FILED
2-25-16
HEARING AID DISPENSERS
EXAMINING COMMITTEE
Renee P. Clark
Executive Director

FILED
2-25-16
AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ADVISORY COMMITTEE
Renee P. Clark
Executive Director

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
HEARING AID DISPENSERS EXAMINING COMMITTEE
AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
ADVISORY BOARD

IN THE MATTER OF	:	
	:	
MARVIN A. KLEINMAN,	:	ADMINISTRATIVE ACTION
HAD License No. 25MG00045100	:	
Audiologist License No. 41YA00012400	:	**PROVISIONAL ORDER OF DISCIPLINE**
	:	
LICENSED TO PRACTICE AS A HEARING AID DISPENSER AND AUDIOLOGIST IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Medical Examiners, Hearing Aid Dispensers Examining Committee ("Committee") and the New Jersey State Audiology and Speech-Language Pathology Advisory Board ("Board") upon receipt of information which the Committee and Board have reviewed and upon

which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Marvin A. Kleinman ("Respondent") is licensed to practice as a Hearing Aid Dispenser and Audiologist in the State of New Jersey and has been a licensee at all times relevant hereto. (Exhibit A).

2. On January 1, 2014 a Consent Order was filed by the State Board of Medical Examiners Committee and the Audiology and Speech-Language Pathology Advisory Board suspending Respondent's licensees for 6 months, 3 months active and 3 months to be served as a period of probation. The conduct that gave rise to the Consent Order was that Respondent between 2008 - 2014 committed Medicaid fraud and was admitted to pretrial intervention and ordered to pay restitution to the State of New Jersey in the amount of $52,645.00. The Boards found the conduct professional and occupational misconduct in violation of N.J.S.A. 45:1-21(a) (Exhibit B).

3. On December 31, 2010 Respondent was arrested by the Union County Sheriff's Office for violation of N.J.S.A. 30:4D-17(A), Medicaid Fraud. (Exhibit B).

4. On September 25, 2014 Respondent was arrested by the Division of Criminal Justice in Trenton for violation of

N.J.S.A. 2C:21-1, Forgery; N.J.S.A. 2C:20-4A, Theft By Deception; and N.J.S.A. 30:40-17, Medicare/Welfare Fraud. (Exhibit C).

5. In response to the above 2014 arrest and 2008 - 2010 conduct Respondent appeared before the Committee and the Board on December 5, 2015, and with the advice of counsel, agreed to enter into an interim agreement regarding the aforementioned criminal charges. (Attached as Exhibit D an Interim Consent Order of Voluntary Surrender filed January 15, 2015.)

6. Thereafter, the Committee and the Board received information that on March 30, 2015 Respondent was found guilty by the Union County Superior Court of N.J.S.A. 30:4D-17, Obtain Medical Benefits, in relation to the 2010 arrest, and N.J.S.A. 2C:21-9C, Corporate Misconduct, in relation to the 2014 arrest. (Exhibit B & C).

7. On July 24, 2015 Respondent was sentenced by the Union County Superior Court to 2 Days Jail Time Credit, 3 years' Probation, 20 Hours Community Service, and assessed a fine of $155.00 in relation to the 2010 arrest, and 1 Day Jail Time Credit, 3 Years' Probation, 20 Hours Community Service, and assessed a fine of $50,689.00 in relation to the 2014 arrest. (Exhibit B & C).

CONCLUSIONS OF LAW

Respondent's convictions for illegally obtained medical benefits and corporate misconduct constitute crimes which relate adversely to the activity regulated by the Committee and the Board in violation of N.J.S.A. 45:1-21(f) which the Committee and the Board also deem professional misconduct, pursuant to N.J.S.A. 45:1-21(e), both which subject Respondent to discipline.

ACCORDINGLY, IT IS on this 25th **day of** February**, 2016,**

ORDERED that, UPON THE FILING OF A FINAL ORDER OF DISCIPLINE:

1. Respondent's licenses to practice as a Hearing Aid Dispenser and Audiologist in the State of New Jersey are hereby suspended. The Committee and the Board shall not entertain a petition for reinstatement for a period of a minimum of ten (10) years.

2. During the period of suspension, Respondent shall not derive a profit from the rendering of Professional Hearing Aid Dispensing or Audiology services.

3. During the period of suspension, Respondent is not to be on the premises of a facility, unless he is a patient, which

sells, dispenses, or fits hearing aids or provides audiology services.

4. Upon finalization of this Order, Respondent shall refrain from practicing as a Hearing Aid Dispenser and Audiologist and shall not represent himself as a Hearing Aid Dispenser or Audiologist until such time as his licenses are reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

5. Respondent is hereby assessed a civil penalty in the amount of $30,000.00 which shall be paid in full within thirty (30) days of the filing of a Final Order of Discipline.

6. Payment of penalties made pursuant to Paragraph five (5) of this Order shall be made by money order, bank or certified check, or wire transfer, made payable to the "State of New Jersey," and sent to the State Board of Medical Examiners Hearing Aid Dispensers Examining Committee, c/o Ms. Renee Clark, Executive Director, at 124 Halsey Street, P.O. Box 45038, Newark, New Jersey 07101. Any payment in a form other than those noted in this paragraph will be rejected and returned to the sender. Failure to make timely payment in accordance with this Consent Order shall result in the filing of a Certificate of Debt pursuant to N.J.S.A. 45:1-24 for the total amount due and owing at the time the Certificate of Debt is filed.

7. The within order shall be subject to finalization by the Committee and the Board at 5:00 p.m. on the 30th day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Renee Clark, Executive Director, Hearing Aid Dispenser Examining Committee P.O. Box 45038, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

8. Any submissions will be reviewed by the Committee and the Board and they will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Committee and the Board are not persuaded that the submitted materials merit further consideration, a Final Order of Discipline will be entered, and

9. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to, a hearing, respondent shall be notified. In the event that a hearing is ordered, the preliminary findings of fact and conclusions of law contained in this Provisional Order shall serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held, upon review of the record, the Committee and the Board shall not be limited to the findings, conclusions, and sanctions set forth in this order and may, if the factual and legal allegations have been proven, order such sanctions or other remedies as it may deem appropriate, including costs.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

HEARING AID DISPENSERS EXAMINING COMMITTEE
AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
ADVISORY BOARD

By: _____
Jennifer Schaal, AuD.
President

By: _____
Hilda Pressman, M.A., CCC-SLP, BRS-S
President