

IN THE MATTER OF * **BEFORE THE MARYLAND STATE**
ANDREW C. DIAS, JR., HAD * **BOARD OF EXAMINERS FOR**
RESPONDENT * **AUDIOLOGISTS, HEARING AID**
* **DISPENSERS, SPEECH-**
License Number: 02352 * **LANGUAGE PATHOLOGISTS,**
* **AND MUSIC THERAPISTS**
* **Case Number: AHS-11-2021**

CONSENT ORDER

On or about February 2, 2021, the Maryland Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists, and Music Therapists (the "Board"), received an anonymous complaint regarding the Dr. Mullins Hearing Center, owned and operated by Andrew Dias (the "Respondent"). The complaint alleged that the name of the business was misleading to consumers, giving the impression that a physician or other medical professional worked at the Hearing Centers, or that a medical service was being offered on the premises. On September 29, 2021, the Board charged the Respondent with violations of the Maryland Audiology, Hearing Aid Dispensing, Speech-Language Pathology, and Music Therapy Act (the "Act"), Md. Code Annotated, Health Occupations Article ("Health Occ."), § 2-101 *et seq.* and the Code of Maryland Regulations (COMAR), Chapter 10, Subchapter 41.

On October 14, 2021, a Case Resolution Conference was held, attended by the Respondent, the Administrative Prosecutor, and members of the Board. On October 21, 2021 the

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Board voted to offer a Consent Order to the Respondent in lieu of a formal hearing. As a result of that offer, the Respondent and the Board agreed to the following Consent Order.

FINDINGS OF FACT

The Board finds that:

1. The Respondent was originally licensed to practice hearing aid dispensing in Maryland on March 2, 1994 under license number 02352. The Respondent's license is currently valid through January 31, 2023.
2. In February 2021, the Board received a complaint alleging that the Dr. Mullins Hearing Center, with locations in Waldorf, Maryland, and Bowie, Maryland, was operating under a misleading name, there being no doctor on the premises. The Board voted to refer the matter for investigation.
3. This investigation revealed that the Dr. Mullins Hearing Centers operates two locations in Prince George's County, Maryland. Both are owned by the Respondent.
4. The investigation further revealed that the Centers' website, email addresses, business cards, and pre-printed customer paperwork list the name of the Centers as "Dr. Mullins Hearing Centers." Telephone calls placed to the phone numbers listed on the website were greeted by a receptionist stating that the caller had reached "Dr. Mullins Hearing Centers."

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5. There is no audiologist, physician, or other professional with credentials meriting the title of "doctor" employed by, or currently affiliated with, the Hearing Centers. No medical services are offered at the Hearing Centers.

6. The investigation revealed that the business was named for an audiologist and mentor of the Respondent. That audiologist has never had any formal relationship with the hearing centers, although the Respondent reported that he had performed consultations for the practice in the past. The audiologist in question is currently retired and living out of State.

7. At no time was that audiologist employed by the Hearing Centers, nor did the audiologist own any portion of the business.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that the Respondent violated 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:

...
(7) Uses or promotes or causes the use of any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation;

(8) In the practice of audiology, hearing aid dispensing, or speech-language pathology, or assistance of the practice of speech-language pathology:

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- (i) Falsely represents the use or availability of services or advice of a physician; or
- (ii) Misrepresents the applicant, licensee, or holder by using the word "doctor" or any similar word, abbreviation, or symbol if the use is not accurate;

...

- (11) Violates any lawful order given or regulation adopted by the Board;
- (12) Violates any provision of this title;

...

Health Occ., § 2-314.3 states:

Misrepresenting Scope of Business

While practicing hearing aid dispensing, a hearing aid dispenser may not misrepresent the place of business of the person by use of the word "clinic" or any similar word, abbreviation, or symbol to indicate falsely that a medical service is provided at that place.

COMAR 10.41.02.03(A) states, in the relevant parts:

Advertising

- A. The licensee may not include statements in advertising that:
 - (1) Misrepresent facts;
 - (2) Are likely to mislead or deceive because in context the statements make only a partial disclosure of relevant facts;

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...

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that, the Respondent's license to practice hearing aid dispensing in the State of Maryland is hereby placed on **PROBATION** until completion of all conditions listed under (2) below, subject to the following conditions:

1. The Respondent's hearing aid dispenser license, No. 02352 status shall be listed on the Board's website as being on "Probation."
2. The Respondent shall provide to the Board evidence of:
 - a. The deactivation of "drmullins.biz" and any other website representing that a doctor or medical service is affiliated with any hearing aid dispensing business owned or operated by the Respondent, unless a medical service is being offered therein.
 - b. The deactivation (as opposed to redirection) of the "drmullins.biz" email addresses affiliated with the Respondent's businesses, including, if necessary, the new email address to be affiliated with the Respondent's businesses.
 - c. Removal of all misleading advertising and promotional materials, or website content representing that any medical service is offered at the Respondent's

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businesses, or that any employee or affiliate holds a medical or doctoral degree, and assurance that all advertising and promotional materials, website content, business cards, or similar accurately represent the licensing and credentialing of the ownership and employees of the business.

3. The Respondent shall continue to comply with all laws and regulations governing the practice of hearing aid dispensing in Maryland.

4. The Respondent is responsible for the cost of compliance with the terms and conditions set forth in this order; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board is statutorily authorized to impose in this case under § 2-314 of the Act, including a reprimand, additional probation, suspension, or revocation, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that upon completion of all conditions listed under item (2) above, the Board may consider a petition for termination of the Respondent's probationary status, provided that she has been satisfactorily compliant with the probationary terms of this Consent Order; and it is further

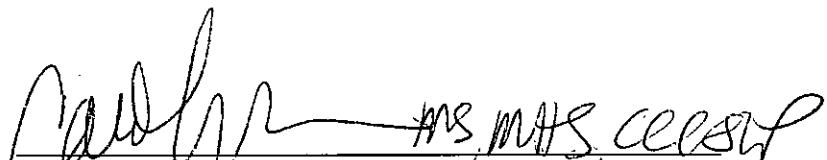
ORDERED that the Respondent shall comply with the Maryland Audiology, Hearing

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Aid Dispensing, Speech-Language Pathology and Music Therapy Act, Health Occ., § 2-101 *et seq.*, and all federal and State laws and regulations governing the practice of hearing aid dispensing in Maryland; and it is further

ORDERED that this is a Final Decision and Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Maryland Code Annotated, General Provisions Article § 4-101 *et seq.*

12/16/21
Date


Carolyn Stine, MS, MHS, CCC-SLP, Chair
Maryland Board of Examiners for Audiologists,
Hearing Aid Examiners, Speech-Language Pathologists,
and Music Therapists.

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact and accept and submit to the foregoing Consent Order and its conditions. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent order. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on

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my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.

11-18-21

Date



Andrew C. Dias, Jr., License No. 02352

NOTARIZATION

STATE: MARYLAND

CITY/COUNTY: CHARLES

I HEREBY CERTIFY that on this 18 day of NOVEMBER, 2021, before me, a Notary Public of the State and City/County aforesaid, personally appeared **Andrew C. Dias, Jr.** and made oath in due form of law that the foregoing was the voluntary act and deed of **Andrew C. Dias, Jr.**

AS WITNESSETH my hand and Notarial Seal.

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SEAL

KATHERINE BOGAN SHEPHERD
Notary Public
Prince George's County
Maryland
My Commission Expires Sept. 17, 2022

Katherine Shepherd

Notary Public

My Commission Expires: 9/17/22

