DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–30]

James Edgar Lundeen, Sr., M.D.; Dismissal of Proceeding

On December 19, 2011, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to James Edgar Lundeen, Sr., M.D. (Respondent), of Uniontown, Ohio. The Order proposed the revocation of Respondent’s DEA Certificate of Registration as a practitioner, and the denial of any pending application to renew or modify the registration, on the ground that Respondent does not have authority under Ohio law to practice medicine or dispense controlled substances. Show Cause Order at 1.

Following service of the Show Cause Order, Respondent requested a hearing. Thereafter, the Government moved for summary disposition; Respondent opposed the motion. On February 22, 2012, the ALJ granted the Government’s motion, finding that there was no dispute as to the material fact that Respondent does not possess authority under Ohio law to dispense controlled substances and that he was therefore not entitled to hold his DEA registration. ALJ Dec. at 4–7. The ALJ thus recommended that Respondent’s registration be revoked and that any pending application to renew or modify his registration be denied. Id. at 8.

Neither party filed exceptions to the ALJ’s decision and on March 20, 2012, the ALJ forwarded the record to me for Final Agency Action.

Upon review of the record, it was noted that the Government had alleged in the Show Cause Order that Respondent’s registration was due to expire on March 31, 2012. Show Cause Order at 1. The record, however, contained no evidence as to whether Respondent had filed a renewal application. Because in the absence of a timely renewal application, Respondent’s registration would expire, see 5 U.S.C. 556(c), pursuant to 5 U.S.C. 556(e) and 21 CFR 1316.59, I have taken official notice of Respondent’s registration record with the Agency.

According to this record, Respondent has not filed a renewal application. Accordingly, I find that Respondent’s registration has expired.

Under DEA precedent, “if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.” Ronald J. Riegel, 63 FR 67132, 67133 (1998); see also Thomas E. Mitchell, 76 FR 20032, 20033 (2011). Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon. Accordingly, because Respondent has allowed his registration to expire and has not filed any application, this case is now moot and will be dismissed.3

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I hereby order that the Order to Show Cause issued to James Edgar Lundeen, Sr., M.D., be, and it hereby is, dismissed. This order is effective immediately.


Michele M. Leonhart,
Administrator.

[FR Doc. 2012–12118 Filed 5–17–12; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at the University of Chicago by the Division of Materials Research (DMR) #1203.

Dates & Times:
June 6, 2012; 6:00 p.m.–8:30 p.m.
June 7, 2012; 7:15 a.m.–8:30 p.m.
June 8, 2012; 7:15 a.m.–3:00 p.m.

Place: University of Chicago, Chicago, IL

Type of Meeting: Part open.

2Notably, Respondent requests that I recommend the immediate suspension of his registration, rather than revocation, citing 21 U.S.C. 824(a)(4). [Resp’t Mot. in Opp’n at 3.]