



**BILLING CODE: 4410-09-P**

**UNITED STATES 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.<sup>1</sup> GX 3, at 2-3.

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

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<sup>1</sup> 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 only on the mailing to the mailing address she provided to the Agency.

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 f[ell] 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] 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.<sup>2</sup>

Date: January 27<sup>th</sup>, 2017

Chuck Rosenberg  
Acting Administrator

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<sup>2</sup> 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.

