

## Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a Currently Approved Collection.

2. *The Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Defense Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number (if applicable):* ATF Form 6—Part II (5330.3B).

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other (if applicable):* Individuals or households.

*Abstract:* The information collected on the Application and Permit for Importation of Firearms, Ammunition and Defense Articles—ATF Form 6—Part II (5330.3B) is used to determine if the article(s) described in the application qualifies for importation by the importer, and also serves as authorization for the importer.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 400 respondents will respond to this collection once annually, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 200 hours, which is equal to 400 (total respondents) \* 1 (# of response per respondent) \* .5 (30 minutes or the time taken to prepare each response).

*If additional information is required contact:* Robert Houser, Assistant Director, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3.E-405A, Washington, DC 20530.

### Robert Houser,

*Assistant Director, Policy and Planning Staff, U.S. Department of Justice.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Julie Halling, M.D.; Decision and Order

On November 4, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (OSC) to Julie Halling, M.D. (hereinafter, Registrant). OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration, No. BH6450174, at the registered address of 5102 Galley Road, Lot 304C, Colorado Springs, Colorado. The OSC alleged that Registrant's registration should be revoked because Registrant is without "authority to handle controlled substances in the state in which [Registrant is] registered with the DEA." *Id.* (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in a Request for Final Agency Action (RFAA) on May 16, 2022.<sup>1</sup>

#### Findings of Fact

On February 29, 2021, the Colorado Medical Board issued a Final Board Order that revoked Registrant's license to practice medicine in the State of Colorado. RFAA Exhibit 2, App.1 (Final Board Order). According to Colorado's online records, of which the Agency takes official notice, Registrant's license is still revoked.<sup>2</sup> Colorado Professional or Business License Lookup, <https://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx> (last visited date of signature of this Order).

<sup>1</sup> Based on the affidavit of a DEA Diversion Investigator that the Government submitted with the RFAA, the Agency finds that the Government's attempts to serve Registrant with the OSC were adequate. RFAA Exhibit B. Further, based on the assertions of the Government, the Agency finds that more than thirty days have passed and Registrant has not requested a hearing, submitted a written statement or corrective action plan and therefore has waived any such rights. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). RFAA, at 2.

<sup>2</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, Respondent may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov).

Accordingly, the Agency finds that Registrant currently is not licensed to engage in the practice of medicine in Colorado, the state in which Registrant 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 (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.<sup>3</sup> *See, e.g., James L. Hooper, M.D.*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).

According to Colorado statute, "[e]very person who manufactures, distributes, or dispenses any controlled substance within this state . . . shall obtain . . . a registration, issued by the respective licensing board . . . . For purposes of this section and this article [ ], 'registration' or 'registered' means . . . the licensing of physicians by the Colorado medical board . . . ." Colo. Rev. Stat. Ann. § 18-18-302(1) (West 2019). Here, the undisputed evidence in the record is that Registrant's Colorado medical license was revoked by the Colorado Medical Board. Registrant, therefore, is not authorized to dispense

<sup>3</sup> 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 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR at 27617.

controlled substances in Colorado and is not eligible to maintain a DEA registration. Accordingly, the Agency 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 hereby revoke DEA Certificate of Registration No. BH6450174 issued to Julie Halling, 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 Julie Halling, M.D. to renew or modify this registration, as well as any other pending application of Julie Halling, M.D. for additional registration in Colorado. This Order is effective [insert Date Thirty Days From the Date of Publication in the **Federal Register**].

### Signing Authority

This document of the Drug Enforcement Administration was signed on June 16, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

### Scott Brinks,

*Federal Register Liaison Officer, Drug Enforcement Administration.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Kevin J. Dobi, APRN; Decision and Order

On October 4, 2017, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (OSC), seeking to deny the March 31, 2017 DEA Certificate of Registration application filed by Kevin J. Dobi APRN (Respondent) for registration in Montana. Request for Final Agency Action Exhibit (RFAAX) 2. The OSC alleged Respondent's application should be denied pursuant to 21 U.S.C. 824(a)(1) because Respondent materially falsified his application. *Id.* at 1.

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in a Request for Final Agency Action (RFAA) on May 16, 2022.<sup>1</sup>

### I. Findings of Fact

Respondent surrendered for cause a Texas state registered nurse license on or about October 6, 1997. RFAAX 3, at 11 (Order of the Board of Nurse Examiners for the State of Texas). Respondent also surrendered for cause a DEA controlled substance registration, no. MD1340710, on September 9, 2011. RFAAX 1, at 2 (Certification of Respondent's Registration History).

On March 31, 2017, Respondent filed an application seeking a DEA controlled substance registration for schedules II–V. RFAAX 1, at 3–6 (Respondent's application). On the application, Respondent was asked whether he had “ever surrendered (for cause) . . . a federal controlled substance registration.” Respondent answered no. *Id.* at 4. Respondent was also asked whether he had “ever surrendered (for cause) . . . a state professional license.” Respondent answered no. *Id.* The Agency finds that Respondent's answers were clearly false because Respondent had surrendered a controlled substance registration and a state professional license for cause.

### II. Discussion

The Administrator may deny an application for registration if the applicant materially falsified an application. 21 U.S.C. 824(a)(1).<sup>2</sup> Here, Respondent provided false information to two liability questions on his March 31, 2017 application—falsely responding that he had never surrendered for cause a state professional license or a federal controlled substances registration. Agency decisions have repeatedly held that false responses to the liability questions on an application for registration are material. *E.g.*, *Crosby Pharmacy and Wellness*, 87 FR 21,214; *Frank Joseph Stirlacci, M.D.*, 85 FR

<sup>1</sup> Respondent made a timely hearing request and submitted a Corrective Action Plan (CAP). RFAAX 4. DEA rejected Respondent's CAP on or about December 21, 2017, RFAAX 5, and a revised CAP was rejected on or about January 29, 2018, RFAAX 6. Respondent waived his right to a hearing, RFAAX 7, and proceedings were terminated on November 29, 2017, RFAAX 8.

<sup>2</sup> Although the language of 21 U.S.C. 824(a) discusses suspension and revocation of a registration, it may also serve as the basis for the denial of a DEA registration application. *E.g.*, *Crosby Pharmacy and Wellness*, 87 FR 21,212, 21,214 (2022); *Robert Wayne Locklear*, 86 FR 33,738, 33,744–45 (2021) (collecting Agency decisions).

45,229, 45,234–35 (2020). Accordingly, the Agency finds that the Government has established grounds to deny Respondent's application.

### III. Sanction

Where, as here, the Government has established grounds to deny an application for registration, the burden shifts to the respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.*, 83 FR 18,882, 18,910 (2018) (citing *Samuel S. Jackson*, 72 FR 23,848, 23,853 (2007)). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent; therefore, the Agency looks at factors, such as the acceptance of responsibility and the credibility of that acceptance as it relates to the probability of repeat violations or behavior and the nature of the misconduct that forms the basis for sanction, while also considering the Agency's interest in deterring similar acts. *See Arvinder Singh, M.D.*, 81 FR 8247, 8248 (2016).

In this matter, Respondent did not avail himself of the opportunity to refute the Government's case or demonstrate why he can be entrusted with a registration. Accordingly, the Agency will 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. 823(f), I hereby deny the pending application for a Certification of Registration in Montana submitted by Kevin J. Dobi, APRN. This Order is effective July 27, 2022.

### Signing Authority

This document of the Drug Enforcement Administration was signed on June 16, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this