

controlled substances into other than legitimate medical, scientific and industrial channels;

(2) Compliance with applicable State and local law;

(3) Prior conviction record of the applicant under federal or state laws relating to the manufacture, distribution, or dispensing of controlled substances;

(4) Past experience in the distribution of controlled substances;

(5) Such other factors as may be relevant to and consistent with the public health or safety.”

It is well established that these factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. See *Henry J. Schwartz, Jr., M.D.*, 54 FR 16422 (1989).

Of the stated factors, the Deputy Administrator finds that there is no evidence in the investigative file that Mr. Brehm or his company is licensed under the State of Pennsylvania to handle controlled substances, or that his company was not in compliance with applicable state law, as contemplated by factor two. In addition, there is not evidence in the record that Mr. Brehm or his company have ever been convicted under controlled substance laws, or ever actually distributed controlled substances, as described under factors three and four. Accordingly, the Deputy Administrator finds factors one and five relevant to this proceeding.

It is clear that granting the application for DEA Certificate of Registration of Mr. Brehm d/b/a Infinite Pills would be inconsistent with the public interest. Under the first factor, maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical scientific and industrial channels, the Deputy Administrator finds this factor relevant to the findings of DEA's investigation that Mr. Brehm had not developed a record keeping or invoicing system for his proposed business.

Factor one is further relevant to Mr. Brehm's attempts at obtaining various controlled substances from a drug manufacturer under the name and DEA registration of a physician without the latter's knowledge. Given the dishonest methods employed to obtain these drugs, the Deputy Administrator is left to conclude that Mr. Brehm's actions were an attempt to divert controlled substances to his personal use.

Therefore, the maintenance of effective

controls as contemplated under factor one, are not present with respect to Mr. Brehm's pending application for registration, and support the denial of his pending application.

With regard to factor five, such other factors as may be relevant to and consistent with the public health or safety, Mr. Brehm's proposed registered location is a residential townhouse which he shares with his mother and other family members. At the time of the submission of his application, Mr. Brehm was a 20-year old with no known experience working with controlled substances. He had no potential customers, nor had he made any visible efforts to establish a customer base.

Factor five is further relevant to Mr. Brehm's use of several artifices to obtain controlled substances from a Colorado drug manufacturer, including the unauthorized use of the name and DEA number of a physician; his apparent attempt to disguise his accent; his apparent misrepresentation to the drug company representative that he and the physician were roommates; and his apparent unauthorized use of the name of yet another individual as the contact person for delivery of controlled substances. In addition, Mr. Brehm attempted to have a physician's DEA number transferred to a different address, without the knowledge or authorization of the physician. This factor is also relevant to Mr. Brehm's fraudulent submission to a drug manufacturer of unsigned DEA order forms in a further attempt to obtain various controlled substances.

Also given consideration under factor five is the reference in the investigative file to an altercation involving Mr. Brehm and his father, resulting in the firing of a loaded weapon by Mr. Brehm. This altercation took place at the same address proposed by Mr. Brehm as a DEA registered location. Mr. Brehm was later charged with various assault, weapon, and drug charges. Following his arrest, and the execution of a search warrant at his residential address, Mr. Brehm advised law enforcement officers to exercise care in their handling of certain materials at the residence because they were part of a methamphetamine lab. The DEA investigative file also recounts the arrest of Mr. Brehm on a charge of possessing marijuana.

In addition to his legal woes, Mr. Brehm has exhibited behavior which can best be described as unstable. Such conduct raises further questions about his ability to adequately discharge the responsibilities of a DEA registrant.

Following his arrest in September of 2000, Mr. Brehm was placed under a

suicide watch after exhibiting erratic behavior while in custody. Following his release from police custody, the automobile in which he was driving struck three parked vehicles, and he was later charged with a misdemeanor offense apparently related to the incident. Pursuant to a subsequent court order, Mr. Brehm was committed to an institution for a mental health evaluation, and was found to be in violation of the court's order for noncompliance. Mr. Brehm's failure to comply resulted in his being recommitted for further mental health evaluation. Finally, DEA received information from the Pennsylvania Department of Health which alleged that Mr. Brehm stockpiled nitrous oxide without state authorization to do so.

It is clear that Mr. Brehm and the firm that he represents, does not possess the requisite qualifications for DEA registration as a distributor. Moreover, in reviewing the instant request for DEA registration, and in light of Mr. Brehm's failure to request a hearing in this matter, the Deputy Administrator has only the benefit of the DEA investigative file in making her determination. No evidence has been submitted on behalf of the applicant in support of his pending application. Based on the above, the Deputy Administrator reiterates that the applicant's registration would be inconsistent with the public interest and therefore, his application for registration must be denied.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application for DEA Certificate of Registration as a distributor submitted by Robert Brehm d/b/a Infinite Pills, be, and it hereby is, denied. This order is effective August 5, 2004.

Dated: June 21, 2004.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03-51]

Miles J. Jones, M.D.; Revocation of Registration

On August 11, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order

to Show Cause to Miles J. Jones, M.D. (Respondent) notifying him of an opportunity to show cause as to why DEA should not revoke his Certificate of Registration, BJ0839540 under 21 U.S.C. 824(a)(3) and deny any pending applications or requests pursuant to 21 U.S.C. 823(f). Specifically, the Order to Show alleged that the Respondent is not authorized under state law to handle controlled substances based upon the revocation of his Missouri state medical license on February 5, 2003.

By letter dated September 15, 2003, the Respondent, proceeding *pro se*, timely requested a hearing in response to the show cause order. In his hearing request, the Respondent asserted that the DEA action in revoking his Certificate of Registration was premature since matters involving the revocation of his Missouri medical license were under appeal. In response to the Respondent's request for stay, the presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued a Notice and Order on September 25, 2003, allowing the Government the opportunity to respond to the Respondent's request.

On September 26, 2003, counsel for DEA filed Government's Request for Stay of Proceedings and Motion for Summary Judgment. The Government asserted that the Respondent is without authorization to handle controlled substances in Missouri, and as a result, further proceedings in the matter were not required. On September 30, 2003, the Government followed its motion with the Government's Response to Respondent's Request for Stay of Proceedings, arguing that the Respondent had failed to provide sufficient grounds to warrant a stay of the proceedings.

On September 30, 2003, Judge Randall issued an Order Staying Proceedings, where she afforded the Respondent the opportunity to respond to the Government's Motion by October 29, 2003. However, the Respondent did not file a response.

Accordingly, on December 4, 2003, Judge Randall issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Randall granted the Government's Motion for Summary Disposition and found that the Respondent lacked authorization to handle controlled substances in Missouri, the jurisdiction in which he is registered with DEA. In granting the Government's motion, Judge Randall also recommended that the Respondent's DEA registration be revoked and any pending applications

for renewal or modification be denied. No exceptions were filed by either party to Judge Randall's Opinion and Recommended Decision, and on January 16, 2004, the record of these proceedings was transmitted to the Office of the DEA Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration BJ0839540, and is registered to handle controlled substances in Missouri. The record before the Deputy Administrator reveals that on July 26, 2002, the North Dakota Board of Medical Examiners (North Dakota Board) revoked the Respondent's medical license in that state, based in part upon information that the Respondent repeatedly wrote prescriptions for patients over the Internet without first examining the patient or obtaining appropriate patient information.

In response to the revocation action of the North Dakota Board, on February 5, 2003, the Missouri State Board of Registration for the Healing Arts (Missouri Board) issued its Findings of Fact, Conclusions of Law and Disciplinary Order in the matter of the Respondent's Missouri medical license. The Missouri Board ordered the revocation of the Respondent's medical license and further ordered that he be prohibited from applying for reinstatement of his license "for two (2) years and one (1) day from the date of [the Missouri Board's] order."

There is no evidence before the Deputy Administrator that the order of the Missouri Board has been stayed or rescinded. Therefore, the Deputy Administrator finds that the Respondent is currently not licensed to practice medicine in Missouri and as a result, it is reasonable to infer that 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 *Kanwaljit S. Serai, M.D.*, 68 FR 48943 (2003); *Dominick A. Ricci,*

M.D., 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1998).

Here, it is clear that the Respondent is not currently authorized to handle controlled substances in Missouri, where he is registered with DEA. Therefore, he is not entitled to maintain that registration. 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, BJ0839540, issued to Miles J. Jones, 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 August 5, 2004.

Dated: June 21, 2004.

Michele M. Leonhart,
Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Simon J. Trueblood, M.D.; Revocation of Registration

On June 13, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Simon J. Trueblood, M.D. (Dr. Trueblood), proposing to revoke his DEA Certificate of Registration, BT5741081, as a practitioner pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f), for reason that Dr. Trueblood does not have a controlled substance license for the State of Illinois, the state in which he intends to move his practice. The Order to Show Cause further alleged that renewal or modification of Dr. Trueblood's DEA registration would be inconsistent with the public interest, based in relevant part, upon the following:

1. On March 10, 1998, the Medical Licensing Board of Indiana (the Board) placed Dr. Trueblood's medical license on indefinite probation. As grounds for this action, the Board found that Dr. Trueblood had prescribed legend drugs and controlled substances to a number of members of his family. Dr. Trueblood admitted that all the prescriptions had been for his mother. Dr. Trueblood also admitted that he had written the prescriptions in different names in order