

**DISCIPLINE COMMITTEE  
OF THE COLLEGE OF AUDIOLOGISTS AND  
SPEECH-LANGUAGE PATHOLOGISTS OF ONTARIO**

**B E T W E E N:**

**THE COLLEGE OF AUDIOLOGISTS  
AND SPEECH-LANGUAGE PATHOLOGISTS OF ONTARIO**

-and-

**BRENDA BERGE**

**AFFIDAVIT OF BRENDA EVELYN BERGE**

I, Dr. Brenda Evelyn Berge, in the City of Guelph, in the Province of Ontario,

MAKE OATH AND SAY:

1. I am a Doctor of Audiology and have been practicing as an audiologist in the City of Guelph since 1999 and as an owner/operator of Berge Hearing Clinic since 2004.
2. My practice operates as Berge Hearing Clinic. It provides complete and comprehensive audio-vestibular care for patients, including audiological diseases/disorders, auditory processing disorders, tinnitus and vestibular disorders, and as such I have knowledge of the matters to which I hereinafter depose.
3. I earned my Doctor of Audiology degree in 1997 from Ball State University, Muncie, Indiana, U.S.A.

4. I earned my Master of Science degree in Audiology in 1995 from Purdue University, West Lafayette, Indiana, U.S.A.
5. I earned my Honours Bachelor of Arts degree in Psychology in 1992 from Brock University, St. Catharines, Ontario, Canada.
6. I earned a Fellowship in Neuroanatomy, from Dartmouth University Medical School, in Lebanon, New Hampshire, U.S.A.
7. I am the 2013 recipient of the David Goldstein Award from the Academy of Doctors of Audiology, recognizing the accomplishments of an audiologist who has made significant contributions to the profession by promoting the transformation of audiology to a doctoral profession with the Au.D. as the distinctive designator, and who sets an example for future audiologists as well as excellence in providing quality patient care.
8. My publications, listed on my Curriculum Vitae which is attached hereto as Exhibit "A", include but are not limited to: one book chapter, one book chapter in press and many peer reviewed publications and presentations.
9. The College of Audiologists and Speech-Language Pathologists (herein after referred to as "CASLPO") have engaged in a biased, abusive, discriminatory, persistent harassment campaign against me for the past 8 years as a response to my utilization of my degree designation "Doctor of Audiology, Au.D.". The above accusations have been veiled in continuous manoeuvres to engage me, through various administrative duties of CASLPO, beginning with a purported "randomly" selected Peer Review,

and encouraging abuse of the Complaints system. In the over 8,000 patients I have had at my private practice alone since 2004, never once has a patient mistaken me for a Medical Doctor (MD) or physician, nor have they ever been confused that I practice medicine.

10. From 2001 to the present time, CASLPO has taken the position that audiologists with my qualifications and earned doctorates in audiology, when using the term 'doctor', create no confusion in the minds of the public between an audiologist and a medical doctor.
11. Furthermore and more importantly, CASLPO has taken the position that audiologists like myself, who have earned an Au.D. degree and use it in the providing of audiological healthcare create no harm to the public. I agree with the position taken by my College and I also agree with the position taken by HPRAC with respect to the utilization of the title "doctor". I, in particular, have experienced situations like that described in the HPRAC report of 2006, when HPRAC provides an example of an audiologist lecturing and dealing with audiology theory, then 15 minutes later deals with a patient in a clinical setting, and in that short time frame, can no longer refer to myself with my degree designation during the treatment of the patient. A copy of pages 1-15 and 55-60 of Regulation of Health Professions in Ontario: New Directions - 2006 (Introductory letter, Introduction and Legislative Framework is attached hereto as Exhibit "B" .

12. I use my title because it is an appropriate, factual statement that immediately informs someone of my educational level, and that in my clinical type of setting, I am not simply a hearing aid salesman. I use the title because it is clear, not confusing, and causes no harm as all of my colleagues in Europe, Mexico, South American and the United States use their title in all 50 states, therefore, I cannot understand why CASLPO is seeking to discipline me when there is no confusion and no harm, nor is there any specific prohibition in the College Regulations prohibiting use of the term doctor.
13. The College Regulations dealing with advertising do not specifically address the use of the term doctor; what is noted is that the Regulations describe dealing with appropriate advertising or inappropriate advertising, but there is no definition of what is or is not appropriate.
14. Further, while the Provincial law refers to the restriction with respect to the use of the doctor title in the course of providing or offering to provide health care to individuals in Ontario, there are no specified guidelines for the use of the term in the RHPA. In addition the College Regulation does not restrict the use of the term doctor for persons such as myself who earned a degree and use that title in a non-clinical setting, nor does the provision restrict the use of the term doctor in other contexts such as academia or social settings. I do not understand how it can be a disciplinary offence and be an act of professional misconduct or conduct unbecoming an

audiologist, when I am engaging in a practice recommended by CASLPO to the Minister of Health in its response to the HPRAC report to the Minister of health.

15. While the HPRAC report details the initial rationale of Section 33 of the RHPA, that section has no rational application today. The original purpose of the legislation, said to be the avoidance of confusion with members of the medical profession, can no longer be true because many of my patients find me through Google and the internet and in my advertising there is no possibility of confusing me as a medical doctor when I am a doctor of audiology. My patients have never voiced that confusion.
16. I have treated over 8,000 patients without anyone ever mistaking me for an MD. Indeed, other medical doctors refer to me as doctor, but they certainly don't confuse me with an MD. They are well aware of the reason that they make a referral to me and what my scope of practice is for co-managing care of their patient.
17. The issue of the simple use of the title 'doctor' causing confusion and harm to the public can no longer be sustained and validated. Patients in the Province of Ontario over two decades ago were seemingly deemed less intelligent than the rest of Canada, as this "protection" does not exist in other Provinces in Canada. Further, it is an antiquated opinion that can no longer be verified in this current time. Patients that visit a dentist in the Province of Ontario are not confused and think that a dentist is an MD, they

know that type of 'doctor' is a Doctor of Dental Surgery (DDS), and the dentist works on their teeth and mouth, not their stomach. Similarly, when a patient wants their neck or spine adjusted and they contact a Chiropractor (DC), they are not confused that the 'doctor' in that office is an MD. They are a Chiropractor, a 'back doctor', and they will not be taking their blood. When a patient wants a set of glasses and chooses an Optometrist's office, they are not confused that the doctor in that office is an MD. The patient knows an Optometrist (OD), is an eye doctor, and the patient is aware that they are having their vision and eyes examined, not their bowels. In each of these cases, the patient is making an informed choice as to the type of "doctor" with whom they are choosing to book a consultation.

18. The term physician connotes a Medical Doctor (MD), while the term "doctor" is more broad and now naturally elicits the question "what kind of doctor are you?" which clearly reveals that the person is aware that there are many types of doctors. In Ontario, this now includes Doctors of Traditional Chinese Medicine and Acupuncture, and the public apparently is now, only recently, no longer confused by them using the title "doctor".
19. Finally, the patient's belief system and knowledge is confirmed when the patient attends those offices and views the diploma on the wall which stipulates exactly the type of "doctor" and the degree earned by that particular practitioner.

20. I strongly object to the misrepresented malicious portrayal that CASLPO projects of my person, integrity and standing in my community and profession, all under the guise of protecting the public from confusion and harm by my actions.
21. These incursions and incessant critical attacks by CASLPO brought against me (but not by others who advertise as Dr.) and by those who do not have my degree and who are seemingly in financial competition with me who make complaints to my regulatory body are certainly defaming my reputation. The College has posted the impending Discipline Hearing, these claims and accusations on the Internet with for the last three years. Those replicated posts of the exact same claim read as though I have already been deemed guilty of those claims of misconduct.
22. The malicious misrepresentations of my purported ethical transgressions of behavior “unbecoming” of an audiologist are not only vexatious and harmful, but are offensive and utterly false. The abuse of this College with the protracted delays when the issues have been delineated since 2007, are an abuse of power and are bullying tactics to maintain unwarranted, unstated, but constant threats as a form of professional harassment and defamation of my character, reputation, and practice.
23. My goal as a Professional is to not only educate my patients and other professional colleagues, but to educate the public of the duties and functions of an Audiologist who properly take an oath to serve their

patients with dignity and respect. In my opinion, this includes informing the public of my qualifications as a Doctor of Audiology which is an earned residential clinical doctoral degree, and the duties of such and how that differs in the educational level from other individuals that perform hearing screenings and sell hearing aids. The above rationale attacks the very essence of CASLPO's accusations of my attempt to misrepresent myself, cause confusion, and cause harm to the public.

24. My desire to protect the public is done so specifically by informing them of the qualifications of an Au.D. or Masters level Audiologist as compared to an unlicensed, lesser educated para-professional of a hearing aid salesman that attend a community college to take a formerly one but now a two year College diploma. CASLPO takes no actions against these para-professionals when they use protected terms and do not enforce a cease and desist when a hearing aid salesman refers to their hearing screening as audiological testing, and/or when they are performing the Controlled Act of prescribing a hearing aid, which is limited to licensed physicians and audiologists in the Province of Ontario.
25. An educated person would argue that such a person misrepresenting ones education, qualifications and training by utilizing a term falling under the protected realm with title and meaning (ie. stating they perform "audiological tests") is harmful to the public as it is an overt and fraudulent act and misrepresentation of their person. Further, the two year college



diploma level of education of a hearing aid salesman, in Ontario under the RHPA, has been deemed to be insufficiently qualified to perform the Controlled Act of writing a prescription for a hearing impaired person.

26. These para-professionals further confuse the public with their self-proclaimed and self-elevated titles and terminology for their College diplomas for which they now refer to themselves as Hearing Instrument Specialists, (HIS). The term 'Specialists' in this Province, under the RHPA, is a term reserved for those earning recognition over and above the doctoral designation. The term Specialist is a term I am not permitted to use even with a fellowship in Neuroanatomy and Auditory Processing from an Ivy League Medical School, or my having Board Certification from the American Institute of Balance, having been trained and certified by the world leading expert in Dizziness and Vertigo, as the College has not identified any Specialty Certificates in all the years that it has been functioning. The other terminology utilized by this group of hearing aid salesmen is the term Hearing Instrument Practitioner (HIP) "practitioner" a definition which is not met by their 1-2 year College diploma. This is an example of self-puffery and false claim for which CASLPO refuses to take a stand to protect the public by ensuring that audiologists hired by them are held to the same duty of care to patients, and NOT, as is the current policy of the College, to refuse to enforce duty of care, and to absolve the member of all ethical obligations, duties, responsibilities and governance of

regulations due to the very fact that they are employed by a hearing aid salesman or company.

27. The public does not hear of nurses hiring physicians, or hygienists hiring dentists, and would never expect that the doctor in either of those two scenarios would have their duties absolved because of the employment status by the College of Physicians and Surgeons of Ontario and College of Dental Surgeons of Ontario.
28. CASLPO is the only regulatory body that permits the higher educated professional to be employed by the lesser educated para-professional and not insist that the member ensure patient protection by making decisions that put the patient first, not the member's job. This was evidenced in CASLPO's recent 19 year old Draft Regulation that was recently recirculated for comment again on Advertising and Professional Misconduct which serves to only control and enforce practitioners who are private practitioners only, and not employed which is conservatively less than 20% of CASLPO membership and has still not been put in to force.
29. My personal involvement on this topic, advocating for patient protection, dates back to my first comment submission to CASLPO in 2001, and speaks to my desire to inform and properly educate the public with my involvement with the Ontario Provincial Police, AntiRackets Division in their case investigating hearing aid salesman selling hearing aids without prescriptions. CASLPO took no action or involvement and dismissively say

that the salesman are not licensed and cannot be regulated. However, this is not true/factually accurate when CASLPO warned that fines would be levied with any further contraventions. However CASLPO elected NOT to pursue such dealers committing fraud and enforce their power and position as the licencing body that requires their duty to protect the public for those contravening the Act.

30. It is mind baffling and utterly confusing that CASLPO seeks to discipline only my use of the title doctor. CASLPO has made this a very personal visible attack and has elected to discipline only me for my use of the title in the absence of any past members of various College Committees upon their utilization of their 'doctoral' title. This has been a prolonged personal biased vendetta that CASLPO has permitted and has even attempted to facilitate members of the Executive Committee to act as my Peer Reviewer in order to get inside my office to engage in a fishing expedition. The Executive and Counsel for the College have seen fit to abuse their powers and not to dispose of Complaints reported within the 150 day time stipulated in the regulations/legislation. In this current Discipline Hearing, the College is facilitating an ongoing Complaint reported by a member of one of the College Committees, who used privileged information to lay a complaint against me of my use of the title doctor, in order to assist a past business acquaintance in Guelph, in attempting to harm my practice. This Complaint continues in this Discipline Hearing, and occurs in the absence

of making a complaint regarding patient care, all in an effort to increasingly investigate my practice in a harassment campaign to bully me personally, professionally attack my reputation, and to attempt to harm my practice financially.

31. More confusing is that since 2001 to the present time, CASLPO has taken the position that an audiologist with a doctoral degree should be able to use their title designation 'doctor' during the proffering of healthcare. This position was taken by the former Registrar of CASLPO to the Minister of Health. A copy of the CASLPO submissions to the Minister of Health is attached hereto as Exhibit "C".
32. CASLPO concurs with HPRAC on their latest submission to the Minister of Health. In light of this, I do not understand how CASLPO has undertaken this single minded, biased focus on me and my practice, to the exclusion of other members who use their degree designation, and who have held positions within the College. This arbitrary incursion to my practice and to me as the licensed practitioner occurs while CASLPO renders its official position to other parties on the topic of the utilization of the title doctor (should be permitted), yet it pursues a Discipline Hearing against one of its members for doing the very thing they say I should do.
33. The restriction by the College and the use of the Discipline process is not only discriminatory but is unfair and interferes with my freedom of expression of my rights under the *Charter*. I feel I have a right to express to

the public at large that I have an earned audiology doctor degree and I should be free to express my additional qualifications to them in order that they may make informed choices as to whom they wish to have treating them and providing hearing and balance healthcare. The actions of the College in seeking to discipline me for exercising my freedom of expression is not justifiable in this free and democratic society particularly where the College and HPRAC have advised the Ministry of Health that there are less intrusive means by which the public can be protected from those who, unlike me, are not qualified.

34. The course of this protracted three years of preparation for this Discipline Hearing can only be described as being akin to professional stalking. There is a constant stress and constant chaos with this process which leaves me with a sense of helplessness in dealing with a process that seemingly has no boundaries or rules to follow. Constant letters are sent letters to CASLPO reminding them of the rules of procedure which repeatedly get met with responses paraphrased to my lawyer with the essence being 'that is only a guideline, it is not considered abusive until it exceeds 4 years'. A reasonable person would certainly read this as the College Counsel telegraphing their intention not to dispose of a Complaint within the determined reasonable 150 day regulation/legislation/policy, of ensuring that the complaint decision is delayed. There is seemingly no mechanism

within the system for ensuring a timely hearing, akin to a trial, to resolve the looming outcome, whatever it may be.

35. Stress, lack of sleep, time loss which directly impacts on all facets of my life, loss of family time, disruption of summer vacation time for timely responses required to CASLPO counsel have been consistent over the last number of years.
36. Despite the fact that all of my colleagues in the United States and in some parts of Canada have been able to practice without fear of reprisal or being labeled unprofessional for using the term doctor, these charges have been hanging over my head and had the following impact on me my family and my employees;
  - a. Initial shock at the letter received regarding the Discipline Hearing.
  - b. Embarrassment to my personal reputation, office reputation, my employees, patients, colleagues and peers caused by having to explain the unwarranted and damaging Discipline accusations since the College posted the Hearing with accusations on the Internet.
  - c. Extreme loss of time over a number of years that are a loss of direct patient care which is a specific loss of income as I am not an employee with a salary, income is directly affected by my lack of time seeing patients.

- d. Quality of life being affected as this pervasive looming threat is an ongoing concern that results in consuming conversations that disrupt family life at all times evenings, weekends and during vacations and meetings. This is a specific attack that has already jeopardized my practice and reputation.
37. Regretfully, this whole scenario has affected my outlook toward practicing this worthy profession in Ontario, and has left me with a bad taste. It has soured my attitude to the justice of the system. The arbitrariness of rule enforcement by some of my very colleagues, against those to whom they are biased against, misusing their power behind the closed doors of the College, to exert punishment to those who do not fall in line with the opinions/positions that they hold.
38. A College that permits the arbitrary attack on some members and not others, with the inherent Conflicts of Interest, that this College cannot avoid.
39. I consider this a very noble profession that I undertook with the most passionate, and sincerest of reasons. My younger brother has had hearing loss since birth, and the care he received clinically through the diagnostics process, and rehabilitatively throughout his lifetime with hearing aids in the old Provincial system was worse than poor. My goal was to develop a practice pursuing excellence that did not exist in Canada when I embarked

upon my training and clinical rotations at many centers of distinction in the United States.

- 40. I no longer have the confidence in the justice of the system and ethics of those in power positions within the College which has left me very wary and guarded in my practice. While I have the unending support of my colleagues internationally, there certainly is not support here.
- 41. It is disheartening to know that in my home country and province of Ontario, all of the efforts of my desire to practice at a level of excellence have been denigrated because I chose not to practice basic competence. I am disheartened and cautious given these proceedings due to my need for caution.

SWORN BEFORE ME at the )  
 City of Toronto, in the Province of )  
 Ontario, this day of November, 2013 )  
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 BRENDA EVELYN BERGE

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 A Commissioner, etc.