

Control Division ("Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 14, 2016, Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801, applied to be registered as a bulk manufacturer of the following basic classes controlled substances:

| Controlled substance        | Drug code | Schedule |
|-----------------------------|-----------|----------|
| Gamma Hydroxybutyric Acid.  | 2010      | I        |
| Lysergic acid diethylamide. | 7315      | I        |
| Marihuana .....             | 7360      | I        |
| Tetrahydrocannabinols       | 7370      | I        |
| Psilocybin .....            | 7437      | I        |
| Psilocyn .....              | 7438      | I        |
| Heroin .....                | 9200      | I        |
| Morphine .....              | 9300      | II       |

The company plans to manufacture reference standards for distribution to its research and forensics customers. In reference to drug code 7360 (marihuana) and 7370 (THC) the company plans to manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Dated: December 22, 2016.

**Louis J. Milione,**

*Assistant Administrator.*

[FR Doc. 2017-01582 Filed 1-24-17; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Donald W. Lamoureux, M.D.; Decision and Order

On September 16, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Donald W. Lamoureux, M.D. (Registrant), of Horseshoe Bend, Arkansas. The Show Cause Order proposed the revocation of his DEA Certificate of Registration, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, on the ground that he "do[es] not have authority to handle controlled substances in Arkansas, the [S]tate in which he is registered with the DEA." Show Cause Order, at 1.

As grounds for the proceeding, the Show Cause Order alleged that Registrant is registered with the DEA as a practitioner authorized to dispense controlled substances in schedules II through V, pursuant to Certificate of

Registration No. FL2413297, at the registered address of 707 Third Street, Horseshoe Bend, Arkansas. *Id.* The Order also alleged that his registration does not expire until March 31, 2017. *Id.*

The Show Cause Order then alleged that Registrant's Arkansas medical license expired on April 30, 2015, and that he is currently without authority to dispense controlled substances in Arkansas, the State in which he is registered with the DEA. *Id.* at 1–2. Based upon Registrant's lack of authority to handle controlled substances in the State of Arkansas, the Government asserts that his registration is subject to revocation. *Id.* at 2 (*citing* 21 U.S.C. §§ 802(21), 823(f) and 824(a)(3)).

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (*citing* 21 CFR 1301.43). In addition, the Order notified Registrant of his right to submit a Corrective Action Plan. *Id.* at 2–3.

On September 19, 2016, the Show Cause Order was sent via certified mail to Registrant at his current residence, the Federal Correctional Institution, Butner, North Carolina, 27509. Government Request for Final Agency Action (RFAA), Appendix 4, Declaration, at 1. As evidenced by a copy of the signed return receipt card, service was accomplished on September 22, 2016. *Id.*; *See also* Appendix 4, at 3–4.

On November 1, 2016, the Government forwarded to my Office a Request for Final Agency Action and an evidentiary record. In its Request, the Government represents that it has not received a request for a hearing or any other reply from Registrant. RFAA, at 2. The Government thus seeks the revocation of Registrant's Registration on the ground that he lacks state authority. *Id.* at 4.

Based upon the Government's representation and the record, I find that more than 30 days have now passed since the date of service of the Show Cause Order, and neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement in lieu of a hearing and issue this Decision and Final Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact.

### Findings

Respondent is the holder of practitioner's registration FL2413297, pursuant to which he is authorized to dispense controlled substances in schedules II through V at the registered address of 707 Third Street, Horseshoe Bend, Arkansas; this registration does not expire until March 31, 2017. Declaration of the Diversion Investigator (DI), at 1. According to the DI, Registrant's license to practice medicine in Arkansas lapsed on April 30, 2015, and he currently has no authority to practice medicine in that State. *Id.* at 1.

As further support for the action, the DI obtained, and the Government submitted, a license verification from the Arkansas State Medical Board along with a Certification from the Board's Executive Secretary that the license verification was true and correct as of September 15, 2016. Appendix 2, at 1; Appendix 3, at 1. This document shows that as of September 14, 2016, the Board listed the expiration date of Registrant's medical license as "April 30, 2015" and the status of his license as "Inactive"; it also includes the notation: "License Category: Felony Conviction." Appendix 3, at 2. Also, the document contains the following Board History notes, which include that:

1. On February 9, 2015, the Board issued an Emergency Order of Suspension to Registrant;

2. On April 10, 2015, the Board voted "to continue the disciplinary hearing until after [Registrant's] [] trial date";

3. On July 2, 2015, the Board voted "to block [Registrant's] access to renew his license should he wish to renew"; and

4. On December 3, 2015, Registrant's "medical license lapsed subsequent to the felony criminal conviction."

Appendix 3, at 4–5. As Registrant did not respond to the Show Cause Order, let alone submit any evidence to show that his state license has been reinstated, I find that he does not possess authority to dispense controlled substances under the laws of Arkansas, the State in which he is registered with the Agency.

### 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 Title 21, "upon a finding that the registrant . . . has had his State license . . . 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, DEA has repeatedly held that the possession of authority to dispense controlled

substances under the laws of the State in which he engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) (“State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.”).

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 Act, 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 engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR at 27617.

Accordingly, because Registrant currently lacks authority to dispense controlled substances in Arkansas, the State in which he holds his DEA registration, I will order that his registration be revoked.

#### Order

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a)(3), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration FL2413297 issued to Donald W. Lamoureux, M.D., be, and it hereby is, revoked. I further order that any pending application of Donald W. Lamoureux, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective February 24, 2017.

Dated: January 17, 2017.

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2017–01688 Filed 1–24–17; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the System Unit Resource Protection Act

On January 19, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of California in *United States v. Tomales Bay Oyster Company, LLC*, Civil Action No. 3:17–cv–00255.

The United States filed a complaint under the System Unit Resource Protection Act, 54 U.S.C. 100722(a), and California trespass law seeking damages and response costs stemming from the Defendant’s alleged use of a parcel of land owned by the United States and administered by the United States National Park Service as part of the Golden Gate National Recreation Area. The United States simultaneously lodged a consent decree which would settle these claims in return for a payment of \$280,000. From this sum, the Department of Justice will deposit \$267,742 in the Department of the Interior’s Natural Resource Damage Assessment and Restoration Fund to pay for response and natural resource damage assessment costs incurred by the United States and natural resource restoration projects related to this incident. The Department of Justice will deposit the remaining \$12,258 in the United States Treasury.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Tomales Bay Oyster Company, LLC*, D.J. Ref. No. 90–5–1–1–11544. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| To submit comments: | Send them to:                                                                                 |
|---------------------|-----------------------------------------------------------------------------------------------|
| By email .....      | <a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .            |
| By mail .....       | Assistant Attorney General,<br>U.S. DOJ—ENRD, P.O.<br>Box 7611, Washington, DC<br>20044–7611. |

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$4.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2017–01698 Filed 1–24–17; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On January 17, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Texas in the lawsuit entitled *United States and the State of Texas v. City of Tyler, Texas*, Civil Action No. 6:17–cv–00029.

The United States of America and the State of Texas (collectively, “Plaintiffs”) filed a complaint against the City of Tyler, Texas, (“Defendant”) alleging that Defendant violated and continues to violate Section 301 of the Clean Water Act (“CWA”), 33 U.S.C. 1311, and Section 26.121(a)(1) of the Texas Water Code (“TWC”) by discharging raw sewage from the City of Tyler’s wastewater collection and treatment systems (“WCTS”) into or adjacent to local waterways. The complaint further alleges that Defendant failed to comply with the terms and conditions of its two Texas Pollutant Discharge Elimination System permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. 1342, and in violation of Section 7.101 of the TWC, due to operational failures, Defendant’s failure to issue all necessary reports required by its permits, and Defendant’s failure to adequately safeguard against discharges during power outages. The complaint alleges violations have been ongoing since 2005. The Plaintiffs seek injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. 1319(b), and Section 7.032 of the TWC, and civil penalties, pursuant to Section 309(d) of the CWA,