

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the Examination for  
Certification as a Hearing Instrument  
Dispenser by Andrew Gott

**PROTECTIVE ORDER**

This matter is pending before Administrative Law Judge Beverly Jones Heydinger pursuant to a Notice of and Order for Hearing dated May 19, 2005. The Department of Health has brought a motion for a Protective Order to limit disclosure of any documents containing data classified as private, confidential or otherwise “not public” under the Minnesota Government Data Practices Act and other applicable law that relate to Mr. Gott’s application for certification as a hearing instrument dispenser. The Department also requested that the hearing in this matter be closed and the hearing record be sealed in order to maintain the not public nature of the data.

Audrey Kaiser Manka, Assistant Attorney General, 445 Minnesota Street, Suite #1200, Saint Paul, Minnesota 55101-2130, appeared on behalf of the Department of Health. There was no response to the motion by Andrew Gott.

Pursuant to Minn. Stat. § 13.03, subd. 6, and the files and proceedings herein, the Administrative Law Judge finds that the testimony and evidence to be adduced at the hearing in this matter may include data that is classified as “not public”. Therefore in order to protect the data,

IT IS HEREBY ORDERED:

1. Data that is classified as “not public” under Minn. Stat. Ch. 13, specifically Minn. Stat. §§ 13.34 (examination data), and 13.41 (licensing data) or other applicable law, contained in the Department’s case file or offered as evidence at hearing, shall not be disclosed in the course of this proceeding except as follows:

- (a) To the parties in this matter or attorneys representing the parties or their employees assisting counsel in the preparation of the case;
- (b) Witnesses subpoenaed or otherwise called to testify at the hearing.

2. “Not public” data may be used only for purposes of this litigation, including discussion with investigators, employees and witnesses as necessary to prepare for or

conduct the hearing, and shall not be disclosed to individuals or for purposes not set forth herein.

3. All persons having access to “not public” data herein shall be informed of the Protective Order and are bound by its terms. Mr. Gott and each attorney bears full responsibility for compliance with this Order by persons to whom they have disclosed “not public” information.

4. The parties shall clearly designate “not public” information to avoid inadvertent disclosure. “Not public” documents shall be kept in a separate file or envelope so marked. The originals and copies of deposition or hearing transcripts, or portions thereof, containing “not public” data shall bear the legend “CONFIDENTIAL – CONTAINS NOT PUBLIC DATA” and shall be maintained in a separate file or envelope.

5. Upon appropriate request of the parties, portions of the hearing in this matter will be closed and the hearing record will be sealed to the extent needed to permit free discussion of not public data.

6. Should any party seek to use the information subject to this Order in a manner inconsistent with this Order, that party shall bring a motion before the Administrative Law Judge with notice to the other party, requesting permission to use the information and detailing the reasons for the request.

7. Andrew Gott shall return all copies of examination data subject to this Protective Order to the Department at the close of the proceedings or when the time to appeal has expired, with the exception of data already disclosed to him pursuant to Minn. Stat. § 13.34.

8. This Protective Order may be modified or amended by agreement of the parties and notice to the Administrative Law Judge, or upon application to the Administrative Law Judge for good cause shown.

9. Nothing in this order is intended to limit the availability of judicial review of the Commissioner’s final order as provided by Minn. Stat. §§ 14.63-.69.

Dated this 15th day of June, 2005.

/s/ Beverly Jones Heydinger  
BEVERLY JONES HEYDINGER  
Administrative Law Judge