



## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Linwood A. Starks, D.V.M.; Decision and Order

On June 29, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Linwood A. Starks, D.V.M., of Grand Prairie, Texas (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 3. The OSC proposed the revocation of Registrant’s Certificate of Registration No. FS5936919, alleging that Registrant’s registration should be revoked because Registrant is “currently without authority to handle controlled substances in the State of Texas, the state in which [he is] registered with DEA.” *Id.* at 1-2 (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.* at 2 (citing 21 CFR 1301.43). The OSC also notified Registrant that if he requested a hearing but failed to timely file an answer, plead, or otherwise defend, he would be deemed to have waived his right to a hearing and be in default. *Id.* On October 11, 2023, Registrant filed a request for a hearing, however, the request for hearing did not contain any answers to the OSC. RFAA, at 2; RFAAX 4, at 1-2. Registrant was given an extended deadline to file answers to the OSC, but failed to do so, and on October 23, 2023, the Chief Administrative Law Judge terminated the proceedings and found Registrant to be in default. RFAA, at 2-3; RFAAX 5, at 2.

“A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’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 C.F.R.] § 1316.67.” *Id.* section 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 4; *see also* 21 CFR 1316.67.

### **FINDINGS OF FACT**

The Agency finds that, in light of Registrant’s default, the factual allegations in the OSC are admitted. According to the OSC, effective January 6, 2023, the Executive Disciplinary Committee of the Texas Board of Veterinary Medical Examiners (TBVME) issued an Order of Temporary Suspension barring Registrant from the practice of veterinary medicine in Texas. RFAAX 2, at 1-2. According to Texas online records, of which the Agency takes official notice, Registrant’s Texas veterinary license remains suspended.<sup>1</sup> Texas Board of Veterinary Medical Examiners Licensee Lookup, <https://apps.veterinary.texas.gov/s/licenseelookup> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a veterinarian in Texas, 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.

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<sup>1</sup> 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 the DEA Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.gov](mailto:dea.addo.attorneys@dea.gov).

*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, 71,372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).<sup>2</sup>

According to Texas statute, “dispense” means “the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.” Tex. Health & Safety Code Ann. section 481.002(12) (2024). Further, a “practitioner” includes “a physician, dentist, veterinarian . . . or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.” *Id.* section 481.002(39)(A).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a veterinarian in Texas. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Texas. Thus, because Registrant lacks authority to practice as

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<sup>2</sup> 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 FR 71371-72; *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.

a veterinarian in Texas and, therefore, is not authorized to handle controlled substances in Texas, 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. FS5936919, issued to Linwood A. Starks, D.V.M. 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 Linwood A. Starks, D.V.M., to renew or modify this registration, as well as any other pending application of Linwood A. Starks, D.V.M., for additional registration in Texas. 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 March 13, 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.*