

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****Winthrop C. Davis, M.D.; Revocation of Registration**

On June 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Winthrop C. Davis, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BD3685053, 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. Davis was not authorized by the State of Florida to practice medicine. The order also notified Dr. Davis 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. Davis at his DEA registered premises in Fort Lauderdale, Florida. The OTSC was returned, marked "Unclaimed." An Andalusia, Alabama forwarding address was written on the envelope. Through the assistance of Alabama State law enforcement authorities, copies of the OTSC were delivered to Dr. Davis and his legal counsel in Andalusia, Alabama, on or about September 7, 2001. To date, no response has been received from Dr. Davis nor anyone purporting to represent him.

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. Davis is deemed to have waived his 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. Davis currently possesses DEA Certificate of Registration BD3685053, issued to him in Florida. By Order of Emergency Suspension of License, dated November 15, 2000, the State of Florida, Department of Health, suspended Dr. Davis' medical license, finding that Dr. Davis posed a danger to the health, safety and welfare of the public, in that Dr. Davis was unable to practice medicine as a physician with reasonable skill and safety because of untreated major depression and chronic relapsing substance abuse. In addition, the Florida Department of Health found

Dr. Davis unwilling to cooperate with the Physicians Recovery Network, and that he failed to follow the recommendations of the Network. The investigative file further reveals Dr. Davis apparently has abandoned his DEA registered premises in Fort Lauderdale, Florida for a last known address in Andalusia, Alabama, approximately 625 miles away in a state in which Dr. Davis does not possess a license to practice.

On January 10, 2001, Dr. Davis was arrested by the Covington County Police Department, Andalusia, Alabama, and charged with Possession of a Controlled Substance. At the time of his arrest, Dr. Davis was observed to be driving erratically, and he refused to stop until law enforcement personnel forced him using a rolling roadblock. Four tablets of Carisoprodol (Soma), a Schedule IV controlled substance under Alabama State law, were found on Dr. Davis' person, and a search of the vehicle revealed two prescription bottles, in the name of another individual, containing another 109 additional Soma tablets. Dr. Davis did not possess a prescription for Soma. In addition, two Soma prescriptions found in the vehicle were written by Dr. Davis at a time when his Florida State medical license was suspended.

The investigative file contains no evidence that the Emergency Suspension of Dr. Davis' medical license has been lifted.

Therefore, the Deputy Administrator concludes that Dr. Davis is not currently licensed or authorized to handle controlled substances in Florida. Nor does the investigative file contain any evidence that Dr. Davis is authorized to practice medicine or handle controlled substances in Alabama.

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); *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. Davis is not authorized to practice medicine in Florida, and therefore, the Deputy Administrator infers that Dr. Davis is also not authorized to handle controlled substances in Florida, the

State in which he holds his DEA Certificate of Registration.

In addition, the Deputy Administrator also finds pursuant to 21 U.S.C. 824(a)(4) that Dr. Davis has committed acts that render his registration inconsistent with the public interest, as determined pursuant to 21 U.S.C. 823(f). All five of the public interest factors are adversely implicated by the conduct of Dr. Davis described above.

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 BD 3685053, previously issued to Winthrop C. Davis, 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****Corrado Di Martino, M.D.; Revocation of Registration**

On July 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Corrado Di Martino, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AD6909951, 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. Di Martino was not authorized by the Commonwealth of Massachusetts to handle controlled substances. The order also notified Dr. Di Martino 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. Di Martino at his DEA registered premises in Southbridge, Massachusetts. A postal delivery receipt was signed July 26, 2001, by Dr. Di Martino, indicating the OTSC was received. To date, no response has been received from Dr. Di Martino nor anyone purporting to represent him.

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. Di Martino is deemed to have waived his 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. Di Martino currently possesses DEA Certifying of Registration AD6909951, issued to him in Massachusetts. By Order of the Commonwealth of Massachusetts Board of Registration in Medicine (Board), dated October 11, 2000, Dr. Di Martino's medical license was summarily suspended, upon the finding that "based upon the information set forth in the Motion for Summary Suspension* * * the health, safety, and welfare of the public necessitates said suspension." The investigative file contains no evidence that the Summary Suspension of Dr. Di Martino's medical license has been lifted.

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

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. Di Martino is not authorized to practice medicine in Massachusetts, and therefore, the Deputy Administrator infers that Dr. Di Martino is also not authorized to handle controlled substances in Massachusetts, 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 AD6909951, previously issued to Corrado Di Martino, 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

James E. Eaves, M.D.; Revocation of Registration

On January 4, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to James E. Eaves, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AE4563967, pursuant to 21 U.S.C. 824(a)(1) and (a)(4), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Eaves was not authorized by the State of Iowa to practice medicine, and his continued registration was inconsistent with the public interest. The Order also notified Dr. Eaves 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. Eaves at his DEA registered premises in Clarinda, Iowa. A postal delivery receipt was signed January 15, 2002, by Dr. Eaves, indicating the OTSC was received. To date, no response has been received from Dr. Eaves nor anyone purporting to represent him.

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. Eaves is deemed to have waived his 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. Eaves currently possesses DEA Certificate of Registration AE4563967, issued to him in Iowa. Pursuant to a Settlement Agreement in May 1999, Dr. Eaves was prohibited by the Iowa Board of Medical Examiners (Board) from the practice of medicine in

Iowa, without the specific permission of the Board. The DEA investigative file reveals Dr. Eaves does not currently maintain an active medical license in Iowa, and is therefore foreclosed from the practice of medicine in the state in which he holds his DEA registration.

In January 2001, however, Dr. Eaves stated to DEA investigators that he intended to retain his DEA Certificate of Registration solely for the purposes of self-prescribing controlled substances. This practice is not permitted by Iowa State law.

The investigative file further reveals that in October 1988, the Board placed Dr. Eaves' medical license on three years' probation, based in part on findings that Dr. Eaves authorized excessive amounts of controlled substances to be dispensed when such drug therapy was not warranted. In May 1991, the Board again placed Dr. Eaves' medical license on probation, this time for five years, and further restricted his controlled substance privileges, based in part on findings that Dr. Eaves continued to authorize excessive amounts of controlled substances to be dispensed when such drug therapy was not warranted. In December 1994, the Board extended this probation period for an additional 32 months, based on findings that Dr. Eaves had violated his previous probation.

In addition, in June 1998, the Board issued a new Compliant and Statement of Charges Against James Edgar Eaves, M.D., Respondent, based in part on findings that Dr. Eaves authorized the dispensing of excessive amounts of controlled substances when such drug therapy was not warranted. This is the action that led to the previously mentioned May 1999 Settlement Agreement.

Pursuant to 21 U.S.C. 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration if he determines that granting the registration would be *inter alia* inconsistent with the public interest, as determined by section 823. In determining the public interest, 823(f) requires that the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.