

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Segway Inc., 14 Technology Drive, Bedford, NH 03110  
 DEKA Products Limited Partnership, 340 Commercial Street, Suite 401, Manchester, NH 03101  
 Ninebot (Tianjin) Technology Co., Ltd., Building 9, Jiasuqi, Tianrui Road, Science and Technology Park Center, Auto Industrial Park, Wuqing, Tianjin, China  
 (b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:  
 Powerboard LLC, 9363 E Bahia Drive, Scottsdale, AZ 85260  
 Metem Teknoloji Sistemleri San, Necatibey Cad. No: 61, Karaköy, Istanbul, Turkey  
 Changzhou Airwheel Technology Co., Ltd., Fl. 9 Zhongchuang Building, No. 396 Tongjiang Road, Xinbei District, Changzhou, Jiangsu, China  
 Airwheel, Kabelweg 43 1014 BA, Amsterdam, Netherlands  
 Nanjing Fastwheel Intelligent Technology Co., Ltd., C2-1 Hongfeng Science & Technology Park, Qixia District, Nanjing, China  
 Shenzhen Chenduoxing Electronic, Technology Ltd., China, a.k.a. C-Star, 4F, block C11, Fuyuan Industrial Area, Jiuwei, Xixiang, Bao'an, Shenzhen, China  
 Hangzhou Chic Intelligent Technology Co., Ltd., 2/F, No. 2 Building, Liangzhu University, Science and Technology Park, No. 1 Jingyi Road, Hangzhou, 311112, China  
 Hovershop, 330 East Orange Thorpe Avenue, Suite K, Placentia, CA 92871  
 Shenzhen Jomo Technology Co., Ltd., a.k.a. Koowheel, Floor 4th and 7th, Caiyue Building, Meilong Road, Bao'an District, Shenzhen City, 518112, China  
 Guangzhou Kebye Electronic Technology Co., Ltd., a.k.a. Gotway, A2, 2nd Floor, Building 39, Dayangtian Industry Park, Wanfeng, No. 56, Fengtang Road, Bao'an District, Shenzhen, China  
 Inventist, Inc., 4901 NW Camas Meadows Drive, Camas, WA 98607

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable David P. Shaw is designated as the presiding Administrative Law Judge.

The Commission has determined to assign this investigation to Judge Shaw, who is the presiding administrative law judge in *Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor*, Inv. No. 337-TA-1007, and hereby directs Judge Shaw to consolidate the two proceedings in view of the overlapping general exclusion orders requested in the two investigations.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 15, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016-22758 Filed 9-20-16; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Charles Szyman, D.O.; Decision and Order

On February 10, 2016, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles Szyman, D.O. (hereinafter, Respondent), of Manitowoc, Wisconsin. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of

Registration AS3236406, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, on the ground that he does not have authority to handle controlled substances in Wisconsin, the State in which he is registered with the Agency. Order to Show Cause, at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).

The Show Cause Order alleged that Respondent is registered as a DATA-waived/100 practitioner pursuant to Certificate of Registration No. AS3236406, with authority to handle controlled substances in schedules II through V, at the registered address of P.O. Box 1450, 3200 Western Avenue, Manitowoc, Wisconsin. *Id.* The Order also alleged that Respondent's registration does not expire until February 28, 2017. *Id.*

The Show Cause Order then alleged that State of Wisconsin Medical Examining Board (hereinafter, Board) issued an order suspending Respondent's authority to practice medicine and surgery, effective October 21, 2015. *Id.* The Show Cause Order thus asserted that "DEA must revoke [Respondent's registration] based upon [his] lack of authority to handle controlled substances in the State of Wisconsin." *Id.* (citing 21 U.S.C. 802(21), 823(f) and 824(a)(3)). The Show Cause Order also notified Respondent of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to electing either option. *Id.* at 2 (citing 21 CFR 1301.43).

On March 7, 2016, Respondent, through his counsel, requested a hearing on the allegations of the Show Cause Order. Resp.'s Hrng. Req., at 1. In his hearing request, Respondent conceded that his state license had been summarily suspended, but argued that 21 U.S.C. 824(a)(3) does not require that DEA revoke a registration if the practitioner has had his state license suspended. *Id.* at 2. He also requested a stay of the proceeding until after the resolution of the Board's case. *Id.*

The matter was placed on the docket of the Office of Administrative Law Judges, and assigned to the Chief Administrative Law Judge (hereinafter, CALJ). Order Directing the Filing of Government Evidence of Lack of State Authority Allegation and Briefing Schedule, at 1. The same day, the CALJ issued an order directing the Government to "provide its position regarding the Respondent's request for a stay" and to file evidence to support its allegation of Respondent's lack of state

authority. *Id.* at 1–2. He also ordered Respondent to file a timely reply if the Government filed a motion for summary disposition. *Id.* at 2.

On March 18, 2016, the Government filed its Motion for Summary Disposition, which it supported by attaching a copy of the Board's October 21, 2015 Order of Summary Suspension. Mot. for Summ. Disp., at Appendix B. Therein, the Government argued that it was undisputed that the Board suspended Respondent's state license on October 21, 2015. Mot. for Summ. Disp., at 2. The Government further argued that because Respondent no longer meets the statutory definition of a practitioner and "the Agency has consistently held that 'the CSA requires the revocation of a registration issued to a practitioner . . . even where a state board has suspended . . . a practitioner's authority with the possibility that the authority may be restored at some point in the future,'" it was entitled to summary disposition and the recommendation that Respondent's registration be revoked. *Id.* at 4 (citations omitted). The Government also requested that the CALJ deny Respondent's stay request. *Id.*

In his Reply, Respondent argued that "the plain language of section 824(a)(3) provides that the loss of state authority constitutes a discretionary, not mandatory, basis for revocation." Respondent Reply to Gov. Mot. for Summ. Disp., at 1 (citing *James Alvin Chaney*, 80 FR 57391 n.1 (2015)).<sup>1</sup> Respondent's Reply, at 1. However, Respondent also acknowledged that the CALJ's recommended decision in *Chaney* "deferred to Agency precedent" and recommended revocation, and thus he would not "belabor his objection." *Id.* Respondent argued, however, that "[a] stay . . . would afford [him] with

<sup>1</sup> Respondent's citation refers to Footnote 1 of the Recommended Decision in *Chaney* and not to the Agency's Decision and Order. In the latter, the Agency made clear that although the language of section 824(a) authorizes either the suspension or revocation of a registration upon the making of one of the five findings enumerated therein, based on the CSA's definition of the term practitioner, see 21 U.S.C. 802(21), and the provision which sets forth the criteria for evaluating an application for a practitioner's registration, see *id.* § 823(f), the Agency has consistently interpreted the CSA as mandating the revocation of a practitioner's registration where the practitioner's state authority has been suspended or revoked. 80 FR 57392 n.2. This interpretation has been upheld by the federal courts. As the Fourth Circuit has held, "[b]ecause sections 823(f) and 802(21) make clear that a practitioner's registration is dependent upon the practitioner having state authority to dispense controlled substances, the [Administrator's] decision to construe section 824(a)(3) as mandating revocation upon suspension of a state license is not an unreasonable interpretation of the CSA." *Hooper v. Holder*, 481 Fed.Appx. 826, 828 (4th Cir. 2012).

his due process right to be heard in a meaningful manner in the State . . . proceeding." *Id.* (citing *Dusenberry v. United States*, 543 U.S. 161 (2002); *Mathews v. Eldridge*, 424 U.S. 319 (1976)).

On March 29, 2016, the CALJ granted the Government's Motion for Summary Disposition, finding that Respondent conceded in his Hearing Request that he is currently without state authority to handle controlled substances in Wisconsin, and thus "no genuine dispute exists over the fact that [Respondent] lacks state authority to handle controlled substances in Wisconsin." Recommended Rulings, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, at 7. The CALJ also denied Respondent's request for a stay, noting that "the Agency has previously stated that a stay is 'unlikely to ever be justified due to ancillary proceedings' and 'it is not DEA's policy to stay [administrative] proceedings . . . while registrants litigate in other forums.'" *Id.* (citing *Grider Drug #1 & Grider Drug #2*, 77 FR 44070, 44104 n.97 (2012); *Newcare Home Health Services*, 72 FR 42126 (2007)).

Neither party filed Exceptions to the CALJ's Recommended Decision. Thereafter, the record was forward to this office for Final Agency Action. Having considered the entire record, I will adopt the ALJ's ruling that a stay of the proceeding was not warranted, his finding that "Respondent lacks state authority to handle controlled substances" and "is not entitled to maintain his DEA registration," and his recommendation that I revoke Respondent's registration. I make the following factual findings.

### Findings

Respondent holds DEA Certificate of Registration AS3236406. Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V, at the registered location of P.O. Box 1450, 2300 Western Avenue, Manitowoc, Wisconsin. Appendix A to Gov. Mot. for Summ. Disp., at 1. Under this registration, Respondent is also authorized to treat up to 100 patients as a DATA-waived physician. *Id.* Respondent's registration does not expire until February 28, 2017. *Id.*

It is undisputed that the Wisconsin Medical Board issued an Order summarily suspending Respondent's state license to practice medicine effective on October 21, 2015. See also Appendix B to Gov. Mot. for Summ. Disp., at 3. While according to Respondent's Hearing Request, a

hearing to challenge the Board's action was set for May 18, 2016, Respondent's state license remains suspended as of the date of this Decision and Order.<sup>2</sup> Resp. Hrng. Req., at 2. See also <https://app.wi.gov/LicenseSearch/IndividualLicense/SearchResultsSummary> (visited Sept. 13, 2016).

### 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, "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." Moreover, DEA has held repeatedly 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*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012).

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 physician possess state authority in order to be deemed a practitioner under the Act,

<sup>2</sup> In its Order, the Board found that Respondent "prescribes unusually large amounts of controlled substances, opioid pain medications in particular, without adequate or any medical support" and "without adequate or any physical examinations or medical testing," that he "allowed patients to request specific drugs and dosages," and that he "knows or should know the prescriptions he writes are being diverted, abused and are causing the accidental and intentional deaths of patients and others in the community where he practices." Appendix B (Board Order), at 1–2. The Board concluded that "there is probable cause to believe that unprofessional conduct has occurred" and that "it is necessary to suspend the license and registration of Respondent . . . immediately to protect the public health, safety or welfare." *Id.* at 2 (citing Wis. Admin. Code § Med. 10.02(2)(h) (Nov. 2002) and Wis. Admin. Code §§ Med. 10.03(2)(b) and (c) (Oct. 2013)).

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 medicine. *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); *see also Hooper v. Holder*, 481 Fed. Appx. at 828.

In his Reply to the Government's Motion, Respondent argues that "the plain language of section 824(a)(3) provides that the loss of state authority constitutes a discretionary, not mandatory, basis for revocation." Resp. Reply, at 1. This Agency has explained, however, that Section 824(a)'s grant of authority to suspend or revoke a registration applies across all categories of registration, including manufacturers, distributors, importers, exporters, narcotic treatment programs, list I distributors, and practitioners, and it applies to five different grounds for sanctioning a registrant. *Hooper*, 76 FR, at 71372. The Agency has further explained that "this general grant of authority in imposing a sanction must be reconciled with the CSA's specific provisions which mandate that a practitioner hold authority under state law in order to obtain and maintain a DEA registration."<sup>3</sup> *Id.* *See also Gozlon-Peretz v. United States*, 498 U.S. 395, 407 (1991) ("A specific provision controls over one of more general application."); *Bloate v. United States*, 559 U.S. 196, 207 (2010) ("language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment."").

<sup>3</sup> By contrast, in *Bio-Diagnostic International*, 78 FR 39327 (2013), a case involving a list I chemical distributor which did not possess state authority, the Agency held that granting summary disposition to the Government on this basis was improper because neither the provision setting forth the standards for the registration of list I distributors, nor the definition of a distributor, requires that a distributor possess state authority in order to be registered. While *Bio-Diagnostic* involved an application, in a footnote, the decision explained that while "section 824(a)(3) authorizes revocation where a registrant 'has had [its] State license suspended, revoked, or denied by competent state authority and is no longer authorized by State law to engage in the manufacturing [or] distribution of . . . list I chemicals[.]' [this] does not mean that revocation is warranted in all instances." *Id.* at 39330 n.6. Continuing, the decision explained that "[t]his provision grants the Agency discretionary authority to impose an appropriate sanction; the failure to consider factors such as the egregiousness of the misconduct and mitigating factors in imposing the sanction would render the sanction arbitrary and capricious." *Id.*

Thus, in *Hooper v. Holder*, a physician whose state authority was suspended for a period of one year, challenged the revocation of his registration, arguing that the Agency "failed to recognize the discretion under § 824(a) to revoke or suspend a registration and that it was impermissible for the [Agency] to conclude that the CSA requires revocation of a practitioner's DEA registration when the practitioner's State license is suspended." 481 Fed. App'x, at 826. The Fourth Circuit rejected the physician's challenge, explaining:

We find *Hooper's* contention unconvincing. Section 824(a) does state that the [Agency] may "suspend or revoke" a registration, but the statute provides for this sanction in five different circumstances, only one of which is loss of a State license. Because § 823(f) and § 802(21) make clear that a practitioner's registration is dependent upon the practitioner having state authority to dispense controlled substances, the [Agency's] decision to construe § 824(a)(3) as mandating revocation upon suspension of a state license is not an unreasonable interpretation of the CSA. The [Agency's] decision does not "read[] the suspension option" out of the statute, because that option may still be available for the other circumstances enumerated in § 824(a).

*Id.* *See also Maynard v. DEA*, 117 Fed. Appx. 941, 945 (5th Cir. 2004) (upholding revocation of DEA registration after Texas DPS summarily suspended practitioner's controlled substance registration, noting that the Agency "has construed the CSA to require revocation when a registrant no longer possesses valid state authority to handle controlled substances"; "We agree with [the] argument that it may have been arbitrary and capricious had the DEA failed to revoke [the physician's] registration under the circumstances.").

Indeed, DEA has interpreted the CSA in this manner for nearly 40 years. *See Frederick Marsh Blanton, M.D.*, 43 FR 27616 (1978). In *Blanton*, a physician's state license was suspended for a period of one year. *Id.* at 27616. The Agency nonetheless revoked the physician's registration, explaining that "it is the Administrator's finding and conclusion that there is a lawful or statutory basis for the revocation of the Respondent's DEA registration. *State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.* The Respondent's registration must, therefore, be revoked." *Id.* at 27617 (emphasis added). *See also Alfred Tennyson Smurthwaite*, 43 FR at 11873 (same).

Put another way, because a practitioner's registration is dependent upon state authority to dispense controlled substances, when that practitioner's state authority has been revoked or suspended, the practitioner no longer meets the statutory definition. *See* 21 U.S.C. § 802(21). And because the CSA makes clear 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 both obtaining and maintaining a practitioner's registration, "revocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action at which he may ultimately prevail." *Kamal Tiwari*, 76 FR 71604, 71606 (2011); *see also Bourne Pharmacy, Inc.*, 72 FR 18273, 18274 (2007); *Anne Lazar Thorn*, 62 FR 12847 (1997).

In his Reply to the Motion for Summary Disposition, Respondent also argues that a stay "would afford [him] with his due process right to be heard in a meaningful manner in the State Medical Examining Board proceeding." Reply, at 1. Respondent, however, offers no explanation as to how my adjudication of this matter impacts, in any manner, his right to be heard in the State proceeding. Indeed, in circumstances similar to those of Respondent, this Agency "has repeatedly denied requests to stay the issuance of a final order of revocation . . . [because] under the Controlled Substances Act, 'a practitioner must be currently authorized to handle controlled substances . . . to maintain [his] DEA registration.'" *Gregory F. Saric, M.D.*, 76 FR 16821 (2011) (quoting 21 U.S.C. § 802(21)); *see also Irwin August*, 81 FR 3158 (2016). As the Agency has explained, because "whether Respondent's state license will be re-instated is entirely speculative, *id.*, '[i]t is not DEA's policy to stay proceedings . . . while registrants litigate in other forums.'" *August*, 81 FR at 3159 (quoting *Newcare Home Health Servs.*, 72 FR 42126, 42127 n.2 (2007) (citing *Bourne Pharmacy*, 72 FR 18273 (2007))). I therefore affirm the ALJ's ruling denying Respondent's stay request.

In conclusion, because Respondent is not currently authorized to dispense controlled substances in Wisconsin, the State in which he is registered with the Agency, he is not entitled to maintain his registration. Accordingly, I will adopt the ALJ's recommendation that I revoke Respondent's registration.

**Order**

Pursuant to the authority vested in me by 21 U.S.C. § 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AS3236406, issued to Charles Szyman, D.O., be, and it hereby is, revoked. This Order is effective immediately.<sup>4</sup>

Dated: September 13, 2016.

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2016-22677 Filed 9-20-16; 8:45 am]

**BILLING CODE 4410-09-P**

**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****Richard J. Settles, D.O.; Decision and Order**

On September 9, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Richard J. Settles, D.O. (hereinafter, Respondent), of Grand Junction, Colorado. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration FS3717975, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, at the registered address of 715 Horizon Drive, Suite 200, Grand Junction, Colorado. GX 2, at 1 (citing 21 U.S.C. 824(a)(1) and (4)). The Show Cause Order also proposed the denial of any pending application to renew or modify Respondent's registration, on the ground that his "continued registration is inconsistent with the public interest." *Id.*

As grounds for the proposed actions, the Government alleged that Respondent had materially falsified his March 4, 2013 application for registration. *Id.* at 2 (21 U.S.C. 824(a)(1)). The Order also alleged that he had issued prescriptions for controlled substances without authority to do so under both Arizona and Federal law. *Id.* at 3 (citing 21 U.S.C. 824(a)(4)).

With respect to the material falsification allegation, the Government alleged that on March 4, 2013, Respondent applied for a DEA registration at a location in Chattanooga, Tennessee. *Id.* at 1. The Government alleged that Respondent provided a "yes" answer to the application

question: "Has the applicant ever surrendered (for cause) or had a state professional license or controlled substances registration revoked, suspended, restricted, or placed on probation, or is any such action pending?" and that "[i]n furtherance of [his] answer," Respondent explained that on July 17, 2012, "the Arizona Board of Osteopathic Examiners placed my license on a 5 year probation," and that as a result, "I voluntarily surrendered my Arizona license and DEA registration as I knew I was moving to Tennessee in the next few months." *Id.* at 1-2.

The Government then alleged that Respondent's answer was materially false because he was "aware of at least two . . . other state professional license actions" when he submitted the application and failed to disclose them. *Id.* at 2. The Government alleged that these actions included a November 17, 2012 Interim Consent Order issued by the Arizona Board, which restricted Respondent's license to practice osteopathic medicine pending the Board's investigation into whether he violated its July 17, 2012 Order by prescribing controlled substances as his authority to do so had been restricted by that Order. *Id.* As for the second Board action, the Government alleged that on February 6, 2013, Respondent entered into a Stipulation and Order with the Utah Division of Occupational and Professional Licensing, in which he admitted that he had falsified a May 4, 2012 application for licensure in that State, because he failed to disclose that he was then under investigation by the Arizona Board, and that he had surrendered his Utah license to practice as an osteopath. *Id.* at 2-3 (citing 21 U.S.C. 824(a)(1), 823(f), 843(a)(4)(A)).

As for the prescribing allegations, the Government alleged that pursuant to the July 17, 2012 Arizona Board Order, Respondent was restricted from prescribing schedule I through IV controlled substances. *Id.* at 3. The Order alleged that the Board subsequently found that after the effective date of the Order, Respondent became the medical director of a hospice program and prescribed controlled substances to 10 of the program's patients. *Id.* The Order then alleged that "[p]rescribing controlled substances without appropriate authority is contrary to Federal law." *Id.* at 3 (citations omitted).

Next, the Order alleged that on May 7, 2014, one day before the Tennessee State Board of Osteopathic Examination issued a Consent Order which indefinitely suspended his Tennessee license, Respondent applied to modify

his registered address from Tennessee to an address in Dolores, Colorado. *Id.* at 4. The Order alleged that Respondent made several additional requests to modify his registered address, concluding with his February 18, 2015 request to change his address to a location in Grand Junction, Colorado and that the Agency approved this request on March 17, 2015. *Id.*

The Order then alleged that prior to the Agency's approval of his modification request, Respondent issued controlled substance prescriptions in Colorado, "in violation of 21 U.S.C. 810(10),<sup>1</sup> 822(e), and 841(a)(1)." *Id.* at 4 (citing, *inter alia*, 21 CFR 1301.12(a), 1301.13(a)). Specifically, the Order alleged that "from July 2014 through February 2015, [Respondent] issued over 250 prescriptions when [he] lacked the requisite federal authority to issue prescriptions in Colorado." *Id.* The Order then set forth multiple instances of such prescriptions. *Id.* at 5-6. The Order further alleged that Respondent "issued multiple prescriptions to patients within a thirty-day window, amounting to prescriptions for large dosages of highly abused controlled substances" and set forth a dozen patients to whom he issued the prescriptions. *Id.* at 6-7.

On September 14, 2015, the Show Cause Order, which also notified Respondent of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option, was served on Respondent by certified mail, return receipt requested. GX 4, at 1. Thereafter, on October 14, 2015, Respondent, through his attorney, filed a document entitled "Waiver of Hearing, Statement of Position on the Facts and Law" (hereinafter "Position Statement") with the Office of Administrative Law Judges. See 21 CFR 1301.43(c); GX 5. Therein, Respondent acknowledged service of the Order to Show Cause on September 14, 2015, see GX 5 at 5, and explained he was waiving his right to a hearing and filing his "Statement of Position on the Facts and Law regarding the matters alleged in the Order to Show Cause." GX 5, at 2.

On February 29, 2016, the Government forwarded its Request for Final Agency action, the Investigative Record, and Respondent's Position Statement. Subsequently, on March 21, 2016, the Government filed an Addendum to its Request for Final Agency Action (hereinafter, First

<sup>4</sup> For the same reasons which led the Wisconsin Board to summarily suspend Respondent's osteopathic license, see *supra* note 2, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

<sup>1</sup> There is no such provision in the CSA.