

DEA should not revoke his DEA Certificate of Registration, AN7738048, and deny any pending applications for renewal of said registration, for reason that such registration is inconsistent with the public interest as determined pursuant to 21 U.S.C. 823(f). The OTSC also notified Dr. Nedock that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was personally served upon Dr. Nedock by a DEA Diversion Investigator May 4, 2001. To date, no response has been received from Dr. Nedock nor anyone purporting to represent him.

Therefore, the Deputy Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Nedock is deemed to have waived his rights to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds as follows. On June 27, 2000, the State of Michigan Bureau of Health Service, Board of Dentistry (Board), issued a Final Order prohibiting Dr. Nedock from prescribing any controlled substances in Schedules I through IV. On December 26, 2000, the Board's Disciplinary Subcommittee issued an Administrative Complaint to Dr. Nedock alleging that he wrote 125 Schedule III controlled substance prescriptions during the period between July 27, 2000, and October 10, 2000, in violation of the Board's Final Order. On January 2, 2001, the Board issued an Order of Summary Suspension suspending Dr. Nedock's license to practice dentistry.

In response, Dr. Nedock issued a letter dated January 6, 2001, to the Michigan Department of the Attorney General, alleging that an employee of that office was " * * * in violation of my Recorded Copyright * * * [that] mandates issue(s) and user(s) in violation of the Recorded Copyright be charged one million dollars of silver species [sic] in lawful coinage of the United States per use per fiction."

On February 13, 2001, the DEA Detroit office was notified that controlled substance prescriptions written by Dr. Nedock were being presented to local pharmacies. On February 23, 2001, a DEA investigator met with Dr. Nedock and informed him that he was not permitted to prescribe controlled substances.

On February 15, 2001, the Board held a hearing regarding Dr. Nedock's suspension. Although he was present, Dr. Nedock refused to admit his identity, and instead identified himself as the "trustee fiduciary creditor of the secured party." On March 5, 2001, a patient presented a prescription issued by Dr. Nedock for a controlled substance at a local pharmacy. That same day, DEA investigators learned that the same patient also received a controlled substance prescription from Dr. Nedock February 26, 2001. Substantial evidence in the investigative file shows Dr. Nedock continues to practice dentistry even though his license has been suspended.

The investigative file contains no evidence that Dr. Nedock's license has been reinstated. Therefore, the Deputy Administrator concludes that Dr. Nedock is not currently authorized to practice dentistry in Michigan, the State in which he maintains his DEA Certificate of Registration.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See *Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,014 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Nedock is not authorized to practice dentistry in Michigan, and therefore, the Deputy Administrator infers that Dr. Nedock is also not authorized to handle controlled substances in Michigan, the state in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AN7738048, previously issued to Frank W. Nedock, D.D.S., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Allison E. Purtell, M.D., Revocation of Registration

On June 14, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Allison E. Purtell, M.D., notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration, AP1775064, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Purtell was not authorized by the State of California to handle controlled substances. The order also notified Dr. Purtell that should no request for hearing be filed within 30 days, her right to a hearing would be deemed waived.

The OTSC was sent to Dr. Purtell at her DEA registered premises in Laguna Niguel, California. A postal delivery receipt was signed July 6, 2001, by Dr. Purtell, indicating the OTSC was received. To date, no response has been received from Dr. Purtell nor anyone purporting to represent her.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Purtell is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Purtell currently possesses DEA Certificate of Registration AP1775064, issued to her in California. By Decision of the Division of Medical Quality, California Medical Board (Board), dated March 3, 2000 and effective April 3, 2000, the Board adopted an opinion of an Administrative Law Judge revoking Dr. Purtell's Physician and Surgeon's Certificate, finding *inter alia*, negligence, incompetence, and that "Dr. Purtell engaged in unprofessional conduct based on repeated acts of

clearly excessive prescribing drugs as determined by the standard of the community of physician and surgeons." The investigative file contains no evidence that Dr. Purtell's medical license has been reinstated.

Therefore, the Deputy Administrator concludes that Dr. Purtell is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See *Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Purtell is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Purtell is also not authorized to handle controlled substances in California, the state in which she holds her DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AP1775064, previously issued to Allison E. Purtell, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Randall M. Schaffer, D.D.S.; **Revocation of Registration**

On August 6, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail

to Randall M. Schaffer, D.D.S., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registrations, AS1641554 and BS3509289, and deny any applications for modification or renewal, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for reason that Respondent's registration would be inconsistent with the public interest. Following prehearing procedures, a hearing was held on March 28 and 29, 2000, in New Orleans, Louisiana.

On October 4, 2000, Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued an Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law, and Decision of Administrative Law Judge, recommending that Respondent's registration be continued with restrictions. By letter dated November 21, 2000, Judge Bittner transmitted the complete record to the Deputy Administrator for final decision in this matter.

On January 11, 2001, the Government filed a request for remand with the Deputy Administrator. On January 26, 2001, the Administrator of the DEA remanded the record to Judge Bittner for further proceedings, because "(b) correspondence dated January 11, 2001, I was informed by counsel for the Government that new and previously unavailable evidence had recently been acquired by the Government, and that such evidence may affect the outcome of these proceedings."

On February 16, 2001, counsel for the Government filed the Government's Motion to Reopen Record and Admission of Supplemental Evidence. On February 27, 2001, Respondent filed the Respondent's Response to the Government Motion.

By her Ruling on Motion and Order Rescinding Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge dated March 27, 2001, Judge Bittner granted the Government's Motion and rescinded the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge issued October 4, 2000. In her Supplemental Opinion and Recommended Decision of the Administrative Law Judge dated March 27, 2001, Judge Bittner recommended that Respondent's DEA Certificate of Registrations be revoked and any pending applications for renewal be denied on the basis that Respondent lacks state authority to handle controlled substances.

The Deputy Administrator has considered the record in its entirety,

and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The additional evidence submitted by the Government consists of a Revised Decision of the Louisiana State Board of Dentistry (Board) dated September 20, 2000, ordering the revocation of the Respondent's license to practice dentistry in the State of Louisiana, and a letter from the Louisiana Department of Health and Hospitals to Respondent dated December 4, 2000, revoking Respondent's Louisiana Controlled Substance License.

The DEA does not have the statutory authority pursuant to the Controlled Substance Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See *Graham Travers Schuler, M.D.*, 65 FR 50,570 (2000); *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice dentistry in Louisiana, and furthermore, that Respondent's state authority to handle controlled substances has been revoked. Respondent does not deny that he is not currently authorized to handle controlled substances in the State of Louisiana. The Deputy Administrator finds that Judge Bittner allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Respondent cites no authority for his assertion that revocation of his DEA Certificate of Registrations would be premature and a violation of due process.

According, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registrations, AS1641554 and BS3509289, previously issued to Randall M. Schaffer, D.D.S., be, and it hereby is, revoked, and any pending applications for renewal or modification and said Certificate be, and hereby are,