

The 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 Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

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. 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 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice medicine in Louisiana, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in Louisiana, the State in which she seeks to obtain a DEA registration. The 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. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in Louisiana or to handle controlled substances in that State.

The Administrator concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaning less tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2001); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the 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 application for a DEA Certificate of Registration submitted by Carla M. Johnson, M.D., be, and it hereby is, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

**Asa Hutchinson,**

*Administrator.*

[FR Doc. 01-26176 Filed 10-17-01; 8:45 am]

**BILLING CODE 4410-09-M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **George Samuel Kouns, D.O.;** **Revocation of Registration**

On April 28, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an amended Order to Show Cause (OTSC) by certified mail to George Samuel Kouns, D.O., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AK8923496, pursuant to 21 U.S.C. 823(f) and 21 U.S.C. 824(a) (2), (3), and (4), on the grounds that Dr. Kouns is no longer authorized to handle controlled substances in Indiana, the State in which Dr. Kouns is currently registered with DEA. The amended OTSC also stated that Dr. Kouns' request to modify his registration address from Indiana to Alabama should be denied pursuant to 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4), because Dr. Kouns is not authorized to handle controlled substances in Alabama. The amended OTSC also alleged that Dr. Kouns' DEA registration should be revoked and his request for modification denied because on March 23, 1998, he was convicted of a felony relating to controlled substances in the Union County Circuit Court of the State of Indiana. The amended OTSC also notified Dr. Kouns that should not request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

On May 2, 2000, the amended OTSC was sent to Dr. Kouns at the address at which he sought to have his DEA registration modified, and also to his last known address in Alabama. Subsequently, DEA received a postal receipt dated May 26, 2000, and signed on behalf of Dr. Kouns, indicating the amended OTSC was received.

DEA has received no request for a hearing nor other response from Dr. Kouns nor anyone purporting to represent him in this matter. Therefore, the 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. Kouns is deemed to have waived his right to a hearing. Following a complete review of

the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 9d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Kouns currently possesses DEA Certificate of Registration AK8923496, issued to him in Indiana. On or about March 23, 1998, pursuant to a plea agreement Dr. Kouns pleaded guilty to 15 felony counts of Issuing Unlawful Prescriptions, including controlled substance prescriptions. Also pursuant to the plea agreement, Dr. Kouns agreed to (1) pay a \$5,000 fine and (2) to not practice medicine in Indiana, to surrender any licensure to practice medicine in Indiana, and not to reapply for medical licensure in Indiana. By Order dated May 12, 1998, the Union County Circuit Court sentenced Dr. Kouns to 15 consecutive years in prison, which term was suspended, and placed Dr. Kouns on probation for 15 years.

Based on the felony convictions, the Indiana Medical Licensing Board revoked Dr. Kouns license to practice medicine in Indiana by Order dated August 31, 1998. On or about September 18, 1998, the Controlled Substance Advisory Committee and the Indiana Board of Pharmacy issued a Final Order denying Dr. Kouns' application for a controlled substances registration. There is no evidence in the investigative file indicating that Dr. Kouns has regained authority to handle controlled substances in the State of Indiana.

The Administrator further finds that on or about January 14, 1999, the Alabama Medical Licensure Commission issued an Order revoking Dr. Kouns' license to practice medicine in the State of Alabama based upon (1) Dr. Kouns' controlled substances-related felonies in the State of Indiana, and (2) the subsequent disciplinary action taken against Dr. Kouns by the Indiana State authorities. There is no evidence in the file indicating that Dr. Kouns has regained authority to handle controlled substances in the State of Alabama.

In addition, the Administrator finds substantial evidence in the investigative file that Dr. Kouns' license to practice medicine in Ohio expired September 30, 1998, due to non-payment of renewal fees, and as of this date, there is no evidence in the investigative file to conclude that his Ohio medical license has been reinstated.

Therefore, the Administrator concludes that Dr. Kouns is not currently licensed or authorized to handle controlled substances in either Alabama, Indiana, or Ohio.

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 Administrator finds the Government has presented evidence demonstrating that Dr. Kouns is not authorized to practice medicine or to handle controlled substances in Indiana, the jurisdiction where Dr. Kouns' DEA Certificate of Registration is issued, nor to practice medicine in Alabama, the jurisdiction where Dr. Kouns seeks to have his DEA Certificate of Registration modified, nor in Ohio, where his State medical license has expired. Therefore, the Administrator concludes that Dr. Kouns is also not authorized to handle controlled substances in Alabama, Indiana, or Ohio.

Accordingly, the 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 AK8923496 previously issued to George Samuel Kouns, D.O., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

**Asa Hutchinson,**  
*Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Jerry Clifton Lingle, M.D.; Revocation of Registration**

On October 10, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Jerry Clifton Lingle, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BL1508285, 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. Lingle was not authorized by the State of Florida to handle controlled substances. The order also notified Dr. Lingle that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Lingle at his DEA registered premises in Fort Lauderdale, Florida. A postal delivery receipt was signed October 28, 2000, on behalf of Dr. Lingle, indicating the OTSC was received. To date, no response has been received from Dr. Lingle nor anyone purporting to represent him.

Therefore, the 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. Lingle is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Lingle currently possesses DEA Certificate of Registration BL1508285, issued to him in Florida. By Order of Emergency Suspension of License, dated June 9, 1999, the State of Florida, Department of Health, suspended Dr. Lingle's medical license, finding that "Dr. Lingle's continued practice as a physician constitutes an immediate and serious danger to the health, safety and welfare of the public[.]" The investigative file contains no evidence that the Emergency Suspension of Dr. Lingle's medical license has been lifted.

Therefore, the Administrator concludes that Dr. Lingle is not currently licensed or authorized to handle controlled substances in Florida.

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 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D. 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Lingle is not authorized to practice medicine in Florida, and therefore, the Administrator infers that Dr. Lingle is also not authorized to handle controlled

substances in Florida, the State in which he holds his DEA Certificate of Registration.

Accordingly, the 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 BL1508285, previously issued to Jerry Clifton Lingle, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

**Asa Hutchinson,**  
*Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Trudy J. Nelson, MD; Revocation of Registration**

On June 12, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Trudy J. Nelson, MD, notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration, BN0504894, pursuant to 21 U.S.C. 824(a)(1), 824(a)(2), 824(a)(3) and 924(a)(4) and deny any pending applications for renewal, pursuant to 21 U.S.C. 823(f). The OTSC also notified Dr. Nelson that should no request for hearing be filed within 30 days, her right a hearing would be deemed waived.

The OTSC was sent to Dr. Nelson's registered location in Sidney, Ohio, and also to another location at Marysville, Ohio. The Sidney, Ohio mailing was returned, unclaimed. The Marysville, Ohio mailing was received June 20, 2000, by individual signing on behalf of Dr. Nelson, as indicated by the signed postal return receipt. To date, no response has been received from Dr. Nelson nor anyone purporting to represent her.

Therefore, the 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. Nelson is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order