

As noted above, Judge Randall also based, in part, the denial of the Government's January 28, 2002, Motion for Summary Disposition upon the proposition that DEA "had an avenue for terminating, as opposed to revoking, the Respondent's authority for handling controlled substances." Judge Randall also noted that the distinction between the termination and revocation of a DEA registration had significance, since revocation has a more severe consequence upon the Respondent, and thus, a "stigma" with consequences attached to the act of revoking a registration. However, the then-Deputy Administrator rejected the Administrative Law Judge's finding, and instead concluded that any "stigma" attendant to the revocation of a DEA registration was speculative, and if any exists, such stigma is secondary to public interest considerations in ensuring full and truthful responses on DEA registration applications. The then-Deputy Administrator also found that the termination provision under 21 CFR 1301.52 was inapplicable since the only relevant issue in the instant matter was whether the Respondent was currently authorized to handle controlled substances. *Levitt* at 49822.

Consistent with the Interlocutory order of the then-Deputy Administrator, Judge Randall recommended the revocation of the Respondent's DEA Certificate of Registration, and denial of any pending applications for renewal of such registration based on the Respondent's lack of authority to handle controlled substances in Missouri. There is no evidence before the Acting Deputy Administrator that the Respondent's Missouri state controlled substance privileges have been reinstated.

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 *Karen Joe Smiles, M.D.*, 68 FR 48944 (2003), *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that the Respondent is not currently authorized to handle controlled substances in the State of Missouri, where he is registered with DEA. Therefore, he is not entitled to maintain that registration. Because the Respondent is not entitled to a DEA registration in Missouri due to his lack of state authorization to handle controlled substances, the Acting

Deputy Administrator concludes that it is unnecessary to address whether the Respondent's 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-Aikens-Affud, M.D.*, 62 FR 16871 (1997); *Sam F. Moore, D.V.M.*, 58 FR 14428 (1993).

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, AD7084217, issued to Marlou D. Davis, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

John F. Hildebrand, M.D.; Revocation of Registration

On May 5, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John F. Hildebrand, M.D. (Dr. Hildebrand) of Elk Grove, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AH5626099 under 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Hildebrand is not currently authorized to practice medicine or handle controlled substances in California, his state of registration and practice. The order also notified Dr. Hildebrand 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. Hildebrand at his registered location at 9410 Elk Grove-Florin Road, Elk Grove, California. According to the return receipt, on or around June 6, 2003, the Order was accepted on Dr. Hildebrand's behalf. By his letter of June 30, 2003, Dr. Hildebrand advised the Hearing Clerk in

DEA's Office of Administrative Law Judges that he wished to waive his right to a hearing in this matter. In that letter Dr. Hildebrand also asked that DEA delay revoking his certificate of registration until an appeal of the state board's revocation of his medical license was adjudicated. However, Dr. Hildebrand proffered no legal basis for delaying action on this matter and the Acting Deputy Administrator finds he affirmatively waived his hearing right. Accordingly, after considering material from the investigative file, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Hildebrand possesses DEA Certificate of Registration AH5626099, which expired on October 31, 2003. The Acting Deputy Administrator further finds that the Medical Board of California (the Board) filed an accusation against Dr. Hildebrand alleging, *inter alia*, that he engaged in sexual abuse/misconduct with a patient and gross negligence, in violation of California Business and Professions Code, sections 726 and 2234(b).

During June 2001, an eight day hearing was held before an Administrative Law Judge from the Office of Administrative Hearings, State of California. The Administrative Law Judge issued a Proposed Decision sustaining the relevant accusations and recommending that Dr. Hildebrand's California Physician and Surgeon's license be revoked. On July 30, 2001, the Board approved the Administrative Law Judge's Proposed Decision and issued its Decision, effective August 29, 2001, revoking Dr. Hildebrand's license to practice medicine in the State of California for an indefinite period. On August 24, 2001, Dr. Hildebrand obtained an *ex parte* temporary stay of the Board's action from the Hon. Ronald B. Robie of the Sacramento County Superior Court so that the court could review the submitted documents. On September 20, 2001, the court lifted the stay and the Board's Revocation Order took effect.

The investigative file contains no evidence that the Board's Decision has been further stayed, that an appeal has been adjudicated adversely to the Board or that Dr. Hildebrand's medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Hildebrand is not currently authorized to practice medicine in the State of California. As a result, it is reasonable to infer that 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 that Dr. Hildebrand's medical license has been revoked and he is not licensed to handle controlled substances in the State of California, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that state.

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 AH5626099, issued to John F. Hildebrand, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Brenda J. Lightfoote-Young, M.D.; Revocation of Registration

On April 11, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Brenda J. Lightfoote-Young, M.D. (Dr. Lightfoote-Young) of Eureka and Big Bear Lake, California, notifying her of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration, BL0935518 under 21 U.S.C. 824(a) any deny and pending applications of renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Lightfoote-Young is not currently authorized to practice medicine or handle controlled substances in California, her state of registration and practice. The order also notified Dr. Lightfoote-Young that should no request

for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Lightfoote-Young at both her registered location at 3144 Broadway, Suite 4-434, Eureka, California, and to P.O. Box 130249, Big Bear Lake, California. On April 29, 2003, according to the return receipt, Dr. Lightfoote-Young received the Order to Show Cause that was mailed to her Big Bear address. DEA has not received a request for hearing or any other reply from Dr. Lightfoote-Young or anyone purporting to represent her in this matter. Therefore, the Acting 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. Lightfoote-Young is deemed to have waived her hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Lightfoote-Young possesses DEA Certificate of Registration BL0935518, which expired on March 31, 2003. The Acting Deputy Administrator further finds that on July 8, 1999, the Medical Board of California (the Board) filed an accusation against Dr. Lightfoote-Young alleging that she violated California Business and Professions Code, section 2239(b), by arriving at work under the influence of alcohol. On March 31, 2000, Dr. Lightfoote-Young and her counsel signed a stipulated settlement and disciplinary order with the Board revoking her medical certificate, but staying that revocation and placing her on five years probation under certain terms and conditions. The disciplinary order provided she was to enroll and participate in the Division of Medical Quality (the Division) Diversion Program until the Division determined that further treatment and rehabilitation were no longer necessary. The order further provided that quitting the program without permission or being expelled for cause would constitute a violation of Dr. Lightfoote-Young's probation.

Alleging, *inter alia*, that during January 2001, Dr. Lightfoote-Young refused to participate any further in the Diversion Program, the Board filed a petition to revoke her probation. On September 26, 2002, a hearing was held before an Administrative Law Judge from the Los Angeles Office of Administrative Hearings. On November 5, 2002, the Board approved the

Administrative Law Judge's Proposed Decision and issued its Decision, effective December 5, 2002, revoking Dr. Lightfoote-Young's license to practice medicine in the State of California for an indefinite period.

The investigative file contains no evidence that the Board's Decision has been stayed or that Dr. Lightfoote-Young's medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Lightfoote-Young is not currently authorized to practice medicine in the State of California. As a result, it is reasonable to infer that she 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 she 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 that Dr. Lightfoote-Young's medical license has been revoked and she is not licensed to handle controlled substances in the State of California, where she is registered with DEA. Therefore, she is not entitled to a DEA registration in that state.

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 order that DEA Certificate of Registration BL0935518, issued to Brenda J. Lightfoote-Young, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michelle M. Leonhart,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shop It For Profit; Denial of Application

On November 22, 2002, the Deputy Assistant Administrator, Office of