Utah Division of Consumer Protection
160 East 300 South, Second Floor
PO Box 146704
Salt Lake City, UT 84114-6704
PH. (801) 530-6601/FAX (801) 530-6001

**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF: **USA VEIN CLINICS OF UTAH LLC,** a Utah limited liability company; **Respondent.**	**ADMINISTRATIVE CITATION** **DCP Legal File No. CP-2023-006** **DCP Case No. 131858**

PURSUANT TO THE AUTHORITY granted by Utah Code § 13-2-6, which empowers the Division of Consumer Protection (Division) to issue a citation upon reasonable cause to believe a person has violated or is violating any statute listed in Utah Code § 13-2-1, it appears, upon information and belief, that you are in violation of the *Utah Consumer Sales Practices Act* (CSPA), Utah Code § 13-11-1 *et seq.* and the *Utah Consumer Sales Practices Act Rule* (CSPA Rule), Utah Admin. Code R152-11-1 *et seq.*

The Division incorporates by reference all information in the Notice attached to this Citation. The Division alleges:

RESPONDENTS

1. USA Vein Clinics of Utah LLC is a Utah limited liability company with a principal place of business at 3479 West 4800 South, Roy, Utah 84067.
2. USA Vein Clinics has a corporate office located at 304 Wainwright Dr. Northbrook, Illinois 60062. The business identified above will be referred to as "Respondent."
3. Respondent provides medical care to consumers in Utah.

BACKGROUND AND INFORMATION

4. In or about the month of October, 2021, Utah consumer SB (see Appendix A) saw several television commercials advertising "Free Consultations" at Respondent's clinic in Roy, Utah.
5. SB contacted Respondent by telephone to set an appointment for a free consultation.
6. SB visited Respondent's clinic on or about October 13, 2021, where the varicose veins on her legs were inspected and documented.
7. SB indicated that she initially agreed to receive treatment from Respondent, but that on the way home from the visit she changed her mind, and called Respondent to cancel all future appointments.
8. SB did not return to Respondent's clinic.

9. SB's insurance provider sent her a letting indicating that Respondent submitted an insurance claim for the following treatments that were supposedly performed on the consumer's legs on October 20, 2021:

"ENDOVENOUS ABLATION THERAPY OF INCOMPETENT VIEN, EXTREMITY, INCLUSIVE OF ALL IMAGING GUIDANCE AND MONITORING, PERCUTANEOUS, LASER, FIRST VEIN TREATED" and "INJECTION OF NON-COMPOUNDED FOAM SCLEROSANT WITH ULTRASOUND COMPRESSION MANEUVERS TO GUIDE DISPERSION OF THE INJECTATE, INCLUSIVE OF ALL IMAGING GUIDANCE AND MONITORING, SINGLE INCOMPETENT EXTREMITY TRUNCAL VEIN (EG, GREAT SAPHENOUS VEIN, ACCESSORY SAPHE."

10. On or around June 13, 2022, SB received two bills from a debt collector in relation to two outstanding balances from Respondent for $70.26 and $34.96, even though SB reported only receiving the "free consultation" from Respondent.

11. SB denies receiving any services from Respondent, other than the "free consultation" that was advertised on the television.

COUNT 1

12. Respondent advertised a "free consultation," but then charged the consumer for the consultation.

13. The above actions violate the CSPA Rule, Utah Admin. Code R152-11-4:

> A. It shall be a deceptive act or practice in connection with a consumer transaction for a supplier to use the word "free" or other words of similar import or meaning, except when such representation is, in fact, the case and the cost of the "free" consumer commodity is not passed on to the consumer by raising the regular price of the consumer commodity that must be purchased in connection with the "free" offer.

14. **The above actions are alleged as one violation of the above-referenced statute, with a maximum potential fine of up to $2,500 per violation.**

COUNT 2

15. Respondent charged the consumer for medical services that Respondent did not provide to the consumer.

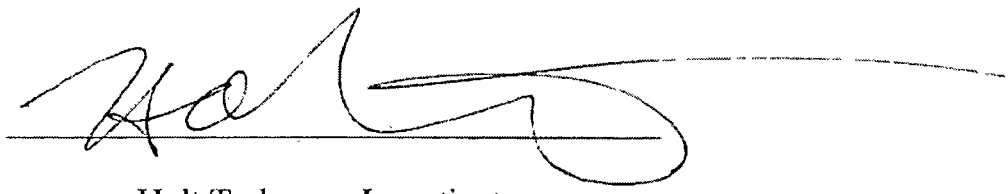
16. The above actions violate the CSPA, Utah Code § 13-11-4(2)(l):

> (2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:
> ...
> (r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

17. **The above actions are alleged as one violation of the above-referenced rule, with a maximum potential fine of up to $2,500 per violation.**

Total Alleged Counts:	**2**
Total Potential Fine:	**$5,000**

THIS CITATION ISSUED this 31st day of January, 2023.



Holt Terburg – Investigator
UTAH DIVISION OF CONSUMER PROTECTION

Appendix A

Consumer Name	Consumer Initials	City of Residence	State of Residence
[redacted]	SB	[redacted]	Utah

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document on the parties of record in this proceeding set forth below by mailing a copy thereof, properly addressed by first class mail and certified mail with postage prepaid, to:

USA VEIN CLINICS OF UTAH LLC
3479 WEST 4800 SOUTH
ROY, UT 84067

USA VEIN CLINICS OF UTAH, LLC
C/O CORPORATE CREATIONS NETWORK INC.
825 EAST COTTONWOOD PARKWAY
#500
SALT LAKE CITY, UT 84121

USA VEIN CLINICS
304 WAINWRIGHT DR.
NORTHBROOK, IL 60062

And by electronic mail to:
office.roy@usaveinclinics.com
info.forward@usaveinclinics.com
jrodrigo@usaclinics.com
ykatsnelson@usaclinics.com
drflora@usaclinics.com

Dated this 31st day of January, 2023.

Holt Terburg – ~~Investigator~~
UTAH DIVISION OF CONSUMER PROTECTION

NOTICE - IMPORTANT - READ CAREFULLY

This citation may be contested by filing a request for review, in writing, within 20 days of issuance of this citation. Following receipt of a request for review, an informal hearing will be scheduled before the State of Utah, Department of Commerce, Division of Consumer Protection pursuant to Utah Code § 63G-4-203, Procedures for Informal Adjudicative Proceedings. The purpose for the hearing is a review of the citation for factual and legal sufficiency and other questions to be determined by the presiding officer.

A citation that is not contested becomes the final default order of the Division. A defaulted party may make a motion to the presiding officer to set aside a default. Utah Code § 63G-4-209(3). The defaulted party may seek agency review pursuant to Utah Code § 63G-4-301, or reconsideration pursuant to Utah Code § 63G-4-302, only of the presiding officer's decision on the motion to set aside the default. *See* Utah Code § 63G-4-209(3)(c).

In addition to any fines that may be levied, a cease and desist order may be entered against you. An intentional violation of a final cease and desist order is a third-degree felony. Utah Code § 13-2-6(2).

To request a review of the citation, please send your written request for review to:

DCPlegal@utah.gov

or by mail to:

Katherine Hart – Director
Utah Division of Consumer Protection
PO Box 146704
Salt Lake City, UT 84114-6704

The presiding officer designated by the Director of the Division of Consumer Protection to conduct the hearing in your case is:

Bruce Dibb, Administrative Law Judge
Heber M. Wells Bldg., 2nd Floor
160 East 300 South
Salt Lake City, UT 84114
Telephone: (801) 531-6706

A copy of Utah Admin. Code R477-101, Administrative Law Judge Conduct Committee, is available online at https://rules.utah.gov/publicat/code/r477/r477-101.htm.

Please be advised that all inquiries, correspondence, or other contacts concerning this citation, with the exception of any written request for review as set out above, should be directed to the below-named Division employee, designated by the Director of the Division of Consumer Protection pursuant to Utah Code § 13-2-6(3):

Holt Terburg – Investigator
Utah Division of Consumer Protection
PO Box 146704
Salt Lake City, UT 84114-6704
Telephone: (801) 530-6601

FREQUENTLY ASKED QUESTIONS

1. **How can I talk to someone at the Division about this citation?** The name of the investigator assigned to your case appears at the end of your citation. If you call the Division, 801-530-6601 and press 0, the receptionist can help transfer you to the assigned investigator.
2. **Can I resolve the citation without a hearing?** Contact the investigator assigned to your case if you are interested in a settlement to see if a settlement is possible in your case.
3. **How do I respond to the citation?** You may challenge the citation by submitting a written Request for Review using the attached form or using your own form.
4. **How long do I have to respond to the citation?** You have 20 calendar days from issuance of the citation to submit a Request for Review.
5. **What happens after I submit a Request for Review?** The presiding officer will send you a Notice of Administrative Hearing specifying a time, date, and location of a hearing before the Division.
6. **Who will preside over the case?** The name of the presiding officer for the hearing will be on your Notice of Administrative Hearing. Please address the presiding officer by name (e.g., "Judge Smith"). You may contact the presiding officer with any technical or procedural questions, but the presiding officer may not discuss the merits of the case with you.
7. **What if I have a scheduling conflict with the scheduled hearing time?** Failure to attend a hearing may result in a default and entry of judgment against you. You may ask the presiding officer assigned to your case, in writing, to reschedule the hearing if you have a conflict or require more time to prepare. A request for additional time is within the discretion of the presiding officer and may not be granted, particularly if requested only shortly before the scheduled hearing.
8. **What should I expect at a hearing?** An administrative law judge will act as the presiding officer and direct the proceeding. The hearing room has two tables for the parties, with the presiding officer sitting at the front of the hearing room. Generally, you (and your counsel, if applicable) will sit at one of the tables and Division staff will sit at the other table. Beginning with the Division, both sides will have an opportunity to present witnesses, evidence, and argument in support of why the citation should or should not stand.
9. **What kind of evidence can I present?** All parties may testify, present evidence, and comment on the issues. In presenting evidence, any party may examine witnesses and submit exhibits. At the request of either party, or at his or her own initiative, the presiding officer may also choose to examine a witness. Any party may ask to present a witness by telephone. The presiding officer may exclude any evidence he or she deems irrelevant, immaterial, or unduly repetitious or improper.
10. **How can I determine what evidence the Division has?** Discovery is prohibited in informal hearings, but parties may request information contained in the agency's files to the extent permitted by law. You may contact the assigned investigator to request access to this information.
11. **What is the burden of proof for the Division at a hearing?** Generally, the Division is responsible to prove its case against you by substantial evidence.
12. **Must I have an attorney?** You may represent yourself or be represented through an attorney. You may also represent a business that you own or manage.

You should not rely on this letter alone for instructions regarding hearings. The hearing is governed by law (including the Administrative Procedures Act, *see* Utah Code § 63G-4 *et al.*, Utah Division of Consumer Protection, *see* Utah Code § 13-2 *et al.*, and Department of Commerce Administrative Procedures Act Rules, *see* Utah Admin. Code R151-4.) You may access these laws and rules at le.utah.gov and rules.utah.gov.

DIVISION OF CONSUMER PROTECTION
Heber M. Wells Building
160 East 300 South
PO Box 146704
Salt Lake City, UT 84114-6741
Telephone: (801) 530-6601
Fax: (801) 530-6001

REQUEST FOR REVIEW

DCP Legal File No.		Date of Citation:
Name:		Phone: ( )
Address:		
City:	State:	Zip:
Email:		

Requests for review must be received by the division within 20 calendar days of issuance of the citation. Utah Code § 13-2-6(3). If you fail to make a timely request, the citation shall become the final order of the division. If you represent multiple respondents, please submit a separate request for each respondent.

You may wish to consult an attorney before submitting this form and any attachments.

Select only one of the following:

❑	I admit to the statutory violation(s) described in the citation. The presiding officer will enter an order, assess a fine, and issue a cease and desist order.
❑	I admit to the statutory violation(s) described in the citation, but request a hearing to explain the circumstances of the violation(s) and request a reduced fine. *(If desired, attach a brief typewritten explanation of the circumstances of the violations. The presiding officer may ask you to submit an additional response.)*
❑	I contest the occurrence of the violation(s) described in the citation and request a hearing to contest the citation. *(If desired, attach a brief typewritten response to the allegations in the citation. The presiding officer may ask you to submit an additional response.)*

I certify that I have knowingly and voluntarily made the above election of rights. I understand that if I request a hearing the presiding officer will notify me in writing of the hearing date. If I fail to appear at the hearing, a default judgment may be entered against me. I acknowledge that I have either sought the advice of an attorney or have voluntarily chosen not to do so.

Signature	Date of Signature