

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

In the Matter of:

**Kenneth R. DeVellis, M.D.
(Application for License)**

ORDER OF CONDITIONAL DENIAL

Now before the New Hampshire Board of Medicine ("the Board") is the July 23, 2016 Application for Physician Licensure of Kenneth R. DeVellis, M.D. ("the Applicant" or "Dr. DeVellis"). The application for license was not sufficiently complete to permit Board action until October 11, 2016.

On November 2, 2016 the Board examined Dr. DeVellis' application for licensure in the State of New Hampshire pursuant to RSA 541-A:29, RSA 329:14, and N.H. Admin. Rule Med 301.03. Pursuant to RSA 329:14, II the Board did not find that Dr. DeVellis possessed the necessary professional qualifications to practice medicine and that circumstances exist which would be grounds for discipline, in that his license was revoked in the State of Massachusetts and he has subsequently been denied reinstatement of a medical license in that state. Based on the action of the Commonwealth of Massachusetts, Board of Registration in Medicine, Dr. DeVellis was also excluded from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs, had his American Board of Surgery certification suspended, and had his staff privileges suspended at Hallmark Health System in Massachusetts. Thus, the Board is denying Dr. DeVellis' license and providing him an opportunity, pursuant to N.H. Admin. Rule 301.02(e), to request a hearing within 30 days of this denial.

The Board reviewed Dr. DeVellis' application, including but not limited to the following information in making this determination:

1. The Commonwealth of Massachusetts, Board of Registration in Medicine (Massachusetts Board) March 5, 2013 *Voluntary Agreement Not to Practice Medicine*, whereby Dr. DeVellis agrees to cease the practice of medicine in the Commonwealth of Massachusetts immediately;
2. The Massachusetts Board May 28, 2014 *Final Decision and Order*, revoking Dr. DeVellis' license;
3. Dr. DeVellis' March 7, 2016 *Petition for Reinstatement of License* addressed to the Massachusetts Board;
4. The Massachusetts Board June 16, 2016 *Order* denying Dr. DeVellis' *Petition for Reinstatement of License*;
5. September 30, 2014 letter from the Department of Health and Human Services, Office of Inspector General in Washington, DC to Dr. DeVellis regarding exclusion from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs;
6. The National Practitioner Data Bank report dated October 14, 2016;
7. Dr. DeVellis' completed Uniform Application for Physician Licensure submitted to the Board on July 23, 2016, along with the July 26, 2016 Physician Data Center Practitioner Profile, Dr.

- DeVellis' Affidavit and Authorization for Release of Information dated July 30, 2016 and the Addendum to Application dated July 20, 2016;
8. August 1, 2016 letter from Dr. DeVellis to the Board requesting consideration of his application;
 9. Several personal and professional recommendation letters;
 10. The Federation Credentials Verification Services (FCVS); and
 11. "Explanations of Addenda "yes" questions" dated August 1, 2016 submitted by Dr. DeVellis.

These 11 items were considered to be most pertinent to the denial.

Therefore, the present license application of Kenneth R. DeVellis, M.D. shall be denied at 12:01 A.M., January 9, 2017, unless prior to 4:00 P.M., February 8, 2017 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 to demonstrate that he meets the professional character requirements for licensure under RSA 329:12 and RSA 329:14, II.

THEREFORE IT IS ORDERED, that the license application of Kenneth R. DeVellis, M.D., be denied effective 12:01 A.M., January 9, 2017, as a 'final order' unless prior to 4:00 P.M., February 8, 2017, the Board receives a written request for a hearing; and

IT IS FURTHER ORDERED, that receipt of a timely filed hearing request shall automatically stay 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 that in accordance with RSA 329:18-a, IV, a 'final order' is a public document; 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.

IT IS FURTHER ORDERED that this Order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Board of Medicine.

BY ORDER OF THE BOARD

DATE: 1/9/2017



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