

Department of Health
Board of Medical Practice
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Agency of Human Services

March 29, 2010

Jeffrey David Rosen, M.D.
P.O. Box 544
Ludlow, VT 05149-0544

Re: Notice of Preliminary Denial of Licensure Vermont Board of Medical Practice

Dear Dr. Rosen:

At its March 3, 2010 meeting, the Vermont Board of Medical Practice considered your application for a license to practice medicine in the State of Vermont. After reviewing your June 4, 2009 application and the various submissions received in response to the Board's inquiries, the Board has denied your application for licensure for the reasons stated below. This decision is preliminary and is subject to review at your request. The procedure to initiate a review is set forth in the last paragraph of this letter.

(1) On June 4, 2009 you filed an application for medical licensure with the Vermont Board of Medical Practice. This is your second application for Vermont licensure, having first applied in 1998. Under Vermont law, the Board may deny an application for licensure where the applicant fails to "truthfully and completely" answer questions posed by the Board through its investigators. Specifically, Medical Board Investigator Paula Nenninger, asked you in her November 20, 2009 e-mail to "*detail the circumstances on why you left your last employment.*" In your November 30th reply you stated:

"My last position was from 2002 to 2007 at the Women's Health Center of West Virginia. I was the lead physician and surgeon for this large outpatient family planning facility. I was traveling to West Virginia from Ludlow, VT by air and automobile on a weekly basis. My plan was to join the staff of a Planned Parenthood facility in upstate New York. Two weeks before I was to start, the administrators felt that their patient volume did not warrant another physician. I have been looking for employment since that time."

On January 28, 2010, following receipt of your signed consent and authorization for release of information, the Women's Health Center of West Virginia responded to Investigator Nenninger's inquiry regarding your termination of employment, stating as follows:



"On September 12, 2007, Dr. Rosen was provided with thirty days notice that his contract for services was being terminated ... This decision to execute the right to terminate the contract without cause, was taken as a result of complaints in the months preceding the contract termination characterizing Dr. Rosen's treatment of patients as unprofessional and disrespectful. For example . . . [T]he medical assistant reported that as the patient vocalized pain during the procedure, Dr. Rosen became angry with the patient and hit the patient three times on the inside of her leg with an open hand."

Your November 30, 2009 response to Ms. Nenninger, by omission, grossly mischaracterizes the true circumstances of your departure from Women's Health Center of West Virginia. Your failure to disclose the termination of your contract would clearly constitute unprofessional conduct in the State of Vermont¹. Pursuant to 26 V.S.A. Section 1398², the Board may refuse to issue a medical license to any person who has engaged in "immoral, unprofessional³ or dishonorable conduct."

(2) On May 11, 2006, following your appearance before the Complaint Committee of the West Virginia Board of Medicine, you signed a consent order to avoid formal charges and a public hearing regarding the issue of fraudulent statements made on your West Virginia license application. The consent order provided for a fine of \$1,200 and completion of coursework.

While the Consent Order does not contain the language "fraudulent misrepresentation," the Complaint Committee's correspondence to you dated May 11, 2006 stated "*Please note that the term "fraudulent misrepresentation" has not been used in the enclosed Consent Order you are offered.*" If true, the conduct complained of that led to the actions by the West Virginia Board of Medicine would constitute unprofessional conduct in the State of Vermont. Pursuant to 26 V.S.A. Section 1398 the Board may refuse to issue a medical license to any person who has engaged in "immoral, unprofessional or dishonorable conduct."

(3) On October 7, 1998 this Board issued its preliminary decision to deny your first application for Vermont licensure. In its denial the Board cites a 1995 consent order with the New York State Department of Health in which you admitted to engaging in a sexual

¹ See *Weber vs. Colorado State Bd. Nursing*, 830 P.2d 1128 (1992); *Abrahamson vs. Illinois Dept. Of Pro. Reg.*, 806 N.E. 2d 1111 (1992), and *Hartman vs. Board of Chiropractic Examiners*, 66 P.2d 45 (1937)

² Also see RULES - Board of Medical Practice - 2.9(a): "An applicant for licensure may be denied if the Applicant is found to have been disciplined in another jurisdiction for unprofessional conduct ... for behavior that would constitute unprofessional conduct under Vermont law, or for other good cause ..."

³ See *In re: Steven Chenette, D.O. - The Appeals Panel of the Vermont Secretary of State issued its Findings, Conclusions and Order on February 20, 1990 in a case involving an applicant accused of "deceptively attempting to procure a license ... by knowingly giving the wrong answer to the [medical license application] question ... took no affirmative steps to ensure that a corrected application was sent... his application should be denied."*

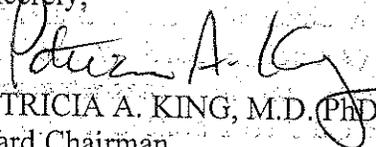
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relationship with a patient from December 1989 to February 1992. This offense would constitute unprofessional conduct in Vermont. The Vermont Board of Medical Practice Rule 2.9(b) provides you with the right to a hearing and the opportunity to show that you have met the licensing requirement. Following the denial you neither exercised your right to a hearing before the Board, nor did you withdraw your application. The issues raised in the 1998 denial remain unsettled. The fact that the probationary period relative to your New York suspension may have expired on November 19, 2000 does not change the characterization of the event as "unprofessional conduct" under Vermont law. Pursuant to 26 V.S.A. Section 1398⁴, the Board may refuse to issue a medical license to any person who has engaged in "immoral, unprofessional or dishonorable conduct."

You have the right to request a review of this preliminary decision by the Board to deny your application for licensure. If you want the Board to review its preliminary decision, you must make your request in writing within thirty (30) days of the date of this letter. Upon timely receipt of a written request, the Board will schedule a hearing at which you will have the burden⁵ of showing that the preliminary denial should be reversed and a license granted. If you do not submit a written request for a hearing, this decision will become final upon thirty days from the date that this notice is mailed.

Sincerely,


PATRICIA A. KING, M.D. (PHD)
Board Chairman

⁴ Also see RULES - Board of Medical Practice - 2.9(a): "An applicant for licensure may be denied if the Applicant is found to have been disciplined in another jurisdiction for unprofessional conduct ... for behavior that would constitute unprofessional conduct under Vermont law, or for other good cause ..."

⁵ See 3 V.S.A. 129(e)