

Dated: May 2, 2005.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Stephen K. Jones, M.D.; Denial of Registration

On November 10, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Stephen K. Jones, M.D. (Dr. Jones) who was notified of an opportunity to show cause as to why DEA should not deny his application for DEA Certificate Registration as a practitioner to handle controlled substances, pursuant to 21 U.S.C. 823 and 824.

The Order to Show Cause alleged in relevant part, that Dr. Jones was not licensed to practice medicine or handle controlled substances in Utah, the state in which he was applying for registration and intended to practice. Secondly, the Order alleged Dr. Jones had previously been disciplined in Iowa, where he currently lives and practices, for personal drug abuse, signing a fraudulent prescription and diverting controlled substances. The Order to Show Cause also notified Dr. Jones that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Jones Residence at 3525 Mayfield Road, Iowa City, Iowa and to his proposed registered location in Salt Lake City, Utah. According to certified mail receipt records, the Order to Show Cause sent to his residence was received by Dr. Jones on December 10, 2004. DEA has not received a request for hearing or any other reply from Dr. Jones or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the applicant's home and address of record, and (2) no request for hearing having been received, concludes that Dr. Jones is deemed to have waived his hearing right. See David W. Linder, 67 FR 12,579 (2002). After considering material from the investigate file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on July 2, 2004, Dr. Jones applied for DEA registration to handle Schedule II through IV controlled substances. His proposed registered address was at the LDS Hospital, 8th Avenue & C Street, Salt Lake City, Utah 84143. The application indicated Dr. Jones was previously disciplined by the Iowa Board of Medical Examiners which, in April 2004, had suspended his Iowa license to practice medicine for 30 days and placed it in a probationary status upon his completion of a two month residential treatment program for opioid dependency.

According to information in the investigative file, on July 27, 2004, a Diversion Investigator conducting an inquiry into Dr. Jones application was advised by the Utah Department of Commerce, Division of Occupational and Professional Licensing, that he did not hold a Utah Physician and Surgeon License or state Controlled Substance License. Further, there is no evidence before the Deputy Administrator showing that Dr. Jones has since been granted a license to practice medicine or handle controlled substance in that state.

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 business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Rory Patrick Doyle, M.D., 69 FR 11,655 (2004); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear Dr. Jones is not licensed to practice medicine in Utah, his state of applied-for-registration and practice, and he is not authorized to handle controlled substances in that jurisdiction. Therefore, is not entitled to a DEA registration in that state. As a result of the finding that Dr. Jones lacks state authorization to handle controlled substances in his state of applied-for-registration, the Deputy Administrator concludes it is unnecessary to address further whether his application should be denied based upon the public interest grounds asserted in the Order to Show Cause. See Samuel Silas Jackson, D.D.S., 67 FR 67,145 (2002); Nathaniel-Aikens-Afful, M.D., 62 FR 16,871 (1997); Sam F. Moore, D.V.M., 58 FR 14,428 (1993).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104,

hereby orders that the application for DEA Certificate of Registration submitted by Stephen K. Jones, M.D., be, and it hereby is, denied. This order is effective June 9, 2005.

Dated: May 2, 2005.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04-56]

Michael J. Millette, M.D.; Revocation of Registration

On May 17, 2004, the Deputy Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause and Immediate Suspension of Registration to Michael J. Millette, M.D. (Dr. Millette) of Crystal Lake, Illinois and Elizabethtown, Kentucky. Dr. Millette was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificates of Registration, BM2349012 and BM8086236, as a practitioner, and deny any pending applications for renewal or modification of such registrations pursuant to 21 U.S.C. 823(f) and 824(a)(4) for reason that his continued registration would be inconsistent with the public interest. Dr. Millette was further notified that his DEA registrations were immediately suspended as an imminent danger to the public health and safety pursuant to 21 U.S.C. 824(d).

The Order to Show Cause and Immediate Suspension alleged in sum, that Dr. Millette was engaged in illegally prescribing controlled substances as part of a scheme in which controlled substances were dispensed by pharmacies, based on Internet prescriptions issued by Dr. Millette and associated physicians, based solely on their review of Internet questionnaires and without personal contact, examination or bona fide physician/patient relationships. Such prescriptions were not issued "in the usual course of professional treatment" and violated 21 CFR 1306.04 and 21 U.S.C. 841(a). This action was part of a nationwide enforcement operation by DEA titled Operation Pharmnet, which targeted online suppliers of prescription drugs, including owners, operators, pharmacists and doctors, who have illegally and unethically been marketing controlled substances via the Internet.