

PLJ

6-25-03

Final Order No. DOH-03-0873-FOF-MQA  
FILED DATE - 8/12/03  
Department of Health

By: Heather Coleman  
Deputy Agency Clerk

FILED  
03 AUG 13 PM 12:32  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

AT

**STATE OF FLORIDA  
BOARD OF HEARING AID SPECIALISTS**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**vs.**

**DOH Case Nos. 1999-62764 & 2000-0960  
DOAH Case Nos. 2003-0404 & 2003-0405**

**DONALD L. STEPHENS,**

**Respondent.**

SBK-CWS

**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 July 24, 2003, in Daytona Beach, Florida for the purpose of considering the Administrative Law Judge's Recommended Order (attached hereto).

Qualified Representative Steven Graham represented Petitioner. Respondent was not present, but was represented by attorney E. Raymond Shope.

Upon review and consideration of the Recommended Order and after a review of the available record in this case, including Respondent's Exceptions to Recommended Order (attached hereto), the Board arrived at the following findings of fact and conclusions of law:

### **EXCEPTIONS TO RECOMMENDED ORDER**

1. Respondent filed exceptions to the Administrative Law Judge's finding that Respondent violated section 484.0512(1), Florida Statutes, and Respondent contends that section 484.0512(1), Florida Statutes, is "unconstitutional vague" and in violation of the due process and the equal protection clauses of the U.S. and Florida Constitutions.

2. The Board considered and discussed the exceptions and determined that they be denied.

### **FINDINGS OF FACT**

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 part II of chapter 484, 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 recommendation is hereby approved and adopted in its entirety.

**WHEREFORE,**

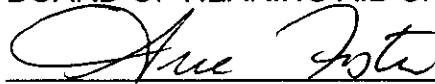
**IT IS HEREBY ORDERED AND ADJUDGED** that in Case No. 03-0404 Respondent's license is REPRIMANDED. Respondent shall pay a total of \$2,000.00 in

administrative fines (\$1000.00 - Count I, \$500.00 - Count II, and \$500 -- Count IV). Respondent shall pay administrative costs in the amount of \$359.31. All fines and costs shall be paid within 30 days of the date of this final order. Payment of the fine and costs shall be made payable to the Department of Health and shall be mailed to the Board Executive Director, 4052 Bald Cypress Way Bin C-99, Tallahassee, Florida 32399-3299. The administrative complaint in Case No. 03-0405 was dismissed.

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

**DONE AND ORDERED** this 11 day of August, 2003.

BOARD OF HEARING AID SPECIALISTS



Sue Foster, Board Executive Director

**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 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: Susan B. Kirkland, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; to E. Raymond Shope II, Esquire, 1404 Goodlette Road, North, Naples, Florida 34102; to Diane L. Guillemette, Esquire, Office of the Attorney General, The Capitol, Plaza Level 01, Tallahassee, Florida 32399-1050, and by interoffice mail to Cassandra Pasley, Senior Attorney, Department of Health, Office of the General Counsel, 4052 Bald Cypress Way, Bin A-02, Tallahassee, Florida 32399, this 12 day of August, 2003.

Sharon Dykes