''suspended.'' [3] RFAA, EX 7 (State of Maryland Board of Pharmacy website Screen Print), at 1.

As already discussed, Registrant's proposed CAP did not address the status of its Maryland pharmacy permit. As such, the Government's record evidence that Registrant's pharmacy permit was summarily suspended is not rebutted.

According to Maryland's online records, of which I take official notice, Registrant's pharmacy permit is still suspended today.[4] State of Maryland Board of Pharmacy Web Lookup/Verification, *https://mdbop.mylicense.com/Verification* (last visited date of signature of this Order).

In sum, there is no record evidence rebutting the evidence the Government submitted with its RFAA, EX 3 and EX 7, and the evidence from today's Maryland online records supports the Government's evidence. Accordingly, I find that Registrant's Maryland pharmacy permit is currently suspended.

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 the CSA ''upon a finding that the registrant . . . has had his State license or registration 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, the Agency has long stated that the possession of authority to dispense controlled substances under the laws of the state in which the practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a pharmacy . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which . . . [it] 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 CSA, the Agency has repeatedly stated that revocation of a practitioner's registration is the appropriate sanction whenever it is no longer authorized to dispense controlled substances under the laws of the state in which she practices. *See, e.g., James L. Hooper, M.D.,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton, M.D.,* 43 FR at 27,617.

According to Maryland statute, ''a person shall be registered by the [Maryland] Department [of Health] before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State.'' [5] Md. Code Ann., Crim. Law § 5–301(a)(1) (West, Westlaw current through all legislation from the 2020 Regular Session of the General Assembly). Also according to Maryland statute, a ''person shall hold a pharmacy permit issued by the (Maryland State) Board (of Pharmacy) before the person may establish or operate a pharmacy in this State.'' Md. Code Ann., Health. Occ. § 12–401(a) (West, Westlaw current through all legislation from the 2020 Regular Session of the General Assembly). Accordingly, holding a permit issued by the MBP is a prerequisite to operating a pharmacy and dispensing a controlled substance in Maryland.

Here, the undisputed evidence in the record is that Registrant's pharmacy permit is currently suspended. In Maryland, as already discussed, a pharmacy must hold a permit from the MBP to dispense a controlled substance lawfully. Md. Code Ann., Health. Occ. § 12–401(a); Md. Code Ann., Crim. Law § 5–301(a)(1). Registrant currently lacks a pharmacy permit in Maryland and, thus, it is not eligible to dispense controlled substances in Maryland. 21 U.S.C. 824(a)(3). Accordingly, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FP3109027 issued to Poplar Grove Pharmacy Inc. This Order is effective January 11, 2021.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–27234 Filed 12–10–20; 8:45 am]

BILLING CODE 4410–09–P

[3] Although there is no date on RFAA EX 7, the Government represented in its RFAA that EX 7 shows Registrant's pharmacy permit ''continues to be suspended.'' RFAA, at 3.

[4] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Applicant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Applicant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response shall be filed and served by email on the other party at the email address the party submitted for receipt of communications related to this administrative proceeding, and on the Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[5] ''Dispense,'' under Maryland statute, means ''to deliver to the ultimate user . . . by or in accordance with the lawful order of an authorized provider.'' Md. Code Ann., Crim. Law § 5–101(l)(1) (West, Westlaw current through all legislation from the 2020 Regular Session of the General Assembly).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ernesto C. Torres, M.D.; Decision and Order

On July 20, 2020, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government or DEA), issued an Order to Show Cause (hereinafter, OSC) to Ernesto C. Torres, M.D., (hereinafter, Registrant), of Frederick, Maryland. Government's Request for Final Agency Action (hereinafter, RFAA) Exhibit (hereinafter RFAAX) 4 (OSC), at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. AT8751213. Id. It alleged that Registrant is without ''authority to handle controlled substances in Maryland, the state in which [Registrant is] registered with DEA.'' Id. at 2 (citing 21 U.S.C. § 824(a)(3)).

Specifically, the OSC alleged that ''[o]n January 6, 2020, the [Maryland Board of Physicians (hereinafter, MBP)] issued [a] Final Decision and Order on Order for Summary Suspension, whereby the MBP affirmed its May 2019 suspension ruling. Moreover, during the pendency of the above MBP suspension proceedings, [Registrant's] state medical license expired on September 30, 2019,

and has not been renewed.'' Id. at 2. The OSC further alleged that Registrant is not eligible to obtain or retain a DEA registration because he lacks state authority to handle controlled substances in Maryland. Id.

The OSC notified Registrant of the right to either request a hearing on the allegations or submit a written statement in lieu of exercising the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. Id. at 2–3 (citing 21 C.F.R. § 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. Id. at 3 (citing 21 U.S.C. § 824(c)(2)(C)).

I.Adequacy of Service

A DEA Diversion Investigator (hereinafter, DI) provided details regarding DEA's ''multiple efforts'' to serve Registrant with the OSC, which were complicated by the fact that Registrant is currently at a Maryland Department of Health facility. RFAAX 11, at 3 (Declaration of Diversion Investigator, dated October 22, 2020). The DI stated that due to visitor restrictions at the facility, the DI arranged to email the OSC to Registrant's doctor, who confirmed via reply email that Registrant had received the OSC. Registrant's doctor attached a signed DEA Form 12, Receipt for Cash or Other Items, which demonstrated that Registrant received the OSC on September 17, 2020, and was signed by Registrant and witnessed by his doctor. Id. at 4; see also RFAAX 6, at 1 (signed DEA Form 12).

The Government forwarded its RFAA along with the evidentiary record, to this office on October 23, 2020. In its RFAA, the Government represents that Registrant has not requested a hearing nor '''otherwise corresponded or communicated with DEA regarding the... [OSC], including the filing of any written statement in lieu of a hearing' and therefore has waived his right to a hearing.'' RFAA, at 6 (quoting Warren B. Dailey. M.D., 82 Fed. Reg. 46,525–26 (2017); David D. Moon, D.O., 82 Fed. Reg. 19,385, 19,387 (2017)). The Government argued that ''grounds exist for the revocation of Registrant's DEA [registration] pursuant to 21 U.S.C. §§ 823(f) and 824(a)(3)'' and requests ''the issuance of a DEA Final Order for the revocation'' of Registrant's registration. Id. at 6, 7.

I find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations and Registrant's own statements, I find that neither Registrant, nor anyone purporting to represent Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. RFAA, at 6. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 C.F.R. § 1301.43(d) and 21 U.S.C. § 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 C.F.R. § 1301.46.

II. Findings of Fact

A. Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. AT8751213 at the registered address of 188 Thomas Johnson Drive, Suite 202, Frederick, Maryland 21702. RFAAX 2 (Certification of Registration History). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. Id. Registrant's registration expires on November 30, 2021. Id. The registration ''is in active pending status until the resolution of administrative proceedings.'' Id.

B.The Status of Registrant's State License

On May 28, 2019, the MBP issued an Order for Summary Suspension of License to Medicine against Registrant. RFAAX 3 (Final Decision and Order on Order for Summary Suspension (hereinafter, Suspension Order)), at 1. After a hearing, the MBP issued a Suspension Order affirming Registrant's suspension on January 6, 2020, in which it concluded that summary suspension of Registrant's medical license ''is imperatively required to protect the public health, safety, and welfare.'' Id. at 2. The MBP ordered that ''the summary suspension of [Registrant's] license to practice medicine in Maryland remains in effect.'' Id. at 3.

According to Maryland's online records, of which I take official notice, Registrant's medical license status and Controlled Dangerous Substances (CDS) registration are both ''expired.''[1] Maryland Board of Physicians Profile Search, available at https://www.mbp.state.md.us/bpqapp/ (last visited date of signature of this Order), and Maryland Office of Provider Engagement and Regulation (Oper) Controlled Dangerous Substances Registration Search, available at https://health.maryland.gov/ocsa/Pages/cdssearch.aspx (last visited date of signature of this Order).

Accordingly, I find that Registrant currently is neither licensed to engage in the practice of medicine nor registered to dispense controlled substances in Maryland, the state in which Registrant is registered with the DEA.

III. 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 the CSA ''upon a finding that the registrant . . . has had his State license or registration 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, the DEA has also 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, M.D., 76 Fed. Reg. 71,371 (2011), pet. for rev. denied, 481 Fed. Appx. 826 (4th Cir. 2012); Frederick Marsh Blanton, M.D., 43 Fed. Reg. 27,616, 27,617 (1978).

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

[1] Under the Administrative Procedure Act, an agency ≥may take official notice of facts at any stage in a proceeding - even in the final decision.≥ United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), ≥[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.≥ Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response may be filed and served by e-mail (dea.addo.attorneys@dea.usdoj.gov).

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 CSA, the 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. See, *e.g.* , James L. Hooper, 76 Fed. Reg. at 71,371–72; Sheran Arden Yeates, M.D., 71 Fed. Reg. 39,130, 39,131 (2006); Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104, 51,105 (1993); Bobby Watts, M.D., 53 Fed. Reg. 11,919, 11,920 (1988); Frederick Marsh Blanton, 43 Fed. Reg. at 27,617.

Pursuant to the Maryland Controlled Dangerous Substances Act, ''a person shall be registered by the Department before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State or transports a controlled dangerous substance into the State.'' Md. Code Ann., Crim. Law § 5–301 (West 2020). Maryland law further defines ''dispense'' to ''mean[] to deliver to the ultimate user of the human research subject by or in accordance with the lawful order of an authorized provider'' and states that the term ''includes to prescribe, administer, package, label, or compound a substance for delivery.'' Id. at § 5–101(l)(1)&(2).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to dispense controlled substances in Maryland, as his controlled substance license is ''expired.'' As already discussed, a practitioner must hold a valid controlled substance license to dispense a controlled substance in Maryland. Thus, because Registrant lacks authority to handle controlled substances in Maryland, Registrant is not eligible to maintain a DEA registration. Accordingly, I order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I hereby revoke DEA Certificate of Registration No. AT8751213 issued to Ernesto C. Torres, M.D. This Order is effective January 11, 2021.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–27233 Filed 12–10–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Ionizing Radiation Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before January 11, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Ionizing Radiation Standard and its information collection requirements are to document that employers are providing their workers with protection from hazardous ionizing radiation exposure. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 29, 2020 (85 FR 38931).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Ionizing Radiation Standard.

OMB Control Number: 1218–0103.

Affected Public: Private Sector, Businesses or other for-profits.

Total Estimated Number of Respondents: 13,135.

Total Estimated Number of Responses: 337,279.

Total Estimated Annual Time Burden: 59,077 hours.

Total Estimated Annual Other Costs Burden: $ 8,892,917.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Crystal Rennie,

Acting Departmental Clearance Officer.

[FR Doc. 2020–27208 Filed 12–10–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2021–009]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: NARA proposes to request an extension from the Office of Management and Budget (OMB) of approval to use forms by which we collect information from people requesting military records so that we can locate, identify, and provide the requested information. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.