The company plans to bulk manufacture small quantities of the above controlled substances for use in clinical research. No other activities for these drug codes are authorized for this registration.

William T. McDermott,
Assistant Administrator.

[FR Doc. 2021–12817 Filed 6–16–21; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE
Drug Enforcement Administration

[Docket No. DEA–853]

Importer of Controlled Substances Application: Andersonbrecon Inc. DBA PCI of Illinois

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Andersonbrecon Inc. DBA PCI of Illinois has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to SUPPLEMENTARY INFORMATION listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 19, 2021. Such persons may also file a written request for a hearing on the application on or before July 19, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 17, 2021, Andersonbrecon Inc. DBA PCI of Illinois, 5775 Logistics Parkway, Rockford, Illinois 61109–3608 applied to be registered as an importer of the following basic class(es) of controlled substance(s):

<table>
<thead>
<tr>
<th>Controlled substance</th>
<th>Drug code</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tetrahydrocannabinols</td>
<td>7370</td>
<td>I</td>
</tr>
</tbody>
</table>

The company plans to import the listed controlled substance for clinical trial studies only. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant’s business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of the Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,
Assistant Administrator.

[FR Doc. 2021–12819 Filed 6–16–21; 8:45 am]
BILLING CODE 4410–09–P

II. Adequacy of Service

In a sworn Declaration, dated January 17, 2019, a DEA Diversion Investigator assigned to the West Palm Beach District Office of the Miami Division (hereinafter, DI) stated that she “spoke by telephone with United States Penitentiary Coleman SIS Technician [T.B.] to determine what procedures the prison had in place for serving legal documents on prisoners and [to] make arrangements for service of the [OSC] on Registrant.” Government’s Request for Final Agency Action (hereinafter, RFAA) Exhibit (hereinafter, RFAAX) 7 (DI Declaration), at 1. DI stated that T.B. “would personally serve the [OSC] on [Registrant].” Id. Accordingly, DI stated that, on October 10, 2018, she sent the OSC via FedEx addressed to T.B. along with an unsigned Form DEA–12, Receipt for Cash or Other Items. Id. DI further declared that on October 18, 2018, she “received a FedEx package . . . from [T.B.] with the Form DEA–12 which had been signed by Registrant and witnessed by [T.B.], dated October 16, 2018.” “Id.; see also RFAAX 7, Attachment (Form DEA–12).”

Additionally, on September 28, 2018, the DEA Office of Chief Counsel (hereinafter, CC) mailed the OSC to Registrant at both his registered address and his prison address. RFAAX 6 (CC Declaration of Service). Neither letter was returned to the Office of Chief Counsel as undeliverable. Id.

The Government forwarded the RFAA, along with the Registrant’s record, to this office on January 23, 2019. In its RFAA, the Government represents that...
emergency suspension of Registrant’s Florida Medical License on May 3, 2018. RFAAX 4 (FBM Order of Emergency Suspension). In the Order of Emergency Suspension, the FBM noted that Registrant’s “attempts to disguise his participation in illicit drug trades by using his credentials as a physician licensed in the state of Florida to purportedly be able to ‘grow cannabis for patients’ and to be able to traffic thousands of counterfeit oxycodone pills as ‘self-prescribed cancer pills’ indicate that [Registrant] lacks the good judgment [and] moral character required of a physician licensed to practice medicine in the state of Florida.” Id. at 21. Further, the FBM found that:

[Registrant’s] recurrent engagement in an unlawful and large-scale conspiracy to manufacture and distribute highly addictive and deadly controlled substances, continuing after [Registrant] had knowledge that his actions resulted in the death of another human being, and his attempts to limit his future criminal culpability by causing injury or death in a geographical location far away from him the next time it inevitably happens, indicate that [Registrant’s] continued, unrestricted practice of medicine poses an immediate serious danger to the public health, safety or welfare. Id.

The Government also submitted evidence demonstrating that FBM issued a Final Order revoking Registrant’s medical license effective December 20, 2018. RFAAX 5 (FBM Final Order), at 2–3. The FBM Final Order was issued based on a complaint related to Registrant’s conviction of felonies related to controlled substances. Id. (Attachment).

According to Florida’s online records, of which I take official notice, Registrant’s medical license remains revoked.2 Florida Department of Health

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1 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, Applicant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen 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 Applicant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response shall be filed and served by email on the other party at the email address the party submitting a motion communicates related to this administrative proceeding, and on the Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

2 The fact that a Registrant’s registration expires during the pendency of an OSC does not impact my jurisdiction or prerogative under the Controlled Substances Act (hereinafter, CSA) to adjudicate the OSC to finality. Jeffrey D. Olsen, M.D., 84 FR 68,474 (2019).

C. Registrant’s Conviction


IV. DISCUSSION

A. Loss of State Authority

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 F. App’x 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., James L. Hooper, 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); Frederick Marsh Blanton, 43 FR at 27,617 (1978). 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. § 893.051(1)(a) (West, Current with laws of the 2021 First Regular Session of the Twenty-Seventh Legislature in effect through May 25, 2021). Further, “practitioner,” as defined by Florida statute, includes “a physician licensed under chapter 458.” 3 Fla. Stat. Ann. § 893.02(23) (West, Current with laws of the 2021 First Regular Session of the Twenty-Seventh Legislature in effect through May 25, 2021).

Here, the undisputed evidence in the record is that Registrant’s license to practice medicine is currently revoked. As such, he is not a “practitioner” as that term is defined by Florida statute. As already discussed, however, a physician must be a practitioner to dispense a controlled substance in Florida. Thus, because Registrant lacks authority to practice medicine in Florida, he is not currently authorized to handle controlled substances in Florida.

B. Registrant’s Felony Conviction

Pursuant to section 304(a)(2) of the CSA, the Attorney General is authorized to suspend or revoke a registration “upon a finding that the registrant . . . has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States . . . relating to any substance defined in this subchapter as a controlled substance or a list I chemical.” 21 U.S.C. 824(a)(2). Each subsection of Section 824(a) provides an independent ground to impose a sanction on a registrant. Arnold E. Feldman, M.D., 82 FR 39,614, 39,617 (2017).


Where, as here, the Government has met its prima facie burden of showing that two grounds for revocation exist, the burden shifts to the Registrant to show why he can be entrusted with a registration. See Jeffrey Stein, M.D., 84 FR 46,968, 46,972 (2019). Registrant, as already discussed, failed to respond in any way to the OSC. See RFAA, at 6. Therefore, among other things, Registrant has not accepted responsibility for his criminality, shown any remorse for it, or provided any assurance that he would not repeat it. See Jeffrey Stein, M.D., 84 FR at 46,972–74. Such silence weighs against the Registrant’s continued registration. Zvi H. Perper, M.D., 77 FR 64,131 64,142 (2012) (citing Medicine Shoppe-Jonesborough, 73 FR 264, 387 (2008); Samuel S. Jackson, 72 FR 23,848, 23,853 (2007)); see also Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin., 881 F.3d 823, 831 (11th Cir. 2018) (“‘An agency rationally may conclude that past performance is the best predictor of future performance.’”) (quoting Atra Laboratories, Inc. v. Drug Enf’t Admin., 54 F.3d 450, 452 (7th Cir. 1995)).

Further, the CSA authorizes the Attorney General to “promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.” 21 U.S.C. 871(b). This authority specifically relates to “registration and ‘control,’ and for the efficient execution of his functions” under the statute.” Gonzales v. Oregon, 546 U.S. 243, 259 (2006). A clear purpose of this authority is to “bar[] doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking . . . .” Id. at 270. In this case, Registrant has demonstrated the precise behavior that the Agency’s authority is intended to prevent by engaging in outright drug dealing with appalling disregard for the value of human life. Registrant’s behavior is “so obviously egregious that revocation is warranted.” William J. O’Brien, III, D.O., 82 FR at 46,529.

Based on the record before me, I conclude that Registrant’s founded criminality and lack of state authority to handle controlled substances in his state of DEA registration each make him ineligible to maintain a DEA registration. Accordingly, I shall order the sanctions the Government requested, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BB3725732 issued to Johnny C. Benjamin, Jr., M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Johnny C. Benjamin, Jr., M.D. to renew or modify this registration, as well as any other pending application of Johnny C. Benjamin, Jr., M.D. for additional registration in Florida. This Order is effective July 19, 2021.

D. Christopher Evans,
Acting Administrator.

[FR Doc. 2021–12753 Filed 6–16–21; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Tareq A. Khedir Al-Tiae, M.D.; Decision and Order

On February 11, 2021, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Tareq A. Khedir Al-Tiae, M.D. (hereinafter, Registrant) of Lincoln, NE. OSC at 1. The OSC proposed the revocation of Registrant’s Certificate of Registration No. FK4149882. It alleged that Registrant is without “authority to handle controlled substances in the State of Nebraska, the state in which

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3 Chapter 458 regulates medical practice.