

appeal on his behalf. However, the Acting Deputy Administrator does not credit this testimony either, in light of evidence in the record that Respondent was represented by three successive attorneys in his appeal before it was dismissed for failure to pursue.

The Deputy Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. § 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of Title 42.

It is undisputed that subsection (5) of 21 U.S.C. § 824(a) provides the sole basis for the revocation of Respondent's DEA Certificate of Registration. Pursuant to 42 U.S.C. § 1320a-7(a), Respondent has been excluded from the Medicare program for a ten year period effective April 28, 1992, and from the Pennsylvania Medical Assistance Program permanently. Respondent contends that even though there is a lawful basis, revocation would be unduly harsh, since there are no allegations that he has misused controlled substances. Furthermore, Respondent argues that he has been practicing dentistry for five years since his Medicaid fraud conviction and is in good standing in the community in which he practices.

The Acting Deputy Administrator finds that the Drug Enforcement Administration has previously held that misconduct which does not involve controlled substances may constitute grounds, under 21 U.S.C. § 824(a)(5), for the revocation of a DEA Certificate of Registration. See *Gilbert L. Franklin, D.D.S.*, 57 Fed. Reg. 3441 (1992); *George D. Osafo, M.D.*, 58 Fed. Reg. 37,508 (1993); *Nelson Ramirez-Gonzalez, M.D.*, 58 Fed. Reg. 52,787 (1993).

The Acting Deputy Administrator concludes that revocation is an appropriate sanction in this case. In

1977, Respondent was permanently terminated from participation in the Medical Assistance Program for the Commonwealth of Pennsylvania based upon fraudulent billing and inadequate quality of care. Despite this termination, Respondent continued to treat Medical Assistance recipients at his dental practice using on the Medical Assistance claims, the names and provider numbers of his employee dentists without their permission. In addition, in direct violation of the termination letter, Respondent received a percentage of the reimbursement fees paid to his employee dentists by the Medical Assistance Program. The Acting Deputy Administrator concurs with Judge Tenney that, "these actions cast substantial doubt on Respondent's integrity \* \* \*."

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. §§ 823 and 824, and 28 C.F.R. §§ 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AD5534842, issued to Stanley Dubin, D.D.S., be, and it hereby is, revoked until such time as he may be reinstated under 42 U.S.C. § 1320a-7(a), and any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective January 28, 1997.

Dated: November 19, 1996.

James S. Milford,

*Acting Deputy Administrator.*

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### **Demetris A. Green, M.D.; Revocation of Registration**

On February 20, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Demetris A. Green, M.D., of Houston, Texas, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BG3952339, under 21 U.S.C. 824(a)(3) and 824(a)(4), and deny any pending applications for registration pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Texas and his continued registration would be inconsistent with the public interest. The order also notified Dr. Green that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA mailed the show cause order to Dr. Green at two addresses in Houston, Texas. Subsequently, the DEA received a signed receipt showing that one of the orders was received on February 24, 1996. No request for a hearing or any other reply was received by the DEA from Dr. Green or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) thirty days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Green is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that, by order dated November 3, 1994, the Texas State Board of Medical Examiners (TSBME) suspended Dr. Green's license to practice medicine based upon his "intemperate use of alcohol or drugs, that in the opinion of the board, could endanger the lives of patients." The TSBME further found that on October 7, 1994, Dr. Green was involuntarily admitted to a treatment program for symptoms related to cocaine addiction. The TSBME ordered that Dr. Green surrender his DEA Certificate of Registration, as well as his state controlled substance license.

Based upon the TSBME order, the Texas Department of Public Safety (DPS) canceled Dr. Green's Texas controlled substance registration on December 1, 1994. Subsequent to the TSBME and DPS actions, in March 1995, Dr. Green issued controlled substance prescriptions. Consequently, on December 9, 1995, Dr. Green entered into an Agreed Order with the TSBME whereby the suspension of his medical license was continued for a minimum of two years, and he was again ordered to surrender his DEA Certificate of Registration. Efforts by DEA to obtain Dr. Green's surrender of his DEA registration have been unsuccessful. In light of the actions by the TSBME and the DPS, the Acting Deputy Administrator concludes that Dr. Green is not currently authorized to handle controlled substances in the State of Texas.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f), and 824(a)(3).

This prerequisite has been consistently upheld. See *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104 (1993); *James H. Nickens, M.D.*, 57 Fed. Reg. 59,847 (1992); *Roy E. Hardman, M.D.*, 57 Fed. Reg. 49,195 (1992). Here, it is clear that Dr. Green is neither currently authorized to practice medicine nor to dispense controlled substances in the State of Texas. Therefore, Dr. Green currently is not entitled to a DEA registration. Because Dr. Green is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to address whether Dr. Green's continued registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BG3952339, previously issued to Demetris A. Green, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for registration be, and they hereby are, denied. This order is effective December 30, 1996.

Dated: November 19, 1996.

James S. Milford,

*Acting Deputy Administrator.*

[FR Doc. 96-30379 Filed 11-27-96; 8:45 am]

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#### **Irene C. Kelly, a/k/a Ayter Yalincak, a/k/a Imrag Yalincak; Revocation of Registration**

On April 1, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Irene C. Kelly, a/k/a Ayter Yalincak, a/k/a Imrag Yalincak, of Indiana, notifying her of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration, BK3903829, under 21 U.S.C. 824(a)(1), 824(a)(3), and 824(a)(4), and deny any pending applications for registration pursuant to 21 U.S.C. 823(f). The order alleged in essence that Ms. Kelly fraudulently misrepresented her medical credentials, thereby falsifying her application for registration, and as a result, her state medical license was voided and she was convicted of practicing medicine without a license. The order also notified Ms. Kelly that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The order was sent by certified mail, and a signed return receipt dated April 6, 1996, was received by the DEA. However, no request for a hearing or any other reply was received by the DEA from Ms. Kelly or anyone purporting to represent her in this matter.

Therefore, the Acting Deputy Administrator, finding that (1) more than thirty days have passed since the receipt of the Order to Show Cause, and (2) no requests for a hearing having been received, concludes that Ms. Kelly is deemed to have waived her hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that on May 26, 1994, the Medical Licensing Board of Indiana (Board) summarily suspended the medical license held by Irene Catherine Mary Kelly, M.D. for 90 days. The Board's order stated that on January 27, 1994, Ms. Kelly, fraudulently obtained a license to practice medicine in the State of Indiana by impersonating a Canadian-educated physician. On her application for state registration, she used the fictitious name of "Irene Catherine Mary Kelly, M.D." and submitted phony documentation that indicated her purported credentials. Subsequently, by an Order dated February 16, 1995, the Board voided ab initio the medical license which was issued to Irene Catherine Mary Kelly, M.D. Subsequently, Ms. Kelly was convicted in state court of practicing medicine without a license, and is currently incarcerated, serving a four year sentence. Ms. Kelly has refused to surrender her DEA Certificate of Registration. The Acting Deputy Administrator concludes that Ms. Kelly is not currently authorized to handle controlled substances in the State of Indiana.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which she conducts business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993); *James H. Nickens, M.D.*, 57 FR 59,847 (1992); *Roy E. Hardman, M.D.*, 57 FR 49,195 (1992). Here, it is clear that Ms. Kelly is neither authorized to practice medicine nor to dispense controlled substances in the State of Indiana. Therefore, Ms. Kelly is not entitled to a DEA registration.

Because Ms. Kelly is not entitled to a DEA registration due to her lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to specifically address the other issues raised by the Order to Show Cause.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BK3903829, previously issued to Irene Kelly, M.D., be, and it hereby is, revoked, and any pending applications for registration, be, and they hereby are, denied. This order is effective December 30, 1996.

Dated: November 19, 1996.

James S. Milford,

*Acting Deputy Administrator.*

[FR Doc. 96-30380 Filed 11-27-96; 8:45 am]

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#### **Importation of Controlled Substances; Notice of Application**

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 6, 1996, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application to the Drug enforcement Administration for renewal of registration as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565) .....	I
Dimethyltryptamine (7435) .....	I
Amphetamine (1100) .....	II
Methamphetamine (1105) .....	II
Pentobarbital (2270) .....	II
Secobarbital (2315) .....	II
Phencyclidine (7471) .....	II
Cocaine (9041) .....	II
Codeine (9050) .....	II
Benzoylcegonine (9180) .....	II
Methadone (9250) .....	II
Morphine (9300) .....	II
Fentanyl (9801) .....	II