STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Anne Byrnes, H.A.D. Petition No. 971112-037-012

CONSENT ORDER

WHEREAS, Anne Byrnes, H.A.D., of Waterbury, Connecticut (hereinafter "respondent") has been issued license number 000224 to practice as a hearing aid dealer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 398 of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. Respondent is the President of American Hearing Aid Center, which has offices in several Connecticut towns.
2. On or about September 18, 1996, patient P.L. returned a hearing aid to respondent's place of business in West Hartford, Connecticut for a refund.
3. P.L. did not receive the refund until approximately March of 1997.
4. On or about June 19, 1997, patient C.R. returned a hearing aid to respondent's place of business in Orange, Connecticut for a refund.
5. C.R. did not receive the refund until approximately October of 1997.
6. On or about August 13, 1997, patient C.L. returned a hearing aid to respondent's place of business in Orange, Connecticut for a refund.
7. C.L. did not receive the refund until on or about November 1, 1997.

8. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-404, including but not limited to §20-404(a)(11), taken in conjunction with §20-406-15 of the Regulations of Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before a hearing officer designated by the Commissioner of the Department of Public Health (hereinafter "the Commissioner"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-14 and 20-404 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-17 and 20-404 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.
2. Respondent shall pay a civil penalty of two thousand dollars ($2000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check. and shall be payable at the time respondent submits the executed Consent Order to the Department.
3. Respondent's license number 000224 shall be placed on probation for a period of one year under the following terms and conditions:
    a. Respondent shall obtain at her own expense, the services of a hearing aid dealer, licensed in Connecticut and pre-approved by the Department (hereinafter "supervisor"), to conduct a quarterly random review of twenty percent (20%) or twenty (20) of

respondent's patient records, whichever is the larger number. In the event respondent has twenty (20) or fewer patients, the monitor shall review all of respondent's patient records.

(1) Respondent's supervisor shall meet with her not less than once every quarter for the duration of her probationary period.

(2) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.

(3) Respondent shall be responsible for providing written supervisor reports directly to the Department quarterly for the duration of the probationary period. Such supervisor's reports shall include documentation of dates and durations of meetings with respondent, number and a general description of the patient records reviewed, additional monitoring techniques utilized, and statement that respondent is practicing with reasonable skill and safety.

4. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

5. All reports required by the terms of this Consent Order shall be due on the tenth business day of every third month.

6. Respondent shall comply with all state and federal statutes and regulations applicable to her licensure.

7. Respondent shall pay all costs necessary to comply with this Consent Order.

8. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:

   a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

   b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

   c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 8a above to demonstrate to the satisfaction of the Department that she has complied with the terms of this Consent Order or, in the alternative, that she has cured the violation in question.

   d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, she shall be entitled to a hearing before a hearing officer designated by the Commissioner who shall make a final determination of the disciplinary action to be taken.

   e. Evidence presented to the hearing officer by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

9. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a hearing aid dealer, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric and/or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further

agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that her conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).

10. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of her license before a hearing officer designated by the Commissioner.

11. In the event respondent is not employed as a hearing aid dealer for periods of thirty (30) consecutive days or longer, or is employed as a hearing aid dealer less than twenty (20) hours per week, or is employed outside of the State of Connecticut, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.

12. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.

13. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.

14. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which her compliance with this Consent Order or with §20-404 of the General Statutes of Connecticut, as amended, is at issue.

15. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that she may have under the laws of the State of Connecticut or of the United States.

17. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

18. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.

19. Respondent understands and agrees that she is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which she is away from her residence.

20. Respondent has the right to consult with an attorney prior to signing this document.

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I, Anne Byrnes, H.A.D., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Anne Byrnes, H.A.D.

Subscribed and sworn to before me this 24th day of April 1998.

Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 4th day of ~~April~~ May 1998, it is hereby accepted.

Cynthia Denne, Director
Division of Health Systems Regulation

The above Consent Order having been presented to the Commissioner or his designee on the 11th day of May 1998, it is hereby ordered and accepted.

Commissioner or his designee

S: sm. Byrnes/legal/co. 3/98