



DEPARTMENT OF JUSTICE Drug Enforcement Administration

Kim Routh, D.O.; Decision and Order

On May 1, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Kim Routh, D.O., of Grove City, Ohio (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) C, at 1, 3. The OSC proposed the revocation of Registrant’s Certificate of Registration No. BR9077000, alleging that Registrant’s registration should be revoked because Registrant is “currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Ohio, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ “A default, unless excused, shall be deemed to constitute a waiver of the [registrant’s] right to a hearing and an admission of the factual allegations of the [OSC].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67.” *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant’s default, pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

FINDINGS OF FACT

¹ Based on the Government’s submissions in its RFAA dated June 11, 2024, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on May 6, 2024, Registrant was personally served with a copy of the OSC. RFAAX 1, at 2; RFAAX D.

The Agency finds that, in light of Registrant’s default, the factual allegations in the OSC are admitted. According to the OSC, on February 14, 2024, the State Medical Board of Ohio permanently revoked Registrant’s Ohio medical license. RFAAX 2, at 2. According to Ohio online records, of which the Agency takes official notice, Registrant’s Ohio medical license remains revoked.² eLicense Ohio Professional Licensure License Lookup, https://elicense.ohio.gov/oh_verifylicense (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in Ohio, the state in which he is registered with DEA.

DISCUSSION

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 “upon a finding that the registrant . . . has had his State license or registration 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 also long 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 practitioner’s registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) (“The Attorney General can register a physician to dispense controlled substances ‘if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.’ . . . The very definition of a ‘practitioner’ eligible to prescribe includes physicians ‘licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices’ to dispense controlled substances. § 802(21).”). The Agency has applied these principles consistently. *See, e.g.,*

² Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute the Agency’s finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

James L. Hooper, M.D., 76 Fed. Reg. 71,371, 71,372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).³

According to Ohio statute, “[n]o person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog,” except pursuant to a “prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose.” Ohio Rev. Code Ann. § 2925.11(A), (B)(1)(d) (West 2024). Further, a “[l]icensed health professional authorized to prescribe drugs” or “prescriber” means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual’s professional practice.” *Id.* § 4729.01(I). The Ohio statute further defines an authorized prescriber as “[a] physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.” *Id.* § 4729.01(I)(4). Additionally, Ohio law permits “[a] licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional’s practice” to prescribe or administer schedule II, III, IV, and V controlled substances to patients. *Id.* § 3719.06(A)(1)(a)-(b).

Here, the undisputed evidence in the record is that Registrant lacks a license to practice medicine in Ohio. As discussed above, an individual must be a licensed health professional authorized to prescribe drugs in order to handle controlled substances in Ohio. Thus, because Registrant lacks a license to practice medicine in Ohio and, therefore, is not authorized to handle

³ This rule derives from the text of two provisions of the Controlled Substances Act (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(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, 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. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeats, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. at 27,617.

controlled substances in Ohio, Registrant is not eligible to maintain a DEA registration.

Accordingly, the Agency will order that Registrant's DEA registration be revoked.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BR9077000 issued to Kim Routh, D.O. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Kim Routh, D.O., to renew or modify this registration, as well as any other pending application of Kim Routh, D.O., for additional registration in Ohio. This Order is effective **[insert Date Thirty Days From the Date of Publication in the Federal Register]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on January 3, 2025, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Heather Achbach,

Federal Register Liaison Officer,

Drug Enforcement Administration.