

controlled substances in Colorado and is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

#### Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BH6450174 issued to Julie Halling, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Julie Halling, M.D. to renew or modify this registration, as well as any other pending application of Julie Halling, M.D. for additional registration in Colorado. This Order is effective [insert Date Thirty Days From the Date of Publication in the **Federal Register**].

#### Signing Authority

This document of the Drug Enforcement Administration was signed on June 16, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

*Federal Register Liaison Officer, Drug Enforcement Administration.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Kevin J. Dobi, APRN; Decision and Order

On October 4, 2017, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (OSC), seeking to deny the March 31, 2017 DEA Certificate of Registration application filed by Kevin J. Dobi APRN (Respondent) for registration in Montana. Request for Final Agency Action Exhibit (RFAAX) 2. The OSC alleged Respondent's application should be denied pursuant to 21 U.S.C. 824(a)(1) because Respondent materially falsified his application. *Id.* at 1.

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in a Request for Final Agency Action (RFAA) on May 16, 2022.<sup>1</sup>

#### I. Findings of Fact

Respondent surrendered for cause a Texas state registered nurse license on or about October 6, 1997. RFAAX 3, at 11 (Order of the Board of Nurse Examiners for the State of Texas). Respondent also surrendered for cause a DEA controlled substance registration, no. MD1340710, on September 9, 2011. RFAAX 1, at 2 (Certification of Respondent's Registration History).

On March 31, 2017, Respondent filed an application seeking a DEA controlled substance registration for schedules II–V. RFAAX 1, at 3–6 (Respondent's application). On the application, Respondent was asked whether he had “ever surrendered (for cause) . . . a federal controlled substance registration.” Respondent answered no. *Id.* at 4. Respondent was also asked whether he had “ever surrendered (for cause) . . . a state professional license.” Respondent answered no. *Id.* The Agency finds that Respondent's answers were clearly false because Respondent had surrendered a controlled substance registration and a state professional license for cause.

#### II. Discussion

The Administrator may deny an application for registration if the applicant materially falsified an application. 21 U.S.C. 824(a)(1).<sup>2</sup> Here, Respondent provided false information to two liability questions on his March 31, 2017 application—falsely responding that he had never surrendered for cause a state professional license or a federal controlled substances registration. Agency decisions have repeatedly held that false responses to the liability questions on an application for registration are material. *E.g.*, *Crosby Pharmacy and Wellness*, 87 FR 21,214; *Frank Joseph Stirlacci, M.D.*, 85 FR

<sup>1</sup> Respondent made a timely hearing request and submitted a Corrective Action Plan (CAP). RFAAX 4. DEA rejected Respondent's CAP on or about December 21, 2017, RFAAX 5, and a revised CAP was rejected on or about January 29, 2018, RFAAX 6. Respondent waived his right to a hearing, RFAAX 7, and proceedings were terminated on November 29, 2017, RFAAX 8.

<sup>2</sup> Although the language of 21 U.S.C. 824(a) discusses suspension and revocation of a registration, it may also serve as the basis for the denial of a DEA registration application. *E.g.*, *Crosby Pharmacy and Wellness*, 87 FR 21,212, 21,214 (2022); *Robert Wayne Locklear*, 86 FR 33,738, 33,744–45 (2021) (collecting Agency decisions).

45,229, 45,234–35 (2020). Accordingly, the Agency finds that the Government has established grounds to deny Respondent's application.

#### III. Sanction

Where, as here, the Government has established grounds to deny an application for registration, the burden shifts to the respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.*, 83 FR 18,882, 18,910 (2018) (citing *Samuel S. Jackson*, 72 FR 23,848, 23,853 (2007)). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent; therefore, the Agency looks at factors, such as the acceptance of responsibility and the credibility of that acceptance as it relates to the probability of repeat violations or behavior and the nature of the misconduct that forms the basis for sanction, while also considering the Agency's interest in deterring similar acts. *See Arvinder Singh, M.D.*, 81 FR 8247, 8248 (2016).

In this matter, Respondent did not avail himself of the opportunity to refute the Government's case or demonstrate why he can be entrusted with a registration. Accordingly, the Agency will order the sanctions the Government requested, as contained in the Order below.

#### Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny the pending application for a Certification of Registration in Montana submitted by Kevin J. Dobi, APRN. This Order is effective July 27, 2022.

#### Signing Authority

This document of the Drug Enforcement Administration was signed on June 16, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this

document upon publication in the **Federal Register**.

**Scott Brinks,**

*Federal Register Liaison Officer, Drug Enforcement Administration.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Jonathan Rosenfield, M.D.; Decision and Order

On March 31, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Jonathan Rosenfield, M.D. (hereinafter, Registrant). OSC, at 1 and 3. The OSC proposed the revocation of Registrant's Certificates of Registration Nos. FR4795780 and FR5759216 at the registered addresses of 393 Georgia Avenue SE, Atlanta, Georgia, and 1077 South Main Street, Madison, Georgia. *Id.* at 1. The OSC alleged that Registrant's registrations should be revoked because Registrant is "without authority to handle controlled substances in Georgia, the state in which [he is] registered with DEA for [both] registrations." *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its Request for Final Agency Action (RFAA) dated May 31, 2022.<sup>1</sup>

#### Findings of Fact

A DEA Diversion Investigator attested that he became aware of the lapse in Registrant's Georgia medical license in the course of his official duties and confirmed the lapse on the state website and also "through conversations with those at the Georgia Composite Medical Board." RFAA, App. 2, at 3. According to Georgia's online records, of which the Agency takes official notice, Registrant's Georgia medical license expired on March 31, 2021, and is currently in a

"lapsed" status.<sup>2</sup> Georgia Composite Medical Board, <https://gcmb.mylicense.com/verification> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in Georgia, the state in which Registrant is registered with the DEA.

#### Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).<sup>3</sup>

<sup>2</sup> Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's findings by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov).

<sup>3</sup> This rule derives from the text of two provisions of the CSA. First, Congress defined the term "practitioner" to mean "a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71,371–72; *Sheran Arden*

According to Georgia statute, "dispense" means "to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery." Ga. Code Ann. § 16–13–21(9) (2022). Further, a "practitioner" means a "physician . . . or other person licensed, registered, or otherwise authorized under the laws of [Georgia] to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in [Georgia]." *Id.* at § 16–13–21(23)(A). Because Registrant is not currently licensed as a physician, or otherwise licensed in Georgia, he is not authorized to dispense controlled substances in Georgia. Therefore, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

#### Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration Nos. FR4795780 and FR5759216 issued to Jonathan Rosenfield, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Jonathan Rosenfield, M.D. to renew or modify these registrations, as well as any other pending application of Jonathan Rosenfield, M.D. for additional registration in Georgia. This Order is effective July 27, 2022.

#### Signing Authority

This document of the Drug Enforcement Administration was signed on June 21, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this

*Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR 27,617.

<sup>1</sup> Based on the two Declarations from DEA Diversion Investigators that the Government submitted with its RFAA, the Agency finds that the Government's attempts to serve Registrant with the OSC were adequate. RFAA, Apps. 1–2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 4; *see also* 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C).