

of murder and kidnapping, and his plan to use drugs to facilitate these crimes is abominable. The Respondent also demonstrated his unfamiliarity with, or refusal to abide by, controlled substance laws and regulations by distributing and storing controlled substances at an unregistered location. Finally, the Respondent falsified an application for DEA registration by his failure to disclose the imposition of probation on his Tennessee state veterinary license. These factors, along with the absence of evidence to the contrary, lead to the conclusion that the Respondent's continued registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AS9668596, previously issued to Merlin E. Shuck, D.V.M., be, and it hereby is, revoked. This order is effective May 26, 2004.

Dated: March 29, 2004.

**Michele M. Leonhart,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Mark G. Stallman, M.D., Denial of Application for Change of Registered Address**

On July 18, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark G. Stallman, M.D. (Dr. Stallman) of Tucker, Georgia, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BS4792102, under 21 U.S.C. 824(a)(2) and (3) and deny his pending application for change of business address, control number C07848305K, pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Dr. Stallman is not currently authorized to practice medicine or handle controlled substances in Georgia, his State of registration and practice. The Order further alleged that his continued registration was inconsistent with the public interest, based on (1) Dr. Stallman prescribing controlled substances that were not in the course of his professional practice, and (2) his April 2, 2003, conviction of eight felony

counts of Illegally Dispensing (Prescribing) a Controlled Substance, in violation of the Georgia Controlled Substances Act, section 16-13-30(b). The Order also notified Dr. Stallman that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Stallman at his address of record at 5745 Lawrenceville Highway, Suite 204, Tucker, Georgia 30084. The Order was also sent by certified mail to Dr. Stallman's attorney, Mr. Barry Zimmerman, 8100-B Roswell Road, Suite 420, Atlanta, Georgia 30350. According to the return receipt, on July 28, 2003, the Order was received by Dr. Stallman's counsel. DEA has not received a request for hearing or any other reply from Dr. Stallman or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Stallman is deemed to have waived his hearing right. *See Samuel S. Jackson, D.D.S.*, 67 FR 65145 (2002); *David W. Linder*, 67 FR 12579 (2002). After considering material from the investigative file, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Stallman currently possesses DEA Certificate of Registration BS4792102, expiring February 28, 2005, to handle Schedule II through V controlled substances. On January 2, 2002, he filed an application, assigned DEA control number C07848305K, requesting registration at a different address than his current registered location.

The Deputy Administrator further finds that, effective June 2, 2003, the Composite Board of Medical Examiners for the State of Georgia (Board) issued its Final Decision, approving the Initial Decision of an Administrative Law Judge recommending the indefinite suspension of Dr. Stallman's Georgia medical license. That suspension was based upon the finding of fact, *inter alia*, that on August 12, 1999, Dr. Stallman's license to practice medicine in the State of Illinois was suspended indefinitely by the Illinois Department of Professional Regulation as a result of his participation in a scheme to process fraudulent personal injury claims.

The investigative file contains no evidence that the Georgia Board's Final Decision has been modified or stayed or that Dr. Stallman's medical license in that State has been reinstated.

Therefore, the Deputy Administrator finds that Dr. Stallman is not currently authorized to practice medicine in the State of Georgia. As a result, it is reasonable to infer he is also without authorization to handle controlled substances in that State.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.*, 66 FR 52936 (2001); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear Dr. Stallman's medical license has been suspended and he is not currently licensed to handle controlled substances in Georgia, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that State. Because Dr. Stallman is not entitled to a DEA registration in Georgia due to his lack of State authorization to handle controlled substances, the Deputy Administrator concludes it is unnecessary to address whether his registration should be revoked based upon the other grounds asserted in the Order to Show Cause. *See Fereida Walker-Graham, M.D.*, 68 FR 24761 (2003); *Nathaniel Aikins-Afful, M.D.*, 62 FR 16871 (1997); *Sam Moore, D.V.M.*, 58 FR 14428 (1993).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BS4792102, issued to Mark G. Stallman, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that the pending application for a change of registered location and any other pending applications for renewal or modification of Dr. Stallman's registration be, and they hereby are, denied. This order is effective May 26, 2004.

Dated: April 7, 2004.

**Michele M. Leonhart,**

*Deputy Administrator.*

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