

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590).	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoyllecgonine (9180)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 19, 1998.

Dated: August 4, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98-22099 Filed 8-17-98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

G. Wayman Blakely, Jr., M.D.; Revocation of Registration

On January 8, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to G. Wayman Blakely, Jr., M.D.¹ notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AB7704871, pursuant to 21 U.S.C. 824(a)(4) and deny any pending applications for the renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest. The order also notified Dr. Blakely that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 14, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Blakely or anyone purporting to represent him in this matter. Therefore, the Acting 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 have been received, concludes that Dr. Blakely is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on July 25, 1994, Los Angeles police officers observed Dr. Blakely participating in what appeared to be a drug transaction. During a subsequent stop of his vehicle, the officers observed crack cocaine. Dr. Blakely was arrested and charged with possession of a controlled substance in violation of California Health and Safety Code, section 11350(a). On August 26, 1994, the charge against Dr. Blakely was diverted and he was placed on probation for 24 months. On or about

¹The Order to Show Cause was actually issued in the name of Waymon G. Blakely, M.D., however evidence before the Acting Deputy Administrator indicates that the name listed on the DEA Certificate of Registration at issue is G. Wayman Blakely, Jr., M.D. The Order to Show Cause was sent to the address listed in DEA's records for Dr. Blakely. Therefore, the Acting Deputy Administrator is confident that notwithstanding the incorrect name on the Order to Show Cause, Dr. Blakely received proper service of the Order to Show Cause.

May 29, 1996, the case against Dr. Blakely was dismissed.

The Acting Deputy Administrator further finds that between May 21, 1990 and August 25, 1994, Dr. Blakely prescribed over 11,000 dosage units of controlled substances to his friend/roommate for no legitimate medical purpose. As a result, Dr. Blakely was charged in the Municipal Court for the County of Los Angeles with 10 counts of the unlawful prescribing of a controlled substance and 5 counts of obtaining a controlled substance by fraud. On May 30, 1995, Dr. Blakely pled *nolo contendere* to three misdemeanor counts. The imposition of sentence was suspended and Dr. Blakely was placed on probation for 36 months, ordered to perform 200 hours of community service within one year, and fined \$10,000.

In addition, the Acting Deputy Administrator finds that by a Decision effective February 28, 1997, the Medical Board of California adopted a Stipulated Settlement and Disciplinary Order whereby Dr. Blakely's physician's and surgeon's certificate was revoked. However, the revocation was stayed and Dr. Blakely was placed on probation for seven years, during which time he is prohibited from handling Schedule II controlled substances, except he may prescribe dextroamphetamine and methylphenidate. As to all other controlled substances, Dr. Blakely is limited to prescribing only. He must maintain a log of his prescribing and must abstain from the personal use or possession of any controlled substance unless prescribed by another practitioner for a *bona fide* illness or condition. Additionally, Dr. Blakely must submit to biological fluid testing and must take continuing medical education courses including one in the proper prescribing of controlled substances.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for renewal of such registration if he determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

- (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
- (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
- (3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive, the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwarz, Jr., M.D.*, 54 FR 16,422 (1989).

Regarding factor one, the Medical Board of California severely restricted Dr. Blakely's ability to handle controlled substances. Dr. Blakely's physician's and surgeon's certificate was revoked, but the revocation was stayed and he was placed on probation until February 2004.

As to factors two and four, Dr. Blakely issued over 400 controlled substance prescriptions for a total of more than 11,000 dosage units to his friend/roommate for no legitimate medical purpose in violation of state law and 21 U.S.C. 841(a)(1) and 21 CFR 1306.04.

Regarding factor three, Dr. Blakely was convicted in May 1995 of three misdemeanor counts involving the improper dispensing of controlled substances.

Finally under factor five, such other conduct which may threaten the public health and safety, the Acting Deputy Administrator considers Dr. Blakely's arrest for the unlawful possession of crack cocaine in 1994.

The Acting Deputy Administrator concludes that Dr. Blakely's continued registration would be inconsistent with the public interest. He diverted over 11,000 dosage units of controlled substances over a four-year period. In addition, he was arrested for possession of crack cocaine. Such conduct demonstrates a severe disregard for the tremendous responsibility that accompanies a DEA registration. Dr. Blakely did not respond to the Order to Show Cause and therefore did not offer any explanation or mitigating evidence regarding his misconduct.

Accordingly, the Acting 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 AB7704871, previously issued to G. Wayman Blakely, Jr., M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and

they hereby are, denied. This order is effective September 17, 1998.

Dated: August 11, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98-22096 Filed 8-17-98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96-23]

Merritt Matthews, M.D.; Continuation of Registration With Restrictions

On February 22, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Merritt Matthews, M.D., (Respondent) of San Diego, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AM0006571, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that pursuant to 21 U.S.C. 824(a)(4), his continued registration would be inconsistent with the public interest.

By letter dated March 15, 1996, Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in San Diego, California on January 15-16, 1997, and April 22-24, 1997, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, counsel for both parties submitted proposed findings of fact, conclusions of law and argument. On December 3, 1997, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's registration be continued subject to two conditions. On January 23, 1998, the Government filed Exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge, and on February 12, 1998, Respondent submitted a response to the Government's exceptions. On March 9, 1998, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issued his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting

Deputy Administrator adopts, in full, the opinion of the Administrative Law Judge, and adopts, with one modification, the recommended ruling of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent received his medical degree in 1965 from Howard University. In 1970 Respondent moved to San Diego, California and ultimately joined the Western Medical Group, a multi-specialty practice in a low income area of San Diego. In 1994, Respondent left the Western Medical Group and went to work for a large health maintenance organization (HMO). Respondent is board certified by the American Board of Family Physicians and is a member of the American Academy of Family Physicians. To maintain his certification, Respondent must complete an oral and a written examination every seven years, which covers at least four different areas concerning pharmaceuticals. According to Respondent, the examination process includes a peer review of his patient charts. Respondent was last recertified in 1995.

In 1991, the California Bureau of Narcotic Enforcement and the Bureau of MediCal Fraud initiated an investigation of Respondent after an inmate at a local detention facility indicated that anyone with \$100.00 cash could get a controlled substance prescription for Valium or Doriden from Respondent for no legitimate medical reason. As a result of this information, undercover operatives went to Respondent's office to attempt to obtain controlled substance prescriptions for no legitimate medical purpose. Each of the undercover operatives wore a concealed transmitting device. The visits were monitored and recorded by agents located in Respondent's office parking lot.

The first undercover visit occurred on May 7, 1991. The transcript of the visit reveals that the undercover agent told Respondent that she "was here to get a prescription," specifically asking for Valium, a Schedule IV controlled substance. Respondent told the undercover agent that he would give her "some Valium this time, but no more. And don't come back here for no more Valium." The undercover agent indicated that she was not nervous and that nothing was wrong with her, but she needed something to "help (her) out once and awhile." The undercover agent asked for 50 dosage units of Valium, yet Respondent nonetheless wrote her a