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**STATE OF WISCONSIN
BEFORE THE HEARING AND SPEECH EXAMINING BOARD**

**IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST :**

**: FINAL DECISION
:
: AND ORDER
:
: Case No. LS 0607101HAD
:
: 03 HAD 019
:
:
:
:**

**ANDREW R. ARNOLD,
RESPONDENT**

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

Andrew R. Arnold
707 Lynn Drive
West Salem, WI 54669

Department of Regulation & Licensing
Atty. Gilbert C. Lubcke
Division of Enforcement
P.O. Box 8935
Madison, WI 53708

Hearing and Speech Examining Board
Department of Regulation & Licensing
P. O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

An evidentiary hearing in the above-captioned matter was held on November 21, 2006. Atty. Gilbert C. Lubcke appeared on behalf of the Division of Enforcement. The Respondent, Andrew R. Arnold, appeared without legal counsel. The hearing transcript was filed on December 6, 2006. The Administrative Law Judge issued her proposed decision on May 29, 2007. The Board considered the proposed decision at its meeting on August 6, 2007.

FINDINGS OF FACT

1. The Respondent, Andrew R. Arnold is licensed to practice as a hearing instrument specialist in the state of Wisconsin, pursuant to license #908, which was granted on 7/25/91.
2. Respondent's last address reported to the Department of Regulation and Licensing is 707 Lynn Drive, West Salem, Wisconsin, 54669.
3. Respondent submitted an application dated 5/6/03 for renewal of his license to practice as a hearing instrument specialist for the biennium from 2/1/03 to 1/31/05.
4. As a requirement for the renewal of his license, the Respondent was required to obtain 20 hours of Board approved continuing education programs in courses of study which pertain to the practice of fitting and, dealing in hearing instruments in the biennial renewal period from 2/1/01 to 1/31/03. If the Respondent failed to renew his license by the renewal date of 2/1/03, Respondent was required to obtain 20 hours of continuing education programs or courses of study approved by the Board in the 2

years preceding the date of his application.

5. Prior to the hearing in this matter, the Respondent submitted proof of completion of the required continuing education hours.
6. In addition to completion of the continuing education, the Respondent was required to calibrate the audiometric equipment used by him in the evaluation of hearing sensitivity for the fitting and sale of hearing instruments not less than once every 12 months.
7. Respondent had the audiometric equipment that he used in the evaluation of hearing sensitivity for the fitting and sale of hearing instruments, serial number 14455, calibrated on 10/29/02, 11/5/03 and 11/30/04; which resulted in calibrations less frequently than once every 12 months.
8. In his application for renewal of his license to practice as a hearing instrument specialist, dated 1/22/05 for the biennium from 2/1/05 to 1/31/07, the Respondent signed a statement which indicated that he had calibrated the audiometric equipment that he used for the evaluation of hearing sensitivity for the fitting and sale of hearing instruments not less than once every 12 months.
9. Respondent was previously disciplined by the Hearing and Speech Board on three separate occasions. The first disciplinary order was issued on July 26, 1991. The basis for the first discipline was the Respondent's practice of fitting and selling hearing aids, pursuant to a temporary trainee permit, without licensed supervision.
10. The second disciplinary order against the Respondent was issued on December 4, 1995, and involved his failure to provide a client with a typed or printed notice of the three-day right to cancel the sales contract for a hearing aid.
11. The Respondent was disciplined for the third time on June 10, 2002, for failure to maintain client records and failure to maintain records of his audiometric equipment calibrations.

CONCLUSIONS OF LAW

1. The Hearing and Speech Examining Board has jurisdiction in this matter pursuant to Wis. Stats., § 459.10 (1).
2. Respondent, by having calibrated the audiometric equipment used in the evaluation of hearing sensitivity for the fitting and sale of hearing instruments less frequently than once every 12 months, violated Wis. Stat. §§459.10 (1) (e) and 459.085; and Wis. Admin. Code § HAS 4.03 (3) and HAS 5.02 (2) (f).
3. Respondent, by submitting a signed statement in his license renewal application, dated 1/22/05 for the biennium 2/1/05 to 1/31/07, that indicated that the required calibrations had been made, violated Wis. Stat. §459.10 (1) (a) and 459.10 (1) (k) and Wis. Admin. Code §5.02 (2) (b) in that he provided false information to the Hearing and Speech Examining Board in connection with his application for renewal of his license.
4. The Wisconsin Hearing and Speech Examining Board has the authority pursuant to § 440.22, Stats., to assess the costs of this proceeding against the Respondent.

ORDER

NOW, THEREFORE IT IS ORDERED that Andrew R. Arnold's license (#908), shall be SUSPENDED for period of thirty (30) days, beginning on the effective date of this order.

IT IS FURTHER ORDERED that the Respondent will be required to appear before the Hearing and Speech Examining Board after completion of his suspension, to demonstrate to the Board that he has fully complied with the terms of this Order, and to sign an affidavit that he has not engaged in any activities requiring a license during the period of his suspension. In addition, the Respondent shall also be required to submit proof acceptable to the Board that the calibration of his audiometric instruments is in compliance with the law.

IT IS FURTHER ORDERED that Arnold R. Andrew shall pay the full costs of this proceeding.

This order is effective on the date it is signed by a designee of the Board.

EXPLANATION OF VARIANCE

I. Determination of Parties for Purposes of Review

The proposed decision of the Administrative Law Judge is being modified to include the Hearing and Speech Examining Board as a party for purposes of review under Wis. Stats., § 227.53. [See Wis. Stats., § 227.47 (1).]

II. Findings of Fact, Conclusions of Law and Order

The Board accepts the Findings of Fact, Conclusions of Law and Order of the Administrative Law Judge, with the following exceptions:

A. Findings of Fact:

The Administrative Law Judge stated the following in Findings of Fact 8 of her proposed decision:

8. In his application for renewal of his license to practice as a hearing instrument specialist, the Respondent signed a statement which indicated that he had calibrated his audiometric equipment in the evaluation of hearing sensitivity for the fitting and sale of hearing instruments not less than once every 12 months.

The Board modifies Findings of Fact 8 of the proposed decision to clarify that Mr. Arnold's application was "dated 1/22/05"; that his application related to the "biennium from 2/1/05 to 1/31/07", and that the audiometric equipment which Mr. Arnold calibrated was used by him for the evaluation of hearing sensitivity for the fitting and sale of hearing instruments.

B. Conclusions of Law:

The Board modifies Conclusions of Law 2 of the proposed decision to clarify that, as provided in Wis. Admin. Code §4.03 (3), audiometric equipment used in the evaluation of hearing sensitivity for the fitting and sale of hearing instruments shall be calibrated not less than once every 12 months. Conclusions of Law 3 is being modified to clarify that Mr. Arnold's application was "dated 1/22/05"; that his application related to the "biennium from 2/1/05 to 1/31/07", and that the Board is an examining board under Wis. Stats. § 15.08.

C. Order:

The Board corrects the word "SUSPNDED", which is found in the proposed Order, to read "SUSPENDED", and clarifies that the Order will take effect on the day that it is signed by a designee of the Board.

Dated this 10th day of September, 2007

By: Peter Zellmer
A Member of the Board