

controlled substance prescriptions for, he was not acting "in the usual course of \* \* \* professional practice," and the prescriptions were not "issued for a legitimate medical purpose." 21 CFR 1306.04(a). Respondent thus also repeatedly violated Federal law. *See Moore*, 423 U.S. at 141–43.

As recognized in *Lockridge* and other agency orders, "[l]egally there is absolutely no difference between the sale of an illicit drug on the street and the illicit dispensing of a licit drug by means of a physician's prescription." 71 FR at 77800 (quoting *Mario Avello, M.D.*, 70 FR 11695, 11697 (2005)). *See also Floyd A. Santner, M.D.*, 55 FR 37581 (1990). In short, Respondent's involvement in this scheme did not constitute the legitimate practice of medicine, but rather, drug dealing.

Accordingly, Respondent's experience in dispensing controlled substances and his record of compliance with applicable laws makes plain that his continued registration would "be inconsistent with the public interest." 21 U.S.C. 824(a)(4). Moreover, because Respondent's prescribing practices create an extraordinary threat to public health and safety, *see, e.g., Lockridge*, 71 FR at 77798–99<sup>2</sup>; and it is unclear whether he has ceased engaging in them, I further conclude that this Order shall be effective immediately.

### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate Registration, BD4985531, issued to Andrew Desonia, M.D., be, and it hereby is, revoked. I further order that any pending application of Respondent for renewal of his registration be, and it hereby is, denied. This order is effective immediately.

Dated: September 14, 2007.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Brenton D. Glisson, M.D.; Revocation of Registration

On May 9, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Brenton D. Glisson, M.D. (Respondent), of Seneca, South Carolina. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BG4535641, as a practitioner, on the ground that in August 2005, the South Carolina Bureau of Drug Control suspended his State controlled substances registration and that he was without authority to handle controlled substances in the State in which he practiced medicine. Show Cause Order at 1 (citing 21 U.S.C. 824(a)(2)). The Show Cause Order also advised Respondent of his right to a hearing and the procedures for requesting a hearing and/or submitting a written statement. Show Cause Order at 1–2.

On June 1, 2006, the Show Cause Order was served on Respondent by certified mail, return receipt requested. On June 21, 2006, Respondent submitted a letter in which he admitted that his South Carolina medical license had been revoked based on "false allegations of sexual misconduct with a patient." Respondent further stated that he was "in the process of appealing [the] decision," and that the "case [was] going before an Administrative Judge." Respondent also stated that he would contact the Agency upon the "renewal" of his license and requested that the DEA proceeding be held "off till then."

Upon receipt of the letter, the matter was assigned to Administrative Law Judge (ALJ) Gail Randall. On July 11, 2006, the ALJ wrote to Respondent stating that she could not tell from his letter whether he was requesting a hearing. The ALJ thus instructed Respondent that if he was "seeking a hearing, you must clearly tell me so in a letter filed with my office." The ALJ also advised Respondent that if his initial letter was intended to request a hearing, his "request may already be untimely." Finally, the ALJ informed Respondent that if he failed to reply by July 25, 2006, he would be deemed to have waived his right to a hearing. Respondent did not comply.

On July 11, 2006, the Government moved for summary disposition on the ground that Respondent was no longer authorized under South Carolina law to

handle controlled substances. Motion for Summary Disp. at 1–2. As support for its motion, the Government attached a copy of the South Carolina State Board of Medical Examiners' July 16, 2005, Order of Temporary Suspension of Respondent's medical license. The Government also attached a copy of the South Carolina Bureau of Drug Control's Notice of Indefinite Suspension of Controlled Substances Registration.

The ALJ did not, however, rule on the Government's motion. Instead, on August 7, 2006, the ALJ issued an order *sua sponte* terminating the proceeding on the ground that Respondent had waived his right to a hearing.

On June 7, 2007, the case file was forwarded to my office for final agency action. Based on (1) Respondent's failure to expressly request a hearing in his June 2006 letter, and (2) his failure to respond to the ALJ's July 11, 2006 letter, I conclude that he has waived his right to a hearing. 21 CFR 1301.43(a) & (d). I therefore enter this Final Order without a hearing based on relevant material in the investigative file. *Id.* 1301.43(e). I make the following findings.

### Findings

Respondent is the holder of DEA Certificate of Registration, BG4535641, which authorizes him to handle controlled substances as a practitioner at the registered location of 1765 Blue Ridge Blvd., Seneca, South Carolina. Respondent's registration does not expire until September 30, 2007.

On July 16, 2005, the South Carolina State Board of Medical Examiners ordered that Respondent's medical license be temporarily suspended. Thereafter, on August 19, 2005, the Bureau of Drug Control, South Carolina Department of Health and Environmental Control, suspended Respondent's South Carolina Controlled Substances Registration.<sup>1</sup>

On June 7, 2006, following a hearing, the South Carolina Board found that Respondent had violated various State laws and regulations and issued a final order revoking his State medical license. There is no evidence in the investigative file indicating that the Board's final order has been stayed or set aside.

### Discussion

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled

<sup>2</sup> See also National Center on Addiction and Substance Abuse, "You've Got Drugs!" Prescription Drug Pushers on the Internet 6 (Feb. 2004) (diversion of controlled substances through the Internet "threatens the health and safety of millions of Americans—including our children"); National Institute on Drug Abuse, Community Drug Alert Bulletin, Prescription Drugs (Aug. 2005).

<sup>1</sup> According to the notice of suspension, Respondent's South Carolina Controlled Substances Registration is "conditioned upon [his] license to practice the profession of Medicine with this State." Notice of Indefinite Suspension of Controlled Substances Registration at 1.

substances in “the jurisdiction in which he practices” in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (“[t]he term ‘practitioner’ means a physician \* \* \* 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”). *See also id.* 823(f) (“The Attorney General shall register practitioners \* \* \* if the applicant is authorized to dispense \* \* \* controlled substances under the laws of the State in which he practices.”). DEA has held repeatedly that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *See Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration “upon a finding that the registrant \* \* \* has had his State license or registration suspended [or] revoked \* \* \* and is no longer authorized by State law to engage in the \* \* \* distribution [or] dispensing of controlled substances”).

As found above, on June 7, 2006, the South Carolina Board of Medical Examiners issued a final order revoking Respondent’s medical license and the South Carolina Bureau of Drug Control has suspended his State controlled substances registration. Respondent has submitted no evidence to this Agency establishing that the State orders have been stayed or set aside. Therefore, it is clear that Respondent lacks authority to handle controlled substances in South Carolina, the State in which he is registered with DEA. Respondent is therefore not entitled to maintain his Federal registration.<sup>2</sup>

## Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, BG4535641, issued to Brenton D. Glisson, M.D., be, and it hereby is, revoked. I further order that any

pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective October 24, 2007.

Dated: September 14, 2007.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### David W. Wang, M.D.; Revocation of Registration

On August 7, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to David W. Wang, M.D. (Respondent), of Orlando, Florida. The Show Cause Order proposed the revocation of Respondent’s DEA Certificate of Registration, AW2834528, as a practitioner, and the denial of his pending application to renew the registration, on two grounds.

First, the Show Cause Order alleged that Respondent had committed acts which render his continued registration inconsistent with the public interest. *See* 21 U.S.C. 824(a)(4). More specifically, the Show Cause Order alleged that Respondent had issued prescriptions for controlled substances to undercover operatives for no legitimate medical purpose and outside of the usual course of professional practice. *Id.* at 1–2.

Second, the Show Cause Order alleged that on August 16, 2005, the Florida Department of Health ordered the emergency suspension of Respondent’s state medical license and that the suspension remains in effect. *Id.* at 2. The Show Cause Order thus alleged that Respondent lacks “state authorization to handle controlled substances,” which is “a necessary prerequisite for DEA registration.” *Id.* (citing 21 U.S.C. 802(21), 823(f), & 824(a)(3)).

On August 17, 2006, the Show Cause Order was served on Respondent by certified mail, return receipt requested. Thereafter, on September 5, 2006, Respondent submitted a letter in which he “den[ied] all of the allegations in the suspension of [his] Florida license,” and stated that he was pursuing various state law remedies to obtain reinstatement of his medical license. Letter from Resp. to Hearing Clerk (Sep. 5, 2006).

Respondent further requested that the DEA proceeding be continued until the state administrative proceeding was

completed. Respondent stated that he was “requesting to withdraw[] my renewal request and that [DEA] hold all proceedings against [his] DEA registration pending the outcome of the proceedings involving” his medical license. *Id.* Respondent added that “if there is no possible way to stop [the DEA] proceedings then I hereby request a formal hearing.” *Id.* Respondent added, however, that he would need to have the DEA hearing “postponed until I finish the” Florida medical license proceedings.

The case was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. On September 25, 2006, the ALJ issued a Memorandum to the Parties regarding the issues Respondent raised in his letter. In the Memorandum, the ALJ denied Respondent’s request “to hold this proceeding in abeyance pending the resolution of the Florida licensure proceedings.” Memorandum to Parties at 2. The ALJ further advised Respondent of the procedures that must be followed under DEA regulations to withdraw his renewal application. *Id.* The ALJ thus directed Respondent to advise her by October 16, 2006, whether he intended to withdraw his renewal application, or whether he intended to proceed with his request for a hearing. *Id.* at 3.

Respondent did neither. Accordingly, on December 15, 2006, the Government moved to terminate the proceeding on the ground that Respondent had waived his right to a hearing. Motion to Terminate at 2.

On December 18, 2006, the ALJ found that Respondent had “waived his right to a hearing.” Order Terminating Proceedings. The ALJ thus granted the Government’s motion and ordered that the proceeding be terminated. *Id.*

Thereafter, on June 11, 2007, the investigative file was forwarded to me for final agency action. Based on Respondent’s failure to respond to the ALJ’s Memorandum, I find that he has waived his right to a hearing. 21 CFR 1301.43(d). I therefore enter this Final Order without a hearing based on relevant material contained in the investigative file. *Id.* § 1301.43(e). I make the following findings.

## Findings

Respondent is the holder of DEA Certificate of Registration, AW2834528, which authorizes him to handle controlled substances as a practitioner at the registered location of 3827 Landlubber Street, Orlando, Florida. Respondent’s registration expired on May 31, 2006. Respondent, however, applied for a renewal of his registration on May 24, 2006. Respondent’s

<sup>2</sup> In his letter responding to the Show Cause Order, Respondent asserted that the revocation of his state medical license was based on “false allegations of sexual misconduct with a patient.” DEA precedents hold, however, “that a registrant can not collaterally attack the results of a state criminal or administrative proceeding in a proceeding under section 304 of the CSA.” *Sunil Bhasin, M.D.*, 72 FR 5082, 5083 (2007); *see also Shahid Musud Siddiqui*, 61 FR 14818, 14818–19 (1996); *Robert A. Leslie*, 60 FR 14004, 14005 (1995). Accordingly, I do not consider Respondent’s defense.