

application of John R. Kregenow, D.D.S., to renew or modify this registration, be, and it hereby is, denied. This Order is effective immediately.⁴

Dated: August 10, 2015.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2015-20352 Filed 8-17-15; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ronald A. Green, M.D.; Decision and Order

On February 6, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Ronald A. Green, M.D. (Registrant), of Houston, Texas. GX 1. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration FG1729699, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, as well as the denial of any pending applications to renew or modify his registration, on the ground that he does not "have authority to handle controlled substances in" Texas, "the State in which [he is] registered with the DEA." *Id.*

The Show Cause Order specifically alleged that on December 10, 2014, the Disciplinary Panel of the Texas Medical Board (TMB) issued an Order of Temporary Suspension, which suspended his medical license the same day. *Id.* The Show Cause Order further alleged that as a consequence of the Board's order, Registrant is currently without authority to handle controlled substances in Texas, the State in which he holds his DEA registration.¹ *Id.*

On February 11, 2015, a DEA Diversion Investigator (DI) initially attempted to personally serve Registrant by travelling to his registered location. GX 4, at 1. However, the DI found that his practice was closed and was told by employees of a bank located across the hall that no one had seen Registrant recently. *Id.* Thereafter, the DI obtained

the address of Registrant's residence from the Texas Department of Public Safety and on February 17, went to his residence. *Id.* at 2. The DI rang the doorbell and knocked on the door several times but received no response. *Id.* The DI then slid a copy of the Show Cause Order under the front door. *Id.*

Three months later (on May 20, 2015), the Office of Administrative Law Judges received a fax from Registrant which included a document entitled "Response to First Amended Complaint and Motion to Dismiss," which he apparently filed in the proceeding brought against him by the Texas Medical Board. Registrant did not, however, request a hearing on the Show Cause Order. *See* 21 CFR 1301.43(a) & (d). Moreover, to the extent Registrant submitted this document as his statement of position, *see id.*

§ 1301.43(c), his filing does not contain any explanation for why good cause exists to excuse its untimeliness. *Id.* §§ 1301.43(d), 1316.47(b).

In the meantime, on April 7, 2015, the Government submitted a Request for Final Agency Action along with the investigative record, which it subsequently supplemented by providing a copy of Registrant's filing with the Office of Administrative Law Judges. In its Request, the Government asserts that Registrant has waived his right to a hearing. Request for Final Agency Action, at 4.

Based on my review of the record, I find that Registrant was properly served with the Show Cause Order. I further find that Registrant has waived his right to a hearing, as well as his right to submit a statement of position on the allegations of the Show Cause Order. *Id.* § 1301.44(d). I make the following findings.

Findings

Registrant is the holder of DEA Certificate of Registration FG1729699, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of: Paradigm Center for Integrative Medicine, 7505 Fannin, Suite 120, Houston, TX 77054. GX 2. This registration is due to expire on September 30, 2015. *Id.*

On December 10, 2014, a Disciplinary Panel of the TMB issued an Order of Temporary Suspension, which suspended Registrant's medical license, based upon its finding that Registrant's "continuation in the practice of medicine would constitute a continuing threat to public welfare." GX 3, at 3, 5.²

According to the TMB's Web site, the Order remains in effect as of this date. *See* http://reg.tmb.state.tx.us/OnLineVerif/Phys_ReportVerif_new.asp. Accordingly, I find that Registrant is currently without authority under the laws of the State of Texas to dispense controlled substances.

Discussion

The Controlled Substances Act (CSA) grants the Attorney General authority to revoke a registration "upon a finding that the registrant . . . has had his State license or registration suspended [or] revoked . . . and is no longer authorized by State law to engage in the . . . distribution [or] dispensing of controlled substances." 21 U.S.C. 824(a)(3). Based on the CSA's provisions which define the term "practitioner" and set forth the requirement for obtaining a registration as such, DEA has long held that a practitioner must be currently authorized to handle controlled substances in the "jurisdiction in which he practices" in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) ("The term 'practitioner' means 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."); *see also id.* § 823(f) ("The Attorney General shall register practitioners . . . to dispense . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.").

As these provisions make plain, possessing authority under state law to dispense controlled substances is an essential condition for holding a DEA registration. *See David W. Wang*, 72 FR 54297, 54298 (2007); *Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). And based on these provisions, the Agency has also "held that revocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action at which he . . . may ultimately prevail."

of the Texas Medical Practice Act, including that he prescribed, administered, or dispensed controlled substance for non-therapeutic purposes and "in a manner inconsistent" with the Controlled Substances Act and Texas law, that he failed to comply with the Board's regulations regarding the operation of pain management clinics, that he failed to adhere to guidelines and requirements for the treatment of pain, and that he wrote prescriptions for known abusers of narcotics. GX 3, at 3-5.

⁴ For the same reasons that the Wisconsin Board summarily suspended Registrant's dental license, I conclude that the public interest requires that this Order be effective immediately. *See* 21 CFR 1316.67.

¹ The Show Cause Order also informed Registrant of his right to request a hearing on the allegations or to submit a written statement of position on the matters alleged in the Order while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. GX 1, at 1-2 (citing 21 CFR 1301.43).

² The TMB's Order contains numerous conclusions of law based on Registrant's violations

Kamal Tiwari, 76 FR 71604, 71606 (2011) (citing cases).

Here, the evidence shows that Registrant's medical license has been suspended by the Texas Medical Board. I therefore hold that Registrant no longer holds authority under the laws of Texas, the State in which he is registered, to dispense controlled substances and that therefore, he is not entitled to maintain his DEA registration. *See* 21 U.S.C. 802(21), 823(f), 824(a)(3). Accordingly, I will order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FG1729699 issued to Ronald A. Green, M.D., be, and it hereby is, revoked. I further order that any application of Ronald A. Green, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.³

Dated: August 10, 2015.

Chuck Rosenberg,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-392]

Importer of Controlled Substances Application: Cody Laboratories, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before September 17, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before September 17, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrisette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement

Administration, Attention: Hearing Clerk/LJ, 8701 Morrisette Drive, Springfield, Virginia 22152. Comments and request for hearing on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on May 8, 2015, Cody Laboratories, Inc., 601 Yellowstone Avenue, Steve Hartman, Vice President of Compliance, Cody, Wyoming 82414-9321 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import narcotic raw materials for manufacturing and further distribution to its customers. The company is registered with the DEA as a manufacturer of several controlled substances that are manufactured from poppy straw concentrate.

The company plans to import an intermediate form of tapentadol (9780), to bulk manufacturer tapentadol for distribution to its customers.

Dated: August 10, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 14-24]

Nicholas Nardacci, M.D.; Decision and Order

On July 15, 2014, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Nicholas J. Nardacci, M.D. (Respondent), of Albuquerque, New Mexico. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration AN9444592, on the ground that he lacks authority to handle controlled substances in New Mexico, 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 specifically alleged that on August 20, 2013, the New Mexico Medical Board (the Board) issued a Decision and Order suspending Respondent's medical license, based on its finding that since 2010, Respondent had prescribed medical marijuana for numerous persons by certifying to the New Mexico Department of Health that he was each person's medical provider, without first establishing that he was the primary caregiver for any of those persons or otherwise first establishing a physician-patient relationship as required under NMSA §§ 26-2B-1 *et seq.* *Id.* at 1. Based on the State's suspension of his medical license, the Order alleged that Respondent was without authority to handle controlled substances in New Mexico, the State in which he is registered with DEA, and thus, he is not entitled to maintain his registration. *Id.* (citing 21 U.S.C. 801(21), 823(f) and 824(a)(3)).¹

On or about August 4, 2014, the Show Cause Order was served on Respondent, and on September 2, 2014, Respondent filed a letter with the Office of Administrative Law Judges. GX 4. Therein, Respondent acknowledged that he had been served with the Show Cause Order and requested additional time in which to respond to the Order so that he could retain a lawyer; however, he did not request a hearing. *Id.* Respondent also asserted that on August 12, 2014, the Board had issued a Return to Work Order and therefore, his state medical license was now active. *Id.* The matter was then assigned

³ Based on the findings of fact and conclusions of law which led the TMB to conclude that Registrant's "continuation in the practice of medicine would constitute a continuing threat to public welfare," GX 3, at 3; I conclude that the public interest requires that this Order be effective immediately. *See* 21 CFR 1316.67.

¹ The Show Cause Order also notified Respondent 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 for failing to elect either option. Show Cause Order, at 2 (citing 21 CFR 1301.43).