

IN THE MATTER OF	*	BEFORE THE BOARD OF EXAMINERS
DEBRA A. DELLA,	*	FOR AUDIOLOGISTS, HEARING AID
Respondent	*	DISPENSERS, AND SPEECH-
	*	LANGUAGE PATHOLOGISTS
License No.: 02594	*	Case No.: 06-BP-408

* * * * *

ORDER OF REVOCATION

The State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists (the "Board") notified Debra A. Della, H.A.D. (Limited) (the "Respondent"), of its intent to PERMANENTLY REVOKE her limited license to dispense hearing aids in the State of Maryland. The Board based this action on the following provisions of Md. Health Occ. Code Ann. ("Health Occ."), Title 2 (the "Act"):

Health Occ. § 2-314:

Subject to the hearing provisions of §2-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation or suspend or revoke a license or limited license if the applicant, licensee, or holder:

- (2) Fraudulently or deceptively uses a license or limited license;
- (5) Obtains a fee through fraud or misrepresentation;
- (3) Commits fraud or deceit in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology;
- (10) Commits any act of unprofessional conduct in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology;
- (12) Violates any provision of this title;

(16) Willfully makes or files a false report or record in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology;

(18) Submits a false statement to collect a fee;

(21) Behaves immorally in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology;

(20) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain; [and]

(21) Behaves immorally in the practice of audiology, the provision of hearing aid services, or the practice of speech-language pathology.

The Board informed the Respondent that a final Order of Revocation would be executed THIRTY (30) DAYS from the Respondent's receipt of the Board's notice, unless the Respondent requested a hearing.

On 5/31/07, 2007, the Respondent received the Board's Notice of Intent to Revoke and Charges. The Board notified the Respondent in that Notice that this Order of Revocation would be executed thirty (30) days from the Respondent's receipt of the Notice unless the Respondent requested a hearing. The Respondent's written request was due on 7/5/07, 2007. The Respondent did not request a hearing by 7/5/07, 2007.

FINDINGS OF FACT

The Board finds the following facts to be true:

Factual Background

1. The Respondent was issued limited license number 02594 by the Board on or about October 25, 2004. Her limited license expired on or about October 25, 2006 and she has not applied for renewal.

2. The Respondent did not take the licensure examination at any time during the period she held an active limited license to dispense hearing aids.
3. At all times herein, the Respondent has been employed by the Better Hearing Centers or its successor entity, Hearing Health Connections (both of which will hereinafter be referred to as the "Company"). The Respondent's duties, at various times, have included clerical duties in the office, bookkeeping, and hearing aid dispensing.
4. Until late 2005, John M. Kochan ("Kochan") owned and operated the Company. On January 15, 2004, the Board issued a public order suspending Kochan's license for various violations of the Act including, but not limited to, failing to make refunds lawfully owed to hearing aid customers and dishonest business practices. The Board ultimately revoked Kochan's license on November 30, 2006 based on his failure to comply with the terms of the Board's order and his ongoing violations of the Act.

Current Allegations

5. During the Board's investigation of complaints it had received regarding Kochan, the Board discovered that the Respondent had engaged in a pattern of fraudulent activity related to her duties at the Company.
6. Specifically, the Board discovered that the Respondent was involved in a fraud scheme intended to defraud both hearing aid customers and a consumer loan company (the "Lender") with which the Company had contracted to provide financing to individuals who purchased hearing aids from the Company.

7. The Company's relationship with the Lender began in 2004 and ended after the Lender discovered the Respondent's fraud scheme in October 2005.
8. The Lender is a nationally known consumer loan company which was supposed to be utilized by the Company as a resource for consumer loans to help customers finance hearing aid purchases which can range from approximately \$4,000 to \$8,000 or more in some cases. In support of this relationship, the Lender and the Company developed an arrangement wherein the funds loaned to consumers for hearing aid purchases would be electronically deposited into the Company's business checking account. Under this arrangement, the transactions would occur without the hearing aid/loan consumer ever physically signing a check or credit card receipt.
9. During the course of the Board's investigation of a complaint regarding the Company to the Board, the investigator contacted the Lender via subpoena and discovered that the Lender had records of at least thirteen (13) customer accounts wherein the customer's addresses had been changed to 3210 Eastern Avenue, Baltimore, Maryland, which is the Company's storefront location. Each of the thirteen accounts remained in the name of individuals who had purchased hearing aids from the Company and were based on those individuals' credit history.
10. For each of the thirteen accounts mentioned above, the Lender provided copies of billing statements, copies of payment checks and other relevant correspondence.

11. The documents provided by the Lender indicated that in most cases, the credit application was received electronically by the Company and did not include a credit application signed by the customer.
12. The billing statements reflected numerous missed and late payments, monthly late fees of \$35 charged to the accounts and several "over the limit" fees.
13. The copies of payment checks indicated that the Company had made numerous payments from its business checking account towards the consumer loan accounts maintained by the Lender in the names of the thirteen hearing aid customers. Each of the checks from the company bore the cursive signature of "John Kochan."
14. In addition, the Lender provided copies of several payment checks from the joint checking account Respondent shares with her husband which were signed by the Respondent.
15. The Board's investigator interviewed hearing aid customers whose Lender account addresses had been changed to that of the Company. Their addresses had been changed without their knowledge or consent.
16. When interviewed, several of the customers alleged that they had been upset by receiving billing statements and dunning telephone calls from the Lender when they had not financed their hearing aid purchase through the Lender and/or had returned their hearing aids within the 30-day return period and therefore did not owe any money for them.

17. Several customers indicated that when they called the Company to complain that they were receiving bills in error from the Lender, the Respondent told them to send the statement to her and she "would take care of it."
18. For example, in 2004 Worker's Compensation paid more than \$8,000 for Customer A's¹ hearing aids because his hearing loss was work related. Thereafter, Customer A was surprised to receive billing statements from the Lender indicating that \$8,000 was owed on the account. The records from the Lender indicated that it had opened an account in Customer A's name and had paid \$8,000 to the Company in the name of Customer A. Therefore, the Company received \$16,000 in payment for Customer A's hearing aids. Customer A's account was charged \$35 late fees on at least seven (7) occasions. The Lender's records regarding Customer A's account included a copy of a check from the Company's checking account with "John Kochan" on the signature line.
19. Customer B is another victim of the Respondent's fraud scheme. Customer B purchased hearing aids in June 2005 for \$3,900 from the Company but then returned them within the 30 day return period. He never applied for a loan from the Lender. Some months after his purchase and return, he began to receive dunning telephone calls from the Lender. The Lender's account records for Customer B indicate that the address was changed to the Company's 3210 Eastern Avenue address in or around August 2005. The Lender's records also include copies of three (3) checks from the Company's checking account with

¹ The names of the hearing aid customers have been omitted for confidentiality purposes. They are available to the Respondent from the Administrative Prosecutor upon request.

"John Kochan" on the signature line and one (1) check from the Respondent's personal checking account she shares with her husband which was signed by the Respondent. There were three (3) \$35 late fees charged to the account for missed payments.

20. During an interview with the Board's investigator, the Respondent admitted to being involved in a fraud scheme which consisted of using hearing aid customers' credit and the Lender's cash to keep the Company afloat. She admitted that when hearing aid customers who had financed their hearing aid purchases through the Lender returned their hearing aids, she would not refund the funds paid to finance the purchase to the Lender. Instead, she would switch the address on the account so that the statements would go to her at her home address or at the Company. She would then make payments on the accounts using either the Company checking account or her personal checking account.
21. The Respondent admitted that she would forge Kochan's signature on the Company checks and stated that she had blanket permission to sign his name on checks as the bookkeeper for the Company. She confessed that she had engaged in the fraudulent activity regarding the consumer loan accounts entirely on her own and that Kochan had neither known about nor condoned her conduct.
22. The Respondent further admitted that she had taken out at least two (2) personal loans, without her husband's knowledge, for several thousand dollars in order to continue to make the payments on the customers' accounts.
23. She stated that she did not believe that her actions were illegal or unethical because the customers' accounts were being paid. She further stated that she

believed that her fraudulent conduct was actually helpful to the customers because the accounts were being paid.²

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the violator violated Health Occ. § 2-314 (2), (5), (3), (10), (12), (16), (18), (21), (20), and (21) by engaging in unprofessional and fraudulent conduct with respect to her misuse of hearing aid customers' consumer credit accounts and the Lender's funds intended to be used to finance hearing aid purchases.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of July, 2007, by a majority of a quorum of the Board considering this case,

ORDERED that the Respondent's limited license to dispense hearing aids be and hereby is **PERMANENTLY REVOKED**; and it is further

ORDERED that this is a **FINAL ORDER** of the Maryland State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists and as such is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. §§ 10-611 *et seq.* (2006).

7/19/07
Date


Richard Robinson, M.S., CCC/SLP
Chair, Board of Examiners for
Audiologists, Hearing Aid Dispensers, and
Speech-Language Pathologists

² As noted above, many of the monthly payments were missed and/or late thereby harming the customers' credit ratings.

NOTICE OF RIGHT OF APPEAL

Pursuant to Md. State Gov't. Code Ann. § 10-222, the Applicant has the right to take a direct judicial appeal. Any appeal shall be made as provided for judicial review of a final decision in the State Government Article and Title 7, Chapter 200 of the Maryland Rules.

If the Respondent files an appeal, the Board is a party and should be served with the court's process. In addition, the Respondent should send a copy to the Board's counsel, Delia T. Schadt, Assistant Attorney General, at the Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is not involved in the circuit court process and need not be served or copied on pleadings filed in that court.