

On or about October 3, 2016, a Diversion Investigator (DI) from the Houston Division Office sent the Order to Show Cause by Certified Mail to Registrant at the address of his registered location. Appendix 4, at 2 (Declaration of DI). According to the DI, on or about October 11, 2016 she received back the signed return-receipt card showing that the Show Cause Order had been received at Registrant's registered address. *Id.* at 2. The DI further averred that while the date of receipt was not marked on the card, the Postal Service's Web site shows that the mailing "was signed for on October 7, 2016." *Id.*

On December 12, 2016, the Government submitted a Request for Final Agency Action (RFFA) and an evidentiary record to my Office. Therein, the Government represents that more than 30 days have passed since the Order to Show Cause was served on Registrant and that it "has not received a request for hearing or any other reply from" Registrant. RFFA at 2.

Based on the Government's representation and the record, I find that more than 30 days have passed since the date of service of the Show Cause Order, and that neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement in lieu of a hearing, and issue this Decision and Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact.

Findings

Registrant is the holder of Certificate of Registration No. AW2558750, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 4604 Hispania View Drive, League City, Texas; his registration does not expire until May 31, 2017. Appendix 2 (Certificate of Registration).

On June 10, 2016, Registrant entered into an Agreed Order of Revocation with the Texas Medical Board (the Board) "to avoid further investigation, hearings, and the expense and inconvenience of litigation." Appendix 3, at 4 (Agreed Order of Revocation). The Board specifically found that Registrant "failed to adequately supervise his prescriptive delegate . . . who non[-]therapeutically prescribed controlled substances and who operated an unregistered pain management clinic." *Id.* at 3. While "[n]one of the patients involved in the

allegations were [his] personal patients" and Registrant "denied the allegation," he "surrender[ed] his license because of his inability to practice due to health reasons." *Id.* He further "accept[ed] that the revocation of his Texas medical license will be accepted in lieu of further disciplinary proceedings and that it [was] effective on the date of the entry of th[e] Agreed Order." *Id.* See also *id.* at 4 (citing Tex. Occ. Code Ann. §§ 164.053(a)(8) and 164.057; 22 Tex. Admin. Code 196.2). The Board thus ordered that Registrant's medical license be revoked and that he "immediately cease practice in Texas." *Id.*

Based on the Board's Order, and Registrant's failure to submit any evidence to show that his medical license has been reinstated, I find that Registrant is no longer currently authorized to dispense controlled substances in Texas, the State in which he is registered with the Agency.

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 Title 21, "upon a finding that the registrant . . . has had [his] State license . . . 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, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which he engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. See, e.g., *James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); see also *Frederick Marsh Blanton*, 43 FR 27616 (1978) ("State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.").

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 Act, 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 medicine. See, e.g., *Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR at 27616.

As found above, by virtue of the Agreed Order of Revocation, Registrant currently lacks authority to practice medicine and dispense controlled substances in Texas, the State in which he holds his DEA registration. Accordingly, I will order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AW2558750, issued to Richard W. Walker, Jr., M.D., be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), I further order that any pending application of Richard W. Walker, Jr., M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective March 6, 2017.

Dated: January 27th, 2017.

Chuck Rosenberg,
Acting Administrator.

[FR Doc. 2017-02320 Filed 2-2-17; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Janet Carol Dean, M.D.; Decision and Order

On September 22, 2016, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Janet Carol Dean, M.D. (Registrant), of Denver, Colorado. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. BD2298621, the denial of any applications to renew or modify her registration, and the denial of any applications for any other DEA registration, on the ground that she does not have authority to handle controlled

substances in Colorado, the State in which she is registered with the DEA. Order to Show Cause, at 1 (citing 21 U.S.C. 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is the holder of Certificate of Registration No. BD2298621, pursuant to which she is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 710 E. Speer Blvd., Denver, Colorado. *Id.* The Order also alleged that this registration does not expire until June 30, 2017. *Id.*

As ground for the proceeding, the Show Cause Order alleged that on August 22, 2016, the Colorado Medical Board issued an order "which suspended [her] medical license" and that she is "currently without authority to practice medicine or handle controlled substances in the State of Colorado, the [S]tate in which [she is] registered with the" Agency. *Id.* at 2. Based on her "lack of authority to [dispense] controlled substances in . . . Colorado," the Order asserted that "DEA must revoke" her registration. *Id.* (citing 21 U.S.C. 824(a)(3)).

The Show Cause Order notified Registrant of her 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. *Id.* (citing 21 CFR 1301.43). The Show Cause Order also notified Registrant of her right to submit a corrective action plan. *Id.* at 2–3.

On or about September 29, 2016, a Diversion Investigator from the Denver Field Division mailed the Order to Show Cause to Registrant by Certified Mail, Return Receipt Requested, addressed to her at the following addresses: (1) An address which, according to the Government was her registered address, but which is recorded on the Certified Mail Receipt as 710 E. Speed Blvd.; (2) her mailing address on file with the Agency; and (3) the address listed on her Colorado driver's license. Government Request for Final Agency Action (RFFA), at 1–2. According to both USPS tracking information and the signed return-receipt card, the mailing to Registrant's mailing address was signed for on October 6, 2016.¹ GX 3, at 2–3.

¹ Because of the discrepancy between the addresses listed in the registration history (710 E. Speer Blvd., Denver, CO) and the address as written on the Certified Mail receipt (710 E. Speed Blvd., Denver, CO), I cannot find that this attempt at service was effective. As for the mailing of the Show Cause Order to the address on her driver's license, it was returned unclaimed. Thus, I rely

On December 7, 2016, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that Registrant has neither requested a hearing nor "otherwise corresponded or communicated with DEA regarding" the Show Cause Order. RFFA, at 2.

Based on the Government's representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant and she has neither requested a hearing nor submitted a written statement in lieu of a hearing. *Id.* at 2 (citing 21 CFR 1301.43(d)). Accordingly, I find that Registrant has waived her right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

Findings

Registrant is the holder of DEA Certificate of Registration BD2298621, pursuant to which she is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 710 E. Speer Blvd., Denver, Colorado. GX 1, at 1 (Certification of Registration History). Her registration does not expire until June 30, 2017. *Id.*

On August 22, 2016, the Colorado Medical Board (the Board) issued an Order of Suspension to Registrant, which was effective the same day. GX 4, at 2 (Order of Suspension). According to the Board's Order, an Inquiry Panel reviewed information that "during the period of January 1, 2016 to May 27, 2016, [Registrant] signed in excess of 450 certifications recommending the medical use of marijuana which authorized the individual to possess more marijuana plants than were medically necessary to treat the patients' conditions." *Id.* at 1. The Inquiry Panel also found that the "certifications [fell] below generally accepted standards of medical practice and lack[ed] medical necessity," in violation of Colorado law. *Id.* (citing, *inter alia*, Col. Rev. Statutes §§ 12–36–117(l)(p) and (mm)).

The Panel further found that the "significant number of standard of care deviations, within a six-month period, raise[d] significant concerns regarding Respondent's medical judgment and decision-making." *Id.* at 2. And based on its conclusion that there were "objective and reasonable grounds to believe . . . that [Registrant]

only on the mailing to the mailing address she provided to the Agency.

deliberately and willfully violated the Medical Practice Act and/or that the public health, safety or welfare imperatively requires emergency action," the Panel ordered the suspension of her medical license which "shall remain in effect until resolution" of the Board's matter. *Id.*

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 Title 21, "upon a finding that the registrant . . . has had [her] State license . . . 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, DEA has repeatedly 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 registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) ("State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.").

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 [s]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 [s]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 Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the State in which she engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR

11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner’s registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State’s use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Colorado Medical Board has employed summary process in suspending Registrant’s state license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in the State in which she is registered. I will therefore order that her registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration BD2298621, issued to Janet Carol Dean, M.D., be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), I further order that any pending application of Janet Carol Dean, M.D., to renew or modify her registration, or for any registration in the State of Colorado, be, and it hereby is, denied. This Order is effective immediately.²

Dated: January 27th, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017-02321 Filed 2-2-17; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

On January 19, 2017, the Department of Justice lodged a proposed settlement agreement with the United States Bankruptcy Court for the District of Delaware in the lawsuit entitled *In re SRC Liquidation LLC, et al.*, Case No.

15-10541-BLS (Bankr. D. Del). The proposed settlement agreement, if approved, will fully resolve the proof of claim filed by the United States, on behalf of the U.S. Environmental Protection Agency (“EPA”), against SRC Liquidation LLC (“SRC”), formerly known as The Standard Register Company, contending that SRC is liable under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9601-9675, for response costs incurred and to be incurred by the United States at the Valleycrest Landfill Superfund Site (a/k/a/North Sanitary Landfill) in the City of Dayton, Montgomery County, Ohio (“Site”). Under the proposed settlement agreement, the United States, on behalf of EPA, shall have an allowed general unsecured claim against SRC of \$4,300,000, which shall be entitled to the same treatment as other allowed general unsecured claims under SRC’s approved plan of liquidation.

The publication of this notice opens a period for public comment on the proposed settlement agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re SRC Liquidation LLC, et al.*, D.J. Ref. No. 90-11-3-11076/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed settlement agreement may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will also provide a paper copy of the proposed settlement agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$3.00 (12 pages at 25 cents per page

reproduction cost) payable to the United States Treasury.

Randall M. Stone,

*Acting Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.*

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DEPARTMENT OF JUSTICE

[OMB Number 1121-0220]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Bureau of Justice Assistance Application Form: Public Safety Officers Educational Assistance

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 81 FR 84617 on November 23, 2016 allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until March 6, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michelle Martin, Senior Management Analyst, Bureau of Justice Assistance, 810 Seventh Street NW., Washington, DC 20531 (phone: 202 514-9354).

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to OIRA_submissions@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the

² For the same reasons that led the Colorado Board to summarily suspend Registrant’s medical license, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.