

**BEFORE THE NEW MEXICO
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID
DISPENSING PRACTICES BOARD**

IN THE MATTER OF:
SUSAN BENNETT,

Respondent.

Board Case No. HA-09-11-07

DEFAULT ORDER

This cause coming before the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Board (“Board”) on December 9, 2011 For a decision pursuant to provisions of the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through 61-1-33 (“ULA”). After due deliberation, the Board finds that:

1. The Board has complied with all notice and hearing provisions of the ULA and has afforded Respondent Susan Bennett all applicable due process rights.
2. The Board issued a Notice of Contemplated Action (“NCA”) to Respondent on August 31, 2011 in accordance with the requirements of NMSA 1978, § 61-1-4. The Notice of Contemplated Action informed Respondent that she had a right to a hearing regarding the allegations and how to request a hearing.
3. The Board served Respondent with the NCA on August 31, 2011 by certified mail, return receipt requested to the address that Respondent provided to the Board in accordance with the requirements of NMSA 1978, § 61-1-5.
4. The Board received the signed certified mail return receipt on September 2, 2011.
5. The NCA notified Respondent that the Board has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the

suspension or revocation of Respondent's license to practice as a hearing aid dispenser trainee in the State of New Mexico and/or to impose such other penalties as are permitted by law.

6. The NCA further notified Respondent that the "Board may revoke or suspend Respondent's license, and may impose such other penalties, unless within twenty (20) days after receipt of this Notice of Contemplated Action, the Respondent requests a formal hearing by certified mail, return receipt requested."

7. NMSA 1978, § 61-1-4(E) authorizes the Board to take the action contemplated in the NCA if a licensee does not mail a request for a hearing within the time and in the manner prescribed by NMSA 1978 § 61-1-4.

8. Respondent did not respond to the Notice of Contemplated Action nor mail a request for hearing within 20 days of receipt of the Notice of Contemplated Action.

9. Respondent did not otherwise communicate with the Board or offer any evidence rebutting or explaining the violations alleged in the NCA.

Based upon the above findings, the Board enters the following default order:

IT IS THEREFORE ORDERED that Respondent Susan Bennett's license as a hearing aid dispenser trainee be revoked pursuant to NMSA 1978 § 61-1-4(E) for using a license number in a purchase agreement with Complainant that was not assigned to her or anyone else, for failing to have her sponsor sign the purchase agreement and mailing hearing aids purchased by Complainant to him without being properly fitted in violation of NMSA § 61-14B-21(A)(4),(10) and (12), 16.26.7.8(A)(1) and (E)(1)(2) NMAC and 16.26.9.8(B)(4), (C)(4) and (N)(3) NMAC. Respondent shall not engage in the practice of a hearing aid dispenser trainee as defined by the Speech-Language Pathology,

Audiology and Hearing Aid Dispensing Practices Act, NMSA 1978 §§ 61-14B-1-61-14B-25. Respondent shall surrender her license and cease her practice immediately upon receipt of this Order.

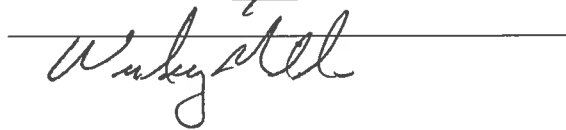
IT IS FURTHER ORDERED that Respondent shall pay a fine in the amount of \$500.00 to the Board within sixty (60) days from the date of service of this order.

This order is not subject to judicial review. NMSA 1978 § 61-1-4(E).

This Order shall be served upon Respondent in accordance with law.

FOR THE NEW MEXICO SPEECH-
LANGUAGE PATHOLOGY,
AUDIOLOGY AND HEARING AID
DISPENSING PRACTICES BOARD

Date: December 9, 2011



Wesley Miller, Chair



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document and attachments were sent via certified mail, return receipt requested to Ms. Susan Bennett, The Hearing Factory Inc., 546 B North Guadalupe Street, Santa Fe, New Mexico 87501, on December 12th, 2011.



Robert Billingworth Compliance Officer

**BEFORE THE STATE OF NEW MEXICO
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID
DISPENSING PRACTICES BOARD**

IN THE MATTER OF:
SUSAN BENNETT,

Respondent.

Board Case No. HA-09-11-07

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Speech-Language Pathology and Hearing Aid Dispensing Practices Board (hereinafter “the Board”) has before it sufficient evidence which, if not rebutted or satisfactorily or explained at a formal hearing, will justify the Board in suspending or revoking the license of Respondent Susan Bennett (hereinafter “Respondent”) to practice as a licensed hearing aid dispenser trainee in the State of New Mexico and to impose such other penalties as are permitted by law.

At the time of the violations Respondent was a licensed hearing aid dispenser trainee and subject to the jurisdiction of the Board pursuant to NMSA 1978 § 61-14B-1 through § 61-14B-25 (1976), of the Speech-Language Pathology Audiology and Hearing Aid Dispensing Practices Act, and 16 NMAC 26, of the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Board Rules and Regulations.

The general nature of the evidence is the Complainant, Joe Vigil, and his wife in October, 2009 went to the Beltone store in Santa Fe, New Mexico in response to a newspaper ad regarding hearing aids. The Complainant dealt with the Respondent for all purposes in purchasing a hearing aid. This included the Respondent recommending a hearing aid and requesting the Complainant to sign a purchase agreement. The purchase agreement contains a license number that was represented to be that of the Respondent. In fact this license number is neither that of

the Respondent nor has it been issued to any other person. Further, the purchase agreement does not contain the signature of the Respondent's trainee sponsor.

Subsequently, the Respondent had the hearing aids mailed to the Complainant without being properly fitted.

The Respondent was provided with a copy of the Complaint and requested to provide a response. Respondent failed to provide a response.

The Board has sufficient evidence to take disciplinary action against Respondent for the following violations pursuant to the Speech-Language Pathology and Hearing Aid Dispensing Practices Act, NMSA § 61-14B-21(A)(4)(10)(12), 16 NMAC 26.7.8 (A)(1) and (E)(1)(2) , 16 NMAC 26.9.8. (B)(4), (C) (4) and (N) (3).

The foregoing statements are general in nature and the evidence adduced at the hearing will not be limited by this summary.

The Board may revoke or suspend Respondent's license, and may impose such other penalties, unless within twenty (20) days after receipt of this Notice of Contemplated Action, the Respondent requests a formal hearing by certified mail, return receipt requested. Such a request for a formal hearing should be mailed to Amanda Chavez, Administrator, New Mexico Speech-Language Pathology and Hearing Aid Dispensing Practices Board, Post Office Box 25101, Santa Fe, New Mexico 87504.

The formal hearing, if requested, will be conducted in accordance with the New Mexico Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to 61-1-33 (1978) Pursuant to NMSA 1978, § 61-1-3 (1978) the licensee is specifically advised as follows:

61-1-3. Opportunity for licensee or applicant to have hearing.

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

- E. suspension of license;
- F. revocation of a license;
- G. restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board;
- J. the censure or reprimand of the licensee or applicant;
- K. compliance with conditions of probation or suspension for a specific period of time;
- L. payment of a fine for a violation not to exceed one thousand dollars (\$1,000) for each violation, unless a greater amount is provided by law;
- M. corrective action, as specified by the board;

In addition, pursuant to NMSA 1978, § 61-1-8 (1978) the licensee is specifically advised as follows:

61-1-8. Rights of Person Entitled to Hearing

- A. A person entitled to be heard under the Uniform Licensing Act [61-1-1 to 61-1-31 NMSA 1978] shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the

hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

- B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

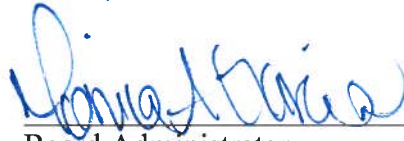


Chairperson
New Mexico Speech-Language Pathology and
Hearing Aid Dispensing Practices Board
2550 Cerrillos Road
Santa Fe, New Mexico 87504

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Contemplated Action was mailed to the Respondent, on this 31st day of August, 2011 via certified mail, return receipt requested.

Robert Hollingsworth Compliance Division.

Board Administrator
New Mexico Speech-Language Pathology and
Hearing Aid Dispensing Practices Board
(505) 476-4642

Approved as to form, August 25, 2011:

Administrative Prosecutor:

Eric Miller

Assistant Attorney General, Litigation Division

Post Office Drawer 1508

Santa Fe, New Mexico 87504-1508

(505) 827-6777