

Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective July 7, 2005.

Dated: May 25, 2005.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Robert M. Canon, M.D., Revocation of Registration**

On February 11, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Canon, M.D. (Dr. Canon) of Tullahoma, Tennessee, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AC2221707 under 21 U.S.C. 824(a)(3) and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Dr. Canon is not currently authorized to practice medicine or handle controlled substances in Tennessee, his state of registration and practice. The Order to Show Cause also notified Dr. Canon 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. Canon at his registered address at 600 East Carroll Street, Tullahoma, Tennessee 37388. However, that letter was unclaimed by Dr. Canon and eventually returned by postal authorities to DEA, as he apparently did not provide the post office a forwarding address. DEA has not received a request for hearing or any other reply from Dr. Canon or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that thirty days having passed since the attempted delivery of the Order to Show Cause to the registrant's address of record and no request for hearing having been received, concludes that Dr. Canon is deemed to have waived his hearing right. *See* Thomas J. Mulhearn, III, M.D., 70 FR 24,625 (2005); James E. Thomas, M.D., 70 FR 3,654 (2005); Steven A. Barnes, M.D., 69 FR 51,474 (2004); David W. Linder, 67 FR 12,579 (2002).

After considering material from the investigative 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 Dr. Canon currently possesses DEA Certificate of Registration AC2221707, as a practitioner authorized to handle controlled substances. The Deputy Administrator further finds that on August 18, 2004, the State of Tennessee Board of Medical Examiners (Tennessee Board) issued an Order suspending Dr. Canon's license to practice medicine in Tennessee.

That suspension was based upon the Tennessee Board's findings that on March 1, 2004, Dr. Canon was convicted in the United States District Court for the Eastern District of Tennessee of 95 felony counts of False Statements Relating to a Healthcare Matter and Health Care Fraud, in violation of 18 U.S.C. 1035 and 1347. He was sentenced to 41 months imprisonment on each count, to be served concurrently and was ordered to pay over three million dollars in restitution. That judgment is currently on appeal to the United States Court of Appeals for the Sixth Circuit and Dr. Canon is free on bond pending resolution of his appeal. The Tennessee Board's Order provides that the suspension of Dr. Canon's medical license is to remain in effect until his criminal case has been fully adjudicated.

The investigative file contains no evidence that the Tennessee Board's Order has been stayed, modified or terminated or that Dr. Canon's medical license has been reinstated. Therefore, the Deputy Administrator finds Dr. Canon is not currently authorized to practice medicine in the State of Tennessee. As a result, it is reasonable to infer he is also without authorization to handle controlled substances 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* Stephen J. Graham, M.D., 69 FR 11,661 (2004); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988). Revocation is also appropriate when a state license has been suspended, but with possibility of future reinstatement. *See* Alton E. Ingram, Jr., M.D., 69 FR 22,562

(2004); Anne Lazar Thorn, M.D. 62 FR 847 (1997).

Here, it is clear Dr. Canon's medical license has been suspended and he is not currently licensed to handle controlled substances in Tennessee, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that state.

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 DEA Certificate of Registration AC2221707, issued to Robert M. Canon, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective July 7, 2005.

Dated: May 24, 2005.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 03-025]

#### **Carlin Paul Graham, Jr., M.D. Revocation of Registration**

On November 8, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Carlin Paul Graham, Jr., (Respondent) of Talladega, Alabama, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BG2476186 as a practitioner pursuant to 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Respondent's license to practice medicine in Alabama had been indefinitely suspended and he was no longer authorized to handle controlled substances in that state.

Respondent, through counsel, timely requested a hearing in this matter. One January 19, 2005, the Presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued the Government, as well as Respondent, an Order for Prehearing Statements.

In lieu of filing a prehearing statement, the Government filed a Request for Stay of Proceedings and