

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

## Raquel Skidmore, M.D.; Decision and Order

On December 14, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Raquel Skidmore, M.D. (hereinafter, Registrant), of Panama City, Florida. Order to Show Cause (hereinafter, OSC), at 1. The OSC proposes the revocation of Registrant's Certificate of Registration on the ground that she does "not have authority to handle controlled substances in the State of Florida, the state in which . . . [she is] registered with the DEA." *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

Regarding jurisdiction, the OSC alleges that Registrant holds DEA Certificate of Registration No. BS7985623 at the registered address of Gulf Coast Holistic and Primary Care, 219 Forest Park Circle, Panama City, Florida 32405. OSC, at 1. It alleges that this registration authorizes Registrant to dispense controlled substances in schedules II through V as a practitioner. *Id.* The OSC alleges that this registration expires on February 29, 2020. *Id.*

The substantive ground for the proceeding, as alleged in the OSC, is that Registrant is "without authority to handle controlled substances in Florida, the state in which . . . [she is] registered with the DEA." *Id.* Specifically, the OSC alleges that the Florida Department of Health issued an "Order of Emergency Restriction of License" on April 5, 2018. *Id.* This Order, according to the OSC, immediately restricted Registrant's "license to practice in areas of critical need" because her "continued practice of medicine would constitute 'an immediate, serious danger to the health, safety, or welfare of the citizens of Florida.'" *Id.* at 1–2. On July 5, 2018, the OSC alleges, "the Florida Board of Medicine adopted the findings of fact in the Order of Emergency Restriction and issued a Final Order revoking . . . [Registrant's] license to practice medicine in the State of Florida." *Id.* at 2.

The Show Cause Order notifies Registrant of her right to request a hearing on the allegations or to submit a written statement while waiving her right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notifies Registrant of the

opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

## Adequacy of Service

In a Declaration dated February 26, 2019, a Diversion Investigator (hereinafter, DI) assigned to the Miami Field Division, Tallahassee Resident Office, describes herself as the "lead DI assigned" to the matter involving Registrant. Request for Final Agency Action dated February 28, 2019 (hereinafter, RFAA), App. 4, at 1. The DI states that she and a Group Supervisor found Registrant's registered office address "abandoned" when they visited it on November 14, 2018. *Id.* at 2. According to the DI, the "building manager . . . stated that Registrant had not been at the registered location for well over a year, and that she had heard Registrant had left the country." *Id.* Registrant's Facebook account indicates that she "now resides in St. Thomas, U.S. Virgin Islands." *Id.* at 3.

The DI states that she tried to serve the OSC on Registrant in five different ways: (1) By emailing it to Registrant's registered email address; (2) by contacting the attorney who represented Registrant before the Florida Board of Medicine; (3) by utilizing Registrant's Facebook page to contact Registrant's husband; (4) by sending the OSC registered mail to Registrant's registered address; and (5) by sending a "private message through Facebook to Registrant." *Id.* at 2. The DI states that, on January 24, 2019, she "finally received an email response from Registrant, which indicated she had received and reviewed" the OSC. *Id.*

I don't communicate through phone, I communicate through email. Anything you want to tell me it has to be through this email. I lost my license very unfairly, I lost my job and couldn't afford a lawyer anymore. I would love to go to that hearing in February but I can't even afford a plane ticket. What do you want from me?

*Id.* at Exh. 1, at 2.

In its RFAA, the Government represents that "more than thirty days have passed since the . . . [OSC] was served on . . . [Registrant] and no request for hearing has been received by DEA." RFAA, at 1. The Government requests that Registrant's "Certificate of Registration as a practitioner be revoked, based on . . . [her] lack of state authority." *Id.* at 5.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that

<sup>1</sup> The Government also represents that DEA has not received "any other correspondence of [sic] filing" from Registrant. RFAA, at 3.

the Government accomplished service of the OSC on Registrant on or before January 24, 2019. I also find that more than 30 days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent her, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived her right to a hearing and her right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

## Findings of Fact

*Registrant's DEA Registration*

Registrant is the holder of DEA Certificate of Registration No. BS7985623 at the registered address of Gulf Coast Holistic and Primary Care, 219 Forest Park Circle, Panama City, Florida 32405. RFAA, App. 5, at 2. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on February 29, 2020 and is "in an active pending status." *Id.* at 1.

*The Status of Registrant's State License*

On April 5, 2018, the Florida Department of Health issued an Order of Emergency Restriction of License No. ACN 244 (hereinafter, Emergency Restriction). RFAA, App. 2, at 1. According to the Emergency Restriction, Registrant suffered a severe manic episode on February 19, 2017 that involved her jumping out of her bathroom window, running naked through the streets, and screaming that she was god and was going to save the world. *Id.* at 2. The Emergency Restriction also states that Registrant grabbed her infant grandchild and claimed that the infant was her deceased grandmother. *Id.* According to the Emergency Restriction, Registrant believed that "her manic episode may have been the result of the stressors involved with practicing medicine," admitted to smoking approximately one "bowl" of marijuana every day for about the last two years, and "submitted hair and urine samples for toxicology screening." <sup>2</sup> *Id.* at 3.

<sup>2</sup> The toxicological tests of Registrant's hair and urine samples indicated the presence of marijuana.

The Emergency Restriction states that, as of the date of the Emergency Restriction, Registrant “has failed to enter into a contract with . . . [the Professionals Resource Network, (hereinafter, PRN)] that encompasses the necessary treatment to address . . . [Registrant’s] psychiatric and substance abuse issues.” *Id.* at 4. It concludes that (1) Registrant “is not capable of caring for patients in a manner that is correct and safe;” (2) Registrant’s continued unrestricted practice as a physician presents an immediate, serious danger to the health, welfare, and safety of the public;” (3) “there is a significant likelihood that . . . [Registrant’s] inability to practice medicine with reasonable skill and safety to patients will continue without appropriate treatment and monitoring;” and that (4) there are no less restrictive means, other than the terms of . . . [the Emergency Restriction], that will adequately protect the public from . . . [Registrant’s] continued unrestricted practice of medicine.” *Id.* at 4–5. The Emergency Restriction orders the immediate restriction of Registrant’s medical license “until PRN or a PRN-approved evaluator notifies the Department that she is safe to resume the practice of medicine.” *Id.* at 7.

On July 2, 2018, the Florida Board of Medicine denied all of the Exceptions that Registrant filed concerning the Emergency Restriction, adopted the Emergency Restriction’s findings of fact, and revoked Registrant’s license to practice medicine in the State of Florida. Final Order of the Florida Board of Medicine (filed date: July 5, 2018) (hereinafter, Final Order), at 2–6.

According to Florida’s online records, of which I take official notice, Registrant’s license is still revoked.<sup>3</sup> Florida Board of Medicine Lookup, <https://flboardofmedicine.gov/> (last visited May 3, 2019). Florida’s online records show that Registrant’s medical

license remains revoked and that she is not authorized in Florida to prescribe controlled substances. *Id.*

Accordingly, I find that Registrant currently is neither licensed to engage in the practice of medicine nor registered to dispense controlled substances in Florida, the State in which she is registered with the DEA.

#### Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA), “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices. *See, e.g., Hooper, supra*, 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993);

*Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Blanton, supra*, 43 FR at 27,617.

According to Florida statute, “A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, [or] dispense . . . a controlled substance.” Fla. Stat. Ann. § 893.05(1)(a) (West, Westlaw current with chapters from the 2019 First Regular Session of the 26th Legislature in effect through April 26, 2019). Further, “practitioner,” as defined by Florida statute, includes “a physician licensed under chapter 458.” Fla. Stat. Ann. § 893.02(23) (West, Westlaw current with chapters from the 2019 First Regular Session of the 26th Legislature in effect through April 26, 2019).<sup>4</sup>

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Florida. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Florida. Thus, since Registrant lacks authority to practice medicine in Florida and, therefore, is not authorized to handle controlled substances in Florida, I will order that Registrant’s DEA registration be revoked.

#### Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I order that DEA Certificate of Registration No. BS7985623 issued to Raquel Skidmore, M.D., be, and it hereby is, revoked. This Order is effective June 14, 2019.

Dated: May 3, 2019.

**Uttam Dhillon,**

*Acting Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA–392]

#### Importer of Controlled Substances Application: Wildlife Laboratories, Inc.

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a

<sup>4</sup> Chapter 458 concerns medical practice and addresses, among other things, the licensure of physicians.

*Id.* at 3. According to the Emergency Restriction, Registrant “does not have a valid order for medical marijuana. *Id.*

<sup>3</sup> Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration within 15 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have 15 calendar days to file a response.