

| Permit application No. | Applicant | Species | Location | Activity | Type of take | Permit action |
|------------------------|---|--|---|------------------------------------|--|---------------|
| ES810274-15 | Peter Droppelman; Louisville, KY. | Mammals: Tricolored bat (<i>Perimyotis subflavus</i>); Mussels: Longsolid (<i>Fusconaia subrotunda</i>), green floater (<i>Lasmigona subviridis</i>), Cumberland moccasinshell (<i>Medionidus conradicus</i>), round hickorynut (<i>Obovaria subrotunda</i>), Tennessee clubshell (<i>Pleurobema oviforme</i>), Tennessee pigtoe (<i>Pleuronaia barnesiana</i>), and salamander mussel (<i>Simpsonaias ambigua</i>). | Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. | Presence/probable absence surveys. | Tricolored bat: capture with mist nets or harp traps, handle, identify, band, radio tag, and release; Mussels: capture, identify, mark, release, collect relic shells. | Amendment. |
| PER11108599-0 | Julie Weckworth, University of Montana; Missoula, MT. | Tricolored bat (<i>Perimyotis subflavus</i>) | Alabama, Connecticut, Georgia, Massachusetts, Michigan, New Hampshire, Pennsylvania, Tennessee, Texas, and Wisconsin. | Scientific research. | Capture with harp trap, mist net, or handheld hoop net, handle, identify, wing punch, swab, PIT tag, and release. | New. |

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed above in this notice, we will publish a subsequent notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching <https://www.regulations.gov> for the application number listed above in this document. Type in your search exactly as the application number appears above, with spaces and hyphens as necessary. For example, to find information about the potential issuance of Permit No. PER 1234567-0, you would go to <https://www.regulations.gov> and put “PER 1234567-0” in the Search field.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 *et seq.*).

Cheri Frazell,

Acting Deputy Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2024-16243 Filed 7-23-24; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Deron Kovac, DMD; Decision and Order

On March 24, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Deron Kovac, D.M.D. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant’s Certification of Registration

No. FK7629340 at the registered address of 10493 Frankstown Road, Penn Hills, PA 15235. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is "currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the Commonwealth of Pennsylvania, the state in which [he is] registered with DEA." *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, effective October 18, 2022, the Pennsylvania State Board of Dentistry suspended Registrant's dental license. RFAAX 1, at 1. According to Pennsylvania online records, of which the Agency takes official notice, Registrant's dental license remains suspended.²

¹ Based on the Government's submissions in its RFAA dated October 12, 2023, the Agency finds that service of the OSC on the Registrant was adequate. Specifically, the submitted Declaration from a DEA Diversion Investigator indicates that Registrant was successfully mailed a copy of the OSC at both his last known address and his father's address on March 30, 2023, and April 25, 2023, respectively. RFAAX 2, at 1; *see also id.* at 3–10.

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a

Pennsylvania Licensing System Verification Service, <https://www.pals.pa.gov/#!/page/search> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice dentistry in Pennsylvania, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27616, 27617 (1978).³

According to Pennsylvania statute, "dispense" means "to deliver a controlled substance, other drug or device to an ultimate user or research subject by or pursuant to the lawful

party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term "practitioner" to mean "a physician . . . or other person 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." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371–72; *Sheran Arden Yeates, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare such item for that delivery." 35 Pa. Stat. and Cons. Stat. Ann. section 780–102(b) (West 2024). Further, a "practitioner" means "a physician . . . dentist . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance, other drug or device in the course of professional practice or research in the Commonwealth of Pennsylvania." *Id.*

Here, the undisputed evidence in the record is that Registrant lacks authority to practice dentistry in Pennsylvania. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Pennsylvania. Thus, because Registrant lacks authority to practice dentistry in Pennsylvania and, therefore, is not authorized to handle controlled substances in Pennsylvania, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FK7629340 issued to Deron Kovac, D.M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Deron Kovac, D.M.D., to renew or modify this registration, as well as any other pending application of Deron Kovac, D.M.D., for additional registration in Pennsylvania. This Order is effective August 23, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 15, 2024, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this

document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2024–16211 Filed 7–23–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Donna Winingham, MD; Decision and Order

On July 19, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Donna Winingham, M.D. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AW1730729 in Templeton, CA 93465. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is "currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of California, the state in which [she is] registered with DEA." *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of her right to file with DEA a written request for hearing, and that if she failed to file such a request, she would be deemed to have waived her right to a hearing and be in default. *Id.* (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ "A default, unless excused, shall be deemed to constitute a waiver of the [registrant's] right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

¹ Based on the Government's submissions in its RFAA dated September 26, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the Government's included Notice of Service of Order to Show Cause indicates that Registrant was served with the OSC by certified mail on August 9, 2023. RFAAX 1, at 1; *see also id.* at 6.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, effective July 30, 2021, the Medical Board of California revoked Registrant's California medical license. RFAAX 2, at 2. According to California's online records, of which the Agency takes official notice, Registrant's California medical license remains revoked.² California DCA License Search, <https://search.dca.ca.gov/> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in California, the state in which she is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, D.O.,* 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.,* 43 FR 27616, 27617 (1978).³

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term "practitioner" to mean "a physician . . . or other person 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." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney

According to California statute, "dispense" means "to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery." Cal. Health & Safety Code section 11010 (West 2024). Further, a "practitioner" means a person "licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in [the] state." *Id.* section 11026(c).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant currently lacks authority to practice medicine in California and, therefore, is not currently authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. AW1730729 issued to Donna Winingham, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Donna Winingham, M.D., to renew or modify this registration, as well as any other pending application of Donna Winingham, M.D., for additional registration in California. This Order is effective August 23, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 15, 2024, by Administrator Anne

General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR 71371–72; *Sheran Arden Yeates, D.O.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.,* 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR 27617.