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4-23-03

Final Order No. DOH-03-0862-S -MOA

FILED DATE - 8/16/03  
Department of Health

By: Elisa Hyde  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF OPTOMETRY

AT

02-4829

DEPARTMENT OF HEALTH,  
Petitioner,

vs.

CASE NO.: ~~02-4824~~

JEFFREY FISHER,  
Respondent.

rem-clos

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RECEIVED  
STATE DEPARTMENT OF HEALTH

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FINAL ORDER

THIS CAUSE came before the Board of Optometry (hereinafter the "Board") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on July 15, 2003, in West Palm Beach, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (copies of which are attached hereto as Exhibits A) in the above-styled cause. Respondent was not present and was not represented by counsel.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 463, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are

approved and adopted and incorporated herein by reference.

3. There is competent substantial evidence to support the conclusions of law.

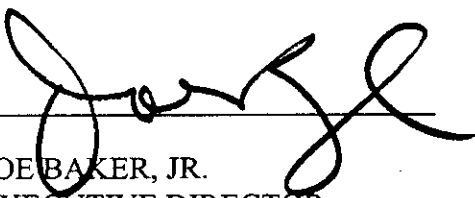
Therefore, upon a complete review of the record in this case, the Board determines that the recommendation of the Administrative Law Judge be adopted. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that: Petitioner's challenge to the clinical examination portion of the July 2002 examination be dismissed.

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

DONE AND ORDERED this 4 day of Aug, 2003.

BOARD OF OPTOMETRY

  
\_\_\_\_\_  
JOE BAKER, JR.  
EXECUTIVE DIRECTOR  
FOR RAYMOND PIERIE, O.D.  
CHAIRMAN

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 provided by U.S. Mail to ; to Jeffrey Fisher, O.D., c/o A.S. Weekly, Jr., M.D., Holland and Knight, LLP. 400 N. Ashley Drive, Ste. 2300, Tampa, Florida, 33602., and Robert E. Meale, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Cassandra Pasley, Senior Attorney, Department of Health, 4052 Bald Cypress Way, Bin A02, Tallahassee, Florida 32399-1703, on or before 5:00 p.m., this 6 day of August, 2003.

Shawn Sykes

**STATE OF FLORIDA  
BOARD OF OPTOMETRY**

**JEFFREY FISHER, O.D.,** )  
 )  
 **Petitioner,** )  
 )  
 vs. )  
 )  
 **STATE OF FLORIDA** )  
 **DEPARTMENT OF HEALTH,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )  
 /

**DOAH CASE NO: 02-4829**

**MOTION FOR BOARD'S FINAL ACTION  
TO ADOPT FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COMES NOW Respondent, Department of Health, by and through the undersigned attorney, moves that the above-styled case be scheduled before the Board of Optometry and that the Board adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law and further ordering that Petitioner failed to achieve a passing score on the optometry licensure examination administered in July 2002, and as grounds therefore states:

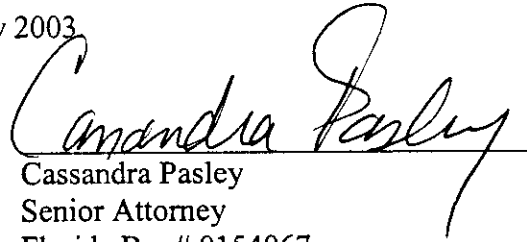
1. On April 23, 2003, Administrative Law Judge Robert E. Meale entered a Recommended Order in the above-styled cause. A copy of the Recommended Order is attached hereto, incorporated herein, and made a part hereof by reference.

2. The Honorable Robert E. Meale recommended that a final order be entered dismissing Petitioner's challenge to the clinical examination portion of the July 2002 optometry licensure examination.

WHEREFORE, Respondent, Department of Health, respectfully requests that the Board of Optometry enter a Final Order adopting the Honorable Robert E. Meale's Findings of Fact and

Conclusions of Law and further dismissing Petitioner's challenge to the clinical examination portion of the July 2002 optometry licensure examination.

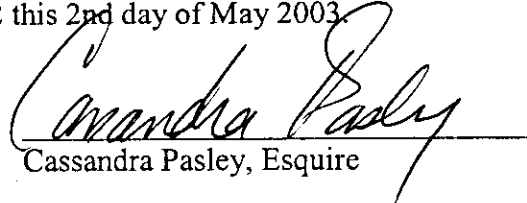
Respectfully submitted this 2nd day of May 2003.



Cassandra Pasley  
Senior Attorney  
Florida Bar # 0154067  
Department of Health  
General Counsel's Office  
4052 Bald Cypress Way, BIN A02  
Tallahassee, Florida 32399-1703  
Telephone -- (850) 245-4005  
Facsimile -- (850) 413-8743

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that the foregoing Motion has been furnished by U.S. Certified Mail Return Receipt Requested to **A. S. Weekley, Jr. M.D., Holland & Knight LLP, 400 N. Ashley Drive, Suite 2300, Tampa, Florida 33602** this 2nd day of May 2003.



Cassandra Pasley, Esquire