no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Also, DEA has 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. *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).

As already noted, the TMB temporarily suspended Respondent's Texas license to practice medicine. Under the Texas Controlled Substances Act, a ''practitioner'' includes a ''physician'' who is licensed ''to dispense . . . or administer a controlled substance in the course of professional practice.'' Tex. Controlled Substances Act § 481.002(39)(A). Under the Texas Medical Practice Act, a ''physician'' is ''a person licensed to practice medicine,'' Tex. Occ. Code § 151.002(a)(12), and ''practicing medicine'' means the ''diagnosis, treatment, or offer to treat a . . . disease . . . by any system or method.'' *Id.* § 151.002(a)(13). Moreover, a ''person may not practice medicine in th[e] state unless the person holds a license issued under'' the Medical Practice Act, *id.* § 155.001, and ''[a] person commits an offense if the person practices medicine in this state in violation of'' the Act. *Id.* § 165.152(a). As the ALJ correctly noted, the TMB found in both of its Temporary Suspension Orders that Respondent had violated several provisions of Section 164 of the Texas Occupational Code. *See* R.D., at 5. Thus, I find that Respondent is currently without authority to dispense controlled substances under the laws of Texas, the State in which he is registered with the DEA. *Accord Gazelle A. Craig, D.O.,* 83 FR 27628, 27631 (2018).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a DEA registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the TMB has suspended Respondent's medical license and that Respondent may prevail in a future state hearing.[4] What is consequential is the fact that Respondent is not currently authorized to dispense controlled substances in Texas, the State in which he is registered. *See* GX3 to Govt. Mot., at 5.

Here, there is no dispute over the material fact that Respondent is no longer currently authorized to dispense controlled substances in Texas, the State in which he is registered. Accordingly, Respondent is not entitled to maintain his DEA registration. I will therefore adopt the ALJ's recommendation that I revoke Respondent's registration. R.D., at 7. I will also deny any pending application to renew or to modify his registration, or any pending application for any other DEA registration in Texas, as requested in the Show Cause Order. Order to Show Cause, at 1.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FB2033049, issued to Eldor Brish, M.D., be, and it hereby is, revoked. I further order that any pending application of Eldor Brish to renew or modify the above registration, or any pending application of Eldor Brish for any other DEA registration in the State of Texas, be, and it hereby is, denied. This Order is effective immediately.[5]

Dated: October 31, 2018.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2018–25223 Filed 11–19–18; 8:45 am]

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[4] Similarly, and contrary to Respondent's claim, Due Process does not require the ALJ to delay summary disposition of the case until after completion of his Texas State Informal Show Compliance and Settlement Conference. Resp. Br. at 3–4. Rather, Due Process required the ALJ to provide Respondent the opportunity to respond to the Order to Show Cause and the Government's Request for Summary Disposition. The ALJ did provide Respondent such an opportunity, and the Respondent did so respond. Respondent provided no authority for the notion that the ALJ violated Respondent's right to Due Process by, in fact, providing Respondent an opportunity to be heard instead of delaying such opportunity. Respondent's claim that the ALJ should have delayed his recommended decision is particularly unavailing where, as here, there are no controlling facts in dispute. *Accord Emmanuel O. Nwaokocha, M.D.,* 82 FR 26516, 26518 n.3 (2017); *see also Kenneth N. Woliner, M.D.,* 83 FR 7223, 7225 n.6 (2018).

[5] For the same reasons which led the TMB to suspend Respondent's Texas medical license, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Janssen Pharmaceuticals Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before December 20, 2018. Such persons may also file a written request for a hearing on the application on or before December 20, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007)

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of

the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on September 13, 2018, Janssen Pharmaceuticals Inc., 1440 Olympic Drive, Bldgs. 1–5 & 7–14, Athens, Georgia 30601–1645, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Thebaine	9333	II
Poppy Straw Concentrate	9670	II
Tapentadol	9780	II

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers. The company plans to import thebaine (9333) derivatives as reference standards. The company plans to import concentrated poppy straw (9670) to bulk manufacture other controlled substances. No other activity for these drug codes is authorized for this registration.

Dated: November 6, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–25226 Filed 11–19–18; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Edward A. Ridgill, M.D.; Decision and Order

On May 15, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Edward A. Ridgill, M.D., (Applicant), of Whittier, California. The Show Cause Order proposed the denial of Applicant's application for a DEA Certificate of Registration, ''Application Number W15031876C,'' as a practitioner on the grounds that Applicant ''ha[s] been convicted of a felony relating to controlled substances'' and because granting Respondent a ''registration would be inconsistent with the public interest.'' Appendix (App.) 1 to Government's Request for Final Agency Action (RFAA), at 1 (citing 21 U.S.C. 823(f), 824(a)(2), (a)(4)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that on May 4, 2015, Applicant submitted an application for a DEA registration ''to handle controlled substances in Schedules II–IV, with Application Number W15031876C, at 4130 Eadhill Place, Whittier, CA.'' *Id.* at 2.[1]

As to the substantive grounds for the proceeding, the Show Cause Order alleged that ''[o]n or about December 4, 2017, a jury convicted'' Applicant of 26 counts of unlawful distribution of controlled substances (specifically, hydrocodone, alprazolam, and carisoprodol) in violation of 21 U.S.C. 841(a)(1) and 18 U.S.C. 2 and that the ''[j]udgment was entered on April 23, 2018.'' *Id.* The Order asserted that Respondent's ''[c]onviction of a felony relating to controlled substances warrants denial of [his] application for registration.'' *Id.* (citing 21 U.S.C. 824(a)(2)). The Order also asserted that granting Respondent's application would be ''inconsistent with the public interest'' in light of his felony convictions. *Id.* (citing 21 U.S.C. 823(f), 824(a)(4)).

The Show Cause Order notified Applicant of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* at 2–3. (citing 21 CFR 1301.43). The Order also notified Applicant of his right to submit a corrective action plan. *Id.* at 3–4 (citing 21 U.S.C. 824(c)(2)(C)).

With respect to service, a Diversion Investigator (DI) with DEA's Los Angeles Field Division executed a Declaration on September 19, 2018 stating that she ''learned that following his conviction, [Applicant] was incarcerated at Victorville Federal Prison . . . in Adelanto, CA.'' App. 4 (Declaration of DI) to RFAA, at 2. As a result, the DI stated in her Declaration that she mailed a copy of the Show Cause Order by certified mail and addressed it to Applicant at the Victorville United States Penitentiary in Adelanto, California. *Id.*[2] In her Declaration, the DI attached and authenticated a return receipt from the U.S. Postal Service confirming that the mailing was so addressed and was delivered to that penitentiary on June 15, 2018. *Id.; see* Attachment A to App. 4. I therefore find that the Government accomplished service on June 15, 2018. *See Warren B. Dailey, M.D.,* 82 FR 46525, 46526 (2017) (holding that sending Show Cause Order to Respondent by certified mail at U.S. penitentiary and with proof of return receipt was sufficient to establish that Government lawfully accomplished service).

On October 3, 2018, the Government forwarded its Request for Final Agency Action and evidentiary record to my Office. In its Request, the Government represents that more than 30 days had passed since Applicant had been served and that ''DEA had not received a request for hearing or any other reply'' from him during that time. RFAA, at 3. Based on the Government's representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on the Applicant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Applicant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. *See id.* I make the following findings.

[1] The Show Cause Order also alleged that Applicant was previously ''registered with the DEA as a practitioner authorized to handle controlled substances in Schedules II–V'' under DEA Certificate of Registration No. FR3094997 at 3625 E. Martin Luther King Boulevard, Suite 9, Lynwood, California. *Id.* at 1. The Order alleged that Applicant ''voluntarily surrendered'' this registration on March 12, 2015 ''during [his] arrest for conspiracy to distribute controlled substances.'' *Id.*

[2] The DI also stated in her Declaration that the Show Cause Order ''was emailed to [Applicant's] criminal defense attorney'' by a Task Force Officer ''on or about June 11, 2018.'' *Id.* However, this attempt at service of the Order pursuant to 21 U.S.C. 824(c), standing alone, would be insufficient for at least two reasons. First, the Government failed to establish that the attorney had ''the power to accept service'' on behalf of the Applicant in this proceeding. *Warren B. Dailey, M.D.,* 82 FR 46525, 46526 (2017) (internal citations and quotations omitted). Second, assuming the attorney had such authority, the record does not contain (1) a statement that explains whether the DI had independent personal knowledge of the email, (2) a declaration from the Task Force Officer or another declarant who has personal knowledge of the email, or (3) any other evidence corroborating the DI's statement that the Task Force Officer had emailed the attorney. *Cf. Richard Hauser, M.D.,* 83 FR 26308, 26309 n.5 (2018) (finding that a DI's declaration that he ''verified'' a document's authenticity by conferring with another DI was insufficient absent a declaration from a DI with personal knowledge of the document's authenticity or other evidence to corroborate its authenticity).