

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

**IN THE MATTER OF:
SHANE JARAMILLO
LICENSE NO. HAD-502
Respondent**

**HAD Case #'s: 10-10-10, 10-10-11, 10-10-12,
10-11-13, 10-11-14, 10-11-17, 10-11-19, 10-11-21,
10-11-22, 10-11-24, 10-11-25, 10-11-26, 10-11-27,
10-11-28, 10-12-31, 10-12-32, 10-12-33, 10-12-35,
11-01-01**

2012 MAR 26 11:32 AM
ATTORNEY GENERAL

SETTLEMENT, WAIVER OF HEARING, AND CONSENT TO DISCIPLINE

I, Shane Jaramillo ("Respondent), accept and agree to the proposal of the New Mexico Board of Speech Language Pathology, Audiology & Hearing Aid Dispensing Practices ("Board") to settle this matter before issuance of a Notice of Contemplated Action ("NCA") under the Uniform Licensing Act, NMSA 1978, Section 61-1-1 et seq. ("ULA"). As such, I waive my right to an NCA and hearing under the ULA, and further consent to discipline on the following terms/conditions:

1. This agreement is subject to Board approval and upon approval is binding on the Board and the Respondent. In the event the Board does not approve this agreement, the Board may issue NCAs as appropriate, Respondent reserves all rights under the ULA, and Respondent's proposed admissions contained in this agreement cannot be considered by the Board or used against Respondent in a hearing of these complaints.

2. At all relevant times the Respondent was a licensee of the Board and the Board has jurisdiction over the Respondent and the subject matter of this action.

3. In this matter, Respondent acknowledges that the Board has received nineteen complaints against his license, as articulated by the case numbers listed above.

4. Respondent acknowledges he is familiar with all nineteen complaints.

5. Respondent acknowledges that all nineteen complaints are public records within the meaning of the *Inspection of Public Records Act*, NMSA 1978, sec. 14-2-6 (E) (1993).

6. Respondent understands that his rights include the right to a NCA, which contains written notice of the charges against him, the general nature of the evidence concerning the allegations, and notice of his right to contest the above allegations at a formal hearing before the Board pursuant to the provisions of the ULA.

7. For the purposes of resolving those complaints without the expense and uncertainty of further proceedings, Respondent does not contest, and gives up any right to contest, that the allegations contained in the various complaints formed a factual basis to support imposition of discipline under the ULA and the New Mexico Speech-Language Pathology and Hearing Aid Dispensing Practices Act ("Practices Act"), NMSA 1978 § 61-14B-1 through § 61-14B-25.

8. Respondent waives all his rights to a NCA and a hearing under the ULA.

9. **Respondent and the Board agree to the following terms of discipline:**

a. Respondent's license with the Board is revoked. That revocation is stayed, subject to compliance with the remaining terms of discipline articulated below. If Respondent violates any terms of discipline articulated below, or is found after notice and hearing to have committed a new violation under the ULA and the Practices Act during the probation period, Respondent agrees to voluntarily surrender his license.

b. Respondent will be on three (3) years of supervised probation. This supervisory period will be under the direction of Debra Fischenich, Director for Livingston Hearing Aid Center, Inc. Should Ms. Fischenich not be able to serve

as the supervisor during the entire three year period or should Mr. Jaramillo no longer be employed at the Livingston Hearing Aid Center, the Board shall appoint a new supervisor. Ms. Fischenich or any replacement supervisor shall provide the Board in writing with a redacted chart review of two charts each quarter for the duration of the supervisory period. In addition, Mr. Jaramillo will provide in writing to the Board each quarter of the supervisory period a statement that he has complied with all statutes and regulations under the jurisdiction of the Board. The remaining terms of discipline referenced in paragraph 9 of this agreement are also formal conditions of Respondent's supervised probation. Any new disciplinary action found by the Board after notice and hearing is a violation of probation.

c. Respondent shall pay a civil fine of \$5,000 to the Board within sixty (60) days of Board approval of this agreement.

d. Respondent will successfully complete the International Hearing Society Distance Learning for Professionals in Hearing Sciences course. This course is a thirty (30) lesson course performed online. Following completion of the 30 lessons and passing the chapter tests, Respondent shall take and pass the final examination covering all subjects. The results of all the above tests shall be submitted in writing to the Board for review and approval. Respondent shall complete this course within one year of Board approval of this settlement.

e. Respondent shall become Board Certified in Hearing Instrument Sciences within three (3) years of Board approval of this settlement. Written confirmation of such certification shall be provided to the Board within three (3) years of Board approval of this settlement. In the event that the written certification is not

provided within (3) years of Board approval of this settlement, Respondent agrees that the probationary period detailed in paragraph 9.b, above, shall be extended for six-months for the specific purpose of enabling the Board to terminate the stay or revocation and impose revocation as detailed in paragraph 9.a, above.

f. Respondent shall not in any manner (including, without limitation, as an employer, director, officer, partner, shareholder, member, consultant, advisor, proprietor or agent), directly or indirectly, engage or participate in the ownership of any hearing aid practice for five (5) years from Board approval of this settlement. This condition continues to apply after the conclusion of Respondent's three-year supervised probation period. Respondent's agrees to surrender his license if he violates this condition at any point during the five year period, even after the three-year supervised probationary period has been completed.

g. Respondent shall receive a letter of reprimand that shall be placed in his permanent file maintained on behalf of the Board and such letter shall also be filed with the National Registry of Health Care Providers. The letter shall be consistent with the terms of this settlement agreement, shall acknowledge that Respondent did make untimely but complete refunds due to complaining consumers, and the Respondent accepted a fine in lieu of suspension. With these qualifications, the letter of reprimand will be written by the Board in its discretion.

h. Respondent shall provide the Board with evidence of completion of ten (10) additional continuing education hours in the subject of ethics beyond those minimum hours presently required for each of the next two license renewal years.

i. Respondent shall make a good faith, reasonable effort to obtain a surety bond in the amount of \$20,000 within 90-days of Board approval of this agreement. If Respondent cannot in good faith secure a surety bond within 90-days of this agreement, Respondent can still satisfy this condition by showing his good-faith effort in one of the following ways: (1) Respondent or his attorney shall present to the Board three letters from surety bond underwriters/institutions/companies indicating that he requested issuance of a surety bond in accord with the terms of this provision and that they were legally unable/unwilling to issue him a surety bond for his hearing aid dispenser practice; or (2) Respondent shall provide an affidavit or self-affirming attorney's statement that three certified letters, return receipt requested, were submitted to surety bond underwriters/institutions/companies requesting issuance of a surety bond for his hearing aid dispenser practice, and the companies either failed to respond in writing within the 90-day period or provided a letter indicating that they were legally unable/unwilling to issue him a surety bond as described above.

j. Respondent's complete reinstatement of his New Mexico license is conditioned on the complete and satisfactory completion of all the terms of this agreement. The failure to comply with the terms of this agreement shall result in disciplinary action. In the event a violation of this agreement is found, Respondent agrees that the Board will impose the discipline of license revocation.

10. Respondent fully and completely understands that the proposed discipline is a “disciplinary action.” Respondent acknowledges that this disciplinary action is reported to the National Practitioners Data Bank (NPDB) and may be reported to the Healthcare Integrity & Protection Data Bank (HIPDB).

11. The complaints, Respondent’s written responses to those complaints, and this *Waiver and Consent to Discipline* are public records within the meaning of the *Inspection of Public Records Act*, NMSA 1978, sec. 14-2-6 (E)(1993).

12. Respondent waives all actions known or unknown against the Board and any of its members as a result of the approval of this *Waiver and Consent to Discipline*.

13. Upon execution of this *Waiver and Consent to Discipline*, Respondent releases the Board from any and all claims arising out of the Board’s decision to investigate the complaints and take the actions prescribed therein.

14. This *Waiver and Consent to Discipline* is a settlement of Board case numbers articulated above and only the specific allegations made in those cases.

15. Respondent acknowledges that he consulted with an attorney of his own choosing before agreeing to enter into this *Waiver and Consent to Discipline*.

16. In order to give the Board time to consider this proposed settlement, Respondent and Respondent’s attorney agree to toll the time for preparation of NCA’s under the ULA from the date of Respondent’s signature acceptance of this agreement through July 1, 2012.

17. Respondent understands that the entire terms of settlement are contained in this document, and no other promises or representations exist outside of the terms of this document.

18. Respondent has read this entire agreement and fully understands each provision. His signature below acknowledges that he knowingly, intelligently and freely agrees with the terms and conditions of this *Waiver and Consent to Discipline* and consents thereto.

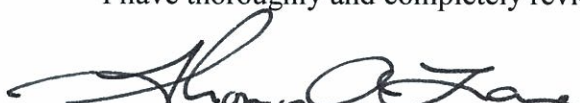
Signature of Acceptance:


Respondent Shane Jaramillo

502
License No

3/22/12
Date

I have thoroughly and completely reviewed this Waiver and Consent with my client:


Thomas Lane, Attorney at Law
Respondent's Attorney

03/22/12
Date

Prepared by Board Prosecutor:


Brian VanDenzen, Assistant Attorney General

4/4/12
Date

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

**IN THE MATTER OF:
SHANE JARAMILLO
LICENSE NO. HAD-502
Respondent**

**HAD Case #'s: 10-10-10, 10-10-11, 10-10-12,
10-11-13, 10-11-14, 10-11-17, 10-11-19, 10-11-21,
10-11-22, 10-11-24, 10-11-25, 10-11-26, 10-11-27,
10-11-28, 10-12-31, 10-12-32, 10-12-33, 10-12-35,
11-01-01**

ORDER

This matter comes before the Board upon the pre-NCA Waiver and Consent to Discipline. With a quorum present and a majority voting, this pre-NCA Waiver and Consent to Discipline is:



Accepted

Rejected

If accepted, the terms of the pre-NCA Waiver and Consent to Discipline are fully adopted and incorporated by this Order, and are fully binding on the parties.



DATE



Kerby Miller, Chairperson
Board of Speech Language Pathology, Audiology &
Hearing Aid Dispensing Practices

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

**IN THE MATTER OF:
SHANE JARAMILLO,
LICENSE #HAD-502**

**HAD CASE #'S 10-10-10, 10-10-11, 10-10-12,
10-11-13, 10-11-14, 10-11-17, 10-11-19,
10-11-21, 10-11-22, 10-11-24, 10-11-25,
10-11-26, 10-11-27, 10-11-28, 10-12-31,
10-12-32, 10-12-33, 10-12-35, 11-01-01**

Respondent.

LETTER OF REPRIMAND

Based on the information received by the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Board ("Board"), you signed a Settlement, Waiver of Hearing, and Consent to Discipline on March 22, 2012, in which you agreed to accept a formal reprimand. Therefore, the Board issues this formal reprimand. This reprimand is based on allegations that you violated the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, NMSA 1978 and Rules adopted by the Board, Title 16, Chapter 26 NMAC, in that you engaged in unprofessional conduct.

Your agreement to accept this formal reprimand constitutes an admission to the above allegation. Your agreement to accept this formal reprimand is a voluntary waiver of your right to a Notice of Contemplated Action and your right to a formal hearing before the Board and other rights pursuant to the Uniform Licensing Act, NMSA 1978, §§ 61-1-4 and 61-1-8.

A formal reprimand is included in your permanent licensing file and is a public record open to inspection by the public. This formal reprimand does constitute disciplinary action against you by the Board. This formal reprimand is reported to the National Practitioners Data Bank (NPDB) and is reported to the Healthcare Integrity & Protection Data Bank (HIPDB).

**ACCEPTANCE OF FORMAL REPRIMAND AND
WAIVER OF RIGHTS TO NOTICE AND HEARING**

I HEREBY ACCEPT A FORMAL REPRIMAND. I STATE THAT I HAVE BEEN INFORMED OF MY RIGHTS UNDER THE UNIFORM LICENSING ACT, NMSA 1978, SECTIONS 61-1-1 THROUGH 61-1-33, INCLUDING MY RIGHT TO A WRITTEN NOTICE OF THE CHARGES AND THE GENERAL NATURE OF THE EVIDENCE, MY RIGHT TO BE REPRESENTED BY COUNSEL, MY RIGHT TO REQUEST AND HAVE AN EVIDENTIARY HEARING AND TO PRESENT ALL RELEVANT EVIDENCE BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES, MY RIGHT TO HAVE SUBPOENAS AND SUBPOENA DUCES TECUM ISSUED TO COMPEL PRODUCTION OF DOCUMENTS AND THE

APPEARANCE OF WITNESSES ON MY BEHALF, AND MY RIGHT TO APPEAL AN ADVERSE DECISION OF THE BOARD OF SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES TO THE DISTRICT COURT. I KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY WAIVE THESE RIGHTS.



Shane Jaramillo

Date: 7/25/12



Keith Rohr, Chairman
Speech-Language Pathology, Audiology &
Hearing Aid Dispensing Practices Board

Date: 7/13/12