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9 **BEFORE THE**
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID
DISPENSERS BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
ELIZABETH A. KRONE
13 **24361 El Toro Rd., #175**
Laguna Woods, CA 92637
14 **Hearing Aid Dispenser License No. HA 2662,**
15 Respondent.

Case No. 1C-2012-85

A C C U S A T I O N

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18 Complainant alleges:

19 **PARTIES**

20 1. Paul Sanchez (Complainant) brings this Accusation solely in his official capacity as
21 the Executive Officer of the Speech-Language Pathology and Audiology and Hearing Aid
22 Dispensers Board, Department of Consumer Affairs.

23 2. On or about January 23, 1989, the Speech-Language Pathology and Audiology and
24 Hearing Aid Dispensers Board issued Hearing Aid Dispenser License Number HA 2662 to
25 Elizabeth A. Krone (Respondent). The Hearing Aid Dispenser License was not in full force and
26 effect at all times relevant to the charges brought herein. Respondent's Hearing Aid Dispenser
27 License Number HA 2662 is expired.

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1 communication by means of mail, television, radio, motion picture, newspaper, book, list or
2 directory of healing arts practitioners, Internet, or other electronic communication.

3 “(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a
4 statement or claim that does any of the following:

5 “... ”

6 “(5) Contains other representations or implications that in reasonable probability will cause
7 an ordinarily prudent person to misunderstand or be deceived.

8 “... ”

9 “(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive
10 because of a failure to disclose material facts.

11 “... ”

12 7. Section 2538.10 of the Code states:

13 “(a) ‘Advertise’ and its variants include the use of a newspaper, magazine, or other
14 publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card,
15 label, tag, window display, store sign, radio, or television announcement, or any other means or
16 methods now or hereafter employed to bring to the attention of the public the practice of fitting or
17 selling of hearing aids.

18 “(b) ‘License’ means a hearing aid dispensers license issued pursuant to this article and
19 includes a temporary license.

20 “(c) ‘Licensee’ means a person holding a license.

21 “(d) ‘Hearing aid’ means any wearable instrument or device designed for, or offered for the
22 purpose of, aiding or compensating for impaired human hearing.

23 “(e) ‘Fund’ means the Speech-Language Pathology and Audiology and Hearing Aid
24 Dispensers Fund.

25 8. Section 2538.11 of the Code states in pertinent part:

26 “(a) ‘Practice of fitting or selling hearing aids,’ as used in this article, means those practices
27 use for the purpose of selection and adaption of hearing aids, including direct observation of the
28 ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of the ear

1 mold impressions, fitting or sale of hearing aids, and any necessary post fitting counseling.

2 "..."

3 9. Section 2538.14 of the Code states:

4 "Hearing aid dispenser,' as used in this article, means a person engaged in the practice of
5 fitting or selling hearing aids to an individual with impaired hearing."

6 10. Section 2538.20 of the Code states:

7 "It is unlawful for an individual to engage in the practice of fitting or selling hearing aids,
8 or to display a sign or in any other way to advertise or hold himself or herself out as being so
9 engaged without having first obtained a license from the board under the provisions of this article.
10 Nothing in this article shall prohibit a corporation, partnership, trust, association or other like
11 organization maintaining an established business address from engaging in the business of fitting
12 or selling, or offering for sale, hearing aids at retail without a license, provided that any and all
13 fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the
14 provisions of this article. A person whose license as a hearing aid dispenser has been suspended
15 or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling
16 hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership,
17 corporation, association, or trust that maintains or operates that business, during the period of the
18 suspension or revocation. This restriction shall not apply to stock ownership in a corporation that
19 is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is
20 acquired in a transaction conducted through that stock exchange."

21 11. Section 2838.35 of the Code states in pertinent part:

22 "A licensee shall, upon the consummation of the sale of a hearing aid, delivered to the
23 purchaser a written receipt, signed by or on behalf of the licensee, containing all of the following:

24 "...

25 "(b) Specifications as to the make, serial number, and model number of the hearing aid or
26 aids sold.

27 "...

28 "(d) A statement to the effect that the aide or aides delivered to the purchaser are used or

1 reconditioned, as the case may be, if that is the fact.

2 “(e) The number of the licensee’s license and the name and license number of any other
3 hearing aid dispenser or temporary licensee who provided any recommendation or consultation
4 regarding the purchase of the hearing aid.

5 “(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the
6 Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.”

7 12. Section 2538.48 of the Code states:

8 “It is unlawful to engage in the practice of fitting or selling hearing aids in this state without
9 having at the time of so doing a valid, unrevoked, and unexpired license or temporary license.”

10 13. Section 2538.49 of the Code states, in pertinent part:

11 “It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or
12 she first does all of the following:

13 “(a) Complies with all provisions of state laws and regulations relating to the fitting or
14 selling of hearing aids.

15 “...”

16 **CALIFORNIA CODE OF REGULATIONS**

17 14. California Code of Regulations, title 16, section 1399.132 states:

18 “For the purposes of denial, suspension, or revocation of a hearing aid dispenser’s license
19 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
20 crime or act shall be considered substantially related to the qualifications, functions, and duties of
21 a hearing aid dispenser if to a substantial degree it evidences present or potential unfitness of a
22 hearing aid dispenser to perform the functions authorized by his license in a manner consistent
23 with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to
24 those involving the following:

25 “(a) Any violation of the provisions of Sections 650, 651, 651.3 and 655.2 of the code.

26 “(b) Any violation of the provisions of Chapter 7.5, Division 2 of the Business and
27 professions code.”

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1 **COST RECOVERY**

2 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FACTS**

7 16. On or about October 16, 2012, patient R.S.¹ reported to the Board that on June 8,
8 2012, he bought hearing aids from Respondent at her business, Krone Hearing Aid Center
9 (KHAC) in Laguna Woods, California. KHAC indicated in numerous ways that KHAC was an
10 authorized Beltone dealer, including the placement of Beltone advertisements throughout the
11 office, a Beltone display on the main counter, and business cards listing KHAC as Beltone
12 dealers. Robin Swanson (Swanson), a KHAC employee, performed the initial fitting and selling
13 of the hearing aids.

14 17. R.S. paid \$1000 as a deposit for his hearing aids, but did not receive any paperwork
15 or a signed purchase order at the time he paid this deposit. Respondent assured R.S. his deposit
16 would be refunded after United Health Care Insurance (United) paid Respondent for the hearing
17 aids. Approximately 2 weeks later R.S. was fitted with purportedly new Rexton hearing aids.

18 18. R.S. could not hear well when using the hearing aids, and the right hearing aid
19 repeatedly fell out of his ear. On June 26, 2012, R.S.'s daughter, D.E., called KHAC and told
20 Swanson that R.S. could not hear clearly while using the hearing aids and that KHAC had not
21 returned R.S.'s deposit. On or about September 28, 2012, Respondent called D.E. regarding the
22 outstanding deposit. During that conversation D.E. mentioned KHAC displayed Beltone
23 advertising in their Internet ads. In response, Respondent stated KHAC had been affiliated with
24 Beltone approximately a year earlier.

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27 ¹ Patient and witness names are abbreviated herein to protect confidentiality. Full name will be provided
28 upon receipt of a properly executed and served Request for Discovery.

1 cause for discipline exists.

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Fraud-Sale of Used or Reconditioned Hearing Aids as if New)

4 27. Respondent is subject to disciplinary action under section 2533 (e) and 2538.35 (d) of
5 the Code and California Code of Regulations, title 16, section 1399.132 subsection (b), in that she
6 committed fraud as the unlicensed proprietor of a practice which dispensed hearing aids
7 represented as new hearing aids when the hearing aids were actually used hearing aids. The
8 circumstances are as follows:

9 28. Paragraphs 16 through 22 are incorporated by reference.

10 29. Respondent's business employee sold used hearing aids which were represented to
11 the purchaser as new hearing aids, thereby committing fraud.

12 30. Respondent's acts and/or admissions as set forth in paragraphs 16 through 22, above,
13 constitute fraud within the meaning of sections 2533 (e) and 2538.35 (d) of the Code and
14 California Code of Regulations, title 16, section 1399.132, subsection (b). Therefore cause for
15 discipline exists.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Misleading and Deceptive Advertisement)

18 31. Respondent is subject to disciplinary action under section 651 and 2533(e) and (i) of
19 the Code and California Code of Regulations, title 16, section 1399.132 subsection (a), in that she
20 committed fraud as the proprietor of a practice which dispensed hearing aids by misrepresenting
21 the practice as an authorized dealer for a well-known hearing aid company. The circumstances
22 are as follows:

23 32. Paragraphs 16 through 22 are incorporated by reference.

24 33. Respondent's business contained Beltone advertisements throughout the office. A
25 Beltone display was on the main counter as were business cards listing KHAC as Beltone dealers,
26 thereby misleading prospective clients to believe KHAC was an authorized Beltone dealer.
27 Respondent misrepresented her business as an authorized Beltone dealer by permitting these
28

1 deceptive advertisements to remain throughout her business premises after acknowledging her
2 business was not associated with Beltone.

3 34. Respondent's acts and/or admissions as set forth in paragraphs 16 through 22, above,
4 constitute fraud within the meaning of sections 651 and 2533, subdivisions (e) and (i), of the
5 Code and California Code of Regulations, title 16, section 1399.132 subsection (a). Therefore
6 cause for discipline exists.

7 **DISCIPLINE CONSIDERATIONS**

8 35. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges that Respondent's license was delinquent throughout 2012. Complainant
10 further alleges on or about September 14, 2011, in a prior action, the Speech-Language Pathology
11 and Audiology and Hearing Aid Dispensers Board issued Citation Number 1C-2011-104 for
12 unlicensed practice, aiding and abetting unlicensed practice and failure to provide a refund as
13 required by Song-Beverly Consumer Warranty Act and ordered Respondent to pay a fine of
14 \$2,000.00. That Citation is now final and is incorporated by reference as if fully set forth.

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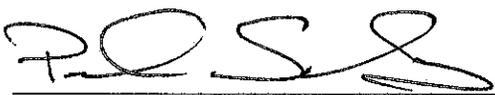
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Hearing Aid Dispenser License Number HA 2662, issued to Elizabeth A. Krone;
2. Ordering Elizabeth A. Krone to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: June 26, 2015



PAUL SANCHEZ
Executive Officer
Speech-Language Pathology and Audiology and Hearing
Aid Dispensers Board
Department of Consumer Affairs
State of California
Complainant

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