

**FOR THE MINNESOTA
BOARD OF PODIATRIC MEDICINE**

In the Matter of the License of
Bryan L. Mohr, D.P.M.
License No. 631

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Podiatric Medicine ("Board"), on March 2, 2015, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraphs 7. and 8. of the Stipulation and Consent Order ("2014 Consent Order") issued by the Board to Bryan L. Mohr, D.P.M. ("Respondent"), on December 2, 2014. At the hearing, the Complaint Resolution Committee ("Committee") presented affidavit evidence of Respondent's violations of the 2014 Consent Order. Respondent appeared before the Board represented by attorneys Edward Kautzer and Philip G. Villaume, who presented oral argument. Nicholas Lienesch, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. Board members Margaret Schreiner and Stephen H. Powless, D.P.M. did not participate in deliberations and did not vote in the matter. Ruth Grendahl, Executive Director, did not participate in deliberations. Jennifer Coates, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts makes the following findings of fact:

1. The Board is authorized pursuant to Minnesota Statutes sections 153.10 to 153.26 to license, regulate, and discipline persons who apply for, petition, or hold licenses to practice podiatric medicine and is further authorized pursuant to Minnesota Statutes sections 153.23 and

214.103 to review complaints against licensees, to investigate such complaints, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the 2014 Consent Order issued by the Board on December 2, 2014. In paragraphs 7. and 8. of the 2014 Consent Order, Respondent expressly acknowledged and agreed to several procedures the Committee may use to resolve alleged noncompliance with or violation of the 2014 Consent Order. The 2014 Consent Order remained in full force and effect at the time the conduct described in paragraph 4. below occurred.

3. Respondent expressly acknowledged and agreed in paragraphs 7. and 8. of the 2014 Consent Order that in the event the Board received evidence Respondent violated the terms of the 2014 Consent Order, he would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

4. The Board received information Respondent violated the terms of the 2014 Consent Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 153.19, subd. 1(6) and the 2014 Consent Order as follows:

a. The 2014 Consent Order provides as follows:

Participation in the HPSP. Licensee shall successfully participate in the Health Professionals Services Program ("HPSP"). Licensee is required to contact the HPSP at (651) 643-2120 to initiate enrollment in the program within 14 days of the date of this Order.

b. Paragraph 7. of the 2014 Consent Order states as follows:

If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 4. above, or has failed to comply with the Participation Agreement, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 8. below, with the following additions and exceptions:

If the HPSP discharges Licensee from the program for any reason other than Licensee's successful completion of the terms of the

Participation Agreement, there will be a presumption of a preponderance of the evidence that Licensee has failed to comply with the requirement(s) for staying the suspension

c. The HPSP conducted an intake interview with Respondent on, or about, November 4, 2014.

d. Respondent informed his HPSP case manager, Mary Olympia, that he is CEO of Midwest Podiatry Center, with Richfield, Blaine, St. Anthony, and Minneapolis locations. Respondent indicated that there are five other doctors in his business.

e. On, or about, December 11, 2014 the HPSP determined that among the conditions of Respondent's monitoring plan should be:

i. A work site monitor ("WSM") who can monitor Respondent's work at Respondent's physical worksite, who is another doctor, and who is not an employee.

ii. Random toxicology screens to verify Respondent's sobriety.

f. On, or about, December 16, 2014, Respondent's HPSP case manager discussed the WSM and toxicology screen provisions with Respondent. Respondent told his case manager that he also contracts with an agency providing podiatric services to 125 facilities across Minnesota. Respondent had not disclosed this second job during his HPSP intake interview.

g. On, or about, December 17, 2014, Respondent's case manager called Respondent, and informed him that in order to implement effective WSM monitoring, Respondent's practice would need to be limited to the Midwest Podiatry Center clinics in the Twin Cities metro area that Respondent identified in his intake interview.

h. On, or about, December 19, 2014, Respondent's case manager revised Respondent's HPSP monitoring plan to limit Respondent's practice to the Midwest Podiatry Center locations in Richfield, Blaine, St. Anthony, Vadnais Heights, and Minneapolis.

i. In a letter dated January 8, 2015, Respondent informed the HPSP that he had been advised by his attorney to not sign his HPSP participation agreement.

j. The HPSP unsatisfactorily discharged Respondent on January 13, 2015, for failing to return his signed participation agreement.

5. On February 6, 2015, Respondent was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing (“Notice”) and Order of Removal of Stay of Suspension by first-class mail through his attorney. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing.

6. The Committee had probable cause to remove the stay of suspension.

CONCLUSIONS

Based on the foregoing, the Board concludes that Respondent has committed the following violations:

1. Failing to successfully participate in the HPSP in violation of paragraph 4.a. of the 2014 Consent Order and Minnesota Statutes sections 153.19, subdivision 1(6) and 214.355.

ORDER

Based on the foregoing Findings of Fact and Conclusions, and upon the recommendation of the ALJ, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Respondent to practice podiatric medicine in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of podiatric medicine as defined in Minnesota Statutes section 153.01, subdivision 2, and shall not imply to any persons by words or conduct that Respondent is authorized to practice podiatric medicine in the State of Minnesota.

3. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from his license at such time as he is willing to respond to the Findings of Fact set forth above and following 18 months from the date of this Order. His license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit, competent, and ethical manner in the practice of podiatric medicine. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact set forth in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order. As part of the

proof of compliance, Respondent shall submit the following in support of his petition:

1) Self-Report. Respondent shall submit to the Board a report from Respondent himself. The report shall be submitted at the time Respondent petitions to have the suspended status removed from his license. The report shall provide and address:

a) Any efforts Respondent has made to gain additional education and/or training on ethics and professional responsibility in the practice of podiatric medicine;

b) Respondent's understanding of his ethical and professional obligations to the practice of podiatric medicine as it relates to the findings set forth above in the Findings of Fact;

c) The type of employment in which Respondent has been involved;

d) Respondent's physical and chemical health status, treatment plan, medications, and compliance with treatment;

- e) Respondent's work schedule;
- f) Respondent's future plans in the practice of podiatric medicine and the steps he has taken to prepare himself to return to practice;
- g) Any other information Respondent believes would assist the Board in its ultimate review of this matter.

2) Health Care Professional. Respondent shall cause to be submitted to the Board a report from any health care professional whom Respondent consults while this Order is in effect. The report shall be submitted to the Board at the time Respondent petitions to have the suspended status removed from his license. The report shall provide and address:

- a) Verification the health care professional has reviewed this Order;
- b) Identification of a plan of treatment, including any medications, devised for Respondent;
- c) A statement of the involvement between Respondent and the health care professional, including the number and frequency of meetings;
- d) Respondent's progress with treatment and/or therapy and compliance with any treatment plan;
- e) The health care professional's conclusion as to the need for continuing treatment and/or therapy and Respondent's discontinuance of therapy; and
- f) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

3) Reports Verifying Sobriety. Respondent shall cause to be submitted to the Board reports from two adult persons, at least one of whom is not related to Respondent by blood or marriage, who can attest to Respondent's sobriety. These reports shall

be submitted at the time Respondent petitions for reinstatement of his license. Each report shall provide and address:

a) Respondent's sobriety, including the date he last used mood-altering chemicals, including alcohol; and

b) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

4) Report of Prescribed Mood-Altering Chemicals. Respondent shall cause to be submitted to the Board a report from any and all physicians, dentists, and other authorized health care professionals who have prescribed mood-altering chemicals for Respondent during the period this Order is in effect. Each report is due at the time of petition and shall provide and address:

a) The name, dosage, frequency, and purpose of the mood-altering chemicals for Respondent;

b) Confirmation the physician, dentist, or other health care professional has been informed of Respondent's chemical dependency history; and

c) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

5) Report From Pain Management Specialist. Respondent shall cause to be submitted to the Board a report from any pain management specialist whom Respondent consults while this Order is in effect. The reports shall be submitted to the Board at the time Respondent petitions for reinstatement of his license. Each report shall provide and address:

a) Verification the pain management specialist has reviewed this Order and the 2014 Consent Order;

b) Identification of diagnoses and any plans of treatment, including medications, devised for Respondent;

c) A statement of the involvement between Respondent and the pain management specialist, including the number and frequency of meetings;

d) Respondent's progress with therapy and compliance with the treatment plan;

e) A statement regarding Respondent's sobriety;

f) Recommendations for additional treatment, therapy, or monitoring; and

g) Any other information the pain management specialist believes would assist the Board in its ultimate review of this matter.

6) Waivers. If requested by the Board at any time during the petition process, Respondent shall complete and sign health records waivers and/or chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, and/or chemical dependency records from his physician, mental health professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, therapy, support, or assistance.

7) Any additional information relevant to Respondent's petition reasonably requested by the Board's Complaint Resolution Committee.

4. IT IS FURTHER ORDERED that Respondent shall meet all reregistration requirements in effect at the time of his petition, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

5. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 153.19, subdivision 1(6), and provide grounds for further disciplinary action.

6. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of his license, take any of the following actions:

- a. Issue license registration to Respondent.
- b. Issue license registration to Respondent with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Continue the suspension of Respondent's licensure upon his failure to meet the burden of proof.

**MINNESOTA BOARD OF
PODIATRIC MEDICINE**

Dated: _____

3/2/2015



Nicole Bauerly, D.P.M.
Board Member