

IN THE MATTER OF	*	BEFORE THE MARYLAND
LaVergne Andre-Hayes, D.P.M.	*	STATE BOARD OF PODIATRIC
RESPONDENT	*	MEDICAL EXAMINERS
License Number 01101	*	Case Number: 2023-012

* * * * *

PRE-CHARGE CONSENT ORDER OF REPRIMAND

In August 2023, the Maryland State Board of Podiatric Medical Examiners (the “Board”) initiated an investigation of Podiatrist La Vergne Andre, D.P.M. (hereinafter referred to as the “Respondent”). Based on its investigation, the Board voted to offer a Pre-Charge Consent Order of Reprimand to the Respondent, in lieu of issuing Charges for violations of the Maryland Podiatric Medical Examiners Act (the “Act”), codified at Md. Code Ann., Health Occ. (“Health Occ.”) §§ 16-101 *et seq.* (2023), and the regulations adopted by the Board, at Md. Code Regs. (“COMAR”) §§ 10.40.01 *et seq.* Specifically, the Respondent appears to have violated the following provisions of the Act and COMAR:

Health Occ. §16-101. Definitions

(a) In this title the following words have the meanings indicated.

...

(f) (1) “Practice podiatry” means to diagnose or surgically, medically, or mechanically treat the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf.

(2) “Practice podiatry” does not include administration of an aesthetic, other than a local anesthetic.

Health Occ. § 16-311. Denial, suspension, or revocation of license.

(a) Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may ... reprimand any licensee or holder of a limited license, ... if the ... licensee, or holder:

(17) Behaves ... unprofessionally in the practice of podiatry;

...

(19) Violates any provision of this title; and

(20) Advertises in a false or misleading manner;

...

COMAR 10.40.06. Advertising.

.03 Advertising.

...

C. An advertisement may not include statements:

...

(4) Relating to fees without reasonable disclosure of all relevant variables so that the statement would not be misunderstood or be deceptive to a layman;

...

(6) Containing representations ... that in reasonable probability can be expected to cause an ordinarily prudent person to misunderstand or be deceived; or

...

D. A podiatrist shall be accountable under this regulation if the podiatrist uses an agent, partnership, ... to implement actions prohibited by this regulation.

COMAR 10.40.08. Interpretation of Terms in the Maryland Podiatry Act

.02 Definitions.

(5) "Unprofessional conduct" includes but is not limited to:

(a) Willful or grossly negligent failure to comply with substantial provisions of federal or State laws, rules, or regulations governing the practice of podiatric medicine;

(b) Exercising undue influence on a patient including the promotion or the sale of services, ... in such manner as to exploit the patient for the financial gain of the practitioner or a third party;

...

(d) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the podiatrist knows or has reason to know the podiatrist is not competent to perform;

...

The Board offered the Respondent an opportunity to settle this matter rather than pursuing formal charges against the Respondent. As a result of that offer, the Respondent and the Board agreed to the following Consent Order.

FINDINGS OF FACT

The Board finds the following facts.

1. The Respondent has been in private practice for 37 years.
2. The Respondent owns and operates Loving Hands Podiatry.
3. The Respondent receives referrals from private physicians, nurses, social workers, the Office on Aging, and hospice care centers.
4. The Respondent provides podiatric services to those who are homebound or have difficulty with transportation to a physician's office.
5. On or about August 18, 2023, the Respondent's Loving Hands Podiatry website stated,

Our practice accepts cash, check, and major credit cards. We will be more than happy to submit your insurance forms for you, and we accept most major insurance providers.

6. On or about August 20, 2023, Patient A's¹ daughter requested an appointment at Patient A's home with the Respondent using the appointment portal on the Loving Hands Podiatry website.
7. The Respondent responded and agreed to provide nail trimming services to Patient A at Patient A's home at a mutually agreed time.
8. During the appointment, the Respondent trimmed Patient A's fingernails in addition to providing podiatric services.
9. At the conclusion of the appointment and after all services were rendered, the Respondent requested payment. Patient A's daughter advised the Respondent that she intended to use Patient A's Medicare insurance card as the form of payment.
10. The Respondent informed Patient A's daughter that she does not participate in Medicare, provided Patient A's daughter a form labeled "Medicare Private Contract" and requested payment in the amount of \$350.00 payable by cash, check or credit card.
11. Patient A paid \$350.00 for the services rendered by check and signed the Medicare Private Contract at the Respondent's request.
12. The Respondent did not provide Patient A with an invoice or a receipt.
13. Patient A's daughter disputed the Respondent's acceptance of insurance. She found the language on the Respondent's Loving Hands Podiatry website, that indicated insurance was accepted.

¹ Due to the confidentiality requirements of Md. Code Ann., Health General §§4-301 *et seq.*, Health Occ. §§1-401 *et seq.*, and COMAR 10.40.05.03 C., the name of Patient A is not disclosed.

14. Patient A's daughter asked the Respondent to refund half of the \$350.00 payment in light of her failure to disclose that she does not accept insurance prior to providing services to Patient A.
15. The Respondent did not respond to the refund request.
16. On or about August 31, 2023, the Board received a complaint against the Respondent filed by Patient A's daughter.
17. The complaint alleged that: a) the Respondent had misleading information on her Loving Hands Podiatry website, specifically in the financial section of her website, and b) the Respondent deliberately withheld the payment information from Patient A to unduly influence Patient A to sign the form and pay the fees for services rendered.
18. The Board fully investigated the allegations in the complaint.
19. The Respondent was not aware that the online portal on the Loving Hands Podiatry website indicated insurance was accepted by her practice. After the complaint was filed with the Board the Respondent updated the financial section of the website to state,

Our practice accepts cash, check and major credit
cards. Payment plans and schedules can be discussed
upon request.
20. On or about September 26, 2023, the Respondent sent Patient A's daughter an email informing her that a \$100.00 refund check would be issued payable to Patient A.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds as a matter of law that the Respondent's conduct, as described above, constitutes a violation of Health Occ. §16-311 (a) (17), (19) and (20) (2021) and the pertinent provisions COMAR 10.40.06 and .08.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby by a majority of the Board members considering this case:

ORDERED that the Respondent is hereby **REPRIMANDED**; and it is further

ORDERED that this Pre-Charge Consent Order of Reprimand is a public document, pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2023) and is reportable to any entity to which the Board is obligated to report.

3/29/24 _____

Date _____



Aparna Duggirala, D.P.M., Board President
Maryland State Board of Podiatric Medical
Examiners


CONSENT

I, La Vergne Andre, D.P.M., acknowledge that I have had been made aware of my right to consult with counsel before signing this document. By this Consent, I accept a Reprimand in lieu of a formal evidentiary hearing on violations of the Act and COMAR contained in 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 counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I waive my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Consent Order and I understand its meaning and effect.

April 11, 2024
Date



La Vergne Andre, D.P.M.
Respondent

NOTARY

STATE OF Maryland
CITY/COUNTY OF: Prince George's

I HEREBY CERTIFY that on this 11th day of April 2024,
before me, a Notary Public of the State and County aforesaid, personally appeared La Vergne Andre and gave oath in due form of law that the foregoing Consent Order was her
voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Notary Public Pamela Lee Baird
My commission expires: 06-06-2025

