



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 24-47]

Herold Pierre-Louis, P.A.; Decision and Order

On May 21, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Herold Pierre-Louis, P.A., of Tucson, Arizona (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent’s DEA Certificate of Registration No. MP7845766, alleging that Respondent’s DEA registration should be revoked because Respondent is “without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Arizona, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

On May 30, 2024, Respondent requested a hearing and filed an Answer to the OSC. On June 10, 2024, the Government filed a Motion for Summary Disposition, to which Respondent did not respond.¹ On June 27, 2024, Administrative Law Judge Paul E. Soeffing (the ALJ) granted the Government’s Motion for Summary Disposition and recommended the revocation of Respondent’s registration, finding that because Respondent lacks state authority to handle controlled substances in Arizona, the state in which he is registered with DEA, “there is no other fact of consequence for this tribunal to decide.” Order Granting the Government’s Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD), at 5. Respondent did not file exceptions to the RD.

Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ’s rulings, findings of fact, conclusions of law, and

¹ On June 17, 2024, Respondent filed a Motion to Continue Show Cause Hearing to request a continuance on the instant proceedings, which the Administrative Law Judge denied.

recommended sanction as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

On or about November 29, 2023, the Arizona Regulatory Board of Physician Assistants revoked Respondent's Arizona physician assistant license. RD, at 3.² According to Arizona online records, of which the Agency takes official notice, as of August 23, 2024, the status of Respondent's Arizona physician assistant license was revoked.³ Arizona Regulatory Board of Physician Assistants, Find Your PA, <https://www.azpa.gov/PASearch/PASearch> (last visited date of signature of this Order).⁴ Accordingly, the Agency finds that Respondent is not currently licensed to practice as a physician assistant in Arizona, 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 section 823 of the Controlled Substances Act (CSA) "upon a finding

² See also Government's Notice of Filing of Evidence of Lack of State Authority; Service of Order to Show Cause; and Motion for Summary Disposition, Exhibit A, at 10.

³ 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, Respondent 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.

⁴ As of August 23, 2024, the Arizona Regulatory Board of Physician Assistants website identified Respondent's physician assistant license as revoked. However, there is no longer any record of Respondent's licensure on the website. Despite being provided an opportunity to so do, Respondent has not established that his Arizona license has been reinstated or that he otherwise has state authority to dispense controlled substances. Following the issuance of the RD, Respondent did not file any Exceptions to indicate that his license had been restored. Additionally, on October 1, 2024, the Agency issued a Briefing Order requesting documentary evidence regarding the status of Respondent's Arizona physician assistant license. Respondent's acknowledged receipt of the Order, but did not provide any responsive documentation or evidence regarding the status of his Arizona license. Accordingly, the Agency finds that Respondent's Arizona physician assistant license remains revoked. See *Fares F. Yasin, M.D.*, 88 FR 74523, 74524 n.5 (2023); *Heather M. Entrekin, DVM*, 88 FR 17266, 17266 (2023). Respondent may dispute the Agency's finding by filing a motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order with supporting documentation (showing that Respondent had state authority to dispense controlled substances on or before the date of this Order). Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration, at dea.addo.attorneys@dea.gov.

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., James L. Hooper, M.D.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁵

According to Arizona statute, “[e]very person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within th[e] state or who

⁵ 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(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 FR 71371, 71372; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR 27617. 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 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action here, *see* Respondent’s Answer, at 2; Respondent’s Motion to Continue Show Cause Hearing. What is consequential is the Agency’s finding that Respondent is not currently authorized to dispense controlled substances in Arizona, the state in which he is registered with the DEA. *Adley Dasilva, P.A.*, 87 FR 69341, 69341 n.2 (2022); *see also* Order Denying Respondent’s Motion to Continue.

proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within th[e] state must first: (1) [o]btain and possess a current license or permit as a medical practitioner as defined in § 32-1901” Ariz. Rev. Stat. Ann. section 36-2522(A)(1) (2024). Section 32-1901 defines a “[m]edical practitioner” as “any medical doctor . . . or other person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or animals or to diagnose or prevent sickness in human beings or animals in [Arizona] or any state, territory or district of the United States.” *Id.* section 32-1901.

Here, the undisputed evidence in the record is that Respondent lacks authority to practice as a physician assistant in Arizona. As discussed above, only a licensed medical practitioner can dispense controlled substances in Arizona. Thus, because Respondent lacks authority to practice as a physician assistant in Arizona, and therefore is not a licensed medical practitioner, Respondent is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Respondent’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. MP7845766 issued to Herold Pierre-Louis, P.A. 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 Herold Pierre-Louis, P.A., to renew or modify this registration, as well as any other pending application of Herold Pierre-Louis, P.A., for additional registration in Arizona. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Signing Authority

This document of the Drug Enforcement Administration was signed on January 31, 2025, by Acting Administrator Derek Maltz. 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.

[FR Doc. 2025-02339 Filed: 2/6/2025 8:45 am; Publication Date: 2/7/2025]