

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

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**BOARD OF MEDICINE**

**In Re: Shashibala Soni,  
Med. Lic. 18603**

Docket No.: 2019-MED-004 (19-04)

**INTERIM ORDER FOR STATUS  
HEARING OF 07/06/22**

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**I. ATTENDEES:**

Dr. Emily R. Baker, Board President  
Susan M. Finerty, PA, Board Member, Vice President  
Dr. Michael Barr, Board Member  
Dr. Richard Kardell, Board Member  
Dr. David Goldberg, Board Member  
Dr. Jonathan Eddinger, Board Member  
Dr. Marc Bertrand, Board Member  
Nina Gardner, Board Member  
Linda Tatarczuch, Board Member  
Christine Senko, Administrator  
Talía Wilson, Administrator  
Attorney Adam B. Pignatelli, Counsel for Licensee  
Dr. Shashibala Soni, Licensee  
Attorney Nikolas K. Frye, OPLC Hearings Examiner and Presiding Officer  
Attorney Shane Goulet, OPLC Board Counsel

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

On or about 03/23/22, the Board of Medicine (“Board”) received a completed Physician Reinstatement Application for Shashibala Soni, M.D. (“Applicant”). On 04/05/22 the Board reviewed the Applicant’s application at its regularly scheduled meeting and voted to deny it because she failed to meet the qualifications set forth in RSA 329:12 and RSA 329:14, II. Following the formal written Order of Conditional Denial dated 06/09/22, the Applicant filed a timely request for a hearing and a Motion for Reconsideration, which she later supplemented. Pursuant to Rule 301.02(e), the Board denied the Motion

for Reconsideration and voted at its regular September 2022 meeting to schedule this matter for a hearing. This Final Order and Decision issued after the 11/02/22 adjudicatory hearing.

### **III. SUMMARY OF THE EVIDENCE:**

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 207.09:

- A. Exhibits were submitted by the Licensee, labeled as follows:
  - a. 10/24/22 Letter from Michele Nanna, M.D.
  - b. 10/26/22 Letter to the Board from Dr. Soni.
  - c. 10/06/22 Letter from the United States Postal Service
  - d. Composite Exhibit of Recommendations from Physicians
  - e. Composite Exhibit of Continuing Medical Education and Maintenance of Certification Certificates
  - f. Dr. Soni's Medical Practice in the Last Two and a Half Years
  - g. Composite Exhibits of Letters from Patients (2020 to 2022)
  - h. Composite Exhibit of Email Exchanges with Conference Administrators at Mt. Sinai Hospital and Montefiore Medical Center and Dr. Soni's Handwritten Notes Documenting Her Conference Attendance.
  - i. Background Documents Related to Dr. Soni's Education, Training, and Board Certification.
  - j. 05/22/18 Email Exchange with Penny Taylor
  - k. April 2020 Email Exchange with Penn Taylor and Peggy
  - l. Employment Letter from Theseus Pharmaceuticals
  - m. Printout from New York State Medical Board Website
  - n. 06/28/22 Certificate of Insurance
  - o. 2017 Letters of Support from Valley Regional Hospital
  - p. 03/15/19 Affidavit of Attorney Florian Miedel
  - q. 10/04/17 Letter of Support from Attorney Rita Dave
  - r. 12/12/17 New Hampshire board of Medicine Final Decision and Order
  - s. 11/13/18 New Hampshire Board of Medicine Final Decision and Order
  - t. Application for Reinstatement
- B. The Board also considered all previous documentation submitted in relation to the Licensee's application for reinstatement and motion for reconsideration, its prior files and dockets involving the Licensee, and utilized their combined expertise in the practice of Medicine. *See In the Matter of Bloomfield, DMV*, 166 N.H. 475, 486 (2014).
- C. The following witnesses provided sworn testimony:
  - a. Martin Cohen, MD (called by Licensee)

b. Shashibala Soni, MD (called by Licensee)<sup>1</sup>

#### **IV. CONDUCT OF THE HEARING, EVIDENCE PRESENTED, AND FINDINGS OF FACT:**

##### **A. Conduct of the Hearing**

The hearing on the Applicant's Motion for Reconsideration on the denial of her application for reinstatement that was scheduled in this matter for 11/02/22 commenced as anticipated with the Licensee and her counsel present in-person. Dr. Martin Cohen, a witness for the Applicant, also joined the hearing via Zoom video conferencing. The purpose of the hearing was for the Licensee to demonstrate, by a preponderance of the evidence,<sup>2</sup> that the Board erred as a matter of fact or law in deny her application for reinstatement.<sup>3</sup> At the outset of the hearing, the Board more specifically explained the reason for denying the Applicant's application for reinstatement as follows: in denying the application, the Board was concerned with the Applicant's "character and other qualifications", 06/09/22 Ord. at 2, as it relates to whether she has met the requirements of Paragraph E(3) of the 12/12/17 Order since receiving the Board's 11/13/18 letter/order and the extent of her recent, independent practice as a physician.

##### **B. Evidence Presented and Findings of Fact**

###### **Dr. Martin Cohen**

The Licensee's first witness was Dr. Martin Cohen, who the Board recognizes as having a very distinguished career in cardiology. He explained that he first met the Applicant when he was the acting chief of cardiology at a hospital in New York City between 1972 and 1975 where she had a fellowship. According to his testimony, after the Applicant's fellowship ended, he saw her occasionally at

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<sup>1</sup> Attorney Pignatelli also provided offers of proof on behalf of Dr. Soni while she was under oath.

<sup>2</sup> See Rule 206.10.

<sup>3</sup> On 10/31/22, the Board's Presiding Officer, Counsel for the Licensee, and the Board Administrators convened for a prehearing conference to discuss the proposed length of the hearing. Counsel for the Licensee indicated that if the Board provided a more specific reason for the denial of the reinstatement application than is stated in the Order of Denial dated 06/09/22, he would be able to present the Licensee's case more efficiently. The Presiding Officer ordered himself to discuss the matter with the Board and attempt to hone the issue(s). This footnote serves as the 10/31/22 prehearing conference order.

conferences, and then became re-acquainted with her in 2017. His testimony revealed that the Applicant called to discuss interesting cases with him, and they continued seeing each other at conferences. He described their conversations as mostly involving teaching activities in which the Applicant had participated. Dr. Cohen expressed no concerns for the Applicant's moral character and had the "utmost respect and admiration" for her efforts to advance her medical education. He deemed her up to date on current technology and applying it in the field of cardiology.

Upon Board questioning, Dr. Cohen explained that he had observed the Applicant practicing but explained most of his information came from her reporting to him at different conferences they attended.<sup>4</sup> To the best of his knowledge, the Applicant was seeing patients in another cardiologist's office between approximately 2017 and 2018. According to his testimony, the doctor supervising her indicated her work was more than satisfactory.

### **Applicant**

The Applicant's testimony began by reminding the Board of the recent procedural posture of her New Hampshire licensure. The Applicant explained that she had not met the requirements of the 11/13/18 Board Order because her job offer had fallen through. Nonetheless, the Applicant explained that she had spent time working for Dr. Michele Nanna in New York between approximately 2017 and 2018.<sup>5</sup> Exhibit A, which is a 10/24/22 letter from Dr. Nanna, explains that the Applicant "... has rounded with me informally at Einstein hospital and I can witness to her diagnostic skills and her keen proficiency and efficiency in handling patients with cardiovascular pathologies." Exh. A. at 1. Dr. Nanna also explains that she "... found her [the Applicant's] work of high quality [sic] very detail oriented and her discussion

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<sup>4</sup> The question was rephrased a couple of times due to apparent conflicting statements made as to the timeline of Dr. Cohen's interactions with the Applicant.

<sup>5</sup> As noted in a Board question, this conflicts in part with the Confidential Professional Reference Evaluation from Dr. Nanna in Exhibit D which states the Dates of Observation was "10/12/2018 to 03/18/18." Based on the Applicant's testimony and Exhibit A there is more likely than not a clerical error in Exhibit D. The Board finds that the period during which Dr. Nanna observed the Applicant more likely than not occurred between 10/12/17 and 03/18/18, which is approximately five months.

of plan of treatment very satisfactory... she can be trusted with patients ... she makes sure all patient's [sic] questions are answered to their satisfaction... my patients felt very comfortable in their interactions with her." *Id.* The Licensee testified that Dr. Nanna was overseeing her work and reviewing her charts and notes. The Applicant further stated that at some point during this time she was offered and accepted a physician position in the state of New York working with mentally disabled and challenged patients. She described the work as more emotionally challenging then she anticipated, so she did not keep the position.

The Applicant next described the period of her life between 05/14/19 and August of 2021. According to the Applicant, she moved to India to care for her sick brother for what she thought would be a short stay but ended up being over two years. She testified that while in India, she took over a medical practice located near Bombay, India from approximately October of 2019 until August of 2021. The Applicant directed the Board to Exhibit D, which has letters from some of her colleagues at the hospitals she worked in during her time in India. She also noted that in March of 2020 she started her own outpatient cardiology practice and began caring for COVID-19 patients. At some point, she claimed she received an offer to support COVID-19 patients in New York but declined it because she would have had to do intubations. To further illustrate her work in India, she referenced Exhibit G, which is a photobook showing pictures from her practice there. She testified that she saw at least 15 patients per day, 2 to 3 of which were in the hospital. Additionally, she participated in continuing education coursework virtually.

The Applicant's direct testimony lastly addressed what she has been doing for work since she returned to the United States in August of 2021. Her testimony revealed that she has not had consistent employment as an independent practitioner for that approximate 15 month period. Nonetheless, she described having attended numerous conferences and receiving job offers. The Applicant also described a period of approximately two months beginning in August of 2022 where she worked as an independent

practitioner for a physiotherapy practice. According to her testimony, she saw approximately two to three patients a day while working there. She explained the employment relationship terminated because there was not enough cliental to support a full-time position for her.

Upon Board questioning, the Licensee testified there was a restriction on her New York physician's license under which someone supervises her work and reports to the New York OPMC and she cannot do direct billing. She explained that she needs to do three years of practice under these conditions before they will cease. She relayed that the New York Board of Medicine was unwilling to count any of the time she spent in India practicing medicine toward that three year time.<sup>6</sup>

### **Closing Argument/Offer of Proof**

Counsel for the Applicant provided a hybrid closing statement and offer of proof.<sup>7</sup> In addition to that which the Licensee had testified, he emphasized that his client was board certified; had passed her recertification in 2015 (Exh. I); has accumulated significant amount of recent continuing education (Exh. E); and clarified that the issue with why his client had to reinstate was caused by issues with the postal service that were beyond her control and further exacerbated by having her mind concentrated on travelling to India and the health of her brother. Lastly, Counsel noted his client has never had been disciplined because of her ability to practice and described what she has done since the 11/13/18 letter/order as positive.

### **VI. CONCLUSION AND DECISION:**

After reviewing all the evidence, drawing reasonable inference therefrom, and accounting for the demeanor and credibility of the witnesses, the Board finds the Applicant has failed to meet her burden of proof that the Board erred as a matter of fact or law when denying her application for reinstatement for an

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<sup>6</sup> Although the Board requested a copy of the order related to the New York license restrictions, it later realized the Applicant had submitted it with her application for reinstatement.

<sup>7</sup> The Board does not adopt the arguments made by Counsel for the Licensee as findings of fact.

unrestricted license. RSA 329:16-h explains that “[a]ny person whose name has been placed on the inactive list may be restored to active status upon the filing of a written request for reinstatement of license, accompanied by the reinstatement fee as established by the board, proof of satisfaction of continuing medical education requirements established by RSA 329:16-g, **and such other evidence of professional competence as the board may reasonably require.**” *Id.* (emphasis added). Rule 401.04(d)(1) instructs that “[a]pplicants for reinstatement shall provide ... [the] same information required in Med 301.03(a)(1-27) excluding Med 301.03(a)(4-8) and Med 301.03(a)(24).” In relation to the highlighted portion of RSA 329:16-h above,<sup>8</sup> Rule 301.03(a)(23) indicates the Board consider “... whether the applicant has not been actively engaged in the practice of clinical medicine within the past 12 months.” *Id.*

While the Applicant currently holds a restricted license in New York, the Board concludes there is insufficient evidence presented that the Applicant has been actively engaged in the practice of clinical medicine within the past 12 months, either looking back from the date of the 11/02/22 hearing or the date the Board denied her application for reinstatement on 04/05/22. The Board finds this troubling, especially when viewed within the context of its previous orders issued in 2017 and 2018. Those orders (Exhs. R and S) were drafted with an eye toward addressing the Board’s concerns that the Applicant lacked recent independent experience as a practitioner. The Board concludes and finds that the Applicant still lacks “... evidence of professional competence...”, RSA 329:16-h, as it relates to being “... actively engaged in the practice of clinical medicine within the past 12 months.” Rule 301.03(a)(23). The rule requirement that the Board consider an applicant’s recent active, practical experience in all instances of determining an application, *See* Rules 301.03(a)(23) *and* 401.03(3), emphasizes the interconnection between the Board’s statutory duties to protect the public, *see* RSA 329:1-aa and “[e]valuate persons who apply for the

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<sup>8</sup> *See also* RSA 329:14, II and III, which uses similar language: “... necessary professional qualifications...”

authority to practice medicine in New Hampshire,” RSA 329:2, II(a), regardless of the application type or particular circumstances of the applicant.

Nonetheless, the Board recognizes that there is a balance between protecting the public and honoring the Applicant’s right to pursue a profession that can be met in this case. The Board therefore finds and concludes that it erred as a matter of law in outright denying the Applicant’s application for any type of New Hampshire physician’s license. Although the Board has no current rules that would allow it to grant the Applicant a restricted license similar to the one she obtained in 2017, *see* RSA 329:9, VIII, it does have the authority to grant the Applicant an administrative license pursuant to RSA 329:14, VIII, which is further defined at Rule 301.01(a). Where the Board’s sole concern with her application is her lack of practical experience in a clinical setting, it hereby GRANTS her a New Hampshire license “... authorizing the practice of medicine limited to administrative medicine for physicians whose practice does not include the provision of clinical services to patients.” RSA 329:14, VIII.<sup>9</sup> The Board does so after concluding the Applicant’s application meets the requirements of Rule 305.03(a). The Board notes that this decision does not foreclose the Applicant from reapplying for unrestricted permanent licensure in the future and encourages her to do so once she meets all the requirements.

## **VII. ORDERS:**

The Board hereby DENIES the Licensee’s Appeal on her Motion for Reconsideration as it relates to her request for an unrestricted New Hampshire physician’s license, but GRANTS it insofar as it licenses her with a New Hampshire administrative license, as defined at Rule 301.01(a), pursuant to RSA 329:14, VIII and Rule 305.03(a).

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<sup>9</sup> The Board defines an administrative license as “... a license to engage in professional, managerial, or administrative activities related to the practice of medicine or to the delivery of health care services, but does not include the practice of clinical medicine.” Rule 301.01(a). “The holder of an administrative license shall not engage in clinical medicine.” Rule 305.03(b).



DATED: 11/7/2022

\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
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