

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Brandon J. Walton, H.I.S.

Petition No. 2009-20091434

CONSENT ORDER

WHEREAS, Brandon J. Walton of Bristol, Connecticut (hereinafter "respondent") has been issued license number 000370 to practice as a hearing instrument specialist by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 398 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. At all relevant times respondent worked as a hearing instrument specialist in solo practice at Affordable Hearing Solutions in Torrington, Connecticut (hereinafter "the facility"). From about October 2008 through about November 2009 respondent treated a female patient. During his treatment of the patient, respondent failed to adequately test the patient's hearing and failed to adequately document the patient's treatment.
2. 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(4).

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 the Department, this Consent Order shall have

the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-404 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-404 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of one (1) year under the following terms and conditions:
 - a. Respondent shall provide his employer at each place where respondent practices as a hearing instrument specialist throughout the probationary period, with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer monthly for the first three (3) months and quarterly for the remainder of the probationary period, stating that respondent is practicing with reasonable skill and safety.
 - b. During the probationary period, respondent shall attend and successfully complete a course in documentation standards, pre-approved by the Department. Within one (1) month of the completion of such coursework, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such course.
3. All correspondence and reports are to be addressed to:

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

4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. 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 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before a Hearing Officer 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.
8. In the event respondent is not employed as a hearing instrument specialist for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing.

Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes practice as a hearing instrument specialist, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to practice as a hearing instrument specialist without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to practice.

9. 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 his license before the Department.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
11. 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.
12. 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 his compliance with this Consent Order or with §20-404 of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank.

13. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a hearing instrument specialist nurse, upon request by the Department, for a period not to exceed 45 days. 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 failure to cooperate with the Department's investigation shall be considered by the Department and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Department has complete and final discretion as to whether a summary suspension is ordered.
14. 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.
15. 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. Respondent understands that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. 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 he may have under the laws of the State of Connecticut or of the United States.

16. 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.
17. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch 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.
18. Respondent has the right to consult with an attorney prior to signing this document.
19. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
20. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

I, Brandon J. Walton, 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.

Brandon J Walton

Brandon J. Walton

Subscribed and sworn to before me this 24 day of August 2011.

Patricia O'Neil

Notary Public or person authorized

by law to administer an oath or affirmation

**PATRICIA O'NEIL
NOTARY PUBLIC**

MY COMMISSION EXPIRES MAY 31, 2013

The above Consent Order having been presented to the duly appointed agent of the

Commissioner of the Department of Public Health on the 29th day of

August 2011, it is hereby accepted.

Jennifer Filippone

Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch