

and 22). The investigation is hereby terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

Documents relating to this determination, including a Concurring Memorandum from Commissioner Johanson, can be found on the Commission's Electronic Document Information System (EDIS) under Docket Number 886.

Issued: April 25, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–09915 Filed 4–30–14; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 14–4]

Kate B. Mayes, M.D.; Decision and Order

On February 19, 2014, Administrative Law Judge (ALJ) Gail A. Randall issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended order. Accordingly, I will order that Respondent's DEA Certificate of Registration be revoked and that any pending application to renew or modify her registration be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration BM8500452, issued to Kate B. Mayes, M.D., be, and it hereby is, revoked. I further order that any pending application of Kate B. Mayes, M.D., to renew or modify her registration, be, and it hereby is, denied. This Order is effective June 2, 2014.

Dated: April 21, 2014.

Thomas M. Harrigan,

Deputy Administrator.

Bryan Bayly, Esq., *for the Government*
Kate B. Mayes, M.D., *Pro Se, for the Respondent*

Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge

I. Facts

Gail A. Randall, Administrative Law Judge. The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, (“DEA” or “Government”), issued an Order to Show Cause (“Order”) dated October 25, 2013, proposing to revoke DEA Certificate of Registration (“COR”) number BM8500452 of Kate B. Mayes, M.D. (“Respondent”), a practitioner, pursuant to 21 U.S.C. 824(a)(3) (2006), because Respondent lacks state authority to manufacture, distribute, or dispense controlled substances.

The Order alleged that, effective June 27, 2012, Respondent's medical license was suspended by the South Carolina Board of Medical Examiners (“Board”). [Order at 1]. Accordingly, the Order stated that “DEA must revoke [Respondent's] current DEA registration based upon [her] lack of authority to handle controlled substances in the state of South Carolina.” [*Id.* at 1–2 (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3))]. The Order notified Respondent that she may, within thirty days of her receipt of the Order, request a hearing to show cause as to why the DEA should not revoke her registration. [*Id.* at 2 (citing 21 CFR 1301.43(a) (2013))].

Respondent was served with the Order on November 4, 2013. On December 3, 2014, Respondent timely filed a letter with this office requesting that I, the Administrative Law Judge assigned to this matter, grant her an extension of time to respond to the Order. Pursuant to my authority under 21 CFR 1316.47(b), I granted Respondent's request for an extension of time and ordered Respondent to respond to the Order by December 19, 2013. On December 19, 2013, Respondent filed a request for a hearing,¹ and on December 20, 2013, I ordered the Government and Respondent to file prehearing statements by January 10, 2014 and January 17, 2014, respectively.

On January 10, 2014, the Government filed a motion with this Court entitled Government's Motion for Summary Judgment and to Stay the Dates for the Parties to Submit Prehearing Statements (“Government's Motion”). Therein, the Government requested that I issue a

¹ Although the Respondent mentioned an attorney in her request for a hearing and in her request for an extension of time, no attorney has entered a notice of appearance for Respondent in this case.

decision recommending that the DEA summarily revoke Respondent's COR because Respondent's state medical license has been suspended and Respondent therefore lacks state authority to handle controlled substances. [Gov't Mot. at 1, 2]. Additionally, the Government requested that I postpone the deadlines for filing prehearing statements until I have ruled on the motion. [*Id.*].

On January 13, 2014, I issued an order for Respondent to respond to the Government's Motion by January 21, 2014. Also in the order, I stayed the deadlines for prehearing statements until I have ruled on the Government's Motion. Respondent did not file a response to the Government's Motion; indeed, this office has received no correspondence from Respondent since she requested a hearing on December 19, 2013.

For the reasons set forth below, I will grant the Government's Motion and recommend that the Deputy Administrator revoke the Respondent's DEA Certificate of Registration and deny any currently pending applications to renew this registration.

II. Discussion

The Controlled Substances Act (“CSA”) provides that obtaining a DEA registration is conditional on holding a state license to handle controlled substances. [See 21 U.S.C. 802(21) (defining “practitioner” as “a physician . . . 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. 823(f) (“the Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices”); *see also* § 824(a)(3) (“a registration may be suspended or revoked by the Attorney General upon a finding that the registrant has had his State license or registration suspended, revoked or denied by competent State authority”)]. The DEA, therefore, has consistently held that the CSA requires the DEA to revoke the registration of a practitioner who no longer possesses a state license to handle controlled substances. *See e.g. Joseph Baumstarck*, 74 FR 17,525, 17,527 (DEA 2009) (“a practitioner may not maintain his DEA registration if he lacks authority to handle controlled substances under the laws of the state in which he practices”); *Roy Chi Lung, M.D.*, 74 FR 20,346 (DEA 2009); *Gabriel Sagun Orzame, M.D.*, 69 FR 58,959 (DEA 2004); *Alton E. Ingram, Jr., M.D.*,

69 FR 22,562 (DEA 2004); *Graham Travers Schuler, M.D.*, 65 FR 50,570 (DEA 2000); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (DEA 1993).

DEA has also held that revocation by summary disposition is proper when the parties agree that the respondent lacks state authority to handle controlled substances. *Michael G. Dolin, M.D.*, 65 FR 5,661, 5,662 (DEA 2000) (“where no questions of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory”) (citing *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *Philip E. Kirk, M.D.*, 48 FR 32,887 (DEA 1983), *aff’d sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984)).

Here, it is undisputed that Respondent is without state authority to handle controlled substances. Notably, Respondent’s COR only authorizes her to handle controlled substances in South Carolina. [Gov’t Mot. Attach. 1 at 1]. However, in her request for a hearing, Respondent acknowledged that she has no authority to handle controlled substances in the state, noting that she hopes to have her license reinstated “[a]fter more than 18 months of having a suspended medical license in the state of South Carolina.” Also, the Government attached to its Motion a copy of the South Carolina Board’s order suspending Respondent’s medical license “pending further Order of the Board.” [Gov’t Mot. Attach. 2 at 1]. Respondent has not responded to the Government’s Motion and therefore has offered no evidence that any “further Order of the Board” has been issued. I therefore find that Respondent lacks state authority to handle controlled substances because her medical license in South Carolina is suspended.

III. Conclusion, Order, and Recommendation

Because there is no genuine dispute that the Respondent currently lacks state authority to handle controlled substances, summary disposition for the Government is appropriate.

Accordingly, I *hereby*

Grant the Government’s Motion.

I also forward this case to the Deputy Administrator for final disposition. I recommend that the Respondent’s DEA Certificate of Registration, Number BM8500452, be revoked and any pending renewal applications for this registration be denied.

Dated: February 19, 2014

s/ Gail A. Randall,

Administrative Law Judge.

[FR Doc. 2014–09962 Filed 4–30–14; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gregory White, M.D.; Decision and Order

On December 18, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Gregory White, M.D. (Registrant), of Redding, California. The Show Cause Order proposed the revocation of Registrant’s Certificate of Registration BW7606619, and the denial of any pending application to renew or modify his registration, on the ground that he is no longer authorized to handle controlled substances in California, the State in which he is registered with DEA. Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(3)).

The Show Cause Order alleged that Registrant is registered with the DEA as a practitioner in Schedules II–V, at the registered address of 473 South Street, Redding, California 96001, and that his registration does not expire until May 31, 2016. *Id.* at 1. The Show Cause Order then alleged that on May 21, 2013, the Medical Board of California (MBC) issued an accusation against Registrant, seeking to revoke or suspend his state medical license. *Id.*

Next, the Show Cause Order alleged that on September 13, 2013, an administrative law judge (ALJ) with the State’s Office of Administrative Hearings (hereinafter, OAH) issued an order granting the MBC’s Petition for an Ex Parte Interim Suspension Order, which immediately suspended Registrant’s license to practice medicine. *Id.* The Show Cause Order further alleged that on October 9, 2013, the OAH ALJ issued a Decision and Order, which suspended Registrant’s license to practice medicine in the State of California and scheduled a hearing for June 30 through August 8, 2014. *Id.* at 1. The Show Cause Order thus alleged that Registrant does not have a valid license to handle controlled substances as required by state law, and that he is therefore currently without authority to handle controlled substances in the State in which he is registered with the DEA. *Id.* at 2 (citing Cal. Health & Safety Code section 11000 *et seq.*; Cal. Bus. & Prof. Code section 2000 *et seq.*). The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43).

On December 19, 2013, a DEA Special Agent personally served the Order to Show Cause on Registrant. GX 6, at 1. Since the date of service, neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. Because more than thirty (30) days have passed since service of the Show Cause Order, I conclude that Registrant has waived his right to a hearing or to submit a written statement. 21 CFR 1301.43(d). I therefore issue this Decision and Order based on relevant material contained in the record submitted by the Government. I make the following factual findings.

Findings

Registrant is the holder of DEA Certificate of Registration BW7606619, pursuant to which he is authorized to dispense controlled substances in schedules II through V. GX 2, at 1. Registrant also holds an identification number as a Data-Waived Practitioner. *Id.* Registrant last renewed his registration on April 15, 2013, and his registration does not expire until May 31, 2016. *Id.*

On September 13, 2012, the MBC filed an Accusation against Registrant’s California Physician’s and Surgeon’s Certificate, and on May 21, 2013, the MBC filed a First Amended Accusation which raised extensive allegations regarding his prescribing of controlled substances to five patients. GX 3; GX 5, at 3.

On some date which is not clear on the record, the MBC filed a Petition for an Ex Parte Interim Suspension Order. GX 4, at 1. On September 13, 2013, a state ALJ conducted a hearing, after which she concluded that Registrant “is unable to practice safely due to violations of the Medical Practice Act,” that permitting him “to continue to engage in the practice of medicine will endanger the public health, safety, and welfare,” and that “[s]erious injury would result to the public before the matter can be heard on notice.” *Id.* at 2. The ALJ then ordered that Registrant’s state medical license be immediately suspended pending a further hearing. *Id.*

On October 2, 2013, the state ALJ conducted that hearing (at which both parties put on evidence), after which she concluded that: (1) The MBC had established that there was “a reasonable probability that [it would] prevail if an accusation is filed against” Registrant, and (2) “the likelihood of injury to the public in not issuing an [immediate suspension order] outweighs the likelihood of injury to respondent in issuing the order.” GX 5, at 9.