

address whether the Respondent's registration should be revoked based upon the public interest grounds asserted in the Order to Show Cause. *See* Nathaniel-Aikens-Afful, M.D., 62 FR 16871 (1997).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BJ5063552, issued to Michael D. Jackson, 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 June 9, 2003.

Dated: April 21, 2003.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Kenneth S. Nave, M.D.; Denial of Application**

On April 10, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Kenneth S. Nave, M.D. (Dr. Nave) of Chicago, Illinois, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for DEA Certificate of Registration, pursuant to 21 U.S.C. 823(f) for reason that such registration would be inconsistent with the public interest. The Order to Show Cause also notified Dr. Nave 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. Nave at his proposed registered location in Chicago, Illinois. The order was returned to DEA on June 10, 2002 by the United States Postal Service indicating that it had been "unclaimed." On June 11, 2002, DEA resent the show cause order to the same address by regular mail. The order was not returned. DEA has not received a request for hearing or any other reply from Dr. Nave or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the attempted delivery of the Order to Show Cause at the applicant's last known address, and (2) no requests for hearing having been

received, concludes that Dr. Nave is deemed to have waived his hearing right. *See* David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator's review of the investigative file reveals that on January 3, 2002, the Illinois Medical Disciplinary Board (Board) issued its Findings of Fact, Conclusions of Law and Recommendation (Recommendation) to the Director of the State Department of Professional Regulation (Director). Following its finding of a "long history of chemical dependency with several relapses" the Board recommended the indefinite suspension of Dr. Nave's Physician and Surgeon's license for a period of one year. The Director adopted the Board's Recommendation and effective March 5, 2002, ordered the indefinite suspension of Dr. Nave's Physician and Surgeon's license as well as his Controlled Substance license for a minimum period of one year.

The Deputy Administrator's review of a DEA investigative report further revealed that as of April 3, 2003, Dr. Nave's Physician and Surgeon and Controlled Substance licenses remained suspended in the State of Illinois. As of the date of this final order, there is no evidence in the record that these licenses have been reinstated. Therefore, the Deputy Administrator finds that Dr. Nave currently lacks state authorization to practice medicine and handle controlled substances in Illinois.

DEA does not have statutory authority under the Controlled Substances Act to issue a registration if the applicant 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). The Deputy Administrator and his predecessors have consistently so held. *See* Douglas L. Geiger, M.D., 67 FR 64418 (2002); Theodore T. Ambadgis, M.D., 58 FR 5759 (1993); Ihsan A. Karaagac, M.D., 51 FR 34694 (1986).

Here, it is clear that Dr. Nave is not licensed to handle controlled substances in Illinois, where he seeks registration with DEA. Therefore, he is not entitled to such registration. Because Dr. Nave lacks state authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address whether or not his application for DEA registration should be denied based upon the public interest grounds asserted in the Order to Show Cause. *See* Samuel Silas Jackson,

D.D.S., 67 FR 65145 (2002); Nathaniel-Aikens-Afful, M.D., 62 FR 16871 (1997); Sam F. Moore, D.V.M., 58 FR 14428 (1993).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certification of Registration, submitted by Kenneth S. Nave, M.D., be, and it hereby is, denied. This order is effective June 9, 2003.

Dated: April 21, 2003.

**John B. Brown III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Fereida Walker-Graham, M.D.; Revocation of Registration**

On August 16, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Fereida Walker-Graham, M.D. (Dr. Walker-Graham) at her registered location in Trotwood, Ohio, and at a second location in Dayton, Ohio. The Order to Show Cause notified Dr. Walker-Graham of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration, BW2846256 under 21 U.S.C. 824(a)(2), (a)(3), and (a)(4), and deny any pending applications for renewal or modification of that registration for reason that Dr. Walker-Graham was convicted of a felony offense related to controlled substances, is not authorized to handle controlled substances in the State of Ohio, and her continued registration would be inconsistent with the public interest. The order also notified Dr. Walker-Graham that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

As alluded to above, the Order to Show Cause was sent by certified mail to Dr. Walker-Graham at a location in Dayton, Ohio, and DEA received a signed receipt indicating that it was received sometime in August 2001. DEA has not received a request for hearing or any other reply from Dr. Walker-Graham or anyone purporting to represent her in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing

having been received, concludes that Dr. Walker-Graham is deemed to have waived her hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on June 14, 2000, the State Medical Board of Ohio (Board) entered an order permanently revoking Dr. Walker-Graham's State license to practice medicine and surgery. The Board's action arose in part from a finding that Dr. Walker-Graham dispensed phentermine (A Schedule IV controlled substance) to numerous individuals for no legitimate medical purpose. Included among the individuals that received controlled substances from Dr. Walker-Graham were several undercover officers from a local investigations unit known as the Combined Agencies for Narcotics Enforcement or the CANF Task Force. The Board's investigation revealed that on numerous occasions, Dr. Walker-Graham dispensed these drugs without performing a medical examination. The Board's ruling was also based in part upon an accountability audit conducted by the Ohio State Board of Pharmacy which revealed that Dr. Walker-Graham could not account for significant shortages of phentermine that was used in her medical practice from January 1, 1997 through November 4, 1998. As part of the Board's revocation order, Dr. Walker-Graham was further ordered to immediately cease prescribing, dispensing, or administering controlled substances.

The Deputy Administrator's review of the investigative file further reveals that on January 10, 2001, Dr. Walker-Graham was convicted on felony charges related to drug trafficking, sale of dangerous drugs and drug possession. She was sentenced five years of court supervised probation, her driver's license was suspended and she was ordered to pay a fine.

There is no evidence before the Deputy Administrator that Dr. Walker-Graham's license to practice medicine in the State of Ohio has been reinstated. The Deputy Administrator further notes that the Board's revocation order prohibits Dr. Walker-Graham from prescribing, dispensing, or administering controlled substances.

Pursuant to 21 U.S.C. 824(a), the Deputy Administrator may revoke a DEA Certificate of Registration if he finds that the registrant has been convicted of a felony related to controlled substances, has had his State

license revoked and is no longer authorized to dispense controlled substances or has committed such acts as would render his registration contrary to the public interest as determined by factors listed in 21 U.S.C. 823(f). Thomas B. Pelkowski, D.D.S., 57 FR 28538 (1992). Despite Dr. Walker-Graham's felony conviction related to controlled substances, as well as the other public interest factors for the revocation of her DEA registration asserted herein, the more relevant consideration here is the present status of her State authorization to handle controlled substances.

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 Joseph Thomas Allevi, M.D., 67 FR 35581 (2002); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Walker-Graham is not licensed to handle controlled substances in Ohio, where she is registered with DEA. Therefore, she is not entitled to maintain that registration. Because Dr. Walker-Graham lacks State authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address whether her DEA registration should be revoked based upon the public interest grounds asserted in the Order to Show Cause, or whether her registration should be revoked based upon the aforementioned felony conviction in the State of Ohio. See Samuel Silas Jackson, D.D.S., 67 FR 65145 (2002); National-Aikens-Afful, M.D., 62 FR 16871 (1997); Sam F. Moore, D.V.M., 58 FR 14428 (1993).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BW2846256, issued to Fereida Walker-Graham, 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 June 9, 2003.

Dated: April 21, 2003.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 60-Day notice of information collection under review: New Semi-Annual Progress Report for the Legal Assistance for Victims Grant Program.

The Department of Justice (DOJ), Office on Violence Against Women has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until July 7, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cynthia J. Schwimer, Comptroller (202) 307-0623, Office of Justice Programs, US Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.