

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire**

In the Matter of:

**Richard P. Kulak, D.O.
(Application for License)**

ORDER OF CONDITIONAL DENIAL

Now before the Board of Medicine ("the Board") is the March 16, 2010 Application for License of Richard P. Kulak, D.O., ("the Applicant" or "Dr. Kulak"). The application was not sufficiently complete to permit Board action until July 21, 2010.

The Board reviewed Dr. Kulak's application for license at its regularly scheduled meeting of August 4, 2010. At the August 4, 2010 meeting, the Board voted to deny Dr. Kulak's application to practice medicine in New Hampshire. The grounds for denial are based upon a determination under RSA 329:14, II.

The Board reviewed the following information in making this determination:

1. Dr. Kulak's complete application submitted to the New Hampshire Board dated March 16, 2010 in which he answered "no" to question #11 "Is any investigation or disciplinary action pending, or has any investigation or disciplinary action been taken against you in the last ten years by any governmental authority, by any hospital or health care facility, or by any professional medical association (international, national, state or local)?"
2. An adverse action report submitted by the National Practitioner Data Bank ("NPDB") involving the New York State Department of Health.
3. Dr. Kulak's response to the NPDB adverse action report which included a copy of the *Application For and Agreement to Not Practice Medicine/Order of the Board* ("Order") and the *Order For Non Practice of Medicine* from the New York State, Department of Health, State Board for Professional Medical Conduct dated April 4, 2010.

More specifically, the Board's determination that Dr. Kulak's application is denied is based upon:

- A. Section 9 of Dr. Kulak's Order from New York State, Department of Health, State Board for Professional Medical Conduct which states "I understand that unless and until I am allowed to resume the practice of medicine under the terms of this agreement, my licensure status is "inactive" and I am not authorized to practice medicine in the State of New York or any other State (emphasis added). I further understand that any practice of medicine while my license is "inactive" shall constitute a violation of N.Y. Educ. Law

Section 6530(12), regardless of the location of such practice." Accordingly, pursuant to RSA 329:14, II, the Board finds that the Applicant does not possess "the necessary educational, character [and/or] other professional qualifications to practice medicine." Next, pursuant to the New York order, the Applicant is restricted from practicing medicine in New Hampshire. Finally, the Board finds the New York order precludes the Applicant's licensure in New Hampshire under RSA 329:17-c.

- B. Dr. Kulak's failure to answer question #11 honestly on the New Hampshire Board application for licensure. Accordingly, pursuant to RSA 329:14, II, the Board finds that the Applicant does not possess "the necessary educational, character [and/or] other professional qualifications to practice medicine." Moreover, pursuant to RSA 329:14, II, the Board finds that "circumstances exist which would be grounds for disciplinary action against a licensed physician pursuant to RSA 329:17, I." Namely, a violation of RSA 329:17, VI (a).

Therefore, the present license application of Richard P. Kulak, D.O. shall be denied at 12:01 A.M., August 9, 2010, unless prior to 4:00 P.M., September 9, 2010, the Board actually receives at its office in Concord a written request for a hearing from the Applicant. If a timely hearing request is received, the application shall not be denied unless, following the resulting hearing, the Applicant fails to demonstrate that he is qualified for licensure. The burden of proof shall be on the Applicant.

THEREFORE IT IS ORDERED, that the license application of Richard P. Kulak, D.O., be denied effective 12:01 A.M., August 9, 2010, unless prior to 4:00 P.M., September 9, 2010, the Board receives a written request for a hearing; and

IT IS FURTHER ORDERED, that receipt of a timely filed hearing request shall automatically void this Order and a further Order shall be issued in due course in which the Board establishes the date and time of the hearing, and specifies the issues to be heard; and

IT IS FURTHER ORDERED, any hearing held in response to this Order shall be conducted pursuant to RSA 329:18-a, RSA 541-A:31, and Med Chapter 200, and the burden of proof shall be upon the Applicant. The Applicant may request to be heard on any relevant matter of law or fact, but evidentiary proceedings shall be conducted only to the extent the Applicant has identified disputed factual issues which require resolution.

DATE: August 9, 2010

BY ORDER OF THE BOARD


Penny Taylor, Administrator
Authorized Representative of the
New Hampshire Board of Medicine