

was suspended through summary process and that he may prevail at hearing). I will therefore order that Respondent's registration be revoked.

In sum, Respondent currently lacks authority in Kentucky to handle controlled substances. He is not, therefore, eligible for a DEA registration in Kentucky. As such, I 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 order that DEA Certificate of Registration No. FB0348563 issued to Martin A. Barrios, M.D., be, and it hereby is, revoked.⁵ This Order is effective May 8, 2019.

Dated: March 18, 2019.

Uttam Dhillon,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 19-7]

Craig M. Weingrow, M.D.; Decision and Order

On November 7, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Craig M. Weingrow, M.D. (Respondent), of Las Vegas, Nevada. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration No. FW3352539 on the ground that he does "not have authority to handle controlled substances in Nevada, the [S]tate in which [he is] registered." Order to Show Cause, at 1 (citing 21 U.S.C. 823(f), 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent is the holder of Certificate of Registration No. FW3352539, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 7200 Smoke Ranch Road, Suite #120, Las Vegas, Nevada. *Id.* The Order also alleged that this registration does not expire until May 31, 2021. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that effective July 18, 2018, the Nevada State Board of Pharmacy (NSBP)

revoked Respondent's Nevada "Controlled Substance Registration" and his Nevada "Practitioner Dispensing Registration." *Id.* The Show Cause Order also alleged that on September 18, 2018, Respondent entered into a Settlement Agreement with the Board of Medical Examiners of the State of Nevada (NBME) "whereby [he was] placed on probation for a period of 36 months, and during which [he is] prohibited from prescribing or dispensing controlled substances." *Id.* at 1-2. As a result, the Order alleged that Respondent "currently lack[s] the authority to handle controlled substances in Nevada." *Id.* at 2. Based on his "lack of authority to [dispense] controlled substances in . . . Nevada," the Order asserted that "DEA must revoke" Respondent's registration. *Id.* (citing 21 U.S.C. 823(f); 824(a)(3)).

The Show Cause Order notified Respondent of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Order also notified Respondent of his right to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

On December 10, 2018, Respondent, through counsel, filed a letter requesting a hearing on the allegations and indicating that the Show Cause Order "was received on November 13, 2018." Dec. 10, 2018 Letter from Respondent's Counsel to Hearing Clerk (hereinafter, Hearing Request), at 1. In his Hearing Request, Respondent specifically contends that suspension, rather than revocation, "is an appropriate sanction in this case" because he had not committed a crime and neither the conduct set forth in the Settlement Agreement with the NBME nor the findings of the NSBP "warrant a revocation." *Id.* at 2-4.

The matter was then placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, CALJ). On December 11, 2018, the CALJ issued an Order directing the Government to file its "evidence to support the allegation that the Respondent lacks state authority to handle controlled substances" and "any Government motion for summary disposition" no later than December 28, 2018. Order Directing the Filing of Government Evidence of Lack of State Authority Allegation and Briefing Schedule, at 1. The CALJ issued a separate Order directing Respondent to file his response to any summary disposition

motion no later than January 14, 2019. Order Granting Unopposed Motion for Enlargement of Time, at 1.

On December 27, 2018, the Government filed its Motion for Summary Disposition. In its Motion, the Government argued that Respondent currently lacks authority to handle controlled substances in Nevada because the NSBP revoked Respondent's Nevada Controlled Substance Registration and Nevada Practitioner Dispensing Registration effective July 18, 2018. Government's Motion for Summary Disposition (hereinafter Government's Motion or Govt. Mot.) at 1, 5. The Government also alleged that neither registration has been reinstated. *Id.* In addition, the Government alleged that the NBME placed Respondent's Nevada medical license on probation for 36 months as part of a Settlement Agreement and that, as part of this Agreement, Respondent "has been prohibited from prescribing or dispensing controlled substances" during this period. *Id.* On January 14, 2019, Respondent filed his "Non-Opposition" to the Government's Motion, stating that he no longer opposes the Government's Motion based upon his review of the Government's Motion and past DEA and federal court decisions. Respondent's Non-Opposition to Government's Motion for Summary Disposition, at 1.

After considering these pleadings, the CALJ issued an Order on January 16, 2019, recommending that I find that it is "undisputed that the Respondent lacks the state authority to handle controlled substances." 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 (hereinafter "Recommended Decision" or "R.D."), at 4. As a result, the ALJ granted the Government's motion for summary disposition and recommended that I revoke Respondent's DEA registration and deny any pending applications for renewal. *Id.* at 5. Neither party filed exceptions to the ALJ's Recommended Decision.

Thereafter, the record was forwarded to my Office for Final Agency Action. Having reviewed the record, I find that Respondent is currently without authority to handle controlled substances in Nevada, the State in which he holds his registration with the Agency, and thus he is not entitled to maintain his DEA registration. I adopt the ALJ's recommendation that I revoke Respondent's registration. I make the following factual findings.

⁵ This revocation Order automatically withdraws XB0348563. See 21 CFR 1301.28.

Findings of Fact

Respondent is the holder of DEA Certificate of Registration No. FW3352539, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of Weingrow Wellness & Medical Center, 7200 Smoke Ranch Road, Suite #120, Las Vegas, Nevada. GX 2 (Certification of Registration History) to Govt. Mot., at 1. This registration does not expire until May 31, 2021. *Id.*

On July 25, 2018, the NSBP issued an Order revoking Respondent's Nevada "Controlled Substance Registration, Certificate No. CS20272, and his Practitioner Dispensing Registration, Certificate No. PD00502," effective July 18, 2018. GX 3 (July 25, 2018 Findings of Fact, Conclusion of Law and Order of the NSBP) to Govt. Mot., at 8. The NSBP's Order expressly prohibited Respondent from, *inter alia*, (1) "prescrib[ing] any controlled substance for any patient;" (2) "dispens[ing] any controlled substance or dangerous drug;" and (3) "possess[ing] any controlled substance for office use or for patient use." *Id.* The NSBP also directed Respondent to "immediately and lawfully dispose of any and all controlled substances in his possession and/or control, other than a controlled substance lawfully prescribed and dispensed to him for his own personal use." *Id.*¹ On September 10, 2018, the NBME placed Respondent's Nevada medical license in an "[i]nactive status" as part of a Settlement Agreement whereby Respondent agreed that his medical license would be subject to probation for 36 months and that he would be prohibited from prescribing or dispensing controlled substances during that time. *See* GX 4 (NBME-Respondent Settlement Agreement) to RFAA, at 5–6. There is no evidence in the record that the NSBP ever reinstated Respondent's Nevada controlled substance or practitioner dispensing registrations, nor is there any evidence that the NBME changed the status of

Respondent's medical license from inactive status.

Accordingly, I find that Respondent currently does not possess the authority to dispense controlled substances in the State of Nevada, the State in which he is registered with the DEA, because both the NSBP and the NBME have expressly prohibited him from doing so.

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 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." Also, DEA has 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. *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 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 practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has long held 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 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).

Here, I find that there is no dispute over the material fact that Respondent is no longer currently authorized to dispense controlled substances in Nevada, the State in which he is registered with the Agency. Accordingly, Respondent is not entitled to maintain his DEA registration. I will therefore adopt the ALJ's recommendation that I revoke Respondent's registration. R.D., at 5. I will also deny any pending application to renew or to modify his registration, or any pending application for any other DEA registration in Nevada.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FW3352539, issued to Craig M. Weingrow, M.D., be, and it hereby is, revoked. I further order that any pending application of Craig M. Weingrow to renew or modify the above registration, or any pending application of Craig M. Weingrow for any other DEA registration in the State of Nevada, be, and it hereby is, denied. This Order is effective immediately.²

Dated: March 22, 2019.

Uttam Dhillon,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

**Importer of Controlled Substances
Application: Organic Standards
Solutions International, LLC**

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 8, 2019. Such persons may also file a written request for a hearing on the application on or before May 8, 2019.

² For the same reasons which led the NSBP to revoke Respondent's controlled substances and practitioner's dispensing licenses and prescriptive authority, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

¹ After conducting a hearing, the NSBP based its decision to revoke Respondent's Nevada controlled substance and practitioner dispensing registrations in part on its finding that Respondent "routinely permitted unlicensed members of his office staff . . . to falsify his signature on the prescriptions for medications dispensed by his medical office" and "to falsify patient initials and dates of service on patients' informed consent labels." *Id.* at 1 & n.1, 2. The NSBP also found that Respondent "dispensed controlled substances and dangerous drugs by mail to patients who live out-of-town" and "used Federal Express to ship medications to patients." *Id.* Respondent also signed a statement agreeing to these fact findings. *See id.*