Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective July 7, 2005.

Dated: May 25, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–11244 Filed 6–6–05; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Robert M. Canon, M.D., Revocation of Registration

On February 11, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Canon, M.D. (Dr. Canon) of Tullahoma, Tennessee, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AC2221707 under 21 U.S.C. 824(a)(3) and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Dr. Canon is not currently authorized to practice medicine or handle controlled substances in Tennessee, his state of registration and practice. The Order to Show Cause also notified Dr. Canon that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Canon at his registered address at 600 East Carroll Street, Tullahoma, Tennessee 37388. However, that letter was unclaimed by Dr. Canon and eventually returned by postal authorities to DEA, as he apparently did not provide the post office a forwarding address. DEA has not received a request for hearing or any other reply from Dr. Canon or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that thirty days having passed since the attempted delivery of the Order to Show Cause to the registrant's address of record and no request for hearing having been received, concludes that Dr. Canon is deemed to have waived his hearing right. *See* Thomas J. Mulhearn, III, M.D., 70 FR 24,625 (2005); James E. Thomas, M.D., 70 FR 3,654 (2005); Steven A. Barnes, M.D., 69 FR 51,474 (2004); David W. Linder, 67 FR 12,579 (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 Dr. Canon currently possesses DEA Certificate of Registration AC2221707, as a practitioner authorized to handle controlled substances. The Deputy Administrator further finds that on August 18, 2004, the State of Tennessee Board of Medical Examiners (Tennessee Board) issued an Order suspending Dr. Canon's license to practice medicine in Tennessee.

That suspension was based upon the Tennessee Board's findings that on March 1, 2004, Dr. Canon was convicted in the United States District Court for the Eastern District of Tennessee of 95 felony counts of False Statements Relating to a Healthcare Matter and Health Care Fraud, in violation of 18 U.S.C. 1035 and 1347. He was sentenced to 41 months imprisonment on each count, to be served concurrently and was ordered to pay over three million dollars in restitution. That judgment is currently on appeal to the United States Court of Appeals for the Sixth Circuit and Dr. Canon is free on bond pending resolution of his appeal. The Tennessee Board's Order provides that the suspension of Dr. Canon's medical license is to remain in effect until his criminal case has been fully adjudicated.

The investigative file contains no evidence that the Tennessee Board's Order has been stayed, modified or terminated or that Dr. Canon's medical license has been reinstated. Therefore, the Deputy Administrator finds Dr. Canon is not currently authorized to practice medicine in the State of Tennessee. As a result, it is reasonable to infer 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* Stephen J. Graham, M.D., 69 FR 11,661 (2004); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988). Revocation is also appropriate when a state license has been suspended, but with possibility of future reinstatement. *See* Alton E. Ingram, Jr., M.D., 69 FR 22,562 (2004); Anne Lazar Thorn, M.D. 62 FR 847 (1997).

Here, it is clear Dr. Canon's medical license has been suspended and he is not currently licensed to handle controlled substances in Tennessee, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that state.

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 AC2221707, issued to Robert M. Canon, 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 July 7, 2005.

Dated: May 24, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–11245 Filed 6–6–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–025]

Carlin Paul Graham, Jr., M.D. Revocation of Registration

On November 8, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Carlin Paul Graham, Jr., (Respondent) of Talladega, Alabama, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BG2476186 as a practitioner pursuant to 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Respondent's license to practice medicine in Alabama had been indefinitely suspended and he was no longer authorized to handle controlled substances in that state.

Respondent, through counsel, timely requested a hearing in this matter. One January 19, 2005, the Presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued the Government, as well as Respondent, an Order for Prehearing Statements.

In lieu of filing a prehearing statement, the Government filed a Request for Stay of Proceedings and

Motion for Summary Disposition (Motion). In that Motion the Government asserted the Medical Licensure Commission of Alabama (Alabama Commission), had indefinitely suspended Respondent's Alabama State Medical License and, as a result, he was no longer authorized to handle controlled substances in the state where he is registered with DEA. Attached to the Government's Motion was a copy of the Alabama Commission's Order dated October 30, 2003, indefinitely suspending Respondent's medical license.

On January 31, 2005, Judge Randall issued an order allowing Respondent until February 22, 2005, to respond to the Government's Motion. Respondent did not file any response and on March 25, 2005, Judge Randall issued her Order, Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). In it, she granted the Government's Motion, finding Respondent lacked authorization to handle controlled substances in his state of DEA registration and recommended that his registration be revoked.

No exceptions were filed by either party to the Opinion and Recommended Decision and on April 26, 2005, 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 Respondent currently holds DEA Certificate of Registration BG2476186 as a practitioner and that on October 30, 2003, the Alabama Commission indefinitely suspended his license to practice medicine in that State. The suspension was predicated on the Commission's findings that Respondent engaged in unprofessional conduct, had staff privileges terminated, revoked or restricted by a hospital and was ''unable to practice medicine with reasonable skill and safety to patients by reason of illness or as a result of a mental or physical condition.''

The Deputy Administrator's therefore finds Respondent is currently not licensed to practice medicine in Alabama and lacks 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 Stephen J. Graham, M.D., 69 FR 11,661 (2004), Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988). Denial or revocation is also appropriate when a state license has been suspended, but with the possibility of future reinstatement. See Paramabaloth Edwin, M.D., 69 FR 58,540 (2004); Alton E. Ingram, Jr., M.D., 69 FR 22,562 (2004); Anne Lazar Thorn, M.D., 62 FR 847 (1997).

Here, it is clear Respondent is not currently licensed to handle controlled substances in Alabama, the jurisdiction in which he holds a DEA registration. Therefore, he is not entitled to registration in that state.

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 0.014, hereby orders that DEA Certificate of Registration BG2476186, issued to Carlin Paul Graham Jr., 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 July 7, 2005.

Dated: May 25, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–11247 Filed 6–6–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–35]

Joy's Ideas, 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 Joy's Ideas (Joy's Ideas/Respondent) proposing to revoke its DEA Certificate of Registration 003278JIY as a distributor of list I chemicals and deny its pending application for renewal under 21 U.S.C. 824(a)(4) and 823(h) as being inconsistent with the public interest. The Order to Show Cause alleged, in sum, that Respondent was distributing list I chemicals to what DEA has identified as the ''gray market'' and that a September 2001 audit by DEA Diversion Investigators showed the company had serious record keeping deficiencies.

Respondent requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Gail A. Randall. Following pre-hearing procedures, a hearing was held in Memphis, Tennessee, on March 11 and 12, 2004. At the hearing, both parties called witnesses to testify and introduced documentary evidence. Subsequently, both parties filed Proposed Findings of Fact, Conclusions of Law, and Argument.

On September 29, 2004, Judge Randall issued her Recommended Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Opinion and Recommended Ruling), recommending that Respondent's registration to distribute pseudoephedrine and ephedrine products be continued and its application for renewal be granted, subject to enumerated monitoring conditions. She recommended denying the request to distribute phenylpropanolamine. The Government filed Exceptions to the Opinion and Recommended Ruling, to which Respondent submitted a Reply and on November 8, 2004, Judge Randall transmitted the record of these proceedings to the 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 hereinafter set forth. Except as otherwise set forth in this final order, the Deputy Administrator adopts the findings of fact and conclusions of law of the Administrative Law Judge. The Deputy Administrator agrees with the recommendation that Respondent be denied registration to distribute phenylpropanolamine, but disagrees with Judge Randall's recommendation that Respondent be registered to distribute ephedrine and pseudoephedrine, even under close monitoring conditions.

Respondent is a sole proprietorship owned and operated by Ms. Joy Carter which is located in Memphis, Tennessee. It has been a DEA registrant since March 1998 and holds DEA Certificate of Registration 003278JIY. On November 10, 2003, Ms. Carter filed an application for renewal of that registration, which was due to expire on December 31, 2003. In it, she sought registration to distribute list I products