

## 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

NICKOLAS G. WIMBLE  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
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**0004953**

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Division of Legal Services and Compliance Case No. 15 HAD 013

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

Nickolas G. Wimble  
1875 Tinys Rd.  
Friendship, WI 53934

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 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 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 Nickolas G. Wimble (dob August 3, 1956) is licensed in the state of Wisconsin to practice as a hearing instrument specialist, having license number 301-60, first granted on November 2, 1978 and current through January 31, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1875 Tinys Road, Friendship, Wisconsin 53934.
2. At all times relevant to this proceeding, Respondent was employed as a hearing instrument specialist at clinics located in West Bend and Cedarburg, Wisconsin.
3. On July 22, 2015, Respondent's employment was terminated.

4. Upon Respondent's termination a review of Respondent's patient records was conducted, revealing the following:

- a. On October 27, 2007, Respondent failed to conduct bone conduction testing (BC), speech recognition testing (SRT) and word recognition testing (WR) on Patient M. B. Respondent also failed to ask the required Food and Drug Administration (FDA) questions.
- b. On September 18, 2012, Respondent failed to obtain a medical waiver for Patient M. B. Respondent failed to conduct BC, MCL, SRT, WR and uncomfortable level (UCL) tests on Patient M.B. Respondent also failed to document and/or ask the required FDA questions.
- c. On September 11, 2007, Respondent failed to obtain a medical waiver for Patient V. W. Respondent failed to conduct BC, SRT, WR, MCL and UCL tests on Patient V. W. Respondent also failed to document and/or ask the required FDA questions.
- d. On March 19, 2013, Respondent failed to obtain a medical waiver for Patient T. B. Respondent failed to conduct BC, SRT, WR, MCL and UCL tests on Patient T. B. Respondent also failed to document and/or ask the required FDA questions.
- e. On October 3, 2006, Respondent failed to obtain a medical waiver for Patient E. W. The test results were missing from Patient E. W.'s treatment record. The order form showed that only AC, MCL and LDL tests were completed. Respondent also failed to document and/or ask the required FDA questions.
- f. On March 10, 2011, Respondent failed to obtain a medical waiver for Patient R. W. Respondent did not sign or put his license number on the receipt. Respondent failed to conduct BC, SRT, WR, MCL and UCL tests on Patient R. W. Respondent also failed to document and/or ask the required FDA questions.
- g. On February 26, 2015, Respondent failed to obtain a medical waiver for Patient R. N., failed to conduct any testing, and failed to document and/or ask the required FDA questions.
- h. On December 2, 2014, Respondent failed to obtain a medical waiver for Patient J. S., failed to conduct any testing, and failed to document and/or ask the required FDA questions.

5. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and order.

## 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, Nickolas G. Wimble violated 21 CFR § 801.421(a)2, by failing to obtain a written waiver of the medical evaluation requirements.

3. By the conduct described in the Findings of Fact, Nickolas G. Wimble engaged in unprofessional conduct as defined by Wis. Admin. Code § HAS 5.02(2)(dm), by failing to record all of the following information in each client record: 1) the date of entry of pertinent information; 2) the name of the licensee; and 3) information sufficiently legible to allow interpretation by other individuals for the benefit of the client.

4. By the conduct described in the Findings of Fact, Nickolas G. Wimble 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, Nickolas G. Wimble is subject to discipline pursuant to Wis. Stat. § 459.10(1)(e), (j), (k), and (p).

## ORDER

1. The attached Stipulation is accepted.

2. Nickolas G. Wimble is REPRIMANDED.

3. The license to practice as a hearing instrument specialist issued to Nickolas G. Wimble (license number 301-60) is LIMITED as follows:

- a. Within ninety (90) days from the date of this Order, Respondent shall successfully complete ten (10) hours of education on the topic of consumer protection and consumer rights with regard to hearing instrument sales and two (2) hours of education on ethics for hearing instrument specialists. The courses must be pre-approved by the Board's designee. Successful completion requires Respondent to take and pass any exam offered for the course(s). Courses taken without pre-approval may NOT be used to satisfy the education requirements of this Order.
- b. Within fourteen (14) days from the completion of the approved education, Respondent shall submit proof of successful completion in the form of verification from the institution or organization that provided the education.

- c. None of the education completed pursuant to this limitation may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.
  - d. This limitation shall be removed from Respondent's license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. The license to practice as a hearing instrument specialist issued to Nickolas G. Wimble (license number 301-60) is further LIMITED as follows:
- a. For a period of two (2) years while working as a hearing instrument specialist, Respondent shall provide his current employers with a copy of this Order and provide a copy of this Order to any future employers before engaging in any hearing instrument specialist employment. Respondent shall provide the Department Monitor with written acknowledgment from each hearing instrument specialist employer that a copy of this Order has been received. Such acknowledgment shall be provided within fourteen (14) days of beginning new employment and/or within fourteen days from the date of this Order for employment current as of the date of this Order.
  - b. For a period of two (2) years while working as a hearing instrument specialist, Respondent shall work only under supervision, and only in a work setting pre-approved by the Board.
  - c. For a period of two (2) years while working as a hearing instrument specialist, Respondent shall arrange for his hearing instrument specialist employer(s) to send to the Department Monitor quarterly work reports, reporting the terms and conditions of Respondent's employment and evaluating Respondent's work performance.
  - d. Respondent shall notify the Department Monitor of any change of hearing instrument specialist employment during time in which this Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
  - e. After two (2) years of working at least half-time as a hearing instrument specialist and with favorable work reports, Respondent may petition the Board for the modification or termination of this limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.
5. Within ninety (90) days from the date of this Order, Nickolas G. Wimble shall pay COSTS of this matter in the amount of \$1,021.00.

6. Any documents, reports, request for approval of courses, proof of successful course completion and 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 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

7. 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 provide a copy of this Order to his employer(s), fails to timely provide acknowledgment that this Order was provided to his employer(s), fails to work under supervision, fails to timely submit work reports, fails to timely notify the Department of a change of employment, fails to timely submit payment of costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 301-60) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has provided a copy of this Order to his employer(s), provided acknowledgment that his employer(s) received a copy of this Order, is working under supervision, timely submitted work reports, notified the Department of a change of employment, submitted proof of successful completion of the ordered education and complied with payment of costs.

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

WISCONSIN HEARING AND SPEECH EXAMINING BOARD

by: Thom W. Sath  
A Member of the Board

10/10/16  
Date

STATE OF WISCONSIN  
BEFORE THE HEARING AND SPEECH EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

NICKOLAS G. WIMBLE,  
RESPONDENT.

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STIPULATION

**0004953**

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Division of Legal Services and Compliance Case No. 15 HAD 013

Respondent Nickolas G. Wimble 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.

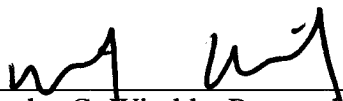
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not  
be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

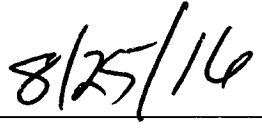
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

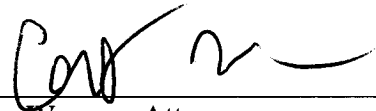
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

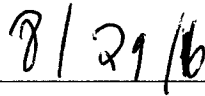
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.

  
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Nickolas G. Wimble, Respondent  
1875 Tinys Rd.  
Friendship, WI 53934  
License no. 301-60

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Cody Wagner, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

  
\_\_\_\_\_  
Date