



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Louis Watson, M.D.
Decision and Order**

On July 9, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Louis Watson, M.D. (Respondent). The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration FW2729804, and the denial of any pending application to renew or modify the registration, on ground that he "do[es] not have authority to practice medicine or handle controlled substances in California, the state in which he is registered with the DEA." Show Cause Order, at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).¹

The Show Cause Order alleged that Respondent is registered with the DEA as a practitioner, pursuant to which he is authorized to dispense controlled substances in Schedules II through V, at the registered address of 99 N. San Antonio Ave., #140, Upland, California. *Id.* The Order also alleged that Respondent's registration does not expire until May 31, 2017. *Id.*

The Show Cause Order further alleged that effective September 12, 2014, the Medical Board of California (MBC) revoked Respondent's California Physician's and Surgeon's Certificate, based on the recommendation of a state Administrative Law Judge (ALJ), who had conducted a hearing. *Id.* The Show Cause Order thus alleged that Respondent is currently "without authority to handle controlled substances in California, the state in which [he is] registered with the" Agency, and that "DEA must revoke [his] registration." *Id.* (citing 21 U.S.C. 802(21), 823(f), 824(a)(3)).

¹ The Show Cause Order also proposed the denial of any other pending application. Show Cause Order, at 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 of failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Show Cause Order further explained that “[m]atters are deemed filed upon receipt by the Hearing Clerk.” *Id.*

On July 15, 2015, DEA Diversion Investigators (DIs) went to a location in Claremont, California which they believed to be Respondent’s residence. GX 3. The DI verified that the location was Respondent’s address with a neighbor and a pool maintenance employee. *Id.* The DI then left the Show Cause Order “on his front door.” *Id.*; *see also* GX 6, at 11-12 (Declaration of DI).

Thereafter, Respondent submitted a request for hearing to the DEA Office of Administrative Law Judges (OALJ). While Respondent’s request was dated August 9, 2015, it was not received by the OALJ until August 24, 2015. GX4.

In his Hearing Request, Respondent listed the name and address of the attorney who was representing him in a state court challenge to the MBC’s order, thus suggesting that the attorney was representing him in this matter. *Id.* Thereafter, the Chief Administrative Law Judge (CALJ) issued an order directing the Government to file evidence to support its allegation that Respondent lacks state authority to handle controlled substances as well as any motion for summary disposition based on this ground no later than September 8, 2015; the order also directed that if the Government filed such a motion, Respondent was to file his response no later than September 22, 2015. GX 5, at 1-2. In his order, the CALJ also noted that although Respondent’s Hearing Request listed the attorney retained to represent his appeal of the decision of the California Medical Board, there was no indication that this attorney was also representing

him in the instant proceeding, and thus Respondent's hearing request was construed to be "a *pro se* request." *Id.* A copy of the CALJ's order was mailed postage pre-paid to Respondent at 2058 N. Mills Avenue #142, Claremont, California, the address listed on the envelope containing Respondent's Hearing Request. GX 9, at 2; *see also* GX 5, at 2.

Thereafter, the Government filed a motion requesting that the CALJ deny Respondent's request for a hearing on the ground that it was not timely filed pursuant to 21 CFR 1301.43(a), which requires the filing of a written request for hearing "within 30 days after the date of receipt of the order to show cause." GX 6, at 1 (Motion to Preclude Response to the Order to Show Cause). Therein, the Government argued that Respondent's hearing request was filed 40 days after the date of service of the Order to Show Cause, and that Respondent had not shown good cause for the untimely filing. The Government thus argued that Respondent had waived his right to a hearing and that the CALJ should issue an order denying his hearing request and forwarding the file to the Administrator for a final decision. *Id.* at 3.

On the same date, the Government also filed a Motion for Summary Disposition. Therein, the Government requested that the CALJ "issue a Recommended Decision to summarily revoke" Respondent's DEA registration on the ground that he lacks state authority to dispense controlled substances in California, the State in which he hold his registration. GX 7, at 1-2. As support for its motion, the Government submitted copies of the MBC's Decision and the state ALJ's Proposed Decision. GX 7, at Attachments 2 and 3.

The CALJ then issued a second Order directing Respondent to respond to the Government's Motion to Preclude by September 22, 2015, the same due date for Respondent's reply, if any, to the Government's Motion for Summary Disposition. GX 8. This order was also sent to Respondent's address at 2058 N. Mills Avenue, #142, Claremont, California. *Id.* at 2.

On September 24, the CALJ issued a Notice of Re-Service. GX 10. Therein, the CALJ explained the all of his prior orders had been sent to Respondent at the return address listed on the envelope the latter had used to mail his Hearing Request to the OALJ. The CALJ further noted that this address was different from the address the Government had used to serve Respondent with the Order to Show Cause and its motions. Thus, to ensure Respondent received sufficient notice of the response deadlines to the Government's motions, the CALJ re-sent his orders to the address of Respondent's residence and extended the time permitted to respond to the Government's motions.² *Id.*

On October 7, 2015, the CALJ, having received no response from Respondent to either motion, granted the Government's motion to terminate the proceedings, finding that Respondent's request for a hearing was not timely filed and that he had neither sought an extension nor offered an explanation for the untimeliness of his hearing request. GX 9, at 3. The CALJ also denied the Government's Motion for Summary Disposition as moot. *Id.* at 4.

Thereafter, the Government submitted its Request for Final Agency Action to this Office. The Government supported its request with various exhibits, including the Proposed Decision of the MBC's ALJ and the MBC's Decision.

Based on the record, I find that Respondent's Hearing Request was untimely and that he has failed to demonstrate good cause to excuse his untimeliness. 21 CFR 1301.43(d). Accordingly, I find that Respondent has waived his right to be heard on the matters of fact and

² In his Order, the CALJ also noted that his staff had contacted by telephone the attorney listed by Respondent in his Hearing Request to determine the attorney's status because he had not submitted any filings. GX 10, note 2. According to the CALJ, the attorney stated that he "was not currently, and has never been, [Respondent's] counsel in this matter"; the attorney also stated that upon his receipt of the Government's motions he had called Respondent and clarified to him that he was not representing him in this matter. *Id.*

law at issue and issue this Decision and Order based on the record submitted by the Government. I make the following findings of fact.

Respondent is a physician authorized to handle controlled substances in schedules II through V at the registered address of 99 N. San Antonio Ave., # 140, Upland, California. GX 2. His registration does not expire until May 31, 2017. *Id.*

On August 13, 2014, the MBC issued an order adopting the Proposed Decision of a state ALJ and ordered the revocation of Respondent's Physician's and Surgeon's License to practice medicine in the State of California, effective September 12, 2014. GX 7, at 9. Based on a search of the MBC's license verification webpage, Respondent's Physician's and Surgeon's license remains revoked. *See* www.breeze.ca.gov (accessed January 14, 2016).

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, "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." Moreover, DEA has held repeatedly 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 practitioner's registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed Appx. 826 (4th Cir. 2012).

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 physician 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); *see also Hooper v. Holder*, 481 Fed. Appx. at 828.

Based on the revocation of his California Physician's and Surgeon's Certificate, I find that Respondent currently lacks authority to dispense controlled substances in California, the State in which he holds his DEA registration. Accordingly, I will order that his registration be revoked and that any pending applications be denied.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 21 CFR 0.100(b), I order that DEA Certificate of Registration FW2729804, issued to Louis Watson, M.D., be, and it hereby is, revoked. I further order that any pending application of Louis Watson, M.D., to renew or modify his registration, as well as any other pending application be, and it hereby is, denied. This Order is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: January 18, 2016.

Chuck Rosenberg
Acting Administrator

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