

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES J. GILLIS,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0003162

Division of Legal Services and Compliance Case No. 12 HAD 010

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

James J. Gillis
486 Kelly Drive
Denmark, WI 54208

Wisconsin Hearing and Speech Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Hearing and Speech Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent James J. Gillis (dob April 19, 1952) is licensed in the State of Wisconsin as a hearing instrument specialist, having license number 1198-60, first issued on September 13, 2001, and current through January 31, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 486 Kelly Drive, Denmark, Wisconsin 54208.

2. At all times relevant to this incident, Respondent was self-employed as a hearing instrument specialist as the owner of Beltone Hearing Care in Green Bay, Wisconsin.

3. On June 4, 2012, Respondent performed a hearing evaluation test on a female client for a new hearing aid for her left ear. Respondent ordered the client new hearing aids for both ears.

4. On June 7, 2012, the client was fitted for two new hearing aids. On June 11, 2012, the client returned complaining that her hearing aids were “too loud” and Respondent adjusted them.

5. Over the next three months, the client experienced dizziness, headaches, and reported feeling “jittery” and “off balance.” Three different physicians evaluated the client and came to the conclusion that the new hearing aids had been causing the client’s symptoms.

6. According to a September 19, 2012 audiogram performed by the Marshfield Clinic, the client had 80% speech discrimination in her left ear and 20% speech discrimination in her right ear. Respondent explained that he had misread his June 4, 2012 audiogram and mistakenly marked both of the client’s ears as having the same degree of speech discrimination.

7. The Department received two different versions of a June 4, 2012 audiogram in connection with its investigation of this matter. The first version, which Respondent provided on October 11, 2012 in response to the Department Intake Staff’s request, did contain complete SRT, UCL, and bone conduction scores for the client’s right ear. The second version, which Respondent had provided earlier to one of the client’s subsequent treating physicians, did not contain any SRT, UCL, or bone conduction scores for the client’s right ear.

8. When confronted, Respondent admitted that he did not perform a SRT and bone conduction test on the client’s right ear on June 4, 2012. Respondent admitted that he used the SRT and bone conduction test results from Marshfield Clinic’s September 19, 2012 audiogram of the client’s right ear to alter the audiogram that he submitted to the Department on October 11, 2012.

9. In determining the appropriate discipline in this matter, the Board considers that Respondent has sold his practice and retired, has no previous discipline, and expressed remorse about his conduct.

CONCLUSIONS OF LAW

1. The Wisconsin Hearing and Speech Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 459.10, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, James J. Gillis violated Wis. Admin. Code § HAS 5.02(2)(a) by failing to cooperate with the Board’s investigation of this complaint, by furnishing an altered record and representing it as a true record.

3. By the conduct described in the Findings of Fact, James J. Gillis violated Wis. Admin. Code § HAS 5.02(2)(c) by knowingly placing false information in a client’s record or making a client’s records false.

4. By the conduct described in the Findings of Fact, James J. Gillis violated Wis. Admin. Code § HAS 5.02(2)(e) by performing an incomplete evaluation of a client.

5. As a result of the above violations, James J. Gillis is subject to discipline pursuant to Wis. Stat. § 459.10(1)(j) and (k).

ORDER

1. The attached Stipulation is accepted.

2. The license (no. 1198-60) of Respondent James J. Gillis is SUSPENDED for one year, effective the date of this Order.

3. Within 90 days from the date of this Order [i.e., by July 12, 2014], James J. Gillis shall pay the COSTS of this matter in the amount of \$1,450.00.

4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

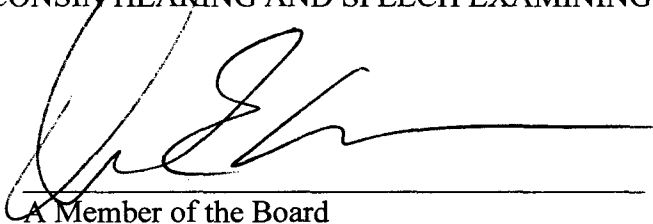
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (no. 1198-60) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

6. This Order is effective on the date of its signing.

WISCONSIN HEARING AND SPEECH EXAMINING BOARD

by:



A Member of the Board

akt

April 14, 2014
Date

STATE OF WISCONSIN
BEFORE THE HEARING AND SPEECH EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES J. GILLIS,
RESPONDENT.

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:
:

STIPULATION

ORDER 0003162

Division of Legal Services and Compliance Case No. 12 HAD 010

Respondent James J. Gillis and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Hearing and Speech Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

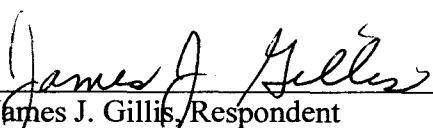
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

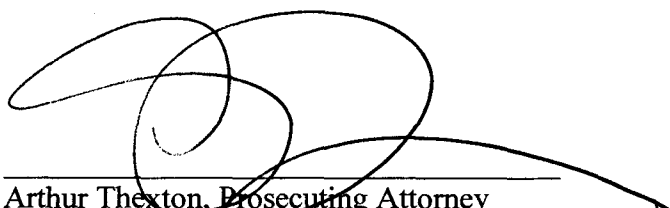
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


James J. Gillis, Respondent
486 Kelly Dr.
Denmark, WI 54208
License no. 1198-60

1-29-14
Date


Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

1/31/14
Date