



Effective July 1, 2013

May 16, 2013

*Protecting, maintaining and improving the health of all Minnesotans*

Michelle M. Lee

RE: MDH File Number: HDC12015

Dear Ms. Lee:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) has determined that you did not cooperate with a MDH investigation, in violation of Minnesota Statutes, section 153A.15, subdivision 1(13). Therefore, MDH is suspending your hearing instrument dispenser certification. To reinstate your certificate, you must cooperate with the investigation, submit a civil penalty of \$265 representing the cost of the investigation to date and make a written request for reinstatement of your certificate to dispense hearing instruments. This action is authorized under Minnesota Statutes, sections 153A.15, subdivision 2, clauses (3), (4) and (9).

This decision will be made final and effective 30 days from the date it is received by you. During that 30-day period, you have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. Requests for a hearing should be made in writing and include specific grounds for challenging the Department's decision. If you wish to request a hearing, please send a written hearing request, within 30 days of your receipt of this letter, to:

Anne Kukowski, MS, JD  
Assistant Director, Health Occupations Program  
Minnesota Department of Health  
PO Box 64882  
Saint Paul, MN 55164-0882

You may also deliver your request to 85 East Seventh Place, Suite 220, Saint Paul, MN; or fax it to Ms. Kukowski at (651)201-3839. If you have any questions about this matter, please contact Catherine Dittberner Lloyd at (651)201-3706.

Sincerely,

Darcy Miner, Director  
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Assistant Director, Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM  
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of  
Michelle M. Lee  
Hearing Instrument Dispenser**

**AUTHORITY**

1. Pursuant to Minnesota Statutes, section 153A.15, subdivision 1(13), a hearing instrument dispenser is prohibited from failing to cooperate with the commissioner, the commissioner's designee, or the advisory council in any investigation.
2. Minnesota Statutes, Section 153A.15, subdivision 2 authorizes the Department to take disciplinary action against hearing instrument dispensers. The types of disciplinary action the Department may impose include, but are not limited to one or more of the following: revoke or suspend the certificate; impose a civil penalty that reimburses the Department for costs of the investigation and proceedings; censure or reprimand the dispenser; or any other action reasonably justified by the individual case. Pursuant to Minnesota Statutes, Section 13.41, disciplinary actions are public data.

**FINDINGS OF FACT**

1. Michelle M. Lee (hereinafter "Practitioner") has been a certified hearing instrument dispenser since October 1995.
2. Practitioner owns and operates "The Hearing Store" located in Robbinsdale, Minnesota, with offices in St. Louis Park and Saint Paul, Minnesota.
3. By letters dated April 10, 2012, September 20, 2012, and February 21, 2013, the Minnesota Department of Health (MDH) asked Practitioner to provide information related to a consumer's purchase of hearing instruments referenced in MDH File No. HDC12015.
4. In its February 21, 2013 letter, MDH advised Practitioner to submit a response on or before March 21, 2013 to avoid disciplinary action against her certificate for failure to cooperate in an investigation. Practitioner was further advised the disciplinary action MDH may take include, but is not limited to: revocation of the certificate, suspension of her certificate, imposition of a civil penalty not to exceed \$10,000 for each violation; and a civil penalty that deprives the Practitioner of the economic advantage gained by the violation and that reimburses MDH for the costs of the investigation.
5. Practitioner has not responded.

## CONCLUSION

Practitioner has failed cooperate in MDH's investigation in violation of Minnesota Statutes, section 153A.15, subdivision 1, clause (13).

## DETERMINATION

1. Practitioner right to dispense hearing instruments is hereby suspended.
2. To reinstate her right to dispense hearing instruments in the State of Minnesota, Practitioner must:
  - a. Satisfactorily respond to MDH's investigation.
  - b. Request in writing that her certificate to dispense hearing instruments be reinstated.
  - c. Pay a civil penalty of \$265.00 representing the cost of the investigation to date. The payment of \$265.00 shall be in the form of a money order or check made payable to: "Treasure, State of Minnesota" and mailed to: Health Occupations Program, Investigations and Enforcement Unit, Minnesota Department of Health, P.O. Box 64882, Saint Paul, MN 55164-0882.
3. This Determination does not preclude MDH from taking other disciplinary actions against the Practitioner for other violations of Minnesota Statutes, Chapter 153A.