

1                   BEFORE THE PHYSICAL THERAPIST LICENSING BOARD  
2                                   OF THE STATE OF OREGON

3 In the Matter of the License to            )  
Practice Physical Therapy of                )  
4 FRED ARMSTRONG, PT,                        )           **FINAL ORDER**  
5    )  
Licensee.                                    )

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7           1.    By notice of proposed action dated September 24, 1993,  
8 the Physical Therapist Licensing Board ("Board") commenced this  
9 proceeding to revoke the license to practice physical therapy  
10 held by Fred Armstrong, PT, ("Licensee"), for certain violations  
11 alleged therein.

12           2.    The notice was served by mailing, by certified mail, on  
13 October 5, 1993, to Licensee at his last known address on  
14 file with the Board.

15           3.    The notice was received by Licensee on October 12,  
16 1993.

17           4.    In the notice, the Board informed Licensee that he must  
18 file with the Board, within 21 days of mailing, a written request  
19 for hearing and answer, otherwise he would waive his right to  
20 hearing and be presumed to have admitted all the Board's  
21 allegations of fact.

22           5.    Licensee failed to file any request for hearing or any  
23 answer to the notice. Licensee thereby waived his right to  
24 hearing and admitted the Board's allegations of fact.

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1 NOW THEREFORE, THE BOARD FINDS AND CONCLUDES:

2 6. On November 12, 1992, Licensee and the Board entered  
3 into a Consent Agreement and Final Order in which Licensee  
4 admitted and the Board found that Licensee had been habitually  
5 under the influence of a controlled substance which constituted a  
6 ground to revoke Licensee's license or otherwise discipline him  
7 pursuant to statute. In lieu of revocation, the Licensee agreed  
8 and the Board ordered that Licensee would retain his license  
9 under specific terms and conditions of probation. Licensee and  
10 the Board agreed that if Licensee committed a subsequent  
11 violation that the Board could consider the prior violation in  
12 determining the appropriate sanction. Licensee also agreed that  
13 violation of any term or condition of the probation could  
14 constitute a ground to revoke Licensee's license or take any  
15 other appropriate disciplinary action.

16 7. Licensee violated paragraph three of the November 12,  
17 1992, Consent Agreement and Final Order on numerous occasions.  
18 Paragraph three requires Licensee to "continuously participate in  
19 and successfully complete a significant substance abuse follow up  
20 and after care program approved by the Board." The Board  
21 approved the Monitored Recovery Program at Springbrook Northwest,  
22 Inc., Newberg, Oregon. Paragraph three of the November 12, 1992,  
23 Consent Agreement and Final Order also requires Licensee to  
24 regularly attend a professionally monitored treatment program and  
25 fully follow all recovery treatment recommendations. Licensee  
26 did not regularly attend the program's weekly meetings. He

1 failed to attend meetings on November 3 and 9 (or 10), December 1  
2 and 29, 1992, January 5 and 12, and February 2 and 9, 1993.

3       Upon Licensee's leaving the Springbrook program in February  
4 1993 to move to Florida, Springbrook recommended, among other  
5 things, that Licensee participate in a health professionals  
6 recovery program in Florida and that he continue to provide a  
7 minimum of three random drug screen tests each month. Licensee  
8 has not sought to obtain approval from the Board of any Florida  
9 recovery program to substitute for Springbrook. Licensee has not  
10 reported to the Board any participation by him in any recovery  
11 program since May 30, 1993, or any drug testing results, and,  
12 therefore, the Board finds that Licensee has not participated in  
13 any recovery program or drug testing since that date.

14       8. Paragraph four of the November 12, 1992, Consent  
15 Agreement and Final Order requires Licensee to provide urine and  
16 other body fluid samples and have them tested for alcohol and  
17 mind-altering drugs according to a schedule approved by the  
18 Board. The schedule approved by the Board was the schedule  
19 established by Springbrook Northwest, Inc. Licensee did not  
20 participate in Springbrook's drug testing program during the  
21 months of November and December 1992, and January 1993.

22       9. Paragraph six of the November 12, 1992, Consent  
23 Agreement and Final Order requires Licensee to submit a report to  
24 the Board by the fifth day of each month regarding Licensee's  
25 program activities and progress in the previous month. Licensee  
26 failed to submit any report for the months of June, July and

1 August 1993. Licensee submitted his reports late for the  
2 following months: November 1992 (received December 7, 1992),  
3 December 1992 (received January 13, 1993), February 1993  
4 (received March 22, 1993), March 1993 (received April 13, 1993),  
5 and April 1993 (received May 17, 1993).

6 10. Paragraph eight of the November 12, 1992, Consent  
7 Agreement and Final Order prohibits Licensee from using any  
8 prescription drug unless under a prescription written by a  
9 licensed physician in the lawful course of treatment with prior  
10 notification and justification to the Board. During the course  
11 of Licensee's probation, Licensee took prescription drugs  
12 Dilantin, Zarontin, Elavil and Vicodan without written  
13 notification and justification to the Board. Licensee took  
14 Vicodan, which was prescribed for another person, without first  
15 obtaining a prescription for himself from a licensed physician in  
16 the lawful course of treatment.

17 NOW THEREFORE, PURSUANT TO ORS 688.140(1)(c), THE  
18 NOVEMBER 12, 1992, CONSENT AGREEMENT AND FINAL ORDER, FINDING OF  
19 FACT THREE, AND ORDER, PARAGRAPH TEN, AND THE ABOVE PRIMA FACIE  
20 CASE ON THE RECORD, THE BOARD ORDERS THAT LICENSEE'S LICENSE TO  
21 PRACTICE PHYSICAL THERAPY IS HEREBY REVOKED.

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NOTICE

Licensee has the right to judicial review of this final order. Judicial review may be obtained by filing a petition for review within 60 days from service of this order.

DATED this 17th day of November, 1993.

OREGON PHYSICAL THERAPIST  
LICENSING BOARD

**SIGNATURE ON FILE**

Georgia Spence  
Executive Officer

RLH:lyr/RLH0093.PLE



1           4.    Investigative Materials. All investigative materials  
2 prepared or received by the Board concerning this violation and  
3 all notices and pleadings relating thereto may be retained in  
4 the Board's public records concerning this matter.

5           5.    Right to Consult Counsel. Licensee has the right to  
6 consult his legal counsel prior to entering into this Consent  
7 Agreement and Final Order.

8           6.    Waiver of Rights. In lieu of a formal hearing in  
9 this matter, Licensee consents to the Board making the above  
10 findings, conclusions and the following Order, and waives all  
11 his rights to a hearing, rehearing, appeal and judicial review  
12 relating to this Consent Agreement and Final Order.

13           7.    Effect of Non-Acceptance of Consent Agreement and  
14 Final Order. This Consent Agreement and Final Order is subject  
15 to the approval of the Board. If the Consent Agreement and  
16 Final Order is rejected by the Board, it shall be null and  
17 void, and its execution shall not constitute an admission of  
18 any act or a waiver of respondent's right to a hearing. If the  
19 Board rejects the Consent Agreement and Final Order, the  
20 consideration of the Consent Agreement and Final Order shall  
21 not be grounds in any subsequent proceeding for any claim that  
22 the Board or any member of the Board is biased against the  
23 respondent, or that the Board or any member cannot fairly  
24 decide the case, or that the Board or any member has received  
25 any ex parte communication.

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1 Licensee shall have all tests performed by a Board-approved  
2 laboratory and shall have all test results submitted to the  
3 Board promptly. Licensee hereby authorizes the release to the  
4 Board of all information concerning his participation in the  
5 program, including all reports of biological fluid tests.

6 6. Reporting. Licensee shall submit a report to the  
7 Board each month providing dates of his attendance in such  
8 program. The report shall include his current address and  
9 telephone number, and his progress in the program and in his  
10 practice. The first report shall be delivered to the Board by  
11 the fifth day of the first month following his signing of this  
12 Consent Agreement and on the fifth day of each month  
13 thereafter. Licensee shall simultaneously submit to the Board  
14 a copy of each report or notification Licensee is required to  
15 submit to any other person or entity (employer, other state  
16 licensing board, etc.) regarding his substance abuse/dependence  
17 care, treatment or maintenance. Licensee shall immediately  
18 report to the Board any relapse, any termination of his  
19 services as an employee or contractor, and a description of all  
20 disciplinary activity taken by any other professional licensing  
21 board. Licensee shall pay all reporting costs.

22 7. Abstention - Alcohol. Licensee shall abstain from  
23 consuming any alcoholic beverages or foodstuffs containing  
24 alcohol.

25 8. Abstention - Mild Altering Drugs. Licensee shall  
26 abstain from using any mind-altering drug including any

1 controlled substance, prescription drug or over-the-counter  
2 drug, unless under a prescription and the direction of a  
3 licensed physician in the lawful course of treatment with prior  
4 written notification and justification to the Board. The only  
5 over-the-counter medications allowed without notification are  
6 aspirin, <sup>Excedrin</sup> and regular tylenol.

7 9. Compliance with Law. Licensee shall, during the term  
8 of probation, comply with all statutes and rules of the Board.

9 10. Violation of Probation. Violation of any condition  
10 or requirement of this Order, or failure or refusal to perform  
11 or permit any activity agreed to above, shall constitute a  
12 ground to modify the terms of probation, extend the period of  
13 probation, suspend or revoke Licensee's license or take any  
14 other disciplinary action specified in ORS 688.140.

15 11. Modification of Probation. The Board may  
16 periodically review the terms and conditions of Licensee's

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1 probation, and may modify any of the terms and conditions, as  
2 the Board considers appropriate.

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5 I HAVE READ AND UNDERSTAND ALL OF THE ABOVE AGREEMENT AND  
6 FINAL ORDER AND FULLY CONSENT AND AGREE TO ALL OF ITS TERMS.

7 FRED ARMSTRONG

8 **SIGNATURE ON FILE**

9 Date: 11/12/92, 1992

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11 IT IS SO AGREED AND ORDERED:

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13 PHYSICAL THERAPIST LICENSING  
14 BOARD

15 **SIGNATURE ON FILE**

16 Date: 11-12-92, 1992

17 By:

18 Name: GEORGIA A. SPENCE  
19 (type or print)

20 Title: Executive Officer  
21 (type or print)

22 Pursuant to Delegation by the  
23 Board on 11-12-92, 1992