

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE HEARING AND SPEECH EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

RICHARD VER VOORT,  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
:  
:

0004296

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Division of Legal Services and Compliance Case No. 15 HAD 011

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

Richard Ver Voort  
2071 Autumn Lane  
Kaukauna, WI 54130

Wisconsin Hearing and Speech Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

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 Wisconsin 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 Richard Ver Voort (dob January 22, 1954) is licensed in the state of Wisconsin to practice as a hearing instrument specialist, having license number 1264-60, first issued on November 9, 2005 and current through January 31, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2071 Autumn Lane, Kaukauna, Wisconsin 54130.

2. At all times relevant to this matter Respondent was employed as a hearing instrument specialist at Sam's Club Hearing Center in Appleton, WI.

3. On May 7, 2014, Respondent sold Patient A a set of hearing aids, a three-year extended hearing instrument warranty and a two-year extended coverage for hearing instrument loss & damage. The cost of the extended warranties totaled \$700.00. Patient A, was 81 years-old and had stage four cancer. Patient A was accompanied by her daughter.

4. Patient A's daughter was not aware that she had purchased the extended warranties. Given Patient A's age and health condition, the daughter would not have knowingly purchased the extended warranties, as Patient A was not expected to live beyond the one-year period of the manufacturer's basic warranty.

5. Before selling Patient A the hearing aids and extended warranties, Respondent performed only pure tone audiometry testing.

6. Respondent explained that it is Sam's Club's practice to "test, fit, program, deliver and instruct in one session."

7. Respondent did not conduct the speech audiometry testing because Patient A was frail and fatigued. Respondent felt it was in Patient A's best interest not to conduct the full set of tests in one appointment.

8. Respondent did not offer Patient A the opportunity to return on another day to complete the required testing.

9. On June 12, 2014, Patient A returned the hearings aids because she was not satisfied with them and her health was declining. Patient A was given a full refund.

10. Patient A died in January 2015.

11. Respondent denies intentional wrong-doing and consents to entry of the Conclusions of Law and Order below.

#### CONCLUSIONS OF LAW

1. The Wisconsin Hearing and Speech Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 459.10(1), 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, Respondent violated Wis. Admin. Code § HAS 4.01(2) by not using appropriate procedures for measurement of human hearing.

3. By violating Wis. Admin. Code § HAS 4.01(2), a rule relating to the practice of fitting and selling hearing aids, Respondent violated Wis. Stat. § 459.10(1)(e).

4. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § HAS 5.02(2)(e), by practicing in a manner which substantially departs from the standard of care ordinarily exercised by a hearing instrument specialist.

5. As a result of the above violations, Richard Ver Voort is subject to discipline pursuant to Wis. Stat. § 459.10(1)(e) and (r).

ORDER

1. The attached Stipulation is accepted.
2. Richard Ver Voot is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Respondent shall pay the COSTS of this matter in the amount of \$100.00.
4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent 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 7190, Madison, WI 53707-7190  
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. 1264-60) 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: Th Lu Sate  
A Member of the Board

10/12/15  
Date

STATE OF WISCONSIN  
BEFORE THE HEARING AND SPEECH EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

RICHARD VER VOORT,  
RESPONDENT.

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:  
:  
:  
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STIPULATION

0004296

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Division of Legal Services and Compliance Case No. 15 HAD 011

Respondent Richard Ver Voort 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.

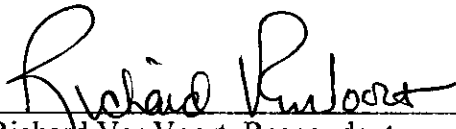
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

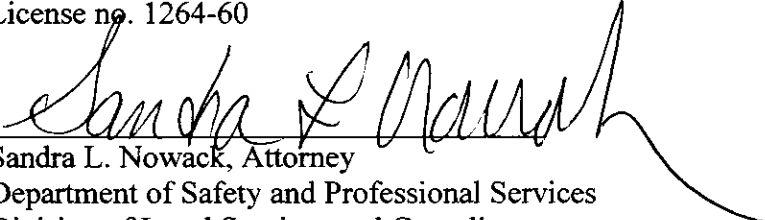
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

  
Richard Ver Voort, Respondent  
2071 Autumn Lane  
Kaukauna, WI 54130  
License no. 1264-60

9/8/15  
Date

  
Sandra L. Nowack, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

9/28/15  
Date