

IN THE MATTER OF

*

BEFORE THE MARYLAND

BRIAN BACH, D.P.M.

*

BOARD OF PODIATRIC

Respondent

*

MEDICAL EXAMINERS

License Number: 00908

*

Case Numbers: 2020-005

2020-006

*

2021-007

* * * * *

CONSENT ORDER

On or about October 27, 2021, the Maryland State Board of Podiatric Medical Examiners (the "Board") summarily suspended the Respondent's license to practice podiatric medicine in the State of Maryland pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c) (2021 Repl. Vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

On that same day, the Board charged **BRIAN BACH, D.P.M.** (the "Respondent"), License Number 00908, with violations of the Maryland Podiatry Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 16-101 *et seq.* (2021 Repl. Vol.).

The Board based its action on the Respondent's violation of the following provisions of the Act under Health Occ. § 16-311:

- (a) *In general.* -- 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 deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$50,000 on 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 a holder:

- (6) Has a condition, illness, or disease that may impair the ability of the individual to perform podiatric services; and
- ...
- (18) Is professionally or mentally incompetent[.]

On or about November 16, 2021, the Board held a Case Resolution Conference (CRC) via videoconference. Following the CRC, in order to resolve the Charges and the Order for Summary Suspension, the Board and the Respondent agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. At all times relevant, the Respondent was and is licensed to practice podiatric medicine in the State of Maryland. The Respondent was originally licensed to practice podiatric medicine in Maryland on June 13, 1985, under License Number 00908. The Respondent's license is current through December 31, 2021.

2. At all times relevant, the Respondent practiced as a podiatrist in an office in Clinton, Maryland (the "Practice").¹

COMPLAINTS

¹ For confidentiality and privacy purposes, the names of witnesses, patients, health care providers, health care facilities, and other institutions are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals, facilities, or institutions by contacting the assigned administrative prosecutors.

3. On or about March 5, 2020, the Board received notice of a civil Health Care Claim by a patient against the Respondent. Based on this complaint, the Board opened an investigation of the Respondent under case number 2020-005.

4. On or about March 11, 2020, the Board received a second complaint from a patient against the Respondent. Based on this complaint, the Board opened an investigation of the Respondent under case number 2020-006.

5. On or about April 9, 2021, the Board received a third complaint from a patient against the Respondent. Based on this complaint, the Board opened an investigation of the Respondent under case number 2021-007.

BOARD INVESTIGATION

6. In the course of its investigation, the Board referred the Respondent for an evaluation by a licensed physician (the “Expert”).

7. On or about July 6, 2021, the Expert completed a report (the “Expert Report”). The Expert Report was based on direct evaluation of the Respondent by the Expert, as well as consultation with the Respondent’s primary care physician, a review of the Respondent’s medical history, and interviews with the Respondent’s office staff.

8. The Report also relied on and incorporated a report (“the Neuropsychological Report”), completed on June 20, 2021, by a licensed psychologist. The Neuropsychological Report was based on the psychologist’s evaluation of the Respondent, conducted on or about May 19, 2021, which included neuropsychological testing of the Respondent as well as interviews with a close family member of the Respondent and a member of the Respondent’s office staff.

9. The Expert concluded, in summary, that the Respondent's condition allows him to "largely hide the extent of his impairment" in brief day-to-day interactions. However, in reality, the Respondent is "clearly impaired" and "not currently capable of functioning as a podiatrist."

CONCLUSIONS OF LAW

The results of the Board's investigation of the complaints, including the Expert Report and the Neuropsychological Report, indicate that the Respondent has a condition, illness, or disease that may impair his ability to perform podiatric services, in violation of Health Occ. § 16-311(a)(6); and is professionally or mentally incompetent, in violation of Health Occ. § 16-311(a)(18).

ORDER

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

ORDERED that the Order for Summary Suspension issued on October 27, 2021 of the Respondent's license to practice podiatric medicine in the State of Maryland is hereby **TERMINATED**; and it is further

ORDERED that the Respondent's license is **SUSPENDED** for a minimum period of **SIX (6) MONTHS** effective on the date of this Consent Order; and it is further

ORDERED that the suspension shall continue until the Respondent has complied with the following terms and conditions of the suspension:

1. The Respondent shall enroll in the Maryland Healthcare Professionals Program (MHPP) or an appropriate rehabilitation program, approved by the Board in advance (the "Program"), as follows:
 - A. Within 5 business days of the Board's approval of the Program, the Respondent shall contact the Program to schedule an initial consultation for enrollment;
 - B. Within 15 business days of the Board's approval of the Program, the Respondent shall enter into a contract to receive rehabilitation services and comply with Program recommendations;
 - C. The Respondent shall fully and timely cooperate and comply with all Program referrals, rules, and requirements, including, but not limited to, the terms and conditions of any rehabilitation agreement(s) entered with the Program, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by the Program;
 - D. The Respondent shall sign and update the written release/consent forms requested by the Board and the Program, including release/consent forms to authorize the Program to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from the Program's records and files in a public order. The Respondent shall not withdraw his release/consent;
 - E. The Respondent shall also sign any written release/consent forms to authorize the Program to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that the Program is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and [REDACTED] evaluation and treatment records. The Respondent shall not withdraw his release/consent;
 - F. The Respondent shall be subject to ongoing random [REDACTED] screening arranged by the Program for the duration of his suspension. A [REDACTED] shall constitute a violation of the Consent Order;

- G. The Respondent or Respondent's counsel shall submit quarterly written reports from the Program to the Board, which shall include: an assessment of the Respondent's compliance with [REDACTED] from [REDACTED]; the results of screening, monitoring and/or testing; and the status and/or progress of any impairments and/or conditions for which the Respondent is receiving treatment;
 - H. The Respondent's failure to comply with any of the above terms or conditions including terms or conditions of any rehabilitation agreement(s) with the Program constitutes a violation of this Consent Order.
2. After 6 months of full [REDACTED] and no earlier than 30 days before the end of the minimum period of suspension, the Board shall arrange for an independent evaluation that the Board determines is necessary to assess the Respondent's safety to return to the practice of podiatric medicine. This (these) evaluation(s) shall be performed by a Board-approved professional(s) (the "Evaluator"), at the expense of the Respondent. The Respondent shall submit to the evaluation(s) as directed by the Board, and under the following terms:
- A. The Respondent shall sign and update written release/consent forms requested by the Board and the Evaluator, including release/consent forms to authorize the Evaluator to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from the Evaluator's records and files in a public order. The Respondent shall not withdraw his release/consent;
 - B. The Respondent shall also sign any written release/consent forms to authorize the Evaluator to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that the Evaluator is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and [REDACTED] evaluation and treatment records. The Respondent shall not withdraw his release/consent.
3. During the suspension period, in the State of Maryland, the Respondent shall not:

- A. Practice podiatric medicine;
 - B. Take any actions after the effective date of this Order to hold himself out to the public as a current provider of podiatric medical services;
 - C. Authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;
 - D. Function as a reviewer for the Board or for any hospital or other medical care facility;
 - E. Prescribe or dispense medications; or
 - F. Perform any other act that requires an active Maryland podiatric medical license.
4. If the Evaluator finds, and notifies the Board, that the Respondent IS safe to return to the practice of podiatric medicine and the minimum period of suspension of the Respondent's license has concluded, the Respondent may submit a written petition to the Board to terminate the suspension of the Respondent's license. The Respondent may be required to appear before the Board or a panel of the Board to discuss his petition for termination. If the Board or panel determines that it is safe for the Respondent to return to the practice of podiatric medicine, the suspension will be terminated through an order of the Board, and the Board may impose any terms and conditions it deems appropriate on the Respondent's return to practice, including, but not limited to, probation and/or continuation of the Respondent's enrollment in the Program or another suitable rehabilitation program or organization.

If the Evaluator finds, and notifies the Board, that the Respondent is safe to return to the practice of podiatric medicine, but the Board nevertheless determines that it is not safe for the Respondent to return to practice, the Board shall specify its basis and afford the Respondent the opportunity to challenge the Board's determination at a show cause hearing with all appeal rights inherent with such a hearing. If dissatisfied with the results of the hearing, an evidentiary hearing may be requested within 10 days.

5. If the Evaluator finds, and notifies the Board, that the Respondent is NOT safe to return to the practice of podiatric medicine, the suspension shall be

continued for a length of time determined by the Board, and the Board may impose any additional terms and conditions on the Respondent's license as it deems appropriate; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Board Chair, the Executive Director of the Board, or a Board designee; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before the Board; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

ORDERED that after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the Board may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice podiatric medicine in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Gen. Prov. § 4-101 *et seq.* (2019 Repl. Vol. & 2021 Supp.).

11/30/2021

Date



Adam Silverman, D.P.M.
Board President
Maryland State Board of Podiatric Medical Examiners

CONSENT

I, Brian Bach, D.P.M., acknowledge that I had the opportunity to be represented by and consult with counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

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

11-29-21
Date

Brian Bach
Brian Bach, D.P.M.
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Chesapeake, Prince Georges

I HEREBY CERTIFY that on this 29 day of November, 2021,
before me, a Notary Public of the foregoing State and City/County personally appeared
Brian Bach, D.P.M., and made oath in due form of law that signing the foregoing
Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Shelby J. Smith
Notary Public

My commission expires: 3/31/2023