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

11 In the Matter of the Accusation Against:
12
13 **ERIN KAYE KEENEY**
13704 Brook Way
14 Waterford, CA 95386
15 **Speech-Language Pathologist License No.**
16 **SP 13753**
17 Respondent.

Case No. 11 2008 23

ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Annemarie Del Mugnaio (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the Speech-Language Pathology, Audiology and Hearing Aid
23 Dispensers Board, Department of Consumer Affairs.
24 2. On or about October 22, 2003, the Speech-Language Pathology and Audiology
25 Board¹ issued Speech-Language Pathologist License Number SP 13753 to Erin Kaye Keeney

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27 ¹ Effective January 1, 2010, the agency name was changed due to the merger of the
28 Hearing Aid Dispensers Bureau into the Speech-Language Pathology and Audiology Board,
creating the Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board.

1 (Respondent). The Speech-Language Pathologist License was in full force and effect at all times
2 relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Speech-Language Pathology, Audiology and
5 Hearing Aid Dispensers Board, under the authority of the following laws. All section references
6 are to the Business and Professions Code unless otherwise indicated.

7 4. Section 2531.5 of the Code provides that the board shall issue, suspend, and revoke
8 licenses and approvals to practice speech-language pathology and audiology as authorized by this
9 chapter.

10 5. Section 2533 of the Code provides that "the board may...suspend, revoke, or impose
11 terms and conditions upon the license of any licensee if he or she has been guilty of
12 unprofessional conduct. Unprofessional conduct shall include, but shall not be limited to, the
13 following:

14 ...

15 (g) Other acts that have endangered or are likely to endanger the health, welfare, and safety
16 of the public."

17 6. Section 2530.2 (h) of the Code provides that "Speech-language pathology aide"
18 means any person meeting the minimum requirements established by the board, who works
19 directly under the supervision of a speech-language pathologist.

20 7. Section 2530.5 of the Code, states, in pertinent part:

21 "(d) Nothing in this chapter shall be construed as restricting the activities and services of a
22 student or speech-language pathology intern in speech-language pathology pursuing a course of
23 study leading to a degree in speech-language pathology at an accredited or approved college or
24 university or an approved clinical training facility, provided that these activities and services
25 constitute a part of his or her supervised course of study and that those persons are designated by
26 the title "speech-language pathology intern," "speech-language pathology trainee," or other title
27 clearly indicating the training status appropriate to his or her level of training."

28

1 11. CCR section 1399.154.1 states:

2 Before allowing an aide to assist in the practice of speech-language pathology or audiology
3 under supervision, a supervisor shall register each aide with the board on a form provided by the
4 board and pay the registration fee required in sec 1399.157. Regardless of their title or job
5 classification, any support person who functions as a speech-language pathology aide and
6 facilitates or assists a supervisor in evaluations or treatment shall be registered with the board. In
7 the application for registration, the supervisor shall provide to the board, his or her proposed plan
8 for supervising and training the aide. The proposed plan shall be in accordance with section
9 1399.154.4 and include the supervisor's training methods, necessary minimum competency level
10 of the aide, the manner in which the aide's competency will be assessed, the persons responsible
11 for training, a summary of any past education, training and experience the aide may have already
12 undertaken, the length of the training program and assessment of the aide's competency level.
13 The board shall review the application for compliance and notify the supervisor of its disposition
14 of the application for registration and whether further information is required in order to complete
15 its review.

16 Supervision Requirements

17 12. CCR section 1399.154.2 states:

18 A supervisor of a speech-language pathology or audiology aide shall:

19 (a) Have legal responsibility for the health, safety and welfare of the patients.

20 (b) Have legal responsibility for the acts and services provided by the speech-language
21 pathology or audiology aide, including compliance with the provisions of the Act and these
22 regulations.

23 (c) Be physically present while the speech-language pathology or audiology aide is
24 assisting with patients, unless an alternative plan of supervision has been approved by the
25 board...

26 (d) Evaluate, treat, manage and determine the future dispositions of patients.

27 (e) Appropriately train the speech-language pathology or audiology aide to perform duties
28 to effectively assist in evaluation and/or treatment. A supervisor shall establish and complete a

1 training program for a speech-language pathology or audiology aide in accordance with Section
2 1399.154.4 which is unique to the duties of the aide and the setting in which he or she will be
3 assisting the supervisor.

4 (f) Define the services which may be provided by the speech-language pathology or
5 audiology aide. Those services shall not exceed the competency of the aide as determined by his
6 or her education, training and experience, and shall not include any treatment beyond the plan
7 established by the supervisor for the patient. ”

8 Training Requirements

9 13. CCR section 1399.154.4 states:

10 “Before a speech-language pathologist or audiologist allows an aide to assist in the practice
11 of speech-language pathology or audiology under his or her supervision, a speech-language
12 pathology or audiology aide shall complete a training program established by the supervisor. The
13 training program shall include, but is not limited to:

14 (a) Instruction in the skills necessary to perform any acts or services which are the practice
15 of speech-language pathology or audiology as defined in Section 2530.2 of the code. The
16 supervisor is not required to repeat any training which may have already been received by the
17 aide because of any prior education, training and experience.

18 (b) A supervisor shall require a speech-language pathology or audiology aide to
19 demonstrate his or her competence to perform any acts or provide any services which are the
20 practice of speech-language pathology or audiology as defined in Section 2530.2 of the code
21 which may be assigned to the aide or which the aide may provide to patients. A supervisor shall
22 allow a speech-language pathology or audiology aide only to perform those acts or to provide
23 those services for which he or she has been provided training and has demonstrated competency.

24 (c) A supervisor shall instruct a speech-language pathology or audiology aide as to the
25 limitations imposed upon his or her duties, acts or services by these regulations, by his or her
26 training and skills and by the evaluation and treatment plan for any patient.”

27 “...”

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1 14. CCR section 1399.154.6 states:

2 "Failure of a supervising licensee to comply with the provisions of this article may result in
3 a forfeiture of the privilege to supervise an aide."

4 COST RECOVERY

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

9 FIRST CAUSE FOR DISCIPLINE

10 (Failure to register aides)

11 16. Respondent is subject to disciplinary action in that Respondent employed two
12 individuals as speech-language pathology aides but never registered them as aides with the board,
13 in violation of code sections 2530.6 and CCR 1399.154.1 [failure to register speech-language
14 pathology aide], which was an act likely to endanger the health, safety and welfare of the public
15 in violation of code section 2533(g).

16 The circumstances are as follows:

17 17. From on or about 2007 to the present, Respondent has owned and operated TheraCare
18 in Modesto, California. Respondent is the Clinical Director of TheraCare, which provides
19 speech-language pathology services. From approximately 2007-2009, Respondent employed her
20 husband, C.K, as a speech-language pathology aide.

21 C.K.'s treatment of Patient A.

22 18. From 2008 -2009, C.K provided approximately 10 to 12 speech-language therapy
23 sessions to Patient A, a two year old child, at TheraCare. D.F., Patient A.'s mother, was present
24 at all the treatment sessions with her child and C.K. During the sessions, Respondent was in her
25 office and on a few occasions, Respondent spoke to D.F. after a session had concluded.

26 19. Neither Respondent nor C.K. identified C.K. as a speech-language pathology aide or
27 trainee to D.F., and D.F. learned from other parents that C.K. was not licensed. When D.F.
28

1 questioned C.K. about his license status, he confirmed that he was not licensed but stated that he
2 was in school and getting experience.

3 C.K.'s treatment of Patient N.M.

4 20. From the end of 2008 through June 2009, C.K. provided speech-language therapy
5 sessions on approximately fifteen occasions to N.M., a 31 year old female. H.M., N.M.'s mother,
6 was present at all the treatment sessions, which occurred on a twice or three times weekly basis.
7 Respondent was not present in the room when C.K. provided treatment to N.M.

8 Neither Respondent nor C.K. identified C.K. as a speech-language pathology aide or trainee
9 to H.M.

10 C.H.

11 21. From August 2007 through approximately August 2008, C.H. worked at TheraCare as
12 an aide. C.H.'s job duties included assembling materials for Respondent, accompanying
13 Respondent to schools to provide therapy, and approximately twice a week, C.H. provided
14 speech-language therapy to patients.

15 22. On or about April 7, 2008, C.H. completed a form titled "Employment work
16 experience verification form for Bachelor's Degree Holders" and submitted it to the board.
17 Respondent signed the form as C.H.'s supervisor, and she and C.H. certified under penalty of
18 perjury that all statements made in the form were true and correct.

19 23. In the form, C.H. listed her employment position title as "Speech Language
20 Pathology Assistant," however, Respondent never registered C.H. as a speech-language
21 pathology assistant or as a speech-language pathology aide with the board.

22 24. Page 1 of the form states "The following information must be completed by
23 responsible supervisor and/or employer" and "list all duties/tasks performed by applicant" and
24 "type of supervision provided for tasks performed, e.g. immediate, direct, indirect, or no
25 supervision."

26 25. Under "duties/tasks performed by applicant," C.H. and/or Respondent wrote "direct
27 therapy with clients" and "direct/indirect" for the type of supervision provided. In an interview,
28 C.H. explained that she listed some of the supervision as "indirect" because Respondent was

1 physically present in the same room as C.H. and the patient about 75% of the time when C.H.
2 provided therapy, and the other 25% of the time, Respondent sat at a desk in her office and
3 observed C.H. and the patient through a large window. Respondent could see and hear C.H. and
4 was available any time C.H. asked for help, and they could hear one another through the window
5 in the middle of the wall between their two offices.

6 26. Respondent is in violation of code sections 2530.6 and 2533(g) in that she failed to
7 register C.K and C.H. as speech-language pathology aides, and Respondent failed to comply with
8 the requirements of CCR code section 1399.154.1 which requires a supervisor to register each
9 aide with the board before allowing the aide to assist in the practice of speech-language
10 pathology.

11 SECOND CAUSE FOR DISCIPLINE

12 (Failure to supervise)

13 27. Paragraphs 17 through 25 are incorporated herein.

14 28. Respondent is subject to disciplinary action in that she was not physically present in
15 the room when speech-language pathology aides C.K. and C.H. conducted treatment sessions as
16 required by CCR code section 1399.154.2 in compliance with her responsibilities as a speech-
17 language pathology aide supervisor, and Respondent failed to submit her alternate plan of
18 supervision (observing the aide and patient through a window in her office) for the board's
19 approval.

20 THIRD CAUSE FOR DISCIPLINE

21 (Failure to provide appropriate training)

22 29. Paragraphs 17 through 25 are incorporated herein.

23 30. Respondent is subject to disciplinary action under CCR section 1399.154.1
24 [supervisor's duties] and CCR section 1399.154. [training of aides] in that she failed to provide
25 the board with a proposed plan for supervising and training the speech-language pathology aides
26 C.K. and C.H.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Speech-Language Pathology, Audiology and Hearing Aid Dispensers Board issue a decision:

1. Revoking or suspending Speech-Language Pathologist License Number SP 13753, issued to Erin Kaye Keeney;
2. Ordering Erin Kaye Keeney to pay the Speech-Language Pathology, Audiology and Hearing Aid Dispensers 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: December 29, 2010 Annemarie Del Mugnaio
ANNEMARIE DEL MUGNAIO
Executive Officer
Speech-Language Pathology, Audiology and Hearing Aid
Dispensers Board
Department of Consumer Affairs
State of California
Complainant

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