary period, he shall notify the Board in writing within ten days of the last date Respondent has practiced physical therapy in Louisiana. After a minimum of eighteen months of probation during which monitoring visits have resulted in positive reports on Respondent's professional performance, Respondent may petition the Board for termination of probation. The determination on any request for early termination of probation shall rest solely in the discretion of the Board, which decision shall be final.

2. Respondent shall notify the Executive Director in writing of all employment and/or contractual service arrangements which he has to provide physical therapy services and shall update the Executive Director within five days of any and all changes in such arrangements;

3. Respondent shall provide a copy of this Consent Order to his employer before providing services to that employer and shall have the employer notify the Board in writing that he has received and reviewed a copy of this Consent Order; Respondent shall do this also with any new or subsequent employer during his probationary period;

4. Respondent shall provide physical therapy services only in a practice setting where there is another physical therapist present on the premises at all times during his work hours;

5. While treating female patients, Respondent shall have another staff member present with him in the treatment area and that staff member shall note his/her presence in the patient treatment record;

6. Respondent will welcome Board representatives making random, unannounced monitoring visits to his work site(s) and shall provide complete access to his employment and/or business records, patient treatment records, and all other documentation and shall reimburse the

Board in the amount of \$100 for each such monitoring visit;

7. Respondent shall pay to the Board the sum of \$2,000 in partial reimbursement for legal and administrative expenses incurred in this matter, this amount to be paid in equal monthly installments, arranged in advance with the Executive Director, over the probationary period;

B. Respondent shall complete a continuing education course to be designated by the Executive Director on maintenance of professional boundaries with patients. Respondent will be responsible for course fees and expenses and will complete the course by January 1, 2007 and make a written report to the Board on insights gained from this course.

C. By August 15, 2006, Respondent will begin psychotherapy with a professional therapist who has been approved in advance by the Executive Director and will continue such therapy until the therapist recommends in writing that it is no longer useful to Respondent or until he has come to the end of his probationary period, whichever comes first. Such treatment will be at Respondent's expense.

D. Respondent declares that, before signing this Consent Order, he has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a notice of hearing, to a formal administrative hearing and to judicial review of an administrative finding, and freely waives those rights. He has been represented by counsel throughout these proceedings and has reviewed this instrument with his counsel;

E. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for further disciplinary action by the Board and that the presentation to and consideration of this Consent Agreement by the Board, including presented documentary evidence and information, shall not unfairly or illegally prejudice or preclude the Board, or any of its members, from further participation in hearings or other resolution of these proceedings; and

F. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair.

SWORN TO AND SUBSCRIBED on this 21 day of July, 2006.

James B. Harris P.T.  
James B. Harris, P.T.

AGREED AND ACCEPTED by official action of the Board, the 21<sup>st</sup> day of July, 2006, at Lafayette, Louisiana.

LOUISIANA STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

Mark Brown, P.T.  
Mark Brown, P.T., Chair