

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

BOARD OF PODIATRY

**In Re: Michael Moharan,
Pod. License #0354**

Docket No. 20-POD-0001

**FINAL DECISION AND ORDER
OF REVOCATION - 03/11/21**

I. ATTENDEES:

Jennifer Sartori, Chairperson and Presiding Officer
Matthew Burrell, Board Member
Julie Shaheen, Board Member
Serena Shomody, Board Member
Attorney Thomas Broderick, Attorney for Board
Michael Moharan, Licensee
Sharon Canney, Administrator

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about June 2019, the Board of Podiatry ("Board") received information that Dr. Michael Moharan (a/k/a Mohamed Moharan, hereafter "Licensee") allegedly committed professional misconduct by being arrested and charged with multiple offenses on or about 06/19/19. On 08/06/19, the Board received a formal complaint with additional information. On or about 09/11/20, after an investigation, the Board commenced an adjudicative reciprocal disciplinary proceeding pursuant to RSA 315:9(VI). A final adjudicative hearing was held on 12/09/20 at 2:30. Pursuant to N.H. Code Admin. R. Pod 503.01(o) ("Rules"), Board Chairperson Jennifer Sartori was appointed by the Board as presiding officer.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rules 212.04:

A. Exhibits were submitted by the Board, numbered as follows:

1. Massachusetts Board of Podiatry Records on Licensee, #2019-000643-IT-ENF, Consent Agreement, Arrest Report, and Petition for Reinstatement and Attachments

B. Testimony was received from:

1. Michael Moharan, Licensee

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

After receiving the complaint and ordering an investigation, the Board conducted this adjudicative disciplinary hearing pursuant to RSA 315:(9)(VI) on 12/18/20. Licensee appeared *pro se*. Licensee was sworn and testified in his own defense. Licensee testified that he received a cancer diagnosis in 2013. As a result, he underwent multiple surgical procedures and in 2015, he was prescribed opioids for pain management. After being on this medication for four years, Licensee indicates he made the unfortunate mistake of driving after taking his prescribed medication. Licensee testified that he was pulled over by Massachusetts State police and charged with DUI, as well as having medication that was not in the prescription containers. Licensee testified that this was for the convenience of having small amounts of pills, without having to bring the entire container of medication. Licensee indicates that many of the charges were continued without a finding or otherwise dropped. Licensee concluded by testifying that he has been drug-tested and monitored for substance abuse and has been undergoing substance abuse treatment on an inpatient and outpatient basis. Licensee indicates he is complying with all of the requirements for licensing in Massachusetts, and he is in the process of being reinstated. Licensee argues that the Board should institute similar retroactive discipline in New Hampshire and allow him to continue to practice.

A careful review of the police reports and the court records indicate that Licensee has greatly minimized the severity and consequences of his behavior. Based on the police reports, on 06/10/19, the Massachusetts State police received multiple calls of an erratic driver operating a vehicle on Interstate 95. When Licensee was stopped, Licensee indicated that he was on his way to Norwood Hospital to perform a surgery, which the Board finds alarming. Police officers observed multiple symptoms of

recent drug use, including constricted pupils, drug residue encrusted around the Licensee's lips and mouth, and visible confusion. Licensee had an enormous quantity of loose prescription pills (479) in his possession, as well as illegal drug paraphernalia. After being arrested, Licensee exhibited further confused and bizarre behavior, such as not remembering where he was born, how old he was, or his real date of birth. There was further evidence that Licensee had been obtaining prescription medication in the names of 3rd parties (including family members), to avoid prescription drug monitoring. During the booking procedures, Licensee continued to give confusing and inconsistent answers to questions, claiming that he was unemployed and that he had to contact his drug dealer.

According to the Court records (Commonwealth v. Moharan, Dedham District Court, #1954-CR-000871) given to the Board, Licensee was charged with two felonies, seven misdemeanors, and two motor vehicle violations that were disposed of as follows:

- Felony Possession with Intent to Distribute (Dismissed at Request of Commonwealth)
- Felony Possession with Intent to Distribute (Dismissed at Request of Commonwealth)
- Possession of Class B Substance (Pled to Sufficient Facts, Continued Without a Finding)
- Possession of Class B Substance (Dismissed at Request of Commonwealth)
- Possession of Class E Substance With Intent to Distribute (Dismissed at Request of Commonwealth)
- Possession of Class E Substance With Intent to Distribute (Dismissed at Request of Commonwealth)
- Possession of Class E Substance (Dismissed at Request of Commonwealth)
- Possession of Class E Substance (Dismissed at Request of Commonwealth)
- OUI-Drugs (Pled to Sufficient Facts, Continued Without a Finding)
- Reckless Operation (Dismissed at Request of Commonwealth)
- Unlicensed Operation of a Motor Vehicle (Dismissed at Request of Commonwealth)

According to these records, Licensee "pled to sufficient facts" (admitting that the allegations were substantially true) on two serious charges (OUI-Drugs and Possession of a Class B Controlled Substance). Licensee was placed on probation for a period of approximately 18 months, as well as being sentenced to alcohol education courses, a loss of driver's license, and fines. Licensee also admits that he made several "jokes" with the police officers "because I thought this was all a big misunderstanding." The Board respectfully disagrees with Licensee's appraisal of the situation. Whether due to drug impairment or because it was the truth, Licensee told the arresting officer that he was on his way to Norwood Hospital to perform a surgery while clearly under the influence of opiates. The Board finds that this would have greatly harmed or had the potential to harm patients.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all of the evidence, and taking into account the presentation and demeanor of the witnesses, the Board finds, by a preponderance of the evidence, that the Licensee has committed serious professional misconduct. The central facts in this matter are clear. Licensee had been engaging in a course of conduct involving obtaining, diverting and using controlled substances, resulting in his arrest and prosecution for serious crimes.

Licensee argues that, pursuant to RSA 315:9(VI), the Board should only institute similar (or lesser) disciplinary sanctions to those that were imposed in Massachusetts. The Board unequivocally rejects this argument, based on the severity and reckless nature of Licensee's actions. Licensee (and perhaps his patients) escaped perdition only because Licensee was arrested and compelled to go into treatment. Pursuant to RSA 315:9(VI), the Board may "issue any disciplinary sanction... which would otherwise be permitted by this chapter, including sanctions or actions more stringent than those imposed by the foreign jurisdiction." Based on the nature of Licensee's actions, the Board elects to do so here. As part of this decision, the Board makes the following specific findings of fact and conclusions of law:

- A. During all relevant times, Licensee was a licensed podiatrist in New Hampshire under RSA 315.
- B. Pursuant to RSA 315:(9)(II)(b), Licensee engaged in professional misconduct in that he was convicted or pled to sufficient facts for a felony or crime of moral turpitude.
- C. Pursuant to RSA 315:(9)(II)(c), Licensee engaged in professional misconduct in that he intentionally harmed patients or otherwise engaged in unprofessional conduct in practicing podiatry or activities ancillary to podiatry, by obtaining/diverting prescription medication in the names of 3rd parties.
- D. Pursuant to RSA 315:(9)(II)(d), Licensee engaged in professional misconduct in that he was physically or mentally incapacitated, or grossly or repeatedly negligent, or otherwise displayed a pattern of behavior incompatible with the basic knowledge and competence expected of persons licensed to practice podiatry, by engaging in his profession while under the influence of opioids.
- E. Pursuant to RSA 315:(9)(II)(e), Licensee engaged in professional misconduct in that he was habitually using or addicted to habit-forming drugs to the degree as to render him unfit to practice podiatry.

- F. Pursuant to RSA 315:(9)(II)(f), Licensee engaged in professional misconduct in that he has knowingly or willfully violating the provisions of this chapter and/or the substantive rules or of this Board, by obtaining/diverting prescription medication in the names of 3rd parties.
- G. Pursuant to RSA 315:(9)(II)(g), Licensee engaged in professional misconduct in that he has had his license to practice podiatry suspended in the Commonwealth of Massachusetts.
- H. Pursuant to RSA 315:(9)(II)(f) and Rule 501.01, Licensee engaged in professional misconduct, according to the ethical requirements applicable at the time, specifically by violating APMA Ethical Guidelines ME6.11 by being physically, mentally, or chemically impaired while practicing his profession, and failing to recognize the problem.
- I. Pursuant to RSA 315:(9)(III)(c), and upon a finding of professional misconduct under section (II) above, the Board orders that Licensee's license to practice be revoked.
- J. Pursuant to RSA 315:(9)(III)(f), and upon a finding of professional misconduct under section (II) above, the Board orders that Licensee shall pay an administrative fine in the amount of \$2,000.00, made payable to the Board, payable within 60 days. Pursuant to RSA 315:(9)(III)(f), this is the maximum possible fine for a single occurrence, based on the egregious actions of Licensee.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 315:9, the Board hereby REVOKES Michael Moharan's license as a podiatrist, and subjects him to further discipline as outlined above.

DATED: 03/11/2021

_____/s/ Todd H. Prevett, Esq._____
 Todd H. Prevett, Esq., Hearings Examiner
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