

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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State of Wisconsin

Before the Hearing and Speech Examining Board

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In the Matter of the Disciplinary Proceedings Against

David Buschow,

FINAL DECISION AND ORDER

Respondent

LS0012061HAD

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The parties to this proceeding for purposes of §227.53, Wis. Stats., are:

Mr. David Buschow

9670 Parkside Trl.

Champlin, MN 55316

Hearing and Speech Examining Board

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708

Division of Enforcement

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708

The parties having agreed to the attached stipulation, the Hearing and Speech Examining Board makes the following:

FINDINGS OF FACT

1. David Buschow, 9670 Parkside Trail, Champlin, Minnesota, 55316, was born on 12/3/1935 and has been licensed as a hearing instrument specialist in the state of Wisconsin since 12/5/1988, license #801.
2. The Respondent's license expired on 1/31/1998 and has not been renewed.
3. On 5/26/1995, the Respondent examined Patient S, performed an audiogram hearing test, fitted, and sold Patient S a hearing aid for his left ear.
4. On 1/5/2000, Patient S went to Dr. C, an ear, nose and throat doctor, to have earwax removed that was interfering with the operation of his hearing aid. Dr. C was unable to remove the earwax. Dr. C recommended that the patient use olive oil and mineral oil in his ears to soften the earwax, and then return for a follow-up appointment.
5. On 1/10/2000, Patient S returned to Dr. C for ear wax removal. Patient S' earwax was removed. Dr. C observed in Patient S' left ear a large area of eroded bone and made a diagnosis of a cholesteatoma.
6. Dr. C determined that the cholesteatoma had been in Patient S' left ear for at least the last ten years and that the cholesteatoma was the cause of the hearing loss.

7. Patient S told Dr. C that the Respondent fitted him with a hearing aid several years ago, but that the Respondent never recommended that he see a physician before purchasing the hearing aid. Patient S said that the only option he was given was to purchase a hearing aid for his left ear.
8. Patient S did not sign any waiver statements stating that he did not want a medical examination before purchasing a hearing aid.
9. On 2/8/2000, Patient S had cartilage tympanomastoidectomy with ossicular reconstruction surgery on his left ear to correct the cholesteatoma.
10. On 4/6/2000, Patient S returned to Dr. C and reported a significant improvement in his hearing. An audiogram was obtained, which showed a significant improvement in Patient S' left-sided conductive hearing loss.
11. Patient S currently does not require the use of a hearing aid in his left ear.
12. Respondent failed to recognize that some of the results of the audiogram hearing test (a unilateral hearing loss, a conductive hearing loss, and unilaterally poor speech discrimination) indicated that Patient S should have been referred to a physician for further tests and evaluations.
13. Respondent failed to recognize that Patient S' audiogram hearing test results were an indication of a potentially correctable physical condition and he did not refer the patient to a physician.
14. If untreated, a cholesteatoma can continue to increase in size and can destroy the surrounding delicate bones of the middle ear causing hearing loss, dizziness, and facial muscle paralysis. Continued bone erosion can allow the infection to spread into the inner ear and brain causing deafness, brain abscess, and possibly death.
15. Respondent fitted Patient S with a hearing aid that he did not need because after the cholesteatoma was corrected Patient S did not need a hearing aid.

#### CONCLUSIONS OF LAW

1. The Wisconsin Hearing and Speech Examining Board has jurisdiction in this proceeding pursuant to §459.10 Wis. Stats.
2. The Wisconsin Hearing and Speech Examining Board has the authority to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to §227.44(5), Wis. Stats.
3. Respondent engaged in conduct in violation of §459.10(1)(j) and (k) Wis. Stats. and § HAS 5.02(1)(d) and § HAS 5.02(2)(e) Wis. Admin. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

#### ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED, that the SURRENDER of the license and registration to practice as a hearing instrument specialist of David Buschow, is ACCEPTED, effective immediately. Respondent shall immediately surrender all of his credentials issued by the Board to the Department or any agent of the Department.

IT IS FURTHER ORDERED, that Respondent shall will not renew or attempt to renew his license to practice as a hearing instrument specialist at any time in the future.

IT IS FURTHER ORDERED, that Respondent shall not practice as a hearing instrument specialist, or attempt to practice as a hearing instrument specialist, in Wisconsin, without being licensed and registered.

IT IS FURTHER ORDERED that any failure of respondent to comply with the terms of this Final Decision and Order may result in further legal action pursuant to §459.10, §459.105 or §459.13, Wis. Stats. or in other legal proceedings to enforce remedies available to the Hearing and Speech Examining Board.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Hearing and Speech Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 6<sup>th</sup> day of December, 2000.

WISCONSIN HEARING AND SPEECH EXAMINING BOARD

Gerard Kupperman

Member, Wisconsin Hearing and Speech Examining Board