

REM

9-12-00

Final Order No. DOH-00-2390-~~FF~~-MOA  
FILED DATE - 12/15/00  
Department of Health

AP

RECEIVED  
DEC 22  
BY: *[Signature]*

STATE OF FLORIDA  
BOARD OF HEARING AID SPECIALISTS

By: *Vicki R. Kenon*  
Deputy Agency Clerk

DEPARTMENT OF HEALTH  
BOARD OF HEARING AID SPECIALISTS

Petitioner,

vs.

DOAH CASE NOS. 00-1208, 00-1209, 00-1433  
AHCA CASE NOS. 97-21410, 98-03513, 97-15883

AHP

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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

DONALD CONLEY,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Hearing Aid Specialists (Board) pursuant to section 120.569 and section 120.57(1), Florida Statutes, on November 17, 2000, in Orlando, Florida for the purpose of considering the Administrative Law Judge's Recommended Order (attached hereto as Exhibit A). Petitioner was represented by attorney Gary Asbell and Respondent was present during the proceeding.

Upon review and consideration of the Recommended Order and after a review of the complete record in this case, the Board arrived at the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. With the concurrence of the Administrative Law Judge, Petitioner voluntarily dismissed the third administrative complaint, Case #97-15883/DOAH Case # 00-1433.

2. The findings of fact set forth in the Recommended Order are supported by competent, substantial evidence in the record.

3. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

#### **CONCLUSIONS OF LAW**

4. The Board has jurisdiction of this matter pursuant to sections 120.569 and 120.57(1), and chapter 490, Florida Statutes.

5. The conclusions of law set forth in the Recommended Order are consistent with the findings and are approved, adopted, and incorporated herein by reference.

#### **RECOMMENDATION**

6. The Administrative Law Judge's penalty recommendations are hereby approved and adopted except that the Board deems it appropriate to stay the recommended suspension for so long as Respondent remains in compliance with conditions imposed by the Board. The Board changed this portion of the recommendation after considering Respondent's contention that, if allowed to work, he will be afforded the ability to pay the fine and costs imposed herein.

#### **WHEREFORE,**

**IT IS HEREBY ORDERED AND ADJUDGED** that Respondent's license is suspended for a period of six months beginning with the filing of this Order followed by three years of probation with a stay of the suspension during compliance with conditions imposed by the Board. The period of suspension and probation shall be tolled during any period when Respondent is not working to be resumed upon resumption of employment

as a hearing aid specialist. Respondent shall select as his supervisor a licensed hearing aid specialist who meets with the approval of the Board Chair. The agreed upon supervisor shall monitor Respondent closely enough to provide the Board Chair with semi-annual reports regarding Respondent's work performance. Additionally, within six months of the date of this Order, Respondent shall pay an administrative fine of \$3,000 as well as costs of prosecution of the administrative complaints in the amount of \$2343. After one full year of probation, Respondent may request an appearance before the Board with regard to possible modification of the duration of his period of probation.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

**DONE AND ORDERED** this 30<sup>th</sup> day of November, 2000.

  
\_\_\_\_\_  
Sue Foster, Board Executive Director  
BOARD OF HEARING AID SPECIALISTS

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A party who is adversely affected by this final order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the agency clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides.

The notice of appeal must be filed within thirty (30) days of rendition of the order to be reviewed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Mr. Donald Conley, 3377 Southwest Villa Place, Palm City, Florida 34990; and by interoffice mail to Gary Asbell, AHCA Senior Attorney, 2727 Mahan Drive, Tallahassee, Florida and Donna Erlich, Assistant General Counsel, Department of Health, Tallahassee, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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**AMENDED CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Donald Conley, 3377 Southwest Villa Place, Palm City, Florida 34990, Donald Conley, 2658 McMullen Booth Road, #314, Clearwater, Florida 33761 and interoffice delivery to Gary Asbell, AHCA Senior Attorney, 2727 Mahan Drive, Tallahassee, Florida and Donna Erlich, Assistant General Counsel, Department of Health, Tallahassee at or before 5:00 p.m., this 15<sup>th</sup> day of December, 2000.

Connie Singletary