

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

On December 17, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David C. Phillips, M.D. (Dr. Phillips) who was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BP3145403, under 21 U.S.C. 824(a)(3) and (a)(4), and deny any pending applications for renewal or modification of that registration. Specifically, the Order to Show Cause alleged in relevant part, the following:

1. Dr. Phillips' Ohio medical license has been inactive since 1998 according to the Ohio State License Board. On September 17, 2001, he voluntarily surrendered his medical license to the Ohio State Medical Board (Ohio Board). On July 12, 2001, Dr. Phillips stated to his psychotherapist his realization of a "sexual addiction problem." Dr. Phillips does not currently have a state license or registration to practice medicine in Ohio, the state in which he is registered with DEA.

2. On January 24, 2002, Dr. Phillips' license to practice medicine in the State of Michigan was summarily suspended. This action was taken by the Michigan Board of Medicine Disciplinary Subcommittee (Michigan Board) because of Dr. Phillips' inappropriate behavior with patients. On October 20, 1999, he treated a patient in the emergency department at Bay Medical Center, Bay City, Michigan and made sexual advances towards the patient, but the patient refused his advances. Dr. Phillips then ordered for the patient 100mg of Demerol, a Schedule II controlled substance, and proceeded to have inappropriate sexual contact with the patient. He then followed the patient home and continued to engage in additional inappropriate sexual contact with her. The summary suspension of the Michigan Board was dissolved on August 21, 2002, and Dr. Phillips' medical license was suspended for three years. That suspension remains in effect until 2005.

3. On October 8, 2003, DEA diversion investigators performed current checks of both the Michigan and Ohio licensing boards and confirmed that Dr. Phillips does not have a valid medical license in either state. Therefore, he is no longer authorized to handle controlled substances in either state.

On December 17, 2003, the Order to Show Cause was sent by certified mail to Dr. Phillips' registered location in Rossford, Ohio, with a second copy sent to a location in Adrian, Michigan. According to certified mail receipt records, copies of the Order to Show Cause were received on behalf of Dr. Phillips at each location. DEA has not received a request for hearing or any other reply from Dr. Phillips or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the registrant's address of record, as well as to a second address, and (2) no request for hearing having been received, concludes that Dr. Phillips is deemed to have waived his hearing right. See David W. Linder, 67 FR 12579 (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 that Dr. Phillips is currently registered with DEA as a practitioner. According to information in the investigative file, in January of 2001, Dr. Phillips sought to renew his DEA Certificate of Registration for his registered location in Rossford, Ohio. As part of its subsequent pre-registrant investigation of his application for renewal, DEA learned from the Ohio Medical Board that Dr. Phillips' medical license in that state was inactive.

A DEA diversion investigator subsequently inquired with Dr. Phillips about the status of his Ohio medical license. Dr. Phillips informed the investigator that he lived in Ohio, but worked as an emergency room physician at hospitals in Michigan. Following this conversation, Dr. Phillips requested that his DEA registration be modified to reflect an address at a practice location in Adrian, Michigan. For unspecified reasons, Dr. Phillips' DEA registration was renewed for the Ohio location, but was not modified to reflect his professional practice location in Michigan.

Included in the investigative file is an Administrative Complaint filed against Dr. Phillips' Michigan medical license on January 22, 2002. The complaint alleged, that on September 17, 2001, Dr. Phillips agreed to surrender his certificate to practice medicine and surgery in Ohio as a result of his having inappropriate sexual contact with a patient. Following the issuance of the Administrative Complaint, the Michigan Board then issued an order dated

January 24, 2002, summarily suspending Dr. Phillips' state medical license. The matters which led to the summary suspension of Dr. Phillips' Michigan medical license were also related to his inappropriate sexual contact with several patients.

By Consent Order dated August 21, 2002, the Michigan Board dissolved the summary suspension of January 24, 2002. The parties further agreed however, that based upon violations outlined in the previous Administrative Complaint, Dr. Phillips' state medical license would be suspended for a period of three years.

On October 8, 2003, the DEA Detroit (Michigan) Field Division inquired with both the Ohio and Michigan licensing boards about Dr. Phillips' licensure status in those jurisdictions. DEA was informed that Dr. Phillips is not currently licensed to practice medicine in either state. There is no evidence before the Deputy Administrator that Dr. Phillips' Ohio state medical license has been reinstated or that the three-year suspension of his Michigan medical license has been lifted.

Pursuant to 21 U.S.C. 824(a), the Deputy Administrator may revoke a DEA Certificate of Registration if she finds that the registrant has had his state license revoked and is no longer authorized to dispense controlled substances or has committed such acts as would render his registration contrary to the public interest as determined by factors listed in 21 U.S.C. 823(f). Thomas B. Pelkowski, D.D.S., 57 FR 28538 (1992). Nevertheless, despite findings of the Ohio and Michigan Boards regarding Dr. Phillips' inappropriate conduct with patients under his care, and notwithstanding other public interest factors for the revocation of his DEA registration asserted herein, the more relevant consideration is the present status of Dr. Phillips' state authorization to handle controlled substances.

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 Rory Patrick Doyle, M.D., 69 FR 11655 (2004); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Phillips has surrendered his Ohio medical license and his Michigan medical license has been suspended. It is reasonable to infer that he is currently not authorized to

handle controlled substances in Ohio or Michigan and therefore, not entitled to a DEA registration in either jurisdiction. As a result of a finding that Dr. Phillips lacks any state authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address further whether his DEA registration should be revoked based upon the public interest grounds asserted in the Order to Show Cause. See Samuel Silas Jackson, D.D.S., 67 FR 65145 (2002); Nathaniel-Aikens-Afful, M.D., 62 FR 16871 (1997); Sam F. Moore, D.V.M., 58 FR 14428 (1993).

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, BP3145403, issued to David C. Phillips, 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 November 1, 2004.

Dated: September 8, 2004.

Michele M. Leonhart,
Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 21, 2004, and published in the **Federal Register** on June 3, 2004, (69 FR 31414), Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The Institute will manufacture small quantities of cocaine derivates and marihuana derivatives for use by their customers primarily in analytical kits, reagents and standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of

Research Triangle Institute to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Research Triangle Institute to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: September 8, 2004.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Import of Controlled Substances; Notice of Registration

By Notice dated May 21, 2004 and published in the **Federal Register** on June 3, 2004, (69 FR 31413-31414), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building East Institute Drive, PO Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substance:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The company plans to import small quantities of the listed substances for the National Institute of Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Research Triangle Institute to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute to ensure that the company's registration is

consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: September 15, 2004.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Saeed Saleh, M.D.; Revocation of Registration

On December 8, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Saeed Saleh,¹ M.D. (Dr. Saleh) notifying him of an opportunity to show cause as to why DEA should not revoke his Certificate of Registration, AS5912387, under 21 U.S.C. 824(a)(3) and (a)(4), and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). Specifically, the Order to show Cause alleged in relevant part, the following:

(1) Effective June 2, 2001, the State of Michigan, Department of Consumer and Industry Services, Board of Medicine Disciplinary Subcommittee, suspended Dr. Saleh's licensure privileges. On September 19, 2001, the Subcommittee dissolved the summary suspension and suspended Dr. Saleh's medical license for six months and one day. Because reinstatement of his medical license following the suspension was not automatic, Dr. Saleh was required to apply for reinstatement, which he failed to do. As of September 4, 2003, Dr. Saleh's medical license was considered "lapsed", as it expired on January 31, 2003.

¹ The Order to Show Cause alternates the spelling of the registrant's last name between *Salah* and *Saleh*. Since it appears from attached correspondences in the investigative file that the common spelling of the registrant's name is Saleh, the Deputy Administrator will refer to the registrant's name in a similar fashion.